

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 Clayton Airpark
 1610 Water Street
 Clayton, NM 88415
 May 25, 2006

CONTENTS:

AGENDA ITEM NO. 1.	Meeting Called to Order.	2
AGENDA ITEM NO. 2.	Roll Call.	2
AGENDA ITEM NO. 3.	Introduction of Guests.	2
AGENDA ITEM NO. 4.	Approval of Minutes (April 6, 2006—Hobbs, NM)	2
AGENDA ITEM NO. 5.	Approval of Agenda.	2
AGENDA ITEM NO. 6.	Consent Agenda.	2
AGENDA ITEM NO. 7.	Adoption of Penalty Assessment Issuance and Revocation Reinstatement, 19.31.3 and 19.31.2, NMAC.	2
AGENDA ITEM NO. 8.	Amend a Portion of the Boundary Descriptions for Wildlife Management Units Rule, 19.30.4.10, Part E, NMAC.	3
AGENDA ITEM NO. 9.	Amend a Portion of the Hunting and Fishing – Manner and Method of Taking Rule, 19.31.10.20, Part B, NMAC.	4
AGENDA ITEM NO. 10.	Amend a Portion of the Private Land Elk License Allocation Rule, 19.30.5.11, Paragraph A, NMAC, and Hunting and Fishing License Application Rule, 19.31.3.9, Part D, NMAC.	4
AGENDA ITEM NO. 11.	State Game Commission Approval Sought for 2007 Habitat Stamp Program Projects.	6
AGENDA ITEM NO. 12.	Adoption of Proposed New Mexico Hunter-Trapper Reporting System Rule, 19.30.10, NMAC. .	6
AGENDA ITEM NO. 13.	Presentation of Foundational Resource Information for Development of Cougar Harvest Management Rule, 19.31.11, NMAC, and Furbearer Harvest Management Rule, 19.32.2, NMAC. .	8
AGENDA ITEM NO. 14.	Presentation of Information Regarding Waterfowl and Migratory Bird Regulation Frameworks, 19.31.5 and 19.31.6, NMAC.	10
AGENDA ITEM NO. 15.	Presentation of an Approach to Inform and Promote Quail Habitat Management in New Mexico.	13
AGENDA ITEM NO. 16.	Update on Rocky Mountain Bighorn Sheep Trapping and Transplanting Activities for 2007 through 2009.	14
AGENDA ITEM NO. 17.	Director’s Recommendation Regarding Headwater Chub Investigation.	16
AGENDA ITEM NO. 18.	Consideration of Special White-tailed Deer Hunting Opportunities in Eastern New Mexico. ...	17
AGENDA ITEM NO. 19.	General Public Comments (Comments Limited to 3 Minutes).....	19
AGENDA ITEM NO. 20.	Closed Executive Session.....	20
AGENDA ITEM NO. 21.	Update on Land Conservation Funding Project Reviews, Process Modification, and Related Actions.	20
AGENDA ITEM NO. 22.	Proposed Shooting Preserve Application, 19.35.3, NMAC, and Sections 17-3-35 through 17-3-42, NMSA, 1978, for the High Desert Ranch.	23
AGENDA ITEM NO. 23.	Commission Approval to Dispose of Fixed Assets.	25
AGENDA ITEM NO. 24.	Consideration of Terms of Proposed Settlement of Eagle Nest Dam/Reservoir Litigation and Temporary Storage Agreement with Springer Ditch Company.	26
AGENDA ITEM NO. 25.	Approval of Assignments of Oil/Gas Easements by Williams Petroleum Interests to an Affiliated Entity.	28
AGENDA ITEM NO. 26.	Emergency Action to Amend Fisheries Rule 19.31.4.11, NMAC 1978, to Restrict Fishing on a Portion of the Pecos River and Brantley Reservoir to Catch and Release Only Due to Fish Consumption Advisory Recommending that No Fish Caught in Brantley Reservoir be Eaten Because of Elevated Level of DDT.	28
AGENDA ITEM NO. 27.	Adjourn.	29

AGENDA ITEM NO. 1. Meeting Called to Order.

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

AGENDA ITEM NO. 2. Roll Call.

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

NOTE: Bernalillo County State Game Commissioner position was vacant for this meeting.

AGENDA ITEM NO. 3. Introduction of Guests.

Introductions were made by approximately 45 members of the audience. In the audience was NM Representative Brian Moore, who welcomed the Commissioners and attendees to Clayton.

AGENDA ITEM NO. 4. Approval of Minutes (April 6, 2006—Hobbs, NM)

MOTION: Commissioner Arvas moved to approve the Minutes of the April 6, 2006 State Game Commission Meeting in Hobbs 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 Pino moved to accept the agenda for the May 25, 2006 State Game Commission Meeting. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 6. Consent Agenda.

- o Committee Reports - None

NEW BUSINESS:

AGENDA ITEM NO. 7. Adoption of Penalty Assessment Issuance and Revocation Reinstatement, 19.31.3 and 19.31.2, NMAC.

Presented by Dan Brooks – The Department proposed to adopt Regulation 19.31.3.11 (W), NMAC, which 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 is seeking to place this in rule. Also up for consideration was adoption of an amendment to Regulation 19.31.2.8.B, NMAC, to allow a person to be reinstated for license eligibility if he/she pays their penalty assessment fines and fees.

Chairman Sims Given that, if they pay this temporary permit it keeps them in the pool for other hunting and fishing which are revenues to the Department and community?

Dan Brooks That's correct. We have the ability to revoke them, but if they pay what they committed to pay, they'd be reinstated and they can go on and enjoy other license privileges as they were awarded or drawn.

Commissioner Arvas Do any other states do this?

Dan Brooks Yes, other states do have a penalty assessment citation situation and it varies among the states. Ours is limited to the 2.

MOTION: Commissioner Arvas moved to adopt the Department's recommendation to amend Rules 19.31.3 and 19.31.2, NMAC, to allow a penalty assessment citation to serve as a special permit for 15 calendar days, to formally

provide that failure to pay a penalty assessment is a 20-point violation, provide that anyone may be removed from revocation when they pay their penalty assessment fee in full. Commissioner Henderson seconded the motion. VOTE: Voice vote taken. All present, voted in the Affirmative. Motion carried unanimously.

AGENDA ITEM NO. 8. Amend a Portion of the Boundary Descriptions for Wildlife Management Units Rule, 19.30.4.10, Part E, NMAC.

Presented by Lief Ahlm - The Department presented a proposal to amend the Boundary Description for Wildlife Management Units Rule, 19.30.4.10, Part E, NMAC, to include a portion of the State Game Commission-owned Eagle Nest Lake Property in the area described as the Colin Neblett Wildlife Management Area South to facilitate access and hunting activities that are permitted in the area during the 2006-2007 hunting season. Chair man Sims How many acres are we talking about? It can withstand quite a large amount of hunters? Lief Ahlm It's quite a bit.

Commissioner Henderson I'm curious about what the hunting opportunity is? Are we actually providing a significant benefit to hunters with this?

Lief Ahlm We have several hunts that occur on the Colin Neblett and there's been a desire expressed from hunters to enter the Neblett from that side because a lot of elk stay on that side of the mountain and move back and forth from the lake and back into the wildlife area. As it is now, they've got to either negotiate with other private-land owners to enter or they've got to come up through Tolby Canyon and come over the top of the mountain through some thick timber, so it actually would spread the hunters out a little more from the ones that have permits and allow a more balanced hunting opportunity.

Commissioner Henderson So it's really more of an access question than it is hunting opportunity? That strip is not going to be hunted that strongly, it's more an access question?

Lief Ahlm It's mostly access, but realizing that when the hunters—if we were to make the regulation to allow access, they would still have to go up to the existing boundary because it's not open to hunting below there and the temptation is going to be huge. There are a lot of elk that use that portion and we don't see that there's a reason not to allow them to hunt a portion of that. We've discussed this with the State Parks personnel at the lake. They're here today and they agree that it's a good idea.

Commissioner Arvas What is the State Parks' daily use fee?

Lief Ahlm I believe it's \$5 per day, so whoever uses that parking area would still have to pay the \$5 per day fee.

Commissioner Arvas Where does that road go into? Is there a road around the lake that goes into that area?

Lief Ahlm Actually it goes to Cieneguilla. The road comes right down the fence to the day-use area and they can park right there and then we would mark it with a trail sign where they could go into the wildlife area.

Commissioner Salmon Beyond the parking area, the access would be on foot or horseback?

Lief Ahlm That's correct, we don't allow any motorized vehicles in the wildlife area.

Public Comment:

Byron Wilson I'm the Park Manager at Eagle Nest Lake State Park and we express our approval of the presentation from Mr. Ahlm. The day's fee is \$5 per vehicle to get into the state park and it would apply in the Cieneguilla parking area which is at the creek that comes off Highway 64 and extends to the creek. Part of our plan is to put in corrals and other facilities to cater to the hunters that would enter from that area. We've had quite a bit of activity and comments from the public in the 3 years we've been there wanting to have access to the wildlife area. There's a significant herd of elk that hangs out in that area that would be added, so we recommend that this be approved from the State Parks point of view.

MOTION: Commissioner Arvas moved to amend the Boundary Description for Wildlife Management Units Rule, 19.30.4.10, Part E, NMAC, by adding the words "including an adjacent portion of the State Game Commission-owned property on the east side of Eagle Nest Lake as designated by the posted boundary". Commissioner Pino seconded the motion.

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

AGENDA ITEM NO. 9. Amend a Portion of the Hunting and Fishing – Manner and Method of Taking Rule, 19.31.10.20, Part B, NMAC.

Presented by Lief Ahlm - The Department presented a proposal to amend the Hunting and Fishing – Manner and Method of Taking Rule, 19.31.10.20, Part B, NMAC, to include the “Taos Valley Overlook” in the area designated as the Rio Grande Wildlife and Scenic River Area, which is closed to hunting due to human safety concerns, applicable in the 2006-2007 hunting season.

Chairman Sims Where's the bridge?

Lief Ahlm The main bridge is north.

Chairman Sims What's the primary hunting species?

Lief Ahlm If there's anything, there are probably rabbits, a few deer, and the itinerate bear that comes out of Taos. The Department suggests you adopt this for the public safety concern in cooperation with Bureau of Land Management and if we do have a reason down the road for some type of legitimate hunting activity, we would still be able to address that.

Chairman Sims Would addressing that take a Commission meeting?

Commissioner Pino In the legend that went with the map, I notice that there's Tribal property. I'm assuming that that's Taos?

Lief Ahlm I believe that's Tribal property.

Commissioner Pino Private property or Tribal property?

Lief Ahlm It's Tribal.

Commissioner Pino That's Taos or Picuris?

Lief Ahlm I'm not sure, I think it's Taos? Jerry Radcliff is from Taos and he says it's Taos Pueblo.

Commissioner Salmon I think the proposed change is in response to the fact that the primary use of the area is hikers, bicyclers, bird watchers, non-consumptive users and they're feeling some conflict with shooting of firearms in that area.

Lief Ahlm That's correct. They're worried about people driving around and stopping to shoot a few cans or rabbits and not seeing equestrian in an arroyo or a mountain biker on a trail and having an accidental shooting.

Commissioner Salmon I take it the BLM feels this is a sufficient concern that they'd like to see the change.

Lief Ahlm This was at their request.

MOTION: Commissioner Salmon moved to amend a portion of the Hunting and Fishing-Manner and Method of Taking Rule, 19.31.10.20, Part B, NMAC, by adding the words “including the Taos Valley Overlook”. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 10. Amend a Portion of the Private Land Elk License Allocation Rule, 19.30.5.11, Paragraph A, NMAC, and Hunting and Fishing License Application Rule, 19.31.3.9, Part D, NMAC.

Presented by R. J. Kirkpatrick - The Department presented proposed language to amend 19.30.5.11 part A, NMAC, to clarify the Department's ability to work with landowners outside of established core-occupied elk ranges in the development of elk hunting opportunities. The Department also presented a proposal to strike the language in 19.31.3.9 part D, NMAC, so that private lands that lie outside of designated core-occupied elk ranges or in GMU's where no core occupied elk range is designated, may be allowed the opportunity to work with the Department to develop elk-hunting opportunities within the bounds of their private lands. Both changes are for consistency with intent of E-PLUS.

Commissioner Arvas Would you be more specific in terms of the flexibility factor?

R.J. Kirkpatrick If you've got private property outside the core area, the landowner comes to the Department and says that he's got a few elk that come on to the property once in a while, what are the chances of me hunting? We negotiate based on consideration of how big the property is, the nature of the property, give us an estimate of how many elk are there when they're on the property, and we negotiate some reasonable hunting opportunity. It's flexible elk hunting outside those cores and we want to make sure we're not pinned down by language in the rules that prevents us from truly negotiating with the landowners.

Commissioner Arvas This Commission and this Administration have adopted a hands-out, reaching type of program for the private landowner. The Director and I have had conversations concerning the interpretation of what

the intent of the private lands incentive program is. As a Commissioner and a sportsman, I want the Department to recognize the fact if a private landowner makes an effort for the wildlife, that's a consideration. Sometimes when we come up with rules and ideas, they're strict in nature, so we need to broaden our view.

R.J. Kirkpatrick Those comments also apply to 3 other programs with lands within private properties inside those core areas. We've got 2 landowner incentive based opportunities. On the incentive authorizations, the Department has the ability to award ranches that are not at those great big high levels of doing things, but have interest in doing that. The other is our private-land deer conservation incentive program. The ranches and the Department have to agree that the hunting that's allowed pursuant to this outside the core is not in any way a resolution to property damage. It's recreational hunting opportunity and most of the ranches that have come to the Department that are outside those core areas have a great deal of interest in enhancing and increasing wildlife populations because they recognize how valuable that hunting opportunity is. Our hope is that those core areas expanding is the incentive of us being able to provide this opportunity.

Commissioner Arvas You can see how important it is not to dampen the enthusiasm of the landowner.

Caren Cowan On behalf of the New Mexico Cattle Growers, this kind of flexibility is what we need to be able to cooperate.

Bill Ferranti I'm with Torstenson Family Trust and Wildlife Center. I would like to see that weapon type is consistent across that unit, and I'd hate to see someone outside the COER be able to use a rifle. I'd also hate to see us hammer all those elk outside the COER and reasonable strategies are important to the landowners inside the COER as well as outside. If we can expand those COERS it would be beneficial to everyone.

Chairman Sims R.J., is that something that's reasonable to everyone?

R.J. Kirkpatrick Yes, we've had discussions and if you'll recall that last September when the Commission adopted these amendments, Commissioner Arvas made a statement that nothing about this provision of the landowner rule is unlimited. The negotiations are in context with the surroundings of the ranches that are asking for hunting. We don't intend to allow a rancher to kill a significant number of elk with a rifle in a primitive weapon unit because the context of that doesn't lead us there. In all cases, the Department has the final word on what the approved hunting opportunities are and we take a variety of things into consideration as far as killing a significant number of elk that may damage that COER population. The concept behind those COER lines is that whatever is inside the COER is where most of our elk make most of their living most of the year. Populations outside those COERS should be fairly scattered and aren't indicative of the big population and harvesting of them shouldn't have significant impacts on that COER. If it does, or if there are landowners or other interested parties that feel that hunting outside the COER is detrimental to that COER population, then we need to reconsider our COER lines. We're in the process of developing the 2007-2008 seasons and that's 1 item that we'd like people to bring to our attention if they feel where we've drawn those lines is inappropriate.

Commissioner Henderson R.J., I'm not fully informed about how decision making is accomplished in this regard, do you make the decision or is it a group of folks or a Commissioner, are other landowners involved in the decision-making process? How do you come to the conclusion of expanding the COER area?

R.J. Kirkpatrick The process that we've chosen to implement in developing these opportunities outside the COER area is that our local district officer along with our game manager and in some cases the area chief, meet with the landowner that's interested in hunting elk. They go review the property, what are the estimated numbers and times the elk are on the property, what are the ranches like that surround the property and their interests, the overall elk management goals in the COER, how close the property is to the COER. A variety of things are taken into consideration and some proposed recommendations are made. Those recommendations are forwarded to my office where I, the game manager, elk manager, and private-lands manager apply our knowledge on a statewide basis about whether the recommendation is reasonable or if there are any other peripheral things that weren't taken into consideration by the field personnel, and then once we concur or alter that recommendation, I forward it to Luke Shelby and Jim Karp for their perspective at a different level and then a final recommendation is sent to the landowner and the field personnel. A Commissioner could be involved in the review, so that you'd have a solid understanding of how those negotiations and process are accomplished.

Chairman Sims If there is no resolution among the landowner and field personnel, those ranches have the opportunity to come to Commission meetings or call a Commissioner and come up with a resolution?

R.J. Kirkpatrick The program is working and we view this as a cooperative and positive partnership with those landowners.

Commissioner Arvas The only thing that happens is that when you have the meetings with the landowners, you need to stress that this is not a guarantee for the rest of their natural life and they're not going to get a certain number of permits on that property. There's a feeling on the part of the landowner that once that goal is achieved, it becomes an entitlement program.

R.J. Kirkpatrick The landowners are aware that these are 1-year negotiations and they'll have to re-approach us the following year and we'll re-evaluate the property.

Ron Shortes I'm here representing our family ranches as well as Catron County. We concur with what has been said.

MOTION: Commissioner Arvas moved to amend the Private Land Elk License Allocation Rule, 19.30.5.11, Part A, NMAC, to clarify the Department's ability to work with landowners outside of established core occupied elk ranges in the development of elk hunting opportunities and to amend the Hunting and Fishing License Application Rule, 19.31.3.9, Part D, NMAC, so that private lands that lie outside of the designated core occupied elk ranges or in GMU's where no core occupied elk range is designated, may be allowed the opportunity to work with the Department to develop elk hunting opportunities within the bounds of their private lands. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 11. State Game Commission Approval Sought for 2007 Habitat Stamp Program Projects.

Presented by Dale A. Hall – The Department forwarded to the State Game Commission for approval, recommendations made by 5 regional Citizen Advisory Committees concerning the Habitat Stamp Program's 2007 and 2008 Habitat Improvement Project lists.

Commissioner Arvas Would you give the public a brief historical background of the Habitat Stamp Program how it works, and funding?

Dale Hall Commissioner Arvas was around at the time we started the Habitat Stamp Program. It started in 1986 with the Valle Vidal portion of the Carson National Forest as a pilot project. At that time, the stamp was \$20 and that amount was raised by sportsmen to fund Habitat Stamp/habitat improvement projects on the Valle Vidal. The sportsmen were satisfied with that because the Citizen Advisory Committees involved them early on how to spend that money, and it's been so successful that by 1991 it went statewide. The sportsmen are very supportive. We've done some polling and about 95% of the deer hunters and anglers support the program. What it does is collect \$5 if they hunt, fish, or trap on BLM or Forest Service lands and that generates about \$1M per year. We take that money and put it right back out on the ground to improve things for the future, so it's a pro-active program. It involves the sportsmen, and we do have an environmental interest and we have grazing permittee interest on the committees to help resolve conflicts that might occur.

Bill Ferranti I'm with Torstenson Family Trust and Wildlife Center. Although we don't have any state wildlife grant money, I would encourage the Commissioners to approve these partnerships for the benefit of all wildlife.

MOTION: Commissioner Pino moved to accept the tiered list for 2007 and tentative list for 2008 Habitat Stamp Program projects as recommended by the Citizen Advisory Committees. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 12. Adoption of Proposed New Mexico Hunter-Trapper Reporting System Rule, 19.30.10, NMAC.

Presented by R. J. Kirkpatrick - The Department presented the Commission with a final recommendation for the New Mexico Hunter-Trapper Reporting System Rule, 19.30.10, NMAC, for consideration and adoption.

Commissioner Arvas I received from Tom McDowell some suggestions/requests to the proposed fur bearer regulations, have you seen them?

R.J. Kirkpatrick No, I have not.

Commissioner Arvas Well, they seem to be fairly practical in nature and obviously when we develop regulations, we try to work with the people that are involved and the Director has told me that he's met with Mr. McDowell and basic things weren't put into the regulation?

R.J. Kirkpatrick I believe this a different agenda item than what I was prepared to present. Those comments have to do with an agenda item we hope to discuss with you on how we approach fur bearer harvest and the associated rule, but this is different. This is requiring anyone who traps to report their trapping activity to us.

Commissioner Arvas I understand, but what I want to ascertain is that you visited with the furbearer trappers and you pretty well resolved the differences that they had with the Department.

R.J. Kirkpatrick Yes, Director Thompson, myself, the furbearer biologist, and Assistant Chief met with Mr. McDowell, Mr. Current, with New Mexico Trappers Association, and the leader of the state organization. There was discussion on issues having to do with trapping. On the harvest reporting component, they were supportive.

Commissioner Arvas The regulation he's concerned about is what we're going to be approving in September.

R.J. Kirkpatrick That's correct. We're in the initial process of the draft furbearer rule that Mr. McDowell references in that letter are a starting point. As I said, we did discuss a lot of issues regarding trapping.

Commissioner Arvas I just wanted to be sure that the Department is going to be responsive to the trappers and get this worked out by the September meeting. Mr. McDowell, I hope that's satisfactory to you.

Commissioner Salmon It's particularly important to get this harvest information from the trappers and those who hunt furbearing animals. Trapping is probably the most controversial issue we face. It won't alleviate the questions about foot-hold trap use. Other objections are that we don't have harvest information on furbearing animals, there's no season, no bag limit and we don't necessarily need 1, but we need to be able to defend our harvest information and our harvest decisions and we can't do that the way it is now with the minimal information we're getting on furbearers.

Tom McDowell The National Trappers Association applauds the efforts of the Department to gain more information on biology of furbearers. We stand firmly behind them and we encourage you to pass this and if the national association can be of any assistance, we're willing and happy to engage our biologist in any way.

Norma Lennon Wiggins On behalf of the Rio Grande Chapter of the Sierra Club I thank you for considering improvements to the trapping regulations by requiring that trappers report what they kill. This is an important step to monitor wildlife regulations regardless of the method used to kill them. However, if trappers fail to report, they should be penalized by not receiving a trapping license the following year. This is the Sierra Club's position. Because not all trappers are hunters, exclusion from special-entry hunts for not reporting won't induce them to change. To think a non-reporter could still trap makes a mockery of this potential improvement. Given that a trapper may set traps he claims are for coyotes and thus require no license at all, makes regulation and monitoring very difficult as it is. The report should also include any non-target animals that die or have to be removed from the wild as a result of being trapped. These can include javelina, coati, pine martin, porcupine, deer, turkey, bear, mountain lion, and many bird species. It should also include any endangered species that are trapped regardless of the outcome. In New Mexico, these can potentially include Mexican wolves, spotted owls, bald eagles, otters, lynx, or jaguar. We realize no law enforcement action is possible with the report and that verification that trappers are truthful in reporting is also impossible. We hear much from hunters about fair chase and showing respect for the quarry, but trappers are driven by the prices that the pelts bring, not sport. Prices have escalated in the last few years fueled by the demand of the market, especially abroad. The big market here, of course, is Asia. This activity is certainly not respectful of other outdoor users who incur vet bills, frantic trips from the field, the horror of finding trapped and maimed animals and a ruined outdoor experience. Therefore, the Sierra Club appreciates your help in making trappers more responsible in their use of our shared public lands. Trapping isn't respectful of the wildlife involved. Animals killed by trappers play an important role in the wild. In requiring trappers to at least report what they have killed so the numbers can be tallied you ask them to give a tiny acknowledgement of the ecological importance these animals have and a small gesture of respect for them.

Commissioner Arvas R.J., have you had an opportunity to think about what will happen when all trappers are licensed? Are we going to have some way of monitoring whether they participate in a program?

R.J. Kirkpatrick Yes, we will. As you may know, trapping licenses are purchased at license vendors all across the state. We receive copies of those purchases and annually we will know what individuals purchase trapping licenses. We will also know whether or not those individuals submitted their harvest report to us. Their application for any

special entry hunt will be rejected if there's confirmation that they didn't provide us with their harvest information. One of the points this lady brought up that we have discussed is the issue of the penalty associated with failing to provide a trapping report doesn't seem to exist if they're not applying for any special entry hunts. The statement that if you fail to submit your trapping report, you won't be able to purchase a license the following year comes with some legal difficulties in that we can't refuse to sell a license to an individual until due process has occurred. We would propose that over the next year or so we may want to consider assessing revocation points to those who fail to submit their report and the accumulation of those leads to the revocation of hunting and fishing privileges, but we can't make the statement that's been requested of us legally at this time. We recognize that there may need to be some adjustments if we find that we're getting a poor reporting rate from our trapping interests in New Mexico. Commissioner Arvas The young lady also stated that this is a great first step in terms of getting this going and as we all know, until we live with the system a while, we don't know how it's going to work.

Commissioner Salmon What percentage of responses do you feel you need to have on these trapping harvests in order to be effective so that you can assess the population trends of these animals?

R.J. Kirkpatrick I wouldn't set it as a percentage return rate. What this rule is proposing is that we'll get greater than 80% of all of our elk/deer hunters/trappers license buyers reporting harvest information so that we don't have to worry about over applying a statistical validity to that harvest information. We're hoping that we're going to approach at least 90% or higher reporting rates which alleviate us having to deal with statistical limitations. If in fact we don't get to those levels, then we've got a problem in getting the reporting that we address through additional amendments to this rule. We'd like to eliminate that need for statistical purposes. Currently, the reporting response from trapping interests is fairly low, less than 20% of our trappers are probably submitting harvest reports.

MOTION: Commissioner Arvas moved to adopt the New Mexico Hunter and Trapper Reporting Rule, 19.30.10, NMAC, as presented by the Department. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 13. Presentation of Foundational Resource Information for Development of Cougar Harvest Management Rule, 19.31.11, NMAC, and Furbearer Harvest Management Rule, 19.32.2, NMAC.

Presented by Rick Winslow - The Department presented an approach to cougar and furbearer management and population assessment to be considered as foundation information during development of cougar and furbearer harvest management rules for the 2007-2008 and 2008-2009 hunting seasons.

Director Thompson As a brief introduction, this item comes before the Commission at my request of Department staff to ensure that we begin a process, and I stress "begin a process", that relates to the 2-year regulation cycle. What Rick will be presenting is an approach that we're suggesting to the Commission and everyone here, that is a way to compile, organize, and ultimately articulate the resource base that we have and work with regarding cougars and furbearers and how it is that harvest regulation recommendations are developed for the Commission to consider in September of this year. We do it in such a way that it's transparent and everyone can understand how various kinds of mortality uses, etc., are taken into account as we develop those recommendations. With that Rick can provide more detail on some materials that we've provided to you.

Chairman Sims Rick, explain to us how these numbers are actually numbers that we're injecting into the formula and how we're going to use them.

Rick Winslow These numbers came from what's called the 1996 Gap Analysis habitat model which was a way of trying to determine how much habitat for any given wildlife species there is on the landscape. We had to make adjustments because we believe it underestimated cougar habitat because there were portions of the state where we know that cougars are breeding where it didn't indicate cougar habitat. Also as an upper end for the habitat, we used deer habitat because cougars are dependant on the deer population in the state although there is other prey out there like elk or big horn sheep. The habitat estimate is based on an evaluation of what indicates cougar habitat such as terrain, different habitat types, vegetative characteristics, and the prey base.

Chairman Sims Aren't we involved in actually getting some other numbers that are more accurate than what we're estimating?

Rick Winslow Yes, we're currently re-doing this. We're trying to figure out a more accurate way of determining what the actual amount of habitat is through a couple of different methods. There was a cougar management guidelines handbook that came out and we're using some of those options which is a GIS-based habitat model. There's

another GIS-based habitat model on the 2006 re-GAP, so we're trying to refine these numbers and come up with a much better estimate of the amount of habitat.

Chairman Sims Reaching these objectives would not indicate that there's a larger number of cougar out there.

Rick Winslow Potentially, but you also have a lot of factors in cougar hunting. Last year the cougar harvest in that particular area was low because the snowfall was very low. Most cougars are harvested with the use of hounds in snowy conditions. Hounds are better able to track an animal with snow on the ground and there wasn't much snow this year so we had a very low harvest statewide.

Chairman Sims It's important we realize that we're using these numbers for presentation on how we're going to get to our actual numbers.

Rick Winslow We're still in the process of trying to refine our habitat estimate and using different techniques. What we'd like to do is produce better estimates. That's a wide range. It's a pretty big chunk of the state but we'd like to refine to something that makes a lot more sense on the ground. There are other uses such as oil and gas extraction. There are large parts of the Navajo reservation checkerboard area where there's heavy sheep raising, even though it shows up as cougar habitat in some of the models that probably really aren't.

Commissioner Arvas How far back do we go in terms of our harvest data?

Rick Winslow We have good harvest data since about 1979.

Commissioner Arvas Would you say that it's a common practice that every area that meets their maximum harvest numbers is reconsidered?

Rick Winslow We haven't reconsidered. It's been very sporadic. The few areas that have actually reached the harvest limit on cougars did it 1 year, didn't do it the following year, then did it again the year after or some pattern similar to that. So, we haven't really re-evaluated those.

Commissioner Arvas We don't have complaints in those areas where the maximum harvest limit has been attained complaining about more cougars there than what people would think should be there?

Rick Winslow Generally not. What we've had is continued depredation in most of these areas, which indicates that there's still an excellent cougar population.

Commissioner Arvas So there isn't any 1 area or region in the state now that you have any great concern with that's overpopulated with cougars?

Rick Winslow Overpopulation, no.

Commissioner Arvas Under population?

Rick Winslow Under population, no, also. The areas where we have had consistently high removals continue to have consistently high removals. On the Jemez Mountains just across the valley from where a lot of us live, there's a consistently high rate of removal particularly in consideration of the main prey source in that mountain range is elk, rather than deer.

Commissioner Arvas Do we look at the public lands the same as we look at private lands in terms of these numbers?

Rick Winslow Yes, essentially because what we're looking at is habitat available rather than good land management of that habitat.

Commissioner Arvas You don't have any problems with landowners?

Rick Winslow Not particularly. There are areas of the state that we have more depredation complaints on, but the most part is evenly spaced out across the state.

Commissioner Salmon How do you factor in harvest of furbearers particularly by trappers? Trappers almost universally trap along roads. Hardly anyone goes into the wilderness with a pack horse and sets a trap line like they did 150 years ago, so areas that are road accessible get trapped more heavily but we have many roadless areas in the state that hardly get trapped.

Rick Winslow Essentially we have the statewide population range and the population estimates based on habitat. How differential trapping in different parts of the state works out is the grand equation rather than thought out on that level. What you end up with in that situation is *de facto refugia*. Throughout the state any large wilderness area would be essentially *refugia* where there's very little to no trapping.

Commissioner Salmon Would it be possible for the Department if it found that certain areas which were readily accessible by road were being trapped heavily, could you enact regulations to limit the harvest there to avoid over

harvest and be more liberal in those areas that are less accessible? Can you be that specific in setting up furbearer harvest in the future?

Rick Winslow With the mandatory reporting system, we will have a much better idea of where exactly we are having particularly heavy trapping pressure and/or harvest through other methods such as calling and shooting or anything like that. Once we have that data for a year or 2, we can tell where some of these heavy-pressure areas are, then it will be easier to make regulations county specific or game management unit specific that would be relevant on that level.

Chairman Sims In 19.32.2.14(B) reads "every person who presents a bobcat for tagging shall display a current trapper license except residents 11 years of age or younger." They don't have to have a license at 11 or younger? Rick Winslow Essentially, yes, that's the right answer. As Mr. McDowell had sent us a number of recommendations on things we could clarify and re-define within the regulations and we're working on doing that, that's 1 we're definitely going to do, so a trapper under 11 years of age is not required to have a trapping license.

Chairman Sims Now, someone with him is driving him on the trapping line I assume.

Rick Winslow One would assume so.

Chairman Sims That's a hole for somebody.

Commissioner Arvas It would probably help the Department if we make a motion to clearly explain what we expect the Department to bring back to us in September. Rick, it's important that when you come to the meeting in September, that all of the information presented today be incorporated in your presentation, because unfortunately, we don't have any continuity with the public attendance factor and I feel after your public meetings and everything that you do to get to that recommendation needs to be clear at that time.

Director Thompson The intent here, and I appreciate the Commission's attention, is to provide a way to organize and display the information that's fundamental to making these kinds of harvest-management decisions, and in part to place the Commission in a role of natural resource responsibility. I need to mostly stress that with a favorable vote from the Commission, we will then begin working with all the various interests that we have to refine and improve the numbers that Rick has talked about. Nothing was presented today that is a firm and final thing. This was about an approach and it's something that will be very important and will strengthen the position of the Commission later.

Burt Ancell I'm from the Bell Ranch in Unit 42. I visited with Rick in Raton and the people in our region have a problem with mountain lions. We have depredation to horses, cattle, elk and deer populations, we have death to antelope, and we don't have a good hunt success rate ratio because we don't get snow like other places do. We just want a better assessment of how many lion are there and with what Rick's told me, if that comes about the people in our region would be appreciative of it.

MOTION: Commissioner Arvas moved to direct the Department to further develop the resource foundation matrices as important support information for final harvest management recommendations to be considered by the Commission in the fall of 2006. Commissioner Salmon seconded the motion.

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

Commissioner Arvas Rick, on that request that Mr. Ancell made, it's very important that you keep the Commission aware of the type of special effort you're making to address the concerns of an individual landowner who wouldn't be here if he didn't think he had a problem. If you gave us a report of what your activities were on the Bell Ranch or any other ranch that's significant in terms of the complaint would be appreciated by the Commission.

Rick Winslow One of the ways we're looking at this is, especially in regard to lion management throughout the state, there may be areas where we need to have particularly specialized management for 1 reason or another, and that could occur anywhere.

AGENDA ITEM NO. 14. Presentation of Information Regarding Waterfowl and Migratory Bird Regulation Frameworks, 19.31.5 and 19.31.6, NMAC.

Presented by Tim Mitchusson - The Department presented information illustrating the federal frameworks that will guide states in the development of annual waterfowl and migratory bird harvest rules for the 2006-2007 hunting season. Additional information will be presented regarding a variety of adjustments being considered during this development phase.

Commissioner Henderson You mentioned environmental impact opportunities, and it's 1 thing for us to provide information to you, it's another thing for you to provide information to us to respond to. When will you have something that we can react to as a Commission?

Tim Mitchusson Through the Flyway Council, and it passed with Director Thompson's help, we did address a letter to the Fish and Wildlife Service regarding the issues that are important to the Central Flyway, and I do have a copy if you'd like to see that, which mainly involved every issue that we thought involved hunting. We want them to address it and as part of their draft we will respond to those issues.

Commissioner Henderson I'd actually like to see those. Last year with your presentation, 1 of the concerns of the Commission was, are we actually being heard, are we making a difference at the Flyway Council, what's your sense? Are our concerns being heard by the feds?

Tim Mitchusson We do let the Fish and Wildlife Service know what our concerns are, whether they take action on it or hear it, that's another matter. They tend to believe in very conservative approaches to regulation changes and currently there's a big fight within the Flyways and how the Service is directing all the flyways concur on something whereas in the past we had flyway differences and they allowed that, so with this new director we might have more input than we did in the past.

Commissioner Henderson There is obviously a lot of press coverage and everything else about avian flu, do we have a plan? It's migratory birds that are going to deliver it, if it's going to be delivered, do we have a plan for that in the state?

Tim Mitchusson Yes, we do, we are developing a state plan. We developed the flyway plan, we're developing a state plan. Currently, we've applied for \$50,000 from USDA toward testing for avian influenza. Our state plan is that we're going to attempt to test or get samples from 200 lesser sandhill cranes, try to get 200 snow geese samples since some of those birds come from Wrangle Island and originate in the Pacific Flyway, and another 100 pintails. We'll take some opportunistic samples from Greenwinged teal and Mallards and things like that, but those are our 3 target species now. Last year we were doing all the samples for the Lesser Sandhill cranes and everything came back negative. Avian influenzas have always occurred and the biggest die-off has been about 6,300 migratory birds and we'll have 1 million die from botulism in Canada, so as far as the migratory bird issue, this is pretty minor. As a potential human issue, that's where all the fuss is being made.

Commissioner Henderson Right. We just need to be able to respond. The public is going to react if not over react and we need to be prepared for that.

Tim Mitchusson We are testing for it.

Commissioner Salmon What's the overall trend of the collared dove in the state for the population trend, does that come under federal regulation or is it strictly under state control?

Tim Mitchusson From what I've seen, collared doves are going through the roof. In fact, I'm having a hard time counting doves on some of my surveys due to the number of collared doves and be able to differentiate the 2 when I'm driving past them. Right now they are considered a resident game bird, they're not under federal restrictions so if the state chose to take them off the protected list, we could. Some states have no season on them and they're unprotected. Under our legislative authority, all birds under columbidae are protected except for Rock dove. We'd have to go to the legislature and get them to declassify it as a game bird, but it is up to the Commission's prerogative to manage those birds however they desire. Currently, through regulation changes in 2005, we have no bag limit, no possession limit on collared doves until the Mourning dove and White-wing dove limit are achieved.

Commissioner Arvas One thing I'm going to recommend is when you make your recommendations I want you to highlight them and then be sure it's clear as to the changes you're going to recommend from last year's proclamation. The Eurasian dove, I thought we solved that last year with the incorporation of that into the bag limit and you're going to keep the same recommendation you had last year?

Tim Mitchusson Yes, and as an update, get it out front on what some of our proposed changes next year are for small game and waterfowl, we're going to propose eliminating the Valencia County pheasant draw, but still allow private landowners to hunt pheasant. People got permits and they were rather disappointed that this was a quality hunt. The second is to promote adult pheasant hunting at Casa Colorada a week after our youth hunt, to increase permits for Estancia Valley crane hunt and to add another weekend, and to also increase the bag limit. We are going to expand that hunting opportunity, increase the crane possession limit for the Middle Rio Grande, instead of 2 we'll increase that to 4, part of that is because of increase in our harvest allotment and then for the southwest, we're

proposing changing the bag limit, increasing it to 3, during the November season, and because we really want to sample those Lesser Sandhill cranes as part of this avian influenza testing. We're going to change the Bernardo youth hunt north of Highway 60 from the youth-adult hunt to a youth-only hunt. We started having conflicts again as we did in the past, when the adults come in they don't act like adults. In the Middle Rio Grande valley we're proposing adding another 7 days to that dark goose hunt giving hunters 2 weekends to hunt. The last thing is that we're proposing closing the WSHuey Wildlife Management area to crane and waterfowl hunting for a few years trying to build up those populations.

Commissioner Arvas We're still going to be using the licensing approach we had last year for monitoring harvest goals?

Tim Mitchusson Yes, I am.

Director Thompson To emphasize a point regarding Commissioner Henderson's question, we'd be remiss if we didn't acknowledge that the Department of Health and the Department of Agriculture are important players with respect to Avian influenza and possible considerations. In actuality were it detected the responses would come more under their aegis than it would under the Department of Game and Fish. Tim was commenting primarily on the surveillance plan which the Department of Game and Fish has a particular role in conducting and health and agriculture do play a big part in this as well. The other, because we've heard what the Commission has asked in the past, I'm now attending the Central Flyway Council meetings on behalf of the Department. I started in March and will do so in Colorado, and will determine whether it will be Director or at least Assistant Director level participation in this. We'll ensure we continue to hear your interests and that we have a place at the table for these kinds of deliberations. Tim has a long-standing involvement at the Tech Committee level there, so I hope that is a reasonable response to the interests that have been expressed.

Commissioner Henderson Tim, you made a comment about the pheasant hunt in Valencia. It's my recollection that we liberalized the season last year to accommodate landowners. Are you going to recommend backing off of that recommendation?

Tim Mitchusson No, we'll still allow the landowners to hunt. It's just that we're going to close that to the public hunt so we're not going to have a draw or allow public hunters.

Commissioner Henderson So the private landowner will have their recommendation on who hunts and who doesn't?

Tim Mitchusson Yes.

John Boretzky I would like to take this opportunity to make a public statement and I will warn you I have 2 ulterior motives. We need to get information out and the second is that I'd like to see the Department address an issue in a pro-active manner. I understand that we're under treaty constraints from the Fish and Wildlife Service, however, there's something that the outfitters are beginning to observe. A number of outfitters have dove-hunting operations that operate in Sonora, Mexico, during the February timeframe. What we're beginning to see are fewer dove in Sonora during this February timeframe. At the same time, and again this is anecdotal information and not empirical, we are seeing more dove particularly in the Bootheel area of the state during this same period of time. We're getting reports from javelina hunters who are telling us there are dove everywhere. We know that there's a climate shift. We're beginning to see javelina as far north as Socorro, White-wing dove that 10 years ago were an oddity in Las Cruces are now wintering in Española so we're beginning to see the start of a trend. I'd like the Commission and ultimately the Department to take a look at this information and begin laying the framework at the conference with the feds that we can increase to a February dove season in the southern part of New Mexico. I would also encourage that to be for Arizona and Texas. What we have is an opportunity that is being pressed on us by climate change for an economic boost to those areas during a period of time when there is no other particular hunting going on. We can start looking at the possibility of extending our dove season into the February timeframe and take advantage of what nature is doing to us.

Tim Mitchusson Fish and Wildlife Service is currently concerned about Mourning dove populations because they've been showing a long-term decline especially over the last 30 years. Expanding more hunting opportunity when they are declining probably will not be approved by Fish and Wildlife Service.

Discussion item only.

AGENDA ITEM NO. 15. Presentation of an Approach to Inform and Promote Quail Habitat Management in New Mexico.

Presented by Tim Mitchusson - The Department discussed the utility of developing quail habitat management guidelines that provide meaningful information to land managers about quail habitat requirements and management considerations that are unique to New Mexico as well as a strategy to promote the use of these guidelines.

Commissioner Salmon In the last couple of weeks I have heard from a number of people involved in quail organizations who feel that we should be doing more or should be taking a more aggressive approach to improving quail habitat, in particular in regards to working with the land agencies that control this quail habitat, BLM, Forest Service, and the State Land Office. I'm not sure how to do that, or even how much influence we could have, but what I'm voicing is not so much my own complaint, but the quail hunting groups that I've been talking to feel that we should be doing more, and to take a more aggressive approach and try and work with these land management agencies to improve quail habitat. There is a general discontent amongst the quail hunting fraternity that we could be doing more.

Tim Mitchusson If we develop these quail management guidelines, it's possible that we could develop MOU's with the BLM and the Forest Service to adopt these guidelines within their agencies and it would not require the formal process of going through a state plan, so we could still achieve their wishes but not have to go through this planning procedure.

Commissioner Salmon I'd like to hear some of these quail hunting organizations if they're here, what their suggestions might be and perhaps take the time to look at these suggestions before we make any final decisions.

Angel Montoya I'm representing Quail Unlimited, southwestern chapter in Las Cruces. We're participants and co-sponsors of the quail workshop that was put on in Las Cruces in 2004. Our organization is dedicated to improving quail habitat and quail numbers and opportunities for hunters in New Mexico. We're very interested in working with the Department and have worked with the Department on a variety of projects and quail-management issues. Over the past few years we've participated in management projects with both the Department and with land-management agencies such as BLM and the Forest Service. Our President feels that from that workshop in Las Cruces what came out was that the Department would develop a quail management plan and that's what we felt the outcome of that workshop was. At that workshop there were several renowned quail biologists and experts such as Fred Guthery and Dale Rawlins, personnel from Arizona Game and Fish, and Tom Waddell from the Armendariz Ranch. These individuals made various presentations on quail management and research and the goal of the workshop was again to provide expertise on developing a quail management plan. We feel that's the approach that the Department should take. We feel that the current proposal is a great start but it should not be the final outcome of where the Department goes with quail management. There are a lot of other issues that need to be addressed and by developing a comprehensive adaptive management plan, you could address some of those issues. One huge concern that I personally have is how we are going to get buy-in from those agencies and private landowners. The Department has a lot of incentive programs that need to be addressed and private landowners are a huge resource and manage some of the land that we're talking about and we should address them in the quail management plan. We feel that there are a variety of other issues that need to be addressed such as biological information on quail, goals, and objectives of the Department. We also need to have some monitoring in place of some kind whether it be pilot projects or of the overall plan. We feel that the Department needs to have some monitoring and evaluation in place for the entire program. John Moen, our President, asks that the Commission postpone any decision on this until we have a little more input.

Bill Ferranti I'm with Torstenson's Family Trust and Wildlife Center. We're talking about quail and in fact last week we were approached about hosting quail appreciation day at the ranch this summer, and we had an organizational meeting last week and the date has been set for August 12. We're in the process of securing different speakers for the agenda and we invite the Department of Game and Fish and the Commission to be participants. We're having 50-100 people there and it will be oriented towards kids. It'll be broad based and something to have fun with and enjoy quail.

Barbara Coulter I'm representing the New Mexico Wildlife Federation. I was given a letter from them and I figured I'd pass it on. It was written by Jeremy Vesbach, the Executive Director, and he mentions a strategy to partner with land managers on pilot habitat improvement projects, a strategy that incorporates available incentives and

partnership options, strategies to include improved monitoring, to improve the Department's capacity and strategies to engage the interested public in management.

Commissioner Henderson I concur with what Angel Montoya said that this is a great first step. We need to establish guidelines. We're in a unique opportunity to utilize this resource but I don't think we ought to stop there. I think that we have an opportunity to develop a comprehensive plan, and build it into our larger wildlife comprehensive plan. We ought to take advantage of this opportunity and this resource to further our management in the state. If and when we do it, we need to be clear about timelines. Let's set ourselves up to accomplishing whatever planning we decide to do within a designated timeframe.

Commissioner Arvas We need to take a slight different approach to this than what was recommended by the Department initially. We need to look at quail as a upland game species that we really haven't bothered too much with in the past and it's a resource that's been ignored and as you've probably heard other folks complain that we have a tendency to put all of our resources in the big game because that's of great interest to a lot of folks and, of course, it's a great revenue producer. We may have an opportunity here with the help of Quail Unlimited to magnify the importance of an upland game bird species that we do have the possibility of doing something with. I have some figures here that I'd like to read to the public. Mr. Moen, President for Quail Unlimited, said that "in 1992-93, New Mexico Game and Fish annual report stated that 25,800 hunters bagged 318,000 quail. The economic boost using a very conservative estimate of \$50 per day per hunter is \$5.2M." This Commission has always been concerned about the economic benefits to the state.

MOTION: Commissioner Salmon moved to defer the suggested motion and direct that the Department get together in the next few months with Quail Unlimited, the Wildlife Federation, and the other affected groups to see if we could not get them a little bit closer together on a compromise or agreed upon motion for a more comprehensive quail management program, and that the Department be directed to affect this gathering and talk by September, 2006. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 16. Update on Rocky Mountain Bighorn Sheep Trapping and Transplanting Activities for 2007 through 2009.

Presented by Eric Rominger - The Department presented a review of previously accepted bighorn sheep trapping and transplanting plans in addition to new information for Commission consideration. Commission action was requested regarding direction to the Department for enhancing bighorn populations through transplants statewide.

Chairman Sims Is that as much as we're going to lose in the San Francisco River herd, or are we going to continue losing sheep that way?

Eric Rominger Often we see these die offs continue for 6 months or more with chronic pneumonia dropping off or a high proportion of the lamb production being lost. There were a high number of lambs. People were on the ground to meet the helicopter on Sunday, they went out and saw only 7 ewes in the whole herd. The good news was that there were 7 lambs, but I'm afraid those lambs are at that age where their immune system drops off and so we expect to lose a high proportion of those lambs. Often in pneumonia die offs you lose 80%-90% of the lamb crop, so we're not out of the woods yet. We hope to know more following that helicopter survey to see whether that die off of 44% of the radio collars is representative.

Chairman Sims Where does the pneumonia stem from?

Eric Rominger We don't know. Our best hypothesis is from domestic sheep and there's a domestic sheep operation downriver in Arizona and some of the radio collared sheep from New Mexico were in the vicinity of that ranch about the time of the rut which is in late November/December. If we were to speculate, it was contact with those domestics in Arizona.

Chairman Sims When we talk about the Dry Cimarron, we actually have a small population there that's augmented from Colorado, correct?

Eric Rominger In the late '70's, Colorado released bighorn sheep in what they call their Carrizo Unit north of the Dry Cimarron. That small population has persisted for nearly 30 years and bighorn sheep were reported in New Mexico, In fact a photo was in the sporting goods store here in Clayton, so that's what initiated our interest in the Dry Cimarron country. We came out last year to see that photograph in the store, so the prospects of releasing sheep

and creating a small population with the Colorado population is a possibility and we're currently in contact with Colorado Division of Wildlife personnel.

Chairman Sims How are their herds holding up? Are they multiplying?

Eric Rominger The report I have from Colorado Division of Wildlife is that that population has been stable at about 50-60 individuals. The adjacent population in the Purgatory River north and east of the population has been quite large at 300-400 sheep, so it's done better although I suspect the Purgatory River is a bigger piece of habitat than the Carrizo Unit in Colorado.

Commissioner Henderson What's the health of the population of the Rocky Mountain Bighorn sheep now?

Eric Rominger Interestingly, this year we topped an estimated population of 1,000 Rocky Mountain Bighorn sheep statewide, first time since pre-European contact of Rocky Mountain Bighorn sheep in New Mexico. Most of those are in our alpine populations. Latir, Wheeler Peak, and Pecos comprise probably 800 of those sheep. The Manzano, and Turkey Creek populations are small although healthy. The San Francisco River population went over 100 this fall and the helicopter survey first time in over a decade. This pneumonia die off we're experiencing was potentially up to 50% of the population having died since Christmas.

Commissioner Henderson Are we re-introducing sheep into that area, and are we going to be addressing this issue in the future or am I looking at geographic separation?

Eric Rominger We had discussed the fact that Taos Pueblo's Wildlife Department has offered to jointly conduct a bighorn sheep transplant in August out of the Wheeler Peak population in the Rio Grande Box. This land is jointly managed by Taos Pueblo on the east side and BLM on the west side. The proposal would be to release up to 40-50 bighorn sheep in an August capture, Taos Pueblo capturing on their side of the mountain and the Department capturing on the Forest Service side of the mountain.

Commissioner Arvas Will that be an even number, in other words we give them "x" number and they give us "x" number?

Eric Rominger The objective would be that they capture equal numbers on their portion of the Wheeler Peak population so, on the Taos Pueblo portion of the Wheeler Peak population, they would capture 20-30 Bighorn sheep. We would attempt to catch 20-30 on the Forest Service side and they would release them on their side of the river, we would release on the BLM side of the river.

Commissioner Arvas Is the gene pool the same?

Eric Rominger Absolutely, this is the population that New Mexico Department of Game and Fish started in 1993 on Forest Service lands and it has gone on to Pueblo property in the ensuing 13 years. There are too many sheep on both sides of the line so both agencies would like to remove bighorn sheep from their properties.

Commissioner Arvas Is there also a numerical number of rams, ewes, and lambs that you try and do in a transplant, or is it just whatever you can get?

Eric Rominger The objective often out of our Red Rock facility is to take equal numbers so that we don't leave rams behind. In hunted populations and when we start a new population the emphasis is on ewes and young rams so we would not target huntable rams out of that population because they don't live long and the potential to lose hunter opportunity.

Commissioner Salmon The Red Rock refuge has been used to produce Desert Bighorns for sometime and is obviously good sheep habitat and contiguous to that refuge is a large BLM area known as the Gila Lower Box. I've often thought that that might be a possible release point for sheep expansion and I wonder if that area has been considered. Upstream 20 miles or so, on the Gila is the area known as the Gila Middle Box which is also a mountainous sheep-like terrain and certain old trappers reports from the 19th century indicate that sheep lived there at 1 time. It seems to be at least as good a habitat as what you'd find around Turkey Creek. Has the Department ever considered either the Gila Lower Box or the Gila Middle Box as a possible release site for expansion?

Eric Rominger The Desert Bighorn sheep habitat assessment did look at what's called Carlisle Peak which I think is directly west of the Red Rock facility. I'm not sure that it encompasses the Gila Lower Box although those 2 pieces of property are fairly close together. The size component was what ranked that country lower than other places like the northern San Andres or the Sacramentos or the Caballos, but it has been looked at and is an option for future transplant. The Upper Box I'm not familiar with other than the fact that there have been sheep come out of that Turkey Creek population across the highway downriver and probably Rocky Mountain Bighorn sheep are getting close in that country if they haven't been in it.

Chairman Sims So they will hybridize?

Eric Rominger Yes, this is 1 species and it's a subspecies.

Chairman Sims Is that a problem?

Eric Rominger Biologically that's not a problem, but Boone & Crockett-wise that would be a fairly big problem.

Commissioner Pino In the past when you have the trapping and the transplanting, Commissioners have been invited to be part of the activity. For the activity planned for August of this year, would the Commissioners have that opportunity again?

Eric Rominger This trap in August, and we have dates--potentially we're meeting with the Taos Pueblo to consider those dates. August 9-15 would afford opportunities both at a base camp out of the Taos Ski Valley or a drop-net capture where you would hike in probably from Goose Lake although we may have an option to drive to a drop-net on some private property on Wheeler Peak, so yes the opportunities would be there.

MOTION: Commissioner Arvas moved to affirm the Department Rocky Mountain Bighorn sheep trapping and transplanting activities for 2007-2009 as discussed today and direct the Department to designate a Dry Cimarron River Bighorn Restoration Project, the boundaries of which will be defined by the Department working with the Commission Chairman, local citizens, landowners, and sportsmen and to seek partnerships with private landowners to enhance wildlife habitat for all wildlife, but specifically for Bighorn sheep in the defined area. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 17. Director's Recommendation Regarding Headwater Chub Investigation.

Presented by Stephanie Carman – The Department presented the results of the investigation of headwater chub *Gila nigra* 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 subject to statutory public review.

Commissioner Arvas The difference between the Headwater Chub, Roundtail Chub, and the Gila Chub, are they fairly obvious?

Stephanie Carman Morphologically, physically, no.

Commissioner Arvas How do you know that?

Stephanie Carman It's very difficult to tell them apart. A lot of it is based on size. There's investigation going on into the chub complex as it's called because it's rather complex. Right now, the primary way that we're telling them apart is by where they live. With the forks being headwater, mainstream being Roundtail and the Headwater and Cienega areas being Gila Chub, but there are some morphological differences, and genetically if you can take a tissue sample, you can tell them apart.

Commissioner Salmon The chub is deserving of this listing and I've found the fish to be fairly common particularly in the East Fork of the Gila, but the range of the fish is certainly limited to the forks area and they don't go up the forks all the way, so you're probably looking at a total of 30-40 miles of total habitat which is not a lot of stream habitat. I would go along with this listing even though I'm a bit nervous about some of the genetic distinctions. I would recommend, regardless of how the listing procedure comes out, I know for a fact that people catch these chub in the forks area fairly often. While they're fishing for other species they'll hit flies, lures, hellgrammites and I can tell you that a lot of the local people who catch them don't know what they are. They're apt to do 1 of 2 things—they think they're trash fish and they throw them up on the bank, or they think they're some kind of trout and they go home and try to eat them and find they're boney and they're disappointed and they don't know what they've done but in any case they've killed a threatened species or a rare species. I would recommend that whenever available, the Department include in the Fish Proclamation a good color photograph of a Headwater chub and a good description of the species, and where they live and to advise people that if they catch 1 that they need to turn it loose, there won't be any fine/citation or anything. You can catch 1 incidentally, just release it into the water and also encourage them to let the Department know where they caught this fish and what it looked like and so forth and it might lead to some valuable information that we can use in the future. This is a common problem when you have a native species living amongst non-native species. This Headwater chub is living amongst small mouth bass, channel catfish, carp, and crawfish, which aren't fish but affect fish and once you list the fish, what do you do about it? I encourage the Department in its attempts to revive and help this Headwater chub that we use sensible programs and not get

involved in total eradication regimes trying to get rid of every non-native fish in the river because of the extreme public reaction.

Director Thompson I'm going to read a brief statement that is the Director's recommendation: "As provided for in the Wildlife Conservation Act (WCA; 17-2-40, NMSA), the Department has completed the listing investigation for headwater chub (*Gila nigra*), and a Director's recommendation is required by statute for further consideration. The headwater chub was previously afforded protection by virtue of it being a subspecies of the specially protected Roundtail chub *Gila robusta*. Pertinent state protection was lost when taxonomic revisions changed headwater chub to full species. Listing headwater chub under the WCA will provide the species protection, enable recovery efforts specific to this species, and help to ensure success of recovery for the entire *Gila robusta* complex in the Gila River basin of New Mexico. State recovery planning is currently underway for Roundtail chub and Gila chub. Listing of the headwater chub will allow completion of a single recovery plan for all 3 species anticipated in late 2006. Based upon information contained in the Listing Investigation Report, which was unanimously supported by the peer review panel, I recommend proceeding with the process to list the headwater chub *Gila nigra* as endangered under the WCA. I offer this recommendation with a request that the Commission direct the Department to conduct the statutorily-required public meetings regarding the proposed listing under the WCA, and report back to the Commission following these public meetings with a final recommendation regarding the WCA listing of the headwater chub."

Commissioner Henderson Bruce, you have a timeframe for providing for public comment in your recommendation? Director Thompson The statute requires within 6 months. It wasn't specifically stated in the recommendation.

MOTION: Commissioner Henderson moved that the Commission adopt the recommendation of the Director for listing of the Headwater chub as stated. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 18. Consideration of Special White-tailed Deer Hunting Opportunities in Eastern New Mexico.

Presented by R. J. Kirkpatrick – Department staff presented perspectives on white-tailed deer distribution, current harvest regulations, and prospects for additional hunting opportunities. Commission viewpoints were requested regarding how such opportunities may be included in the 2-year regulations cycle.

Chairman Sims Through a large landowner group, it came to my attention that there's a tremendous amount of whitetail deer that are growing rapidly and they're interested in hunting these whitetail during the rut which is in November. Their concern is not to keep the numbers down but to keep the whitetail deer down in the river bottoms away from their mule deer, and 1 problem in that is if we can develop some kind of special hunting opportunity for those, but in most cases, the vast majority of whitetail habitat is on deeded land, so it's not producing a public-hunter opportunity *per se*. If we did that, can we do it like we do antelope to where there are landowner tags given out in a specific season along with a proportional amount of public hunters for ranches that do want to sign up and take part in a program.

R.J. Kirkpatrick Currently, private landowners in this country [northeast New Mexico] are not awarded any deer permits necessarily from the Department. They're able to purchase licenses from any vendor and be able to hunt. The exception to that are ranches that are in the private land deer conservation program. I suppose the Department could entertain language in the rule that allows us to issue private landowner special permits or authorizations to hunt whitetail deer on those deeded lands. The question would be whether or not that would be in addition to or *in lieu* of hunting mule deer.

Chairman Sims It would be a completely different season, and my thoughts would be a later season that can actually be a combined hunt with elk, but combine that with antelope to where you have a certain number of private tags that you have to accept a certain number of public tags with that and not interfere. You could still go do your mule deer harvest.

R.J. Kirkpatrick We could entertain that as well, establishing a special unique season during the rut window implementing a season whereby we allocate some number of permits/authorizations to private landowners with the agreement they've got to allow some public-hunting opportunity.

Chairman Sims In Texas, you can buy a license for a mule deer. It seems more hunters get out and hunt a different species.

R.J. Kirkpatrick To clarify, you're asking us to look into setting up a system like antelope in that private landowners in these areas where we have the whitetails would have the ability to come to us and request to hunt whitetails. We would afford them some landowner authorizations but with the agreement that in association with that they have to allow some number of public-hunting opportunity and we'd have to devise a way to distribute that hunting opportunity to the public.

Chairman Sims It wouldn't interfere with getting a mule deer license?

Commissioner Arvas I remember all the problems the Department had in starting the antelope system we now have, but the big difference is you're not going to have as much public land intermixed with private lands. It's going to be more of a private land hunt.

R.J. Kirkpatrick I would suspect that 80%-90% of where these whitetails exist is private property with the exception of Otero County in Unit 34, that's public Forest Service property.

Commissioner Arvas I sure wouldn't want to burden the Department with going into something as elaborate as the antelope system we have because not only is that burdensome, it didn't work initially and it's working fairly well now, but it took a lot of years.

R.J. Kirkpatrick Now that I have a sense what's being asked for us to go look into, we'd make every attempt to simplify the process. We could offer this additional opportunity and it's not an administrative burden.

Commissioner Arvas For whatever reasons, the last 5-10 years the whitetail hunting has become a big deal. In Colorado/Kansas I'm wondering if they're not a more-preferred species to hunt because they attract a lot of interest from hunters and that's a good economic opportunity for us to use that as an economic force in the areas where we're not getting as much mule deer hunting.

R.J. Kirkpatrick What I heard is that you'd like for any individual that did get a private-land authorization or a public permit to partake of that special whitetail hunting opportunity, it would not prohibit them from hunting mule deer under a different license or tag?

Chairman Sims Bruce, do you see any problems with that?

Director Thompson There probably is some consideration here regarding the statutory requirements of how many licenses a person may hold and what they might execute with the Commission's permission or flexibility. We should investigate some options as to how we might provide these additional opportunities. I say this because we have provisions for a deer license in statute, and 1 may only hold 1 deer license a year, but a possibility here is that these additional opportunities would be available to someone who was not successful during a mule deer hunt but could use their deer license for a subsequent whitetail hunt, so if you're willing to allow us some flexibility, we'll investigate what the options are. I defer to R.J. in case there's an initial thought he has on that.

R.J. Kirkpatrick Dan Brooks and I looked into that briefly and we need to research more, but it appears that even statutorily, you can have 2 deer licenses. There are some economic considerations involved where we can charge no more than \$5 for that second license. We do have the ability to allow an individual to have 2 carcass tags of a species if regulation allows for that, which is your purview, but we'll investigate it thoroughly and as we proceed over the next 3-4 months in the development process, we'll touch base with you and when we have something substantive and concrete, we'll put it out for public comment.

Chairman Sims Would that take legislative action?

R.J. Kirkpatrick I don't believe so, but I'm not 100% sure.

Chairman Sims It's something to look into but the more hunting opportunity we have the better.

Alvin Garcia I want to mention the fact that we have the Coues whitetail population in the south and that's using a regular deer tag, but those hunts are difficult to get. Do you need to address that in your process? Do you need to segregate the Coues whitetail as an additional subspecies of deer? If you're going to segregate whitetail, this would be the time to do it.

R.J. Kirkpatrick The Big Game rule we're operating under currently, we did segregate unique hunting opportunities specifically for Coues whitetail deer in southwestern New Mexico, which is the only place they exist in the state so that's already been done regulatorily. Implementing a system to hunt Texas or eastern whitetails would be a process similar to that in that we're identifying a unique timeframe and a unique species in certain game management units.

Commissioner Henderson When you come before the Commission, I need to be reassured that we have the biological information in place that this is actually an established population. The Department has done a great job of establishing biological justifications for all decision making and I want to make sure we continue to do that.

R.J. Kirkpatrick I suspect that our population information on specifically these whitetails is going to be fairly thin compared to other species that we do target and prioritize our efforts.

Alvin Garcia I don't know whether other states regulate the manner and method involved in stand hunting, because hunting whitetails is different than hunting mule deer. You need to address the manner and method and address stand hunting which is how it's generally done in other parts of the country.

R.J. Kirkpatrick There's no prohibition against using tree stands currently in New Mexico with the exception of the placement around man made waters, but if that became an issue, we'd want to address the manner and method which is all in the purview of the Commission and rules.

Commissioner Pino Is there any reason why we have to call it Texas whitetail, these are deer in New Mexico?

R.J. Kirkpatrick No, sir, we can call them whatever the Commission would like. Texas whitetail is a common, everyday term for the eastern whitetails, although there's a bit of distinction in that most of the eastern whitetails that exist in Texas are smaller in size. They've changed over time. I don't think there's a sub-speciation that's proven anywhere genetically, but we can call them eastern whitetails or whatever.

Commissioner Pino I recommend that we just call them whitetail. The other comment is that this is a new breed of deer coming into New Mexico and establishing itself and I'm concerned that we're going to hunt them before they get established and we may be doing this too early. I'd like to suggest that we continue to hunt as part of the mule deer license system, and that's you can take 1 deer, and let's go slow on this and I would not be in favor of doing a separate hunt for whitetail separate from mule deer.

AGENDA ITEM NO. 19. General Public Comments (Comments Limited to 3 Minutes).

Public Comments:

Ron Shortes In my efforts to be brief earlier I forgot to mention that on the elk management issues that R.J. was talking about 1 thing that Jacob and Micah did mention in Catron County is that on the special management units that are ranch only and therefore don't affect the rest of the unit directly. We'd like to see about the possibility of the Department considering slightly expanded seasons.

Jimmie Taylor I'd like to talk about deer hunting for youth. The closest place for us to put in for youth hunt is in Chama. I'd like to get 10 youth hunt licenses in Union County because our hunting in New Mexico is going to be kids. If we can get kids to start hunting now, we'll have safer hunters later on.

Chairman Sims For mule deer?

Jimmie Taylor Yes or just a deer hunt. We've got 2,442,880 acres in Union County, 441,946 are state land. We've got Unit 56 in Union County with 60 licenses. This is just rifle.

Chairman Sims Ten permits?

Jimmie Taylor If at all possible or somewhere closer to Union County.

Commissioner Henderson Put it in the discussion of the Proclamation.

Chairman Sims R.J., will you take that into consideration? Get back with Jimmy and see what we can do.

Jimmie Taylor We've got 441,946 acres in Union County that are state land and none of it—when you're out hunting state land and if you get drawn, you can hunt state land but a lot of the state land people don't know where it's at, and I'm not sure where I'm at and the guy that owns the private land comes up to me and tells me I'm on private land, and if you're not sure exactly where you're at, he can bully or run you out of that state land. If there's a way we can mark our state land as it's done in Colorado. Every piece of state land doesn't have to be fenced. Right here on Rabbit Ear Mountain, I believe there are 6 sections of state land. That's quite a bit of state land, but there's no access to it and there's no way to get in.

Commissioner Arvas You know what that's called?

Jimmie Taylor Land locked.

Commissioner Arvas That's right. We're working on a program called P.L.E.A.S.E and what we're going to do is pay the landowners so much an acre to allow public hunters to come onto that property and obviously, if we can get by that first group of people, then we can actually get to that public land. That's the whole point, so by accessing 100-1,000 acres, we can have 6,000 we can hunt on that we've never had that opportunity before because of the land lock situation. What you might want to do in good faith is get together with R.J. and decide that you'd like to have 10 youths hunt on your property if your property is big enough.

Jimmie Taylor I don't believe we're big enough.

Commissioner Arvas Just to show your good faith and you get your neighbors all excited about doing that.
Chairman Sims That's what we're trying to do with this P.L.E.A.S.E Program through private land to get to the blocked state lands. We had success and it may take a while.
Jimmie Taylor We'll put up 2 youth hunts.

AGENDA ITEM NO. 20. Closed Executive Session.

The Game Commission did not enter Closed Session, and continued with remainder of agenda.

AGENDA ITEM NO. 21. Update on Land Conservation Funding Project Reviews, Process Modification, and Related Actions.

Presented by Lisa Kirkpatrick - The Commission was requested to review the process developed for the selection of projects to be funded with the Land Conservation Appropriation. Previously selected projects were reviewed. The process and the selected projects may be modified based on Commission review.

Chairman Sims Why would they be concerned that their project would not be viable?

Lisa Kirkpatrick The 1 they're working on right now, the landowner is asking for a current easement across the property and it's an area of threatened and endangered species habitat, and if that easement were to be maintained across the property by the landowner, it would affect the viability of that property as habitat and so if that is the case, it doesn't meet the objectives of the project.

Chairman Sims Out of the 14 properties that we already have how many of those properties actually have current appraisals?

Lisa Kirkpatrick One, Horse Springs is completed. That 1 had the appraisal and this other 1 that has the easement problem now, the appraisal was just completed.

Chairman Sims So re-opening it wouldn't be foul to any of those but possibly the 1 that would have to get a new appraisal if the process took more time?

Lisa Kirkpatrick As far as appraisals, that's correct.

Chairman Sims The money in there was the important thing?

Lisa Kirkpatrick Right. There are a couple of them that we're trying to work out access issues on and I don't know what they've had to go through in those processes, but as far as I know the appraisal has been completed on 1 of them.

Chairman Sims Is opening this proposal up adding time to what would have been the timeline on the 14 original properties? Is this going to take more time looking at more properties if we hadn't looked at other properties and opened this up and stuck with the original 14 properties?

Lisa Kirkpatrick The appropriation itself is valid through June, 2010.

Chairman Sims So in all actuality, we're not adding time?

Lisa Kirkpatrick Right. The time to spend the money won't change. The projects themselves if the Commission chooses to put the list of 14 on hold while we go through this process again, then they'll be on hold and we still have that same timeframe to complete them. If you choose to go forward with some of them, then they continue as we're gathering the different proposals.

Chairman Sims It would be appropriate to let all of the 13 know that we're looking at doing this especially if they're involved in actively seeking appraisals because they may want to postpone those appraisals because values change all the time. If we're going to do this, we need to make sure that the other 13 parties are aware that we're doing this.

Lisa Kirkpatrick Additionally, we will let them know that we're going out for proposals again and that their property would be considered the next round.

Commissioner Henderson In fairness, the Commission needs to know that those involved with those 13 other properties, apart from the appraisal, they've put staff time into this already, so they've already put money into this. If I were at the other end of this discussion, I'd be a bit concerned right now. I'm going to go with our recommendation, but we're a year into this and we're backing up again and they've put their staff time and whatever resources they have into these and we need to be sensitive when we talk to them about that.

Director Thompson On that point, Commissioner Henderson mentioned sensitivity. We can be adequately sensitive, and I'm not going to suggest that we consider this as putting off those other projects. What we have found is that these projects are taking a great deal of time to get to a point of readiness and in fact at least half of the

projects on the list have already changed dimension in some respect. We can identify a way to continue moving forward while also providing a way for additional projects to be identified with the understanding that they are a supplement to and keeping the options open approach.

Commissioner Pino On the proposal for the next steps for the land conservation appropriation under the heading "Selection of Projects", in that first paragraph it says "If desired, all proposals will be provided to the Commission for review" I would recommend that we strike "if desired". The staff and the Commission should be included to make those decisions because we're talking about tax payers' money. In that same paragraph, you talk about 1 Commissioner being part of that group to review the proposals in more detail. I recommend that Commissioner Arvas be that individual. I notice that he worked with the staff to come up with some of the changes. We felt we weren't part of the process. We're trying to amend that with that amendment and now we'll be part of that process. On the following page, where the bullets are under "Possible criteria for selection", the 5th bullet, if we're going to say that acquisition of property is preferred, we should say that in the first part of the sentence and move "the easement may be considered" to the last part of that sentence so revising that sentence to read something like "acquisition of property is preferred; however, easements may be considered" instead of saying "easements will be considered acquisitions preferred". Let's put "acquisition" first in that sentence and put "easement" second in the sentence. Chairman Sims Lisa, also I've made promises to a few groups during our Carlsbad/Hobbs meetings that they be made an active part in looking at these properties, seeking the outcome on how to fix those groups and 1 of those is Caren Cowan with the New Mexico Cattle Growers. They've been our allies and we want them to remain to be a tremendous part of this in seeing how we moved forward for selection of these properties. I made them that promise and I fully intend to keep it. All of us on the Commission appreciate the work that they've done with this incorporation and we want to extend that to them.

Commissioner Arvas What's your gut feeling in terms of timeframes for this selection process this time around? How quickly do the people we're going to advertise to respond to solicitations?

Chairman Sims We're going to advertise for how long?

Lisa Kirkpatrick The recommendation is for 60 days. Speaking frankly and from my own experience, they'll wait until the very deadline.

Commissioner Arvas What I'd like to do and depending on your scheduling as the new applications come in, I'd like to review those with you and then I'd like to have an update sent to each Commissioner of any and all of the new proposals as they come in. It's pretty hard to comprehend whatever number is when they're 1 big lump sum. It's easier to comprehend if you just give the single project and look at it and have a chance to go back to it and when the 60-day timeframe is completed, then we'll compile all the projects that have been sent in and each Commissioner will be better able to comment as he receives that project what his concerns are. By keeping the whole Commission on board for that 60-day timeframe instead of waiting until the end, it'll be easier and go faster after that. As you probably remember, even though we've got that 4 ½ year window, the sooner we get the projects done, the better off we are.

Lisa Kirkpatrick I expect the bulk of the proposals will come in at the end of the timeframe, but we can certainly do all that we can as staff to provide them to you as quickly as possible when they come in and then we'll also provide summaries and try to keep you as updated as we can.

Commissioner Arvas The only other thing is that if you look at the specific factors to be considered in the decision process overseen by the Department of Game and Fish and look at the criteria, there's a bit of an overlap in the sense of "benefits of federal at risk or specially classified species of wildlife and habitat needed to support them improves conditions", that's complex. I guess what you need to do for each 1 of the projects you've already got is come up with what they do and classifying systems and I'd like to know whether project 2 or 3 fulfills all the criteria, and also as Commissioner Pino said the bullet points. I'd like for you to keep a record of each project and whether or not they fulfill the criteria, and the bullet points because that's like a ranking system, and needless to say, the projects that fulfill most of the criteria and bullet points I'm going to have a tendency to favor over those that don't. It's a good position to hold that that's why we selected those projects and I want to make this public knowledge that the Commission and the Department are going to be under a tremendous amount of scrutiny after the selection of these projects and we need to be able to stand on our 2 feet and say why we picked these.

Lisa Kirkpatrick To clarify on the existing projects, do you want us to go forward with these same projects or should we put them back along with the additional proposals for consideration?

Commissioner Arvas You need to do that ranking process we talked about to see where those 13 left over projects rank. I don't think it's fair to the people that made the application to discount them. I'd like to get a gut feeling as to where those projects rank at this point. After you do that, you yourself will know which need to be prioritized in a different manner.

Caren Cowan While I've not seen the document you're discussing, it sounds like it's a better document and process. Joel Alderete with the New Mexico Farm and Livestock Bureau also wants to be a part of the process. I don't think there's enough money to fund all 13 projects so some of them are playing the luck of the draw, so everyone's gambling as they go forward whether we're doing it now or 60-90 days from now. As to Commission Pino's point, on acquisition of land preferred over conservation easements, I might point out that that is in direct conflict with the language that's in the Land, Wildlife, and Clean Energy bill. I assume that maybe this process if that bill passes would be something that would be used for that so we might consider doing some tracking of what's in that bill and your process here.

Commissioner Arvas Caren, once we go through this ranking process which we haven't done yet, that's going to clarify exactly which projects need to be scrutinized more because if they don't stand up to the ranking of the criteria, then obviously they're not projects we want to consider and is irrelevant a cost. I'm talking about now that we've established criteria and bullet points we'll be able to get a good feeling as to whether or not these are the projects we want to go with. I don't mind spending all the money on 1 good project if it's a good 1, but when I look at the original 14 and I see names and places that don't mean much to me. By the ranking system we've instigated, it'll make me a lot more comfortable.

Commissioner Henderson In all fairness, I want to suggest that I've no problem with going back and revisiting and including and enlarging the list of folks that can submit proposals and we have time. Also, the 1 thing that looked familiar to me was the criteria. We in fact use that criteria and the fact that you may not have had it in front of you when reviewing doesn't mean that the committee didn't use that criteria or similar criteria in their selection process. I think you'll find that a lot of these 14 projects are on the list again because in fact this is the criteria or similar criteria that were used in selecting. It came from the legislation, and so it wasn't an arbitrary decision-making process.

Commissioner Arvas Also the mere fact that we're going back and giving another chance to those people that didn't either have an opportunity or didn't desire at that time as a result of many factors to put their selections in. I think we're satisfying another problem and that's saying that this is a fair process.

Chairman Sims I don't remember anyone appointing a committee and it needs to be clarified that this was a work group instead of a committee.

Director Thompson I know the term committee has been used a number of times throughout all of this and it ended up being somewhat misleading. There was never a committee but there was a work group that started with the original response to the House Joint Memorial that the Department of Game and Fish and Energy, Minerals and Natural Resources Department were required to prepare. When this appropriation came about, the Department came to the Commission and got the approved approach and then sought project proposals. The Department took the responsibility to develop the recommendation to the Commission and perhaps Commissioner Henderson is referring to what I would call a work session 1 day in October last year. For about 2½ hours we met with Department of Game and Fish, Department of Energy, Minerals and Natural Resources, Commissioner Henderson, and a number of other people including Bud Starnes from the New Mexico Department of Agriculture. That was the group that provided the Department with their insight during a 2½ hour work session and that's the forum that's been referred to as a committee, but there was no committee and there was nothing to appoint someone to.

MOTION: Commissioner Pino Again, in the selection of projects, it states that 1 Commissioner will be involved in the selection of the final list of proposals that will go to the full Commission for approval. I move that that Commissioner be Tom Arvas. Commissioner Arvas seconded the motion.

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

MOTION: Commissioner Arvas moved to reaffirm the previously approved approach to land conservation project selection and review and to further direct the Department to develop procedures and recommendations by September, 2006, for modification of the project list to include any necessary re-description of currently listed projects, removal of projects that can't be executed, and identification of prospective additional projects to ensure continued effective use of the land conservation appropriation. Commissioner Pino seconded the motion.

Chairman Sims Lisa, do you have anything to add?

Lisa Kirkpatrick I'm unclear on the language on reaffirming the process?

Commissioner Arvas What we reaffirmed was the way you did it the first time, but we're adding the modification of the project list for any new projects that might be developed. I think we just gave you a stamp of approval for what you did for the first 14 but along with that you're going to be doing more with this new approach.

Tod Stevenson Are you saying that the 14 projects that are there are going to be re-reviewed or we're going to move forward with the 14 projects and we're going to start a new process to add projects?

Chairman Sims Tod, what I think Commissioner Arvas is getting at is that the 14 projects or 13 left are still viable and they've made the cut. Now we'd like those ranked in the order of our new 1 which all of them are going to be ranked within the bullets or in the new criteria, but the existing ones are in. The next ones coming in with this new advertisement he's approving this method as ranking them and selecting them to make the list.

Commissioner Arvas Tod, basically what you'll be doing now is going back through the 13 that are left, rank them and if you find anything in that process of ranking them that disturbs you, and then you need to go back to wherever the project came from and get that clarified. Now, any new project that comes in from this point in the next 60 days then will also be ranked and I don't believe that was a prioritized list by numerical designation, what you may find after doing this again that the numbers are going to change. In other words, as a result of it not ranking as high, it will drop or go up a notch whichever way you'd like to think of it.

Tod Stevenson You're saying that the new projects and the old projects will go through ranking that all 14 aren't going to be 14 on top and then there'll be a ranking system underneath that for new projects?

Commissioner Arvas As a result of ranking 1 of the original 14 drop below the new project, but if we're doing this correctly and they may all rank equally the same. There may not be any need for 1, 2, 3, 5, or 6.

Chairman Sims The only way I see 1 dropping or rising in rank is due to criteria of easement.

Commissioner Arvas There are only so many easements anyway so that makes it easy.

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

AGENDA ITEM NO. 22. Proposed Shooting Preserve Application, 19.35.3, NMAC, and Sections 17-3-35 through 17-3-42, NMSA, 1978, for the High Desert Ranch.

Presented by Roy Hayes – Jon Sherwood submitted an application for the High Desert Shooting Preserve for Commission consideration. The proposed preserve consists of approximately 10,000 acres of deeded land located northeast of Corona in Lincoln County, New Mexico. They plan on releasing 1,000 bobwhite quail which will be purchased from a registered propagator. Issuance of a permit was contingent upon the High Desert Ranch meeting all of the requirements of the law and rule pertaining to shooting preserves.

Chairman Sims Where's this located from the highway, north and south of Vaughn?

Jon Sherwood South of Vaughn on 285 you go south about 40 miles and turn on 247 going to Corona and it's 20 miles back on that little road and then about 12 miles back on the road is where we're located.

Chairman Sims Mr. Sherwood, why would you want a 10,440-acre preserve for 1,000 quail? That would be 1 quail for every 10 acres.

Jon Sherwood When the conservation officer came out and we visited, what we were talking about was that I hated to restrict myself. They said it needed to be within the fence boundaries and I hated to restrict myself to such a tight area because of the movement of the birds, that's why I was looking at my deeded land.

Commissioner Arvas Do you plan on putting feeders down?

Jon Sherwood I haven't yet, but I put in almost 90,000+ feet of waterline and about 40+ drinkers—35 for deer and quail and that type of habitat. They're ground drinkers and the rest of them for cattle.

Chairman Sims This is mainly rolling country or is it rugged country?

Jon Sherwood It's rocky brush country and it's covered with lots of piñon, cedar, and cactus. It's quite a terrain, it varies in everything.

Commissioner Salmon What's the scaled quail population like at this time and how have they responded to these drinkers and other advantages you've established on the property?

Jon Sherwood The scaled quail is prolific, they're doing very well since last year as far as the wet season. I can't give you numbers because I don't know that, but you see lots of them.

Commissioner Salmon You would be adding bobwhite quail to this mix presumably because they sit tighter for hunters and would provide a better hunting preserve in that regard?

Jon Sherwood Yes, sir, what that may do is that those people that want to tune up their dogs before they go out of state because of the bird population and I can create a atmosphere of that. I'm not going to say they come and I don't think the birds will sustain themselves or take over in any type of situation like that because the store bought birds don't do well. The predators come and take care of what's basically release, so I don't think there's going to be too much conflict at all with the scaled and bobwhite quail.

Commissioner Salmon So you would anticipate that although you're talking about 10,000 acres that the bobwhite quail would probably locate within a fairly small portion of that?

Jon Sherwood Yes, sir. If you had 3-4 hunters what I'm saying is you can spread yourself out and go and do and not conflict. A lot of times dogs and different things have a conflict if you're hunting too many people, too close, too tight.

Chairman Sims Roy, what is our largest shooting preserve for birds in New Mexico?

Roy Hayes I can't answer that question.

Commissioner Arvas I don't even remember anyone in 1,000 acres.

Chairman Sims We have 1 north of him in that canyon with over 1,000 acres.

Roy Hayes Talking with Mr. Sherwood about his plans what he did is he included his whole ranch. I don't think he's intending on using the entire ranch as a shooting preserve but if wants to move from 1 corner to another and release a few birds and let somebody work their dog, it wouldn't restrict him to a certain area of his deeded property, and I don't think he's intending on releasing birds throughout the entire 10,000 acres.

Commissioner Arvas My experiences with bobwhite quail is they don't stray very far from feeders to start with, and they don't seem to travel obviously like the scaled quail do, and I'm reluctant at this point to approve a 10,000-acre shooting preserve. That's a precedent-setting number in my mind and what I'd recommend that we do is research and find the largest 1 we have. I don't have any problem with him trying to do that, yet on the other hand I've got some real reservations about approving a 10,000-acre shooting preserve. That's overwhelming but maybe we can go back and look at what we've done in the past and maybe come up with a figure. I also feel that we're re-introducing something and I don't know what the disease processes are of bobwhite in comparison to scaled quail, but I'd sure hate to see the scaled quail population run into a problem as a result of us introducing a non-indigenous species.

Chairman Sims Mr. Sherwood, I would assume that you wouldn't really release and work dogs on property that's adjoining public land or adjoining your neighbors' land because you're going to lose those birds. That's why we're somewhat reluctant. I'd be more comfortable with getting in the core and looking at your map and you've got an "L" shape with 3 sections over this adjoining public land and I wouldn't think you'd be releasing birds in those areas because you're surrounded by public lands.

Commissioner Arvas The only other question I have is to the Department. When you have a shooting preserve, are you limiting that preserve to 1 species, to whatever he wants to put in there?

Jon Sherwood Four species.

Commissioner Arvas Four species of quail, I know. What else would you want to introduce?

Jon Sherwood On the shooting preserve it just states quail, chukars, mallards, and pheasant.

Roy Hayes On his application, all he's requesting to release are bobwhite quail.

Chairman Sims Mallard ducks?

Roy Hayes What he'd be able to if he wanted to request it would be pheasants, chukars, scaled quail, Gambel quail, and bobwhite quail, but he's only requesting bobwhite.

Jon Sherwood Probably the reason for the bobwhite is the availability. It's not the scaled quail because you can't just go purchase those.

MOTION: Commission Arvas moved that the Department go back and review records in terms of the maximum size shooting preserves that are already in existence and then talk to Mr. Sherwood and have Mr. Sherwood scale his proposal down to a comparable amount and then come before the Commission.

Roy Hayes To make sure I'm clear on this, do you want us to research the shooting preserves we have and find the 1 with the largest amount of property in the preserve, and then have something comparable to that?

Commissioner Pino seconded the motion. No vote.

MOTION: Commissioner Salmon moved to direct the Department go back and review reasonable maximum size and come back to the Commission. Commissioner Arvas seconded the motion.

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

Roy Hayes We've checked and we have 3 active shooting preserves that are 8,000 acres each. After talking with Mr. Sherwood and I apologize on the maps you have I don't believe it's indicated that there is a Class-A park located inside his ranch, and that's a 3,200 acres Class-A park. He also has plans to construct another Class-A park next to this 1 inside his ranch boundaries which would be a total of 6,400 acres and he'd like to amend his proposal to have his shooting preserve to the area located inside those 2 boundaries, Class-A parks, which would be a total of 6,400 acres. There is an existing Class-A park at this time of 3,200 acres and then he has plants, and it's been surveyed, for an additional Class-A park next to it.

Chairman Sims How much is the existing Class-A park?

Roy Hayes 3,200 acres.

Commissioner Henderson For my information, that Class-A park, is currently the maximum size of a Class-A park, isn't it?

Roy Hayes That's correct.

Commissioner Pino Did you say there are 2 Class-A parks within the 10,000 acres?

Commissioner Henderson He's asking for a second.

Chairman Sims There's 1 existing survey and he's going to ask for another 3,200-acre adjoining.

Commissioner Pino So would that 6,400 acres, when you were saying he's amending, is he decreasing it from 10,000 to 6,400 acres?

Roy Hayes Yes, that's correct.

Commissioner Salmon With all due respect Mr. Sherwood, I'm uncomfortable with this proposal particularly with the idea of introducing bobwhite quail amongst the sustainable population of scaled quail where we don't know what the effects of the introduced species might be. The scaled quail are there naturally—that's part of their natural habitat. The bobwhites don't exist in that part of the state on their own. I see a problem there. I'm also wondering about how it might be affected. The hunting of bobwhite quail could be conflicted with the hunting of the scaled quail if the bobwhite quail are being hunted during portions of this year when scaled quail aren't open and somebody could be shooting scaled quail when they're meaning to shoot bobwhite quail. I'm inclined to vote against the proposal.

Commissioner Henderson There are a couple of things that I'm disturbed with. We have a bit of a moving target and I'm inclined to agree with Commissioner Salmon that unless you can assure me that we have good controls over a non-native species over our native populations and overlapping populations, my inclination would be not to be approve this. Also, I don't want to vote on or consider a secondary Class-A park. Obviously it went before us before this meeting and hasn't had time to think about it and I think that's a pretty significant decision.

Roy Hayes This doesn't have any consideration for the second Class-A park. This shooting preserve would include the property that he intends to request the Class-A park for.

Chairman Sims Roy, do we have other Class-A parks where we have bobwhite quail?

Roy Hayes I believe we do but I would have to look at the particular ones to see and bobwhite is the predominant quail that is released. They're readily accessible and they come from hatcheries within the state.

Chairman Sims We've approved this in the past. I don't know how we can discriminate. In fact, if we've approved Class-A game parks in the past with bobwhite quail under similar circumstances, it's going to be hard for me to say we can't do this. We ought to look at what we've done and continue in a similar manner of what we've done in other parts sizewise, species wise, and make sure we're not discriminating on 1 that maybe we should have done before.

MOTION: Commissioner Salmon moved to deny the preserve application for the High Desert Ranch for bobwhite quail for re-introduction. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 23. Commission Approval to Dispose of Fixed Assets.

Presented by Carlos Valdez – The Department requested State Game Commission approval to dispose of fixed assets that are worn out, obsolete, or have reached the end of their service life. States statute, NMSA, 1978, §13-6-1, Sale of Public Property, requires that an agency's governing body approve the disposal of personal property prior to disposing of the items. These items will either be auctioned, or disposed of in accordance with state law at the annual Department of Public Safety on Cerrillos Road.

Chairman Sims When we get rid of the vehicles, they're pretty well gone right?

Carlos Valdez They're pretty close to dead.

Chairman Sims I don't know why, but in the future I'd like to see mileage on vehicles.

Carlos Valdez We can provide that to you.

Commissioner Henderson When we dispose of these things, does the Department get benefits from the auction?

Carlos Valdez As I understand it, this is the first step in the process and then we'll send another letter to the State Auditor's Office requesting the same approval, and then these vehicles and equipment will be made available at the end of July for the DPS auction and the money generated from those sales are then re-deposited into the Department's funds.

Commissioner Henderson So we will have some remuneration?

Carlos Valdez That's correct.

MOTION: Commission Pino moved that the Commission approve the Department's request to dispose of the fixed assets as listed on this agenda item. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 24. Consideration of Terms of Proposed Settlement of Eagle Nest Dam/Reservoir Litigation and Temporary Storage Agreement with Springer Ditch Company.

Presented by Tod Stevenson – The Department presented a draft settlement agreement that was developed over the past 1½ years that proposes terms and conditions under which the present lawsuit involving rights to water delivery and storage in Eagle Nest Lake will be resolved. Also considered and acted upon was a draft agreement with the Springer Ditch Company for temporary storage in Eagle Nest Lake.

Chairman Sims You're talking about the public involvement process on Permit 71, going out for public comment, do you foresee a protest in the issuance of that permit?

Jim Karp Under the terms of this agreement, none of the parties to the agreement can protest that permit. It would have to be from some outside party who has some rights in the stream/river system.

Chairman Sims More than likely we'll get that.

Jim Karp That's a possibility but given the fact that the agreement does not appropriate additional water, there is really nobody's interest that is going to be hurt. Everybody in priority remains in priority and there will be if anything more water available rather than less. It's unlikely that a protest if made would prevail.

Commissioner Arvas Jim, do you think that this might be a precedent-setting move that we might be able to do for all the other dams around the state.

Jim Karp I don't think we really have problems of this nature in these other dams. The problems with the remaining dams for the most part are repair needs. There's another agreement and these 2 agreements are tied together and that is a temporary storage agreement with the Springer Ditch Company. This started in 1953 on an order by the State Engineer for temporary storage for 1 year. Apparently the water master or the owner of Permit 71, CS Cattle, from that point on entered into what they call a gentlemen's agreement to continue that process and it continues to this day. This agreement is to formalize that understanding, and again, the ISC has modeled the effect of this temporary storage and it's their position that it benefits the state in that there will be more water in the lake at any point in time when Springer has its additional water in storage. That storage is charged with evaporation loss the same as any other water in storage in the lake.

Chairman Sims That's too much.

Jim Karp They can only keep a maximum of 4,045 acre feet in storage in both Springer Lake and Eagle Nest Dam and when that maximum is reached, they can't store any additional water in Eagle Nest. They can call for their water any time they want provided they don't exceed what they're allowed to take in flow at their head gate. At the end of the year on December 31, any water that remains in storage in Springer Lake along with Springer Ditch Company automatically reverts to Permit 71 and becomes part of that pool I mentioned earlier above the formal storage water. The rights under this agreement are not transferable by Springer Ditch Company and at any time that anyone within the Cimarron stream system is able to convince the water master that there is a negative impact or any impairment as a result of this, the water master is authorized under the agreement to terminate the storage process. We have taken the position that we will not sign this agreement until all parties have signed the other agreement and there's also a provision in the settlement agreement that acknowledges that all parties to that agreement recognize and

approve this agreement with Springer because under the terms of the settlement agreement, the Commission is not authorized to transfer any additional water in storage.

Commissioner Henderson Bruce, Tod, and Jim, I trust we've learned enough from this experience that we won't repeat it knowingly.

Jim Karp I don't think we would voluntarily do this, however that's not to say that we might not do it again.

Commissioner Henderson That's the case here, we sort of backed into it rather than walked into it.

Jim Karp One view.

Director Thompson Chairman Sims and Commissioner Henderson, it was appropriate that you indicated knowingly on that statement because if we have a choice I'm sure we can do it right.

Alvin Garcia Our office was involved in this with Frank Weissbarth who cooperated with them substantially and I checked with him periodically and made sure the process was still going on and see if there was anything he needed me on. My question is on the continuing flow on the Cimarron River and the fishery down below the dam and if the specifications provide for management of that fishery. I hadn't heard any discussion of that.

Tod Stevenson Yes and no. I'm going to answer it in a couple of ways. The dam itself and the water that has been there under Permit 71 has always been private water and it hasn't been able to be released for the fisheries down below. We've had a little bit of leakage around part of the outlet works and other things that provided some flow in the upper stretches of the river that have probably benefited that fishery. We really didn't look at that in this agreement since there was not an opportunity and there is not the instream flow issue there that provides us the opportunity to take water out of this agreement and keep water in the Cimarron River. The parties that are involved as you'll see in a couple of places provide us opportunity to lease water and do some other things and 1 of the things we've talked about is looking at opportunities over time to try to get some of the senior water rights that would actually provide that authority to provide water and keep that in the lake and release it at times when that flow of the river gets significantly low. So, yes we had talked about it but there wasn't any way that we saw within this negotiation to change at all using Permit 71 water and providing any autonomy to the Commission or the Department to use that to keep the stream wetted. That's a separate issue and it's like in other places in the State of New Mexico, something hopefully we can address over time.

Alvin Garcia So would it be safe to say that basically what we have done is protected the lake fishery well and established management of that water resource in a way that it's beneficial for us and resolves litigation, and potentially position ourselves for the future once this process is in place in even looking at taking care of that fishery because that water goes down.

Jim Karp You have to remember that the reservoir is fully appropriated. The Commission does not have any water with which it can do anything it wants to do, so that water under the terms of this agreement and as a practical matter has to stay there because it's somebody else's water. There's always the possibility that if we have a string of very wet years rather than a string of dry years there may be enough water that we can work with the various users and start releasing water downstream.

Alvin Garcia So at least it's a future prospect to try to manage that.

Jim Karp That's right.

MOTION: Commission Salmon moved to approve the execution of the agreement effecting a settlement of the pending Eagle Nest Lake litigation in which the Commission is a party and the execution of the agreement between the Commission and the Springer Ditch Company for temporary storage of the Company's water in Eagle Nest Lake. Commissioner Henderson seconded the motion.

Commissioner Pino There are 2 agreements. The first agreement doesn't have any lines for any signatures, who signs that first agreement?

Jim Karp Are you asking who signs for the Commission?

Commissioner Pino No, who signs those signature lines here?

Jim Karp All the parties listed on the first page, the signature pages have been prepared by the attorney for the ISC and completed with signature pages and we have agreements going out to all the parties.

Commissioner Pino So there will be that signature page and the final document.

Jim Karp There are 16 parties to the agreement and there will be signature blocks and verifications for all 16 parties.

Commissioner Pino On the second agreement which is the Springer Ditch Company, that's how the motion reads, but then there's another signator on the agreement, Antelope Valley Irrigation District. That name doesn't appear in the agreement, can you explain why they have to sign that agreement?

Jim Karp The reason they have to sign it is they're actually a party having a very minor interest nonetheless a party that under the terms of this is entitled to flow reaching the Springer Ditch Company headgate that is in excess of what it is allowed to take. This agreement provides that in priority and only to the extent that the Antelope Valley Irrigation District is in priority, they can receive up to their 250-acre feet of water that they're entitled to.

Commissioner Pino Is that stated somewhere in the agreement?

Jim Karp Yes, it's in the agreement.

Tod Stevenson That's in the Springer Ditch agreement, not in the Permit 71 agreement. The Permit 71 agreement, Antelope Valley Irrigation District, those users are not a Permit 71 holder, but all of that is laid out in the Settlement Agreement or in the agreement to allow that temporary storage for the Springer Ditch.

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

AGENDA ITEM NO. 25. Approval of Assignments of Oil/Gas Easements by Williams Petroleum Interests to an Affiliated Entity.

Presented by Lisa Kirkpatrick – The Department presented for Commission approval the assignment by various Williams' petroleum interests of 60 individual easements or other access/use agreements for oil or gas exploration and production on Commission lands. These agreements are being assigned to an affiliated entity of Williams, Williams Four Corners, LLC, pursuant to a corporate re-organization. The Commission determined the amount of consideration payable in conjunction with the assignments. Each of the subject agreements provides that it is assignable.

Chairman Sims The now-existing agreements, do they have assignment language? Do you think Williams is going to be cooperative going from their old agreement to a new agreement with some more meat in it?

Lisa Kirkpatrick No, the agreement would stay the same. It would simply be the new fee schedule that we would use to charge them for the document fee to transfer those existing agreements to the new company.

Chairman Sims Can we do those documents \$400 each and not be in the hole?

Lisa Kirkpatrick I believe so—in terms of staff time to complete them?

Chairman Sims Is it going to be more expensive than \$100 to do those? We don't have a choice to re-assign and also a lot of times they don't pay anything.

Jim Karp You do have the right to impose conditions on that assignment which could involve making them take our present fee structure, but given the limited amount of time left on the bulk of these leases, the differential wouldn't be that significant and that would involve considerable staff time because it would require amending each of those agreements. The way we can do it now is basically have 1 transfer document and reference all the easements and leases and say they are transferred. You're talking about ½ hour of time.

Chairman Sims I don't think we can have them sign different documents. They're signable as they are.

MOTION: Commission Pino moved to authorize the Chairman to execute on behalf of the Commission 60 assignments of oil/gas access easements originally granted to 1 of more Williams petroleum entities, such assignment to be to Williams Four Corners, LLC, an entity affiliated with the original grantor. As a condition of the Commission's herein consent to the assignment Williams Four Corners, LLC, shall pay to the Department on behalf of the Commission a document fee in the amount of \$100.00 for each document assigned. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 26. Emergency Action to Amend Fisheries Rule 19.31.4.11, NMAC 1978, to Restrict Fishing on a Portion of the Pecos River and Brantley Reservoir to Catch and Release Only Due to Fish Consumption Advisory Recommending that No Fish Caught in Brantley Reservoir be Eaten Because of Elevated Level of DDT.

Presented by Mike Sloane – The Department proposed emergency action to amend Fisheries Rule 19.31.4.11, NMAC 1978, to require fishermen on a portion of the Pecos River and Brantley Reservoir to immediately release fish caught due to Fish Consumption Advisory recommending that no fish caught in Brantley Reservoir be

eaten because of elevated level of DDT. The purpose of the amendment is to prevent fish from Brantley Reservoir from being eaten while continuing to allow fishing.

Commissioner Henderson Do we have any concerns above and/or below Brantley?

Mike Sloane There's very limited information that has been collected. One theory is that McMillan Reservoir which is immediately above Brantley Reservoir was a sink and that that washed into Brantley which is why we extended the boundary up to our wildlife area which includes the original lake bed from McMillan. There has been some collection down in the lakes in Carlsbad and there's some DDT but it's 120 parts p/billion as opposed to the 550 do-not-eat level. The Environment Department is proposing additional sampling though they are having some funding issues with exactly how much they're going to be able to do.

Commissioner Henderson How are we going to advertise this? Obviously, we have to do this, how are we going to make it known to folks?

Mike Sloane One of the reasons we chose to take this path was because these advisories are often posted in places and never get read, so we felt that having a regulation would allow people more opportunity to see it so we'll have it on the website, we're also working with State Parks to post signs all around the lake at all entrance points, and local vendors too.

Chairman Sims Where's the DDT coming from?

Mike Sloane The answer to that remains elusive. There's 1 thought that there was a fire at a warehouse 20-some years ago which had an amount of illegal DDT that then got washed into the stream.

Chairman Sims Illegal DDT?

Mike Sloane Well, it had been banned at the point of that fire. There are other thoughts that over the years it has accumulated in the fields above the lake and through irrigation and a variety of other processes washed down into the lake and the lake has become a sink where it doesn't pass through, but there's no clear answer yet.

Chairman Sims Do you perceive the problem as going away anytime in the future?

Mike Sloane No, DDT is a persistent chemical and will take years if not centuries to break down.

Commissioner Henderson So we've lost that fishery?

Commissioner Pino What kind of effect would a human have by eating fish that's infected with DDT?

Mike Sloane DDT is a known carcinogen. The link between eating fish that contain DDT and cancer is not complete, but the chemical itself is known to be a carcinogen.

Commissioner Pino So you're saying it could cause cancer?

Mike Sloane That's the current belief, yes.

Commissioner Pino What's the problem with saying no fishing? Are we liable for somebody to come back and sue the state because we allowed them to fish and they're expected to release, but if they don't release and they consume the fish, do we have any liability?

Alvin Garcia I believe with that question a waiver would have to be justified over the Tort Claims Act for the state's activity and I don't see it happening, but some creative lawyer could create a cause of action like but that would be analyzed over the state Tort Claims Act.

Commissioner Salmon I had a conversation recently with 1 of the fisheries people from the Environment Department and he confirmed what Mr. Sloane has said and strongly advised that we do this.

MOTION: Commission Henderson moved to amend Rule 19.11.4, NMAC, Section C, as proposed to require any fish caught in the Pecos River beginning at the northern Boundary of the Brantley Wildlife Area downstream to Brantley Reservoir Dam, including the Reservoir, to be immediately released except during official fishing tournaments. This action is taken as an emergency action due to elevated DDT concentration levels and a posted Fish Consumption Advisory for Brantley Reservoir that recommends that no fish of any species from Brantley Reservoir be eaten. The rule will be effective immediately upon signature of the Commission Chairman.

Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 27. Adjourn.

MOTION: Commissioner Henderson moved to adjourn. Commissioner Salmon seconded the motion.

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

Meeting adjourned at 3:54 p.m.

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

July 13, 2006
Date

s/Leo V. Sims, II
Leo V. Sims, II, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
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July 13, 2006
Date