

MINUTES
NEW MEXICO STATE GAME COMMISSION
Indian Pueblo Cultural Center
2401 12th Street, NW
Albuquerque, New Mexico 87104

December 15, 2004
9:00 a.m. – 6:00 p.m.

AGENDA ITEM NO. 1. Meeting Called to Order

Meeting called to Order at 9:18 a.m.

Commissioner Alfredo Montoya designated by Chairman Riordan to chair the meeting.

AGENDA ITEM NO. 2. Roll Call

Chairman Riordan – present
Vice-Chairman Alfredo Montoya – present
Commissioner Arvas – present
Commissioner Henderson – present
Commissioner Jennifer Montoya – present
Commissioner Pino – present
Commissioner Sims – present

Quorum is present.

AGENDA ITEM NO. 3. Introduction of Guests

Introductions made by approximately 75 members of the audience.

Dan Brooks recognized and presented a Plaque of Appreciation and a Winchester Ultimate Shadow Rifle Chambered in 270WSM to Conservation Officer Robert "Bobby" Griego of Reserve for the efforts that Officer Griego has put forth for terminally ill children on behalf of the Outdoor Dream Foundation. All Commissioners and Director Thompson joined in personally commending Officer Griego.

AGENDA ITEM NO. 4. Approval of Minutes (November 18, 2004—Santa Fe, NM)

MOTION: Commissioner Arvas moved to approve the Minutes of the November 18, 2004 State Game Commission Meeting in Santa Fe as presented. Commissioner Jennifer Montoya seconded the motion.

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

AGENDA ITEM NO. 5. Approval of Agenda

MOTION: Commissioner Henderson moved to approve the Agenda for the December 15, 2004 State Game Commission Meeting as presented. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 6. Consent Agenda:

- **Assessment of Financial Liability for K-Mart**

Commissioner Arvas Dan, what were the unusual circumstances?

Dan Brooks The Hearing Officer gave K-Mart credit for being a licensed vendor for 20 years and also the license books were placed in a cash bag and left on the counter and because of that the individuals that stole them thought they were stealing cash and they were stealing licenses, so those were the unusual and extraordinary circumstances. Recommended assessment of \$2,200 accepted in consent.

NEW BUSINESS

AGENDA ITEM NO. 7. Mutual Interests with Soil and Water Conservation Commission

Presented by Brian Greene and Marqua Ratliff. – Chairman Greene and District Supervisor Ratliff with the local Soil and Water Conservation Commission engaged in preliminary discussions with the Game Commission regarding enhanced acquaintance with roles and recognition of mutual conservation actions. Discussion included recognizing roles and responsibilities, enhancing funding opportunities for rural conservation projects, wildlife habitat enhancement incentives and partnerships, water project strategies for wildlife benefits and conservation progress, conservation information delivery to constituencies, and prospects for mutual on-the-ground endeavors. **Discussion item only.**

Commissioner Alfredo Montoya We have a L.O.S.S. Program and this sub-committee could expand its role and it could be assigned to work with the Soil and Water Conservation Commission.

Commissioner Jennifer Montoya David Oglevie sits on our Habitat Stamp Committee, the Sikes Act Committee, a public participation component. I think it's a nice overlap because so many of the dollars coming out of the Sikes Act go to watershed level type activities like proscribed burning and shrub control. I wanted to mention to the Director and the Department that the Soil and Water Conservation Districts are promoting a Watershed Health Conference that will be held in January/February and perhaps we could have Department representation at this conference. Because we do have 170,000-acres of wildlife management area, some of these wildlife management areas could fit into broader scale schemes and we could learn more about land management.

Brian Greene We'd be more than happy to participate in any efforts as that.

Commissioner Henderson I hope this will result in a partnership. I think we can develop better salt cedar partnerships. We all have vested interests in reducing the phreatophyte scourge on New Mexico and we know we have opportunity on our own lands right now and that's a good place to test that partnership.

Commissioner Pino Can you explain how you work with other tribes and pueblos within the State of New Mexico?

Brian Greene The tribes have an option. They can establish a district themselves to cover their geography, or they can choose to incorporate their lands and work with the district their tribal lands fall within. In New Mexico all tribes are basically incorporated in local districts.

Commissioner Pino Can you share with us examples of the work you've done?

Brian Greene Yes, on the Santo Domingo Tribe we've done salt cedar work.

Director Thompson I'd like to recognize the role Bud Starnes played in stimulating this session to occur. We've had interchange with Commissioners and we're seeing the product today. A few weeks ago I met with Rosendo Trevino about ways the Department could be more effectively involved with NRCS Programs. I've talked with Commissioner Greene and some of our own staff. An area I'm particularly interested in moving forward on is to insure that our Department staff are aware of and routinely making contact with Soil and Water Conservation District efforts so that we build that understanding.

Commissioner Alfredo Montoya Who's your point of contact for continuing our dialog and floating this idea of subcommittees?

Brian Greene Bud Starnes or Debbie Hughes.

Public Comment:

Ron Shortes I'd agree that conservation efforts definitely affect wildlife as well as livestock and I urge the Department to keep working with them.

Dale Jones We have 2 grants now that the Department of Game and Fish is funding to do a wetland reserve program in Valencia County and another 1 is the drainage ditch by the Middle Rio Grande Conservancy District that has a mile and a half of noxious weed, and our third project is a landowner's gift offering us 250 acres and we're going to create 150 acres of that as wildlife habitat. We're also eliminating the salt cedar and Russian olive. Before we do it we're going to get the recommendations on how it can be done by enhancing wildlife habitat.

Commissioner Henderson Dale, is that a project where the District will own the property itself?

Dale Jones The Whitfield Wildlife area is 1 area the District will own; however, there's a conservation easement on that land in perpetuity within our CS as a wetland and WRP, so the only thing that land is going to be used for is wildlife.

John Dimas Under the Noxious Weed Act, the Ag Department and the SCS were getting \$300,000 a year to study broom snakeweed. They studied it for 30 years at \$300,000 a year, and the main reason they had that weed was because of grazing of public lands by domestic stock. The Legislature looked at that and said this is contrary to the anti-donation clause. This is a subsidy to ranchers.

Commissioner Alfredo Montoya We have an interest in what you Commissioners do, not only because we work with private landowners, but the Game Commission also has land scattered throughout the state. **(There was a 5-minute recess for Game Commission members to personally meet Mr. Greene and Ms. Ratliff and then the meeting reconvened.)**

MOTION: Commissioner Jennifer Montoya moved to remove Item 8 from the Chairman's Table for consideration.

Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 8. Amend the Private Land Elk License Allocation Rule 19.30.5, NMAC

Presented by R.J. Kirkpatrick – The Department proposed changes to 19.30.5.9 and 19.30.5.10, NMAC, section on agreements from a 2-year agreement to a single-year agreement. A review of the entire Private Land Elk License Allocation System is currently underway. Multi-year agreements would restrict the Commission's ability to make changes in this system that may result from the current review. Amend 19.30.5.8, Paragraph M, NMAC, by changing the Bag Limit for "default" authorizations from MB-A to "APRE" to reflect Bag Limit changes in the Big Game and Turkey Rule adopted by the Commission in September 2004. Amend 19.30.5.8, Paragraph H, Section 3, NMAC, to change the deadline for submittal of ranch management plans and harvest reports for "Ranch Only" ranches engaged in a 10,000-acre agreement with the Department from April 1 annually to February 1, annually.

Commissioner Alfredo Montoya This is a 3-part item that can be taken care of with 1 motion—1) requesting 1-year contracts instead of 2-year contracts due to pending work done by the L.O.S.S. Committee that might be done before 2006-2007.

R.J. Kirkpatrick That's correct.

Commissioner Alfredo Montoya Clarify that further. The 2-year contracts that landowners are in now were for 2003-2004 and 2004-2005?

R.J. Kirkpatrick That's correct.

Commissioner Alfredo Montoya The coming year is 2005-2006? So that would be a 1-year?

R.J. Kirkpatrick That's correct. Beginning March 2005, if we do not amend the landowner rule, as it is now most landowners in the state would be engaging in a 2-year agreement with the Department pursuant to the issuance of landowner authorization.

Commissioner Alfredo Montoya Once recommendations from the L.O.S.S. Committee are considered, the potential for going back to 2-year agreements is there?

R.J. Kirkpatrick Yes, I believe that consideration for going back to a more stable 2-year agreement situation after amendments pursuant to the L.O.S.S. Committee's recommendations may be considered.

Commissioner Alfredo Montoya So the second part of Item 8 is addressing Units 16 and 34 on those default land-qualifying ranches and addressing them being eligible?

R.J. Kirkpatrick The second part of this includes all of Units 16 and 34 in that exception where Unit 4 is. The default permits the non-qualifying ranches receive an APRE authorization for use only on their private property. Some consideration to give this particular item is that this amendment will bring L.O.S.S. in line with the Big Game and Turkey Rule; however, changing the bag limit for these non-qualifying ranches from either sex to antler-point-restricted elk will potentially reduce usefulness of those authorizations which was not the intent when these were originally recommended pursuant to the first landowner committee.

Commissioner Alfredo Montoya So what are you recommending on the second part?

R.J. Kirkpatrick We're recommending that the Commission adopt the changes to the default permits for the time being so that the landowner rule and the Big Game and Turkey Rule are in sync; however, the Commission may want to rethink this issue at a later date. For the time being we need both rules to mirror each other.

Commissioner Alfredo Montoya The third part of this was to change the timeframe for those ranches that have their own conservation plan, 10,000 acres or more, that instead of submitting their harvest data on April 1, that they submit February 1?

R.J. Kirkpatrick It's true that allows us to more accurately and appropriately review the management plans that are in place that allow them to participate in the landowner system and also allows us to review harvest reports they submit in a timely manner so we can amend appropriately.

Public Comment:

Larry Caudill I support the Department's elk management efforts.

Ron Shortes On behalf of the Catron County Commission, the Catron County Commission has a problem with longer plans.

Bill Ferranti from the Torstenson's Wildlife Center. R.J., some of the cow units got their cow hunts extended until the end of January, and it's going to be hard for us to get it in by February 1. I would compromise to February 15.

R.J. Kirkpatrick Mr. Ferranti is correct. The Big Game Rule that was adopted has language that allows for the possibility of extended season dates moving into January with concurrence of the Chairman and respective area chief. It's my understanding that concurrence would only come with measuring the impacts of the hunts that have gone on earlier in the season and the distribution and disruption of the elk as to whether or not extended season dates would be allowed with this 2 individuals' concurrences. Therefore, you would not have knowledge of the availability of those late season dates until such time as the Chairman and area chief deem so.

Bill Ferranti I don't think that was the understanding. I thought that if you had a private ranch-only hunt that at that meeting if we applied for those permits to be able to push those cow hunts into January. That was my interpretation.

Chairman Riordan Bill, I think our intent was to only approve these late hunts on very rare occasions. Your particular situation because of your conservation plan, which I think you can get on an individual basis, get with our wildlife services people and

because you're not going to be hunting cows at a certain period of time due to the burning and the things you're trying to do for conservation, that we can go ahead and make those plans for use at a much earlier date. We can plan 1 year or 2 years based on what your conservation plan is.

Bill Ferranti What I'm saying is if we do have a season date that runs up to the end of January, do we have to meet this February 1 date?

R.J. Kirkpatrick I'm completely confident that on January 31 you can call Kevin Rodden and report verbally. That will work.

Don Gatlin I don't see a problem with this whether it's a 1-year or 2-year nor turning it in on February 1 because it's 100% anyway. Whether we have 250 head or in a drought year we have 750 head they are still going to be eating us up.

Oscar Simpson New Mexico Wildlife Federation fully supports amending regulation for private elk hunting allocation.

Kent Salazar I urge your support.

MOTION: Commissioner Arvas moved to accept the amendments to Paragraph A, 19.30.5.9, Paragraph F, 19.30.5.10, Paragraph M, 19.30.5.8, and 19.30.5.8, Paragraph H, Section 3, NMAC, as presented by the Department including that the Chairman and Director have the discretion to make changes as they see fit depending upon circumstances that arise regarding 19.30.5.8, Paragraph H. **Commissioner Pino** seconded the motion.

R.J. Kirkpatrick We put language in that portion of the Landowner Rule that would reflect that amended motion if everyone concurs where it would basically say "on or before February 1 annually unless a later date is approved by the Director and Chairman of the State Game Commission."

Commissioner Alfredo Montoya The motion states that.

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

Commissioner Jennifer Montoya Before we leave this item, the L.O.S.S. Committee was going to be getting a survey to interested participants in December, has that been mailed out?

Commissioner Alfredo Montoya It's just about complete. We were having some last minute comments to Robyn Tierney and I would estimate it will be ready shortly. Robyn, make sure that survey goes to all the Commissioners.

AGENDA ITEM NO. 9. Draft Recovery and Conservation Plan for four invertebrate species listed as endangered under the Wildlife Conservation Act (Section 17-2-40.1, NMSA 1978)

Presented by Jim Stuart. – The draft Recovery and Conservation Plan for 4 invertebrate species: Noel's Amphipod, Pecos Assiminea, Koster's Springsnail, and Roswell Springsnail were presented to the Commission for their review and approval. The 4 species are listed as endangered under the New Mexico Wildlife Conservation Act and their current distribution in the state is limited to Bitter Lake National Wildlife Refuge near Roswell. The Plan described the status and conservation needs of these 4 species and identified actions that will result in protection and enhancement of native populations, allowing eventual downlisting and delisting of these species.

Commissioner Jennifer Montoya It seems to me as though you don't have enough information to determine how to reintroduce it in other places, but you want to concurrently look for places in its historic range to possibly acquire. You're doing research to understand the habitat needs while at the same time looking at the historic distribution and then those 2 efforts will converge?

Jim Stuart Yes, that would be the approach. We have fairly good information about habitat requirements at Bitter Lake Refuge and can extrapolate from that to other potential sites that evidence indicates would be within historic range of the species and that we could reintroduce the species to these sites. In most cases, the areas that were occupied by the species have degraded to the point that they probably are not suitable. So we'd be trying to identify sites where the species may have gone extinct in the past or been locally extirpated by some land use practice that may no longer exist and the area would be suitable for reintroduction, but we'd like to have more baseline information in terms of what the requirements of the species are, i.e., water quality, etc.

Commissioner Henderson Why is it that these species fell out of the early Recovery Plan species?

Jim Stuart These species have been of concern for sometime. There was an effort back in the late 1990's to begin development of the Recovery Plan. It was believed that because they formed a nice group of species and have fairly discreet range and fairly well-defined threats to their survival, that they would be a good test case for developing a multi-species Recovery Plan. There's been concurrent interest in all 4 species by the Fish and Wildlife Service under the Federal Endangered Species Act. The Service is looking to us because our Department basically has the experts on these organisms and have a track record in terms of our monitoring of them.

Public Comment:

R.L. Posey What bothers me about this is that I don't see how you can determine what the population is, what it has been, or what it will be in the future. How are you going to know when you have reached a recovery goal? I'd recommend that the Department use critical resources on species that they know more about than something like this.

Oscar Simpson President of the NM Wildlife Federation. The Federation fully supports efforts to recover these 4 species.

MOTION: Commissioner Henderson moved to accept the Department's draft Recovery and Conservation Plan for the 4 invertebrate species that have been developed to address the requirements of the New Mexico Wildlife Conservation Act concerning recovery of threatened and endangered species. **Commissioner Jennifer Montoya** seconded the motion.

Chairman Riordan Jim, what's the timeline from when the Commission approved these to be uplisted and the Recovery Plan? How long did it take the Department from the time that we approved this to come up with a Recovery Plan?

Jim Stuart The species were first listed in the late 1980's. They've been on our state list from 1984-1988.

Chairman Riordan So it's taken us from 1984 to now to come up with a Recovery Plan?

Jim Stuart Chuck Hayes informed me that 1 was uplisted in 2000. Yes, they have been on our list since the 1980's either as threatened or endangered status. We haven't had a person dedicated to doing recovery plans until 2002. We've started to try and deal with this backlog of species that have not been addressed in terms of development of recovery plans.

Chairman Riordan I commend you on this but 4-year, 8-year, or 10-year period is unacceptable. Jim, please address Mr. Posey's comments that I think are valid. As the Commission, I'd like to know what we think we have now and what an attainable goal is in the future.

Jim Stuart It's a difficult question at what point we say something is recovered and there are subjective opinions that come into play, especially by those in the Department who are experts in dealing with this species. In terms of actual numbers of individual organisms, that's extremely difficult to determine because of the nature of these 4 species; however, at the present time all populations of these 4 species are confined to adjacent watersheds or stream channels within Bitter Lake Refuge which makes them extremely vulnerable to any predations in the habitat or catastrophic event that could eliminate them. We believe that adding 2 localities where we could reintroduce them within the historic range of the species would provide a buffer against that catastrophic loss and also establish a captive population to support the species would also be necessary. We have population trend data for most of these species. It's almost impossible to calculate the number of individuals of these species. However, threatened or endangered status is not about specific number of individuals, it is about threats to populations, especially when their habitat is highly restricted.

Chairman Riordan Mr. Posey brought up a valid point. We don't know how many of these species we have and we're doing a leap of faith that we have a problem as in being a potentially endangered species as we don't know what we have, what our numbers are, or what we're trying to attain. We need to have an idea as to where we are on these and where we're trying to go and relying on good science. We need more information.

Jean Ossorio At the Southwest Environmental Center, part of our mission is the conservation of biological diversity throughout the southwest region, particularly the southern part of the State of New Mexico. As part of that mission, we strongly encourage the conservation not only of large and charismatic species but also those tiny creatures that run the world. They are of extreme importance despite their tiny size within these ecosystems. So we strongly support this Recovery Plan, particularly those efforts to establish populations outside the existing populations on the Refuge. We would encourage additional information gathering to answer questions and I'd like to obtain a copy of the Plan.

Commissioner Henderson The Division that writes recovery plans historically has been critically underfunded. We don't have recovery plan biologists writing so when we write a recovery plan we're taking our biologists out of the field. As the Commission, we're trying to approve or rectify entirely by trying to find additional or alternative funding for the Department. We also need to understand that we will never have absolute numbers on species of this size and type. If we're going to stall recovery plans because we want to know absolute numbers of existing critters that's simply a formula for not moving ahead.

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

AGENDA ITEM NO. 10. Implementing Regulations for Gaining Access into Nature (GAIN)

Presented by Luke Shelby . – The Commission considered adopting new regulations (19.34.3.3, 19.34.3.7, and 19.34.3.11, NMAC) to implement the Gaining Access into Nature (G.A.I.N.) Program. This approach, initially provided on selected State Game Commission properties, is intended to offer additional broadly based wildlife-associated recreation opportunities at different times and in different ways than presently available. Adoption of proposed regulations will provide basic controls on participation, identify types of recreation activities involved, and establish permit fees to recover costs to administer program opportunities. You are considering regulations for adoption that were discussed at the November meeting.

Commissioner Arvas How did we come up with those fees?

Luke Shelby We gave consideration to similar activities and the cost in the private sector. I want to insure that the Commission understands that these are maximum fees and if we determine that these fees are too high to offset administrative costs, there is the possibility that they will be lowered.

Director Thompson Currently, the statutory provisions under which these regulations are being proposed provide for a limited recovery of administrative costs, so these fees represent our initial projection of what these various activities would cost for some specific administrative components. They are not necessarily the full cost of each but rather what can currently be recovered.

That's why there's importance to a previous action the Commission took to seek further statutory authority and capabilities to implement even broader G.A.I.N activities and capability for recovering costs and that legislation initiative is being pursued.

Public Comment:

Ron Shortes Catron County would like more information about the issue and 1 way we could deal with that issue is come to Catron County for 1 of your meetings, or if that's not possible a Department representative coming to a County Commission meeting. It could have an impact on landowners in Catron County.

Oscar Simpson President of the Wildlife Federation supports these statutory changes.

Larry Caudill I hope due consideration has been given not to allow activity either by nature or in time adverse to the primary purpose of Department lands, whether it be to wintering elk, or bearing season. That has to be the primary consideration and I can't imagine anything worse than allowing snowmobiling on the Sargent until such time as all the animals have vacated the area, so I'd like some assurance that that parameter has not been violated in the interest of economics of access for things other than the benefit of wildlife.

Chairman Riordan I don't foresee any snowmobiling happening on the Sargent Wildlife area.

Commissioner Arvas All public reaction concerning G.A.I.N has been positive and there is a statement that "with the caution that any scheduled activities need to be consistent with the purpose of the wildlife areas involved." When we get started there will be scrutiny by many in terms of what's going to happen.

Kent Salazar I support this program.

Luke Shelby The intention of the G.A.I.N Program is not to pile incompatible activities on top of each other on our wildlife areas. We have no intention of having mountain bikers on the Sargent when our elk are calving or when our deer are fawning on the Colin Neblett or anything of that nature.

MOTION: Commissioner Henderson moved to accept the Department's recommendation regarding new additions to the Use of Department of Game and Fish Lands regulation, specifically 19.34.3.3, 3.7, and 3.11, as presented to implement the Gaining Access into Nature Concept. **Commissioner Riordan** seconded the motion.

Chairman Riordan Maybe some of these Commissioners want to talk to you on this and maybe look at tweaking some of these numbers a little bit.

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

AGENDA ITEM. NO. 11. Update on Memorandum of Understanding (MOU) for Mexican Wolves

Presented by Chuck Hayes. - The Department reported to the Commission accomplishments under the interagency MOU for Mexican Wolf management that the Department signed earlier this year. The Department also presented a progress report on Mexican Wolf reintroduction project improvements that were discussed with the Commission in April 2004.

For discussion only.

Commissioner Jennifer Montoya There is a projected number of 14 breeding pairs in New Mexico? Will those be re-releases or will there also be direct releases into Arizona?

Chuck Hayes That's part of what we're looking at in January and I don't think there's been any final recommendation on where specific releases would go. The only 1 that's in captivity that's known as a desired release would likely go to New Mexico but that's not set in stone. Some of those others would depend on ongoing trapping efforts that might be re-released but to my knowledge there's 1 pair that would be considered for New Mexico. White Mountain Apache Tribe may be interested in some, but they have their own tribal process.

Commissioner Arvas Can you give us an update on what happened on the bear hunter that had the problem with wolves?

Chuck Hayes Apparently what happened was that the gentleman was in an area where there were wolves. He released his dogs on a bear track, the dogs over ran the track, they got into some wolves. They got in some sort of scrap with wolves and were injured, and the gentleman brought the dogs back in, took them to the vet, and he now has some substantial veterinary bills associated with fairly serious injuries. I contacted some members from Grant County and I don't know whether there has been submission of a compensation claim. I do know that the compensation program that's operated through Defenders of Wildlife is not considered to be for dogs; however, in this case as working animals I think there's some recognition that it would make sense to compensate him and there was a letter written by the Fish and Wildlife Service to Defenders encouraging them to compensate those vet bills if they were submitted. I do not know whether the individual has submitted those. We did talk to the Fish and Wildlife Service and encouraged them that this is a situation where compensation should occur. On the other hand, we do have active efforts going on to make people aware that if you are in the immediate vicinity of wolves and turn dogs loose, there's some potential that you'll get territorial responses from the wolves. We posted signs in the Gila notifying people that we have people out during the hunts and are conducting patrols and monitoring. If wolves are detected by a biologist and they encounter a hunting camp, they'll let them know that's where the wolves are and advise people that if they are hunting with dogs you may want to consider whether you want to release them.

Commissioner Pino When the Commission was dealing with the issue whether to sign the MOU or not, the public was divided on that issue. Since we've signed the MOU, do you feel that we have more to say when we discuss the issue of the Mexican Wolf?

Chuck Hayes Yes, I think the MOU puts us in a decision-making role. We'd been operating that way based on a general agreement between the directors of the 3 agencies, Fish and Wildlife, Arizona Game and Fish, and New Mexico Game and Fish, but I would say yes, signing the MOU has put us in more of a controlling role.

Chairman Riordan I received information from the individual that was attacked by the wolves and he said he was in camp and his animals were tied up when they were attacked. He showed great restraint because it was for the entire evening from 12:00 midnight until 6:00 a.m., when the wolves were coming around his camp. It was not 1 incursion in their territory. I think that individual maintained tremendous restraint on not taking further actions to protect his animals. Secondly, I've had problems with reading about what's going on with the wolf situation in the papers, and not getting information back as a Commissioner and as Chairman of the Commission. I think everyone of these Commissioners need to have something e-mailed to them as to what's going on in this wolf situation because we have constituents that we have to deal with and I'd like to have more information. I'd like you to, with the help of the Commission, get with the Chairman of the committee and make sure we're informed of everything that's going on.

Commissioner Henderson We had a 3-year review, why is that the Recovery Team has not responded to the recommendations in that Report?

Chuck Hayes I won't pretend to respond for the entire Recovery Team. The Recovery Team has been put together for about 1 year. They are charged with defining what recovery is throughout the Southwest Distinct Population Segment that involved Arizona, New Mexico, Colorado, Utah, Texas, and Oklahoma. The primary task that the initial Recovery Team has been tackling is defining what wolf recovery is for that entire region. It's been a much broader question than what's strictly going on in the Blue Range. They're still trying to define biologically what is a wolf population that ensures that wolves will persist in the southwest. What does that look like in that area, and what are those thresholds. So, they've not gotten down to the level of here are wolves recovered in the southwest, how does something like a boundary or direct release affect that? Now, they have had information from the 3-year review but it hasn't been emphasized to them to address those and I would submit that, to some extent, they need to know overall what wolf recovery looks like or what is something you can tell us it looks like before you can say how a boundary affects that. They're not there yet and I don't think that question has come specifically to them from the regional director or service liaison. I, as a liaison to the Tech Team, have asked them to address and look at that.

Commissioner Henderson I'd appreciate it if you kept delivering that position.

Commissioner Sims I've been questioned about what the public's authority is in wolf recovery, about protecting their private property and protecting their person. The public needs to be versed in what they can or can't do in possible wolf attacks. Can you tell me what the law is as far as shooting the wolves if they're being a threat to private property?

Chuck Hayes Yes, there is a fact sheet that clearly defines that it's different for private and public lands but in general terms, I can tell you that on private lands, you have the ability to shoot a wolf if it is in the process of killing your livestock.

Commissioner Sims Just livestock?

Chuck Hayes Maybe livestock or human safety, but not dogs. That's the way the rule is written. On public lands and other situations, you have the ability to harass, threaten, or do whatever to protect yourself. That would be perfectly legal for a wolf in the act of taking something on private lands, but other than that you're allowed to harass it and try to get it to move off.

Commissioner Sims On the other hand, what if this guy's dogs had been loose and they had killed these wolves?

Chuck Hayes There's certainly nothing in the rule that talks about a situation like that. I have a hard time believing that anyone would be prosecuted for that situation.

Commissioner Arvas Chuck, as a result of signing that MOU, are we more legally responsible in case of a civil suit?

Chuck Hayes I defer that to Jim Karp, our Counsel, but I will say that all agencies involved did pass that on to respective legal counsels and specifically look at it from that point of view.

Chairman Riordan Chuck, are you and R.J. conversing as to what Game Management Unit areas we're seeing with declines in elk populations, especially Unit 15 and where these wolves are primarily located now?

Chuck Hayes They are primarily in the wilderness north of there.

Chairman Riordan Which would be what unit?

Chuck Hayes Unit 16-B.

Chairman Riordan So you're saying that the majority of these 25 animals are in 16-B?

Chuck Hayes That's correct.

Commissioner Sims Chuck, we have wolves out of the recovery area now and where are those located?

Chuck Hayes There are a pair of wolves that are in the San Mateo Mountains. That pair was relocated into the wilderness and left the wilderness and found their way back to the San Mateos.

Commissioner Sims What are the plans there?

Chuck Hayes We looked at the population rule and we moved them once and that wasn't successful. We posed that question to the Fish and Wildlife Service regional director. The rule says that for a breeding pair, technically which these are not, that has established completely outside the boundary they should be removed. It does not give a timeframe. If they are depredating wolves, that's a whole different story. These wolves have been well behaved. We provided a transmitter to 1 of the landowners and permittees who has had them primarily. We asked the Fish and Wildlife Service regional director if it was possible for us to have some less than immediate timeline to get them there. There were several considerations and 1 was that with the change of weather, it's more difficult to trap them without injuring the wolf. It would require a helicopter operation. The wolves are now in a brushy area and the chance of a helicopter success would be dubious so we just recently got the concurrence from the regional director to look at whether there are alternatives. There are 3-5 private landowner permittees in that area, and we'd work out a solution that would not require us to go capture and move them simply because we tried that once and it did not work and these appear to be wolves that are behaving themselves. They're doing what wolves should do, they're not getting in trouble with depredation.

Commissioner Sims You've not had any complaints from ranchers there?

Chuck Hayes If you're talking about stakeholders within the entire area, I wouldn't say that's completely correct. The biggest concern is are we obeying the rule? I would say emphatically that we are obeying the rule and we are not ignoring it. The individual permittees and landowners the field team has been working with have been relatively comfortable with what's going on. I will admit that under the current system, they have not said that they're comfortable with them staying there in perpetuity. We are spending a fair amount of time monitoring. We've provided them with a receiver, we've been in there trying to make sure they don't come on to private lands or areas where they're going to get in trouble.

Commissioner Sims Chuck, when we voted to go with the MOU, I believe we assured the stakeholders that if wolves were outside the recovery area and we had problems, we would correct them. Are we doing that? Do we have complaints out there that we're not living up to the word that we gave in Silver City?

Chuck Hayes I would say no. These wolves are at the moment outside the boundary. They're not causing trouble that we're ignoring.

Commissioner Sims That's what we told the stakeholders we were going to do.

Chuck Hayes It has been our intent to work with them. The rule says that if there is a wolf outside the boundary on private land and the landowner doesn't want it there, that wolf is basically gone. They've been spending 8%-10% of their time on private land, and it's been mostly in the forest.

Public Comment:

Don Gatlin The wolf situation where I'm at is that for the past 8 months they've been telling us we don't have wolves and not to worry about it. The wolf program changed staff, but I was issued a receiver and they've been telling me don't worry about the wolf it's not on you. It's been on me for 8 months so they've been lying to me. We couldn't get them to e-mail us any locations on any wolves and we've complained and last week I got a e-mail and it said that the wolves were at Bear Wallow. The wolves weren't at Bear Wallow because the wolves were on Rainey Mesa and if you knew where Bear Wallow was a wolf isn't going to be there this time of year anyway with the snow and everything. There isn't anything up there with the deep snow. I just wanted everyone to be aware that the wolf program is not letting us know what's going on. It's to the point now where we get a calf kill or something and I don't want to call them. I don't want to do nothing because I know they're not going to do anything about it.

Chairman Riordan What GMU are you in?

Don Gatlin 16A and 16 B. It's been the San Francisco Pack that's been on me the whole time. But like I say, I have a tracking receiver. They've been on me the whole time. (Note: Rainey Mesa is primarily a U.S. Forest Service grazing allotment and is less than 1% private land.)

Commissioner Arvas Chuck, I had a conversation with Mr. Hall and he wasn't going to allow any complaint like what this gentleman just made go unheeded and obviously someone is letting complaints go unheeded. This is the kind of problem that in its infancy causes you to have the problems that we are reading about in Idaho, Wyoming, Montana, and those areas. What I'd like you to do is take your personal effort and find out why there was either a lack of communication on Fish and Wildlife Service's part with this gentleman or what happened and report back to the Commission as to what the facts are because 1 complaint can start an avalanche of complaints.

John Dimas Registered lobbyist for wildlife and environmental issues and we've had 2 meetings on the wolf in T or C and Glenwood. Those places are not friendly to the wolf introduction. If you want to have a fair hearing, bring it to Albuquerque or Santa Fe or add another. As to this wolf chewing up some hunting dogs, bears, lions, javelina do it all the time. The guy that is making a buck off of hunting dogs, if he loses 1 that's the price of being in business.

Commissioner Arvas The wolves are doing damage at Yellowstone and they've accepted the fact that they are. There are 700 wolves up there.

Oscar Simpson President of the NM Wildlife Federation, and the Federation has supported wolf recovery for a lot of years and a lot of interest is in this endeavor. We'd all like to be apprised in a timely manner of what the rule facts are. If you'd like to have a hearing of the public that you encourage it to be in Albuquerque.

Caren Cowan I'm speaking on behalf of the NM Cattle Growers and I've also been asked to make comments on behalf of the Northern NM Stockmen's Association. I'd like to thank you for the thorough questioning and the commitment to stick to your word. The notification problem that the gentleman spoke about earlier is a continual one. Where the San Mateo Pack is this spring, the gentleman found the wolves himself and called Fish and Wildlife and said why didn't somebody tell me. He'd lost a calf. Had he known where those wolves were, he'd have made accommodations and tried to move his calf and pasture elsewhere and they said we just can't let everybody know, we don't have time to do that. That's the kind of attitude that Commissioner Arvas just spoke about. We've got to know where these animals are and if we're going to have to try and live with them, we've got to be able to work with those sorts of things. Additionally, the media the past 2 weeks has been peppered with notice from Mike Phillips and the Turner Foundation that there are going to be wolves released in northern New Mexico at some point in the near future and the Northern New Mexico Stockmen asked me to convey their strong issues with that, that they've seen the problems that've happened in the Gila and in the wilderness where there aren't a lot of people or communities and they have real fears not only for the livestock or dogs, but for their families.

Jean Ossorio I'm representing the Southwest Environmental Center that is a stakeholder member on the Southwestern Gray Wolf Population Recovery Team. I want to thank Mr. Hayes for an excellent report. I think he fairly and accurately described the state of the Recovery Team work at the moment. I urge the Department to continue to negotiate and press Fish and Wildlife and that the Commission back up the Department in continuing to press Fish and Wildlife Service to make the needed review of rule changes as recommended in the Paquet Report, particularly those relating to boundaries and direct releases. The 5-year review report indicates that the combined removals and mortality of the wolves amounts to 62% which is higher than predicted in the EIS, mortalities, however, are lower. The single greatest cause of removal was infractions of this boundary rule; therefore, if we want to see a successful program and get these wolves downlisted and eventually delisted and recovered, the boundary rule simply is not sustainable. Regarding to the reintroduction in Arizona and New Mexico it would appear that territories in the Blue Range over in Arizona are pretty well saturated. Thus, it would be helpful to have direct releases into the Gila to make this a viable program. The Southwest Environmental Center urges you to continue efforts on behalf of rule change.

Laura Schneberger Last summer we had a 6-week old calf disappear, saw it 1 day and didn't see it again 3 days later. A good calf sitting on the ground very healthy and 4 days later looking for that calf it ran up to my husband's horse with its rear end eaten out. We doctored it for 2 months, it weighed 150 pounds less when it got on the truck this year than calves that were the same age. Mexican Wolf Team sent our wildlife services guy from Sierra County and he has never been able to get any training on how to verify a wolf attack. He didn't shave the animal, he didn't measure the animal, he didn't take pictures, and he didn't write a written report. It was unconfirmed. We had wolf tracks on the allotment, and no one came. We have uncollared wolves everywhere. They will not expend any money to verify these uncollared animals. We live in Sierra County. Buck Wilson was informed that these wolves would be removed again. There is a confirmed depredation from last spring on his place. There will be a lot of unconfirmed and confirmed depredations on his place this spring if this is allowed to go on another 8 months. It took them 8 months to get them off the first time. He was informed that they would remove them again, that's why he's not complaining. He thinks he's being cooperated with.

Kent Salazar I'm in favor of this MOU. I have issues of depredation with bears on my sheep. The NM Game and Fish Department has always responded quickly in taking care of the problem animal and what we need to do here is work together. I hope this MOU will work so that we will have control of these animals and you as the Commission can manage it, rather than it be under federal control.

Ron Shortes Catron County has a whole lot of problems with wolves and wolf recovery issues. We do not have a problem on this issue with the NM Game Commission, but we have a lot of things that we would like input on. Commissioner Montoya has graciously indicated that she will be in Catron County in January at 1 of these meetings. We would ask her for the opportunity to communicate with her in detail about the problems we're having and then she could communicate with the Commission. We clearly need to be on record as having a lot of problems and we don't agree that this program is going well.

Commissioner Arvas What do you do in Catron County when you have a problem with the wolves? Who do you talk to?

Ron Shortes In the northern part of the County I do not have any wolf problems yet and I understand that the Wildlife Service's contractor in Catron County is much better at investigating the wolf depredations and wolf kills. The person they have in Sierra County is trying to do a good job. I understand that if a wolf kill is reported, the Wildlife Service's man comes out and investigates. He is supposed to write a report. Our man is doing that and the Sierra County man is not doing that. It goes to Fish and Wildlife and then turned over to the Defenders of Wildlife for compensation to the rancher and that the system is working up to the point that it gets back to Fish and Wildlife and then it goes downhill after that. One of our proposals for the whole program is that it would be fair once a landowner has reported wolf kill that the burden be on the Fish and Wildlife Agency to make sure the process works to investigate the need for compensation and if they don't do it or handle it in a proper and timely manner, the payment be guaranteed to the landowner. Right now the burden is on the landowner and the system is not working.

Commissioner Arvas Chuck, how much have the Defenders of Wildlife spent on claims in New Mexico?

Chuck Hayes I don't have the figures on compensation available or sorted to me by state right now. We did compile those for you after the meeting here about 1½ years ago in response to some questions, but I certainly can get you a tally of the dollar amount.

Commissioner Alfredo Montoya This is an informational item only and it's very evident that each time that this particular item gets on the agenda, it's extremely controversial; therefore, Mr. Hayes, we would encourage you to make sure that communications to the Commission be constant. When we take too long to hear from you it appears that it just builds up and we need to be hearing from you often and it might be that we need to have this item on the agenda a little more often as well.

Commissioner Henderson Communication is always a difficult effort on everyone's part, but it's not an excuse in this case with such a controversial issue, but 1 in which we can have some success at the end. We need to give it that extra effort to improve our communication. We've made some promises and we need to satisfy those promises.

Commissioner Sims We don't have our problems worked out in the limited matter we have now, so it's hard for me to consider listening when we have all these drastic problems. My concern is, when are we going to have a human in the field to work on these problems?

Commissioner Jennifer Montoya Director Thompson and I will be in Phoenix this Friday attending an interagency wolf management discussion and we'll bring your concerns forward.

Chairman Riordan Chuck, I know you have a tough job. It's very contentious and we appreciate what you do. Once again, contact the Commission and give us some information.

AGENDA ITEM NO. 12. Draft Recovery Plan for Zuni Bluehead Sucker listed as endangered under the Wildlife Conservation Act (Section 17-2-40.1, NMSA 1978)

Presented by Stephanie Carman. – The draft Recovery Plan for Zuni Bluehead Sucker (*Catostomus discobolus yarrowi*) was presented to the Commission for their review and approval. The current distribution of Zuni Bluehead Sucker is limited to the upper reaches of the Zuni River in McKinley County. The Plan has been developed as directed by the Wildlife Conservation Act in conjunction with involved and interested individuals and agencies. The Plan describes the status and conservation needs of the species and identifies actions that will result in the protection and enhancement of native populations, allowing the eventual downlisting of this species.

Commissioner Henderson Can we satisfy recovery without the use of Antimycin or something similar?

Stephanie Carman Yes. There's no chemical that we're aware of that works for crayfish. The best thing is to go in and remove them physically.

Chairman Riordan What are we doing with our Fish Division in trying to sustain some type of viable population that we have control over in trying to reintroduce this sucker into the wild? Are we doing anything proactive?

Stephanie Carman We haven't yet in part because the plan needs to be approved before we can act on anything. We are doing surveys, and annual monitoring.

Chairman Riordan I'd just like to see us get together with our Fish Division and work out something, Director Thompson, to where we're being proactive and if we try to raise some of these and make sure we maintain a stable population, that's what we need to do just like we do with the Rio Grande Cutthroat trout.

Public Comment:

Gary Schiffmiller I'm a fisheries biologist with the NM Environment Department. One prominent aspect of the mission of the NM Environment Department, Surface Water Quality Bureau, includes implementation of the Clean Water Act. The opening paragraph of the Clean Water Act states that the goal is the maintenance and restoration of the physical, chemical, and biological integrity of the nation's water. I stress biological. This being the case, we believe the restoration of Zuni Bluehead Sucker is consistent with the goals of the Clean Water Act, so we support efforts to restore this unique fish. Additionally, we appreciate the opportunity to collaborate with Conservation Services Division of the Department in the effort to further our common goals and we hope that this project will pave the way for future collaborative efforts. Also, to point out that these statements would also apply to the 4 invertebrate species. Biological integrity pertains to more than just fish, it also pertains to all biota.

Oscar Simpson President of the NM Wildlife Federation and we support any recovery plans that are suitable.

R.L. Posey Do you know what you have and what the recovery numbers are?

Chairman Riordan Same thing, Stephanie, we need to have some kind of objective of what we're trying to implement in that plan so that people understand where we're trying to go. You're trying to have a certain range, we're trying to have X amount of fish per mile or per half mile, just to give a comfort level. When we put more resources in it, if we're not accomplishing the goal. I think we can get someplace faster than 2015. I'd like to get there in 2 years if we got involved with our Fisheries Division.

MOTION: Commissioner Henderson moved to accept the Department's Zuni Bluehead Sucker Recovery Plan, as presented.

Commissioner Alfredo Montoya seconded the motion.

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

AGENDA ITEM NO. 13. General Public Comments (Comments limited to 3 minutes)

No Public Comments.

AGENDA ITEM NO. 14. Closed Executive Session

The State Game Commission adjourned into closed Executive Session, pursuant to Section 10-15-1 (H)(1) NMSA 1978, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated their professional code of conduct as per 19.30.8, NMAC. If in the Commission's determination, an individual shall be served notice, he or she will be afforded an administrative hearing following 19.31.2, NMAC. Further discussion may occur on matters of personnel, litigation, and land acquisition.

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

Roll Call:

Commissioner Arvas – yes
Commissioner Henderson – yes
Commissioner Alfredo Montoya – yes
Commissioner Jennifer Montoya – yes
Commissioner Pino – yes
Commissioner Riordan – yes
Commissioner Sims - absent

Motion carried unanimously.

Commissioner Alfredo Montoya moved to reconvene the State Game Commission meeting. **Commissioner Arvas** seconded the motion.

Roll Call:

Commissioner Arvas – yes
Commissioner Henderson – yes
Commissioner Alfredo Montoya – yes
Commissioner Jennifer Montoya – yes
Commissioner Pino – yes
Commissioner Riordan – yes
Commissioner Sims – absent

Motion carried unanimously.

Chairman Riordan The matters discussed in the Closed Executive Session were limited to the items on the Agenda for the Closed Session. No action was taken in the Closed Session.

AGENDA ITEM NO. 15. Notice of Commission Contemplated Action

Presented by Dan Brooks. – The State Game Commission, after meeting in Executive Session, will determine, and, if necessary, direct the Department to send a Notice of Commission Contemplated Action to any outfitter or guide that evidence and information indicate may have violated their Professional Code of Conduct or other matter contrary to 19.30.8, NMAC, or 17-2A-3, NMSA 1978.

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

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

AGENDA ITEM NO. 16. Adjourn

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

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

Meeting adjourned at 2:00 p.m.

Bruce C. Thompson

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

March 31, 2005

Date

Guy Riordan

Guy Riordan, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
MyDocs\Minutes\Minutes 2004\Minutes 12-15-04 (Albuquerque)

March 31, 2005

Date