

NEW MEXICO STATE GAME COMMISSION MEETING
ROSWELL CONVENTION AND CIVIC CENTER
EXHIBIT HALL
912 N. MAIN ST., ROSWELL, NM 88201

8:00 a.m. – 5:00 p.m.

NOVEMBER 30, 2018

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1 APPEARANCES

- 2 Chairman Paul Kienzle
- 3 Vice Chairman William Montoya
- 4 Game Commissioner Thomas Salopek
- 5 Game Commissioner Robert Ricklefs
- 6 Game Commissioner Ralph Ramos
- 7 Game Commissioner Craig Peterson
- 8 Game Commissioner Chance Chase

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ABSENT

None

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1 CHAIRMAN KIENZLE: Call the meeting to order. Good morning. Mr. Director?
2 What if we held a meeting and the director didn't show up?
3 UNKNOWN SPEAKER: We're not liable.
4 CHAIRMAN KIENZLE: We're not liable. It's not my fault. I didn't do it. It wasn't me.
5 UNKNOWN SPEAKER: We can do anything we want now.
6 CHAIRMAN KIENZLE: It wasn't me, I fell. The director is in the house.
7 UNKNOWN SPEAKER: He was holding back the forces.
8 CHAIRMAN KIENZLE: We are at roll call.
9 DIRECTOR SLOANE: Commissioner Salopek.
10 COMMISSIONER SALOPEK: Present.
11 DIRECTOR SLOANE: Commissioner Ricklefs.
12 COMMISSIONER RICKLEFS: Present.
13 DIRECTOR SLOANE: Commissioner Ramos.
14 COMMISSIONER RAMOS: Present.
15 DIRECTOR SLOANE: Commissioner Peterson.
16 COMMISSIONER PETERSON: Here.
17 DIRECTOR SLOANE: Commissioner Chase.
18 COMMISSIONER CHASE: Here.
19 UNIDENTIFIED SPEAKER: He said here.
20 DIRECTOR SLOANE: Oh, sorry. Vice Chairman Montoya.
21 VICE CHAIRMAN MONTOYA: Here.
22 DIRECTOR SLOANE: Chairman Kienzle.
23 CHAIRMAN KIENZLE: Present.
24 DIRECTOR SLOANE: You have a quorum.
25 CHAIRMAN KIENZLE: Thank you, sir. Pledge of Allegiance.

1 COMMISSIONERS: I pledge allegiance to the Flag of the United States of America,
2 and to the Republic for which it stands, one Nation under God, indivisible, with liberty
3 and justice for all.

4 CHAIRMAN KIENZLE: Thank you. Can I get a motion to approve the Agenda with
5 Agenda Item No. 10 moved below Agenda Item No. 11?

6 VICE CHAIRMAN MONTOYA: So moved.

7 COMMISSIONER PETERSON: Second.

8 CHAIRMAN KIENZLE: All in favor?

9 COMMISSIONERS: Aye.

10 CHAIRMAN KIENZLE: Ayes have it. So we are going to do number ten after number
11 eleven. Introductions of guests and other people. Yes?

12 UNIDENTIFIED SPEAKER: Good morning Mr. Chairman, Commissioners, Members
13 of the Public [indiscernible - away from microphone]

14 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone]

15 UNIDENTIFIED SPEAKER: Good morning Mr. Chairman, Commissioners. I'm
16 [indiscernible - away from microphone]

17 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone]

18 UNIDENTIFIED SPEAKER: Mr. Chairman, Commissioners [indiscernible – away
19 from microphone]

20 UNIDENTIFIED SPEAKER: Mr. Chairman, Commissioners. My name is Ron Keller
21 [phonetic], I'm representing Recreational Aviation Foundation [indiscernible – away
22 from microphone]

23 UNIDENTIFIED SPEAKER: Good morning, Commissioner. My name is
24 [indiscernible - away from microphone]

25 STEWART LILEY: Good morning, Chairman, Commissioners, Members of the

1 Public. Stewart Liley [indiscernible – away from microphone].

2 UNIDENTIFIED SPEAKER: Commissioners my name is [indiscernible – away from
3 microphone].

4 UNIDENTIFIED SPEAKER: Good morning, I'm Kirk [indiscernible] for New Mexico
5 Game and Fish [indiscernible – away from microphone].

6 CHAD NELSON: Chad Nelson [phonetic] [indiscernible] operations manager
7 [indiscernible – away from microphone].

8 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

9 UNIDENTIFIED SPEAKER: [indiscernible – away from microphone].

10 UNIDENTIFIED SPEAKER: Good morning [indiscernible - away from microphone].

11 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone]

12 UNIDENTIFIED SPEAKER: [indiscernible] with the New Mexico Trappers
13 Association [indiscernible] hunting and fishing [indiscernible – away from
14 microphone].

15 UNIDENTIFIED SPEAKER: Good morning, Commissioners. [indiscernible - away
16 from microphone].

17 UNIDENTIFIED SPEAKER: Commissioners [indiscernible - away from microphone].

18 UNIDENTIFIED SPEAKER: Good morning, Chairman [indiscernible - away from
19 microphone].

20 UNIDENTIFIED SPEAKER: Good morning, I'm [indiscernible - away from
21 microphone].

22 UNIDENTIFIED SPEAKER: Good morning [indiscernible - away from microphone].

23 UNIDENTIFIED SPEAKER: Good morning, everybody [indiscernible - away from
24 microphone] for the Department of Game and Fish.

25 UNIDENTIFIED SPEAKER: Good morning [indiscernible - away from microphone]

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1 for the Department of Game and Fish.

2 UNIDENTIFIED SPEAKER: Good morning [indiscernible - away from microphone].

3 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

4 COLLEEN PAYNE: Good morning, Commissioners. My name is Colleen Payne
5 [phonetic], I am the [indiscernible – away from microphone].

6 UNIDENTIFIED SPEAKER: Good morning [indiscernible - away from microphone].

7 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

8 UNIDENTIFIED SPEAKER: Good morning [indiscernible - away from microphone].

9 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone] land owner.

10 UNIDENTIFIED SPEAKER: [indiscernible] trapper, hunter [indiscernible- away from
11 microphone]

12 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

13 UNIDENTIFIED SPEAKER: Mr. Chairman, Members of the Commission
14 [indiscernible - away from microphone].

15 UNIDENTIFIED SPEAKER: Mr. Chairman [indiscernible - away from microphone].

16 UNIDENTIFIED SPEAKER: [indiscernible] twenty-year hunter education instructor.
17 Hunter and fisherman [indiscernible – away from microphone].

18 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

19 UNIDENTIFIED SPEAKER: [indiscernible] I'm the owner of [indiscernible] San Juan
20 [indiscernible - away from microphone] twenty-six years.

21 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone] San Juan River.

22 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

23 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone].

24 UNIDENTIFIED SPEAKER: Good morning, Mr. Chairman, Commissioners. I'm
25 Mark [indiscernible - away from microphone].

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1 UNIDENTIFIED SPEAKER: Good morning, Director, Commissioners. I'm
2 [indiscernible – away from microphone].

3 UNIDENTIFIED SPEAKER: Good morning, Mr. Chairman [indiscernible - away from
4 microphone].

5 UNIDENTIFIED SPEAKER: Good morning [indiscernible] I am editor of [indiscernible
6 - away from microphone].

7 CHAIRMAN KIENZLE: That's close enough. Well good morning, everybody. Thank
8 you. Can I get a motion to approve the minutes from our November 8, 2018
9 Albuquerque, New Mexico special meeting?

10 COMMISSIONER RICKLEFS: So moved, Mr. Chairman.

11 COMMISSIONER RAMOS: Second.

12 CHAIRMAN KIENZLE: All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN KIENZLE: Ayes have it. Mr. Chadwick, Agenda Item No. 7. Request to
15 Dispose of Assets.

16 DIRECTOR SLOANE: Mr. Chairman, if I may just take a moment. I would like to
17 recognize Chris Chadwick. This is going to be, I think, his final commission meeting.
18 He spent over 27 years with the agency and will be retiring at the end of the month.
19 Chris has done a number of jobs for us. Starting out as a game warden, working his
20 way through public information officer, sergeant, revocation manager, captain, and
21 finally finishing out his career as Assistant Director of Support Services. I would just
22 like to acknowledge the services provided to the department and to the citizens of the
23 state and thank him for the hard work.

24 UNIDENTIFIED SPEAKER: I wonder who hired him?

25 CHRIS CHADWICK: It was your call in the first place. Mr. Chairman --

1 CHAIRMAN KIENZLE: I'll take a picture of you, so you can have a memento of your
2 last shot up here.

3 CHRIS CHADWICK: Thank you, my wife will appreciate that. Thank you, Director
4 Sloane, I appreciate that. So Mr. Chairman, Commissioners, this should be fairly
5 brief. But today I come before you to seek your approval to dispose of some assets
6 on behalf of the agency. As you know by rule, we are required to seek approval from
7 the governing body, which in this case would you be for you folks in the commission.
8 And that same statute requires that reusable items be sold at auction or transferred
9 to other agencies. In this case, as you know, we recently opened up the new office
10 in Albuquerque, the Northwest area office, and as part of that there was quite a bit of
11 used furniture, office items, desks, tables, things of that nature and so we are looking
12 to dispose of those. Many of those items were transferred within the agency. Some
13 were transferred to some other agencies that could use them. That stuff that we
14 cannot get rid of we'll go ahead and transfer through, or through a public auction we
15 will try to dispose of them. We're also, in addition to that, have some items -- as you
16 recall back in May, we came before you with a much longer list with all our capital
17 assets that we were wanting to dispose of. During that [indiscernible] there were a
18 couple items that were left off and we would like to take advantage of this opportunity
19 to dispose of them and that would be a boat trailer and a FEMA trailer that we would
20 like to go ahead and auction off. And you will see where [indiscernible] handwritten
21 there's also a laser shot, I became aware of when I way down here, that one also got
22 left off in May. So we slid it in and we seek your permission to dispose of those in
23 accordance with statute. So with that, I will stand for any questions.

24 CHAIRMAN KIENZLE: Do you want to keep him up there a while and ask him a
25 bunch of the questions and prolong this or should we --

1 CHRIS CHADWICK: I say we pull the band-aid.

2 CHAIRMAN KIENZLE: Move it to a vote.

3 DIRECTOR SLOANE: Mr. Chairman, I think you should give him the full experience.

4 CHAIRMAN KIENZLE: Full experience, really grow. I'll entertain a motion on this
5 one.

6 COMMISSIONER PETERSON: Mr. Chairman, I move to approve the department's
7 request to dispose of the listed assets to be disposed of either worn out, obsolete, or
8 have reached the end of their service, life, and shall be disposed of in accordance
9 with state law.

10 COMMISSIONER CHASE: Second.

11 CHAIRMAN KIENZLE: All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN KIENZLE: Ayes have it. Thank you.

14 CHRIS CHADWICK: Mr. Chairman, thank you.

15 CHAIRMAN KIENZLE: Agenda Item No. 8, Revocations. Ready when you are.

16 DARRELL COLE: Good morning, Mr. Chairman, Commissioners. Today we have
17 the revocations for this meeting. The department suspended 186 individuals that are
18 out of compliance with the Parental Responsibility Act and 24 individuals who failed
19 to pay a penalty assessment within the 30 days. And we got several groups in front
20 of you today, six groups, can't call them all groups, there are a couple that are one
21 individual --

22 CHAIRMAN KIENZLE: So let's do -- you are done with Parental Responsibility folks?

23 DARRELL COLE: Yes, sir.

24 CHAIRMAN KIENZLE: So you need a motion on that one?

25 DARRELL COLE: No, sir.

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1 CHAIRMAN KIENZLE: You're good on that one?

2 DARRELL COLE: We just need to notify you the number of people that were
3 suspended.

4 CHAIRMAN KIENZLE: And then the other ones we'll do group by group.

5 DARRELL COLE: Yes, sir. So today in Group 1 we're looking at revocation of 18
6 individuals who accrued 21 points within a three-year period. [indiscernible] action
7 and they did not request a hearing. And we'll take a motion on this group.

8 CHAIRMAN KIENZLE: Can I get a motion on Group 1 or any discussion?

9 COMMISSIONER RAMOS: Mr. Chairman, I move to accept the department's
10 recommendation as presented by the department and revoke all license privileges of
11 these 18 individuals for the length of time recommended.

12 COMMISSIONER SALOPEK: Second.

13 CHAIRMAN KIENZLE: All in favor?

14 COMMISSIONERS: Aye.

15 CHAIRMAN KIENZLE: Ayes have it. Group No. 2.

16 DARRELL COLE: Group No. 2 includes one individual who had accrued 20 or more
17 points in a three-year period, requested a hearing, and the hearing officer
18 recommended no revocation in this case.

19 CHAIRMAN KIENZLE: I'm digesting Group No. 2. Can I get a motion on Group No.
20 2, please?

21 COMMISSIONER PETERSON: Mr. Chairman, I move to accept the
22 recommendation the hearing officer has presented by the department and not revoke
23 the license privileges of this individual.

24 COMMISSIONER CHASE: Second.

25 CHAIRMAN KIENZLE: All in favor?

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1 COMMISSIONERS: Aye.

2 CHAIRMAN KIENZLE: Ayes have it.

3 DARRELL COLE: Group No. 3 -- are you ready to move on, Mr. Chairman?

4 CHAIRMAN KIENZLE: Yes.

5 DARRELL COLE: Group No. 3 was three individuals that accrued 20 or more points
6 in a three-year period, requested a hearing, and they filed exceptions. Those
7 exceptions were provided to you guys prior to this.

8 CHAIRMAN KIENZLE: Can I get a motion on Group No. 3?

9 COMMISSIONER RICKLEFS: Darrell, the two individuals on the criminal trespass.
10 Reading your exceptions, I was never clear that they did plead no contest and were
11 convicted; is that correct?

12 DARRELL COLE: Mr. Chairman --

13 COMMISSIONER RICKLEFS: There something in here the charges were dropped
14 earlier or something [indiscernible].

15 DARRELL COLE: Mr. Chairman, Commissioner Ricklefs. I believe each one of them
16 pled guilty to three separate charges. I believe they received a deferred sentence for
17 the purposes of conviction, a deferred sentence. You can't have a deferred sentence
18 without a conviction. The rule stated you are convicted then you assessed points.

19 COMMISSIONER RICKLEFS: Mr. Chairman, I move to accept the recommendation
20 of the hearing officer as presented by the department and revoke all license
21 privileges of these three individuals for the length of time recommended.

22 COMMISSIONER CHASE: Second.

23 CHAIRMAN KIENZLE: All in favor?

24 COMMISSIONERS: Aye.

25 CHAIRMAN KIENZLE: Ayes have it. Group No. 4.

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1 DARRELL COLE: Group No. 4 is revocation of four individuals who accumulated 30
2 or more points -- 20 or more points over a three-year period, requested a hearing and
3 did not file an exception.

4 CHAIRMAN KIENZLE: Can I get a motion on Group No. 4?

5 COMMISSIONER SALOPEK: Mr. Chairman, I move to accept the recommendations
6 of the hearing officer and revoke all license privileges of these four individuals for the
7 length of time as recommended.

8 COMMISSIONER CHASE: Second.

9 CHAIRMAN KIENZLE: All in favor?

10 COMMISSIONERS: Aye.

11 CHAIRMAN KIENZLE: Ayes have it.

12 DARRELL COLE: Group No. 5. Group 5 is one individual that applied for a guide
13 registration and was denied, requested a hearing, and the hearing officer upheld that
14 denial.

15 COMMISSIONER RAMOS: Mr. Chairman, I would like to recuse myself on this one,
16 but I do have some questions on this case involving Michael Garcia. It's kind of
17 unfortunate, but I respect our process that we have in place, and I know -- and I think
18 it's the statute is what's holding us right now on this one, to hold him to not give him
19 his guiding license. But this individual made a poor decision back in college when he
20 was a freshman, I guess his first semester they impounded his vehicle, and anyways,
21 he went in to remove the lock on his tire which, you know, was found guilty, of
22 course, and he has this felony mark on him. He has shown good standing, he's
23 made a lot of positive things with the fishing industry, as well as the hunting industry.
24 Wants to really become a guide to make a living and whatnot and I just kind of
25 question things like that. I know he's right now going through the process with the

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1 Governor's office to try to get this removed from his record as well. But I just wanted
2 to let you know what's taking place with the history on this and I'm sure there's others
3 that when we lose hunters and fishermen and guides and outfitters in a tough world
4 out there and were trying to bring more money to the economy and provide better
5 jobs and try to make a career out of this, I just see this individual who has made a
6 great attempt and tried to be a law-abiding citizen and not cutting any corners but,
7 you know, this one mark that he made a poor decision back in college which that
8 could have impacted a lot of us in here today, you know, that's kind of what's at the
9 table today. But with that, I would like to recuse myself from this vote.

10 COMMISSIONER SALOPEK: Mr. Chairman, I'd have to join Mr. Ramos. I've known
11 Michael Garcia [phonetic], he played basketball with my sons, he's as good as gold.
12 You know, you make a mistake, and if that's a felony, I think it's very unfortunate
13 [indiscernible].

14 CHAIRMAN KIENZLE: So what are our options? Thumbs up? Thumbs down? Any
15 gray area? Any [indiscernible] --

16 DARRELL COLE: Well, the option before the commission today is to, I guess,
17 officially vote to either uphold or overturn the denial. The denial is based on statute
18 that if you have a felony conviction, regardless of what level it is, you cannot be a
19 guide or an outfitter. That statute was, I believe, in most part, brought on by the
20 guide and outfitters when that statute was created.

21 CHAIRMAN KIENZLE: Yes, Colonel?

22 ROBERT GRIEGO: You're doing fine. Chairman, I was just going to ad that It's
23 under Statue 17 283 and it just says conviction of a felony, it does not give us any
24 direction on the level of the felony. So unfortunately, this individual does have a
25 conviction and we do sympathize with the situation. It did seem extreme, but he does

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1 have that conviction and at that point, statutorily, we are just stopped and until he
2 goes through a process to -- if he can get it removed, we would be more than happy
3 to process his application and move from there. It's just, statutorily, we are obligated
4 to stop at that point based on that conviction regardless of the level or the
5 circumstances around it.

6 COMMISSIONER SALOPEK: So this is one of the few cases that we get we can't do
7 anything, whether we want to or not.

8 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. I suppose you could, but
9 you would be violating [indiscernible] --

10 COMMISSIONER SALOPEK: Right. Without going against the law.

11 ROBERT GRIEGO: That would be correct.

12 CHAIRMAN KIENZLE: What if we do nothing?

13 ROBERT GRIEGO: Mr. Chairman, then we could still not process -- what that does
14 is then puts my revocation manager and my guide and outfitter registrar in a position
15 where they are making that determination to violate the statute. That's why we went
16 ahead with the process. We've given the best direction we could to try and line Mr.
17 Garcia out in what he needs to do. Again, it's not that we don't sympathize with the
18 situation, it's just we are really handcuffed on this one.

19 DARRELL COLE: Mr. Chairman, Commissioners, if I may. There was nothing else
20 preventing him from receiving his -- or disqualify him from being registered, other
21 than this right here and we encouraged him to take those steps and move forward to
22 see if he can't get that resolved.

23 COMMISSIONER SALOPEK: So today when they vote it's actually just to deny,
24 there is years, there's no anything. If he can get his deal reversed, then he can apply
25 [indiscernible].

1 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. That is correct. You are
2 just upholding the hearing officer's determination. And if at some point Mr. Garcia can
3 figure out how to get that removed from his record, we would be more than happy to
4 continue with the process.

5 CHAIRMAN KIENZLE: Mr. Payne [phonetic], any bright ideas on how to get around
6 a difficult situation?

7 MR. PAYNE: Chairman, no. I have spoken with the Governor's office and they are
8 looking into a pardon. That would relieve this situation because then it's no longer a
9 conviction. You know, deferred is a conviction even if there was not a sentence
10 imposed. Under New Mexico case law it's very clear there's not much of a -- there's
11 no wiggle room because the statute is clear, it is a conviction.

12 CHAIRMAN KIENZLE: So what you're asking me to do today is to bless the denial?
13 Right? So it's not a denial for all time if the problem, so to speak, is fixed?

14 ROBERT GRIEGO: Mr. Chairman, that is correct.

15 MR. PAYNE: Mr. Chairman, if a pardon is granted all he has to do is reapply, provide
16 a copy of the pardon, and it's a done deal. Unfortunately, under this situation it's just,
17 by statute, we are not allowed to approve someone who has a conviction.

18 CHAIRMAN KIENZLE: You know, statutes get in the way of all sorts of stuff
19 sometimes, but they are there for a reason.

20 UNIDENTIFIED SPEAKER: Mr. Chairman?

21 CHAIRMAN KIENZLE: Yeah.

22 VICE CHAIRMAN MONTOYA: In lieu of the information that we have I would move
23 to accept the recommendation of the hearing officer and deny the guide registration
24 for this individual.

25 CHAIRMAN KIENZLE: I think we can do a denial and then put something of a

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1 signing statement on there that we are sympathetic to the situation and if there is a
2 pardon and then the problem goes away, something along those lines. But I think we
3 take the motion. I practice a little bit of law over the years, and I don't see a whole lot
4 of way around the statute as it's written. The good news is it doesn't appear to be a
5 denial for all time. So it looks to me like it can be fixed if the Governor's office
6 chooses to act. But I do feel like with the statue the way it is written, our hands are
7 tied. So your motion again?

8 VICE CHAIRMAN MONTOYA: I move to accept the recommendation of the hearing
9 officer and deny the guide registration for this individual.

10 COMMISSIONER RICKLEFS: Second.

11 CHAIRMAN KIENZLE: And I'll note, Mr. Garcia, are you here today?

12 UNIDENTIFIED SPEAKER: Mr. Chairman, yes, he is.

13 CHAIRMAN KIENZLE: Thank you. Did you have a comment?

14 UNIDENTIFIED SPEAKER: No, I was just saying he's here.

15 CHAIRMAN KIENZLE: All right. All in favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: The ayes have it. And I will note that Ramos and Salopek
18 recused themselves. Mr. Garcia, do you understand what you need to do?

19 MICHAEL GARCIA: [indiscernible] will be the next step I take [indiscernible - away
20 from microphone].

21 CHAIRMAN KIENZLE: I believe you need to call the Governor's office and I think
22 you heard our discussion here that this is a problem, I think, that can be fixed, but
23 we're stuck.

24 MICHAEL GARCIA: I'll work on that contact the Governor [indiscernible – away from
25 microphone] wheels are in motion.

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1 CHAIRMAN KIENZLE: Good. Thank you.

2 DARRELL COLE: Mr. Chairman, we have one more group. Group No. 6 is the
3 suspension of the outfitter registration for two individuals who failed to keep their
4 liability insurance up and renew that and they did not -- they were sent an NCA but
5 did not request a hearing and did not file an exception.

6 CHAIRMAN KIENZLE: Insurance makes the world go around. Can I get a motion on
7 Group No. 6?

8 COMMISSIONER RAMOS: Mr. Chairman, I move to accept the recommendation of
9 the department as presented by the department and suspend the outfitter registration
10 of these two individuals for the length of time recommended.

11 COMMISSIONER RICKLEFS: Second.

12 CHAIRMAN KIENZLE: Did we get a second? All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN KIENZLE: Ayes have it.

15 DARRELL COLE: Mr. Chairman, thank you.

16 CHAIRMAN KIENZLE: Thank you. Agenda Item No. 9, Special Hunt Draw
17 Deadlines 2019-2020 License Year. Did you break it?

18 CHAD NELSON: We are here today to set the special hunt draw deadlines for the
19 2019-2020 season. According to 19.31.3.8 NMAC, the commission must set and
20 approve the draw application deadlines each year. We conduct three drawings.
21 Draw one is for bear and turkey permits. We propose to set the deadline at February
22 13th, 2019. Draw two is the big game draw for deer, elk, pronghorn, oryx, ibex,
23 barbary sheep, bighorn sheep, and javelina licenses. We propose to set the deadline
24 to March 20th, 2019. Draw three is present in sandhill crane permits and we propose
25 to set the deadline at August 21st, 2019. I stand for any questions.

1 CHAIRMAN KIENZLE: This is too complicated for me to understand. Somebody
2 help me out here?

3 UNIDENTIFIED SPEAKER: When is the opening day?

4 CHAD NELSON: We plan to open the application on January 16th which is why we
5 moved the draw one deadline back a week so that we give -- we have a general
6 guideline we give people four weeks to apply for each draw.

7 CHAIRMAN KIENZLE: Any other questions or comments? I need a motion on this
8 one.

9 COMMISSIONER PETERSON: Mr. Chairman, I move to approve the department's
10 recommendation to set the following draw application deadline dates for the 2019-
11 2020 season.

12 CHAIRMAN KIENZLE: [indiscernible] do you want to read those -- read the dates.

13 COMMISSIONER PETERSON: February 13th, 2019 for the bear and turkey draw
14 permits. March 20th, 2019 for the deer, elk, pronghorn, oryx, ibex, barbary sheep,
15 bighorn sheep, and have javelina draw licenses. And August 21st, 2019 for the
16 pheasant and sandhill crane drop permits

17 COMMISSIONER RAMOS: Second.

18 CHAIRMAN KIENZLE: Any discussion? All in favor?

19 COMMISSIONERS: Aye.

20 CHAIRMAN KIENZLE: So we're moving up Agenda Item No. 11. Trapping and
21 Furbearer Rule 19.32.2 NMAC.

22 STEWART LILEY: Mr. Chairman, Members of the Commission. Before you -- now
23 as you stated the Trapping Rule 19.32.2. At the last meeting you were updated on a
24 series of meetings or workshops that were held with select groups to discuss some
25 proposed changes or how the trapping rule currently exists, where there is maybe

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1 some room for some compromise on some regulations. As you guys are well aware,
2 trapping is highly polarized issue either those very in support of trapping or those
3 very much not in support of it. So there was some of the items that came up during
4 the discussions that were potentials to look at for proposed changes. Since then
5 we've kind of fleshed this out a little bit more, we've taken it to public meeting that
6 was posted on Tuesday. I will get to that here in a second. Specifically, looking at a
7 few of these changes. First and foremost is education. Currently, we do not have
8 any mandatory education requirement for trappers. We are proposing mandatory
9 trapper education to occur. That was in support on both sides of the spectrum on this
10 of having some mandatory education. Right now we have some limited closures on
11 some parcels of land in the state where either maybe the county has banned trapping
12 and so those lands, we've administratively put a closure rule or maybe there's certain
13 land use restrictions from the land management agency where we've closed those.
14 The proposal would be to allow the director, with concurrence of the chairman, to be
15 able to close certain areas within the state if deemed necessary. One of the other
16 things that was discussed at those workshops, or those working groups, was
17 setbacks. Currently, the setback from a trail is 25 yards. The proposal that has been
18 discussed is maybe doubling that setback from 25 yards to 50 yards. We also have
19 two different setbacks from different recreational areas. For example, on the quarter
20 mile setback from picnic areas or half a mile from a campground or a boat ramp.
21 Talking about taking those picnic areas or rest areas, moving the setback from a
22 quarter mile to a half mile. Other proposals are signage. And I think this one is
23 important to clarify what the proposal is. Right now we don't require signage. One of
24 the proposals is signage by the department at more used trailheads, not necessarily
25 signage of traps or signage by the trapper, but signage by the department working

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1 with the land management agencies to talk about trapping, why trapping occurs,
2 where it's occurring, how to recognize it. Not signage by the trapper, per se. One of
3 the other discussion points was a trail definition. Currently, the trail is the definition
4 is: "A maintained trail that is basically marked on a map" is how the definition reads.
5 There's been discussion about how, potentially, to change that. Really no one could
6 come up with a great idea on that. Maybe defining high use trails, trails they get
7 more visitor impact on recreational use as a potential, but nothing in a great
8 consensus way on either side on how to define the trail. I mentioned the public
9 meeting that was held on the 26th. I'm going to go through a couple of the bigger
10 items that were discussed. Like I said earlier, education was basically everyone was
11 in favor of creating mandatory education for trappers. But the trapping constituency
12 and also the anti-trapping constituency felt that that was important and a step forward
13 in a right direction. As it pertains to setbacks, especially when it's setbacks off the
14 trail from doubling from 25 to 50 yards, there was really no common concurrence on
15 that, both from the anti-trapper or from the pro trapping advocacy. No one felt that the
16 setback of doubling it would have really any impact at all. It was really a discussion
17 point, but no one thought it would make a big difference on the setbacks.

18 CHAIRMAN KIENZLE: On either side?

19 STEWART LILEY: On either side. We really didn't get much comments on the
20 setbacks where it pertains to trails, but like I said -- not trails, I apologize. Picnic
21 areas, rest stops or occupied dwellings. Right now it's at a quarter. Our proposal
22 was a half. Again, not many comments pertaining to that. 4The trail definition, as we
23 discussed, most people thought the definition was sufficient. Where they thought that
24 there was lapsing was in the land management agencies updating their maps. And
25 so it's more of a map updating issue or a change in landscape where trails change

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1 every so often, but the maps aren't updated. They felt the definition was fine, it's
2 more on the fall back on updating of a map, if that makes --

3 CHAIRMAN KIENZLE: So what's the current -- does it have to be shown on a --

4 STEWART LILEY: The current -- I'll read the current language to you on that. So it
5 said that 'a trail shall mean any path open for public use and maintained annually by
6 public funds or any path published on a map by a municipal, state, or federal agency
7 and open for public travel. So most felt that that definition was sufficient. Again, it
8 was more of a lacking on those land management agencies on the mapping.

9 CHAIRMAN KIENZLE: So Colonel Griego, how do you make that decision in the --
10 or how do you get that information together in the field? You would need to figure out
11 if it falls within that definition or not?

12 ROBERT GRIEGO: Mr. Chairman, the way we deal with it is those that are
13 maintained by public funds, they're always going to have a marker of some sort.
14 Ninety nine percent of the time they are going to show up on some map but that's the
15 determination we make. Typically, if they're maintaining those trails, whether it's
16 Forest Service, BLM, or any other agency, it will have a marker of some sort along it.
17 Typically at the trailhead, at least, and that's how we make that determination.

18 CHAIRMAN KIENZLE: So I think it was at our last meeting one of the public
19 comments was I was walking my dog on, kind of, a well-used trail or some trail that
20 didn't care to be just bushwhacking. And I think the dog ended up in a trap. So it's
21 probably not quite enough facts to go on, but how do you deal with the trail that's just
22 getting going, you know, kind of a new trail, if you will.

23 ROBERT GRIEGO: Mr. Chairman, if we are talking about an unmarked trail like a
24 cow trail that just -- or a deer trail that is coming along, that rule does not apply as far
25 as the distance from that trail. The issue becomes is maybe not that particular trail

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1 where someone's pet was caught, but if an individual recognizes that trail and sets
2 but there is a deer trail up, that individual would have no way of knowing it was even
3 there, but it fell within that 25 yards, that becomes an issue on the enforcement side.
4 So that's why -- and I reached out across the nation, to the various chiefs across the
5 nation, to see "What's your definition of trail, how are you all utilizing it?" And across
6 the nation there was either -- they used a similar definition as New Mexico, or they
7 did not define trails at all. But if they did, they all fell within public funds, marked on a
8 map, type trails.

9 CHAIRMAN KIENZLE: Okay.

10 STEWART LILEY: In addition to the trail discussion, there was some support of
11 allowing the director with concurrent to the chairman to allow some limited closure
12 areas, may be if it was in high use, for example, in the Sandia Mountains or
13 something like that. So again, that showed limited support from both sides on that.
14 But the overarching as expected or as we've seen, it really was from no change to
15 complete ban on public lands is really the overarching was. With the exception of
16 hunter or trapper education.

17 CHAIRMAN KIENZLE: Where they met in the middle.

18 STEWART LILEY: Right.

19 CHAIRMAN KIENZLE: Right. With regard to closures. Director does in concurrence
20 of the Chair, if there is a rule to come out of this I want to see that be just for one year
21 or less amount of time, but it does expire after one year and has to be renewed, if
22 you will. So I don't want some chairman from a thousand years ago to essentially ban
23 trapping in a particular area for all time, so you would have to renew it every year to
24 maintain that closure. And that way, every year, somebody gets a look at it and if it's
25 not appropriate to close it then, just by the passage of time, that closure would go

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1 away. So if there is a rule to come out of this and there is a closure part of it, we do
2 need to have it expire and then some other poor director and chairman can take it up
3 at a later time. Let's take some public comment and then well do some -- you might
4 want to just stay there. I'm sure some folks will have some questions. Colleen
5 Payne. Do you have any deer hunting stories for us?

6 COLLEEN PAYNE: [indiscernible]

7 CHAIRMAN KIENZLE: All right.

8 COLLEEN PAYNE: But we can save them for another day. Is this on? Good
9 morning, Chairman Kienzle, Commissioners. Colleen Payne of New Mexico Mule
10 Deer Foundation. I just wanted to thank the department for including us in some of
11 those stakeholder meetings that we participated in. There was a lot of valuable
12 discussion at those meetings. But one thing I know that we discussed, that I hope we
13 consider on both sides, was education for trapping on both the trapper side for new
14 trappers, and non-consumptive users was something that we did discuss as
15 education so people who aren't familiar with trapping have an opportunity to learn
16 about it and the safety precautions that they need to take for them and their pets.
17 And I also just wanted to make note that the Mule Deer Foundation is in support of
18 trapping as a viable management tool for predators on public and private lands.
19 Thank you.

20 CHAIRMAN KIENZLE: Thank you. Jessica Johnson [phonetic].

21 JESSICA JOHNSON: Good morning, Chairman Kienzle and the Commissioners.

22 Jessica Johnson with Animal Protection of New Mexico. First, I want to thank you all
23 for the opportunity to give verbal comments on top of the written comments that we
24 submitted to Director Sloane and Assistant Director Comins and we really appreciate
25 the commission looking at this issue and we were grateful to be part of those

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1 stakeholder discussions as Colleen just mentioned. We don't oppose the proposals,
2 per se, that were just described by Mr. Liley. There are maybe one or two where we
3 would probably need more information, I think particularly regarding any kind of
4 redefinition of a trail in order for us to fully analyze it. And we do have some
5 concerns that have come about just about the possible impacts of these proposals.
6 Not necessarily in the proposals themselves, but they've kind of come out in the
7 discussions around them. So what we've heard a lot of about setbacks is that they
8 are likely to make trappers less able or less willing to abide by the one calendar day
9 trap check requirement, and so that is concerning to us. And, you know, there has
10 been kind of a little bit of an emerging theme that in order for trapping to be retained
11 on public lands, every other user of public lands that does not trap, needs to take on
12 more restrictions and more burden. So, you know, the rest of us, quote unquote, we
13 have to stay on trails, but trappers do not. We have to learn to like trapping and learn
14 how to release animals from traps. And hikers, hunters, search and rescuers, we
15 shouldn't even be allowed to bring dogs on public lands. I've heard a lot about a ban
16 on dogs on public lands. Mr. Chairman, could I continue for just a few seconds?

17 CHAIRMAN KIENZLE: Sure.

18 JESSICA JOHNSON: So to close a little bit. These proposals, you know, again, we
19 don't oppose them per se, they don't appear to be kind of meeting of the minds or
20 compromise, and we believe that they don't adequately address our concerns with
21 trapping on public lands. So we think that if there were going to be regulations that
22 this commission could pass that would preclude the need for legislation, or the
23 appetite for legislation, we believe we would need to see stronger regulations than
24 we heard today in the proposals. So thank you, so much for your --

25 CHAIRMAN KIENZLE: So I got questions. I have a question for you, don't run away

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1 yet. So what would make the proposal stronger, in the opinion of your organization?

2 JESSICA JOHNSON: Well, I think there's a couple of places to start to look. In the
3 report that came out from the Department of Game and Fish from the stakeholder
4 meetings, myself and colleagues in our trap free New Mexico coalition, we did submit
5 a full, sort of, list of edits to current rules, it's in Appendix C of that report. So I think
6 that's one place to look. Because there are several -- I think major changes that we
7 suggested there that haven't yet been further discussed. And we would also
8 appreciate, I think, a little bit more discussion about why a ban or pretty significant
9 restriction on trapping on public lands would not be appropriate. Because, you know,
10 we know that our neighbors up north in Colorado they have banned traps across the
11 state. In Arizona, the traps are banned on public lands. And, you know, they still
12 have a very healthy sportsman's communities, they still have very healthy agriculture
13 industries in those states, and so we would really like to be able to drill down on
14 exactly why we couldn't make a little progress in that direction and, you know, give
15 little more credit to the non-trappers that are using public lands and their desire to
16 bring their dogs with them, go out on the open range, and feel safe.

17 CHAIRMAN KIENZLE: Understood. Thank you. James Dawson [phonetic]. Is Mr.
18 Crenshaw here?

19 JOHN CRENSHAW: Yep, I'm here.

20 CHAIRMAN KIENZLE: I didn't hear you this morning. Good morning.

21 UNIDENTIFIED SPEAKER: He walked in late.

22 CHAIRMAN KIENZLE: Did you come -- you came in late just like Carrie Romero
23 [phonetic] did. I saw that.

24 DIRECTOR SLOANE: She likes to make a grand entrance.

25 CHAIRMAN KIENZLE: Mr. Dawson [phonetic].

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1 MR. DAWSON: I'm here representing the Trappers Association and I would just like
2 to say that it's basically on education, we are all for it. We think the public need to be
3 educated about trapping. I would like to see, personally, a few changes made but
4 they are my wishes and they're not necessarily wishes of the Trappers Association.
5 Basically, we are against all of the other issues that you guys are looking at. The
6 setbacks, the signage, closures, all of that stuff. Trappers see no need for it, you
7 guys already know that you have the science on your side, there's no need not to
8 continue the way you are going. It's working. As far as the dog issue, occasionally
9 there is a dog trapped in the state somewhere, but if you guys will look, probably in
10 your own records somewhere, you'll see that the dogs versus the trappers is very few
11 dogs caught in the state of New Mexico yearly. Year in and year out. And I know at
12 one point in time you guys were looking at bag limits [indiscernible] and I would
13 submit that the other side has said that there's been no studies on it, but you have a
14 study on cats that probably goes back over 30 years [indiscernible] and all you've got
15 to do is look at what you've issued over the last 30 years in the way of signage tags,
16 and you have a pretty good indication of your cat population and where it's at, as far
17 as up or down, or whatever. I think you guys need to, maybe, take a good hard look
18 at that and see where you're going. Also, there is a leash law for the state of New
19 Mexico. Maybe not in every county, I don't know, but certainly in a lot of the places
20 and I would submit that the public land is public. It's not just public for the non-
21 trappers, it's public for us as well. Everybody has a right to use it whether you're
22 hunting, trapping, or hiking. But that doesn't mean that if you're out there that you are
23 not responsible, or you can't take responsibility, for what is going on with your own
24 dog. And I think it would only be wise for people that are out there with their dogs to
25 familiarize yourselves with how to take a dog out of a trap if it gets caught. Like I

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1 said, I believe there are very few issues with dogs, but the media blows it up. I would
2 think that you guys would take that into consideration and the Trappers Association
3 asks you guys, if you already have the signs and you have a lot of the knowledge
4 that you need, we just ask that you do the right thing and you just kill these proposals
5 because their -- I mean, utterly ridiculous, some of them. The setbacks. If you go
6 from 25 yards to 50, you are doubling the time it takes a trapper to check his set, you
7 know, it don't seem like much but that's a double time. So effectively you're killing his
8 effectiveness by 50 percent, you know, in a day and that's something to consider.
9 And trappers, we're doing everybody a favor, whether the anti-public believes it or
10 not. If you guys have to take on [indiscernible] control into the department, it's going
11 to cost you a lot of money. We're doing it and we're paying to do it now. And as it is,
12 we are paying, the sportsmen, hunters, and trappers and fishermen, we're paying to
13 be out there and the average person [indiscernible] walking the dog, they pay
14 nothing. So it's something to consider. Then we have fees and, you know, we have
15 habitat stamps we have to buy, [indiscernible], trapper license, hunters license and all
16 of these things come into play and the average person out there walking their dog
17 pays nothing. And so, really, when it comes right down to it [indiscernible] I think they
18 would like to ban trapping, they also stated the other day they don't want to see any
19 commercialization for elk hunts, deer, or anything. So there goes all of your guides,
20 there goes the Department of Fish and Game, really, you just throw it out the window
21 if you're not going to commercialize it, I mean, and everybody has a hand in it one
22 way or the other. So what the trappers are asking you guys to just kill the proposals
23 as such.

24 CHAIRMAN KIENZLE: Thank you. Be patient, we are not there yet, we are not
25 anywhere yet, so this is all under discussion.

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1 MR. DAWSON: Well, thank you for your time.

2 CHAIRMAN KIENZLE: Yeah. Stay engaged in the process. Don't quit on us. Mr.
3 Crenshaw.

4 JOHN CRENSHAW: Good morning, Mr. Chairman, Commissioners. John Crenshaw
5 with New Mexico Wildlife Federation. I submitted written comments a couple nights
6 ago to the Director's office essentially restating what we've said all along since
7 around 2012, 2013, when the first bill stood to basically ban trapping on public land,
8 so it came out. That is we support trapping on public lands as a legitimate use of the
9 sustainable wildlife resource. This -- what we're dealing with here is, really, more of a
10 social conflict issue, cultural differences. It's not biological. Trapping is sustainable
11 and it's not harming the populations and I think that's pretty well demonstrated. In
12 terms of the specifics, most of you know I was personally involved in that task force
13 from beginning to end and we did, as the Federation, feel that there are some things
14 that the commission should do, or we would hope address. I would really rather that
15 the commission address these issues as best you can rather than the legislature. I
16 like the adequate and flexible system that the commission brings. Legislation is very
17 inflexible and can't be adjusted very easily. In terms of the setbacks, we support the
18 concept. I understand that some do, and some don't, including the trappers, and I
19 empathize with what they're saying, but I do think it's important to try to reduce the
20 conflicts. And in terms of education, I think the trapper education is a very good idea
21 and that was the one area that seemed like a very broad agreement. I did help
22 develop a brochure and the no trapping folks contributed, too. Joseph Newman, I
23 believe his name was, from Project Coyote helped write it. There were a number of
24 us from the trapping community trying to touch on the education of the non-trapping
25 community of things they can do and can't do or shouldn't do in trapping country. So

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1 that did come out of that. In terms of closures, I think that is something that should
2 really be examined and pursued. There's some areas where trapping is a -- just really
3 shouldn't happen because the amount of conflicts that it creates. My best bad
4 example is the west side of the Sandia Mountains is one good for instance. And the
5 trail thing, if that can be helped, it should be pursued, and we think the department
6 and commission are on the right track in trying to begin to address some of these
7 issues and hope it continues. Thank you, very much.

8 CHAIRMAN KIENZLE: Thank you. Mr. Vogel [phonetic].

9 MR. VOGEL: [indiscernible – away from microphone] but they also need to know it is
10 against the law to remove that trap if they still need to call the Game Department
11 [indiscernible] upon themselves I agree with everything that [indiscernible] 30 years'
12 experience. It is my business [indiscernible] I've done it for the last four years of my
13 life every year every time these things come up, [indiscernible] we pay to maintain
14 those trails [indiscernible] not the public.

15 CHAIRMAN KIENZLE: Thank you. Wayne Dirk [phonetic].

16 WAYNE DIRK: I'm just a country boy so I don't know all of the formalities but thank
17 you all for being here and doing the job that y'all do. We do appreciate you. I've
18 been a trapper for 54 years. I've had trap line dogs, cow dogs, I was raised on the
19 Turkey Track Ranch out here, 640 sections, and I have caught my dog, numerous
20 times I have caught my dog, my trap line dog. You release them and go on. I've
21 caught bird dogs and had guys that didn't know how to turn them loose and I've
22 helped them turn them loose and there was no damage done. The dog issue is
23 something that we have had since we've had trapping. You catch a rancher's dog
24 once in a while. Never has there ever been any damage done because of the trap.
25 Never. Somebody taking their dog and leaving it out there after he got caught, that

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1 could possibly cause some damage, but it's not the trapper or the trap, the person
2 responsible let their dog out there and then didn't find it. I have always been for
3 trapper education and for the trapper also because there's some new people, not just
4 young people, but people that enjoy the experience of being out in the wild and
5 participating in a harvest, a renewable natural resource. They make mistakes and I
6 would like to see the commission make it where not just users, but nonusers alike,
7 like that meeting where they're getting their hunter safety card there could be
8 something, I think, done there to show these people how to release an animal. I'm
9 not against the setbacks on the long hiking trails, nobody wants to trap a hiking trail.
10 I don't know any experienced trapper that would do that. The setback, you know,
11 there's been -- like I say, I've been trapping a long time and the old knees get worn
12 out and, you know, there's been other things for hunters that, you know, they can use
13 shoot from the road, shoot from the vehicle, use their vehicle to go retrieve
14 [indiscernible] trappers they just keeps pushing us back and making everything
15 difficult for us. We get older, you know, I would ask you to take into consideration
16 something that would benefit guys that are like me that are getting a little long in the
17 tooth [indiscernible], you know, I respect all people that use public land and all I
18 would like to ask is that they respect me back, you know, I do not want anybody not
19 to experience nature because I've done it all my life but we're not the bad guys.
20 Signage is not going to make any difference. I've worked for the government as a
21 trapper for over 16 years and I would see a quail hunter with his dogs [indiscernible]
22 you see my signs, you know I have traps in here. I don't stop and read those signs.
23 Signs are not going to do any good. They don't read them. I know that from personal
24 experience been told numerous times over the years in southeast part of New Mexico
25 in the sand hills where there was a lot of [indiscernible] I've never saw one guy tell

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1 me I seen that sign [indiscernible] there's so many signs out there. Again, on the
2 limit, raising the limit, the number of trappers in the state is such so – in our great
3 state, so massive that no more of us than there is we will never hurt the population.
4 [indiscernible] a thousand dollars if we don't get them back under control where the
5 deer and the [indiscernible] have a chance but that 20 bucks we're never going to
6 hurt them, there's not many people that will put out the energy. I just think that in
7 today's time with all of the scientific research that the commission and the Game
8 Department has and that you know what is best for wildlife. You can't stop wildlife
9 [indiscernible] raised on a ranch [indiscernible] capacity for livestock, there's
10 [indiscernible] capacity for predators and for [indiscernible] and if you don't manage
11 that, you are doing the whole ecosystem a disservice. I hate it that somebody's dog
12 gets caught.

13 CHAIRMAN KIENZLE: Mr. Dirk.

14 WAYNE DIRK: [indiscernible] 25 feet off – or 25 yards, not going to solve anything.

15 CHAIRMAN KIENZLE: Mr. Dirk, wrap it up.

16 WAYNE DIRK: Yes, sir. I just want to thank you for allowing us the time to be here
17 and thank you for your [indiscernible] --

18 CHAIRMAN KIENZLE: Stay engaged in the process, please. Travis. You can keep
19 your hat on, that's all right.

20 UNIDENTIFIED SPEAKER: Good morning, Commissioners. Thanks for letting me
21 speak. Thank you all for being here. I'm a trapper, it's very important to me. A lot of
22 us in this room are trappers. This is -- you won't find the people that learn more
23 about the animal that they are pursuing than us. I think changing the rules is going to
24 be a mistake. I do support trapper education, but I think that, especially the signage
25 rule, you know, on Facebook the other day I seen a guy actually put a sign he wasn't

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1 required to and then, you know, the response from the antis was finding a trap
2 smashed over a rock. I mean, so if that's going to be the case, are you going to
3 enforce the penalty for property damage? I use dogs a lot on my trap finding, I mean,
4 to find different things and I catch my dog from time to time. Just turn them loose, it's
5 not a big deal, you know, I think if the public can, you know, if we're going to do
6 education, it needs to go both ways. If the public [indiscernible] the hikers and
7 everything want to look and say okay well I can release my dog it's not that hard, you
8 know, I think when they leave, and they go to town and they panic and everything
9 else and I think it becomes a problem when it takes two seconds to release a dog.
10 I'd really like to keep trapping the way it is. A lot of us would. Thank you for your
11 time.

12 CHAIRMAN KIENZLE: Thank you. I appreciate it. Just a show of hands, how many
13 trappers we have in the room today? All right. It's a good crowd. Any questions or
14 comments from commissioners?

15 COMMISSIONER CHASE: How do you continually define the high use trail and how
16 do you educate everybody on that?

17 STEWART LILEY: So Mr. Chairman, Commissioner Chase. We haven't really
18 developed what would be considered a high use. It's an idea that was put out in front
19 of the public of would we be more beneficial to discuss setbacks on a high use trail?
20 Maybe something that was near a metropolitan area like Santa Fe or Albuquerque
21 where it's seen use of 3- to 400 people on a day or more on some of the, for
22 example, the trails in the Sandias where you might have high use versus a trail
23 maybe on the middle of the Gila where you see a hiker every fourth day or fifth day or
24 maybe even less. So the question was maybe different regulations on use of hikers,
25 et cetera, on those trails.

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1 COMMISSIONER CHASE: Okay.

2 COMMISSIONER RAMOS: Mr. Chairman?

3 CHAIRMAN KIENZLE: Yes, sir?

4 COMMISSIONER RAMOS: Chief Liley, what is the current process -- let's say
5 somebody that lives in the Sandias right on the base of the mountain in Albuquerque
6 and you're having coyote problems or whatnot. What is the process and who takes
7 care of that now?

8 STEWART LILEY: Mr. Chairman, Commissioner Ramos. So coyotes are not a
9 protected species in the state of New Mexico, so the Department of Game and Fish
10 does not respond to those. A lot of times it might be USDA Wildlife Services that
11 might deal with it if it's on -- especially if it's a livestock issue. We will work with
12 municipalities on animal control and, Bobby, maybe you can speak better this. On
13 specifically, coyotes, but the department does not regulate or does not have the
14 authority over coyotes.

15 ROBERT GRIEGO: Mr. Chairman, Commissioner Ramos. Really, even more
16 specifically, with just the general piece of property if there is not livestock involved or
17 livestock depredation, it's going to often be the private trapper. If a property owner is
18 open to trapping and wanting some coyote work done, it's going to be typically these
19 individuals that you see here that are doing that work for those citizens.

20 COMMISSIONER RAMOS: And the reason why I asked this question. So if we were
21 to close the Sandias, the west side of Albuquerque to trapping, it almost makes more
22 sense that you have more predators and if you had more of those -- and I'm not
23 talking livestock, I'm talking cats and dogs in the backyard with those types of issues
24 and is that City of Albuquerque even ready for that type of impact? And it used to be
25 well-thought-out on that.

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1 ROBERT GRIEGO: Mr. Chairman, Commissioner Ramos. You know, other than
2 coyotes, you know, when it comes to our protected for bears, the bobcats, the foxes,
3 then that would definitely fall back on the department and it be an increase on, or a
4 potential increase on the department and typically my staff, my officers, the game
5 wardens out there that would be handling those wildlife complaints.

6 COMMISSIONER RAMOS: And currently with bear populations growing in those
7 areas, we tend to be full-time status what -- like for three months, summertime,
8 drought conditions, things like that?

9 ROBERT GRIEGO: Mr. Chairman, Commissioner Ramos. Depending on the year
10 and the mass production that year, yeah, it can start as early as May and run through
11 August in some of those areas.

12 COMMISSIONER RAMOS: I strongly support the education and everything and my
13 biggest fear factor is when we have a human being being the one that gets
14 [indiscernible] on and that's my biggest safety concern and that's where I do have to,
15 you know, support some type of a trapping system that's effective, you know, to
16 maintain these populations. It is a huge balance and as weather changes and the
17 ecosystem changes, you know, we also have people moving more and more out into
18 the country and building homes where they've never been before, and these are all
19 things that fall into that equation. So I'm sure the department, we're looking at all of
20 those angles as well, but, yeah, we have some issues to figure out here.

21 CHAIRMAN KIENZLE: What is the next step in the process from your perspective?

22 STEWART LILEY: Mr. Chairman, I think part of it is looking for some guidance to
23 you on where to head next on this. We've had, like I've said, the public meeting. We
24 had some discussion back and forth. I think, as Mr. Crenshaw stated, I think this is a
25 little bit more of a social issue than a pure biological issue that we deal with on say on

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1 the elk rule that might come up when we're discussing license numbers and limits
2 and those kinds of things where this may be more of that. And so I think the
3 department is more looking for some guidance on the next steps forward, where we
4 go.

5 COMMISSIONER RICKLEFS: Mr. Chairman?

6 CHAIRMAN KIENZLE: Yes, sir?

7 COMMISSIONER RICKLEFS: Stew, what is a regulation for individual ID on a trap?

8 STEWART LILEY: Mr. Chairman, Commissioner Ricklefs. You are required to
9 identify your trap, either with your trapper ID number that the department used to
10 provide or your customer identification number, the CIA that is provided by the
11 department. So every trap or snare is required to be marked with an identification.

12 COMMISSIONER RICKLEFS: So it would be very difficult for Bobby's people to -- if
13 the trap is not identified, there's no name, no ID, no nothing on it, if it's too close to
14 the trail, it's very difficult for enforcement there.

15 ROBERT GRIEGO: Mr. Chairman, Commissioner Ricklefs. That is true. All of those
16 traps are supposed to be permanently marked with those numbers. A lot of times in
17 these situations they are unmarked. In my experience -- one of the gentlemen spoke
18 of it. A lot of the individuals that are trapping in these areas where we're having
19 these issues are pretty new to the game and are pretty inexperienced. It's not a
20 great place to trap and that's where we do see a lot of these violations and then it just
21 turns into a bigger investigation trying to figure out who's running those trap lines
22 which we can do. We do end up making a lot of those cases. An issue we have
23 though, is when emotions are high, and something happens and they remove that
24 trap, they pull that trap, it hurts that evidentiary value. We can't look for footprints, we
25 can't -- whatever the case may be. But, yeah, it is an issue when those traps are

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1 unmarked.

2 COMMISSIONER RICKLEFS: It seems like most of these you read about they were
3 unidentified traps, especially in the Sandias.

4 CHAIRMAN KIENZLE: Any other questions or comments? To the trappers, don't
5 fear this process. There may be some change, but I am sympathetic to the fact that
6 this isn't a just a hobby for some folks, it is a livelihood. So I get that. Folks on the
7 other side, absence of some sort of legislative mandate, trapping is here. And I think
8 as everyone in this room would probably agree and some people have said, we all
9 have to find a way to get along. So I would tell the trappers, again, don't fear this
10 process. Folks on the other side, stay engaged. But for now, trapping is here to
11 stay. As far as what you need from the commission, I will visit with you and the
12 Director and we'll see what the next step is. It may very well be on January's agenda
13 with some sort of proposal or it could be for further discussion. I would anticipate, if it
14 goes forward, there will be more public meetings ultimately when there's a concrete
15 proposal.

16 COMMISSIONER RICKLEFS: Mr. Chairman? Is the rule open because of this
17 discussion today?

18 CHAIRMAN KIENZLE: Is it open? It's always open. I mean, it's not a -- it's not one
19 that comes up every four years or anything. So it can be left alone. There's nothing
20 that requires us to take it up. Any other questions or comments on this one? We're
21 going to take a break, and this will be a rather lengthy break before our next
22 presentation. Thank you.

23 TANNER ANDERSON: Mr. Chairman, thank you for allowing me to speak.
24 Members of the Commission, Director Sloane, good morning. My name is Tanner
25 Anderson [phonetic] and I represent the New Mexico Farm and Livestock Bureau and

1 is over 19,000-member families. Some of our members are actually here today. Just
2 a few things on the trapping rule. As far as our policy is concerned, we are
3 supportive of current trapping practices. We would be supportive of the education
4 aspect. Obviously, we have been a part of the working group that has come up with
5 that education, along with Mr. Crenshaw, members of the trapping association, and
6 others. So we would be in support of that. As far as giving allowance for closure to
7 the director, we probably would not support that. We need to have some more
8 discussion on that. Setbacks, we would not support as they are. We feel that they
9 are adequate so, obviously, we wouldn't support that. And then signage and trail
10 definition, we would like to have more conversation as far as those go. Obviously,
11 we will stay involved throughout the process, we will stay engaged, and are always
12 happy to provide feedback. So, thank you.

13 CHAIRMAN KIENZLE: Thank you. Formally -- the Agenda Item formally known as
14 Agenda Item No. 10, we will hear as Number 11. United States Fish and Wildlife
15 Service's 2019 Mexican Gray Wolf Translocation Plan.

16 STEWART LILEY: Mr. Chairman, Members of the Commission. I do want to
17 acknowledge that there are members from the U.S. Fish and Wildlife service staff in
18 the room, as they announced during the opening remarks, and members from the
19 Turner Endangered Species from the Ladder Ranch as well. What in front of you
20 today is the 2019 Translocation Plan as proposed by the U.S. Fish and Wildlife
21 Service. But real quick, I want to do an update on the 2018 translocations. If you
22 recall, in 2018 the service and their translocation plan talked about cross fostering
23 less than 14-day old puppies into dens up to 12 across Arizona and New Mexico for
24 the 2018 denning season. Again, these are puppies born in captivity, less than 14
25 days of old, that are translocated into wild dens. Last year -- or excuse me, this last

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1 spring, they moved eight puppies into four different dens, two puppies per den, six of
2 those puppies went to New Mexico, two into Arizona, just from the way the timing
3 worked from captive litters and wild born litters. Current status of those puppies, one
4 is confirmed dead. They did recover that puppy. One is where they were able to
5 radio collar the puppy and as a subadult in September and then six are status
6 unknown. Those six status unknown will probably come clear after the annual
7 capture and count that occurs in late January, early February. They'll attempt to
8 capture any associated pups or coming short yearlings with the adults at that time
9 and we'll have a better idea of what the status of those six are. So the Fish and
10 Wildlife Service --

11 CHAIRMAN KIENZLE: How did the dead one end up dead?

12 STEWART LILEY: Mr. Chairman, I do not know. The Fish and Wildlife Service might
13 know. I don't know if it was abandonment or if it was killed by another wolf. I do not
14 know the cause of mortality for that individual. In the 2019 plan, as presented by the
15 Fish and Wildlife Service, their plan is to cross foster up to 12 pups from captivity into
16 the wild again in New Mexico and Arizona. This is the same request as what they did
17 last year in 2018. No change from last year. I do want to mention that Arizona has
18 approved up to 12 as well. If you recall last year, they capped at six. Arizona is
19 saying up to 12 depending on where the -- so it would be 12 total across Arizona or
20 New Mexico, but if all the dens lined up in Arizona the 12 all could very well go there.
21 But denning wise, the priority it looks about evenly split between the two states. The
22 other, as they've done in the past and did last year, is remove any female that might
23 have formed a pair with its brother. Last year they did have a female that formed a
24 pair with its brother. They removed it, brought it to captivity, and brought her back.
25 That was in Arizona. The other one is an annual event and occurs throughout every

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1 year is translocation or removal of wolves. The translocation is if we have a
2 disbursing wolf outside of the Mexican Wolf experimental population range, which is
3 the I 40 boundary. Anything north of there must be brought back south into the
4 recovery area. So that's the standard protocol. That translocation would be that
5 individual animal or animals that went to the north would be brought back. And then,
6 also, on an annual basis they do have wolves with depredation histories. Those
7 depredation histories, depending on what the Fish and Wildlife Service's call on that,
8 it is sometimes lethal removal or remove the animal back to captivity. Those animals
9 would come into captivity for permanency or potentially be moved into Mexico. The
10 last one there is specific to the Ladder Ranch and what that is is the Fish and Wildlife
11 Service as they have these captive animals that have puppies that they are going to
12 try to release into the wild dens, they are trying to get those bred females and those
13 puppies closer to New Mexico or Arizona before they're released. The Ladder Ranch
14 is requesting to have one female, captive female, that would not be released, brought
15 to the Ladder Ranch for breeding purposes, and then her puppies would potentially
16 be one of the 12 pups released in the wild, if, and only if, her pups align with wild
17 dens. And so with that, that's the plan from the Fish and Wildlife Service for the 2019
18 translocation events. And I would take any questions.

19 CHAIRMAN KIENZLE: So how did we do over the last year?

20 STEWART LILEY: So over the last year, as we've shown, we signed -- there was a
21 sign recovery plan by the Fish and Wildlife Service in November of 2017. That plan
22 did talk about a specific number of releases that had to occur from captivity in order
23 to meet recovery goals and the population turned over to state management. So
24 that's where, we as an agency, have discussed cross fostering as the best option.
25 Releasing less than 14-day old puppies that are not habituated in captivity, not naïve

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1 wolves, adults going onto the landscape. We think that through -- we can reach that
2 recovery goal to get that one notch off there that gets it closer to state management.
3 Once we get to that, again, we release -- or the service released eight puppies. We'll
4 know the status here in about two to three months on those remaining six. Hopefully,
5 we have some more survivals because it will limit the amounts of cross fosters that
6 will need to occur in the future. So one more notch off on that. So I think it was
7 positive in that they were able to get and continue to focus on cross fostering of pups
8 and not having to rely on adults out of captivity.

9 CHAIRMAN KIENZLE: Let's take some public comment and then we'll circle back
10 with Commissioners. Mr. Anderson, how about another crack at it? Did he
11 disappear? No.

12 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone]

13 CHAIRMAN KIENZLE: For number 10. Okay. Nothing to say about wolves?

14 UNIDENTIFIED SPEAKER: [away from microphone]

15 CHAIRMAN KIENZLE: Okay. They make good pets. John Ball [phonetic]. Bell?

16 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone]

17 STEWART LILEY: Mr. Chairman, Mr. Bell. No, that's not part of -- the Fish and
18 Wildlife Service's plan is not to release. The areas would be just puppies. Again,
19 less than 14-days old, into the current occupied range over in the Gila in those wild
20 dens. So there is no plans from the Fish and Wildlife Service currently to release
21 anywhere new than where the adults are.

22 COMMISSIONER SALOPEK: What is the east-west -- to help Mr. Bell, what is the
23 east-west corridor limits?

24 STEWART LILEY: So Mr. Chairman, Commissioner Salopek. The east-west limits
25 of where a wolf can travel, in terms of the 10(j) rule is California to Texas. Now -- and

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1 south of I 40. Release wise, it's in the current population, is where it is. The current
2 population is mainly on the [indiscernible] Rim in Arizona and New Mexico.

3 COMMISSIONER SALOPEK: Thank you.

4 UNIDENTIFIED SPEALER: Thank you very much.

5 CHAIRMAN KIENZLE: Thank you. Cole Stoddard [phonetic]. Did I get that right?
6 Close?

7 COLE STODDARD: My name is Cole Stoddard. I'm a rancher and a hunter and a
8 trapper. I have a forest permit in Catron [phonetic] County by Apache Creek. The
9 wolves over there are about to put the ranchers out of business, literally. There's
10 been hundreds and hundreds of kills. They won't do anything about the
11 depredations, the ones that have confirmed, it takes it to six months to a year to get
12 paid for them, if you do. And John Oakley [phonetic] [indiscernible] biologist even
13 told me that for every one killed that you find, there is anywhere from eight to ten that
14 they don't find. And ranchers can't sustain these kinds of numbers and keep going
15 with the wolves destroying livelihood of the ranchers. Just on my place alone, one
16 third to one half of the wolves that come through are not collared. I lost over 100
17 calves this year. And mostly to one pair of wolves. And they agreed to do something
18 about it if they could get one of them collared. We helped them out, told them where
19 they were traveling and everything, and they got a collar on the female and nothing
20 happens after that. Keep having kills, the neighbors have had kills, they have kills
21 down the road by air gone [phonetic], and they blame on another pack when they
22 can, but they will not do anything about it. And it's literally putting ranchers out of
23 business that have been there for years and years. We play by their rules, do
24 everything -- do everything we're supposed to but it's a one-sided deal. They won't
25 remove the animals that are causing trouble and they will not report everything either.

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1 And there's a whole lot more of them around than what they act like there is. And I
2 don't know -- I know there's probably nothing you can do about it, but I would ask, at
3 least, contact the Catron County FSA Office and they have numbers and all of the --
4 not all, but a lot of the cattle that are depredated and the numbers that are missing
5 and everything else. Thank, ya'll.

6 CHAIRMAN KIENZLE: Thank you. So what does a gentleman in his position do?
7 What's the protocol?

8 STEWART LILEY: Mr. Chairman, so the protocol is really working with wildlife
9 services. Wildlife Services has to go out and make a confirmation on a kill. When
10 Wildlife Services makes a confirmation --

11 CHAIRMAN KIENZLE: Is that federal? That's not --

12 STEWART LILEY: Mr. Chairman, that is correct. That is all federal government.
13 Again, because it's listed as an Endangered Species the ultimate authority right now
14 lies in the hands of the U.S. Fish and Wildlife Service and the federal. There is -- as
15 the gentleman mentioned, there is some compensation programs, but it has to be an
16 official confirmed kill by Wildlife Services before payments are made.

17 CHAIRMAN KIENZLE: So you followed that?

18 COLE STODDARD: [indiscernible – away from microphone]

19 CHAIRMAN KIENZLE: So how long -- if you are compensated, how long does it take
20 from start to finish?

21 COLE STODDARD: [indiscernible – away from microphone]

22 CHAIRMAN KIENZLE: So when you follow that process, you fill out a form? What is
23 the process?

24 COLE STODDARD: The Fish and Game [indiscernible – away from microphone].

25 CHAIRMAN KIENZLE: So is there anything the department can do to help in that

1 interface between the public and the feds?

2 STEWART LILEY: Mr. Chairman, I think part of it is, is ultimately the Fish and
3 Wildlife Service and USDA Wildlife Services makes confirmation on kills. I think part
4 of it is working with them to look at other programs through FSA maybe for pay for
5 presence or something. Again, this is going to be all federal. I think the best thing
6 possible, from my perspective, is to get the species delisted and the state takes over
7 management authority of it. Once the state takes over management authority of it,
8 we'll treat it like if it was a cougar, or if it was a bear, et cetera, where we deal with a
9 lot of predation on those species -- on cattle as well. And I think we're better able to
10 respond, in my personal opinion, than the federal government on depredations and
11 on those things. So I think the sooner we get the species delisted, the sooner it
12 comes into the State Management Authority, the sooner that we have more of a
13 stake in it, I guess, if you will, on what can and can't happen.

14 CHAIRMAN KIENZLE: Okay.

15 COMMISSIONER RAMOS: Stewart, can I ask you on the process just to confirm the
16 kill, how can we expedite that to confirm that it was a wolf? Is our department
17 engaged on that or are we having to wait for the U.S. Fish and Wildlife people? I
18 mean, are they -- they're within 24 hours, how long does it take to go in there and do
19 the investigation?

20 STEWART LILEY: Mr. Chairman, Commissioner Ramos. Currently, Catron County
21 has an individual that's hired by Catron County that assists with, again, it's USDA
22 Wildlife Services that are making those confirmations. It's not the department making
23 the confirmations. It has to be made by one of the officers from Wildlife Services. I
24 think one of the things that the department can help, potentially, in the future is
25 supporting more agents from the Fish and Wildlife Service -- or excuse me, from

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1 Wildlife Services USDA out on the field or maybe dedicate staff from, again, Wildlife
2 Services because they're going to have to make the ultimate call to have maybe an
3 officer, a wildlife services officer, stationed specifically in that Catron County area that
4 deals just with this to try to speed up depredations. And again, that's not necessarily
5 something the department can do, but it's something that we can try to work with
6 Wildlife Services USDA and Fish and Wildlife Service to encourage that they have
7 someone full-time, full staff, just doing on this.

8 COMMISSIONER RAMOS: Stewart, and that's where I go with communication is
9 everything and being on the same page. And even data, you know, I think we should
10 as far as our department is receiving some information. Earlier you were asked a
11 question about the pup and what was the determination on why that pup was lost.
12 You did not have an answer for us. That's the lack of communication that I would like
13 to see us step up to know more facts and continuous weekly progress of
14 communication that's coming out, not only to us, but everybody, you know, and I
15 think our website and the technology was that we had should have a weekly update
16 on that, just like if you have a fishing report or any other reports and whatnot. And
17 that drives conversation and happenings and to stay abreast to what is happening
18 because if there is a trend, and if there is a problem -- I know they have a process to
19 remove that wolf from that equation or whatnot, even around safety and people and
20 concerns. Again, earlier we were talking predation problems and issues. That's my
21 biggest concern is when our first human being gets killed due to a predator, it's not
22 until then when we take a major stand on how we manage, you know, whether it's the
23 feds or the state, you know, that's impacting us here in the State of New Mexico and I
24 really challenge to have a crucial conversation with them. I know they're asking, you
25 know, later on today, they're going to want us to support the cross fostering and, you

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1 know, I'm here to support as well. I do understand delisting them quicker and then it
2 comes to state power where we make, you know, those decisions. But on the other
3 hand, they are speed bumps and rapid recesses that we have to do is we go through
4 this process and we're waiting for that delisting. We need to have something in place
5 on that.

6 VICE CHAIRMAN MONTOYA: Mr. Chairman?

7 CHAIRMAN KIENZLE: Yes, sir.

8 VICE CHAIRMAN MONTOYA: Stewart, is there problems with responding to some
9 of the concerns that we have about wolves taking livestock, et cetera, because we
10 don't have enough of the agents, let's call them, to investigate, find out what it is. Is
11 there a shortage, is there a money problem, is there -- what we got? Where are we?
12 You know, we -- if I remember right, in about a ten-year period we were told that we
13 would be putting around \$250 million into this program, that's a heck of a lot of
14 money. And yet, we are having to deal with those problems that the gentleman
15 brings up, and I'm sure he's frustrated, and we are too, because it's an ongoing battle
16 but we're never going to get ahead of this if we don't put our heads together and
17 figure out "hey, what can we do help those people that are getting damaged and to
18 protect the critters" in the same stroke of what we might be wanting to do. I get
19 confused with all of that and I don't know where we are, and I don't know if there's --
20 a valid question may be of saying how much goes into the investigation that these
21 gentlemen need and --

22 STEWART LILEY: Yeah, Mr. Chairman, Commissioner Montoya. I think, again, from
23 my standpoint looking in is there probably needs to be more focus on wolf
24 depredation management then wolf biology. Wolf biology -- a wolf is fairly robust.
25 But there is depredation management that probably needs to be more robust. We've

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1 had those conversations with the Fish and Wildlife Service and we've had those
2 conversations with USDA Wildlife Service in the last few months to say that maybe
3 it's time for you to look a little bit harder at depredation management and what that
4 means. I don't know what that means from a federal level or where they can step in,
5 but I think --

6 CHAIRMAN KIENZLE: So when I sat at a table similar to this shortly before
7 Christmas last year, I said that implementation of all of this is important -- I'm going to
8 lean forward, it's kind of rude to lean back in my chair, my apologies. And I said
9 implementation is important. So who, in the department, is predominantly responsible
10 for our end of the Mexican Gray Wolf Program? Other than you? Are you it?

11 DIRECTOR SLOANE: Mr. Chairman --

12 CHAIRMAN KIENZLE: How many hats do you wear?

13 DIRECTOR SLOANE: I think that Stewart has been a lead on it but we're not
14 actually as engaged as we could be, I guess. For the long-term.

15 CHAIRMAN KIENZLE: So we're going to go back to where we started a year ago
16 and I'm going to say it again. This is an implementation issue and I -- I think it's
17 almost necessary to dedicate a significant number of personnel hours to this and
18 you're only one person Fully capable of doing a lot of things, but this is some real
19 brass tacks and so I think we're going to have to find someone in the department,
20 whether it's an existing person or a new person, to more effectively help people like
21 him, you know, interface in some respects with the federal government because one
22 of the reasons were even where we're at today with a seat at the adult table is
23 because the state stepped up, commission and the department stepped up, and
24 engaged on a number of different fronts to get us to where we are today. And I know
25 it's hard for one person to sometimes move the federal government to do what it

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1 needs to do, and I think we need to give a helping hand if we can from within the
2 department. So I will visit with you and I will visit with the Director Sloane about that
3 because I did say last December that, you know, this is really -- what was it, the
4 beginning of the end, or the end of the beginning, or something like that. But it does
5 come down to implementation and, you know, we've had one year, maybe it was a
6 good year, maybe it was a bad year, it's hard to tell from just one year. But this, I
7 know, is a continuing problem; didn't start last December, I mean, it's one it's been
8 going on a long time. So I will visit with the Director and you and we'll see if we can
9 find someone who's got the time to at least act as a resource for people in our state
10 who need to interface with the feds to get compensation, ultimately, if there is a wolf
11 kill.

12 COMMISSIONER RAMOS: Chairman Kienzle and Stewart, I know you definitely
13 haven't been dragging your feet and I know you have a current study that you are
14 implementing right now with the elk collaring. I know between Arizona and New
15 Mexico we're going to be collaring 500 elk in scattered areas to see the impact and to
16 me, that's a very important study. Data drives need and need drives change. I'm a
17 firm believer in that. And the data right now we collect on livestock impact is -- it's
18 there, you know, it's a lot easier to manage your livestock to know where they're at
19 versus wild elk populations, you know, so I know you've definitely not dragging your
20 feet, but we've got to engage, I think, in some better conversations. I strongly believe
21 that you do need some more manpower to have those crucial conversations and I'm
22 hoping that, rather than having a yearly report from the department, we need to have
23 one at least every quarter to see what's going on with this conversation. Mexico's in
24 the equation. I know when we first started getting into this, Mexico wasn't even in the
25 conversation and 90 percent of the historic range is in Mexico and here we're the

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1 ones that are taking the hit., you know, and so to me it's very important that we need
2 to engage with conversations with Mexico and Arizona and New Mexico and really
3 have, again, valid information on our website constantly coming to us weekly on what
4 is happening with kills, with growth, with pups surviving, with all of these type of
5 biological things that can give us good indicators to continue moving in the direction
6 that we're moving in and to support [indiscernible] --

7 CHAIRMAN KIENZLE: Let me also say that the way the system is set up under the -
8 - what do we sign, a memorandum of understanding? We are coming back every
9 year to basically approve additional releases and so at some point we fall back into
10 that old pattern we were at before we had a recovery plan and a memorandum which
11 is, things and just rock and roll along and there's no meaningful change or
12 meaningful cooperation. So I'm concerned is perhaps too strong a word, because
13 we're only one year into it, but as I would assume on other commissions, you know,
14 under whatever the same duty that we are under, will perhaps condition some of
15 these releases on better behavior across the board on all the things that touch on
16 this. So whether it's depredation or better information, as Ralph always wants. But I
17 think the next time around may be a more robust presentation from you, sort of on
18 what we expect. Because we went through a whole lot before we got to the vote last
19 December and so I think we probably need as much or more information on a go
20 forward basis. So don't take any of this is a criticism. We're one year into this and I
21 think we're all finding our feet. But, again, this is an implementation issue now. I
22 mean, we've tackled a lot of the difficult public policy parts of it and this is now where
23 does the rubber meet the road? And so I'm hopeful that as we go into 2019 and
24 whoever is on the commission a year from now, they have more information in front
25 of them. Ralph is optimistic that he will get it weekly. I think that's a little too much.

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1 COMMISSIONER RAMOS: One of the things is you hear about stray wolves, let's
2 say one ends up over in Ontario [phonetic] County, you know, we ought to know what
3 do we do with that wolf? That way we owe it to our constituents and the public of
4 what's happening with this [indiscernible] --

5 CHAIRMAN KIENZLE: I think you are getting information on nuisance wolves
6 though, right?

7 STEWART LILEY: Mr. Chairman, that is correct. So one of the things right now is
8 the department is currently not a signatory to the MOU that allows us to management
9 on the ground.

10 CHAIRMAN KIENZLE: Right.

11 STEWART LILEY: And so we get the information as we get the information from the
12 Fish and Wildlife Service. They are actually pretty responsive on that. As it pertains
13 to mortalities, every single mortality of a wolf has to go to the Ashland lab up in
14 Oregon so they -- sometimes it takes almost 14 months for confirmation on what
15 immortality is is why that sometimes comes in. But yes, depredations they're
16 informing us quite a bit on it. A lot of it is after -- it's all after the fact. We ask the Fish
17 and Wildlife Service, and most recently, to keep us more better informed so that we
18 know when we are having more frequent depredations because ultimately a decision
19 is going to be made to remove -- put the captivity lethal that we as the department
20 might see because it is a protected species in New Mexico and that takes a permit or
21 something so.

22 CHAIRMAN KIENZLE: Travis.

23 UNIDENTIFIED SPEAKER: I would just like to say that [indiscernible - away from
24 microphone].

25 CHAIRMAN KIENZLE: Understood. Thank you. Any further questions or comments

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1 from commissioners? So when you flip up slide on -- so on number 2, number 3, and
2 number 4, those can be dealt with kind of on the fly, right?

3 STEWART LILEY: Mr. Chairman, that is correct except for maybe number 4 of the
4 import to the Ladder Ranch, specifically to the Ladder Ranch.

5 CHAIRMAN KIENZLE: Okay. Which is not to say that number 2 and number 4 -- or
6 number 2 and 3, pardon me, are not important, but it's not something that we
7 necessarily need -- because there is no brother sister pair that's identified right now.

8 STEWART LILEY: Mr. Chairman, that's correct.

9 CHAIRMAN KIENZLE: And then same with number 3. There's no immediate issue
10 on that?

11 STEWART LILEY: Mr. Chairman, that's correct.

12 CHAIRMAN KIENZLE: So what did we approve last year in terms of pups, cross
13 fostering, importation, and all of that?

14 STEWART LILEY: Mr. Chairman, last year you approved up to 12 pups to be cross
15 fostered in New Mexico with the understanding that the Fish and Wildlife Service will
16 do up to 12 across the entirety of the Mexican wolf recovery range. Arizona has
17 approved that same number, so it would be -- potentially it could two in New Mexico,
18 it could be potentially be --

19 CHAIRMAN KIENZLE: So is this request for importation release, what exactly
20 [indiscernible]?

21 STEWART LILEY: Mr. Chairman, number one is specifically to allow the cross foster
22 of up to 12 pups in the state. Again, with the understanding that most likely a number
23 of those will be in Arizona.

24 CHAIRMAN KIENZLE: So it's across fostering code for, ultimately, we would be
25 authorizing then the release of 12 into the wild?

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1 STEWART LILEY: Mr. Chairman, that is correct. Up to 12 pups in the wild.

2 CHAIRMAN KIENZLE: And then on the Ladder Ranch, tell me a little bit more about
3 that.

4 STEWART LILEY: Mr. Chairman, on the Ladder Ranch there's one female in
5 captivity in California, I believe it is California, that they would like to bring into the
6 Ladder Ranch that her pups, shall she have well pups, would be genetically viable to
7 put into the wild. So again, by rule it needs a commission approval for that
8 importation to occur to the Ladder Ranch. If her pups -- if she [indiscernible] pups
9 and her pups line up with wild born litter, those pups would be removed from her and
10 put in. The female would remain in captivity. There would not be a release of that
11 female out of the captivity. It would just be if she has pups, number one, and number
12 two, if those pups lined up with a wild den. It may be that those pups go to Arizona
13 as well.

14 VICE CHAIRMAN MONTOYA: And Mexico has fallen into what part of this?

15 STEWART LILEY: Mr. Chairman, Commissioner Montoya. Mexico is actively
16 involved in recovery as well. They just released a family group of wolves in Mexico
17 about two months ago. So it's part of the captive program. They transfer wolves
18 from the United States into Mexico at pre-release facilities that sometimes go into
19 there. None of this, in terms of the 12 pups or anything, is slated for Mexico. There
20 potentially is some wolves in captivity right now that could be processed down into
21 Mexico, but nothing is currently in New Mexico slated for Mexico. A lot of those
22 wolves currently exist in captive facilities in Mexico right now.

23 COMMISSIONER RAMOS: Stewart, currently all of the wolves that have gone to
24 Mexico have gone through Turner's, correct?

25 STEWART LILEY: Mr. Chairman, Commissioner Ramos. Those ones that were

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1 most recently released from captivity into the wild that were from the United States,
2 yes, just did go through the Ladder Ranch because originally, I believe, they came
3 from California, stopped over at the Ladder Ranch, and then went into Mexico just
4 because of the long transport and the risk of high mortality for that long transport.

5 COMMISSIONER CHASE: Mr. Chairman.

6 CHAIRMAN KIENZLE: Yeah.

7 COMMISSIONER CHASE: Being new on the commission, could you explain to me
8 what the budget is for this every year?

9 STEWART LILEY: Mr. Chairman, Commissioner Chase. The department doesn't
10 have any budget slated toward it. This is all the federal U.S. Fish and Wildlife
11 Service that pays for all of this. This is just a permitting right now. And so there is no
12 personnel that will be cross fostering pups from the department. This is all just Fish
13 and Wildlife Service.

14 COMMISSIONER CHASE: Gotcha.

15 CHAIRMAN KIENZLE: Stewart is the end of the line. He is the line item in the
16 budget.

17 VICE CHAIRMAN MONTOYA: Mr. Chairman and Stewart, when I was talking about
18 that \$250 million going into the project over a ten-year period, that's federal aid
19 money there, correct?

20 STEWART LILEY: Mr. Chairman, Commissioner Montoya. It's actually U.S.
21 taxpayer dollar. It's not federal aid from like Pittman Robertson [phonetic] or
22 anything, it's all slated from U.S. Fish and Wildlife Service Endangered Species Act
23 out of the federal [indiscernible] --

24 VICE CHAIRMAN MONTOYA: In other words, it's not Game Department money?

25 STEWART LILEY: Mr. Chairman, Commissioner Montoya. That is correct, it's all

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1 Department of Interior money.

2 UNIDENTIFIED SPEAKER: It's actually 20 years, not 10.

3 VICE CHAIRMAN MONTOYA: 10, 20, it's a lot of money for 20 years.

4 COMMISSIONER RAMOS: Stewart, I'm going to back up a little bit. My brain is
5 processing info here. You mentioned the process with once the female has pups at
6 Turner's, those pups would go into the Gila or into Mexico or Arizona if they line up
7 with the female there? What if they don't line up? What happens there?

8 STEWART LILEY: Mr. Chairman, Commissioner Ramos. If those puppies do not
9 line up with a wild litter they remain in captivity. It may be that those pups eventually
10 get transferred to a captive facility in Mexico and those pups as 2-year-olds or 3-year-
11 olds or 1-year-olds gets released in New Mexico. Currently, right now, the U.S. Fish
12 and Wildlife Service is not releasing adults into the United States and that is the
13 current plan for the future. As far as we see, there is no release of adults into there so
14 if that puppy -- if those pups do not line up in the first 14 days, they are slated for
15 captivity or slated for release in Mexico.

16 COMMISSIONER RAMOS: Last question. What are numbers in Mexico and also
17 Arizona and New Mexico?

18 STEWART LILEY: Mr. Chairman, Commissioner Ramos. In the most recent count,
19 again, they only release one number as a minimum count and, again, I would stress
20 this is a minimum count is 114 between Arizona and New Mexico. That count is
21 conducted in January and February of each year so in a couple months we will get a
22 new number based upon this year's deaths and this year's births of pups. In Mexico,
23 it's approximately 35 in one location.

24 COMMISSIONER RAMOS: Thank you.

25 CHAIRMAN KIENZLE: Any further questions or comments? More information next

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1 year, next November and next December. I may not be here, but as a courtesy to
2 the next commission I think more information is better. I will visit with you and
3 Director Sloane about -- because I do recall, specifically, saying we probably need to
4 detail somebody specifically to deal with this, maybe not for all time, but it would have
5 been useful to have that person on board from, you know, basically January forward
6 as we got cranked up with what really amounts to a change in policy here in the state
7 of New Mexico. So we'll -- and I'll chalk it up to some transition in 2018, but I will pick
8 it up with you and the Director and we'll talk about it.

9 UNIDENTIFIED SPEAKER: Start in August or sooner.

10 CHAIRMAN KIENZLE: Yeah. Chair we'll entertain a motion to permit the Director to
11 allow for the release of up to 12 puppies in the wild of New Mexico for the 2019 cross
12 fostering events.

13 COMMISSIONER RICKLEFS: Mr. Chairman, I so move.

14 COMMISSIONER RAMOS: Second.

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

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: Any opposed? None opposed. On two and three if you
18 need those on the fly, or the feds need on the fly, or I don't know if the latter might
19 need it but then you need to come back and ask for that and none of this falls under
20 the more cumbersome rulemaking procedures so it can be done quickly and even by
21 special meeting if it had to be done. Chair will also entertain a motion to permit the
22 Director to allow for the importation of one female wolf to the Ladder Ranch for
23 breeding purposes, and if the timing of her pups [indiscernible] align with wild born
24 litters, allow for her pups to be released into the wild and count against the up to 12
25 pups being released for 2019.

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1 COMMISSIONER PETERSON: So moved.

2 CHAIRMAN KIENZLE: Is there a second?

3 COMMISSIONER SALOPEK: Second.

4 CHAIRMAN KIENZLE: Any discussion? All in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN KIENZLE: Any opposed? None opposed. And I think with that, that
7 probably gives you enough to work with for 2019. If you need more, let the Director
8 know and we'll work on getting it on an agenda. Thank you. Let's take a quick break
9 and then we will start in on some of the formal rulemaking. So, how many we got?
10 Six?

11 STEWART LILEY: Yes, Mr. Chairman. I believe there are six hearings.

12 CHAIRMAN KIENZLE: Six, okay. Bear with me while I read this lengthy opening
13 statement. This hearing will please come to order. My name is Paul Kienzle, I am
14 the Chairman of the State Game Commission. I will be serving as the hearing officer
15 and be advised by the commission's counsel from the Office of the Attorney General.
16 I will note that we are not supported today by counsel from the Attorney General. The
17 purpose of this hearing is for consideration of final adoption of the following proposed
18 rules by the commission. First Hearing Item is 1 for the commission to receive public
19 comment on a proposed new deal rule, Title 19, Chapter 31, Part 13 of the New
20 Mexico Administrative Code which will become effective April 1, 2019. Current deer
21 rule is set to expire on March 31, 2019. Second Hearing Item is 2 for the commission
22 to receive public comment on the proposed new hunting and fishing manner and
23 method rule, Title 19, Chapter 31, Part 10 of the Administrative Code which will
24 become effective on April 1, 2019 as proposed. The third Hearing Item is 3 for the
25 commission to receive public comment on the proposed new private land elk license

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1 allocation system rule, Title 19, Chapter 30 Part 5 of the Administrative Code which
2 will become effective on April 1, 2019. Fourth Hearing Item is 4 for the commission to
3 receive public comment on the proposed new elk rule, Title 19, Chapter 31, Part 14
4 of the Administrative Code which will become effective on April 1, 2019. The current
5 elk rule is set to expire on March 31, 2019. The fifth Hearing Item is 5 for the
6 commission to receive public comment on the proposed new revocation rule, Title 19,
7 Chapter 31, Part 2 of the Administrative Code which will become effective on April 1,
8 2019. The sixth Hearing Item is 6 for the commission to receive public comment on
9 the proposed new hunting and fishing licenses and application rule, Title 19, Chapter
10 31, Part 3 of the Administrative Code. These hearings are being conducted with in
11 accordance with the provisions of the Game and Fish Act and the State Rules Act.
12 These hearings are being audiotape recorded. Anyone interested in a copy of the
13 audiotape should contact the Department of Game and Fish to get a copy. Public
14 notice of this hearing was advertised in the New Mexico Register, the Albuquerque
15 Journal, Roswell Daily Record, and the New Mexico Sunshine Portal and on the
16 department's website. Copies of the new proposed rules have been available on the
17 department's website. Those wishing to comment here today, please sign the
18 attendance sheet that's outside the door, wave your hand over there, which will later
19 be entered into the record as an exhibit. These rule hearings will be conducted in the
20 following manner: Staff will present pre-filed exhibits. Exhibits admitted into
21 evidence are available for review by the public, but exhibits may not be removed from
22 the room. After all exhibits are entered, we will proceed to the presentation of the
23 proposed rule after which testimony will be taken from the audience. That testimony
24 will be strictly limited by time and have we -- are we set up for two minutes? Two
25 minutes. In order to ensure that the hearing is accurately recorded, only one person

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1 at a time shall be allowed to speak. Any person recognized to speak is asked to
2 number one, identify yourself by name and who you are affiliated with for each record
3 - - affiliated with for the record each time you are recognized. And two, speak loud
4 and clearly so the recorder can accurately record your comments. After a person has
5 offered comment, they will stand for questions from the hearing officer. The audience
6 may also ask questions of anyone offering comments after being recognized by the
7 Chair. These hearings are not subject to judicial rules of evidence. However, in the
8 interest of efficiency I reserve the right to limit any testimony deemed irrelevant,
9 redundant, or unduly repetitious. The commission may discuss the proposed new
10 rules after the public comment portion of the hearing. Final commission action,
11 including adoption of the rules, may occur after the conclusion of the presentation
12 and public comment period of each hearing. And with that, I think we are ready for
13 the informational portion of Hearing Item No. 1 which is Rule Making Hearing on Final
14 Rule Changes to the Deer Rule 19.31.13 NMAC for the 2019-2023 seasons. I
15 declare hunting season open - - no, this hearing is now open. Pardon me. Are there
16 any exhibits for proposed new rule to 19.31.13 for the record?

17 STEWART LILEY: Mr. Chairman, I wish to enter six exhibits. Exhibit No. 1 is the
18 notice of the rule making. Exhibit No. 2 is the initial proposed rule. Exhibit No.3 is the
19 presentation as being given today. Exhibit No. 4 is the summary of the proposed
20 changes. Exhibit 5 is the technical information that we relied upon to develop the
21 rule, and Exhibit No.6 is the 57 public comments we received during the comment
22 period.

23 CHAIRMAN KIENZLE: And what's the total number?

24 STEWART LILEY: Six exhibits.

25 CHAIRMAN KIENZLE: Six. I will admit Exhibits 1 through 6 into the record. And this

1 includes public comment?

2 STEWART LILEY: Mr. Chairman, that is correct. Public comment is on the CD at the
3 back.

4 CHAIRMAN KIENZLE: Okay. You can go ahead and introduce the rule.

5 STEWART LILEY: Mr. Chairman, as stated, this is the informational portion for the
6 Deer Rule. The Deer Rule set to expire in March. We had four public meetings,
7 specifically for the Deer Rule, and then 72 attendees. So fairly well attended. Fifty-
8 seven written and/or emailed comments. Most of the comments pertaining to license
9 adjustments were either up or down, both in favor and opposed. So there was not
10 one strong one way or the other. People in favor of our new hunts, we did as we go
11 through the presentation, proposed some new hunts across the state. People in favor
12 of also consolidating our youth hunts around the Thanksgiving period when kids are
13 off, so they are able to get out there and hunt and not necessarily worry about just
14 weekend hunting. Some comments related to the split archery season, both in favor
15 and opposed, it was kinda split across that. And then comments related to the draw
16 process that really isn't part of the Deer Rule and then other unrelated comments is
17 where we received -- really the majority are a lot of those comments that aren't
18 related, necessarily, to the Deer Rule. The proposed changes is as with all these
19 rules we are adjusting the seasons for the calendar date because they start on a
20 Saturday. We get a day creep every single year; two days on a leap year. Addressing
21 the license numbers based upon the biological information we've collected over the
22 last four years and our management goals such as either trophy management or
23 opportunity, either increasing or decreasing license numbers for those buck tags,
24 depending on that. We did create some new hunting opportunities, as I stated, I will
25 get through that here in a second. One of the bigger changes was separating the

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1 January and September bow seasons. Currently there's a law where you can hunt in
2 September and/or January. Now it will be the choice of the hunter to either put in for
3 the September hunt or the January hunt. And then again, like I said, standardizing
4 the youth hunt, that youth deer hunt around Thanksgiving, a nine-day hunt to really
5 give an opportunity when a lot of people are either off work, families and/or the kids
6 are out of school for maybe a fall break. In the Northeast area, specifically, what we
7 are proposing is allowing either sex whitetail hunting for all whitetail deer hunts.

8 Currently, right now, we have some buck only whitetail hunts in the Northeast. That
9 population of whitetails are growing. There's a little bit of concern of if they're growing
10 too fast, too far and we are allowing -- we want to be able to allow some doe harvest
11 in there or more doe harvest. The creation of some of these hunts, like I discussed,
12 would be a new archery hunt on the Valle Vidal and the Colin Neblett to allow an
13 opportunity there. And then created an either sex whitetail youth hunt in GMU 56;
14 created a new archery hunt in 41, which is a January hunt, a really quality hunt,
15 limited licenses, but it is a new hunt in there. And then we did increase licenses in
16 some GMUs based upon the biological information that suggested increases that
17 were warranted. Overall in the Northeast was a license increase of 9 percent. In the
18 Southeast, specifically, we looked at splitting the rifle hunts in the Guadalupe
19 Mountains, GMU 30, evenly. Currently they are not even. We have 640 hunts in one
20 hunt and 960 in the other. The proposal in front of you is 800 apiece per hunt to split
21 those evenly. GMU 31/33 is decreasing the youth hunt from two hunts to one - - or
22 two hunts of 20 to two hunts of 10. What that is is the department used to manage
23 Seven Rivers in Brantley and also the Huey Wildlife Management Area. Now we just
24 manage the Huey Wildlife Management Area. That's not to say hunters can't hunt
25 Seven Rivers or Brantley, but we're specifically putting just that youth hunters on the

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1 Huey Management Area and that's why that reduction came about. We also are
2 proposing moving the muzzleloader deer hunt in GMU 34 into November. We did
3 increase licenses in the Southeast for an overall increase in 3 percent license
4 increase overall. There were some GMUs where we did some reductions, but overall,
5 it was a 3 percent increase. In the Southwest area, in 19, which is White Sands
6 Missile Range, is creating a hunt on White Sands Missile Range for deer. It will be a
7 very lifted hunt, but it would be a new hunt that was created. Then moving those off-
8 range hunts to the first week of November. We did do some bigger license reductions
9 in the Southwest in GMU 23. Overall, we were proposing a 13 percent reduction in
10 licenses in the Burroughs Mountains, specifically another 13 percent on the
11 Burroughs. And then in GMU 24 - - or excuse me 10 percent reduction. One of the
12 other things we did in the Burrough Mountains was decrease the one illegal sporting
13 arm weapon hunt - - or excuse me, decrease it into one, but we lengthened the hunt
14 period to nine days, kinda more of a quality hunt experience we hope to get of that.
15 And then we created a September whitetail, cows, deer, archery hunt. We are also
16 allowing the Burrough hunters to hunt the Silver City Management Area. And one of
17 the biggest things we did in the Southwest was move the January whitetail deer
18 archery hunts from January 1 through 16, we're proposing - - or 15, excuse me. We
19 are proposing January 16 through 31. Overall, in the Southwest when we look at
20 increases/decreases, it is a 4 percent reduction in licenses in the Southwest with the
21 biggest reductions occurring, again, in the Burroughs, GMU 23 and GMU 24. In the
22 Northwest area some of the bigger ones is increase or now allowing hunters to hunt
23 the Sargent on those deer hunts. Currently the Sargent has not been allowed to be
24 hunted so we will be opening up the Sargent for that. Then we also created a
25 September archery hunt for those WMAs. Currently there is not a September hunt

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1 and we'll have that. We also created a limited late November hunt; really limited
2 opportunities, 10 licenses across all of those WMAs, but it is an opportunity when we
3 get a lot of those deer moving. GMU 5A we created a late September muzzleloader
4 hunt. 5B, again, we created a September archery hunt and a late September
5 muzzleloader hunt. GMU 12, we moved that muzzleloader hunt into November so it's
6 not overlapping with elk hunts. And GMU 14 we created a January archery hunt
7 during that [indiscernible] period. With that, I would take any questions that you may
8 have.

9 CHAIRMAN KIENZLE: My God man, we have to stick to the script. Give me a
10 moment to sort things out here. We do have one item of public comment, one person
11 who wants to do public comment, so let's take that person at this time. Chris
12 Guikema [phonetic].

13 CHRIS GUIKEMA: Yeah, I actually had a chance to talk to Stewart afterwards so
14 what I was going to propose is next session.

15 CHAIRMAN KIENZLE: Okay.

16 CHRIS GUIKEMA: [indiscernible] thank you.

17 CHAIRMAN KIENZLE: Failure to launch, is what will put on here or something like
18 that. Yes, sir?

19 COMMISSIONER SALOPEK: Stewart, now that we've gone back to the September
20 and January split of the bow hunts, did we create more opportunity by - - like, let's
21 just pick a Unit, 16, we had 400 tags before, I didn't see exactly what you've done

22 STEWART LILEY: Mr. Chairman, Commissioner Salopek. So when we did that what
23 we did was put more licenses in the September period. Typically, a little less success
24 and reduce the January some. But overall, across the state, it will relate in a 10
25 percent increase, 9.4 percent increase, in archery licenses across the state for deer

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1 in New Mexico.

2 COMMISSIONER SALOPEK: And I always look at opportunity, also. Thank you.

3 CHAIRMAN KIENZLE: Any other questions or comments? Let's see, I've got my
4 attendance sheet. It's been signed. I will admit this into evidence, the attendance
5 sheet and the comment card, as Exhibit No. 7. The comment submitted in testimony
6 heard during the rule hearing will be reviewed by the commission and discussed
7 during open session right after I close this hearing. The commission will vote on the
8 proposed rule at that time. I am supposed to thank you for your participation, so
9 thank you, I appreciate it. Let the record show that this rulemaking hearing was
10 adjourned at 10:56 a.m. Okay, the way I like to do these instead of rolling them all up
11 at the end, we are going to vote on them one at a time as we close the hearing. So
12 any questions or comments from the commissioners on the action item phase of Item
13 No. 1, Hearing Item No. 1? Silence is deafening. Can I get a motion on this hearing
14 item?

15 COMMISSIONER PETERSON: Mr. Chairman, I move to adopt the proposed
16 changes to 19.31.13 NMAC as presented by the department and allow the
17 department to make minor corrections to comply with filing this rule with state records
18 and archives.

19 COMMISSIONER SALOPEK: Second.

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

21 COMMISSIONERS: Aye.

22 CHAIRMAN KIENZLE: Ayes have it. Thank you. Colonel, find yourself a comfy chair,
23 I think you're going to be here a while.

24 UNIDENTIFIED SPEAKER: If we're in business I'd be bringing new business.

25 CHAIRMAN KIENZLE: We have concluded Hearing Item No. 1.

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1 CHAIRMAN KIENZLE: Hearing Item No. 2. This is the informational portion of the
2 Rule Making Hearing on Hunting and Fishing Manner and Method Rule 19.31.10
3 NMAC. This hearing is now open. Are there any exhibits for the New Rule 19.31.10
4 for the record?

5 ROBERT GRIEGO: Mr. Chairman, I do have five exhibits for the informational
6 hearing. Exhibit No. 1 is going to be the notice of rulemaking. Exhibit No. 2 is going
7 to be the initial proposed rule and the strike through version of the rule. Exhibit No. 3
8 is going to be the presentation I'm presenting today. Exhibit No. 4 is going to be the
9 summary of proposed changes. And Exhibit No. 5 is going to be a CD with all of the
10 public comments.

11 CHAIRMAN KIENZLE: Of which there were many, I think. Was it a record?

12 ROBERT GRIEGO: One or two.

13 CHAIRMAN KIENZLE: Did we break a record on the number of public comments? I
14 wonder.

15 ROBERT GRIEGO: I've not kept a tally of all the others, but yeah, we had about a
16 160 of them on this one.

17 CHAIRMAN KIENZLE: I will admit Exhibits 1 through 5 into the record. You can go
18 ahead and introduce the new rule.

19 ROBERT GRIEGO: Mr. Chairman, Commissioners. This is the informational
20 presentation akin to Item No. 2a for Manner and Method 31.10 NMAC. As you all
21 know, we removed Manner and Method from all of the species rules and combined
22 into one part, 31.10. This is been several months in the process, several public
23 meetings and several Game Commission meetings in discussion with this. So we did
24 have four different public meetings throughout the state. We had marginal
25 attendance. When we did have large crowds it was typically pilots, a few sportsman

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1 in the group. But we did have them across the state and have submitted the Rule to
2 the register and are here in front of you today. Part of the Manner and Method
3 proposal we adjusted many definitions amended and defined new terms. There are
4 several of them that we have gone over in the past with each of you but made
5 several amendments to those. One of the big ones, one of the big rules is
6 possession or sale protected species. Basically, what we did was amend, or
7 proposing to amend, the different ways that individuals could legally possess our
8 protected wildlife. Obviously, they can, under license or permit, but the only other
9 option we had was a donation certificate. So what we did is adjust that language to a
10 possession certificate to cover temporary situations, temporary legal possession by
11 whether it's a meat processor, a taxidermist, or an individual transporting illegally
12 harvested game for the hunter, they will have this possession certificate rather than it
13 being technically donated to them. Another one was sale of game animal parts.
14 Currently, you can sell only the heads, antlers, horns, and hides, claws of protected
15 species. We added rendered bear fat, teeth, and all fair bear parts of the items that
16 can be legally sold. You can still not sell internal organs of big-game species. But
17 we did add those few. And then possession of game animal parts found in the field.
18 We amended that to add for the seizure of shed antlers if they were collected in
19 violation of criminal trespass, a closure, or while driving off the road. Another
20 important rule change was under the importation or possession of unpermitted
21 wildlife. Currently, as it stands, you must -- any wildlife imported into the state must
22 have an importation permit given by the department and a health certificate. That's
23 to ensure the protection of our native wildlife species, protection from disease. What
24 we did is amend that to require that, obviously, that you must have an importation
25 permit and health certificate but require that wildlife sold or imported has to be

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1 accompanied by that original importation document to show that paper trail that, at
2 least initially, when it was brought in it was a healthy wildlife species. Again, that will
3 help us with several cases that we are coming across any more where we're coming
4 across everything from cobras to alligators being brought into the state. So this will
5 help us pretty tremendously. If we do seize something the individual that we seize it
6 from will have thirty days to line up a location to get it out of state. Otherwise, we will
7 consider it abandoned and from there will deal with it, either with euthanizing the
8 animal or working with the zoos or other areas that it might be potentially usable.

9 Use of roads and hunting. Basically, common term shooting from the road.
10 What we did is change -- it's still unlawful to take or attempt to take a protected
11 species from or across the road, but what we did is basically get rid of the forty-foot
12 provision. So if there is not a right-of-way fence, an individual simply just has to step
13 off the edge of the maintained surface and they can legally shoot at protected
14 species. If there is a right-of-way fence, they must get on the other side of it. So
15 again, basically what we did is get rid of the forty-foot provision to that.

16 Use of aircraft. We defined locate and basically this proposal will make it
17 unlawful for the purpose of hunting to locate a protected species with the aid of an
18 aircraft or drone during the periods of August 1st through January 31st of each
19 license year. It would not apply to commercial or direct flights or any other flight that
20 is not for the purpose of hunting.

21 Vehicles being driven off-road. Again, currently it's unlawful to drive or ride in
22 a motor vehicle off-road if the vehicle bears a licensed hunter. What we are
23 proposing is allowing private landowners to give written permission to an individual to
24 drive off-road on their private property only. We do have issues with this during the
25 antelope hunts and we are not very successful in the court system when the hunter

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1 shows up with the landowner and the landowner says, "I don't mind that he was
2 driving off-road." So it's their property, just proposing that they have that ability. It
3 would not apply -- they could not give written permission to drive off-road if they're
4 involved in a unitization or ranch wide or unit wide agreement or if it's property that
5 the department is paying for public access and the reason for that is, we don't want
6 certain individuals to have the ability to drive off-road and other individuals who are
7 hunting that same piece of property to not. So we just eliminated that portion.

8 Mobility impaired. That was an important one. Currently in the rule it states
9 the term handicapped. Basically, handicapped licenses are just a reduced fee
10 license. The true term is mobility impaired that gives those individuals the ability to
11 shoot from a vehicle that's pulled off side the road and that sort of activity. Those
12 hunters are designated mobility impaired or certified by a doctor, so we propose that
13 change, that language, again, to mobility impaired to make it more accurate and
14 added that mobility impaired can designate one person in writing to assist them.
15 They currently can have an individual assist them in reducing an animal that has
16 been clearly wounded to their possession, we just added that it has to be a specific
17 individual, in writing. If that individual has to leave, they can get another one. They
18 can still have four or five people in the vehicle to assist them but the specific
19 individual that would be doing the hunting for them if they wound something, would
20 have to be in writing.

21 Proof of sex or bag limit. Basically what we did here is for all of our big-game
22 species is just give the option of rather than the scalp and ears on our female
23 immatures, that they could keep the genitalia naturally attached to one of the
24 hindquarters, rather than taking the scalp and ears. So it's an either/or. If they
25 choose to keep the scalp and ears, that's great, but they now have another option.

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1 Javelina hunters. We did add -- javelina are one of those, statutorily, that you
2 do not have to bring out any of the meat for human consumption, but we are
3 proposing that, at least by rule, that they have to bring out the head as proof of bag
4 limit and proof of harvest, and that's what they would be tagging. The tagging
5 portion, electronic tagging, licensed hunters upon harvest will immediately access the
6 electronic tagging app. The app will provide an e-tag number, their customer
7 identification number, and the date of kill. That hunter will then write on -- that
8 information on durable material with permanent ink and attach it to the appropriate
9 parts on the carcass. Similar to the carcass tagging that we currently have. If it's an
10 antlered animal, they will put it on the antler and then one on the hock. And regular
11 carcass tag will remain the same in consistent with electronic.

12 Contiguous deeded property. This is a big one, particularly in the Southeast
13 part of the state. What we are going to do is we wrote the rule to allow a ranch --
14 private land area is contiguous and it overlaps into two or more game management
15 units, regardless of the season dates, that those individuals could come to an area
16 office and talk to one of our captains, show that they own the property, sign a yearly
17 agreement, and then what it would do is allow them to hunt their whole ranch,
18 contiguous deeded property, regardless of those GMU boundaries. The season
19 dates and bag limit and weapon type would be determined on which GMU takes up
20 the majority of that private land ranch. It would be based on that. If they do agree to
21 sign up for this program, it's an all or none. You can't hunt the contiguous
22 overlapping into other GMUs, and then hunt that portion of the ranch that is a specific
23 GMU during that GMUs timeframe. It's the majority of the ranch, you would hunt
24 based on those dates over the entire ranch. Some miscellaneous manner and
25 method types. Use of dogs. Currently, we have individuals registered tracking dogs

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1 with the department. We are recommending that they no longer have to register with
2 the department but that they could use no more than two dogs and the dogs must be
3 under control of a leash the whole time. As we have researched a lot of it those dogs
4 are pretty meticulous, slow-moving, they are not much of any distraction, should not
5 affect other hunters, they are pretty quiet when they work, so it should be a pretty
6 good deal. Use of bait. Really what we did is baiting is, obviously, still illegal, but we
7 made it consistent with the federal rule in the ten-day limit that – but it must be
8 completely void and eliminated ten days prior to hunting in that area, which includes
9 feeders. Hunting captive big-game species. Basically, again, getting ahead of some
10 of these high game proof fences that are not Class A parts. Make it where an
11 individual could not hunt these areas, basically confined wildlife in these areas.
12 Collars and tracking devices. Currently is unlawful to put collars on bears and lions.
13 We're recommending to spread that across all big-game species. We are starting to
14 see cases where we are having bighorn sheep collared and other species collared
15 with tracking collars and they are using them to either locate that specific animal for
16 training or herds that are running with that specific animal.

17 UNIDENTIFIED SPEAKER: This is beyond our tagging?

18 ROBERT GRIEGO: Correct. Not our collars. The use of cellular or cell or satellite
19 cameras, game cameras, just presenting that it is unlawful to use any of the cellular
20 or satellite trail cameras, real-time cameras. Regular trail cameras that are with SD
21 card would still be completely legal. Just the cell cameras or satellite cameras.

22 CHAIRMAN KIENZLE: You gotta get out in the field and check your camera.

23 ROBERT GRIEGO: Correct.

24 CHAIRMAN KIENZLE: All right.

25 ROBERT GRIEGO: Some fishing proposals. Allow on trot lines, instead of writing all

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1 of your information, name, date of birth, address, just allowing the customer
2 identification number. Again, just for the protection of our sportsmen having that
3 personal information out there. And then, obviously, we also had proposed
4 eliminating the limit on angling hooks in the San Juan, which was a another
5 contentious. Between that and flying, we'd probably had twenty comments instead of
6 [indiscernible] --

7 COMMISSIONER MONTOYA: Bobby, let me ask -- Mr. Chairman. When you're
8 talking about that specific part of it, what -- are you going page by page on yours?
9 Could you tell us what page that's on?

10 ROBERT GRIEGO: Which portion?

11 COMMISSIONER MONTOYA: Of the --

12 CHAIRMAN KIENZLE: Hooks.

13 COMMISSIONER MONTOYA: Yeah.

14 ROBERT GRIEGO: I do not have that here, but I do have it in the rule.

15 COMMISSIONER MONTOYA: Okay.

16 DIRECTOR SLOANE: Mr. Chairman --

17 COMMISSIONER MONTOYA: That's what we have available.

18 DIRECTOR SLOANE: It's 19.31.10 14k.

19 CHAIRMAN KIENZLE: What do you know about fish?

20 ROBERT GRIEGO: Mr. Chairman, Commissioner Montoya. Director Sloane does
21 have that specific one.

22 COMMISSIONER MONTOYA: Run that by again.

23 CHAIRMAN KIENZLE: 14 --

24 DIRECTOR SLOANE: K.

25 CHAIRMAN KIENZLE: Pardon me?

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1 COMMISSIONER MONTOYA: It's 14?

2 CHAIRMAN KIENZLE: It's page 15.

3 [CROSSTALK]

4 ROBERT GRIEGO: Commissioner Montoya, are you ready?

5 COMMISSIONER MONTOYA: Yeah.

6 ROBERT GRIEGO: All right. It will be 19.31.10.14.K NMAC. 31.10.14.K.

7 DIRECTOR SLOANE: It's the original [indiscernible] --

8 ROBERT GRIEGO: Well, that's the original.

9 DIRECTOR SLOANE: That's struck through in the current proposal.

10 COMMISSIONER MONTOYA: Let's see what you just --

11 CHAIRMAN KIENZLE: Striking, limit on angling [indiscernible].

12 ROBERT GRIEGO: Correct.

13 CHAIRMAN KIENZLE: Got it. So it's the middle of the page, page 17. For those of
14 you following along at home, it's page 17 in the middle of the page.

15 ROBERT GRIEGO: Are you ready, Mr. Chairman?

16 CHAIRMAN KIENZLE: Yeah.

17 ROBERT GRIEGO: Also simplified the language in baitfish and simplified the
18 language on the use of boats and motors on the lakes and waters across the state.
19 Clarified some language of and specific violations under manner and method for our
20 quality assessment misdemeanors. Like I said, we did have lots of public
21 participation, we had approximately 155 public comments as of last night at 5:00 p.m.
22 As you can see, the aircraft rule and the two flies were the bulk of the public
23 comment, but we did have lots of public participation in this process. With that, I will
24 take questions.

25 CHAIRMAN KIENZLE: We have to stick to the script [indiscernible].

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1 UNIDENTIFIED SPEAKER: Not our choice.

2 CHAIRMAN KIENZLE: Anything further from you at this time, absent any questions?

3 ROBERT GRIEGO: Mr. Chairman, I rest my case.

4 CHAIRMAN KIENZLE: All right. We will take public comment at this point in time.

5 Seeing no public comment, we'll move on. I'm just kidding. I've tried to loosely group
6 people into the pilots, the anglers, and then the decline to state, I guess, were the
7 final two that I've got. So let's start with Mr. Roscoe [phonetic]. And were going to
8 stick to two minutes.

9 MR. ROSCOE: Yes, sir. I will. Thank you, Mr. Chairman, Commissioners, Director,
10 and the staff of Fish and Game, I think you guys have done a great job, all of you,
11 and we appreciate you. You probably recognize me, I've been speaking to you a
12 time or two. I tried to grow a beard so I could sneak in, but obviously, that didn't
13 work. We've talked about the enforcement issues, and I'm not going to repeat those,
14 except to say that we feel strongly that extending the current 48-hour rule to six
15 months does nothing to improve the enforcement effort. Secondly, the fair chase
16 argument, which has also been brought up. We have argued that the general aviation
17 fleet is thirty years old. My aircraft was built in 1956. There are 1,300 aircraft, total,
18 in all of New Mexico. This is not a change, nothing's changed as far as fair chase
19 with aircraft, as far as we are concerned. You have far bigger fish to fry in the
20 technology field with drones and all the other issues that you are currently
21 addressing. The last challenge that I feel we were presented with was a comment,
22 with all due respect, Chairman, about where were the aviators during the last year of
23 negotiations and development of this rule? And so I did a little homework, and if I
24 may, just quickly, I found where on August 4th of 2017, Rol Murrow from the New
25 Mexico Pilot Association spoke about concerns of the general aviation community to

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1 the proposed rule. On September 20th an e-mail was sent to Chairman Kienzle by
2 Mr. Larry Filener representing the New Mexico Pilot Association. "I would very much
3 like to be able to work with you at your convenience to discuss these activities."

4 September 28th, 2017, Red River, five members of the aviation community arrived,
5 and I have the quotes here that I won't read, but at that time this matter was tabled
6 seconded by – oh, really?

7 CHAIRMAN KIENZLE: I give you ten seconds.

8 MR. ROSCOE: Okay. I have six more letters that were submitted to the
9 commission, none of which received a response. We were never invited to meet with
10 the stakeholders. I was asked why I haven't spoken directly to Colonel Griego and
11 we felt that that was not the protocol. Our responsibility is through the commission,
12 so --

13 CHAIRMAN KIENZLE: I'm gonna tell everybody again, this is a bottom up and not a
14 top-down organization for the most part. And so when proposals come from the
15 department, it is -- that is where you need to start. And so to say that you weren't
16 informed, couldn't participate, it just doesn't cut it with me and this has been on the
17 table for quite some time and so you can trot those out and I will respect that, but I --
18 to say that you were ignorant of what is going on or weren't allowed to participate, is
19 demonstrably false. So I don't know what it is about pilots, you guys just get up here
20 and sometimes you rub me the wrong way.

21 MR. ROSCOE: I'm sorry. And I apologize for that, sir.

22 CHAIRMAN KIENZLE: But that's your prerogative, you are welcome to do that. But
23 to criticize the process when you are permitted to participate from the beginning, in
24 my opinion, is not the best way to do it. No one has ever boxed you out, no one has
25 ever said we don't want to hear you have to say. So again, I don't think that's fair.

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1 MR. ROSCOE: Please don't take it personally.

2 CHAIRMAN KIENZLE: I'm trying not to. So, enough said. Mr. Keller [phonetic].

3 RON KELLER: Mr. Chairman, Commissioners, Director Sloane. My name is Ron

4 Keller, I'm representing the Recreational Aviation Foundation, New Mexico Pilots

5 Association, and New Mexico Airstrip Network. I am both a pilot and a hunter in New

6 Mexico. With respect to the proposed rule change regarding use of aircraft, I would

7 like to express my opposition to the proposal. If this is an attempt to help enforce and

8 apprehend violators, it will not work. I predict it will cause dozens of false reports of

9 illegal activity that will tie up enforcement officers. The rule breakers will still break

10 the rule and we legitimate pilots will face unwarranted interrogations. If this is really

11 an issue of fair chase, then [indiscernible] an enforcement issue, then why stop with

12 aircraft? I propose you make it illegal to use information derived from fish finders to

13 locate schools of fish for the purpose of harvesting fish. For someone relegated to

14 fishing from the bank of a lake, a boat equipped with a fish finder provides an unfair

15 advantage to locate fish. This is also an issue of fair chase since the information

16 derived can be used in real time. I would like for you to consider this concept

17 carefully since I see many parallels to your use of aircraft proposal. It is my view that

18 changing the use of the aircraft rule to lengthen the time frame from the current 48-

19 hour rule will have a detrimental effect on the free access to airspace that is

20 regulated by the FAA and to unfettered access to recreational areas. Therefore, I am

21 strongly opposed to such a rule change. Thank you.

22 CHAIRMAN KIENZLE: Thank you. Moving on to what I think is the anglers or are

23 the anglers. Cooper O'Connor [phonetic]. Before you start, Mr. O'Connor, can I see

24 a show of hands on people that are opposed to the change in the two-fly rule?

25 Anybody in favor of that change? Okay. You may proceed, thank you.

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1 COOPER O'CONNOR: Thank you, Commissioners and Chairman. I'm 18 years old,
2 I'm trying to start my career in guiding [indiscernible] Soaring Eagle Lodge. I'm the
3 owner of WCH outfitters. This rule change could impact my career going forward and
4 this is the place and it's so unique to the state that I strongly believe that this rule
5 change will very intensely impact this fishery. And I'm 100 percent against it.

6 CHAIRMAN KIENZLE: Thank you.

7 COOPER O'CONNOR: Thank you.

8 CHAIRMAN KIENZLE: Chris Guikema [phonetic]. It's going to launch this time. All
9 right.

10 CHRIS GUIKEMA: [indiscernible].

11 CHAIRMAN KIENZLE: Probably not.

12 CHRIS GUIKEMA: Okay. As a former outfitter and lodge owner on the San Juan
13 River and as just a general sportsman, it's an irreplaceable treasure to the State of
14 New Mexico. Anything that we can to protect it, we need to do. I'm adamantly
15 against opening up Pandora's box and changing a rule to loosen the legalities. I
16 think cementing the ability to restrict the river to two flies is where it needs to be.

17 CHAIRMAN KIENZLE: Thank you. Toner Mitchell. I told you to stick around, right?

18 TONER MITCHELL: Thank you, Commissioners. I'm Toner Mitchell, I represent
19 Trout Unlimited, I'm also a former guide and fly shop owner and I've been angling on
20 the San Juan my whole life. I went through the whole Manner and Method Rule,
21 hunting and fishing, and every single thing in there seems to be in the interest of
22 improving the resource or improving the activity. This thing on the San Juan does
23 neither of those things. It makes fishing less high-quality for all the fish that are going
24 to be snagged with the use of many hooks, and it affects -- it affects the resource that
25 way, it affects the fishing for anglers, but it also degrades the economy generated by

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1 this fishery. I've heard throughout this meeting a lot of concern for the livelihood of
2 guiding and outdoor pursuits. This rule change would be detrimental to that and I
3 really hope you'll consider not eliminating the two-fly rule. Thank you, very much.

4 CHAIRMAN KIENZLE: Thank you. Rusty Hill [phonetic].

5 RUSTY HILL: My name is Rusty Hill, Red Dog Outfitter. I've been guiding on the
6 San Juan for 21 years now and I feel greatly opposed to changing the rule. I think
7 the rule is an important rule in keeping a quality experience as an angler, and an
8 outdoorsman, and a resource, the quality of the resource. Thank you for the
9 opportunity to be heard.

10 CHAIRMAN KIENZLE: Thank you. Jeff Massey [phonetic].

11 JEFF MASSEY: Hello Commissioners. I'm Jeff Massey, I'm the owner of Soaring
12 Eagle Lodge and longtime guide on the San Juan River. About 12 years ago we
13 were able to get this rule put in place of two flies only. We had to work really hard to
14 get it and it would be a shame to see it just disappear. The fishery, the health of the
15 fishery, is probably about as good as I've seen it in a very, very, long time. And just
16 throwing the rule out and risking changing that and hurting the fishery just doesn't
17 make sense to me. The old saying is, "if it's not broken, don't fix it" and that's kind of
18 how I feel about it. I don't think that needs to be removed, I think it needs to stay in
19 place and we need to continue to protect that fishery. Thank you.

20 CHAIRMAN KIENZLE: Do you know Cooper O'Connor?

21 JEFF MASSEY: Yeah.

22 CHAIRMAN KIENZLE: How's he doing?

23 JEFF MASSEY: How's he what?

24 CHAIRMAN KIENZLE: How's he doing?

25 JEFF MASSEY: Oh, he's great.

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1 CHAIRMAN KIENZLE: All right. [indiscernible] a reference for you here on your
2 resume. Thank you, I appreciate your comment. Martin Joyce [phonetic].

3 MARTIN JOYCE: Thank you for allowing me to speak. I sent e-mails to all of you
4 voicing my opposition on abolishing the two-fly rule and I just wanted to give you – I'll
5 try to give you a brief perspective of what I see when I go fish the San Juan. I've only
6 fished up there the past four years and it's the most fished place I've ever seen in my
7 life. I see more fishermen up there than I've ever seen anywhere else. There's a lot -
8 - I can take a lot of time describing to you where I've been in the future, but just in the
9 last four years I've been there, I see lots of fishermen there. The things -- some of
10 the things I noted in my e-mail, I see -- and I won't say it's common, but it's not
11 uncommon to see fish swimming around with hook scars in them. You can see some
12 darkened areas on them that I'm told are from being snagged, not on purpose, just
13 because they are in the water and it happens. You see fish swimming around with --
14 you can see like egg patterns in them, some of the bigger patterns, you can see fish
15 swimming around with stuff in them. And then lots of the fish that you catch have lots
16 of hook scars in them. Not lots, but numerous hook scars in them. Depending on
17 what parts of the river you fish, you see more wear and tear on fish in certain parts of
18 the river than other parts. The real popular parts it is very common to catch fish that
19 have numerous hook scars in them. I can't see, for the life of me, why somebody
20 would want to get rid of the two-hook rule and let people fish with as many hooks as
21 they want to. My idea, or my opinion, would be to go to one hook and let everybody
22 fish with one hook. There's just so much traffic up there I think these fish could use a
23 little relief in the pressure. Thank you for letting me speak.

24 CHAIRMAN KIENZLE: Thank you, sir. Aaron, I can't make out your last name.

25 AARON CARITHERS: [indiscernible]

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1 CHAIRMAN KIENZLE: Say again.

2 AARON CARITHERS: [indiscernible].

3 CHAIRMAN KIENZLE: Carruthers?

4 AARON CARITHERS: My name is Aaron Carithers, the owner of Anasazi Angler.
5 I've been guiding on the Juan for 26 years and it receives 250,000 angler hours a
6 year. To add more hooks, add more material, [indiscernible] material, it's simply
7 going to degrade our resource. It's only three and half miles of water, so it's a very
8 narrow, small space. And I agree with Martin a hundred percent, I would rather see it
9 limited to one hook per angler. So thank you for the opportunity.

10 CHAIRMAN KIENZLE: Is this the three and a half miles we dealt with the other -- in
11 one of our other rules? Or is this a different area?

12 DIRECTOR SLOANE: I think you're thinking of the one below [indiscernible] but
13 they're equally passionate about their --

14 CHAIRMAN KIENZLE: Understood. Bruce Lane [phonetic].

15 BRUCE LANE: My name is Bruce Lane, I've been guiding on the San Juan for about
16 12 years. It's Dream Catchers Outfitters. I think the resource we have in the San
17 Juan County for me growing up there, was really overlooked for a long time. You
18 know, you go elsewhere we get people from all of the world coming to catch fish that
19 are more than 17, 18 inches and that's huge. I don't know of anyone's fishing
20 experience here, but some of the fish we catch up there are unheard of in terms of
21 size. Right now, with the social media and the Internet, everybody trying to be a
22 fishing hero these days, I think that having the rule in place for two flies only is really
23 important. There is only going to be more people and like the other -- Martin and
24 Aaron Carithers, if anything, maybe go to one fly. But to increase it, we're giving this
25 -- for the non-guides who are on the river, we want to give those fish a chance. We

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1 don't want to be able to go out there -- and not just guides, but just fishermen in
2 general, go out there – fly fishing is not about the number fish you catch or trying to
3 show off to your friends. It's a whole different experience up in northern New Mexico
4 that you really can't get anywhere else. I mean, you've got the Mesas, you've got the
5 terrain, you've got everything else. It's really a gem in the desert. And one of the
6 magazines kind of said and I overlooked it for a long time. I really want to preserve it,
7 I think is a special place. It took me 23, 24 years of my life to discover and
8 understand what it's all about. And the new signs look great, so I don't know why
9 anyone would want to change them already. I mean, we've got the red chili
10 designated water up there. I don't know how many other places really catch – really,
11 you can -- it's got such a great vibe and, you know, as outfitters and guides I take
12 some kind of honor to be able to teach people the right way to give trout, to catch
13 them properly, not snag them accidentally. There's kind of an etiquette that where
14 people look to us for education and we're kind of teachers in that sense. So thank
15 you for your time, appreciate it.

16 CHAIRMAN KIENZLE: Thank you. Brad Miller [phonetic].

17 BRAD MILLER: Thank you, guys. I'm Brad Miller with Heads Up Fly Fishing. I, as
18 well as everybody else, am opposed to the two-fly rule. I think it's a special fishery
19 that we need to protect. I think adding or increasing more flies is going to be
20 detrimental to the fishery overall. I would like to see the rule stay the same. Thank
21 you.

22 CHAIRMAN KIENZLE: Thank you. That may be the last of the anglers. The
23 declined to state. Travis, you had withdrawn comment on here. Is Travis still here?
24 Okay. Rob Pepper [phonetic]. I get that right or completely wrong?

25 ROB PEPPER: No, that's great.

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1 CHAIRMAN KIENZLE: Okay.

2 ROB PEPPER: Thank you Chairman and Commissioners. I'm Rob Pepper with
3 Heads Up Fly Fishing. I've been a guide on the San Juan now for seven years and I
4 don't see why we would want to regress what took, like Jeff Massey said, what took
5 us 12 years to get put in place – or it took us time 12 years ago to put in place, why
6 we would now want to regress and remove that rule. So thank you for your time.

7 CHAIRMAN KIENZLE: Thank you. That is the last of the comment cards I've got.
8 Are there any other exhibits we need to enter? I've got a few pieces of paper that are
9 part of the comment cards, which I will enter as an exhibit. Do you have anything
10 further?

11 ROBERT GRIEGO: Mr. Chairman, we do not.

12 CHAIRMAN KIENZLE: I'm going to enter the attendance sheet and comment cards
13 as Exhibit 6. And with that we had everybody sign, there's no questions, I admitted 1
14 through 6. Now, the comments submitted, and testimony heard during this rule
15 hearing will be reviewed by the commission and discussed during the open session
16 of today's meeting. The commission will vote on the proposed rule at that time.
17 Thank you, again, for your participation. The hearing is closed at 11:34 a.m. Okay,
18 we can go on to the action, the voting on 2a.

19 COMMISSIONER PETERSON: Mr. Chairman, Colonel Griego, can I make a
20 proposal to amend this to keeping the limit of angling hooks?

21 CHAIRMAN KIENZLE: Say again? Amend --

22 COMMISSIONER PETERSON: Can I make amendment to keep the limit on the
23 angling hooks to two?

24 CHAIRMAN KIENZLE: So keep that portion of the rule --

25 COMMISSIONER PETERSON: Keep that portion of the rule in place.

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1 CHAIRMAN KIENZLE: You can make the amendment, yes. So if that's the
2 amendment, then we have to have someone second your amendment and then we
3 have to a vote on whether the amendment becomes part of the proposed rule.

4 VICE CHAIRMAN MONTOYA: Second it.

5 CHAIRMAN KIENZLE: Any discussion? On an amendment to keep the two-fly rule
6 as is and not change it? Any discussion on that amendment to the proposed rule?

7 UNIDENTIFIED SPEAKER: Mr. Chairman, I don't have a discussion, but I do want to
8 make a comment, and this is pretty much in general for the fishermen as well as the -
9 - all the Pilots Association and really the process that the department has really gone
10 through. It's a long process but I think it's a good process. I'm all about public input
11 but I was just extremely impressed in the professionalism that all of you, both pilots
12 and fly fishermen, had brought to the table. I really respect your well composed e-
13 mails that you generated. I believe I had something close to like 800 that came
14 through and they weren't 800 rubberstamped messages as I've had from other
15 organizations. So I really want to bring this out that your well composed, articulate
16 message from each of one of you is will respected and valued and therefore I would
17 have to support the amendment to keep the rule with the fly as you asked. Good job
18 on that.

19 CHAIRMAN KIENZLE: Can I get a vote on the proposed amendment?

20 DIRECTOR SLOANE: Mr. Chairman? If I may, there's also an associated penalty
21 assessment that would, if you wanted to keep the two-fly rule, would need to be put
22 back in. I don't know if you want to do that separately or --

23 CHAIRMAN KIENZLE: What is that? What is that section?

24 DIRECTOR SLOANE: So it is 19.31.10 AA, it's on page 20 of 22.

25 CHAIRMAN KIENZLE: Commissioner Peterson, do you wish to draw your

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1 amendment and substitute the amendment as suggested by director Sloane?

2 COMMISSIONER PETERSON: I couldn't see that. Where's that at?

3 DIRECTOR SLOANE: Title page 20 of 22. About halfway down the page it's an
4 allowance for penalty assessment rather than having to go to court. More than two
5 hooks on the San Juan special trout water. So the amendment I'm proposing would
6 insert that into your motion to reinstate that.

7 CHAIRMAN KIENZLE: What is the letter section?

8 DIRECTOR SLOANE: AA.

9 CHAIRMAN KIENZLE: AA.

10 DIRECTOR SLOANE: I think. It's in the table right at the beginning of 19.31.10, I
11 guess, 18 on page 20 of 22. It's about halfway down the page or so.

12 ROBERT GRIEGO: Mr. Chairman, you would be keeping the current rule as it is
13 today but adding it to the penalty assessment list where it was struck from and it
14 would be that 31.10.18 AA at that point.

15 CHAIRMAN KIENZLE: So more than two hooks on the San Juan special trout water
16 would stay.

17 ROBERT GRIEGO: Mr. Chairman, that is correct. Otherwise, [indiscernible] --

18 [CROSSTALK]

19 ROBERT GRIEGO: It would be a mandatory court appearance [indiscernible]
20 penalty reassessment.

21 DIRECTOR SLOANE: If it was removed.

22 UNIDENTIFIED SPEAKER: Correct.

23 DIRECTOR SLOANE: It was adopted as proposed today.

24 CHAIRMAN KIENZLE: You thought this was going to be easy, right? So your
25 amendment is to keep the two-fly rule as is, no change, and then that is coupled with

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1 19.31.10 18. It's in a table so it doesn't have a convenient reference. Right? So that
2 would stay. So the penalty assessment in 19.31.10 18 in the table dealing with more
3 than two hooks on the San Juan special trout water would stay as is. The Chair will
4 entertain a motion to that effect, Commissioner Peterson, should you choose to make
5 it. An amendment to that effect, rather.

6 COMMISSIONER PETERSON: So I propose the amendment to --

7 CHAIRMAN KIENZLE: All you need to say is so moved.

8 COMMISSIONER PETERSON: So moved.

9 CHAIRMAN KIENZLE: Thank you.

10 UNIDENTIFIED SPEAKER: Make it easier on yourself.

11 CHAIRMAN KIENZLE: We're not getting go through that again.

12 VICE CHAIRMAN MONTOYA: I'll second.

13 CHAIRMAN KIENZLE: We have a second from Vice Chairman Montoya. Any
14 further discussion on the amendment to the proposed rule? Okay. So we will vote
15 on amending the proposed rule. All in favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: Any opposed? None opposed. Okay. So we now have first
18 amendment to the proposed rule. Any further amendments to the proposed rule?

19 COMMISSIONER SALOPEK: I would like -- I've got some questions for Bobby.
20 Driving off-road for the shed antlers. What -- what are we changing or what is -- for
21 the recovery of sheds, are we making it unlawful to drive off-road; is that correct?

22 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. As specific to shed
23 hunting, it would be -- it would be -- it is currently unlawful to drive off-road today.
24 What it would say is that any shed collected while driving off-road in an area that you
25 can't drive off-road, or in a closure, or while criminal trespassing, or on a closed road,

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1 would be subject to seizure. We are not making driving off-road, in itself, unlawful if it
2 isn't currently prohibited from driving off-road. Does that make sense?

3 COMMISSIONER SALOPEK: Yes, sir. I just wanted an explanation because I
4 couldn't explain it that way. The other one on the carcass tags. We're going
5 [indiscernible] the carcass tag for this next year. Is -- like this year they were all
6 green, is there any way -- are they going to be color-coded like for elk, deer, turkey or
7 are they all the same color?

8 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. I believe that they're all
9 going to be the same color this next year but different color than this year. I think
10 with the vendor it gets pretty tough to differentiate, or cost wise, if we differentiate
11 color for each species. But I know that the carcass tags coming out next year are
12 going to be considerably smaller and it will have all of your license information on
13 there also. So that carcass tag will be everything and anything that you need to carry.

14 COMMISSIONER SALOPEK: Second, you answered the second part. So then we
15 don't have to have that piece [indiscernible] generated off the computer which is our
16 actual license?

17 ROBERT GRIEGO: That is correct.

18 COMMISSIONER SALOPEK: Because it seems like in today's world -- we used to
19 have carcass tags, we got away from them, now we're back on them and everybody
20 is confused. I don't know why, but anyway.

21 ROBERT GRIEGO: You'll have one document.

22 COMMISSIONER SALOPEK: Right. Thank you. [indiscernible] you know, we've
23 discussed this 48-hour rule, we've discussed, and I just gotta be honest, the calls that
24 I've gotten from the Southwest -- I live in the Southwest, ranchers. I've looked at it
25 and so, I guess, my question is if I get in a plane to go to my cousin's ranch in

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1 [indiscernible] and we fly over -- I have a cabin in the Gila [phonetic], "well, let's go
2 check my cabin" "oh wow, there's elk right above my cabin" and I have a 21 tag and I
3 go hunt. Have I made myself illegal? When I go hunt those same elk, if they're
4 there?

5 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. Again, it would depend
6 on the purpose of that flight. What we try to bring to you, as a commission, was a
7 rule that was consistent with what we're seeing being combated across the West.
8 You know, again, the -- I understand the fear behind how is this going to be applied,
9 you know, I think it is a good rule that we could make some cases with, the 48-hour
10 rule works in a lot of instances, other than that transfer of knowledge is very hard to
11 prove. I think proving for the purposes of hunting would be a lot easier. But to
12 answer your question, technically, under the rule if it was at a certain time frame, yes.
13 But like I've explained to others similar to our hunting with the aid of artificial lights,
14 spotlighting rule, if you have -- you cast the rays of artificial light into an area where
15 there's big game and you have an implement capable of killing that big game, you've
16 made every element of spotlighting. Most of us in this room if we have a firearm in
17 the vehicle and a big animal of some sort, bull elk, mule deer, crosses the road in
18 front of us, we will stop and look at it. Technical meeting every element of hunting
19 with the aid of artificial light. We do not cite those individuals. We do not talk to
20 those individuals. So there would be an application to the way we use this rule, but I
21 understand the concern.

22 COMMISSIONER SALOPEK: And I'm just looking at it, you know, I think six months
23 is too long. I'm really looking at an amendment to stay at the 48 and I wish -- we've
24 discussed this long enough, you know, years. You know, looking at it I don't know if
25 72 96 five days a week would not have answered more of our questions than the six

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1 month rule, is the way I'm looking at it, and I just think we're going to make innocent
2 hunters, you know, now they're going to have a stigma for after a few, I think
3 potentially going to make a lot of hunters illegal. It scares me to make myself, much
4 less anybody else, constituents out there, illegal. That's just how I feel right now.

5 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. Again, my job was to
6 bring you a rule. I don't want to stand here and act like I'm [indiscernible] --

7 COMMISSIONER SALOPEK: [indiscernible] I'm just trying to tell you how I feel.

8 ROBERT GRIEGO: It did not do away with probable cause. We cannot -- that
9 standard is still there. There would be no innocent people being charged. But again,
10 that was the route we thought we needed to go and to combat that issue and it is --
11 the process has spoken. I think there's been a lot of people opposed to it.

12 COMMISSIONER MONTOYA: Mr. Chairman?

13 CHAIRMAN KIENZLE: Yes, sir.

14 COMMISSIONER MONTOYA: Bobby, I wonder where we're at today if this passes
15 where we'll be tomorrow. And will that make the possibility of capturing the violators
16 of this statute -- what is this going to involve law enforcement wise? Is it going to be a
17 situation where it's one of those impossibilities to catch these people one way or the
18 other? Are we trying to do something that we can't enforce? I've got a lot of
19 questions on this thing.

20 ROBERT GRIEGO: Are you asking me specifically?

21 COMMISSIONER MONTOYA: Yeah. If we pass this, the way we are looking at it
22 now, what are our benefits going to be to catch the people that were actually violating
23 the rule and what we've got today?

24 ROBERT GRIEGO: Right. I think with the current rule, the 48-hour rule, it's well
25 understood but it is, like I've said, almost impossible to make a case on the transfer

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1 of knowledge, that they're using information gained from that plane. We've had some
2 cases that were solid cases that met the elements of when we had the hunter or a
3 guide or an outfitter in that plane and we could tie it back to within 48 hours that we
4 caught them in the field. We've had those. Whether we got a prosecution out of that
5 are not is a different story, but we had those elements. We had the evidence. When
6 it is not this specific hunter in the plane and I've got to prove that they are using
7 information, it becomes almost impossible. But with those same cases, I think, with a
8 lot of the evidence that was there, I could have easily proven that they were up there
9 locating game for the purpose of hunting. That's where I'm going. And again, I'm
10 trying to be careful on appearing like I'm making a stance against this. We tried to
11 bring you the best rule we saw, we've discussed it, we've had the public comment,
12 we've had numerous meetings over this. I think it is a good rule. I think it is -- would
13 make it easier to enforce than the current, but there's obviously some opposition to it
14 and --

15 COMMISSIONER MONTROYA: You know, Bobby, I'm not worried about the
16 opposition. I'm worried about more than just the ability to do these things. Now,
17 we've got a number of people that when they're doing their job of a flying from here to
18 there, with no regard, looking at elk or whatever, that we're making those people
19 guilty of what they're really not in the middle of. In other words, they're not looking --
20 they're looking, but they're not using that information to give to guides or to hunters or
21 to everything else. Are we going beyond what we really need to do to make this
22 work?

23 ROBERT GRIEGO: You know, again, flying low and slow is a product of that activity
24 but is not an element of the crime. Again, it's --

25 CHAIRMAN KIENZLE: Low and slow is a different crime, right? So if you're messing

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1 up my hunt or harassing wildlife, I mean, you've got a way –

2 ROBERT GRIEGO: Sure.

3 CHAIRMAN KIENZLE: If there's someone on the ground with binoculars --

4 ROBERT GRIEGO: If I can prove that they made protected wildlife run from that –

5 CHAIRMAN KIENZLE: Is a different case.

6 ROBERT GREIGO: Is a different case. But again, just like anything we have to have
7 reasonable suspicion to make that stop but we have to have probable cause to bring
8 forth charges. All of these [indiscernible] the District Attorney's Office, you know, the
9 concern of bad citations being written I'm concerned about. Is there the potential that
10 pilots would be contacted slightly more? Maybe. We get tail numbers constantly
11 every year, currently. And we're not accusing, harassing, interrogating pilots today.
12 Because there's a lot of it that goes into it, you know, I've been told by some of the
13 Pilots Association members that my officers have contacted them while they're flying.
14 And that they were professional and when they told them what they were doing it was
15 a short contact, have a nice day. You know, again, I understand the other side of the
16 what if's. I can't combat that.

17 COMMISSIONER MONTOYA: Well, you understand that our job is to try to do this
18 the best we can, backing you guys up, but, nevertheless, not putting innocent people
19 in jeopardy over the things that we think we're doing right. That's what's pulling me in
20 two different directions here.

21 ROBERT GRIEGO: Mr. Chairman, Commissioner Montoya. If you feel that way, I
22 mean, that's what you're up there for. Again, we -- I think we brought you a good
23 rule.

24 COMMISSIONER MONTOYA: Well, it's a hard program that we're trying to put
25 together and I want to be sure that were right on it. And I don't know if we can even

1 say that.

2 COMMISSIONER RAMOS: Chairman Kienzle, and I know I was one of the
3 advocates for the new rule. I did see it in that way, but I got to be honest with you,
4 the more and more we've dove into it, and again, I respect this process that we're
5 doing. I think it also goes back into education, you know, and really advertising the
6 importance of why not to be hunting out of the air and advertise it on our regs a little
7 better, maybe videos that also, you know, educating people. And I would have to like
8 to entertain an amendment to leave the rule as it currently stands here today.

9 CHAIRMAN KIENZLE: So is that a motion to amend?

10 COMMISSIONER RAMOS: Yes, sir. So therefore, I move to amend the proposed
11 rule to leave it as it currently has been in the past.

12 CHAIRMAN KIENZLE: With regards to.

13 COMMISSIONER RAMOS: With regards to the flying that was presented today.

14 CHAIRMAN KIENZLE: With regard to the 48-hour rule.

15 COMMISSIONER RAMOS: With regard to the 48-hour rule.

16 DIRECTOR SLOANE: Mr. Chairman, I believe that would mean keeping the original
17 19.31.10, 11, E, F, and G.

18 CHAIRMAN KIENZLE: Is that what you're saying Commissioner Ramos?

19 COMMISSIONER RAMOS: Yes sir, that's what I'm saying. So moved.

20 DIRECTOR SLOANE: Which are on page 8 of 22.

21 CHAIRMAN KIENZLE: 8, you said?

22 DIRECTOR SLOANE: 8 of 22.

23 COMMISSIONER RICKLEFS: Mr. Chairman?

24 CHAIRMAN KIENZLE: Yes, sir.

25 COMMISSIONER RICKLEFS: Reading the language that is proposed. For the life of

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1 me I don't see that this stops any pilot from flying any place he feels like. The
2 department is not taking the role of the FAA. I don't see it stops any hunter from
3 grabbing a plane and flying to camp. I read it over and over and over and it doesn't
4 look like it's that dangerous to me, although I will support your amendment, Ralph.

5 UNIDENTIFIED SPEAKER: Mr. Chairman, we have a motion on the floor.

6 CHAIRMAN KIENZLE: Did we get a second?

7 UNIDENTIFIED SPEAKER: We haven't gotten a second yet.

8 CHAIRMAN KIENZLE: So I need a second on that.

9 UNIDENTIFIED SPEAKER: So was that a second, Bob?

10 COMMISSIONER RICKLEFS: I guess, yeah, I'll second.

11 CHAIRMAN KIENZLE: I do believe we now have a -- we would call that a speaking
12 objection in court but [indiscernible]

13 [CROSSTALK]

14 COMMISSIONER RICKLEFS: I'll second it, that's fine

15 CHAIRMAN KIENZLE: Doubly seconded. Any discussion on the proposed
16 amendment, further discussion? Okay, all in favor?

17 COMMISSIONERS: Aye.

18 CHAIRMAN KIENZLE: Any opposed? None opposed. So we have two
19 amendments now to the proposed rule. Are there any further amendments from the
20 commission? Director Sloane refresh my memory on the effective date.

21 DIRECTOR SLOANE: The effective date on this rule will be April 1st of 2019.

22 CHAIRMAN KIENZLE: So is this one of the -- do we need to move that up?

23 DIRECTOR SLOANE: No.

24 CHAIRMAN KIENZLE: We're okay on that, then?

25 DIRECTOR SLOANE: We are for this rule, yes. It's the license application rule, we'll

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1 need to discuss that issue.

2 CHAIRMAN KIENZLE: The which one?

3 DIRECTOR SLOANE: License application rule.

4 CHAIRMAN KIENZLE: Okay. That one we need to move the date --

5 DIRECTOR SLOANE: Forward to January 1st.

6 CHAIRMAN KIENZLE: To January 1st. So there's no change needed on the effective
7 date. Do you have any questions about bait?

8 COMMISSIONER MONTOYA: We've got a -- when I went through this sizable piece
9 of literature that I got, there's a question that I ran into, Bobby, and I can't find it now.
10 It's regarding baiting. It says you can't bait with salt and it ends there. There's other
11 baiting besides salt, is there not? I can't find it but it's in there somewhere. I think it's
12 part of something that was left out and it includes other things other than just salt.

13 DIRECTOR SLOANE: Mr. Chairman, at least initially, bait is defined 19.31.10 7 F on
14 page 2 and it includes salts, minerals, grain, feed, commercially produced game
15 attractant or any other organic material which is attractive to wildlife.

16 COMMISSIONER MONTOYA: Okay. That's fine. That's the way it ought to be and I
17 see that. Somewhere else we talked about baiting and it just stopped right there at
18 the comma after salt. If it's the misprint, then [indiscernible] --

19 CHAIRMAN KIENZLE: We can make a technical amendment or a technical fix if that
20 is the case. I don't think that's going to cause any problems.

21 [CROSSTALK]

22 ROBERT GRIEGO: Mr. Chairman, we will go through this rule again. We've --

23 CHAIRMAN KIENZLE: If it's in there that's an easy fix. Okay we have the proposed
24 rule with two amendments, two amendments with regard to the two flies on the San
25 Juan, and then the 40-hour rule for aircraft. Are there any -- any commissioner wish

1 to propose any further amendment to this proposed rule? Okay. I now need a motion
2 to approve the proposed rule as amended twice.

3 COMMISSIONER RICKLEFS: Mr. Chairman, I move to adopt the proposed changes
4 to 19.31.10 NMAC two amendments as passed and as presented by the department
5 and allow the department to make minor corrections to comply with filing this rule in
6 the state records and archives.

7 CHAIRMAN KIENZLE: Any reference to the two amendments?

8 COMMISSIONER RICKLEFS: You want me to reference [indiscernible]?

9 CHAIRMAN KIENZLE: I'm would call it the two-fly rule and the 48-hour rule.

10 COMMISSIONER RICKLEFS: The two amendments concern the 48-hour flight rule
11 which is retained and the two hooks, barbless hooks, in the San Juan which is
12 retained.

13 COMMISSIONER SALOPEK: Second.

14 CHAIRMAN KIENZLE: Any further discussion? Any questions or comments? All in
15 favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: Any opposed? The proposed rule as amended carries. We
18 are going to take a break. Thank you.

19 CHAIRMAN KIENZLE: Hearing Item No. 3. Informational Rulemaking Hearing on the
20 Private Land Elk License Allocation System, Rule 19.30.5 NMAC. The hearing is
21 now open. Are there any exhibits on the new rule 19.30.5 for the record?

22 STEWART LILEY: Mr. Chairman, I'd like to enter six exhibits into the record. Exhibit
23 No. 1 the notice of the rule making. Exhibit No. 2, the initial proposed rule. Exhibit
24 No. 3, the presentation as being given today. Exhibit No. 4, the summary of the
25 proposed changes. Exhibit 5, the technical information we used -- relied upon to

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1 develop the rule. And Exhibit 6, the 263 public comments we received.

2 CHAIRMAN KIENZLE: How many?

3 STEWART LILEY: 263.

4 CHAIRMAN KIENZLE: That's Exhibits 1 through 6. I will admit Exhibits 1 through 6
5 into the record. You can go ahead and introduce the proposed new rule.

6 STEWART LILEY: Mr. Chairman, as stated, before you is the proposed change to
7 the E-PLUS rule 19.30.5. We went kind of more on an extensive public comment on
8 this rule than we have on a lot of others. We actually hosted nine public meetings
9 across the state. We sent letters to all landowners that are currently enrolled in E-
10 PLUS to ask them to participate and we had the greatest participation that I think he
11 got we've ever seen, at least in my time with the department. We had 455 attendees
12 at all of our meetings, so really strong attendance. And comment wise, you'll see 263
13 comments submitted, you'll see the same for the elk rule because they tie together.
14 So the comments a lot of times overlap for both rules, but they tie together we
15 presented both those comments, too. The majority of the comments were in support
16 of our proposed changes. The majority of that -- the majority of the comments we
17 received is that. We do have -- had some opposed, not as many as we would have
18 expected. Some of the opposition was opposed to the over-the-counter and outside
19 what we're going to call the primary zone now, or outside the core. That was kind of
20 worried about elk populations declining in there. Our goal in some of those areas is
21 to reduce those populations. So our management goals outside those primary zones
22 is to kind of to reduce them. Some people would like to see the elk populations grow
23 to more places in the state and we kind of think where we are at right now is a pretty
24 good spot.

25 One of the big changes that you will see, both in the elk rule and the E-PLUS,

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1 is GMU 12 going inside the core. You'll see there was a lot of comments on that, 32
2 comments. We hosted two different public meetings specifically just for that GMU 12.
3 I think we worked around some of the issues, not everyone's completely in favor of it,
4 not everyone is complete opposed. I think we found a middle ground that we feel
5 that we met there. Some other ones, unit wide maps was a big one we're
6 commenting on. We are in the process right now of digitizing all of the ranches
7 across the state with the hope within a year to have them all posted online and
8 maybe on our carry maps application, too, so a hunter will know where unit wide
9 ranches are across the state. So with that, we'll get into that proposed changes. The
10 E-PLUS rule is a permanent rule as developed in 2005. In all earnesty, it hadn't been
11 opened until now and for massive amendments or really a hard look at what's
12 working and what's not working. And I think the biggest thing that we saw in the
13 current rule is there's no definition of meaningful benefit to elk. Everyone in this room
14 has a different definition of what a meaningful benefit to elk is, but we really wanted
15 to define it so when we enroll a property into E-PLUS, we want to ensure that it was,
16 in fact, making a meaningful benefit to elk and that it made some kind of benefit
17 throughout the season to that elk herd. What we ended up doing, and what we're
18 proposing, is some guidelines where we look at habitat characteristics that are
19 necessary for elk to survive and we score those properties based upon either having
20 those characteristics or having them right in proximity to that. We then have those
21 guidelines that would be in rule. We are presenting them today and it would be
22 signed and adopted by the commission as part of the rule, too. So the guidelines
23 could be changed through time without having to open the rule, but it would be the
24 guidelines that the commission approves.

25 The other thing every property in the state that would fall inside what is

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1 currently called the core, we're proposing changing that to primary management zone
2 as being evaluated to see its meaningful benefit to elk. What we are evaluating and
3 what we determined to do is we wanted something that was biologically founded, like
4 I said, habitat characteristics. We want something that was simple and consistent, so
5 everyone understood what we were doing, and people could understand what we are
6 scoring, and it wasn't complex, but also defensible and biologically relevant.

7 Captures the intent of the rule. We want it to be that those properties making
8 meaningful benefit to elk and recordable. So landowners who get scored can see
9 what we are scoring on, how we're scoring, and they understand why their property is
10 in or why it's not, out, or how we scored and that we can work with on habitat
11 characteristics that could improve that. So the score system allows a property to
12 score up to 13 potential points. What we're scoring on is, again, like I said, habitat
13 components. Those components are forage, water, cover, the surrounding area. Is it
14 a subdivision in the mountains, is it remote? And then bonus points for things such
15 as agriculture. Do you have an agricultural field on there that's not a fence that
16 you're allowing elk to come in and eat? Or other bonuses, if, let's say, you have an
17 allotment right next door to your deeded property where you've made a lot of water
18 improvements, you're allowing that water to run year-round, allowing elk to come in
19 on it, and we're going to bonus that as well to account for those actions that maybe
20 weren't made on your deeded property but adjacent to it that has a benefit to elk. I'm
21 not going to go through each one of these exactly what a score is because we've
22 seen these multiple times. But you'll see forage has a score of zero to three
23 depending on the quality of the habitat. Water, again, zero to three. The two most
24 important components, we think, for elk is water and forage and so that's why they
25 have the most potential for score; three being permanent year-round water, or two,

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1 kind of at least two seasons. Then cover, cover is important for elk but it's not as
2 critical as forage and water and that's what you see a lower score potential on that.
3 And then the surrounding area. Are you in a subdivision close to a town or are you
4 kind of more remote outside of that, a better elk habitat, maybe it's part of a migration
5 corridor or part of winter range or some of those cabin grounds, et cetera? And then
6 like I stated, we do bonus properties based upon things that wasn't captured by those
7 previous components. For example, if your alfalfa field that has a lot of elk use, we
8 want to give you a bonus, we want to talk about a productive agricultural field that
9 you're allowing elk to make a meaningful benefit there. And then those added
10 bonuses. There is always special cases where we can't consider. It may be, again,
11 like I said, right off your property is -- within a half-mile is a water well you put on an
12 allotment. We're going to credit that because you're putting it in, the elk are using it,
13 and we want to make sure we bonus that even though it's not on your deeded
14 property. Or maybe it's something like you've converted all of your fence to wildlife
15 friendly fence or it's something to where your property, by allowing it -- if you sign it
16 up as a unit wide ranch, allows access to the public land behind there that wasn't elk
17 available before. So there's bonuses in there to account for other attributes those
18 properties are making for the benefit of the elk. So moving through this, we went
19 through the public comment and after looking at it for the last few months the
20 department is recommending the commission adopt a minimum habitat score of
21 seven for the properties to participate or to enroll. So any property that receives
22 above a seven is -- or a seven or greater would remain in the system. Those
23 properties that are lower, maybe there are no water, or their forage is poor or they're
24 scoring in the five, they would be removed from the current E-PLUS system. One of
25 the other things that the E-PLUS rule currently does not have is a clear appeal

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1 process. So when a land owner does not agree with the department's assessment,
2 we want to have something clear-cut in rule that allows them to appeal our decision.
3 Something that allows them a step path forward on how they can appeal that. The
4 biggest would be if a landowner receives 'does not qualify' because of they're a score
5 of a six, they get an objection form, they can see why we scored, they can come to
6 us immediately. Maybe we missed a water source that we didn't know about that
7 they turn on that wasn't there. That can be reviewed by the E-PLUS manager or an
8 officer visit or a department biologist making a site visit and overturn that objection.
9 If, after that, they still uphold it, it comes to the divisional review at the Wildlife
10 Management Division and that's a recommendation from the division to the director.
11 The director then makes that decision based upon the division review.

12 And finally, if the landowner doesn't agree with that departmental decision,
13 they can appeal to the commission as the last on that. So in front of you today or
14 right there in that map is -- again, we used to be core or outside of the core. Core
15 occupied elk range is what we used to call it. We really wanted to define really what
16 the core is where we limit license numbers, license numbers are set by the Game
17 Commission in the next rule hearing you'll hear that license numbers. It's where
18 we're managing for harvest objectives, either optimal opportunity we are trying to get
19 -- not may be an older age class bull, but we want to get people out there on the
20 ground or quality management but that's where it's going to be -- it's our now what's
21 called primary management zones. It's where the distribution of those tags are
22 strictly regulated by commission rule. Those three GMUs where you see in yellow
23 are what we are proposing as special management zones. Why we're considering
24 those as special management zones is those are 99 percent private land or greater.
25 And so it's going to work -- the formula doesn't work. In the primary zone it's a split

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1 between public land and private land in those areas where it's almost entirely -- either
2 it is entirely or almost entirely, we want to still work on a ranch by ranch bases with
3 those landowners to determine appropriate harvest limits within there. Everywhere
4 else on that map, outside of -- the pink is expansion of the primary zone. Everything
5 else in white would be our secondary management zone. On those lands, on private
6 land, would be over the counter hunting for elk from October 1st to December 31st.
7 And then special circumstances where we feel there might be a winter concentration,
8 we need to deal with it and we would allow for extensions into the January season.
9 But that's the three zone proposals for that.

10 So again, the biggest proposed changes is utilizing that habitat score to
11 screen properties for participation in the program. And then one of the other ones is
12 allocating that unconverted rate. So there's a large percentage of tags that go
13 unconverted every year, up to 25 percent. Some GMUs have up to 40 percent. But
14 over the course of the state, it's about 24 percent of the licenses are unconverted.
15 We want to get those back in the hands of people that will convert them to meet our
16 management goals. We want to run that through our small contributing ranches first.
17 Those ranches that are making a meaningful contribution to elk and continue to make
18 it and we want to get those back in those hands. We also eliminate in our small
19 contributing ranch what we would call the draw history. Currently, the way it works. I
20 have to wait in my GMU until every small contributing landowner has received a bull
21 tag before I can get mine. Now, I might be an alfalfa field that's a hundred acres and
22 the one I'm competing against is a 5-acre piece of property in a subdivision and some
23 of these GMUs the wait time is 10 years. And so what we're doing here is saying no,
24 we're going to weight it by the quality of the habitat you provide for elk. You may not
25 even make it in the system if you're that 5-acre in a subdivision that's not making

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1 meaningful benefit or elk. But those ones that are, we're going to weight it by how
2 much of a benefit you are. The other thing that's been kind of -- I won't call it played
3 but has been happening in the last five years more is because of that wait time,
4 people are splitting their properties purposefully and separate deeding them out so it
5 looks like it's a new property. So if I have a 50-acre parcel, I deed 25 acres to my
6 wife, I keep 25 and the deed -- when my wife comes in as a new owner in the E-
7 PLUS system, moves to the top of the list and gets the bull tag and then they split the
8 property again to the kids. So what we're proposing is anytime a property is split
9 they're subjected to a whole evaluation of what that acreage is. So if I split off the 25
10 acres, I only can look at those 25 acres for the evaluation, the water might be on the
11 other 25, so that new 25 split doesn't qualify. It encourages landowners that aren't
12 participating to group together to form larger pieces of property. And then, like we
13 just showed, there was the expansion of the cores in those select units where those
14 pink were and then including GMU 12 inside the core. Like I discussed in the
15 secondary management zone, those areas that weren't colored, is to allow tags over
16 the counter for private landowners on their deeded land that register their property
17 ensure their outside of it. They would be transferable, and they would all either be
18 either sex or antlerless. Consistency season dates being September 1 through 24
19 and then October 1 to December 35th -- excuse me, 31st with any five days. And then
20 again, that exception on a case by case is like if there's like a winter range or
21 something like that where we need to deal with elk in January or February on those.
22 With that, I would take any questions.

23 CHAIRMAN KIENZLE: Well, let's do some public comment first and then we'll get to
24 commission questions. Gabe Lopez [phonetic].

25 GABE LOPEZ: Mr. Chairman and Commission Members. My name is Gabe Lopez,

1 I'm Lopez ranch in Alba queue [phonetic] in Unit 6C. And I represent Santa Fe
2 [indiscernible] National Forest permittees. I'm a permittee myself. I was just wanting
3 to – me and Stewart have talked about this and the last meeting we had in Gallup we
4 came to a little bit of common ground, I think, and approved some of the proposals
5 that was – that he's putting forth. But what I wanted to state today was the points for
6 the permits, you know, the permits on U.S. Forest Service land such as Acosta
7 National Forest [phonetic] like my private land sits in the middle of the core land and I
8 got, I'm going to say 20 sections of forest land within the core land, so I would like to
9 see that, you know, that we get bonus points for that because we are enhancing the
10 game management unit on the forest land. Plus, you know, I'm putting out a lot of salt
11 and for the cattle, but the elk have a lot of access to that, too, within those 20
12 sections of permit -- a lot of permit on the Santa Fe National Forest which is in the
13 middle of the core unit. So that was my major point today that we have at least two
14 or three points in that for -- added to the formula on the national forest permits that
15 we have. That was my point today, sir. Thank you.

16 CHAIRMAN KIENZLE: Thank you. Jesse Deubel.

17 JESSE DEUBEL: Mr. Chairman and Commissioners, thank you so much for allowing
18 me to speak. My name is Jesse Deubel and I'm with the New Mexico Wildlife
19 Federation. This proposed rule change, I think, is definitely an improvement to the
20 current private land owner system. I think we, especially, appreciate the meaningful
21 benefit component, I think that's a really strong improvement. We are also glad to
22 see that some of the previously unused tags, tags that have not been used by
23 hunters in the past, are getting redistributed and are getting into the hands of
24 hunters. We really appreciate the increased hunter opportunity. I think under the
25 proposed changes will make the system more administratively viable, but we would

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1 really like to see those additional tags put into the public draw process. We'd like to
2 see some type of system to address the privatization of wildlife and, you know,
3 increase the public draw tags so that we can provide those tags or hunters in the
4 general population an opportunity to that public resource.

5 CHAIRMAN KIENZLE: Thank you. Toner Mitchell. Chris Guikema. You're the big
6 winner today, I think. Three for three.

7 CHRIS GUIKEMA: [indiscernible].

8 CHAIRMAN KIENZLE: Right. Five act play, I said.

9 CHRIS GUIKEMA: I'm Chris Guikema, Compass West Outfitters. Really, my basis
10 more comes probably questions directed to Stewart. I love all the changes, I think it's
11 great. I think it's a super deal. My question for you kind of is a little bit more along
12 the lines of I saw in there there's a statement on the outside the core properties will
13 be a ranch number required in order to get a private land over the counter tag,
14 correct?

15 STEWART LILEY: That is correct.

16 CHRIS GUIKEMA: What are the requirements in order to get that number, like what
17 are the owners going to have to do?

18 CHAIRMAN KIENZLE: Go ahead.

19 STEWART LILEY: Mr. Chairman, so the requirements on that is just to prove the
20 deed that they have land outside of the core. We would just want to ensure that that
21 land parcel is outside that primary zone.

22 CHRIS GUIKEMA: Okay. Thank you. My only other statement would be towards
23 the utilization of leftover tags going to the private landowners. I think that's the way it
24 should stay, that's the way it should go. As far as -- I don't see it as privatization. I
25 mean, I'm bummed I don't get to draw tags as much as I'd like to in the state of New

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1 Mexico but without the cattle ranchers and private landowners that supply water, salt,
2 resources, these animals don't stand a chance anyways. You know, to take away
3 the ability from these guys to support what they are giving back to the elk in the form
4 of salt and water from wells and electric bills and everything else I think is wrong, so
5 that's it.

6 CHAIRMAN KIENZLE: Understood. Thank you. John Bell [phonetic].

7 JOHN BELL: I'm John Bell, I'm a rancher up at Reed [phonetic]. I'm also in the Farm
8 Bureau and [indiscernible] Cattlemen's Association so I wear a lot of hats. I
9 appreciate -- I came to learn today and I appreciate the opportunity to visit and learn
10 so I really don't have as much direction. I think we're moving the right direction, it
11 sounds like to me, and I appreciate the conversation with Stewart. This morning on
12 the way down here I counted 14 pretty nice elk, bull elk, on the way down here this
13 morning. It was a pretty good -- the herd has grown so large that we are going -- the
14 herd is just expanded in some ways or may be being pushed, I guess, we were
15 talking a while ago down to El Piñon [phonetic]. I've got a ranch at Piñon that I've
16 never included in the core, I haven't hunted on that ranch, I haven't let deer hunters
17 on the ranch because the deer herd had gotten so small that I felt like they needed a
18 place to hide and it's over 4,000 acres, so there was enough room for them to come
19 in there and we've seen some really nice bulls in there now. But I think we need to
20 manage the herd, we certainly need to continue to harvest some of those animals. I
21 hope we will figure out ways to do that. I agree with Chris' comments that he just
22 made. We provide -- in Piñon there is no water. The only water that's there is what
23 we provide. My well -- I've got a well at Piñon that's 1,320 feet deep, makes 10
24 gallons a minute. My uncle put the water well in at Bull Water Canyon, piped it to
25 Piñon, it distributed to a lot of ranches down there. So it's a pretty amazing property

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1 and my family's been there for over a hundred years. There's more elk than there
2 ever was. There weren't any elk there when I was a kid.

3 CHAIRMAN KIENZLE: What unit is this?

4 STEWART LILEY: GMU 34.

5 CHAIRMAN KIENZLE: Is this the one where we have elk pouring off of the
6 reservation?

7 STEWART LILEY: That's correct.

8 JOHN BELL: We're far enough that the elk herd just in the southern Sacramento
9 Mountains has just gotten extremely large and I've gone out and seen areas where
10 you couldn't walk in the spring without stepping in elk poop. I mean, this is those big
11 mountain [indiscernible] --

12 CHAIRMAN KIENZLE: Sometimes that's a good problem.

13 JOHN BELL: So there's a lot of things that going on there at the same time. Down at
14 Piñon there used to be never be -- I used to see elk up high but never down low.
15 They're everywhere now. They've just grown and expanded so we certainly need to
16 harvest more elk. We need to be able to do some things that enhance that and allow
17 those tags, so I appreciate the changes that are being made. It sounds like to me
18 we're headed the right direction. So thank you, very much [indiscernible] --

19 CHAIRMAN KIENZLE: Thank you. Do you know Sylvia Bell?

20 JOHN BELL: [indiscernible]

21 CHAIRMAN KIENZLE: She's next.

22 JOHN BELL: Oh. Well, I'm glad. Most of the time she's pretty good to me if I say,
23 "Yes ma'am. What's next, honey?"

24 CHAIRMAN KIENZLE: Sylvia, it's your turn.

25 SYLVIA BELL: I'm Sylvia Bell [phonetic], I represent, I guess, the Silver Bell Ranch.

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1 And I'm so grateful to see these changes come. When we first bought our branch --
2 we have two ranches, one that's in the core and one that's on the peripheral there in
3 Piñon. And it has been so frustrating to make a lot of effort to try to comply and help
4 and support where you are. We put in game friendly fences with [indiscernible] on
5 the top where they can crawl underneath, we put in a whole lot of different waterings,
6 we've done a whole lot of things with that and absolutely received no response back
7 about. We had -- first year we were there we had no permits at all on our core area
8 and from then on, for years, we got one cow elk is what we were getting the whole
9 time, including and taking into no consideration of the amount of money that was
10 spent again for the salt, the water. The fences cost us quite a bit to have
11 [indiscernible] them. I'm very grateful to see this coming in and to see that being
12 addressed with it. One of the issues that I feel really needs to be taken even further
13 is in pushing it in with cooperation with the Forest Service on that. It seems -- I was
14 in a meeting in Santa Fe with the Assistant Regional Director of the Forest Service
15 and the Director from the Fish and Wildlife Service, we said when we have
16 complaints, we take them to you, being Fish and Wildlife [indiscernible] and he said,
17 "Well, that's the Forest Service to decide how many elk or what we're going to be
18 running." In the same way the Forest Service says back, "We can't determine what
19 the Fish and Game or the Fish and Wildlife do on it." And it's just a zero on that. I
20 worked on the -- my background is I have a degree in forestry, I worked on five
21 different districts with that. When I was in the Sacramento's in 1974 there was a herd
22 of possibly 250 elk on the area that I worked, that were the native elk, and now they
23 are exponential. I asked the supervisor, the Forest supervisor, what could be done to
24 number the amount so that how can you manage them? How can you manage a
25 property if you're only taking into consideration half of the animals that are on it or

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1 even more than that? And he says, "Well, I'm not in the elk counting -- I'm not in the
2 elk counting business." But he is in the cow counting business and we keep getting
3 cut back further and further and further. So I would wish that we would even do more
4 with that and getting this connection made, getting a cooperation, and giving us a fair
5 chance on that. Thank you, sir.

6 CHAIRMAN KIENZLE: Thank you. Mr. Crenshaw, you get the last word. Well,
7 actually I may get the last word but, in the public, you get you get the last word.

8 JOHN CRENSHAW: Thank you. John Crenshaw with the New Mexico Wildlife
9 Federation. I support, of course, what [indiscernible] just said. But I did want to go
10 into one other little thing or two. Yes, administratively, this is a great improvement
11 and the small contributing ranches who are actually contributing are going to benefit.
12 Those are good things. Again, we certainly would have liked to have seen some of
13 those larger landowners unused licenses go into the draw system, but that's been
14 said several times. I do know that over on the west side of the state that there was
15 some controversy about adding Unit 12 into the core area. I would like to say that we
16 support the department's position on that. That is one case where actually there it
17 will increase the number of public draw licenses in that unit, if I understood Mr. Liley
18 correctly, and we like that idea and the elk population definitely supports that
19 designation. It's moved in and grown, and it should be in the core. Thank you.

20 CHAIRMAN KIENZLE: Thank you.

21 COMMISSIONER RAMOS: Quick question.

22 CHAIRMAN KIENZLE: Yes.

23 COMMISSIONER RAMOS: Stewart, in Unit 34 to offset those numbers, did I miss it
24 somewhere where we were going to include -- I know your archery hunts are already
25 either sex, but your muzzleloader and rifle bull elk hunts are now going to be either

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1 sex as well?

2 STEWART LILEY: Mr. Chairman, Commissioner Ramos. That's correct, that's our
3 proposal and that's through the Elk Rule, that's where they intertwine this is, but in
4 the next presentation we'll get to that [indiscernible] --

5 COMMISSIONER RAMOS: Thank you. I knew it was happening somewhere, but I
6 know they were specifically talking about Unit 34, so I thought I would mention that.
7 Thank you.

8 CHAIRMAN KIENZLE: Any other exhibits?

9 STEWART LILEY: Mr. Chairman, no I do not.

10 CHAIRMAN KIENZLE: Okay. Exhibits 1 through --

11 COMMISSIONER RICKLEFS: Could you go back to the map with the [indiscernible]

12 CHAIRMAN KIENZLE: Let me finish this part and then you can ask him some
13 questions. So Exhibits 1 through 6 are entered into the record. I'll close the hearing
14 in a moment with the attendance sheet but now you can ask your question.

15 COMMISSIONER RICKLEFS: I forgot it. So 54 and 55 and 46 are special
16 management zones and ranches in those units have to provide a conservation plan
17 by January 5th every year?

18 STEWART LILEY: Mr. Chairman, Commissioner Ricklefs. No, it won't be like a
19 special management property, per se. What it will be is -- how we are administering
20 it right now, we work on a ranch by ranch basis within an interested landowner in any
21 one of those special management properties to determine appropriate harvest. It
22 won't have to be something where they submit a plan every single year. It may be
23 that we, because of our surveys of elk, we know what our total harvest is, where
24 we're looking at harvest, where we're saying it. But it won't be something specific to
25 where they have to set a management plan every single year. It's just they have to

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1 sign an agreement saying they want to participate.

2 COMMISSIONER RICKLEFS: Okay, so then those licenses are going to be over the
3 counter or --

4 STEWART LILEY: In those three GMUs it will still be authorizations. Like it currently
5 exists today in those GMUs.

6 COMMISSIONER RICKLEFS: I see.

7 CHAIRMAN KIENZLE: I got a question. So as properties are enrolled in this system
8 and you get special bonus point for this, that, and the other thing, how do I make sure
9 that your front-line staff are actually doing this correctly, number one, and then
10 number two, that I'll just be blunt that nobody's cheating or it's corrupt or something
11 else. So how can we give the public confidence that the information going into the
12 system is correct? Who is auditing these ranches as they are enrolled?

13 STEWART LILEY: Mr. Chairman, so there's a group, and we're doing it throughout
14 the state with we have an E-PLUS manager and their super supervisor, who is a
15 private lands program supervisor. We then go to each district sergeant that knows
16 that area really well and their officers and we analyze each one of those properties
17 on an individual one. Once we give a score to those properties, every single year
18 that landowner will get that scoresheet that says here is how we scored your
19 properties on these criteria. Do you agree, or do you not agree? So we want to
20 make sure that, one, that we did take into account everyone that knows that area
21 score and then, two, we want to make sure the landowner sees how we score that
22 property. So if there's discrepancies between there we can fix that right away on the
23 upfront. That way it can be a conversation with the regional biologist or a district
24 officer that say, "Look, you missed this piece of water over here, come out and take a
25 look at it." And we will come out and take a look at it. So the abuse should not be

1 there because we're going to have to physically see it. If that person wants to get the
2 score for it. If we don't physically see it, we can't give that [indiscernible] --

3 CHAIRMAN KIENZLE: So that -- I understand that part of it. What if, instead of a
4 one, a two is entered inadvertently, to, in fact, they get their scorecard and they're
5 like, "Well, I just won the lottery. Clearly, I'm a six but you've enrolled me as an eight."
6 So how are you guarding against [indiscernible] --

7 STEWART LILEY: Mr. Chairman, in the agreement they're going to have to agree to
8 this is actually what is on my property. So in the agreement -- like right now, on the
9 agreement you're saying the deeds are accurate and correct. I'm not falsifying a
10 deed to show that these properties are actually not mine. The other things can be the
11 score that I receive is accurate and correct.

12 CHAIRMAN KIENZLE: So all of that paperwork would be subject to a [indiscernible]

13 STEWART LILEY: Mr. Chairman, that is correct.

14 CHAIRMAN KIENZLE: In some respects so you are your brother's keeper if you are
15 a neighbor or something and you're like, this looks fishy. Okay. I guess you're just
16 going to have to put the most honest people possible in these spots and make sure
17 the numbers are good. I am concerned about -- it's probably run by database or
18 spreadsheet or something else, and it's easy ignoring the intentional part of it, it's
19 easy to transpose numbers and get it wrong. So I'd encourage you to figure out a
20 way to audit or double check that, if you will. Because, as sure as the sun rises and
21 sets, somebody's going to complain, I can feel it coming.

22 STEWART LILEY: Mr. Chairman, it's not one individual at any time entering that
23 number. It is multiples at the screen up so hopefully that will be covered
24 [indiscernible] --

25 CHAIRMAN KIENZLE: I trust your judgment. I'm just saying make sure you've got

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1 some procedure in place to account for that because sooner or later somebody's
2 going to ask. I don't know who, what, why, when, or where, but it's coming. All right,
3 I've taken up enough time. Who else has any questions or comments on this?

4 COMMISSIONER RICKLEFS: I have one more. Your scoring system is not in here.
5 So is that because it's going to be --

6 STEWART LILEY: Mr. Chairman, Commissioner Ricklefs. So we wanted to make
7 that be a flexible -- we want the commission to approve it. So what you will see is
8 those attributes I went through in that presentation and that were online, and we've
9 looked at before, that's what we're proposing for. The commission by approving the
10 rule and approving these guidelines, you are approving those guidelines. Those
11 guidelines can come back to the commission at any time without having to open the
12 rule. Our purpose of that was if there's something that we didn't capture from a
13 habitat component or if we didn't score properly, we didn't want to have to go through
14 the whole rulemaking process again, but we want the commission to give oversight
15 on what we are looking at for scoring those properties. So what the Chairman will do
16 today, if you approve the rule, and what we propose for how to score it, he will sign
17 those guidelines that would be approved as how we score. If there's ever a time
18 when we want to bring it back to the commission to change those guidelines how we
19 score, we can do that at any time necessary.

20 COMMISSIONER RICKLEFS: Okay. And at the moment a seven is going to be your
21 number but that may change to.

22 STEWART LILEY: Mr. Chairman and Commissioner Ricklefs. Yes, our proposal is a
23 seven.

24 COMMISSIONER RICKLEFS: Okay.

25 COMMISSIONER RAMOS: And you'll start those assessments immediately if it's

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1 passed?

2 STEWART LILEY: Mr. Chairman, Commissioner Ramos. We've already started
3 them in anticipation.

4 CHAIRMAN KIENZLE: What's the highest score you can get?

5 STEWART LILEY: Mr. Chairman, 13.

6 CHAIRMAN KIENZLE: I was told you that's bad luck, man. I leave it to your good
7 judgment on that.

8 [CROSSTALK]

9 Your good judgment on that as well. All right. I've got to enter the attendance sheet
10 and comment cards, which I will do as Exhibit No. 7. Are there any other questions
11 or comments from commissioners? Hold on a second. Comments submitted, and
12 testimony heard during this rule hearing will be reviewed by the commission and
13 discussed during the open session of today's meeting. The commission will vote on
14 the proposed rule at that time. Thank you, again, for your participation. This
15 particular rulemaking hearing closed as -- adjourned as of 12:52 p.m. I will entertain
16 a motion should somebody choose to make a motion [indiscernible]

17 COMMISSIONER SALOPEK: Move to adopt the proposed changes to 19.30.5
18 NMAC as presented by the department and allow the department to make minor
19 corrections to comply with filing this rule with state records and archives.

20 COMMISSIONER PETERSON: Second.

21 CHAIRMAN KIENZLE: Any further discussion, question, or comment? All in favor?

22 COMMISSIONERS: Aye.

23 CHAIRMAN KIENZLE: Any opposed? None opposed. Good work. That was a
24 heavy lift. Definitely a heavy lift.

25 CHAIRMAN KIENZLE: Hearing Item No. 4. Informational Rulemaking Hearing on the

1 New Elk Rule 19.31.14 NMAC for the 2019-2023 seasons. This hearing is now – I'm
2 being attacked at all sides here -- this hearing is now open. Are there any exhibits on
3 the new rule 19.31.14 for the record?

4 STEWART LILEY: Mr. Chairman, we wish to enter six exhibits. Exhibit No.1, the
5 notice of the rule making. Exhibit No. 2, the initial proposed rule. Exhibit 3, the
6 presentation that we're giving today. Exhibit 4, the summary of the proposed
7 changes. Exhibit 5, the technical information we relied upon to develop the rule. And
8 Exhibit 6, the 263 public comments received.

9 CHAIRMAN KIENZLE: Thank you. I will admit Exhibits 1 through 6 as identified by
10 Mr. Liley. You can go ahead and introduce the proposed new rule.

11 STEWART LILEY: So Mr. Chairman, as I stated at the last rule, the E-PLUS rule,
12 they're intertwined with the Elk Rule, so we combined the comments and the public
13 meetings to discuss both of these rules in concert. So we had 455 attendees at nine
14 meetings and 263 submitted comments. The majority of those comments -- a lot of
15 the comments would comment on multiple aspects of the rule, but overall, those
16 comments were supportive of greater -- one or greater than one of the aspects of the
17 rule that is being proposed for change. We did have some people that were not
18 supportive of some of the proposed changes. Whether it be -- they felt like we should
19 have increased more, should have increased less. But overall, support for the
20 proposed changes. One of the changes, and we'll get to it here in a second, that had
21 a little bit more comment on it was proposed changes to how we deal with those
22 youth encouragement hunts and allowing the second week to where it's -- seniors
23 would be able to get in that. So we definitely had some comments on that. We also
24 had comments on the core boundaries, overall, support of our changes. The biggest
25 was -- other suggested changes a lot of it being that they would like to see the

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1 entirety of the state go to a whole core. And that was not our perspective, not trying
2 to encourage elk management down the [indiscernible] Mountains, for example.
3 Some of the other comments talked about -- well, not some. A majority of those
4 comments talked about how we allocate through E-PLUS or through the public-
5 private draw, et cetera. So not necessarily as much on the subsidence changes in
6 the elk rule but kind of more on allocation from public to private.

7 So the proposed changes for the Elk Rule is like on all these other species,
8 rules adjusting the calendar dates. We adjust the licenses every four years to the
9 public-private split. Like we talked about inside the primary management zone, we
10 call it now, the licenses are allocated based upon the land ownership. If it's 50
11 percent public, 50 percent private, 50 percent are going to go to the public, 50
12 percent to the private. We, every four years, reanalyze land ownership to make sure
13 that there wasn't land trades, land swaps, land sells. If it increased on the private, we
14 want to make sure that we put more to the private or if it increased on the public that,
15 too. If we change those boundaries we also need to account for a change in that
16 ownership. So we always see that every four years. One of the proposed changes
17 that I just discussed was changing the youth encouragement hunts. Right now the
18 youth encouragement are only for youths. The first 14 days are for resident youth
19 only then after that it's for any youth in the state. Our proposed changes for the first
20 14 days would be to those youths, New Mexico residents, that didn't -- they put in for
21 the big game draw but were unsuccessful in the draw, to offer these as a first come
22 first serve basis. After those 14 days we would then offer it to seniors, 65 years or
23 older, that put into the draw, that were unsuccessful in the draw, that then can come
24 get those licenses, if there is anything left over.

25 UNIDENTIFIED SPEAKER: I still have a chance, don't I?

1 STEWART LILEY: You still have a chance. The other big thing that we did is, if you
2 recall, we have antler point restricted APRE6 what we call them antler point restricted
3 six points are better on one side archery hunts that were previously first come first
4 serve, so out -- I think about half a second to one second online. We're proposing
5 putting that in the draw process. Instead of doing it on a first come first serve basis.
6 There's enough demand for those licenses, we're going to go ahead and put them in
7 -- proposing putting them in the draw. We talked about in the last presentation about
8 adjusting what we call the core but now what's now going to be called the primary
9 management zone in those -- in some of those boundaries like GMU 12. Specifically,
10 I will go through each region. Southwest region, we did extend the core boundary in
11 GMU13 to include areas that is considered the Narrows, that's this left graft here and
12 it's this red hashed area there. That's an extension of the core up into that North
13 area, a lot of elk in there, has been for quite a few years, and so we extended it in
14 there. GMU 19, White Sands Missile Range, is a limited opportunity to hunt elk on
15 White Sands. White Sands has had some elk movement into the northern part,
16 mainly in [indiscernible] and we're proposing opening that up to hunting for a limited
17 area. GMU 21A and 21B. First off, in 21B we extended the core boundary south,
18 almost to Winston, if you see on that right-hand graph, we've had elk in the Wahoos
19 [phonetic] for quite some time, it was outside the core but we really wanted and have
20 been managing it and we're proposing extending the core in there. We also created
21 a late season archery hunt in GMU 21A, 21B, and 23 of 15 licenses a piece. Those
22 late season archery hunts have actually become more appealing. We did not put the
23 antler point restriction on that one, but it is a mature bull, late season archery hunt on
24 those. As mentioned, at the last presentation GMU 12 was one where we worked on
25 one of our bigger changes in both the E-PLUS and Elk Rule was putting the entirety

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1 of that GMU in the core. So it creates a new core boundary in the whole GMU. We
2 are proposing the quality designation on there right now. The bulls are a quality bull,
3 it's managed as a quality bull, hunt more or less, and so we are proposing putting it in
4 there. And then we increased some licenses across the board just because when we
5 put it inside the core, we suspect success rates to go down slightly. So the 10
6 percent increase in licenses will probably actually end up being the same number of
7 elk that are harvested because we do expect some success rates to go down with
8 more hunts in there. And then we moved that antler point restricted archery hunt into
9 the draw there. In the southeast area in GMU 30 or in the Guadalupe Mountains, we
10 created an October 1 through 5 either sex hunt of 10 licenses. That's not an area
11 where we really wanting to see elk expand into that area. They are right on the
12 Texas border up into the Guadalupe Mountains trying to take -- a little bit harder
13 crack at that. GMU 34 we increased the antler list licenses to 3 hunts of 350 licenses
14 a piece. And we maintained -- instead of increasing the youth licenses, we
15 maintained the youth licenses at 120 to make it a little bit more quality experience.
16 But overall, an increase in archery -- or excuse me, antler list licenses in GMU 34.
17 We also changed how the mature bull hunts that were currently listed as mature bull
18 bag limit to either sex hunts. So if the hunter was unsuccessful at a bull, they would
19 be able to harvest a cow trying to help with some of the population management in
20 the south side in 34. And expanded into those two little core expansions on the east
21 and the west side you'll see there to make it more contiguous with what the habitat is
22 of there. GMU 36, one of our most highly productive herds in the state in terms of
23 bull to cow ratios. We're proposing an increase of 15 percent to bull to cow ratios in
24 there is almost 70 to 100 higher than what we even see in non-hunted populations in
25 Yellowstone. GMU 37, we originally proposed putting that into the core. We have

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1 since retracted that after public comment and more looking into it, so there's no
2 expansion or no core in there. But moving some hunts into an earlier season hunt
3 and then putting that bow hunt into -- that late season bow hunt into the draw. 38,
4 just creating an October 1 through 5 hunt to correspond with the private land start
5 times as well. Northeast area, we talked about in the last presentation but the special
6 management zones in 46, 54, 55 in GMU 42, 47, 49 we had in elk herd that's
7 expanded in that area, predominately private land, but one thing that did happen in
8 there in the last rule cycle is the [indiscernible] Wilderness Area run by the BLM is
9 open now, there's public access to it. So we're creating a draw hunt in there to allow
10 access into those elk herd. No changes in the Pecos herd. Very slight just moving
11 the bull hunt from December to October in 48. Valle Vidal, separating the youth
12 hunts from adult hunts and then combining the Colin Neblett north and south into one
13 hunt area rather than a separate hunt area. Not as many elk in there and giving
14 more options to go about. We created a new [indiscernible] sporting weapon in GMU
15 56, 57, 58 to correspond with the start dates of the private land hunts and then no
16 changes in GMU 53. In the Northwest we removed the quality designation from GMU
17 2. We're really trying to manage that more for a quality deer herd than necessarily a
18 quality elk herd. We also created a late season cow hunt in 2C of 50 licenses,
19 specifically there, to address some cows that are moving into that 2C area and
20 starting to establish more of a population and so we're trying to try to kind of manage
21 that population a little bit more. In GMU 4 we changed the bag limit on the WMAs or
22 are proposing changing the bag limit on the WMAs and the private land hunts from
23 NB to NBA. Instead of either sex, because of the vulnerability of spikes in that area,
24 we really wanted to make it a mature bull or antler list and that's why you'll see that
25 there. We created a new hunt of 15 licenses for an antlerless license on the Rio

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1 Chama Wildlife Management Area. They're really doing well. We now used to have
2 only migratory elk on the Rio Chama; they are now resident elk and we're trying to
3 manage that population. And included the Rio Chama as part of the archery hunt,
4 too. In the Hamas [phonetic] we eliminated on Valles Caldera we eliminated the
5 mobility impaired hunt, but we put in rule a to be determined.

6 If you recall at the August meeting, we had discussions about a complete
7 elimination of that mobility impaired hunt because of land management the Caldera
8 wanting to not open those roads. We kept the hunt in there as a to be determined if
9 we can get the Caldera to open those roads up. So if it comes back in, the hunt
10 would come back on and we would be able to get hunters back out there. We did
11 also increase the youth antlerless hunts from 35 to 60 and changed the mature bull
12 hunts to either sex on there. In GMU 9, that's Mount Taylor, that's our lowest calf to
13 cow ratios in the state, our lowest performing herd in the state. We are proposing
14 stopping cow hunting in there. That herd continues to decline and even with hunting
15 or harvest it will continue to decline if we don't see a change in the calf ratios. We
16 were in the single digit calf ratios for a while. We got up, this year, to almost 25 to
17 100, so the highest rates we've seen in years, but still not sustainable. We also
18 expanded that core in the eastern portion and we're reducing both bull and archery
19 licenses in there to account for the decline in population. And then in 14 in the
20 Manzanos [phonetic] we're proposing opening the hunt. We are getting more elk in
21 there and seeing more throughout there. With that, I will take any questions.

22 UNIDENTIFIED SPEAKER: It looks like my backyard.

23 STEWART LILEY: I believe that was on the Valle Vidal.

24 UNIDENTIFIED SPEAKER: Oh, okay.

25 CHAIRMAN KIENZLE: Take some, comment. Gabe Lopez.

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1 GABE LOPEZ: On the increase of either sex [indiscernible - away from microphone]

2 STEWART LILEY: Mr. Chairman, that was -- so the question was, I believe, in the
3 Hamas specifically, we are increasing the either sex archery hunts by five licenses
4 and that is specific to the Caldera only. And then on the change of the bag limit for
5 mature bull to either sex in the Hamas that's specific to the Caldera as well. Not the
6 rest of GMU 6C or 6A.

7 CHAIRMAN KIENZLE: Anything further? Thank you. Mr. Guikema.

8 CHRIS GUIKEMA: The only feedback I had on this one was really I'm in favor of the
9 either sex for the mature bull or for the muzzleloader and rifle hunts in 34. I think way
10 too many young bulls get killed in the state. I don't think I've ever seen a mature bull
11 antlerless option in the past. The only thing I would throw in on this stuff, as far as
12 my comment would be, I'd love to see Unit 34 proceed with either sex in the sense of
13 having be a mature bull or antlerless license and protect those spikes and give them
14 a chance to grow up. The only other thing I had on there, and I brought this up at
15 another couple of the meetings, was the average hunter days is like six days on most
16 hunts for archery, and yet, in the state we've -- in the last cycle we knocked
17 everything back to just two hunting cycles where most of the days aren't being
18 utilized. From a resident that can't draw tags, this is a place where I would love to
19 see the archery hunts in the state go to a set three seven-day hunts with a break in
20 between each or do a 10 day on the first one which is the toughest, lowest success.
21 And two hunts at seven days allowing to increase all the residents a little better
22 chance. Because if you're a guide, like me, that lives in -- well, I live in Unit 2, but if I
23 want to hunt Unit 34 my chances of drawing either of those two hunts is really tough.
24 But at least if it was a three-hunt opportunity with no change to Game and Fish officer
25 time, no change to anything else, I really believe that would increase the public's

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1 opportunity across the board, across the state. I'm not talking just specific units. So
2 that's really kind of -- that's it, I think that's the end.

3 CHAIRMAN KIENZLE: Would you consider that? You're good. I'm asking him.

4 STEWART LILEY: Mr. Chairman, so the NBA mature bull or antlerless, yes, I think
5 we would, but there is a statutory issue that comes in here. By statute, nonresidents
6 cannot draw a bag limit of antlerless. In GMU 4 it's almost entirely private land and
7 so they could buy -- they could buy the antlerless license designation from private
8 landowners. If we went with NBA designations in other areas, nonresidents would no
9 longer be able to draw those tags.

10 UNIDENTIFIED SPEAKER: [indiscernible].

11 CHAIRMAN KIENZLE: Yeah. It's not the answer you wanted but I figured you would
12 consider it. Anything further?

13 UNIDENTIFIED SPEAKER: For residents to draw cow tags at the end of the
14 [indiscernible] we could afford to buy our kids cow tags.

15 CHAIRMAN KIENZLE: Understood. Sylvia Bell. John Bell. Okay. Mr. Studdard
16 [phonetic].

17 UNIDENTIFIED SPEAKER: [indiscernible- away from microphone]

18 CHAIRMAN KIENZLE: Okay.

19 UNIDENTIFIED SPEAKER: [indiscernible - away from microphone]

20 CHAIRMAN KIENZLE: And with that I think public comment on 4a is complete. Any
21 other exhibits to be entered into the record [indiscernible] --

22 STEWART LILEY: Mr. Chairman, no.

23 CHAIRMAN KIENZLE: Then I will enter attendance sign in sheet and the comment
24 cards as Exhibit 7. Any further questions or comments for Stewart?

25 COMMISSIONER RICKLEFS: Just one.

1 CHAIRMAN KIENZLE: Yes, sir?

2 COMMISSIONER RICKLEFS: On the Colin Neblett they're together now so those
3 hunters can [indiscernible] or both?

4 STEWART LILEY: Mr. Chairman, Commissioner Ricklefs. That's correct. So
5 previously separate at the highway and you had to draw either one. Success rates
6 are pretty low, so we combined the two. You could hunt either/or if you draw that.

7 COMMISSIONER RICKLEFS: Okay. So you've got to just 54 Colin Neblett, but
8 actually it's 54, 55.

9 STEWART LILEY: Mr. Chairman, that's correct.

10 COMMISSIONER RICKLEFS: Okay.

11 CHAIRMAN KIENZLE: Is this the second cycle where you've been chief of the
12 division on this?

13 STEWART LILEY: Mr. Chairman, no. This is the first when I was the actual chief.

14 CHAIRMAN KIENZLE: First. Satisfied with the result?

15 STEWART LILEY: Mr. Chairman, very much so.

16 UNIDENTIFIED SPEAKER: But he actually did the rest of the other ones so he
17 [indiscernible].

18 CHAIRMAN KIENZLE: No, it just feels like the first time. Okay. Understood.

19 UNIDENTIFIED SPEAKER: By the way, thank you on that [indiscernible] that 34,
20 that's going to be exciting seeing either sex on those hunts and on the muzzleloader
21 and rifle hunts. Pretty interesting.

22 CHAIRMAN KIENZLE: All right. I've admitted Exhibits 1 through 7. Comments
23 submitted, and testimony heard during this rule hearing will be reviewed by the
24 commission and discussed during the open session of today's meeting. The
25 commission will vote on the proposed rule at that time. Thank you, again, for your

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1 participation. Let the record show that this rulemaking hearing was adjourned at 1:11
2 p.m. Okay, 4a we need a motion, please.

3 COMMISSIONER RICKLEFS: Mr. Chairman, I move to adopt the proposed changes
4 to 19.31.14 NMAC as presented by the department and allow the department to
5 make minor corrections to comply with filing this rule with state records and archives.

6 COMMISSIONER SALOPEK: Second.

7 CHAIRMAN KIENZLE: Any further discussion, questions, comments? Any
8 amendments? No amendments. All in favor?

9 COMMISSIONERS: Aye.

10 CHAIRMAN KIENZLE: Any opposed? None opposed.

11 STEWART LILEY: Mr. Chairman, I'd like to say that is it for big game rules for the
12 year. You guys did 13 rules and I appreciate all the work. The work from the staff as
13 well was very helpful.

14 CHAIRMAN KIENZLE: That number seems to keep coming up, 13. Thank you.

15 CHAIRMAN KIENZLE: Hearing Item No. 5. Informational Rule Making Hearing on
16 the New Revocation Rule 19.31.2 NMAC. This hearing is now open. Are there any
17 exhibits on the new rule 19.3.2 for the record?

18 TY JACKSON: Mr. Chairman, there are. We have five exhibits. Exhibit No. 1 will be
19 the rule making notice. Exhibit No. 2 will be a copy of the proposed rule as well as
20 the strikethrough. Exhibit No. 3 will be a copy of today's presentation. Exhibit No. 4
21 is a summary of the proposed changes to the rule. And Exhibit No. 5 will be all of the
22 public comments received on this rule.

23 CHAIRMAN KIENZLE: I will admit Exhibits 1 through 5 as identified. You can go
24 ahead and introduce the rule.

25 TY JACKSON: Okay. So Mr. Chairman and Members of the Commission, this is

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1 probably the third or fourth time we've been in front of you with this. Nothing
2 significant has changed since the last time we discussed this, but I will go over it
3 quickly. The summary of the changes, really, a couple of the biggest ones are
4 changing the number of points assessed to someone who is convicted of a violation
5 of hunting on private property without written permission from 10 points to 17 points.
6 Now, just bear in mind that this is separate from criminal trespass, this is a different
7 violation; therefore, different points. As you are aware, it takes 20 points for any
8 person to be presented before you for a potential revocation. Another one would be
9 the increase from 5 points to 20 points for falsely claiming military discount. We're
10 beginning to do some investigations on that as a new statutory, I guess, ability for
11 folks to get that discount and we are finding some violations and we feel that that
12 would be appropriate for that person to receive 20 points. Another one would be --
13 this was really an oversight. The last time we removed -- the last time this rule was
14 open, I believe last year in 2017, we removed a 20-point administrative violation for
15 someone who either stops payment or their check bounces or something like that.
16 We want to reinstate that back in. We didn't think that that was actually possible, and
17 it turns out it is.

18 CHAIRMAN KIENZLE: Let me ask you a quick question on that one. Let's say that I
19 believe I have sufficient funds in my checking account but someone else in my family
20 has my checkbook too. They write a check; my check comes back insufficient funds.
21 Is there an element of what's going on upstairs in this or is it strict liability as we
22 would call it?

23 TY JACKSON: Mr. Chairman, I mean, the practical application of this is that we try to
24 give them the opportunity to rectify the situation because things do happen, accounts
25 get shut down or whatever. There's all sorts of stuff that happens so they are

1 contacted, and an attempt is made for them to get that payment in, to get it fixed. In
2 particular in the draw. And if that doesn't happen then we proceed from there.

3 CHAIRMAN KIENZLE: Understood. Thank you.

4 TY JACKSON: Really, the rest of this, and it does look like substantial changes
5 when you look at the rule, but really, it's a lot of clarification and standardizing time
6 frames. The revocation rule, as you are aware, is a very complex rule and we're
7 pretty strictly bound on what we can or can't do. But we wanted to try to standardize
8 some of our time frames after working with this rule for approximately a year. We
9 found some things that we think need to be addressed. In every case where we
10 changed time frames that a respondent has to reply, we give them more time, not
11 less, so it's more generous on their end. And then we also clarified some language
12 on exactly how wildlife violator compact suspensions are performed. There was a
13 little bit conflicting language in the rule and we weren't sure what we could or could
14 not do. We wanted to clarify that and in talking with General Counsel I think we came
15 up with a good solution for that. We did change a few words or removed a few
16 words. We removed words like certified conviction, we removed words like
17 magistrate. And the reason for that is because of changes -- well, first of all, the
18 certified conviction we still require that it is an actual conviction but not all of the
19 courts are providing "certified" copies of those and so we will still be required to have
20 a copy of the conviction, either certified or as provided on the court's online system.
21 And then removing magistrate in there just because some of our cases are
22 adjudicated at a higher level than magistrate. District Court, Court of Appeals, places
23 like that. We didn't want there to be any confusion there. We also clarified that any
24 person who fails to appear on a citation can be suspended and until in compliance
25 with the court. That was -- it's not a significant change, really. Again, it's just

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1 clarification. And we removed duplicate language throughout the rule regarding the
2 hearing procedures. There was a number of places where it repeated itself and we
3 just wanted to have one place where it said what the hearing procedures are so that
4 in the future, if this rule is amended again, that we don't end up in a place where the
5 rule conflicts itself. The public comments. We actually didn't receive very many
6 public comments. The amended rule was posted on the register on October 30th. We
7 did have four public meetings, these were held in conjunction with the manner and
8 method meetings. By in large the majority of people were there for manner and
9 method, but we did discuss the revocation changes. As you can see, we held those
10 four in our four area offices around the state. Four – or I'm sorry, two verbal
11 comments in those meetings were received and one written comment was received
12 through the website and the written comment has been provided to you. I believe
13 there is also a comment card from the last commission meeting in there. And I -- just
14 briefly, the only comments, really, all three of those comments dealt with the points
15 on hunting on private property without written permission, there were some concern
16 that that may be too high of a point value. And with that, I'll stand for any questions.

17 CHAIRMAN KIENZLE: See the enthusiasm for 5a, there's no one on this sheet so I
18 will enter this as Exhibit 6, the sign in sheet, which is blank, and there are no
19 comment cards that I can find on this. Any questions or comments from
20 commissioners on this one? Satisfied with this?

21 TY JACKSON: Mr. Chairman, I believe we are. This is our second go at this one
22 and I think that we've got it good now.

23 CHAIRMAN KIENZLE: Yeah, a long and winding road. And how is the revocation
24 process going? Smoothly?

25 TY JACKSON: Very well. Mr. Chairman and Members of the Commission, we are

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1 fully caught up with what's revocation. As you know, several years ago when I first
2 came in front of you that we were years and years behind. That is no longer the
3 case. In some cases where Lieutenant Cole is sending out a notice of contemplated
4 action within, literally within days, of receiving a conviction. We are on top of it at this
5 point and it seems to be working smoothly. The changes to the rule that we made
6 last year seem to be working really well. It's nice to be able to get in after having
7 worked in the rule for a year, get back in, and again, just tweak the little things and
8 that's what you have in front of you today.

9 COMMISSIONER SALOPEK: Question.

10 CHAIRMAN KIENZLE: It's all good news. Yes, sir?

11 COMMISSIONER SALOPEK: Is it still to the discretion of the officer for that -- what's
12 it called so you don't get a ticket -- I forget the name of it.

13 TY JACKSON: Mr. Chairman, Commissioner Salopek. It's a stipulated agreement.

14 COMMISSIONER SALOPEK: Right, stipulated agreement.

15 TY JACKSON: Yes, sir. We are utilizing that wherever it is appropriate. We all
16 recognize that there are cases where someone pleads guilty maybe to several
17 charges when a plea agreement may have been worked out had they gone to court,
18 and that's one of the things that you saw in front of you today during the revocation
19 presentation. There was one individual who the hearing office recommended no
20 revocation. We didn't go through a stipulated agreement in that particular case, but
21 that was one where we recognize that the punishment was not necessarily
22 commensurate with the crime committed.

23 COMMISSIONER SALOPEK: I appreciate that. Because sometimes they make
24 mistakes or, you know, so thank you.

25 TY JACKSON: Yes, sir.

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1 CHAIRMAN KIENZLE: Any further exhibits?

2 TY JACKSON: No, Mr. Chairman.

3 CHAIRMAN KIENZLE: Any other questions or comments? Sticking to the script. I
4 have admitted Exhibits 1 through 6. The comments submitted, and testimony heard
5 during this rule hearing will be reviewed by the commission and discussed during the
6 open session of today's meeting. The commission will vote on the proposed rule.
7 Nobody really participated, except us, so I'm not going to thank you this time, but I
8 will let the record show this hearing was adjourned at 1:21 p.m. Thank you. Can I
9 get a motion on Hearing Item No. 5?

10 COMMISSIONER PETERSON: Mr. Chairman, I move to adopt the proposed
11 changes to 19.31.2 NMAC as presented by the department and allow the department
12 to make minor corrections filing this rule with state records and archives.

13 COMMISSIONER SALOPEK: Second.

14 CHAIRMAN KIENZLE: Any questions, further discussion? All in favor?

15 COMMISSIONERS: Aye.

16 CHAIRMAN KIENZLE: Any opposed? None opposed. Carries.

17 TY JACKSON: Thank you, Mr. Chairman and Members of the Commission.

18 CHAIRMAN KIENZLE: Thank you.

19 CHAIRMAN KIENZLE: Saving the best for last. Hearing Item No. 6. Informational
20 Rule Making Hearing on the New Hunting and Fishing Licenses and Application Rule
21 19.31.3 NMAC. This hearing is now open. Are there any exhibits on the New Rule
22 19.31.3 for the record?

23 CHAD NELSON: Mr. Chairman, I have five exhibits to submit for the record. Exhibit
24 1 is the notice of rulemaking. Exhibit 2 is the initial proposed rule. Exhibit 3 is the
25 presentation that I will be giving today. Exhibit 4 is the summary of proposed

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1 changes. And Exhibit 5 is the five public comments that we received.

2 CHAIRMAN KIENZLE: Thank you. I will admit Exhibits 1 through 5 as identified.

3 You can go ahead and introduce the rule. Thank you.

4 CHAD NELSON: All right. Today I'm going to be presenting the final proposed
5 amendments to the Hunting and Fishing Licenses and Application Rule 19.31.3
6 NMAC. The major changes we will be making, we will be making all hunting licenses
7 valid on areas designated as public or private land per a current unitization
8 agreement. We will also so specify that unitization agreements may apply to all small
9 game, big game, and turkey. We will be amending the restrictions and private lands
10 used systems sections to accommodate changes to other rules. Some of which are
11 being passed today, some of which were passed before. And finally, we will be
12 allowing the director with the concurrence of the commission chairperson to rescind
13 the refund option for game hunting licenses purchased through the big game draw
14 application. And I would like to clarify that that only applies to the game hunting
15 purchase. All species licenses will be refunded as they always have.

16 CHAIRMAN KIENZLE: On those refunds, resending that refund option. How much,
17 in terms of dollars, does that net to the department?

18 CHAD NELSON: Mr. Chairman, that will depend on the number of applicants,
19 obviously. We anticipate that we would lose some applicants. If we had the same
20 number of applicants as we had the previous year, when we set another record, it
21 would be approximately \$1.4 million, so we anticipate, you know, anywhere between
22 \$750,000 to \$1.4 million.

23 CHAIRMAN KIENZLE: Skies the limit? Okay.

24 UNIDENTIFIED SPEAKER: Per year.

25 CHAD NELSON: We received five public comments. The rule has been posted

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1 since the middle of October to the website. None of the comments received were
2 applicable to any of the specific proposed changes that we are proposing.

3 CHAIRMAN KIENZLE: Somebody was just bored. With a comment. Anything else
4 to admit into the record? Exhibits?

5 CHAD NELSON: No, Mr. Chairman. However, the department would specially
6 request that this rule be passed with an effective date of January 1st.

7 CHAIRMAN KIENZLE: 2019.

8 CHAD NELSON: 2019.

9 CHAIRMAN KIENZLE: Take up an amendment. Sounds like. There are no people
10 signed in to speak. I will admit the sign in sheet, there are no comment cards, as
11 Exhibit 6. You have no further exhibits?

12 CHAD NELSON: Mr. Chairman, no.

13 CHAIRMAN KIENZLE: Comments submitted, and testimony heard during this rule
14 hearing will be reviewed by the commission and discussed during open session of
15 today's meeting. The commission will vote on the proposed rule at that time. Thank
16 you for your participation. Let the record show that this rulemaking hearing was
17 adjourned at 1:27 p.m. These are all getting shorter. Comforting.

18 DIRECTOR SLOANE: All part of the fiendish plan.

19 CHAIRMAN KIENZLE: Yes. With that, I will -- on Item No. 6 I will entertain a motion
20 to amend the proposed rule to show an effective date of January 1, 2019 and that is
21 in section 19. -- did I say January 1? January 1, 2019 and that is in 19.31.3.5
22 effective date. Someone needs to say so moved.

23 COMMISSIONER PETERSON: So moved.

24 COMMISSIONER SALOPEK: Second.

25 CHAIRMAN KIENZLE: Someone needs to second it other than the man that

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1 [indiscernible] any discussion on the proposed motion to amend? Hearing nothing,
2 all in favor of the proposed amendment?

3 COMMISSIONERS: Aye.

4 CHAIRMAN KIENZLE: None opposed? Okay. So the proposed rule -- I need a
5 motion on the proposed rule as amended.

6 VICE CHAIRMAN MONTOYA: So moved, Mr. Chairman.

7 COMMISSIONER PETERSON: Second.

8 CHAIRMAN KIENZLE: Somebody needs to read the blurb.

9 UNIDENTIFIED SPEAKER: Okay. Move to adopt the proposed changes to 19.31.3
10 as amended and as presented by the department to allow the department to make
11 major -- -- minor corrections to comply with filing this rule with state records and
12 archives.

13 UNIDENTIFIED SPEAKER: Second.

14 CHAIRMAN KIENZLE: Second. Got a second? Any further discussion, question, or
15 comments? All in favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: Ayes have it. Any opposed? No. Okay. I think we're done.

18 DIRECTOR SLOANE: Mr. Chairman, if I may. I would just like to thank the staff for
19 the incredible amount of effort that all of these hearings took and your patience while
20 we worked through some difficult issues. I think we got to a good place with all of the
21 rules today, and I very much appreciate everyone's effort.

22 CHAIRMAN KIENZLE: So given that January 1st is rapidly approaching and they're
23 probably going to break up the band here. I will give commissioners -- we'll just go
24 down the line with Commissioner Peterson, if there is anything you wish to say in
25 terms of your time on the commission or anything else you want to --

1 COMMISSIONER PETERSON: I've really appreciated my time serving on the
2 commission. I've learned a lot, a lot of things that we went through I had no idea
3 went on. I really appreciate everything the Game and Fish Department does. You
4 guys do an excellent job. The comments we get from the public and the different
5 committees and stuff is helpful making decisions. Thankful for that time I've been
6 able to serve.

7 CHAIRMAN KIENZLE: Commissioner Ramos.

8 COMMISSIONER RAMOS: I feel honored and privileged to be on the commission.
9 It's been a well learning process. I've learned so much with this. Gosh, from the
10 phone calls you get at night to really making the extra effort to reach out to the public
11 and acknowledge what they are trying to share with us and bring it to the table. I
12 know it's a process to get agenda items on the table, but I definitely want to
13 commend the department for honoring a lot of these and getting them on there and
14 really dissecting them to what's best for New Mexico at all times. It's just been a
15 privilege and an honor to serve New Mexico and we'll soon find out if we continue
16 serving but, you know, this is a great duty and a privilege and it's just an honor to be
17 part of impacting so many people, wildlife, and just this great state of New Mexico
18 that we live in. Thank you, it's been a great privilege.

19 COMMISSIONER CHASE: Well, as a newbie, I just want to say thank you to
20 everybody that's helped me kind of catch up. Everyone's been very welcoming.

21 CHAIRMAN KIENZLE: Right on. Mr. Bill.

22 VICE CHAIRMAN MONTOYA: Well, you know being involved in the working end of it
23 and now the commission end of it has been a real pleasure and I've seen a lot of
24 things happen that happen to the best, and I've seen some of them that we worked
25 on and they still happened to the best, so I don't have anything to say but, hey, the

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1 Game Department employees and personnel do a fantastic job putting these things
2 together and we tweak them every now and then but it's because we think that it's the
3 right thing to do. So other than that, I'm having a good time.

4 CHAIRMAN KIENZLE: It's not over yet. We haven't knocked down on this meeting
5 yet. Commissioner Salopek.

6 COMMISSIONER SALOPEK: Well, I guess I'm the old guy in the group and
7 Governor Richardson appointed me and somehow, I survived Martinez, even though
8 she did a great job on her nominees if you look across the board. When I got on
9 there you had your [indiscernible], Pat Boggs [phonetic], your Todd Stephenson
10 [phonetic]. It was pretty interesting seeing those older game wardens that became
11 your administration so that what's transpired now you look at these guys, start with
12 Bobby back there, I think you might be the older one in the group kind of, maybe,
13 Mike Sloane, and you guys aren't that old. That's so exciting seeing young faces out
14 there. And with or without this commission these commissioners, whoever they put
15 on there to work with you guys, just to have the chance to see how you work inside
16 as biologists, it's exciting. I love it. I love working with you all. I love the people in the
17 crowds. It's been a great rapport, respect back and forth, and I've been so honored
18 to be on it and to -- where the Game and Fish is going without this -- these
19 commissioners, it's not going to miss a beat, in my opinion. Even though we've got a
20 great commission but with the knowledge you guys have, you men and women, it's
21 great. Thank you.

22 CHAIRMAN KIENZLE: Commissioner Ricklefs.

23 COMMISSIONER RICKLEFS: [indiscernible] it's been an honor to work with you
24 guys. The department is so impressive. It's been great to be able to drive across the
25 state. This is such a beautiful state and they pay me mileage, I get to do it and get a

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1 little bit of gas mileage. When I was appointed five years ago, they said you're really
2 going to enjoy this. Well, I'm not sure if that's the word, but it's definitely been
3 interesting. And it's an honor to work with these gentlemen up here and I hope some
4 of them will be back to continue on with what this commission has done.

5 CHAIRMAN KIENZLE: All right, it's my turn. I get to go last. Probably 75 public
6 meetings over almost the seven years. I'm sure some of staff are sick of seeing and
7 hearing from me. But I've tried to run this professionally, I've agreed and disagreed
8 with everyone in this room. We haven't agreed on everything, but I think we've
9 moved, both the department and the commission forward, so I have high
10 expectations for the next group of commissioners that will sit in these seats. As far
11 as the department goes, light years ahead of where it was when I first started. I give
12 credit to Alexa, she did a great job. I give credit to Mike, he stands on her shoulders
13 and will continue forward with that. Some of the commissioners that aren't with us,
14 Jim McClintock [phonetic], may he rest in peace. I didn't get to know him well, but he
15 was a strong personality and a good man. Scott Biddigan [phonetic], Tom Arvus
16 [phonetic], Beth Ryan [phonetic], Robert Espinoza [phonetic], they also served with
17 me and as I've said before, I am just one of seven commissioners. So this is a team
18 effort and a lot of the things we accomplished, we accomplished together, so I
19 appreciate their service as well. That's about it. Thank you. Can I get a motion to
20 adjourn?

21 UNIDENTIFIED SPEAKER: We've got to go to roll call.

22 CHAIRMAN KIENZLE: Oh, we've got to go to roll call. Oh, we've got executive
23 session and then we will adjourn.

24 UNIDENTIFIED SPEAKER: [indiscernible] public comment.

25 CHAIRMAN KIENZLE: We'll do -- I hope there's no public comment. We are ready

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1 when you are.

2 DIRECTOR SLOANE: Somebody's got to read [indiscernible] --

3 CHAIRMAN KIENZLE: We need a blurb on our motion.

4 UNIDENTIFIED SPEAKER: Where's the blurb?

5 CHAIRMAN KIENZLE: We'll go into executive session.

6 COMMISSIONER RAMOS: Chairman, I move to adjourn into executive session
7 closed to the public pursuant to Section 10-15-1(H)(2) NMSA 1978 to discuss limited
8 personnel matters relating to complaints and discipline; pursuant to Section 10-15-
9 1(H)(8) NMSA 1978 to discuss property acquisition and pursuant to Section 10-15-
10 1(H)(7); on matters subject to the attorney-client privilege relating to threatened or
11 pending litigation which the commission and/or department is or may become a
12 participant as listed in Agenda Item 13 subsection A, B, and C.

13 DIRECTOR SLOANE: Roll call.

14 CHAIRMAN KIENZLE: I need a second. We need a second, all right?

15 COMMISSIONER PETERSON: I'll second.

16 DIRECTOR SLOANE: Commissioner Chase.

17 COMMISSIONER CHASE: Yes.

18 DIRECTOR SLOANE: Commissioner Salopek.

19 COMMISSIONER SALOPEK: Yes.

20 DIRECTOR SLOANE: Commissioner Ricklefs.

21 COMMISSIONER RICKLEFS: Yes.

22 DIRECTOR SLOANE: Commissioner Ramos.

23 COMMISSIONER RAMOS: Yes.

24 DIRECTOR SLOANE: Commissioner Peterson.

25 COMMISSIONER PETERSON: Yes.

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1 DIRECTOR SLOANE: Vice Chairman Montoya.

2 VICE CHAIRMAN MONTOYA: Yes.

3 DIRECTOR SLOANE: Chairman Kienzle.

4 CHAIRMAN KIENZLE: Yes.

5 DIRECTOR SLOANE: I think we're going to meet in a room around the corner here.

6 UNIDENTIFIED SPEAKER: If I may right quick, thank you one and all.

7 CHAIRMAN KIENZLE: I'm trying to find the blurb. All right, I got the blurb. This
8 commission had adjourned into executive session closed to the public. During
9 executive session the commission discussed only those matters specified in its
10 motion to adjourn and it took no action as to any matter. On that one property –
11 Kizer.

12 DIRECTOR SLOANE: Just need direction, but we can't take action.

13 CHAIRMAN KIENZLE: So do you need a motion to proceed?

14 DIRECTOR SLOANE: I don't think so. It's just we need to go ahead and bring you
15 the paperwork to get it – so we can make a motion.

16 CHAIRMAN KIENZLE: All right. Then we -- I will give you permission to proceed with
17 that and bring something in front of the commission when it's ready to go. And that's
18 on the Kizer?

19 DIRECTOR SLOANE: Yes, sir.

20 CHAIRMAN KIENZLE: Kizer property. Okay. Can I get a motion to adjourn?

21 VICE CHAIRMAN MONTOYA: So moved.

22 COMMISSIONER PETERSON: Second.

23 CHAIRMAN KIENZLE: All in favor?

24 COMMISSIONERS: Aye.

25 CHAIRMAN KIENZLE: Ayes have it.

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**APPROVAL OF MEETING MINUTES
NEW MEXICO STATE GAME COMMISSION**

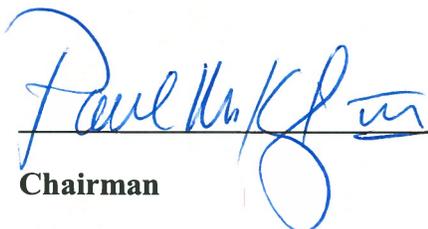
**November 30, 2018
Roswell Convention and Civic Center
Exhibit Hall
912 N. Main St.
Roswell, NM 88201
8:00 a.m.–5:00 p.m.**



Michael B. Sloane, Director

1/10/19

Date



Chairman

New Mexico State Game Commission

1/10/2019

Date

MS/scd