

MINUTES
NEW MEXICO STATE GAME COMMISSION
New Mexico Junior College
Bob Moran Hall – Room 111
5317 Lovington Highway
Hobbs, NM 88240
April 6, 2006

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AGENDA ITEM NO. 1. Meeting Called to Order.

Meeting called to Order at approximately 9:17 a.m.

AGENDA ITEM NO. 2. Roll Call.

Chairman Sims – present
Vice Chairman Arvas – present
Commissioner Henderson – present
Commissioner Montoya – present
Commissioner Pino – present
Commissioner Riordan – absent
Commissioner Salmon – present
QUORUM: present

AGENDA ITEM NO. 3. Introduction of Guests.

Introductions were made by approximately 40-50 members of the audience. Among the audience were Senator Gay G. Kernan; Senator Carroll H. Leavell; Bob Carter, District Director for Congressman Steve Pearce; Hector Ramirez, and Darrold Stephenson, Lea County Commissioners; John Boyd, Hobbs City Commissioner; Jim Weaver, ex-State Game Commissioner, and other distinguished guests.

AGENDA ITEM NO. 4. Approval of Minutes (February 24, 2006—Silver City, NM)

MOTION: Commissioner Arvas moved to approve the Minutes of the February 24, 2006 State Game Commission Meeting in Silver City as presented. Commissioner Henderson 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 Arvas moved to accept the agenda for the April 6, 2006 State Game Commission Meeting. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 6. Consent Agenda.

- o **2nd and 3rd Quarter Depredation Report by R. J. Kirkpatrick**

Commissioner Arvas How does this compare with last year's depredation report?

R.J. Kirkpatrick I can't answer that, but my sense is that it's significantly reduced statewide from last year.

Commissioner Arvas How do you feel that the complaints have been resolved to the level that it has?

R.J. Kirkpatrick Probably the 2 things that are the biggest drivers of reduction in elk complaints are good precipitation. Also, the Commission implemented significant changes to the private land use system for elk which led people to make business or personal decisions about which program they chose to participate in, landowner or depredation. The majority of those folks have to date felt that the landowner system was more beneficial for them, so that's led to fewer depredation complaints.

Commissioner Arvas Would you go over what we did in terms of changing the system for land use?

R.J. Kirkpatrick Last September, the Commission adopted sweeping adjustments to the previous elk landowner system. It insured participants provided meaningful contribution to elk, defined areas by GMU where the Department was very interested in conservatively managing elk, and allowed for increased opportunity outside those areas. It set forth choices for landowners that didn't participate or choose to participate in the depredation system, but not both up to being able to hunt properties that previously couldn't be hunted. Much more elk hunting opportunity on private lands across New Mexico and we tried to simplify how we rated 1 property against another, although that continues to be problematic. We took a better landscape approach to how we allocated hunting opportunities and the rule defined how we'd go about allocating hunting opportunities. That's driven by management goals and the subsequent harvest objectives and the number of licenses it would take to reach those harvest objectives. The amendments to the landowner rules in conjunction with the elk portion of the Big Game Rule that we're working to develop for 2007 will make elk management simple for everyone to understand.

Commissioner Arvas Would you say that with all the meetings we've had, the system is ready to be implemented this year?

R.J. Kirkpatrick We began implementation of the new system after the September 2005 Game Commission meeting when you adopted the new rule. Subsequent to that, we implemented it and it's in effect and we are continuing to have public meetings. We're compiling components of the new rule that we recognized would need additional work.

MOTION: Commissioner Arvas moved to accept the Fiscal Year 2006 2nd through 3rd Quarter Depredation Report as submitted by the Department. Commissioner Montoya seconded the motion.

Commissioner Salmon Why doesn't the coyote appear on the list of depredating animals put out by the Department?

R.J. Kirkpatrick Coyotes aren't listed as a protected species in New Mexico because the Department of Game and Fish does not have authority over them so we don't include them in any depredation-related work that we submit. If there's interest, there's an annual summation on coyote and property damage related complaints. That's work done through Wildlife Services and we can get those reports to you if you'd like.

Commissioner Salmon I don't need to see it, but I brought that up because that's a common question that I get.

Chairman Sims Do we keep information on hunter success rates in elk since the system began?

R.J. Kirkpatrick Hunter success harvest information on elk, not to mention other big game species, has a fairly poor rate of return. Less than 10% of all elk hunters tell us whether they were successful or not. Those that do report are hunters that were successful and subsequently we're uncomfortable with harvest estimates on elk. In relation to amendments to the landowner system, the same applies. Landowners in some game management units are more apt to submit harvest information.

Chairman Sims On mountain lion, is that an increase or decrease from what we had last year?

R.J. Kirkpatrick It's probably less than we've seen in recent years.

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

- o **Committee Reports, including Legislative Summary**

Luke Shelby During the past Legislative Session, we pursued 3 pieces of legislation—(1) an increase in our civil penalties and we'll soon be presenting to the Commission regulation suggestions regarding the definition of trophy animals and recommendations regarding civil penalty amounts; (2) bear-proof container legislation which provided the Commission with the ability to work with some localities that have problems with bears, but this legislation did not make it to the Governor's desk for signature. It wasn't bad legislation, we just ran out of time, but we'll probably be revisiting that issue during another session. The

civil penalties law was signed by the Governor; and (3) an internet hunting bill which prohibits anyone from participating in internet hunting in New Mexico.

Pat Block Last August we came before the Commission with budget and capital outlay projects requests. Legislative/Executive Branches analyze the requests and make their recommendations. The session began with the legislature introducing a bill based on the Legislative Finance Committee recommendation. We took that through the first committee and through the process came to a solid consensus that there were a couple of things that were not present in that bill that were important enough that we'd make some amendments. In the second committee the bill was amended to adopt the executive recommendation and that is the budget that made it through. So what you approved as a request last August is what we have as a budget this coming July. A couple of highlights of that request are that (1) it budgets \$250,000 in expenditures from the new Habitat Management Fund which was passed during the 2005 legislative session and people have begun to purchase the Habitat Management validation; and (2) the Habitat Stamp Program was an area where we concentrated on increasing the amount of effort. At the last Commission meeting the Commission approved \$1.25M in landscape-scale large single projects different than the smaller projects that we've done in the past. The increase in the Habitat Stamp budget was hand-in-hand with that request. Other than that, the budget we prepared was a flat budget and that was in line with guidance for all executive branch agencies. Another thing of note is that it included a compensation adjustment for Department employees that was better than we had in years past. We also came to you last August with a fairly aggressive capital outlay project request and we were able to get some of those funded. We felt that it was a fairly good year to come in with a substantial request because there was more non-recurring money available than ever, but requests were larger than before. We were fortunate enough to get \$2,500,000 in capital appropriations.

Commissioner Arvas Do we have a 5-year/10-year plan where we are actually prioritizing the sequential capital projects?

Pat Block Yes we do, it's a 5-year plan.

Commissioner Arvas How far along are we on that 5-year plan?

Pat Block It's a rolling 5-year plan so we're always looking 5 year ahead.

Commissioner Arvas How far along are we in capital projects that we looked at in that 5-year plan as far as accomplishments?

Pat Block We are proceeding with the warm water hatchery development.

Commissioner Arvas Is that the biggest 1 we have?

Pat Block Yes, the largest single 1 we have. We've also had things like the raceway covers at the Parkview Hatchery, and substantial work on Lake Roberts.

Commissioner Arvas Does that 5-year plan have dam repairs in it?

Pat Block As a group of items, that is the single largest group of items.

Commissioner Arvas What does that amount to?

Pat Block I don't know, but the overall 5-years out need is in the \$25,000,000-\$30,000,000 range. It's substantial.

Chairman Sims Bring us into perspective of how our dam repairs came into view with the engineer's office in that it is something that has to be dealt with in a timely manner.

Pat Block The State Engineer has promulgated a new set of rules over the past couple of years that deal with dam safety. The State Game Commission, among its other assets, owns several dams throughout the state. My understanding is that the standard for the capacity for the spillway of a dam had previously been that a spillway has to be large enough to handle a 100-year maximum flood event. The new standards are based on a 500-year maximum flood event which means that the capacity of those spillways has to be significantly larger. In that rule they've also set some risk assessment categories or low, high, and medium risk dams and depending on the risk associated with a catastrophic event at 1 of those dams, they've set a different timeline to have the work done. We are working with them to make sure that what we plan is consistent with ability to comply with the rule in those out years. We are also emphasizing that a lot of those dams do not solely benefit the Game Commission or the hunters and anglers of New Mexico, but that there are a wide variety of interests that derive benefits from having those dams there and by that token, it's reasonable to have a shared financial burden because the needs are beyond what the Department, hunters and anglers through license dollars have the ability to fund.

Chairman Sims The irrigation, storage, and drinking waters for communities, correct?

Pat Block Yes.

Chairman Sims So, in essence we need some dam money.

Director Thompson We're currently working with the State Engineer on this very topic and soon expect to be speaking to our analysts jointly with the State Engineer. Currently, indications are that the dam repair needs with respect to the State Engineer regulations are going to be in the \$9,000,000-\$10,000,000 mark that is not yet provided. We have some appropriations thus far but it looks like \$9,000,000-\$10,000,000 as yet unaddressed.

Chairman Sims How many dams do we maintain?

Director Thompson We have 17 dams that the State Game Commission has a property interest in.

Commissioner Henderson We did not during the legislative session have any requests for any additional staffing for the Department?

Pat Block Not this year. We felt that coming into a short session and coming off the prior session where we received 8 new conservation officer positions and another 4 positions all together that it was a good time to work on implementation rather than further growth at this time.

Director Thompson There was 1 FTE that was added. This happened in committee and it was for further implementation of P.L.E.A.S.E activities, the Private Land Entry and Sportsmen Enjoyment Program, so there was a net increase of 1 FTE.

Commissioner Henderson I look forward to reviewing the legislative request when they're prepared come summer, but I didn't have as strong a sense of the needs in the Department until I became a Commissioner. We need to continue looking at staffing needs. The public looks to the Department to offer their assistance with all of these growing concerns and we don't have the capacity and we're taxing our conservation officers and I hope we can continue to grow that base.

Pat Block To that end, our plan is to ask you to once again approve a budget request in August, but prior to that we also plan to seek some preliminary guidance so that the document we bring forward does match with the desires of the Commission and make sure we're moving in the direction that's consistent with your wishes.

NEW BUSINESS

AGENDA ITEM NO. 7. Presentation of the Fiscal Year 2005 Financial Statements and Audit Report.

Presented by Patrick Block - The State Audit rule requires that agencies governed by a board or commission present the annual financial statements and audit report to their governing body in a public meeting. According to Section 2.2.2.10.K (3) (d) of the New Mexico Administrative Code, "Once the finalized version of the audit report is officially released to the agency by the state auditor (by an authorizing letter) and the required 10-day waiting period has passed, the audit report shall be presented to a quorum of the governing authority of the agency for approval at a public meeting." This agenda item fulfilled this requirement.

Commissioner Pino I did sit in on the Exit Conference earlier in the year along with staff members of the Department of Game and Fish. I applaud the staff for getting that unqualified opinion on the Financial Statements and the fact that the Department is a low-risk auditee.

Chairman Sims Under Summary of Auditor's Results, page 68, No. 5, there was 1 audit finding that the auditor was required to report under 510(a), what was that about?

Pat Block That was the 1 that is specifically referred to on page 72. There is a SF-269 Report that is a year-end recap on the Eagle Nest Lake Dam Refurbishment project and on the San Juan River project. We were literally 2 days late on those, and our annual paid hunting and fishing license certification report is due to the federal government on June 1 and we submitted that later on in the week; if you're an hour late it's a reportable condition. While not wanting to sound like we don't take this seriously, we did feel it was nitpicking on the part of the auditors, but we understand. It's reportable, and we feel that it's something that can be easily addressed.

Vice Chairman Arvas Presiding

Vice Chairman Arvas On page 5, would you explain some of those changes in the Governmental Activities portion? What I have concerns over is the Transfers, what that means?

Pat Block The transfers had to do with capital projects. We had some transfers in/out of the funds due to capital projects in 2004 that did not happen in 2005, so as a result the amount of those transfers was down considerably. It doesn't mean that things are 90% worse; it just means that in that group of items there was less activity, so we had a large amount of capital projects activity that required transferring money between Game Protection Fund and Capital Outlay Fund, and did not have that kind of activity in the 2005 Fiscal Year.

Vice Chairman Arvas Then if you go down 2 more lines to "Ending Net Assets", we lost \$1,000,000 somewhere?

Pat Block That's correct. As you know and as we've been talking about the last several years, we were in the portion of the funding timeline where expenses have continued to increase but revenues remained relatively flat because license fees had not changed, and that was part of the reasoning to pursue the license fee adjustment. The adjusted fees took affect last week so we expect to be able to maintain cash, but we were at the point where we were eating into that cash balance because revenue is relatively static and expenses, including gasoline, utilities, and other things like that, continue to increase. So that was not unexpected although it's not what you want to see, but when you are spending more and making the same, that's where we end up.

Vice Chairman Arvas So that loss, that's a single year loss?

Pat Block Yes, that's correct. When you're talking in terms of your cash, it's a lot more than 1%, that 1% reflects is cash plus all assets.

Vice Chairman Arvas Those are appraised annually?

Pat Block Yes, they are. One of the things I talked about, GASB 34, making some changes to the way government treats accounting. One of the things that it also does is we now depreciate assets, so it also reflects depreciation expense of those assets.

Commissioner Henderson I have a follow-up to that. Can I assume that when we get the 2006 report, that we'll start recognizing the revenues to increase from that license fee increase and they will increase for a while until they plateau again and start decreasing? Is that a safe assumption?

Pat Block Overall it is. The 1 thing to keep in mind is that the new fees just began to occur on April 1, and this fiscal year ends on June 30, so we'll see some of that, but we won't see a whole year's impact, so it may even still decline some. Fiscal Year 2007 is when you would certainly be able to see that more clearly.

Commissioner Henderson But we will see a trend over time?

Pat Block That's correct. That's the plan.

MOTION: Commissioner Pino moved that the Commission approve the Department's Audit Report for Fiscal Year 2005.

Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 8. Biennial Review of New Mexico State-Listed Wildlife (19.33.6.8, NMAC).

Presented by Lisa Kirkpatrick - The Department proposed to open the initial 90-day comment period on the first draft of the 2006 Biennial Review. The Biennial Review is a process required under the New Mexico Wildlife Conservation Act (17-2-37 through 17-2-46, NMSA, 1978), in which a review of the status of all listed wildlife is conducted in order to determine if each species should retain its status, be downlisted from endangered to threatened, or uplisted from threatened to endangered. This 90-day comment period is the first of 2 public comment periods on the Biennial Review, which is scheduled to be completed in August 2006.

Commissioner Salmon In the Gila drainage, the Loach minnow has been linked generally with the spike dace as a federally threatened species. You suggested that the spike dace might be listed endangered under the state listing. What's the status of the Loach minnow relative to the spike dace and why wasn't it also considered for additional protection?

Lisa Kirkpatrick I'll have to look that up. I believe the Loach minnow is already listed but I need to confirm that.

Commissioner Salmon You mean the state listing as endangered or threatened?

Lisa Kirkpatrick I believe it's endangered. Just a minute and I'll find it. I stand corrected, it is listed as threatened.

Commissioner Salmon In the additional surveys that are contemplated for the spike dace, would the Loach minnow which generally inhabits the same stretch of river, would it also be considered for additional review to determine its current status relative to what it was 20 years ago?

Lisa Kirkpatrick You are correct that those 2 species are surveyed concurrently. I don't believe that they're seeing any indications at this time of the extent of extirpations and decrease in populations of Loach minnow that they are seeing related to spike dace. They certainly are seeing those decreases and there are concerns related to habitat conditions, but at this time it's not being considered for recommendation for a change in the listing.

Commissioner Salmon From the same area, could you give the state status of the 3 chubs that are considered for that portion of the Gila--the Gila, Roundtail, and the Headwaters chub?

Lisa Kirkpatrick At this time, the Headwaters chub is not protected because there was a taxonomic change. It was recognized as a separate species. However, there are efforts underway that that third chub, that newly discovered species, is also covered as the other 2 are.

Commissioner Salmon The Headwaters chub, which is supposedly present above the forks of the Gila, particularly at the east fork, based on my experience seems to be quite common and yet once you get below the forks and down into the main Gila, the chubs virtually disappear. It seemed strange to me that this Headwaters chub suddenly became a separate species from the Roundtail chub, even though the waters that they inhabit are fully concurrent and they could readily interbreed.

Lisa Kirkpatrick My understanding is that on appearance, those species are similar but that DNA analysis of them has determined that they are separate species and that they can interbreed, but they are at this time inhabiting separate sections of the stream.

Commissioner Arvas Is it true that the Biennial Review is criteria to be eligible for federal funding?

Lisa Kirkpatrick Not that I'm aware of. We do receive federal money for some endangered species work, but I don't believe that this is criteria under the state Wildlife Conservation Act.

Commissioner Arvas It is criteria somewhere though, that's why we go through this process? Off the top of your head, what does this Biennial Review cost the Department?

Lisa Kirkpatrick I don't know that I can put a figure on it. The review itself is probably not special information that we would gather. We would go forward to conduct and gather these surveys and this information for the species anyway. The Biennial Review is mostly the process and most of the costs associated with that, would be any staff time that's used to actually develop the recommendations and then the time it would take to do a presentation, go through gathering the comments, and it probably isn't anything over and above staff time that they might otherwise be in the field and they're simply doing this instead.

Commissioner Arvas I guess the concern comes in that the public at times is reactive to the fact that they have some concerns over why we're concerned about the New Mexico ridgenose rattlesnake. All rattlesnakes seem to be the same so why are we

interested in the New Mexico ridgenose rattlesnake? I guess this is part of the mission statement of the Department to start with to be concerned with all wildlife? Is that right?

Lisa Kirkpatrick There are 2 things that happen here. One is the state statute that requires that we go through this review through the Wildlife Conservation Act, so 1 of the things that you might have been referring to before was our Comprehensive Wildlife Strategy. That strategy also recognizes the biodiversity in the state and the richness and variety of species that we have. That review was required to continue to receive federal funding and the 2 certainly came about separately but as time goes on, we become more and more intertwined as we implement some things from our strategy and are able to take some of that information as we go through these reviews.

Commissioner Arvas In order to make it clear to the public, this is not something that is elective on our part, it's something that's mandatory? I wanted that point stressed.

Lisa Kirkpatrick That's correct.

Commissioner Henderson What's the kind of information the Department seeks from the public as public information process? It's my understanding that the Wildlife Conservation Act and this Biennial Review is driven mostly by science and biology, so is that the kind of information you're seeking from the public?

Lisa Kirkpatrick That's correct. The Biennial Review recommendation is based solely upon biological and ecological factors. Social and economic considerations are taken into account during the development of recovery recommendations. At this time, during this process, what we'd like is any additional biological or ecological information that we're not aware of, that that be brought to our attention and there are always those opportunities for that to happen. For people who have some familiarity with these species, there may have been some studies done at university level that we're not aware of, any number of pieces of information that might come to us that we weren't previously aware of.

MOTION: Commissioner Arvas moved to open the 90-day public comment period on the 1st draft of the Biennial Review and to begin the 2006 Biennial Review process as presented to the Commission. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 9. Director's Recommendation Regarding Lesser Prairie-Chicken Investigation.

Presented by Dawn Davis – The Department presented the results of the multi-year investigation of the lesser Prairie-Chicken for prospective listing under the Wildlife Conservation Act (17-2-37 through 17-2-46, NMSA, 1978). The Director presented a recommendation, based on these results, to be subjected to statutory public review.

Commissioner Henderson I'm aware the Commission owns 20,000 acres of lesser prairie-chicken habitat, what's the status of habitat condition on those areas and how are they doing in terms of reproduction compared to the surrounding areas?

Dawn Davis There are 29 prairie-chicken areas that incorporate approximately 21,000 acres. The habitat conditions vary on each of those from fair to very good. We are seeing an increase in the number of Leks and number of birds observed within our prairie-chicken areas and within the lands surrounding those areas, mostly on private lands adjacent to those prairie-chicken areas. What we would like to see is some adaptive management within our prairie-chicken areas. At some point there should be some level of disturbance implemented, some type of management so that we can create better prairie-chicken habitat.

Commissioner Henderson I don't disagree with the recommendation. I support the findings of staff and I respect their biological recommendations. We're coming off of a couple of very good years for reproduction and we as the Department and Commission be diligent in our efforts to continue to do the surveys and pay close attention. If this weather trend we're into continues, we will need to revisit this more quickly than I personally would be comfortable with.

Commissioner Arvas Dawn, would you give the public an excerpt of what's going to be happening this weekend at the prairie-chicken festival?

Dawn Davis As part of our outreach over the last 5 years, we have held an annual prairie-chicken festival in Milnesand, New Mexico. It occurs within the core of the prairie-chicken range, it gives the opportunity for private landowners to interact with the general public. We have federal and state agency people that show up. We take people out to the Leks, show them the breeding displays of the birds and throughout the weekend we offer several field trips that go over the basic ecology of grassland systems. We give an overview of the prairie system, why they're important, and why the lesser-prairie chicken is important to New Mexico, and also provides opportunity for public outreach and us to interact with the private landowners who have accepted us into the community. We couldn't have this festival without the involvement of those private landowners.

Chairman Sims It's amazing how cooperative the private landowners and the lesser prairie-chicken restoration program worked hand in hand.

Commissioner Salmon I'm trying to get an idea on comparing what we have achieved now with what the situation was historically. You said that the total occupied range of the lesser prairie-chicken today is approximately 2,200 square miles. How does that compare with the historic norm or what the potential habitat range might be?

Dawn Davis Right now the lesser prairie-chicken occupies a little over half of their historical distribution within New Mexico. Primarily this is because the birds no longer occur in the northeastern part of the state and we have seen some declines within the periphery of their range in the southeast area.

Commissioner Salmon So there still is potential for further expansion within the state?

Dawn Davis Yes, and the Bureau of Land Management has actually been working to do large-scale reclamation efforts and have developed some long-term strategies with the hopes of re-establishing populations, and there is some interest within the northeast area with private landowners to also re-establish birds within that area.

Chairman Sims The northeast area? Where would that be?

Dawn Davis That would primarily be Harding and southern Quay Counties and also parts of Union.

Public Comment:

James Weaver We're gratified with the findings of the Department of Game and Fish. Dawn has done a great job for the area. We need to point out that we don't want to forget the cyclic condition of this bird. We're coming off a low in the cycles of the prairie-chicken. Nothing we've done has to do with the increase in these birds in the last 10 years. In 1988 these birds tipped over the high point of their cycle and started down and within 2-3 years they reached the bottom. It's a credit to the species that they were able to endure over a serious 14-year drought. These birds have maintained themselves and indeed have begun an unbelievable recovery that we've witnessed over the last 2-3 years.

R. L. Posey There are no prairie-chickens that I'm aware of in Otero County, however, I've been following this program for 6-7 years. At the 2002 Game Commission meeting in Carlsbad, the prairie-chicken was addressed and it was pointed out that the most positive thing that the individual can do is reduce the number of predators because they have a devastating effect on the chicken so I would recommend that any action that the Department or Commission may want to take, that they start a very positive program of reducing the predators.

Aaron Balok The Farm Bureau supports not listing the prairie-chicken and I also wanted to mention that we encourage the Department to continue to work with the private landowners for recovery.

Director Thompson This entire process is operated under the Wildlife Conservation Act which prescribes the method by which the investigation process is conducted, the public input and interaction that's required and ultimately it culminates with the Director's recommendation, and that's what I'm going to provide now in advance of any action by the Commission. "Based on biological and ecological information that's compiled, analyzed, and summarized in the Final Investigation Report – Status of the lesser Prairie-Chicken in New Mexico, I find that prospects for survival and recruitment of the lesser prairie-chicken are not jeopardized to a degree that constitutes classification as threatened or endangered under the Wildlife Conservation Act (17-2-37 to 17-2-46, NMSA, 1978). Thus, I recommend that the lesser prairie-chicken not be listed under the Wildlife Conservation Act. This recommendation is conditioned on the Department of Game and Fish, as directed by the State Game Commission, continuing an aggressive and effective conservation and management program in collaboration with diverse public and private partners to enhance distribution and survival of the lesser prairie-chicken throughout New Mexico and in surrounding habitat that contributes to the landscape-level population and habitat characteristics of this species." That concludes my recommendation and meets the requirements of the Wildlife Conservation Act and is submitted to the Commission for your further action.

MOTION: Commissioner Arvas moved to accept the Final Listing Investigation Report, submit the Director's recommendation to statutory public review, and direct the Department to work cooperatively with private landowners, conservation organizations, and agencies that manage public lands or influence land-use practices on private lands to ensure the long-term persistence of the lesser Prairie Chicken in New Mexico. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 10 . Update on Land Conservation Funding Project Reviews.

Presented by Lisa Kirkpatrick – The Department presented an update on the status of the 14 projects approved by the Commission for the Department to pursue for completion under the Land Conservation Appropriation. It's possible that at least 1 of these may come before the Commission in May for approval.

Chairman Sims Which one?

Lisa Kirkpatrick The Silva Ranch and the McCauley Tract. I'm not sure which 1 may come before you in May; it will probably be the Silva Ranch, but I'm not positive.

Chairman Sims Are those 2 acquisitions?

Lisa Kirkpatrick Right. Those are both acquisitions of property associated with the federal endangered species. The Silva Ranch has habitat for the Zuni bluehead sucker and the McCauley Tract is primarily spike dace and Loach minnow, and a variety of other species in the lower Gila. The Horse Springs Ranch will come before you later today in the agenda. That particular project is ready for your review and it will be presented later.

Commissioner Arvas When you come back in May, I'd like to know what properties the Department would like for us to acquire and state the reasons why. It's of great concern to me that these properties that you list are basically requests that came in from the public. It would make me feel more confident that the money that we're spending is something the Department needs to spend if you could identify properties that the Department can honestly say that it needs.

Lisa Kirkpatrick As each of these projects are brought before you, those attributes that the Department has identified for each of those properties will become more specifically evident.

Commissioner Salmon The appropriation was signed by the Governor, the approximate \$5,000,000 and the running total is \$7,700,000, so is it expected that 1-2 of these may drop by the wayside so that the 2 totals align or would we be expected to try and find some more funding to finish out all these proposals?

Lisa Kirkpatrick It's a combination of the 2. We intentionally added more projects to the list than the money available because we anticipate that some of them will fall out. Some of the numbers for the cost of these projects were estimations on the part of the proponent, so we expected that through negotiation, some of those may actually come out lower than the anticipated price. As it is at this time, the \$100,000 for the first project will, of course, not be spent for that project and the presentation that you hear later for the Horse Springs Ranch easement is for a price that's less than the \$1,000,000 that was originally on this list. There was also some hope that as this list was put together, that there would be more awareness of how much need there is for money to go to conservation easements and acquisitions.

Commissioner Salmon What kind of deadlines are we looking at, at which point we've got to make decisions on these parcels or we're going to lose the money?

Lisa Kirkpatrick It was a 4-year appropriation that began in fiscal year July 2006, so we have 4 years to spend that money.

Commissioner Salmon So it's not an immediate decision we have to make on these properties or we're going to lose the money?

Lisa Kirkpatrick That's correct.

Chairman Sims Lisa, you said that 2 of the properties that may come before the Commission have appraisals in process. In the running total column, where did the amounts requested numbers come from—the \$1,584,000 for 320 acres?

Lisa Kirkpatrick At this time the Silva Ranch is on the market. It's listed with a realtor and I believe that's the listed price, but that is without an appraisal, so an appraisal needs to be done because the state can't pay more for a property than the appraised price, but it is also information that will be used to negotiate with the landowner.

Chairman Sims In any of the properties that we have a list on that we're considering that are actually acquisition properties and not easement properties, are any of these properties with appraisal now, have any appraisals been done on the acquisition properties on the list?

Lisa Kirkpatrick Not that I'm aware of. If there have been, that was sometime ago and are likely very outdated at this point.

Chairman Sims The McCauley Tract in Grant County, the amount request for \$1,462,500, is that also listed for sale property?

Lisa Kirkpatrick It is my understanding that it is not. That was simply that the Nature Conservancy has begun discussions with the landowner and that was basically the amount the landowner was asking in those initial discussions.

Commissioner Salmon The amount requested column and then the running total, is the amount requested particular to our agency or in some cases are there additional monies required that are expected to come from some other source for some of these purchases?

Lisa Kirkpatrick The amount requested is the total request. In some cases, there is an expectation that that would be matched by other funding. In the Horse Springs Ranch request that you'll hear later, there is leverage to funding. Items 2 and 3 that are listed were proposed by the Nature Conservancy and part of their intent is to contribute to that. This does not include the amount that they would contribute which in those 2 cases is a 10% contribution. We've also discussed the potential of perhaps using some of our federal funds that we have access to in the agency to help leverage some of the general fund money that comes from this appropriation.

Commissioner Salmon Am I right that as of today this whole list is an information item only? The only tract here that we're considering today as far as a decision goes, is the Horse Springs Ranch?

Lisa Kirkpatrick That's correct.

Commissioner Pino In looking at Agenda Item 17, this chart says 6,000 acres for Horse Springs Ranch and the narrative under Agenda Item 17 indicates 5,000, what's the acreage? There are some inconsistencies there.

Lisa Kirkpatrick You're correct. When I first developed this list, the proposal for the easement was 6,000 acres, but through the final negotiations and appraisal process, it was established at 5,000 acres, so the correct number for the easement and information you'll hear this afternoon is for 5,000 acres.

Chairman Sims So that everyone will understand what these properties represent the Silva Ranch at 320 acres in McKinley County, what is the importance of that property?

Lisa Kirkpatrick One of the comments that Commissioner Arvas made a while ago is those properties that are of importance to the agency, and frankly this particular project is of importance to the agency because it provides critical habitat for the Zuni bluehead sucker, which is a listed species in the state and the amount of habitat that is available for that fish is very limited. By purchasing this property, it provides critical habitat.

Chairman Sims So it's just providing habitat for a fish?

Lisa Kirkpatrick That's correct. It has other ecological value for the species in the area, but that is the specific purpose for that property.

Commissioner Henderson I was the Commission member who was part of the working group with staff on trying to determine how best to spend the \$5,000,000 appropriation from the Governor's budget 2 years ago. We were fortunate that the Governor looked to the Department for that \$5,000,000 appropriation that could have gone to state parks, or almost anywhere. It was the Governor's recognition that there were some wildlife needs out there either through easement or acquisition, this isn't restoration or management monies. The downside was that the Department is going through growing pains on how to deal with this money. We're not used to managing that much money for acquisition at any particular time. We did go through a priority process and the question came up about how we came up with this list and I agree with Commission Arvas that in the future we can determine our own priorities. The Department ought to be establishing the framework for discussion rather than reacting. We need to react to the research that others have already done and this list was put together based on Department priorities and opportunities that were sometimes generated by others. It's fair and appropriate that we as a Commission are doing our due diligence.

Chairman Sims We need to be careful in that we have \$4,000,000 for acquisition for habitat and properties and we run out of money and then a new model comes along that we'd rather have.

Public Comment:

Aaron Balok I'm with the New Mexico Farm and Livestock Bureau and we were told that we'd have an opportunity to participate in this process and to date we have not had that opportunity. Is there a mechanism by which these properties will be funded for the maintenance?

Director Thompson That question can be answered in part. It's going to depend on the nature by which each of these acquisitions is executed. In some cases, there's expectation that there will be a provision for long-term maintenance and activities on the properties not necessarily putting any strain on Department resources. In other cases, they will not be managed directly by the Department, but through whichever program that they're acquired through. For instance, if the Natural Lands Protection Act is involved there are provisions for long-term management by the partner. That's why I can't give a complete answer to that question at this point. It's going to depend upon the final arrangements that are negotiated surrounding each acquisition or easement.

Chairman Sims In our December meeting in Carlsbad, I assured Caren Cowan that they would be a voice in this process and I tend to live up to my promises. We need the Cattle Growers to be a part of this process.

Director Thompson We certainly heard you and I'll be interested to speak with Mr. Balok later to find out where something went awry. My understanding is that we have had that communication, and I can assure you that the Cattle Growers have been engaged with what has come forward to date as being ready for execution. We're still in the process of determining many of the details on the other project. My understanding is that in fact the Farm Bureau was contacted regarding several of these projects that are farther down the list, but I'm quite happy to determine if anything hasn't happened.

Chairman Sims I just want to make sure that everyone is on board and the first stages of what we're considering acquiring and easements that I said that we were going to make a part of the people it may affect.

Commissioner Arvas An analogy to this would be if I'm a real estate developer and I find out that Mr. Jones has \$5,000,000 to spend, I'm really going to take advantage of that and I'm going to be putting a lot of different proposals before that person that's got \$5,000,000. If you come to me as a Department and say we need this property because of conservation values that bears a lot of weight in my mind. We just want to be sure we're doing what we need to be doing on this Commission in terms of the due diligence process.

Commissioner Salmon If a given property were rejected by the Commission, the money not spent on 1 of these 14 items, could it be spent elsewhere or is it lost for this particular funding cycle? Could we come up with another better purchase, better tract of land that we might prefer or are we limited to making decisions on these 14 that we've looked at?

Director Thompson The \$5,000,000 were appropriated with a specific appropriation language that is for explicit uses. These projects have come before the Commission as a result of a process that was approved by the Commission in July 2005 as a way for the Department to move forward. What was presented to the Commission was with the understanding that we didn't necessarily expect every one of these projects to come to fruition. So, I say that in introduction to answering your question. No, if 1 of these projects doesn't occur, that money is not lost. That money remains available at least for the fiscal years identified to be used for the purposes that are identified in the appropriation language.

Chairman Sims What I read in Dutch's question is other properties can also make it to this list without 1 dropping out. There may be other properties out there that we look at even though they're not on this list without 1 on the list dropping out. Is that correct?

Director Thompson In essence, yes. Again, we identified these 14 projects, put a priority on them, and the Commission previously approved the Department moving forward to pursue execution. For instance, let's say that ultimately only 4 of the projects on this list were executable and those 4 projects totaled \$3.8M, there'd be \$1.2M that remains available for the purpose of the appropriation and the Commission can certainly indicate how those additional opportunities might be identified such as what Commission Arvas mentioned a bit ago.

Chairman Sims If all these lists were executable and a property came that was more important, that could be interjected into the list also?

Director Thompson I believe you're correct. It would be prudent on the part of the Commission to consider at that point whether the Commission-approved approach warranted some adjustment, these are things that we have sufficient time to come back to the Commission and address.

Chairman Sims Of the 14 properties we've identified, there may be other properties that come to this list in the process?

Director Thompson Not unless the approach or process were opened again. There was a process involved which included going out relatively broadly and alerting people that there were opportunities to do so. It wasn't just a matter of a few people who happened to know about it came to us. Because this \$5,000,000 came about through the legislative appropriation process, was signed by the Governor, and was relatively broad awareness. We also publicized that and worked through programs like the Local Government Division of the Department of Finance and Administration. We can certainly review all that process with the Commission and determine if some additional steps need to be taken. That latitude does exist. Discussion item only.

AGENDA ITEM NO. 11. Hunting Regulation and Associated Rules Development for Game Animals, Furbearers, Game Birds, Quality Hunts, Licensing, and Applications and Manner and Method.

Presented by R.J. Kirkpatrick – The Department requested the Commission to open the following rules for the specific purpose of accepting public input or testimony and management adjustment recommendations to be used for development of regulations for the 2007-2008 and 2008-2009 license years. These rules will remain open until the September, 2006, Commission meeting when final rule amendments will be adopted: Big Game and Turkey Rule, 19.31.8, NMAC; Manner and Method Rule, 19.31.10, NMAC; Boundary Descriptions Rule, 19.30.4, NMAC; Quality Hunt Criteria and Areas Rule, 19.30.7, NMAC; Hunting and Fishing License Application Rule, 19.31.3, NMAC; Trapping and Furbearers Rule, 19.32, Parts 1 and 2, NMAC; Predator Management Rule, 19.30.6, NMAC; and Bighorn Enhancement Rule, 19.31.7, NMAC.

The Department also asked the Commission to open each of the following rules for the specific purpose of accepting public input or testimony, and management adjustment recommendations to be used in the development of regulations for the 2006-2007-license year only. These rules will remain open until the July, 2006, Commission meeting when final rule amendments will be adopted: Upland Game Rule, 19.31.5, NMAC; and Waterfowl Rule, 19.31.6, NMAC.

Chairman Sims On the upland game, what's our bag limit on cranes?

R. J. Kirkpatrick Two per day, 2 in possession.

Chairman Sims Is there any discussion on what that would do if we increased the bag limit?

R. J. Kirkpatrick Given the increased allotment that we're going to get is we move from 2 per day, 2 per season is really what that meant to 2 per day, 4 per season. So we'd be able to double the amount of cranes that an individual may kill in a season, but all would occur within our allotted crane harvest limit from the Flyway.

Chairman Sims Is there some way that we can actually serve both, increase the license and increase the bag limit?

R. J. Kirkpatrick Maybe increase the number of permits to some extent to more permits but 2 per day, 3 per season or something like that.

Chairman Sims Maybe a few more permits and serve both angles?

R. J. Kirkpatrick We'll work toward the most reasonable approach with whoever would like to visit with us on that issue.

Director Thompson I'd like to clarify what R.J. said about double. I believe the allowed harvest has changed from 283 to 406. That comes from the Central Flyway Council. I attended that meeting 2 weeks ago and this refers to cranes in certain parts of the state, not everywhere. It's those that are controlled via that special permitting process. Just so that everyone in the audience understands what we're referring to.

Commissioner Arvas R.J, I've got 2 things. The first is that any changes that the Department makes in the form of a recommendation to the Commission really needs to be highlighted somewhere so that it stands out. I think that will eliminate a lot of confusion on the part of the Commission. There has been some concern expressed in the past in the Rio Grande Valley concerning the goose hunt. If you're satisfied with the hunter statistic results and surveys that you send out, have you had a good response from those in the last year?

R. J. Kirkpatrick Tim [Mitchusson] is comfortable with the information he's getting although we recognize that voluntary hunter harvest information has problems. Most often you're getting a bias toward overestimating harvest, but I'd be happy to talk with Tim about his comfort level or have him visit with you about that.

Commissioner Arvas We certainly don't want to make a recommendation like this until it's thought out, but I know in some states there's some consideration that those hunter surveys aren't as meaningful as they're supposed to be. What they're doing now is a phone survey. You might want to consider that.

Commissioner Montoya R.J., I'd suggest that before September, maybe in June or August, reports on issues that are coming out as important or somewhat radical. Forewarn us before you bring it before us in September with major changes if there are going to be any that would be considered major.

R. J. Kirkpatrick We hope to be able to do that more often. We hope that at the May meeting we're able to give you some draft recommendations that are based on public input and conversations we'll have over the next month and a half. We'll specifically identify contentious or worrisome issues, and make sure you're well aware of them. The antler-point restrictions and changes to furbearer rules will probably be more contentious.

Commissioner Henderson As you prepare your information as with the depredation issue today, it's interesting to see the trends in terms of complaints on the rules so that we get a sense that we're moving in the right direction. I'm trying to separate that from complaints on how we do the permitting and everything else. In response to reading an internal publication from Game and Fish, down at the Bernardo we're slowly getting the water system put together so that we can deliver water to the quagmire area which I assume will create greater opportunity for us and crane hunting.

R. J. Kirkpatrick Tim [Mitchusson] has given me cursory information on Bernardo/La Joya hunts. One of the bigger issues is not only the water, but trying to cable off the more distinct parking areas so that people aren't driving in and disrupting other folks. Over the course of the next 1-2 years, the Department will improve hunter opportunities because of habitat work. I want to emphasize for the audience that in the next 2-3 weeks the Department will make draft rules available on our website, area offices, and we'll probably contact leadership of non-governmental organizations or special interest groups and either get them an electronic version, hard copy, CD, or whatever they request. In addition, to avoid confusion, we'll come to the May meeting to recommend some adjustments to the current rules to take into account some things that have minor adjustments to make sure that the landowner system is legally implementable and identify additional hunting areas in Eagle Nest, and delete country where people won't be able to hunt.

Commissioner Arvas Would you tell the public what we got for the special tags this year?

R. J. Kirkpatrick Deer enhancement permits sold for \$78,000, our elk permit sold for \$95,000, and the bighorn sheep auction permit sold for a record \$185,000. New Mexico is recognized as 1 of the premier trophy deer, elk, and bighorn sheep states in the United States and we'd like to make sure that we're providing good opportunities for those kinds of trophy animals. That money will be more important in implementing major habitat improvement projects and getting information for those species over the next 5-10 years.

Chairman Sims Isn't the September meeting a 2-day meeting?

Director Thompson Yes, we have 2 days scheduled. It's not certain at this point whether there'll be a Commission workshop as part of that, but we do have a 2-day timeframe.

Commissioner Salmon I would suggest with regard to furbearers that the first thing you consider would be making the survey reports from license holders mandatory so that everyone that buys a furbearer license would send in their report that year before they would be allowed to buy another furbearer license the next year. That would be the first step in getting the survey information you need to consider whether or not we need to adjust bag limits.

R. J. Kirkpatrick I think in the next agenda item we're presenting you with a draft of the New Mexico hunter and trapper harvest reporting rule that we'd ask you to consider now and comment on. It includes the request that all trappers in New Mexico submit furbearer harvest information in addition to deer and elk hunters.

MOTION: Commissioner Montoya moved to accept the Department's recommendation to open the following 8 rules for the specific purpose of accepting public input or testimony and management adjustment recommendations toward development of regulations for the 2007-2008 and 2008-2009 license years: Big Game and Turkey Rule, 19.31.8, NMAC; Manner and Method Rule, 19.31.10, NMAC; Boundary Descriptions Rule, 19.30.4, NMAC; Quality Hunt Criteria and Areas Rule, 19.30.7, NMAC;

Hunting and Fishing License Application Rule, 19.31.3, NMAC; Trapping and Furbearers Rule, 19.32, Parts 1 and 2, NMAC; Predator Management Rule, 19.30.6, NMAC; and Bighorn Enhancement Rule, 19.31.7, NMAC, and to open the following 2 rules for the specific purpose of accepting public input or testimony and management adjustment recommendations for the development of regulations for the 2006-2007 license year only: Upland Game Rule, 19.31.5, NMAC; and Waterfowl Rule, 19.31.6, NMAC. **Commissioner Arvas** seconded the motion.

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

Public Comment:

Sam Henderson I'm an agent for several ranches in the Piñon, New Mexico area. These ranchers want to express their support of the New Mexico Department of Game and Fish. One concern the owners have is they've had occasions this past year with law enforcement. We've had trespass problems during the January archery hunt, called for help and there was no help available because there was only 1 officer working. He had no money to buy fuel to go to Piñon. We feel law enforcement is a very important part of the Department. We can look for help in only 2 areas—Otero County Sheriff and the Department of Game and Fish. Otero County has been very good. The owners of these ranches have suggested that there be some emergency funds available in case of shortfalls so that they can come in and take over so that we're never without the Department's support. Another thing these ranchers wanted me to convey to you deals with the hunting seasons. We do ranch-only hunts. We don't get unit-wide tags and this year it did not affect us. However, we are not able to utilize the availability of the cow tags that we got because of the shortened season last year. We suggest that the Commission re-think their schedule of the elk hunts. If they were just cow hunts to extend it back to January 31.

Chairman Sims Bruce, do you want to comment on our financial situation? I think we need fuel for our guys.

Director Thompson I'd like Luke Shelby or Roy Hayes to comment on that specifically being in his area. We've had very good treatment from the legislature and the Governor. We haven't run out of money. That's maybe an idiosyncrasy.

Roy Hayes During that timeframe, we had a limit of \$400 per officer for fuel and there were instructions that if they ran out and an emergency came up, that they could exceed that. I don't understand why the officers didn't respond, but I can certainly look into it.

Director Thompson We're in the process of putting the new conservation officers that were approved during the 2005 legislature into effect and perhaps Roy could comment on what the schedule is for new conservation officer positions coming into play in the southeast area.

Roy Hayes We do have an officer assigned. A Mayhill position just vacated because the officer transferred to Eagle Nest. We do have a new trainee assigned to Mayhill and 1 to the Guadalupe. We filled the Capitan district so unfortunately it's going to be about a year before we get the Mayhill and Guadalupe because they're in training, but other than that all positions are filled.

Director Thompson That indicates that while we've had these new positions approved, it realistically has been about an 18-month process for us to actually get the individuals recruited, trained, and into the district.

Commissioner Arvas R. J., would you like to explain to the gentleman about our policy for those later cow hunts?

R.J. Kirkpatrick The issue of hunting elk through the January timeframe started with the development of the rule we're participating in right now. At that time, it was the Commission's opinion that we harass our wildlife, especially big game, for a major portion of the year beginning September 1 and prior to that it was through the end of January and in some places through the end of February, so there was a decision made that we weren't going to hunt anything after December 31 with the exception of bow deer. There were some exceptions made where landowners were able to demonstrate to the Department that they were giving back to wildlife, elk, and certain circumstances surrounding the movement of elk in those places. The Department, in the current rule, establishes a method for certain GMU's and ranches to be able to hunt cow elk in January, but it comes with *caveats*. They've got to be giving something back to wildlife and there have to be circumstances that make it reasonable to allow some cow hunting in January. As we develop the rule for 2007-2008, we'd be happy to engage these folks in Unit 34 and discuss whether or not that ability to consider late-season cow hunting in Unit 34 is appropriate at least as an option that they'd have to prove they're giving something back.

Chairman Sims Mr. Henderson, what was the success rate in your bull hunts?

Sam Henderson We had a huge amount of elk and very few hunters. Our success rate was phenomenal.

Commissioner Arvas Mr. Henderson, were you aware of the possibility that you could get an extended period for cow elk?

Sam Henderson Yes, they'd explained that to me.

Commissioner Arvas Why didn't you want to do it that way?

Sam Henderson We haven't pursued that yet. We have adapted a plan for the 5 ranches called Ranching for Wildlife. In that program we have looked at the numbers of elk in our area and we have asked the Department for an increase in permits because we feel that we can adequately sell hunts. We sell hunts not just the tags.

AGENDA ITEM NO. 12. Presentation of a Draft Recommendation of the New Mexico Hunter and Trapper Harvest Reporting Rule, 19.30.10, NMAC.

Presented by R.J. Kirkpatrick – The Department presented a 1st draft of a New Mexico Hunter and Trapper Harvest Reporting Rule, 19.30.10, NMAC, which outlined the need, purpose, requirements and procedures that will enable New Mexico's hunters to simply and effectively provide the Department with harvest information that will result in improved management capabilities.

Chairman Sims One thing I'm concerned about is grouping hunting, fishing, and trapping into 1 reporting process. How difficult would it be to separate trappers, hunters, and fishermen into 2 different reporting categories?

R. J. Kirkpatrick The rule as its proposed now is specific to deer and elk hunters because those are the 2 big game species that we're most in need of harvest information. The trapping portion came about as the Department received frequent comment on how many furbearer species are you taking in New Mexico. Our estimates of take by species weren't as tight as we would like them to be and the trappers we've talked to are supportive and they'd like to be able to tell us how many they're taking each year. As far as applying this requirement to additional kinds of species, the concept was once we got this in place and work out all the kinks, we would probably want to discuss implementing this for other species because we felt it would be a simple, clean process that's easy for everyone to deal with.

Chairman Sims I'd like to separate the reporting qualifications for the trappers not affected by what the hunter and fisherman are doing.

R. J. Kirkpatrick That's pretty much how it's set up. If you're an individual buying a trapping license, we're requiring that he submit a harvest report annually on what he took by species by county. Once he's fulfilled that, any applications that he might submit for a deer hunt or elk, or by a landowner authorization would be met. If he never does go hunt elk or deer, we're still requesting that he submit that information to be eligible to buy a trapping license in subsequent years.

Commissioner Salmon You're on the right track and I think this is a good idea and good rationale. I do see the sense in separation of the activities in the case of people who do 1 and not the other. I would point out that the furbearer season runs through March 15, so you might want to have the furbearer submission moved back 6 weeks so the furbearer season is completed before the furbearer hunter/trapper sends in his report.

R. J. Kirkpatrick The second page of the draft rule deals specifically with licensed or permitted trappers and furbearer hunters and the deadline for their harvest report is the end of their current trapping season—March 31. It does give them a short turnaround. They don't have to submit their report until the end of March and our application deadlines are early April, but we expect many trappers in New Mexico will have finished their trapping season prior to that. We don't think it will be a problem.

Commissioner Salmon I think it will give some relief to the furbearer controversy. There are people who are going to object to hunting or trapping furbearers regardless simply on an animal-rights basis and there's not much to be done about that. Those that are trapping and hunting furbearers without good data, this will provide a lot of data. It will get better the more years you do it, and then you can juxtapose what you're taking with the number of people who buy licenses, the numbers of days they're in the field, put that all together and you can get a pretty good idea if some particular furbearer is being harvested too extensively.

Commissioner Arvas Every system is going to have problem, but I would assume you'll notify those that did not report prior to next year's application date?

R. J. Kirkpatrick Yes, we're currently meeting with potential contractors to do this work. We're asking our contractors to come February 16, the day after the initial deadline to report information, we would mail to everyone who failed to submit their report a postcard to remind them of the missed deadline, and we need their information, it's going to cost a late fee, but if you want your application accepted for next year, please get the information to us.

Commissioner Arvas That's \$20?

R. J. Kirkpatrick The late fee is not to exceed \$20. At the May Commission meeting and over the course of the next 3-4 weeks, we'll have discussions about what that late fee should be, if it should be there or not. This is in draft, so we're open to conversation about the utility of a late fee. The reminders after the missed deadlines will come with problems. We discussed every license, permit, rule and information booklet. Any publication the Department issues from adoption by the Commission will have alerts that they need to submit the information by a certain date, so we're not sure if the postcard reminders are going to be necessary or not. We're trying to build simplicity into the system.

Commissioner Arvas I like the system. Other states do similar things without being punitive and I think this is great. We'll get more accurate accounting of our harvest.

R. J. Kirkpatrick We still use card-system survey returns to estimate what our harvest is and in determining accuracy.

Commissioner Arvas How accurate is that?

R. J. Kirkpatrick Not very. It depends on the unit and the hunt, but we're uncomfortable that our estimates of harvest today, especially with deer and elk, aren't as useful to us as they should be. A lot of hunters are encouraging us to do this, and we don't see a lot of opposition.

Commissioner Pino It has an effective date of September 1 of this year, so the Commission will be requested to approve this draft by this summer?

R. J. Kirkpatrick Yes, the timeline today is we're presenting you with the draft. Over the course of the next 3-5 weeks, we will engage public input, get comments, and make adjustments to the draft for legal issues. At the May 25 Commission meeting, I'll present you with a final draft that we'll ask the Commission to adopt. Discussion item only.

Public Comment:

Mark Miller I'm the Director for the New Mexico Trappers Association. The New Mexico Trappers Association is in full support of gathering scientific data for all wildlife and furbearers with the full expectation that this data will serve as the sole basis for all regulation changes relative to furbearer and wildlife management. We support you getting data provided to make changes on big game and trapping.

Aaron Balok The Farm Bureau has no opposition to this so long as it will be the responsibility of the hunters to fill out the surveys and not the responsibility of private landowners.

Ron Shortes I'm representing our family ranches in Lincoln and Catron Counties and also representing Catron County. We certainly commend the development of this program and encourage you to pursue it.

AGENDA ITEM NO. 13. Penalty Assessment Issuance and Revocation Reinstatement, 19.31.3 and 19.31.2, NMAC.

Presented by Dan Brooks – The Department proposed an amendment to Regulation 19.31.3.11(W) that will clarify the valid period for a penalty assessment citation (fishing or small game license). Current practice is that when issued the citation serves as a license for 15 calendar days. The Department sought to place this in rule. Also up for consideration was an amendment to Regulation 19.31.2.8.B, NMAC, allowing a person to be reinstated for license eligibility if he/she pays the penalty assessment fines and fees.

Chairman Sims We have revoked licenses for failure to pay child support and those individuals cannot hunt nor fish, buy they also can't get their driver's licenses. Why can't we incorporate this in reverse, if they don't pay their revocation, they can't get drivers licenses.

Dan Brooks We can enter into dialog with Motor Vehicles, but that probably wouldn't rise to the level of something they'd want to take action on because revocation is somewhat of an expensive undertaking. We have to have a hearing officer in place and he's an attorney and of course he charges by the hour and it's not cheap. So to put people through the process, there's some sort of commitment to that, and then, of course, you have to have rules and statutes to follow, but if it's the Commission's desire for us to enter into dialog with Motor Vehicle, we'll do that.

MOTION: Commissioner Arvas moved to accept the Department's recommendation to open rules 19.31.3 and 19.31.2, NMAC, for public comment and Commission consideration with the expectation that the Department will present a final recommendation to the Commission at a future meeting. **Commissioner Montoya** seconded the motion.

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

AGENDA ITEM NO. 14. General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

R. L. Posey I'm from Otero County. We haven't had moisture in Mayhill since last summer. There's a strong possibility, and this came from the U.S. Forest Service, that they will close the forest if we don't get more moisture. If that happens, the hunting season will have to be cancelled. There'll be insufficient forage for wildlife and it was mentioned that you need flexibility in the hunting seasons or different rules. I would submit that you might want to take special action because there won't be forage for the wildlife and some action will have to be taken either by the Commission, or the Department. You're the first line of authority for taking that action.

Patrick Sims I'm a landowner/rancher in Lea County. I'd like to bring up the state land hunters. The way you've done the hunting licenses is a great improvement and benefit hunting and wildlife in our area, but the rules and laws for the state land are vague and there could be some improvement. There've been some problems with poaching and vandalism and there's room for improvement.

Ron Shortes I'm representing Catron County on this issue. We still have the wolf problem. President Bush issued an Executive Order sometime back that federal agencies had to take in assessment and analysis of how their environmental actions affected local communities and businesses. So far we've totaled an estimated \$500,000 in livestock losses in the last 2 years. That equates to another \$500,000 during that time in losses to the county in tax revenues and to other businesses. A common misperception in the ranching and livestock communities across the state and nation is that all the ranchers in Catron County are getting rich feeding the wolves. That \$1M has been compensated to less than 10% of that amount. The direct result of that is that several of the ranchers that've submitted SBA claims under federal law in Catron County will in fact go out of business this year. As I've pointed out in the past, all these public land ranchers have to have private deeded land to hold those public land allotments. In all probability that private deeded land now situated in primarily national forest land will be sub-divided. Another result of the wolf program in Catron County is that it looks like most of the ranchers, except me, are going to bail out. The wolf may not be the only reason, but in the next year or so as much as a 100,000 deeded acres in western Catron County will be sold for the purposes of development. All that acreage both from public land ranchers as well as in western Catron County will be a

total loss to wildlife habitat. As you realize, subdivisions don't provide wildlife habitat and our county has been 1 of the premier counties for wildlife hunting and habitat. The Catron County Commission has declared an emergency based on the problems with the wolves. One action the county has taken and worked with Wildlife Services, who's tasked with depredation and compensation issues, is the county itself hiring its own depredation officer because Wildlife Services is not adequately funded to provide enough employees in the field to timely investigate the predator kills. Of course, all predators are an issue and whether the livestock kill was due to coyotes, mountain lions, bears, or wolves, it's still a serious issue to the ranchers and again the good science in determining which predator is responsible for these kills would benefit everyone. John Oakleaf with Fish and Wildlife has agreed to this and is not opposed in terms of the county having involvement. The county has access to a nationally recognized forensic investigator who helped deal with determining causes of death.

Commissioner Arvas Did you say \$1.5M has been compensated?

Ron Shortes No. Based on John Oakleaf's estimates there could be up to 8 kills for every 1 kill found and this comes from Fish and Wildlife publications. Using the high-end estimate, local ranchers have lost \$500,000 in livestock over the last 2 years and counting the businesses have lost another \$500,000. It's my understanding that way below \$100,000 has been compensated in the last 2 years. There are \$900,000 uncompensated losses in the last 2 years.

Chairman Sims This \$500,000 is livestock loss, is that due to the wolf or due to all predators?

Ron Shortes No, that estimate is due to the wolf. We have a concern with coyotes and other predators and we are looking for an accurate analysis of which predator is responsible but those are not all depredation losses. That's just based on what we believe are clearly wolf kills.

Commissioner Arvas How many wolves do you think we have there?

Ron Shortes John Oakleaf claims that there are 25 collared and 25 uncollared wolves in both Arizona and New Mexico. Based on what we're seeing all over the county, I believe, that just in Catron County we have more than 100 wolves.

Commissioner Arvas Have you substantiated that with any of our Department people or the Fish and Wildlife Service?

Ron Shortes We're arguing about it. There's no agreement. I think Mr. Oakleaf's estimate is ridiculous, but that's his opinion. Obviously, we're off. If he's saying there are 50 wolves in the wild as he said on April 3, I would think that the number is closer in both states to be over 200-300.

Commissioner Arvas Have you had a chance to talk to the new Fish and Wildlife Director?

Ron Shortes One of Catron County's consultants is working with him and we're working with Alan May in Wildlife Services and of course, they're the ones tasked with these kill investigations.

Commissioner Arvas So, you're not blaming us for all this?

Ron Shortes No, but again, we need the Department's help. I understand your MOU with Fish and Wildlife Services and Arizona Game and Fish is intended to be a non-binding MOU, but to me clearly they're admitting that you're a joint lead agency in this and you have more control and input than the attorney general has conceded. I believe that the NEPA environmental assessment on the affect of the wolves on all wildlife including other predators has never been done. In looking at the NEPA analysis, I can't find any evidence that that was ever done and I think last November you are tasked with all of the wildlife in the state for the benefit of the public trust and I believe there's a serious issue on the wolf's impact on deer, elk, and a lot of the animals involved in the hunting opportunities and revenues for the Department. These wolves obviously are serious predators and I don't believe anyone can feel that they operate in a vacuum without affecting other predators that you have control over as well as over coyotes that you don't manage.

Commissioner Arvas Well you being an attorney can appreciate our position as a Commission when our attorney tells us that that's what we can do and that's what we have to go by. You know we want to help you as much as we can. Anything from a legal point of view that we can do, we'd certainly do for you. I can assure you that everyone on this Commission holds that position. On the other hand we felt that when we signed that MOU, if we didn't go to the table, we wouldn't have a chance to talk about it.

Ron Shortes I understand that and I guess the response to your question is we ask you again to look into obtaining better scientific data on the impact of the wolves on wildlife. If there's a possibility the highly qualified people at NMSU might be available to do reliable scientific work as they do through the extension service possibly at no cost to neither the Department nor the county.

Commissioner Arvas We were waiting for the new Director, and I think this Commission would like to visit with him on pertinent issues in New Mexico. Hopefully that will happen in the near future.

Ron Shortes I'm not placing blame and I hope that the new Director will be more receptive than people in that agency have been in the past.

Chairman Sims Bruce, you've been in contact with him about a meeting?

Director Thompson Yes, in fact, we have a preliminary meeting with the Acting Regional Director within the next 10 days and I'm sure this will be 1 of the topics of conversation.

Commissioner Salmon Regarding the compensation program now, Defenders of Wildlife, are they simply refusing to compensate or won't investigate the kills or they are disagreeing with you on the manner of the kill, what's the problem there?

Ron Shortes The problem has a complicated history. There were criticisms of Nick Smith, 1 of your employees in the past, but I don't believe that he's been involved in this process lately 1 way or another. As I understand it, Wildlife Services as a federal agency is now tasked with the investigation. The Defenders of Wildlife won't pay anything without a confirmed kill from Wildlife Services. Wildlife Services, with 1 effective officer in a county that has almost 8,000 square miles when we're talking about 200-300 kills a year, is just spread too thin to investigate all of these in a timely manner and so since Richard Grabey with Wildlife Services has not been able to do a thorough job, and we have no criticisms, he's doing the best he can, but it's too much to expect him to do. Their funding has been cut repeatedly and therefore they can't confirm most of the kills because they can't get there on time. Another issue is that John Oakleaf admits that no one can find more than 1 kill out of 8. Wolves eat everything and most of the kills are young calves.

Commissioner Salmon For what it's worth, I think this Commission would like to do what it can and at the very least improve the compensation program through the federal or state levels. At 1 point last summer, there was some talk about trying to get some state compensation for the wolf kills. It never got off the ground.

Ron Shortes Bud Starnes informed me that there was a miscommunication issue in terms of that committee that you served on. The Catron County Commission would like to point out that that committee was designated by the Governor and by other people in the county which was fine for an *ad hoc* committee but none of the people on that committee with you were elected officials or were even appointed or designated by the county commission. Again, to clarify, the Catron County Commission has declared a wolf emergency and the county commission was not the entity that said that they would not negotiate or they were not interested in compensation so the commission has never taken that official position. If people on the committee took it, they were not elected by the people of Catron County.

Sam Henderson Another concern of the people I work for is the chronic wasting disease situation. Last year we found 2 elk in addition to the deer they found in Unit 34 and I understand this pretty much overwhelmed the Department at the time because they were not ready to institute a small amount of check stations that were authorized to check for chronic wasting disease. I saw a lot of deer come out of the western part of Unit 34 that were whole and not caped out according to the guidelines that were issued. When you cape out an animal and take the carcass and leave it in the field, there are potential problems there that need to be addressed. I'd like the Commission to have a study done that would give us more information on how to handle that.

Aaron Balok The numbers and intensity of the wolf encounters in the Gila have grown tenfold from what it was this time last year, so the issue is getting to be more of a problem and I wanted to call attention to that.

Harold McCullough I'm a member of the Southeastern Citizens Advisory Committee for the Habitat Stamp Program. We met yesterday and I wanted you to be aware that we have a fine group of very active and dedicated citizens who appreciate the opportunity to look over these projects that are proposed by Bureau of Land Management and the Forest Service. We made final recommendations on the 2007 and we previewed 2008 projects. In 2007, the southeast region will spend slightly over \$200,000 in habitat improvement. The sportsmen of this state have spent thousands of dollars on the prairie-chicken project.

AGENDA ITEM NO. 15. Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H) (1), NMSA, 1978, 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, and 19.31.2, NMAC. If in the Commission's determination an individual shall be served notice, he or she will be afforded an administrative hearing following 19.31.2, NMAC.

MOTION: Commissioner Arvas 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 several land interests at the recommendation of our Director as per 10-15-1, NMSA. **Commissioner Montoya** seconded the motion.

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

Roll Call Vote:

Chairman Sims – yes

Commissioner Arvas – yes

Commissioner Henderson – yes

Commissioner Montoya – yes

Commissioner Pino – yes

Commissioner Riordan – absent

Commissioner Salmon – yes

Motion carried unanimously.

MOTION: **Commissioner Pino** moved to enter into Open Session and that the record reflect no action was taken during the Closed Executive Session, but several items were discussed by Legal Counsel and the Director. **Commissioner Henderson** seconded the motion.

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

AGENDA ITEM NO. 16. Notice of Commission Contemplated Action.

Presented by Dan Brooks - The State Game Commission after meeting in Executive Session determined and directed 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: **Commission Henderson** moved to accept the Department's recommendation and send a Notice of Contemplated Action to the registered guide and outfitter discussed in Executive Session. **Commissioner Arvas** seconded the motion.

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

AGENDA ITEM NO. 17. Acquisition of the Horse Springs Ranch Easement Utilizing the Land Conservation Appropriation.

Presented by Lisa Kirkpatrick – The Department requested approval from the Commission to use a portion of the Land Conservation Appropriation for acquiring a 5000-acre land conservation (Forest Legacy) easement on the Horse Springs Ranch located in Catron County.

Public Comment:

Bob Sivinski The Forest Legacy Program is 1 of 2 programs for purchase of development rights in New Mexico. Other states have quite a few more whereas it's rare in New Mexico. We'd like to make this program a success by being able to show congress that we can pick up properties when they do appropriate us money.

Ron Shortes I'm not officially representing Catron County on this item because the verdict is still out in the County on conservation easements. Another issue involved in all of this is that the Continental Divide Trail right now unofficially goes all the way down the county road and the state highway from Grants to Horse Springs through this ranch and our ranch. The Bureau of Land Management is considering moving that trail either a long way to the west, or a long way to the east because of this development. Because of the historical and unique value connected to Horse Springs and Pie Town, and to the scenic areas involved through here that are illustrated as well as a lake or mountain and other areas in through here, that the trail should remain where it is to preserve the trail in each location even though Bob says that was not an initial part of the easement. I assume that the owners don't have an objection to the trail continuing to run through their place. I would concede that if this project is implemented it may be the end of the program for New Mexico and this area is important to preserve especially because of all of the impending development and of course, as that affects your Commission in terms of protecting the wildlife. We're still in the pot for a conservation easement. I know that it would seem to be totally unfair to have 1 Catron County place coming behind another 1, but I'm trying to point out that unless this place is saved and our place is saved, that whole part of Catron County may not end up to be nothing more than a tacky subdivision.

Chairman Sims Ron, your proposal to this conservation easement is how many acres?

Ron Shortes I don't have our paperwork. Our total deeded acreage is 6,700 acres and we've had a lot of discussion with Bob's people about how much of that to commit to the conservation easement. It was not the whole thing. Bob, do you remember? I think it was 3,000-4,000 acres.

Chairman Sims Of those 3,000-4,000 acres, who owned the mineral rights?

Ron Shortes My family presumably owns some of them. We do have a significant area of private forest land like this ranch does which obviously is not common in New Mexico.

MOTION: **Commissioner Arvas** moved to authorize 1 or more Commissioners, anyone of whom may execute all documents to effectuate the transfer of up to \$903,360 from the 2005 land conservation appropriation to acquire an undivided 25% interest in a conservation easement on the Horse Springs Ranch located in Catron County, and authorize the Department to execute a Joint

