

MINUTES
NEW MEXICO STATE GAME COMMISSION
Country Inn Suites
7620 Pan American Fwy, NE
Turquoise Rooms 1 and 2
Albuquerque, NM 87109
July 13, 2006

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AGENDA ITEM NO. 1. Meeting Called to Order.

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

AGENDA ITEM NO. 2. Roll Call.

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

AGENDA ITEM NO. 3. Introduction of Guests.

Introductions were made by approximately 90 members of the audience. In the audience was Torrance County Commissioner LeRoy Candelaria. Commissioner Terry Riley was introduced and welcomed as the new State Game Commissioner.

AGENDA ITEM NO. 4. Approval of Minutes (May 25, 2006—Clayton, NM)

MOTION: Commissioner Arvas moved to approve the Minutes of the May 25, 2006 State Game Commission Meeting in Clayton as presented. Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 5. Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the July 13, 2006 State Game Commission Meeting. Commissioner Riley 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
- o Revocations—prepared by Dan Brooks

Chairman Sims: Will you explain to everyone how the insurance works, it's the timing of when the insurance is picked up, correct?

Dan Brooks: Yes, the statute requires that all outfitters have \$500,000 worth of commercial liability insurance. When that expires, they are no longer eligible, but we also recognize that policies expire and policies have to be renewed. This is a temporary revocation until they obtain and show us proof that they do have the statutorily required \$500,000 worth of liability insurance.

Chairman Sims: Is that \$500,000 insurance premium expensive?

Dan Brooks: I do not know because I've never purchased any but I have heard that it does get very pricey. Of course, this goes with the risk factor from the insurance industry because they're dealing with people that have guns, out in remote areas, and accidents occur.

MOTION: Commissioner Arvas moved to adopt the Department's recommendation on revocation and point assessment of the attached list of individuals for the period of time specified. Commissioner Henderson seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 7. Reservation of 2 Elk Licenses for Non-profit Wish Granting Organization(s).

Presented by Dan Brooks – The State Game Commission considered reserving 2 elk licenses, each for a qualifying individual, plus an alternate for each individual, whose name has been submitted following the criteria established in Section 17-3-13.5, NMSA, 1978. This is an action item that allows the Commission to approve the reservation and issuance of 2 elk licenses.

Chairman Sims: Can you explain how these names are picked?

Dan Brooks: Yes, statutorily we have some requirements and these 2 organizations are non-profit organizations that have individuals that apply and then they submit the names to us. What has to happen is they've actually gone to a physician and have been diagnosed with some illness that they are probably not going to recover from. We let the organizations determine their choice. Right now those are the only 2 groups that cater to youth hunting and provide that dream, most of the other ones won't. We did have a New Mexico representative for Hunt of a Lifetime, but they're looking for a replacement. If there are any volunteers out there, Hunt of a Lifetime is looking for a New Mexico representative.

MOTION: Commissioner Arvas moved to accept the Department's recommendation and reserve 2 elk licenses for the 2 individuals named, plus their alternates should the individuals not be able to come on their elk hunt.

Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 8. Drawing for Incentive Authorizations Awarded to Hunters Who Submitted Harvested Animals for Disease Testing on Submitted Harvest Reports.

Presented by Kerry Mower – The Department conducted the annual drawing for 3 Valle Vidal elk authorizations and 6 oryx authorizations to be awarded to hunters who submitted their harvested animals for disease testing or submitted harvest reports for the 2005 hunting season.

Kerry Mower: Chairman Sims drew harvest incentives--Page 2, Row 5, Column 2—Mike Kuetemann from Lakewood, Colorado; for the 2nd Valle Vidal elk--Page 28; Row 12, Column 5—Menan Sumbling from Blanco, Texas; Commissioner Montoya drew an authorization for an oryx license and the hunter will have his choice of whichever of the sports hunts he/she wants—Page 31, Row 3, Column 3—Edward Meehan from Westburg, VT; Commissioner Pino drew for a 2nd oryx hunt—Page 14, Row 42, Column 5—Richard Kanaly from Edmond, OK; Commissioner Henderson drew –Page 27, Row 39, Column 2—Dennis Berry from Albuquerque, NM; Commissioner Salmon drew for an oryx hunt—Page 4, Row 45, Column 4—Larry Bergman, Batesville, IN; Commissioner Riley drew for last of the harvest report incentives Page 20, Row 9, Column 2—Rogelio Menendez from El Paso, TX. The next 2 authorizations, 1 for a Valle Vidal elk—Jack McDowell drew Page 2, Line 37—James Clements from Albuquerque, NM; Katie Gonzales drew for oryx Page 7, Line 29—Lawrence Junker from Rio Rancho, NM. These individuals will be contacted and be sent their authorization. They may use that authorization to buy a license for themselves, they can give it away, trade, or sell it.

AGENDA ITEM NO. 9. Lieutenant Governor's Deer Enhancement Tag Raffle Drawing.

Presented by Barry Hale – The Farmington Chapter of the Mule Deer Foundation described their assistance with the Lieutenant Governor's Mule Deer Enhancement Tag raffle.

Kerry Mower: Chairman Sims drew Patti Burdick from New Harmony, UT as the winner of the Lieutenant Governor's Mule Deer Enhancement Tag.

AGENDA ITEM NO. 10. Proposed Changes to the Fisheries Rule 19.31.4, NMAC, to Temporarily Close Capulin Creek to Fishing.

Presented by Mike Sloane – The Department proposed to close Capulin Creek on Bandelier National Park and the Dome Wilderness to fishing. This proposal is made to protect a recent reintroduction of Rio Grande cutthroat trout. The cutthroat trout were reintroduced to the stream by the Department, National Park Service, and Forest Service after a determination that the stream had fully recovered from the Dome fire. There was no action proposed regarding Brantley Reservoir.

Commissioner Salmon: How many river or stream miles all together are we talking about?

Mike Sloane: The entire stretch is approximately 6-7 miles.

Commissioner Riley: You're going to put signs up that describe why you're closing it and perhaps when it might re-open?

Mike Sloane: I'm not sure if the details of that have been worked out yet with the National Monument. I do know that the National Monument has to issue permits and they'll tell folks when they do that that's the case, but we'll also have to do something on the wilderness side, and we just haven't worked through that final detail with the Monument or Forest Service.

Commissioner Riley: It seems logical to explain why to the public, and to give them an idea about how long it's going to last so I recommend that some kind of signing be done to keep the public informed--either at parking lots or entry ways on the wilderness area.

Mike Sloane: We can do that.

Chairman Sims: Mike, why wouldn't a catch and release program work here?

Mike Sloane: We only put 100 fish in and even with catch and release there's some mortality so we wanted to allow those fish to establish and keep as many of them alive to allow reproduction. With such a small number we felt catch and release might over time harm the fishery.

Chairman Sims: If you put in 100 now, what do you estimate is the best scenario in 3 years?

Mike Sloane: Probably somewhere around 1,500 of different sizes.

Chairman Sims: Is that going to be a fishable quantity?

Mike Sloane: Yes.

Chairman Sims: Of capture or keep fish?

Mike Sloane: Yes.

Commissioner Arvas: Why don't we put more in?

Mike Sloane: The primary reason is we don't have a lot of fish in our hatchery at the moment and we could move fish from other streams but access is difficult down into the stream, so we put in 100 and that required about 6-8 people backpacking those fish in. We just haven't had time to go get the rest and we wanted to see how these fish did over the course of the summer and then we'll go back in the fall with another group.

Commissioner Arvas: Mr. Chairman, I recommend Mike give us a report next year at about the same time and tell us how things are going.

Chairman Sims: Yes, we'd like to address what those fish are doing at least each year. Are we absolutely sure that the 3-year timeframe we're going to open this back up and there's 500 fish?

Mike Sloane: I believe we are. My hope is to open it up earlier and when they go in this fall they'll know whether the fish got a spawn. We put them in in March so potentially those fish that we moved from Cañones will have spawned this year and then if we can get more fish in this fall, I think that will jump start that fishery and we can go shorter than 3 years, but 3 years is what we think might work.

Chairman Sims: What other species of fish do they fish for?

Mike Sloane: Bandelier has a mixture of other trout species but Capulin Creek was killed out by the ash flows. Some created that opportunity to go back in and repatriate Rio Grande cutthroat trout.

Chairman Sims: How many Rio Grande cutthroat trout do we have in our fisheries now?

Mike Sloane: Somewhere between 40,000-50,000 of various sizes including brood stock and little fish.

Chairman Sims: I thought we were only going to put 100 here?

Mike Sloane: Many of those are eggs that we spawned this year. At least 50% of the fish from that 40,000-50,000 of our fish from this year's spawn, so they're just hatched and swimming up to get feed and would not be good candidates to put in the stream.

Chairman Sims: Maybe next year we can keep adding?

Mike Sloane: That is the plan.

Terry Riley: It might be appropriate also to put a report on your website so that the public can see what is happening with your efforts in this program.

Mike Sloane: We can do that also.

Director Thompson: I spoke with the park superintendent at Bandelier this week and last week as well and we're also using this as an opportunity to formulate some additional cooperative working conditions to insure that all the intended outcomes are met. Darlene Koontz asked that I ensure that you're aware of that at this meeting.

MOTION: Commissioner Salmon moved to amend Fisheries Rule 19.31.4.16, Part A, NMAC, as proposed to close Capulin Creek on Bandelier National Park and the Dome wilderness to fishing to protect the recently restored Rio Grande Cutthroat trout population from fishing for 3 years until it has had the opportunity to stabilize. This rule will be effective immediately upon signature of the Commission Chairman. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 11. Adoption of the 2006-2007 Upland Game Rule 19.31.5, NMAC.

Presented by Tim Mitchusson – The Department presented proposed amendments to the 2006-2007 Upland Game Rule. Amendments were necessary to update the rule and coordinate with USFWS frameworks on migratory species (i.e., September teal, sandhill crane, dove, and band-tailed pigeon), and adjust hunting opportunity where appropriate. Commission action was requested to adopt proposed amendments.

Chairman Sims: How many if we increase hunters?

Tim Mitchusson: We won't be increasing hunters but we'll be reducing permits by 10, so we're going from 210 down to 200 permits, but increasing bag limit from last year was 2 per day, 2 per season; now it's going to be 2 per day, 4 per season.

Commissioner Riley: With respect to the public comments you received regarding season dates, timing, as far as which dates should be adjusted but you don't really say whether they focused on quail, waterfowl, or whatever. Were there comments from the public that talked specifically about adjusting dates, lengthening, or changing the season dates?

Tim Mitchusson: Many comments we received asked us to open dove season in August, but that's now allowed by federal framework. That's why I didn't list it.

Commissioner Riley: Is there a reason quail season is opened November 15 traditionally?

Tim Mitchusson: It's been traditional since we don't split out scaled quail season from the other seasons. Those birds are late nesters. In October there are still juvenile birds so we just hold it later in the year because we have a general bag we don't split them out. Arizona opens up early in October for Gambel quail. We choose to keep them all 1 season and keep it simple.

Commissioner Riley: Why not November 1 so that deer hunters could hunt quail?

Tim Mitchusson: That could be an option. It's just never been brought up.

Commissioner Riley: I'd like to see an evaluation of that.

Larry Kamees: I believe it's more tradition than anything. I don't think there's any biological reason why we haven't.

Chairman Sims: Maybe we can look and see if that would be a viable option. Deer hunting is slow and you can hunt quail.

Commissioner Riley: Depending on when you draw and other things it would seem like you'd incorporate most of the deer hunters at least if you opened it up November 1.

Chairman Sims: You may also have some deer hunters out in the field that don't want the quail hunters to go out and bust the deer out when they're just quail hunting.

Tim Mitchusson: Just need some clarification—are we looking at doing that this year or looking at next year, because it could easily be incorporated but there are concerns about number of quail we're taking right now?

Chairman Sims: I think we'd have to go out and do a public comment on that to see what these people who are strong deer advocates and how that's going to affect them.

Commissioner Arvas: Tim, are you designating any of these hunts as youth hunts?

Tim Mitchusson: We do have the 2 pheasant hunts that are youth hunts.

Commissioner Arvas: The 2 pheasant hunts, in Casa Colorado and Seven Rivers, those are all youth hunts?

Tim Mitchusson: Yes.

Commissioner Arvas: How far along are we on our new plan for upland game and quail?

Tim Mitchusson: Right now we're supposed to be meeting with Quail Unlimited in Las Cruces. We haven't had that meeting yet.

Commissioner Arvas: That's scheduled?

Larry Kamees: The 22nd I believe is when we're supposed to meet with Quail Unlimited and The Wildlife Federation. Is that true, R.J.?

R.J. Kirkpatrick: On the 22nd of this month we're going to have a meeting with Southwest Consolidated Sportsmen and Quail Unlimited interests on rule development. Quail will be a topic but the formal meeting that the Commission requested the Department set up in Clayton has not been scheduled.

Larry Kamees: I'm getting some notes and tapes to Quail Unlimited so they can review those prior to the meeting. I haven't heard anything from Quail Unlimited whether they're done reviewing all that so we can set that meeting up.

Commissioner Arvas: So that means that by September 1 R.J. will have some information about what we're planning on doing, and how we're going to do it?

R.J. Kirkpatrick: By September 1 we should have had the meeting and be able to bring to the Commission the recommendations that were the result of that cooperative endeavor and decide how to approach improving quail management.

Larry Caudill: Sportsman from Albuquerque. Some say we're hunting these quail too hard already and I remind you that there's been except for 1 partial gain last year and certain parts of the state were still in drought conditions. If

they nest at all it will be a function of late summer rains and that means there are going to be a lot of young birds. Many people don't like to take their bird dogs out early in the year while snakes are still out. If anything, after these drought conditions and low populations, we need less pressure on the quail. I'd be against lengthening the season. In fact, it wouldn't be such a bad idea to shorten it because by the time we get into February, we're killing adult birds and that's next year's breeding stock and we ought to give some thought to doing something to conserve the resource. I didn't hear whether there's any change in bandtail pigeon, so the season in the Gila doesn't start until late?

Tim Mitchusson: Correct, and that's by federal frameworks.

Frank Bond: I'm from Santa Fe and I approached Mr. Mitchusson, Mr. Stevenson, and Mr. Kirkpatrick about expanding the Sandhill crane season in the Estancia Valley simply for the expanded opportunity to hunt. We're not in conflict with the gun hunters at the time that the gun hunters are out so there's little or no risk to our birds. For those of you on the Commission who have not had an opportunity to read Mr. Mitchusson's management plan for Sandhill crane statewide, it's a very comprehensive report that is extraordinarily educational.

MOTION: Commissioner Salmon moved to accept the Department's proposed changes to the Upland game regulation 19.31.5, NMAC, for the 2006-2007 license year to incorporate license and application and the manner and methods regulations; adjust upland game, falconry, and September teal season dates for the current year; allow hunting September teal on the Salt Lake WMA; eliminate the Valencia County pheasant draw hunt; initiate an additional pheasant hunt at Casa Colorada WMA; adjust permits, bag limit, and season limits for Estancia Valley, Middle Rio Grande Valley, and Southwest sandhill crane hunts; initiate a permit falconry sandhill crane season in the Estancia Valley; close sandhill crane hunting on the W.S. Huey WMA; and allow the Department the discretion to alter season dates and bag limits for migratory game birds if necessary to conform to federal frameworks.

Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 12. Adoption of the 2006-2007 Waterfowl Rule, 19.31.6, NMAC.

Presented by Tim Mitchusson – The Department presented proposed amendments to the 2006-2007 Waterfowl Rules. Amendments are necessary to update the rule and coordinate with USFWS frameworks on migratory species, and adjust hunting opportunity where appropriate. Commission action will be requested to adopt proposed amendments.

Chairman Sims: The area north of Highway 60 at Bernardo Wildlife Area, how big is it?

Tim Mitchusson: It's small, about 40-50 acres where the ponds are close to the interstate, and it's a fairly constricted area.

Chairman Sims: Is that a prime hunting area?

Tim Mitchusson: Everyone sees those ducks off the highway because it was close so we had requests to open up that area for duck hunting. Youth hunters usually have fairly good hunts in there. They might not kill a lot of birds but they get quite a few shots.

Chairman Sims: If we closed that off to adult hunters and have it for youth hunting, are we still going to have that crowded population of hunters in there?

Tim Mitchusson: I don't expect we will.

Chairman Sims: Youth hunters don't have to be accompanied by adults?

Tim Mitchusson: Yes, they do.

Commissioner Arvas: Tim, are we still going through that permit system over the counter for the dark geese?

Tim Mitchusson: Yes, over the counter, unlimited permits,

MOTION: Commissioner Arvas moved to accept the Department's proposed changes to the Waterfowl regulation 19.31.6, NMAC, for the 2006-2007 license year incorporating the License and Application and the Manner and Methods regulations into the rule; require Youth hunters to apply for the Bernardo Youth duck hunts for weekend and December holiday hunt dates; increase the middle Rio Grande Valley dark goose season by 7 days; close the W.S. Huey WMA to waterfowl hunting; and allow the Department the discretion to alter season dates and bag limits for waterfowl if necessary to conform to federal frameworks. Commissioner Riley seconded the motion.

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

AGENDA ITEM NO. 13. Biennial Review of New Mexico Threatened and Endangered Wildlife.

Presented by Chuck Hayes – The Department presented a revised draft of the 2006 Biennial Review following a 90-day comment period on the initial draft. This presentation requested opening another required 14-day comment period on the Biennial Review before a final recommendation is presented to the Commission for approval. Commissioner Riley: Do you have any idea when you're going to have an update to try to draw conclusions or make some recommendations on the Meadow jumping mouse?

Chuck Hayes: When we have enough data is always an open question. I'm not sure that I can give the same answer that anyone else would give but Dr. Fry is now in the process of trying to conduct more surveys within other parts of the Sangre de Cristo Mountains so it's possible that in another month or so we'll have additional information. The other geographic place where we don't have updated information is within the Middle Rio Grande. We know there are historic populations both on pueblo lands and other lands. During the past year we discussed and wrote a letter of support for 1 of the pueblos to do some work. We know there's interest but we don't know whether that got funded or whether there are any tangible results from other places that we looked at. The Middle Rio Grande is an open question in terms of when we would have additional information. In terms of the Sangre de Cristos, which is the other 1 that isn't recently surveyed, by the end of the summer we'd have something.

Commissioner Arvas: Is it possible for you to tell me what your budget is annually?

Chuck Hayes: I can estimate because it's in a couple of different places and programs, but it's in the vicinity of \$600,000-\$700,000.

Commissioner Arvas: How much of that is offset by federal funding?

Chuck Hayes: The vast majority of the work we do is 75% reimbursed by federal funding.

Commissioner Henderson: I'm concerned about the meadow jumping mouse because we probably don't have enough information on any species. We have a bit on this and I'm concerned that the scrutiny over this 1 is being tighter than others. Is there an opportunity for uplisting/downlisting in the interim? If this doesn't get addressed now, do we have to wait 2 years before addressing it?

Chuck Hayes: We have the opportunity to look at these and make changes at any point. The Biennial Review is the time when we're required to do that, but we can enter into the process to do so at any time.

Commissioner Henderson: We ought to consider that and hopefully the researcher will bring that petition forward. You had comments from folks that didn't fully understand the Wildlife Conservation Act as it's a somewhat involved act, but do you get back in touch with them? Do you educate them about the process because there are some inconsistencies on our list as it relates to the federal list, and I hope that they understand how they can move forward and petition us to at least address those inconsistencies? Do you get back with them?

Chuck Hayes: On all of the comments that were received I did contact either by phone, personally, or in written form. In particular the 1 commenter that had several species that they're talking about that they wanted to see added to the list and perhaps didn't understand or thought that they should be on there, especially the federal list. The impression I got was that this is not the process by which we add species to the list and that their desire was simply to have a forum to express those opinions. There are some that frankly we would either disagree with but that their occurrence in the state is hypothetical although there are some that historically occur that do not occur any more that are federally listed, and there are some that are federally listed that are not on their state list, so I did talk to them. Also, about the fact that there are some technical inconsistencies with the information they have. The response I got back indicated that to some extent they were unaware of that. They recognized that perhaps there was historical and not regular current occurrence and still wanted to make that point.

Chairman Sims: What interaction have we had with the oil and gas industry on sand dune lizard in southeast New Mexico?

Chuck Hayes: What has come out of a stakeholder effort to look into industry and other parties and agencies to prepare a plan that addressed both lesser prairie chicken and sand dune lizard. That plan was completed about a year ago. That's something that BLM has had the lead on and the planning is done and has moved to the implementation phase. We're working with them on the implementation. To date the implementation has focused on lesser prairie chicken, but we have advised them that we continue to be interested in sand dune lizard and in working with all parties so that we can have sand dune lizard conservation that fits with the broader picture.

Chairman Sims: The members of the New Mexico Oil and Gas Association want to be involved in doing things that benefit the lizard. It's important we stay in contact with them.

Commissioner Salmon: On your list is the white sided jackrabbit of southern Hidalgo County, the black tailed jackrabbit which is found everywhere, and a limited population of white tailed jackrabbits in the very northern portion of the state. I thought the white tailed jackrabbit was also among the state-listed species. What is the status of the white tailed jackrabbit?

Chuck Hayes: The white tailed jackrabbit is not a species that is listed under the Wildlife Conservation Act. It's 1 that we've recognized in the past as being of interest because it does have limited distribution. About 3-4 years ago we had a somewhat active program where we conducted surveys and monitored the white sided jackrabbit. Our conclusion was that it was found in historic range. You're correct in that it does have a limited range within the range, but as far as we can tell it appears relatively stable and therefore have not added it to the list but it is of interest informally.

Commissioner Salmon: Does it have a protected status as far as hunting is concerned?

Chuck Hayes: It does not. It would fall in the category with non-game that are not protected. The only provisions that I'm aware of are you would find that an out-of-state resident would have to have some sort of license to take 1, but for in-state residents there isn't a regulation.

Commissioner Salmon: On the Chihuahua chub that inhabits the Mimbres River, it was said that the chub may be in conflict with 2 non-native salmonid species, is there a native salmonid species for the Mimbres River?

Chuck Hayes: I don't believe there is specifically for the Mimbres?

Commissioner Salmon: It was recommended in the listing and it appeared to be suggested that these non-native salmonids be removed. I caution that that would meet with some resistance locally if the only game fish in the Mimbres River are these 2 non-native salmonids. It's a very good fishing stream. They're the only good game fish in the river. If you remove them, you'd leave the Mimbres River with nothing to fish and I'm wondering if there is a somewhat less Draconian approach we could take by perhaps establishing sanctuaries for the chub in the Mimbres valley where you would remove non-native fish but still allow the Rainbows and Browns to reproduce naturally in the upper portion of the forest where fishing is the best. On a similar note, there's the matter of the spike dace. This is 1 of those things where the small mouth bass is popular as a game fish in the local area and a forced removal of the species would meet with a lot of local resistance. Isn't there a better way to thin them out by adjusting the sport fishing regulations to allow a greater take of small mouth bass particularly the smaller fish, thin them out by removing any bag limit below 14 inches and allow a few big ones to be thrown back, some method like that that is less Draconian and less likely to cause strong local reaction from anglers?

Commissioner Riley: Chuck, with respect to ptarmigan and you say there should be a survey conducted and work with land managers to reduce grazing pressure, when you list those are those things that you actually do or are these things that you think about?

Chuck Hayes: To some extent some of both. These are essentially the best assessments that we have depending on the state of knowledge we have about things that can be done on the ground to assist. These are things we keep in mind and as we do work with the land management agencies. The only reason I say to some extent that these are things that we list and don't do as much of is because in any given year we probably don't get through dealing with all 118 threatened or endangered species in terms of active managing/monitoring. So with the ones we do there certainly are things we keep in mind and try to impress upon and assist the land managers with.

Larry Caudill: I appreciate the efforts that the Conservation Services people do with respect to endangered species. As a sportsman I feel I have an obligation to be concerned about all wildlife not just the ones we harvest and therefore, I particularly appreciate the efforts. Remember these are canary in the mine in many cases and usually man is at the bottom of the cause. We have a moral and ethical obligation to pay back.

John Dimas: I'm a lobbyist for wildlife and environmental issues. If the only place you have the information is Santa Fe, I recommend you have it in Albuquerque, Roswell, and Las Cruces. There are more people that are interested.

Chairman Sims: Chuck, is the only place we can get this information in Santa Fe?

Chuck Hayes: The location of the public repository for the original comments is Santa Fe; however, we've certainly never refused and would never refuse to send copies of those comments to individuals who request them. As you know, the ones we have received at least at the time of the Commission briefings were included within the Commission briefing and were posted on our website. Although there is only 1 physical location, we can certainly make those available to anyone in the state.

Chairman Sims: This information was available on the website?

Chuck Hayes: The comments that were received by the time the Commission briefing was prepared, and that was before the comment period closed, were posted on the website and included with the briefing.

Frank Bond: I'm from Santa Fe and I'm cognizant of what Mr. Hayes has said about the purpose of this review is uplisting and downlisting, not listing or delisting. In 1996 I was before the Commission when the Commission downlisted the Peregrine falcon from endangered to threatened, and since that time it has languished in this position with a largely unchanged summary about the status of the peregrine within New Mexico. The status of the Peregrine across the western United States has changed dramatically during this whole period. I'd like to make a few comments about the species which is found in your summary only for purposes of encouraging the Department and the Commission to reconsider its position with respect to continuing the peregrine falcon on the threatened species list. When the species was downlisted in 1996, the New Mexico population had already achieved the recovery goals set by the Fish and Wildlife Service, Rocky Mountain Southwest Recovery Team with 23 pairs. It reported about 35-36 pairs at that time, but across the western United States the species has changed dramatically. The Fish and Wildlife Service delisted the species completely, from the federal endangered species list in 1999, and since that time it has been delisted in the respective states all across the western United States, except for California where it is required that they have a legislative approval of the delisting. I make these points because there have been some concerns and as I say the summary has been essentially the same, on the declining peregrine production and yet I don't find that in the management report of the Fish and Wildlife Service to which this Department has reported some years, not all years. The decline and production per pair is not evident by comparison to other states. For example, it's recorded that the production per pair in New Mexico is 1.47 birds per nesting pair. Yet that's the same as Utah and Washington. It's greater than Arizona, Idaho, or Oregon, and it's slightly below California, Colorado, Montana, and Wyoming. Actually New Mexico is on the average with all the remaining western states where it has been delisted. Further the service had set a recovery goal of 23 pairs and with the report of Dr. Williams and Mr. Johnson of 120 occupied territories with actual nesting pairs had calculated to be 80% of that number, then New Mexico by that calculation would have 96 pairs out there. Since that actual data has never been published, we're not sure so I would encourage the Commission to get the hard numbers. Given that New Mexico has a 417% increase over the recovery goal of 23 pairs, a rather fantastic recovery. There have been some concerns about what the ongoing threats have been and 1 is chemical contamination that is DDT and other contaminants. I'd ask for whatever evidence there is similarly with disturbance and illegal take. The absolute bottom-line criteria seem to be the protection of habitat. When the peregrine falcon was listed under the Federal Endangered Species Act, there was never a declaration of critical habitat. It was not habitat that was the problem. It was DDT and its metabolites and when that was banned in 1970, over a long period of time that seems to have been taken care of by the rapidly expanding population across the U.S. which now appears to be in the western states surpassing 2,000 pair. I encourage the Department and the Commission to reconsider this species and have the Department come to you with a recommendation that it be delisted.

Commissioner Arvas: Chuck, in response to Mr. Bond's statements, what would be your response?

Chuck Hayes: We have a very active program for monitoring the peregrine falcon within the state. We primarily collect and evaluate a couple of different parameters of the peregrine falcon population in the state. Mr. Bond mentioned that we look at occupancy of known sites and we evaluate productivity. In both cases these have been over recent years fairly close to what are fairly broadly accepted standards of what indicates a stable population. Mr. Bond mentioned a number of sites that were used in the federal recovery plan. One thing to keep in mind is that we do not survey every site. We do not know exactly how many pairs there are. There is a sample that we can get you in any given year and that we monitor and we estimate an occupancy percentage. That's actually what was used in the federal case, that number 23 came from an extrapolation of number of known territories at that time, and as survey efforts increase, there have been more that have been discovered. It doesn't necessarily mean that there are any more. We realize that we cannot get you everyone and we are not into every single site and so the standard we've used has been that occupancy percentage which has been broadly accepted as an indicator of the status of populations and their stability and productivity.

Commissioner Arvas: Well, what I'd like to see is Mr. Bond and Chuck get together and see if they can resolve their differences. Obviously there are opinions and 1 side of the coin says "you should" and the other side says "you shouldn't".

Chairman Sims: Are other states data collected similar to ours?

Chuck Hayes: There's a variety of different monitoring programs in different states and perhaps the biggest difference is in intensity rather than specific methods. Some don't have nearly the intensity or monitor as many as we have and are looking at historical sites. We're not trying to get to some every year, so yes, there is a difference but intensity of sampling is highly variable among studies.

Commissioner Arvas: So maybe at the August meeting you may come back for your second go around with this in terms of what you and Mr. Bond decided.

MOTION: Commissioner Henderson moved to open the 14-day public comment period on the revised draft of the 2006 Biennial Review as presented to the Commission today, and have the Department develop a final Biennial Review to be presented to the Commission for approval in August 2006. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 14. Update on Development of all Big Game and Associated Rules for 2007-2008 and 2008-2009 License Years.

Presented by R. J. Kirkpatrick – The Department presented the Commission with drafts of all Big Game and associated rules reflecting public input and development process to date. The presentation included a summary of significant changes for each species and a discussion about the pros and cons of antler point restrictions with a request for Commission guidance on how to proceed regarding continuation or elimination of antler point restrictions for deer and elk.

Chairman Sims: What was the opposition to structure Barbary sheep hunting on private lands in southeastern New Mexico so that they coincide with some of the deer seasons so that there's a combination hunt opportunity?

R.J. Kirkpatrick: A lot of public sport hunters feel that if you allow private landowners to hunt Barbary during those early mid-fall deer seasons, they will harvest more Barbary sheep then, which leaves less for the public hunts that occur after the first of the year. There is also some concern that if you blanketly allowed private landowners to take advantage of that, those private landowners are not hunting just their deeded lands but also state leased, and BLM lands that are incorporated in their bigger ranch picture so they feel that the Barbary hunting opportunity when their season comes around typically in January-February, there will be fewer Barbary sheep.

Commissioner Arvas: Are they justified?

Roy Hayes: Yes, those are the concerns that the local sportsmen from Roswell and Carlsbad are expressing and I don't have any reason not to believe it.

Commissioner Riley: With respect to opening it up for private land, are the hunters interested in opening up public land the same amount of time or are they just opposed to having an early season totally?

Roy Hayes: The last time this came up we had a meeting and the consensus was that they wanted to hunt during the Barbary season because where you hunt Barbary sheep is not really where you hunt deer and so they'd like to go deer hunting and then later on they like to go Barbary hunting. It's just not something that the sportsmen feel they can do at the same time.

Commissioner Riley: I wouldn't want to provide the private landowner opportunities different than the public land.

Roy Hayes: We do have a recommendation to give the private landowners a couple of weeks prior to the public in January, because of the high densities that they do have. They were asking for a little more opportunity and that was a compromise. We put that out to some sportsmen's groups and we're getting some support for that.

Commissioner Arvas: Are the Barbary sheep that migratory?

Roy Hayes: What we have around the Hondo Valley, the Diamond A, and some of those ranches, are tremendous populations of Barbary sheep and because of the way they've managed those, we do have a migration on to public land and that's what's making the public land hunting so desirable. We've got a nice resource, but they are experiencing an increase over the last couple of years, especially last year when we had all the rainfall. They're starting to get some concerns over their irrigated pastures in the wintertime and rather than have depredations, they were asking if they could have a little more opportunity to harvest a few more.

Commissioner Montoya I have a question on elk--can you address the point restrictions we currently have and do you have the same comments that you had on deer? Is it the same thinking?

R.J. Kirkpatrick: We currently have an antler-point restricted bag limit for bull elk hunting in 4-5 specific places in New Mexico. That was an attempt to maintain fairly high levels of hunting licenses while at the same time reducing

the harvest because we knew we were over harvesting elk in those particular areas. As with deer, at the time the Commission was advised and I think concurred that antler-point restrictions have some potential negative biological effects if kept on very long, but elk are different than deer—more able to stand a reduced point restriction like moving to a spike or something. We felt that we don't have a lot of people asking the Department to implement spike hunting, or to maintain those heavy-point restrictions, i.e., 6x, 5x or better anywhere in New Mexico, so the proposal reflects the Department making an assumption that we should probably move back to the mature bull bag limit. We accomplished building that reputation with mature bull bag limit in place for a lot of those years, and at this point in time given the frustrations we have with aerial survey, population estimates in determining what's really going on with the population down to the nth degree, we propose waiting a couple of years before we consider either re-implementing a point restriction to measure the effects of it, or reverting to a spike allowable bag limit in measuring the impacts. I don't feel we have the foundational resources and finances in place to monitor and tell what the results of that were, but we know the mature bag limit has worked for a long time so the proposal reflects going back to mature bull bag limit for all bull hunting. Bow hunts are either sex.

Commissioner Arvas: What I'd like to see in the areas where we have those point restrictions on elk is see some numbers on licenses sold and what the harvest figures were because I thought that was the whole purpose. In other words, in Unit 4 you had a real high harvest number and hopefully that's markedly come down.

R.J. Kirkpatrick: I can have staff work up those numbers as best we can—keep in mind we've only had 1 season of elk-point restrictions and that was the fall of 2005. We're just now moving into the fall of 2006 so the fall 2005 analysis you're looking for will be based on probably questionable harvest information, and of course, survey information is going to be weak. The analysis we could provide you this spring regarding this fall's hunts will be much better. We'll work up what happened in 2005 as best we can and provide that to you in August.

Commissioner Arvas: Well, did we decrease number of licenses sold before?

R.J. Kirkpatrick: Because of the point-restriction implementation?

Commissioner Arvas: No, I don't think we did. We sold as many licenses as ever.

R.J. Kirkpatrick: Where we implemented the antler-point restriction for elk, we did not reduce numbers of licenses in the current rule.

Commissioner Arvas: So, does it make sense that if we sold the same number of licenses and if the harvest numbers are just as high if not higher than what they were prior to the point restriction, we still have to give some consideration to the point restriction.

R.J. Kirkpatrick: We'll pull that up and see if we can get that looked at and present it to you.

Commissioner Pino: You were saying earlier that in the recent past there've been some hunts to reduce the elk population and you're saying that it's been successful. As a Department we're going to decrease the number of hunting opportunities as a result. As you decrease the hunting opportunities, are you going to also go back and adjust and decrease some of those private land permits that you have out there?

R.J. Kirkpatrick: Yes. You're correct in that we're proposing reducing elk populations in New Mexico in the last 6-8 years in certain places more than others. The draft proposal is not necessarily to start increasing elk populations everywhere but rather what's the sustainable harvest from the population we have now? We're not proposing increasing elk numbers everywhere, but trying to get to a place where we're harvesting elk at a sustainable level and we don't go up and down over the next few years. As we reduce elk hunting permits especially in those COER units, yes, the number of private land permits will come down proportionately with the number of public permits. Total permit numbers will come down. One thing the Department is proposing in the areas of the state that we designate as quality hunt areas, certain kinds of time frames in certain areas, we've added several game management units to those hunts closest to the rut that we proposed be quality hunts. Those units that we're proposing adding are Unit 17, 34, and 36. The implications of that are that non-resident license fee for a bull elk be the higher rate--\$780, I'm not sure how high it is. We're also proposing that all bull hunts on the Valles Caldera National Preserve fall under that quality hunt fee for non-residents. We're also recognizing that in those game management units where those quality fees apply, any private land hunting that occurs outside of COER we're not going to penalize them by charging their non-residents that quality fee because that doesn't make sense.

Commissioner Henderson: What are the repercussions if the hot-line is not called? Do we have a penalty that we will levy?

R.J. Kirkpatrick: If an individual is caught in the act of hunting in a particular zone that has been closed, they're hunting illegally, and be cited for hunting during closed season. Individuals that subsequently harvest an animal while hunting in a closed area have committed unlawful killing. The worst part of it is that they've violated the sport harvest limit that we've set for that area for biological management concerns so those are the implications.

Commissioner Riley: Would those be posted on the website and updated daily?

R.J. Kirkpatrick: They sure will be if you'd like them to be. We think that's appropriate upon calling the 800 number or accessing our website, we let people know whether zones are open or not.

Commissioner Riley: Could they legitimately look on the website?

R.J. Kirkpatrick: They could look on the website or call the free phone number. They can do that at any time to see where we are within our sport harvest limits.

Chairman Sims: What's the limit on the number of bears removed from GMU 34 within Zone 6? What was it before and what is it now? Is it a significant change?

R.J. Kirkpatrick: It's 35 total bears or a maximum of 19 females is the current limit for the entire zone. We're proposing that only 20 of totals for harvest limit or 10 females be removed from 34. So, once 20 bears are harvested from Unit 34 or 10 females, whichever occurs first, we close bear hunting in 34 but bear hunting will continue in the rest of the zone. One thing the Commission should be aware of is that the draft rule reflects a proposal to do away with the cougar hunting opportunity that we currently have on wildlife management areas. As you will recall, it was a controversial decision to allow some limited cougar hunting on the Sargent, we got very little interest in that opportunity. To date we've only had 2 people contact us asking for permits to utilize those wildlife areas to hunt cougars. Of course, they couldn't use dogs, they could use electronic calls or still hunt.

Commissioner Riley: Will you record and set a limit on males and females or is that just going to be a total number of harvests?

R.J. Kirkpatrick: No, there is no female limit in the cougar rule. It only applies to the bear rule at least currently.

Commissioner Riley: Why not?

R.J. Kirkpatrick: Concerns over cougar harvest in New Mexico over the past 8-10 years have not been at the level that concerns over bear harvests especially regarding those years in which we had huge influxes of bears into metropolitan areas, i.e., Raton, Ruidoso, and Albuquerque. The scrutiny we got over bear management led to recommendations by a working group that set that female sub-limit to insure that we weren't over harvesting the reproductive capacity of our bear populations. That scrutiny has not come to my attention on cougars in New Mexico, but you bring up a good point and we'd be happy to consider whether or not it would be appropriate to set a sub-harvest limit of females on cougar as well because the same implications apply. As you harvest more females out of a sport harvest limit or a total sustainable mortality limit for cougars, you do run the risk of minimizing its capacity to reproduce.

Commissioner Riley: There are other reasons to manage the female population as well, other than whether there's the reproductive capacity for the cougar population to maintain or increase itself. Obviously, if you control females at a certain level, you can make the males move a lot more and they're less efficient predators and you have a tendency to reduce mortality on some of the prey species, as well, if you control the harvest of females. I think it's something that should be addressed and even if we don't necessarily think we have enough information to do that at this point in time, we should be moving in that direction.

R.J. Kirkpatrick: That concept is currently being attempted in partnership with a ranch in south central New Mexico. On the surface we've not seen that in fact we can discourage males hanging around in places and not preying on bighorn sheep specifically to the degree we'd hoped, but we're continuing to look at it.

Commissioner Henderson: It's my understanding that private landowners have the opportunity to kill cougar on their private property. If we're going to set goals as to mortality, what are the reporting requirements for those private land owners?

R.J. Kirkpatrick: For anyone that harvests a cougar in New Mexico, including the Department through management actions, that harvest information has to be reported to the Department within 5 days of harvest to arrange for pelt tagging. At that point in time, we know the harvest occurred, we bounce it against our sustainable total mortality or sport harvest limits, and that number is reduced. If the Department relocates a mountain lion or a bear, that information affects those sport harvest limit hotlines immediately. For depredation, we require that reporting occur immediately whether it's Wildlife Services or us that deals with that, any cougars harvested pursuant to contractors

for bighorn sheep preventative work, those harvests are immediately affecting those hotlines and those limits. Landowners are included in that requirement, they're not exempt. They have to contact us within 5 days to report the harvest.

Commissioner Salmon: I agree with Commissioner Riley about the concern over the taking of female cougar. I recall Ken Logan had a report 5-10 years ago from White Sands and he gave a presentation in Silver City and stressed the importance of controlling the killing of female cougars in maintaining the overall population. This is the same general principles that cause us to want to be careful about how the female bear harvest would apply to the female cougar harvest and it'd be to the hunters' advantage.

Chairman Sims: We've got to realize that we're not even dealing with numbers yet on what we have in the densities, so when we go along with this, we look at what we harvest and numbers we need to get to whether we need to increase or decrease.

Commissioner Arvas: Are you aware of any other western states that have gender type hunting for cougars at all?

R.J. Kirkpatrick: I'm not aware of that, but I'm aware that a lot of other western states are moving toward cougar harvest management. I'm not sure they're following New Mexico, but in realization that it makes sense. Director Thompson probably has a sense for other states that may have a female sub-harvest limit.

Director Thompson: Colorado is in the process of implementing a cougar harvest process that differentiates male and female harvest. They're not there yet, but I believe 2007 is when they expect to do that. As another point of reference, what R.J. has just described is the approach that the Commission approved the Department to move forward in developing at the Clayton meeting. I think R.J. indicated we've just now put that approach out for public awareness. The initial estimates and the initial matrix and every bit of it is there for public comment providing us additional information, so this is part of a multi-step process.

R.J. Kirkpatrick: For clarification in regard to the proposed numbers, they are in fact available for public comment and review as we speak. The rule and the matrix that identify the foundational biological estimation to get to sustainable total limits and sport harvest limits for cougar, it's out there now for people to consider and comment back.

Joseph Lee Siedlecki: Representing myself. Some concerns we have are that you're looking at reducing the number of elk tags that are available for archery hunters. You're going to be punishing probably the most sporting people that you have. We have the lowest success ratio of any group of hunters. We already have the hardest hunts available, and by reducing those numbers and cutting the amount of time available to hunt you're going to lower what's already the lowest success rate. There are other management opportunities such as enforcing the poaching guidelines that are in place.

Chairman Sims: R.J., when we cut those permits down, we're not cutting just the bow hunters number?

R.J. Kirkpatrick: Yes, you're probably going to hear several people that are frustrated with the proposal reflecting significant reductions in bow hunting opportunity. As I said earlier, part of the reason there's a reduction in bow hunting opportunity via the public draw, has to do with the proportion of public and private land in those COER areas pursuant to the landowner system.

Chairman Sims: Will that not bring that down also?

R.J. Kirkpatrick: Yes, all weapon types came down where we proposed reductions, but in addition to that, some of the proposals you see were an attempt by us to reflect the demands for each weapon type and it appears that the first choice applications for each weapon type, wasn't a true reflection of what the demand is for various weapon types. So I talked to several bow hunting interests in the hallway during the course of the meeting and we're completely comfortable revisiting the proportion of bow-hunting opportunity in each of those GMU's. We're supportive of shifting hunting opportunity to primitive weapons because it allows us to increase the level of licenses while at the same time not significantly increasing harvest. We'd like to do that but we've got to balance it with other interests and those other big interests are rifle, muzzleloader hunter, and the landowner community. We're trying to find that happy balance. Keep in mind this is just the initial proposal but we're happy to work with bow hunting interests to increase the proportion of bow hunting where it's appropriate and demanded.

Chairman Sims: Do bow hunters grow annually or stay the same?

R.J. Kirkpatrick: It's difficult to say. The only thing we can use to judge that is the number of first choice applicants for those bow hunts in New Mexico. There are more people interested in bow hunting and muzzle loader hunting.

We should probably start shifting that direction if we don't get too far an effect from the landowner and rifle hunter communities, but we're happy to move there over the next 45-50 days.

Chairman Sims: We need to look into that and see where we have those increases.

Mark Chavez: I'm representing myself as a sportsman-hunter. I hunt with a rifle, muzzle loader, and bow and I'd like to ask you to reconsider taking archery permits out.

Gina Chavez: I'm representing myself and I'm a sportsman-hunter. I'd like for you to reconsider deducting the amount of licenses you give away to archers. If you're considering giving more of the tags to the landowners, I have a problem with that because I see this sport turning into a rich man's sport. Some of my friends that didn't draw this year and they're having to buy a tag from the landowners and the price is anywhere from \$1,000-\$5,000 which is ridiculous so it'll be harder on the people that truly love the sport of hunting.

Art Martinez: My concerns are with Unit 6-A and 6-C. I'm an outfitter in that area since 1992. The problem I see with this area is that the Department of Game and Fish is trying to kill the elk off in 6-C. They deny that but look at the proclamation from 2001 to present and they've offered over 2,000 public hunting licenses in Unit 6-C and only 650 in Unit 6-A. When they do that in 6-C and all the hunting pressure is in 6-C, you have the elk running into 6-A as the crow flies 2-3 miles, or going into the Valles Caldera. The way they have this unit split up, 6-C is split north-south; the prime habitat for elk in 6-C is going to be the northeast side, and the other side is just canyons in the Bandelier and is not huntable. There's not a lot of elk habitat in that area. As soon as you put pressure in there, they're going to cross over to Valles Caldera or they're going to cross over to 6-A. No hunting pressure, so what happens is that the ranchers complain about all the elk destroying their land because of the alfalfa fields. You feed 50-100 elk every night sure they're going to complain but Game and Fish never shows up. Now with this proposal, they say there's a low density of elk in 6-C then contact the northwest area. There are plenty of elk in there right now, but as soon as you put hunting pressure in there with the bow or black powder season, you scare them out. They go into 6-A or the Valles Caldera. As soon as the hunts are over, they come back. These ranchers are small ranchers with 80 acres which is all alfalfa. Some aren't given landowner permits, which is wrong. I've written letters to the Governor and a few of the Commissioners, and I've had meetings with Mr. Kirkpatrick. Unit 6-C can't be hunted for 1 hunt and all the elk have left. Split the unit differently or open it back up the way it was before. We had no problems when it was Unit 6 like we're having now.

R.J. Kirkpatrick: To put that in context, we had a big meeting in Coyote ranger district Saturday and Commissioner Henderson attended. Based on recommendations from that meeting, we've amended the proposal for the elk rule and several of their recommendations are now incorporated.

Matthew C'de Baca: I'm representing the Bow Hunters of New Mexico. I don't think the harvest is as big in muzzle loader or rifle. My understanding is that the Department is going to put more muzzle loader and rifle permits for elk in the rut and that's a big mistake.

Chairman Sims: R.J. stated he's going to look into what we're planning on doing with the reduction in licenses across the board.

Jeremy Vesbach: I represent the New Mexico Wildlife Federation. Given the interest in Valle Vidal and Otero Mesa, I'd like to encourage you to consider analyzing some improved hunting opportunities there. Maybe a longer season for youth drawing an antelope hunt in Otero Mesa, possibly something along the lines of offering some limited mule deer hunting in Valle Vidal.

Larry Caudill: From Albuquerque. I've got great respect and confidence in the Department and R.J.'s doing the best job that's been done in this area for a long time. When he makes a recommendation, there's good information and good reason for doing it. One thing I haven't heard is the crippling loss. There are good studies out there about crippling loss during archery seasons and maybe that's a factor and you lose a lot of animals. Regarding the antler point restrictions, we've had 2 seasons, R.J.?

R.J. Kirkpatrick: This will be the second year of point restrictions for elk in those specific GMU's, and it'll be the 3rd year for point restrictions on deer.

Larry Caudill: This was originally done to try and generate a few higher-quality deer. A survey done in Unit 2 several years ago by the Forest Service, they counted 180-odd deer and camps all but 2 of them were fork horns. When you kill off an age class, you don't have any left to get bigger and older and better. When you talk about antler-point restrictions, we need to think about some of the positive factors. If you have a 3-point restriction, you're probably going to kill some illegal fork horns. If you have a fork horn restriction, you're probably going to kill some

spikes. If you have an allowable spike rule, then you're going to kill a few does. It regresses back to the next smaller and yes there is some loss, but we're still saving some deer and I'd like to see those restrictions stay in place longer rather than do a knee-jerk reaction and get rid of them prematurely. Looking at oryx population reduction, particularly the security badge requirement hunts, there are a number of population reduction hunts on and adjacent to the Missile Range, yet the badge hunt is only where you're not allowed to apply if you've had a previous once-in-a-lifetime hunt. I don't think that makes any sense. The intent was to get more experienced hunters because that's a tougher hunt and the idea was to get into some of those rougher areas and put some pressure on those animals that weren't otherwise getting pressure. So I respectfully request that that be reconsidered and be like the other population reduction hunts. I'd like to suggest that we start thinking about getting away from the once-in-a-lifetime proposition because there are literally thousands of people that've hunted oryx. Even the Bighorn sheep in Colorado if you draw a tag and you lay out 5 years, you can re-apply, so maybe the answer is not once-in-a-lifetime but a layout period if you have had a permit before you can apply again.

Jon Schwedler: I represent Animal Protection of New Mexico. Our basic concern is that we may be overestimating the population of cougars in New Mexico based on 3 factors: 1) the current estimate R.J. mentioned; 2) the harvest of females as a ratio of the harvest; and 3) the number of hunter days that hunters are going after cougars have gone up the last couple of years. Since 1996 we've had a bunch of different numbers for estimating cougar habitat. I've been in touch with Director Thompson, R.J., and Rick Winslow, the game biologist, and then last week the rules came out and in this set of numbers the low range is 150,000 square kilometers which is higher than the previous high range and the high range now is 244,000 square kilometers. So, we're talking about 77% of New Mexico's land mass being cougar habitat and we disagree with that. The second thing that concerns me about the decreasing number of cougars is the percentage of females killed as a proportion of the harvest. This is something the cougar researchers say is representative of cougars declining when the ratio of the harvest of female cougars goes up. Since 1999, we had a harvest of 37% females, 41% the next year, 42% the next year, 44%, 45% in 2003 and 2004 and in then during the 2004-2005 season it was 48%. I've very encouraged by what some of the Commissioners have suggested in a female sub-harvest limit and the map you have before you was put together by Kurt Menke. Kurt is the President of the New Mexico Geographic Information Council and we put that map together after being in contact with New Mexico Game and Fish and plugging in different or more factors to consider map habitat, terrain, different prey species, roads, and human population. The weak part of that map is the GAP mule deer data and GAP is largely what is the basis for the New Mexico Game and Fish estimate of 244,000, is that correct, R.J.?

R.J. Kirkpatrick: Based on mule deer habitat, is that what you said?

Jon Schwedler: Is the 244,000 estimate largely based on GAP?

R.J. Kirkpatrick: Based on Gap analysis, but not the original Gap analysis having to do with estimating cougar harvest as a function of mule deer, the new version and why the numbers changed. Director Thompson, was the GAP analysis based on water distribution and riparian areas in New Mexico?

Director Thompson: I think it's best if we allow Mr. Schwedler to finish his comments and then if there's anything to respond to, we can do that.

Jon Schwedler: I'm done and my recommendations are to support a female sub-limit for harvest in those game units where females have represented greater than 25% of the harvest over the past 5 years. That's the basis of my recommendation and you take a look at the new map.

Chairman Sims: Just to comment on the map, we ranch in 7-8 counties and 3 of those ranches are in this Unit 31 and we have a large population of lions which isn't reflected in the map.

Director Thompson: Just to comment, in the spirit of what we're trying to do, Mr. Schwedler has provided some of the kind of information that we're seeking through our public comment process. We've not suggested that the proposal is perfect but rather than we've attempted to compile a realistic picture and we will then take into account all of this kind of information. We'll need a bit more to understand how this map was prepared but we're quite willing to consider any substantive, technical information that anyone provides, so I think Mr. Schwedler simply is participating in a way that we intended.

Peggy Norton: I'm a high school math teacher, I have a biology degree and I'm here to request the banning of trapping on public lands. It's based on unscientific evidence. I don't think when you set out a trap you put bait in it, you put scents in it that you're going to get necessarily the animal you're trapping and I don't believe we know exactly what we are trapping. The more I talk to people the more I hear about this and I think that as more and more land is

being used for public use it has to be able to be used safely and this is just a system that is mistreating animals. I'd like for you to address this issue.

R.J. Kirkpatrick: To partly address some of those concerns, the Department is in the process of developing an informational video/CD on how to safely release non-target species that get caught in traps. The Public Information and Outreach Division will be working on that over the next month or so and we hope to have that out so that people will be aware.

Commissioner Henderson: It occurs to me that you've made some recommendations to change the regs, have you had 3-party talks between the anti-trapping and the trapping community with the Department? It seems to me that this comes up every year and it would be nice to find—no one is going to have total satisfaction from this issue because it's a social issue, it's not a biological issue. It would be nice if we could find some common ground and I'm not sure if we're even getting there yet.

R.J. Kirkpatrick: The last regulatory cycle was a scheduled 3-party meeting to work through these issues with the Department. People opposed to trapping and the trapping interests in New Mexico. I'm not exactly sure the reason that meeting was never held, but we would be happy to entertain hosting those kinds of meetings over the next 40-60 days if the parties are interested in talking through what makes sense.

Commissioner Henderson: It'd be great if you could talk to them during our breaks and I appreciate what you're doing.

Michael Free: I'm a licensed New Mexico guide in Ruidoso and was an avid archery hunter until I didn't draw a tag for 7 years. I've got a petition from Ruidoso Archery Hunters and within 8 days I've gotten 108 names stating that they'd love to see the \$6 entry fee gone, put the money back like it used to be in April, and there are other ways to make up the money that you're going to lose from the entry fees. Most of the people I talked to agreed that they would pay \$12 application fees just to have less non-hunters putting in for our tags and hunters that do hunt but put their family members in to try and draw a tag. It's an issue we need to look at because it's going to get worse.

Barbara Coulter: I'm here representing Animal Protection of New Mexico. Having received the proposed rule changes only 5-business days ago, it's difficult for us to make substantive comments at this time. It's clear from our preliminary review that these regulations do not appear to be biologically guided as the Department has not conducted any surveys on furbearers in the state for over a decade. In our view, the proposed changes appear to concede to trappers' desires. The most obvious example of this is by maintaining the language that "there should be no bag limit on any furbearer" and that's in 19.32.2.9. Omission of a bag limit is particularly disturbing because it makes "harvest management as stated in the matrix titled 'Summary of Furbearer Resources in Relation to Harvest Management'" meaningless especially in light of the continued drought. From our standpoint, the proposed rule changes ultimately weaken protection for New Mexico's wildlife.

Chairman Sims: Again, some of the reporting criteria that we're having the trapping industry do is getting to a point where we have more idea of what is being harvested and what is out there and come with some better information.

Mary Katherine Ray: I serve as the wildlife chair for the Rio Grande Chapter of the Sierra Club. We believe traps are not compatible with public use on public land, but even if leg hold and lethal traps were disallowed there, use of cage traps and hunting furbearers would still make having this population information essential for wise management. We are concerned the data used to develop this matrix is limited and dated. Most of it is over 30 years old when conditions were different, whether looking at the human population, habit degradation, or especially the drought that's occurring now. This draft matrix uses estimations of occupied habitat, estimations of animal density and that habitat, and estimations of what can be sustainably killed. That's a lot of estimating and a lot of uncertainty. We believe the Department needs to do actual field surveys to make sure that the information is reliable so that the killing can be demonstrated not to be harming populations. Localizing this information would be more useful to ensure local populations are not decimated or as trappers say trapped out. If furbearer numbers cannot be properly documented in the field, then there is no wildlife management occurring, it's just reckless killing. About the trapping itself, on the back of the hunting Proclamation the booklet which also contains the rules for trappers is a Code of Ethics. Point four says, be respectful and courteous to other hunters and non-hunters. On public land the public is not restricted to tiny buffer areas around roads and trails. Hiding traps where other people can be harmed by them is neither respectful nor courteous. Point nine says ask hunters to take only what they need for personal consumption. The point of trapping is not personal consumption. It is to kill and sell as many animals as possible. It's an out of control gold rush now that pelt prices are high. Point six says to hunt under the rules of fair chase. The hunters who

invented these rules specifically excluded the killing of an animal that is helpless in a trap. By allowing traps on public land the rest of us have to endure frantic trips to the vet, witnessing animals with their limbs hanging by a tendon, or dragging traps pulled out from their mooring, finding dead animals in traps, finding trapped animals alive, but being helpless to legally do anything about it, having to leave the field and worse, having a reluctance to return. As you deliberate these furbearer regulations, would you please consider both the wildlife and the rest of us who also use and love public land.

Commissioner Henderson: R.J., the proposal is to increase the reporting on trapping, do we not have the information. We're not making a determination yet but we could in 2 years?

R.J. Kirkpatrick: With regard to harvest information, how many of each species are we harvesting and where are they coming from, currently it's voluntary reporting. We then estimate the total statewide harvest based on those reports. The Commission has adopted the requirement that anyone that is licensed to trap or hunt furbearers in New Mexico beginning this season, must contact free phone number/website and report their harvest of furbearers. Failure to do so will result in difficulties—they won't be able to be selected for special hunts the following year. We're expecting and hopeful that that will give us much more accurate harvest information by species by county. Upon getting that information, we can better identify where there may be places in New Mexico where current harvest of a particular species is becoming worrisome. Right now based on the estimated population, we don't see any species that appears being harvested by trapping interests that's being put in danger as a result of that. As we move through the next few years, we'll have a better sense if we are seeing some unnatural high harvest levels of a certain species, in a certain spot and we would come before the Commission to address those concerns.

Commissioner Henderson: You know I make most of my decisions based on biology because that's where I come from, but this issue about trapping is a social-cultural issue and I just want to reiterate my concern that folks need to sit down and talk to each other.

Robert Harrison: Had to leave but comments have been included in the record.

Dan Lorimier: I'm a resident of rural Sierra County and I'm the Conservation Coordinator for the Rio Grande Chapter of the Sierra Club. I'd like to offer a comment about the trapping of furbearers in New Mexico. I represent 8,800 recreationists who use our public lands extensively and don't feel constrained by roads or paths. From our perspective incorporating many of the comments you've already heard, I'd like to say that we feel that trappers and trapping in New Mexico is out of control.

Commissioner Arvas: What do you feel about hunting and fishing?

Dan Lorimier: We think that hunting and fishing game management practices are more science-based than anything.

Chairman Sims: What about hunting and fishing doing it just for sport?

Dan Lorimier: Our interaction with trappers is at a whole different level than our interaction with hunters and fishermen. We easily share those same spaces.

Chairman Sims: Is the science-based hunting and sports-based hunting selectively different?

Dan Lorimier: The numbers that drive your decisions for large game are derived differently than the numbers that drive your decisions on trapping.

Chairman Sims: That's what came about by a lot of reporting in doing some things different. In the future is to get to a more science-based approach and R.J. and Bruce are not done.

Trisha London: I'm here to speak for New Mexico Wilderness Alliance and we think we need much stricter regs for trapping and some of the reasons why we care about the wildlife. Trapping is a serious issue for us because in no other area of land management have we allowed such a lack of monitoring, enforcement, and regulations. Citizens and agencies with no monitoring can't know what damage is being done. The goal is viable wildlife populations and having everyone play by rules that recognize and protect instead of harming those other values on public lands but since you don't monitor you can't know what the rules should be, what species are threatened or endangered. What do you as the Game Commission need to do this? \$2 billion a year comes from hunting, fishing, birding and all other forms of public land recreation. Predators have a hugely important role in nature. Without predators, everything unravels as science proves. Some scientists think surveys can be done to tell us how many animals really are out there just because this hasn't been done before please don't discount it. I don't think we can wait another 2 years to assess how the new regs play out. The trend of damage may not be reflected in 2 years and may take 5 years to

show up. We need you to do your part now to have trappers play by rules that you know will not jeopardize the wildlife who make our wild public lands the world treasures they are.

Vince Vigil: I'm an outfitter with New Mexico Hunting Adventures. I also represent bow hunters who like to hunt and are conscious of how they hunt. One suggestion we have is implement mandatory bow hunter education class. It's hard to draw rifle tags and muzzle loader tags and bow hunting is getting to be what everyone wants to do because it seems easier to draw a tag. Another passionate concern I have is the mismanagement in Unit 6-C for elk and any other wildlife. It says here that there are 1,000 elk in 6-C and I challenge you to take me out there and show me 1,000 elk 3 days before the bull hunt. I talked to the biologist in the area, I talked to the Department of Game and Fish and all they do is point the finger back to the Commission. Do it like in 6-A and I compliment the Department on how the game has been managed in 6-A, it's a trophy area and I wish 6-C would turn back into. I applied 80+ residents and not 1 drew. If we go back to the old system and eliminate thousands of people that are putting in \$6 and then having the money in their account but put it in after they draw.

Chairman Sims: We talk about the bow loss and I'm a bow hunter, but all the guides and outfitters I go with stress the Code of Ethics. You draw blood, you're done.

Commissioner Pino: R.J., you said earlier that there're some requests of tracking game by use of dogs on a leash. I think that's going to open the doorway. The public would use those dogs to hunt those animals, so as a Commissioner I would say let's be cautious in allowing something like that to occur. We need to study that because you're giving an inch and they're going to take the whole yard. I think the 3-point restriction we've had the past 3 years, we need to look at and decide whether we want to continue. When you asked for comments earlier it was on elk, we didn't have a chance to comment on the other areas. At the Clayton meeting we had talked about whitetail and my comment was why hunt a species of deer that I felt was barely establishing itself. After the meeting I went over to Clayton Lake and to my surprise saw whitetail mixed in with the mule deer. I'm glad you're talking about options and not 1 way of doing it. As Commissioners we should be given that information ahead of time before the decision has to be made. You mentioned that you'd incorporated some of the input from a meeting you had in Coyote and I'd like to request that some of that input and how you used that information to make adjustments. If you've already done that or if you're planning on doing it, I'd like to see some of the information you got and make changes that would be beneficial to the ranchers, hunters, Department and Commission.

R.J. Kirkpatrick: Do you want me to address those now or do you want to wait until the August meeting?

Commissioner Pino: If you can explain what changes you have incorporated from that meeting in Coyote—

R.J. Kirkpatrick: The current draft proposal of the elk rule and the 2 summary documents that are available for everyone's review in 6-A, 6-C, and 6-B, the Valles Caldera, all of the hunts now are proposed to run concurrent. The recommendation to us at the Coyote meeting was to make the hunts concurrent so that when there's hunting pressure in 6-C, the elk don't have a safe haven by moving into 6-A, or into the Valles Caldera. That may be successful, it may not keep those elk in 6-C country even though hunting season is going on. In response to numerous multi-year requests to reduce total permit numbers in 6-C, the draft rule reflects 20% reduction in total number of licenses. Keep in mind the biological assessment suggested a 57% reduction in total license numbers, but we felt because of social and economic considerations, we wouldn't propose more than 20% for this particular 2 years, work slowly toward reducing the number of hunters in 6-C. We also discussed the interest in re-drawing the boundary that basically comes off the northwest corner of the Valles Caldera and goes out to Gallina. The Department, northwest area folks, and myself will sit down, and we can come to some reasonable concurrence on how to redraw that boundary so that more area that has probably the most significant number of elk in 6-C is included in 6-C that may address some of those concerns as well.

Commissioner Pino: Right after the September bow hunt, squirrel hunt, and grouse hunt, I got numerous letters from people complaining about the Labor Day weekend and the fact that we have hunters out bow hunting and you have individuals shooting squirrels and grouse at the same time, are we doing something about that issue?

R.J. Kirkpatrick: The majority of New Mexico elk bow season for example runs September 1 through 22 or in some places September 1 through the 24. Typically, grouse season and squirrel season begin September 1 and currently runs through the middle of October for both of those species, so both of those hunting interests are in the woods at the same time for 22-24 days of the 45-day long upland season. One step we did take was the weapon type that's allowable during both seasons is only bow and so we tried to address that with a variety of implementations, but I'm

not sure how we would approach keeping upland game hunters and firing shotguns and bow elk hunters and bow deer hunters out of the woods at the same time, but we'd entertain any ideas.

Commissioner Arvas: The proposal you presented today was a draft proposal and what I'd recommend we try to do for the public's best interest is for you to publish your final proposal as soon as you can prior to the meeting in September and that'll give them an opportunity to have some input and hopefully be able to attend the meeting. It's important to make the public aware of the fact that this is a continuing process and the public needs to become involved.

R.J. Kirkpatrick: Along those lines and for the audience's benefit, this is the first draft proposal that the Commission has been made aware of formally. We'll move forward continuing to have public meetings, entertain website comments, etc. We will develop a second draft proposal that reflects appropriate and reasonable input and we'll present the highlights to the Commission at the August meeting. We'd like to have as many comments and input as we can prior to September 1 so that we can put those together in a final draft proposal, but we always take comment and input at the Department level up until the day of the meeting and bring it to your attention that day if you choose. We've got about 45 days so the public can interact with us.

Steve Padilla: From Los Ojos. I want to address a couple of things that were brought up about Unit 6 and also the \$6 application fee. When I was on the Commission, we got a lot of political pressure on Unit 6. It's an extremely hard unit to manage--you've got Bandelier, Los Alamos Labs, and Valles Caldera, and members of the legislature were complaining about large amounts of elk damage in Los Alamos within White Rock and that's why it was divided into 3 units. We were trying to make it easier to manage the herds. The lines drawn were done by the Department, but if anything is done, they're making it 1 unit again you're going to be under the gun again from the legislature. As far as the \$6 fee, my last meeting on the Commission, we passed a regulation requiring the full amount to be sent in. When you became Commissioners, the Department switched that saying to you that what we passed was Department made. I've dug up the minutes of that meeting so that you can see the wording that took place at that meeting.

Commissioner Henderson: I did attend the meeting in Coyote to talk about Unit 6 and there were a couple of very strong impressions--1 is we probably had as many people there in Coyote as we have here today. It's nice when people care about their back yards and they come out to express their points of view. R.J. was very good at facilitating a gripe session and got it down to a decision/proposal-making session and the proposals that are before us are things that came out of that meeting. R.J. listened to them and the public was interested and I hope they left believing the Department is listening to their points of view. Having said that and having been on the Commission for 4 years now, there are probably few issues that are more divisive than wildlife issues. You don't get common ground very quickly and R.J. expressed to the folks in Coyote that we've been talking about these issues for 7-9 years, but finally they're starting to find common ground. It's not easy being put under the light and have to answer the hard questions but R.J. did a very good job and represented the Department's interests very well.

Dennis Land: Had to leave, his comments have been included in the record.

Discussion item only.

AGENDA ITEM NO. 15. Preliminary Discussion of FY 2008 Capital Outlay and Operating Budget Request Priorities.

Presented by Patrick Block and Luke Shelby – The Department provided the Commission with an initial briefing on the development of Fiscal Year 2008 (7/1/07 to 6/30/08) operating and capital outlay budget requests. The Department sought Commission guidance to ensure that the request documents are consistent with executive branch guidelines and align with Commission priorities and policy direction.

Commissioner Henderson: We've gotten bit on the butt about every time we've acquired a dam. We did recently when we acquired Eagle Nest. What's the value? I can see the value for sportsmen in having the fishery, but what's the value in us owing the dam?

Pat Block: It's not necessarily the best value and most of these were acquired in the past and I guess that also gives me a chance to practice our plug for why the fix ought to come from some place other than just the license buyers. A lot of these dams, and Eagle Nest is a great example, hold water for a variety of purposes. It's a wonderful asset to hunters and anglers in New Mexico who use that for recreation, but it also holds water for municipal water supply, for irrigation and it serves a flood control purpose. These are all very general benefits that the public gets and that's why

we feel it's reasonable to look for a more general funding source than hunter/angler license dollars to make those repairs. It's not a direct answer, but it's an important consideration.

Commissioner Henderson: I hope we do consider that in the future because we have assumed responsibility far beyond the outcomes that we inherit from the purchase.

Commissioner Pino: You mentioned cost of gasoline, does the Department buy bulk gasoline or do you have to go through gas stations as you need gas?

Pat Block: We do not buy in bulk any longer. There are tremendous liability issues with maintaining tanks, so we along with all state agencies, use the Wright Express credit card system for gas purchases. I believe we do in the end get a break because there are some taxes that the state is exempt from that don't show up when the bill comes, but we do not deal with holding our gasoline anymore, except for the off-road diesel fuel at the farms and hatcheries where we do buy in bulk and store above ground.

Commissioner Pino: Over the last years there are always some comments or restrictions on how much money is available for use by the Commissioners. We donate our time and the only thing we get is mileage and per diem. It has always been low, it's never been adequate. As we go through this process in 2008, I probably won't be around as a Commissioner, but if we could address that there be sufficient funds for the Commissioners to get more involved in the operations of the Department so that the Commission can make decisions hands-on using the 5 senses instead of just using our hearing to make decisions. That would be beneficial for all of us if that could happen.

Pat Block: I'm pleased to be able to respond that when I was working with Director Thompson to revise the instructions that went out to all Divisions, he had made a note that said to make sure that we had budgeted sufficient funds to cover Commission per diem and mileage. We did agree that we'd pass that on to the staff that helps us with the Administration budget, so your employee is looking out for you on that one.

Commissioner Salmon: Each year at the state legislature 1 agency which is most aggressive in asking for hundreds of millions of dollars is the State Engineer's Office and they also are the ones who are involved many times in telling us that the dams that we own are not adequate and they need repair and this is where a lot of our money has to go. I would suggest that it would be appropriate for the Department to work with the ISC and the State Engineer's Office to allocate some of that money that they request each year for water development to be devoted to some of our needs in maintaining and repairing some our expensive dam projects.

Pat Block: At our last meeting which was day before yesterday, we met with John D'Antonio, the State Engineer. Also present were representatives from the Legislative Finance Committee and from the Department of Finance State Budget Division and I feel that's exactly what we're trying to do is make sure that when they state their priorities and they are consistent with our priorities, that that message is received as we're all coming from the same place and it's not a competitive request but rather a complimentary one.

Commissioner Arvas: Are we going to have any problems re-justifying our Game Protection Fund balance as a result of the license fee increase?

Pat Block: I don't think so. I can start next month's budget presentation with a look at how the license fee adjustment process works. We are going to be in a cash-building mode for a year or 2, but it's not going to buy our latest projection, get to the point where it looks quite as attractive as it did in the past when they've come in and taken a few million dollar bites out at a time for different things. It always is an explanation process. There's the whole concept of needing to have enough cash in the bank at the beginning of the year to be able to sustain operations through the winter months when hunting license revenues are down. Nobody is buying fishing licenses but we're still putting in the same gas in the trucks, paying the same office rent, and paying employee pay checks that are fairly steady throughout the year. That's a continual education process so that's something that we've not lost focus on and we've actually talked recently about how do we even further that for the folks that do the analysis to make that understanding even better. Director Thompson and I spent the better part of a long car ride recently talking about how we can get toward that. I guess my short answer would be I hope not.

MOTION: Commissioner Arvas moved to direct the Department to continue development of a fiscal year 2008 budget request that incorporates Department's suggestions presented today and the Commission guidance discussed during the presentation, including the areas that were discussed. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 16. Potential 2007 Legislative Initiatives.

Presented by Tod Stevenson – The Department requested that the Commission provide legislative item suggestions for the 2007 legislative session for discussion. The Department also requested that the Commission reaffirm or designate up to 3 Commission members to a legislative subcommittee.

Commissioner Arvas: I think this is a difficult process because obviously we haven't gotten direction from the Governor's office in terms of what his administration wants to do, but I would encourage you to at least highlight all the initiatives that this Commission and this Administration have started. If I remember right they all need funding and what we need to do is have a cheat sheet on 1 side showing all we've accomplished with those individual projects and what we expect and what we're going to need in the next fiscal year. Another thing I'd recommend is have a wish list that would be of things the Department would like and needless to say, it has to be far reaching. It just can't be something where you have to replace light bulbs and something the public can put their hands into and help us with their support. We've been very successful the last 2 legislative sessions and sometimes you don't always win. I'd sure like to keep the programs we've started going and then continuing discussions with Mr. D'Antonio about the dams because that's about a \$20,000,000 bill they're talking about and as Commissioner Henderson stated we seemingly get stuck with the tab even when we don't want it.

Commissioner Riley: I know you talked about capturing some royalties from energy development in the state. Obviously, New Mexico is only behind Wyoming in collection of energy royalties. There is legislation moving through the U.S. Congress to capture some of those royalties for fish and wildlife and other natural resource issues. A bill was passed in Wyoming 2 years ago to capture some of those dollars to use for fish and wildlife and other natural resource issues impacted by energy development and since this state agency has the trust resources for fish and wildlife and shared with Fish and Wildlife Service, it's extremely important that as energy development continues to march across the state, which none of us doubt that it will, it's important to try and capture those dollars and maybe even if you think about it, it's 1 of the only funds that's really growing these days and the best time to go after money is when the pot keeps getting bigger. It's less painful for everybody else who wants to dip into it when it's growing so I really encourage that we look at that possibility even the creation of a trust fund that might be used in a situation where you build it up to a certain level and then use the interest off of it from that point on.

Commissioner Salmon: I concur with Commissioner Riley and I would point out that last year a bill of that sort which the Governor supported and we supported. It didn't make it in the 30-day session, but I suspect that we could revive it and assuming the Governor would still support, I think we should be aggressive in pursuing it. I also point out that every year at the legislative session, bad bills pop up sometimes out of no where at the last minute and I would encourage the Commission and the Department to be aggressive in being on the lookout for these bad bills. For example, last year there was a bill to make the mountain lion a varmint and I think most of us regarded as very regressive legislation, but it actually got through a number of committees and nearly made it. So, as we see these bad bills come up, we need to be aggressive in spotting them and lobbying against them and I personally as a Commissioner if you need me or anyone else on the Commission to come to Santa Fe to speak out on some of this bad legislation, I think it's worth it to head it off at the pass and make sure it doesn't happen.

Commissioner Henderson: I'm going to concur with most of what's been said and we have a unique opportunity going into the next legislative session. It's a 2-month session, we laid the groundwork for what ought to be our priority bill which is the Land, Wildlife, and Clean Energy Act. We got our funding for sportsmen and hunting interests 2 years ago, and now it's time for us to call upon the rest of the citizenry to step up and pay for non-game wildlife and habitat protection. There's a bipartisan and broad-based group that's been brought together to forward this piece of legislation including sportsmen, environmentalists, agricultural interests, and county interests, and it's a great way for us to build our respectability within those communities. The other is we're riding the crest of the wave right now. I remember the years when we got shot down at the legislature just about every time we went up there and I think we're spending our money wisely, we're bringing forward appropriate legislation, we're building coalitions and collaborations so we ought to take advantage of it. I would be happy to serve on the legislative committee again if that's appropriate.

Commissioner Riley: The Farm Bill generates a tremendous amount of money. It brings federal dollars total and over a 5-6 year period of about \$189,000,000,000 distributed to farmers and ranchers throughout the U.S. New Mexico has been building its share of that money, the biggest problem we have is it's a cost-share type thing and a lot of farmers and ranchers of New Mexico have a tough time coming up with 50%-75% cost share. There were

many programs within U.S.D.A., and probably new ones in the future when the 2007 Farm Bill is passed that will allow state agencies to assume some of the programs. It will allow non-profit organizations to assume some of the programs in partnership with the state agencies so U.S.D.A. does not have to carry the full load like they've been doing. My suggestion is that we look for an opportunity to seek matching funds at the state level to help pay for some of these projects. You may know that there are negotiations going on right now about the possibility of a program called Conservation Reserve Enhancement Program (CREP) and that would require the state to come up with some money to do some special conservation on private land in the state, but the state would have to come up with some matching dollars for that program. Obviously, those dollars aren't available to do anything big. If we wanted to do 100,000-200,000 acres of really important work say along the Pecos River we have to have some sort of matching funds. That's a consideration we may want to explore.

Tod Stevenson: One of the things that we've identified as we've moved through the Comprehensive Wildlife Strategies, moving forward trying to spend land incentive dollars, and things like the State Wildlife Grant dollars are potential needs for some expanded authorities to expend new revenues on management and other things for additional species not currently covered in statute. It's something the Commission will need to look at as you move through time. That's in some people's estimation a dual-edged sword without questions where there are some concerns about additional authorities, but there may be a way to meet that happy medium with developing some opportunities to do management and not put that into the regulatory side.

MOTION: Commissioner Henderson moved to direct the Department to further develop, and assure appropriate review by the Commission legislative sub-committee and we do have a sub-committee whether or not we want to re-design it is up to us, but let's stick with the existing sub-committee, and Governor's office, and prepare for bills introduced during the 2007 Legislative Session the following items: most of the discussion I heard was for land, wildlife, and conservation, and anything else that comes up.

Tod Stevenson: I can go through the ones that I heard. Would you like me to do that, Mr. Chairman, at least what I wrote down?

Chairman Sims: Sure.

Commissioner Henderson: Amend the motion appropriately or accordingly.

Tod Stevenson: One was going back and looking at the accomplishments and programs that we have put into effect, or we have got authority over the last few years to implement to assure that we can move forward with those established programs. Looking at some of the things within the Department that we might identify at least along with the sub-committee that would be far-reaching needs. Continuing to look at opportunities to get the dam improvements funded, at least co-funded, or funded by another measure. Looking at specific things where we might have some opportunities to get dollars off part of the energy royalties and potentially look at a trust fund or building some type of a fund. Then we talked quite a bit on what Commissioner Henderson said about the Land, Wildlife, and Clean Energy Act, and then potentially looking at any other kind of mechanism that we could for some of the large pots of federal funding coming down the pike and explore some different types of funding mechanisms that might help the state be able to take advantage of some of those large pots of federal funds.

Chairman Sims: I want to be sure that in the motion I want to name our legislative sub-committee at the August meeting.

Director Thompson: That's going to be an awkward motion for us to try and capture. If it's possible for us to include in the Minutes the nature of what Tod has just identified and have a motion restated that is crisper, I think it'll be easier for us to work from.

Commissioner Henderson: I'll repeat the motion. I move to direct the Department to further develop and assure appropriate review of all legislative sub-committees and Governor's office and prepare bills introduced during the 2007 legislative session and ask that the motion refer to the Minutes to identify the appropriate legislative actions that were addressed during this discussion.

Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 17. Establishing Civil Liability for Trophy Poaching, New Rule NMAC.

Presented by Dan Brooks – The Department initiated the process to establish new rule that will allow for the determination and value of a trophy animal that is illegally taken. HB 536, effective July 1, 2006, allows the

Commission to designate trophy animal criteria and establish recoverable damages (value of trophy loss owed to the state) by civil judgment. The Department will initiate the public involvement process, consistent with Commission direction.

Chairman Sims: The hard question is the value to me is not that hard as long as people pay a certain amount of money for a chance of a certain score on deer or elk and that's pretty well established through guides and outfitters. They can tell you basically the cost on those. Right now in Sonora, Mexico, it's \$10,000 to go shoot a 200+ score deer.

Commissioner Riley: SCI and guides/outfitters obviously would have a pretty good idea of what people are looking for and how much they're willing to pay for it. In fact they may have a better idea than any of us because they're face-to-face with these people. Generally speaking, the things you've outlined are just the type of stuff you need to go out and collect and do a commendable job of doing it because it's going to take a lot of opinion.

Commissioner Arvas: Dan, I'd also like to recommend that you look around surrounding western states and see how they do it. From what I understand, the more you can charge the happier the public will be because they're pretty outraged by things like that.

Dan Brooks: The only thing we have to do is balance that it has to be the loss to the state, so there is some value that we can tie back to the state's loss.

Larry Caudill: Since I initially talked to Dan about this, I've had some second thoughts about some of these things and 1 is looking at the other western states, and 2, it needs to be something that's fairly simple such as width, point, or diameter measurement--something less complicated than Boone and Crockett, or Safari. I don't know if the Commission would be interested in entertaining the idea of a task force to come back to the Commission or have Dan do it, but certainly there's a lot of thought about what constitutes the value of that animal and what constitutes a trophy. It's clear that a big trophy animal has a tremendous dollar value attached to it and we should be recovering it.

Steve Padilla: I got involved in this 1 year ago. I met with the leadership of the legislature, I got their approval, I got a sponsor, Senator Michael Sanchez who is the Majority Leader. In working with Dan we drafted the language in the bill, we worked with Council Service, but it was primarily Dan's input on the language that went into that bill. When it was introduced, Representative Vigil also introduced it on the House side at the urging of his sister-in-law and throughout the lobbying process, through all the committee hearings, the spirit of this bill was to serve as a deterrent not just to recover the value. I first approached Michael Sanchez with the idea of making it a 4th degree felony and I got a resounding no, our prisons are full enough already. I said what if we make the fine \$80,000, and he said yes. As a deterrent no one will go out there and shoot an animal and chop off the head just for the horns if he's liable to face an \$80,000 fine. That's the spirit in which this thing passed and every committee it went through that's the discussion that took place.

Kent Salazar: I'm the Vice President with the New Mexico Wildlife Federation, but I'm speaking as an individual. We need to stop poaching. I'd urge the Commission not to look just at the trophy animals. There's a unique value to every hunter or fisherman of these animals and we have an experience out there hunting these animals and it's up to you to make sure there's a proper value placed on these.

Director Thompson: One other point for the Commission's consideration as we work through this, this isn't just about antlered animals or animals that have horns. This can apply to literally any species of fish or wildlife that has some trophy kind of consideration. It'll be important not to focus just on something like antlers, points, and so on, but on a fuller description of what might constitute a trophy. We do have to emphasize that as passed, the statute does relate to recovering a value lost to the state. The value lost to the state is not necessarily directly the amount that a particular antler might be worth. It could be more, it could be less, and that's what we're going to be wrestling with to describe.

MOTION: Commissioner Montoya moved to open the process of trophy animal description and associated civil liability for public involvement and have the Department work with individuals and groups to formulate a recommendation for recoverable damages of illegally killed or taken trophy animals. Commissioner Arvas seconded the motion.

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

Chairman Sims asked to consider Agenda Item 23 before conducting the Closed Executive Session.

AGENDA ITEM NO. 23. Description of Jaguar Conservation Assessment and Framework.

Presented by Chuck Hayes – The Commission was provided with a brief description of the 9-year history of the jaguar conservation assessment and framework that has been developed collaboratively among Arizona and New Mexico interests. Current status described for revision of the Memorandum of Agreement that implemented and supported this effort.

Commissioner Arvas: About 1½ years ago, did this Commission actually make some motions or something to the effect that there'd be a meeting of all these principals?

Chuck Hayes: Not that I'm aware of.

Commissioner Arvas: Supposedly, about 18 months ago this Commission requested that members of the Soil and Water Conservation Commission, Directors of the Association of Conservation Districts, and the Director of the Department of Game and Fish jointly discussed items of interest to determine resolution. Somehow if that slipped through the cracks obviously that seems like a good first step, Director Thompson do you remember anything about that?

Director Thompson: I think what you're referring to is about 18 months the Soil and Water Conservation Commission representatives met with this Commission to discuss some ways to provide for and enhance effective communication on items of mutual interest. One of the things that emerged from that discussion was direction from the Commission to ensure that I as Director of the Department of Game and Fish and the Soil and Water Conservation Commission and the Association of Conservation Districts ensure that we communicate effectively on those kinds of items. To some degree that may come into play because there is engagement by this Department and Conservation Districts.

Preston Stone: I ranch north of Capitan, NM, and am an Acting Director on the Soil and Water Conservation Division of Upper Hondo. Our biggest concerns at this point are negotiations with Arizona Fish and Game Department and New Mexico Department of Game and Fish. There are 2 SWCD's in Lincoln County, Upper Hondo, and Carrizozo in essence by the voting status of the membership in Lincoln County. All the projects SWCD participate in are joint projects with any landowner and every project is wildlife friendly. Our biggest concern now is discussion that statewide SWCD's will only have 1 voting status. This is a deep concern to our members in Lincoln County, Upper Hondo, and Carrizozo. We feel that any conservation program is a partnership and the only way you can maintain a partnership is everyone have a word and a vote.

Chairman Sims: Do we have a voting quorum on the jaguar?

Chuck Hayes: Although it's the minority of the occasions, there have been instances where the conservation team has voted on items and the counted votes have been signatories only. I believe that's what Mr. Preston is referring to is the ability to vote even though everyone has been able to participate.

Chairman Sims: We've only seen the jaguar in 1 county?

Chuck Hayes: Yes, that's correct. If you go back historically, there's a broad distribution.

Chairman Sims: Historically, what do you mean?

Chuck Hayes: 1900's and before, 50-100 years ago. Since formation of the jaguar team was basically observations in Hidalgo County in New Mexico, at least that's the limit of confirmed observations or documented. The current version of the conservation framework is fairly clear that the priority area is limited to Hidalgo County within New Mexico and then some counties within southern Arizona. This is only a draft document but that's the approach of the team now that have been translated to the framework that the actions described within that framework will apply to Hidalgo County, unless the information changes and then there's a decision to expand beyond that.

Chairman Sims: Historically was the range much broader?

Chuck Hayes: Yes. How broad is perhaps a point of argument but certainly throughout southwest New Mexico and possibly records suggest even individuals farther out, well beyond southwest New Mexico.

Commissioner Henderson: Have you gotten much comment back from New Mexico's representation on the jaguar working group? We're addressing it here, but is it a problem?

Chuck Hayes: It was only April 2006 when the existing conservation team members voted to add on conservation district representatives who expressed an interest, so I'm not sure—the short answer is no, there hasn't been any problems at this point.

Commissioner Arvas: Somehow I'm getting the feeling that there's something bigger and broader here in this whole issue that I'm not seeing.

Chuck Hayes: You may be right that there's bigger and broader that I'm seeing too.

Elizabeth Shields: I'm here on behalf of the New Mexico Cattle Growers, New Mexico Wool Growers, and New Mexico Federal Lands Council. Today we'd like to mention that we're in support of the Soil and Water Conservation Districts having equal rights as counties and other agencies. We feel this is beneficial to both the state, the entire area, and possibly to the jaguar itself. We would also like to point out that the protection depends on the Soil and Water Conservation Districts and the state and we'd like for you to consider giving each 1 of those Soil and Water Conservation District equal voting rights.

Amy Donaker: I'm here representing the Deming Soil and Water Conservation District, the Hidalgo Soil and Water Conservation District, and the Luna County Commissioners. We're here to support each Soil and Water Conservation Districts have an individual vote or signatory on the MOA. What I'd like to express is that each district is different and they're all made up of elected supervisors of landowners in that area and therefore we feel that each individual Soil and Water Conservation District should have its own vote.

Jose Varela Lopez: I'm the Chairman of the Santa Fe-Pojoaque Soil and Water Conservation District. I heard that we were confused if there was a bigger and broader issue and what that issue is, is that Soil and Water Conservation Districts have gone to the jaguar conservation team meetings and have been involved in the process recently and the signatories from the very beginning voted at a meeting in April in Lordsburg to allow the Soil and Water Conservation Districts to be signatory members as we are, political subdivisions of the State of New Mexico. What happened subsequently was that under the proposed MOA's as it stands now for the Director to sign, the steps and votes that we took at that meeting in April are not addressed in that new MOA. The new MOA is asking that there be only 1 conservation district per state to be signatory, or perhaps 1 vote for conservation districts in both Arizona and New Mexico, as opposed to all of us being totally separate entities as are county commissions. The other problem is that we also voted to only address the jaguar in Hidalgo County in New Mexico at present because of the scientific information that we have available. That's not to say that it could not expand in the future as we get more and better scientific information. In the current MOA, that's also incorrect because it still reflects the 3 counties that were previously addressed but voted against in that previous meeting which was only for Hidalgo County at this time to move forward under the jaguar conservation. That's what the broader issue is, is that we had a meeting, we voted, we were signatories, and now we're being told that we are not signatories but that maybe 1 person can address the issues and the different things we can bring to the table as 47 different conservation districts by asking 1 person to do that. I don't think that's correct because that's not the way the process was set out and that's not what we voted upon.

Chairman Sims: Bruce, what do you know about that?

Director Thompson: Until about 3 days ago I really didn't know much about this, and I say in large part because no one from the conservation districts had approached me. I was aware that there were some concerns along these lines and had been asked previously to make a suggestion during the development of the draft about how to reach some effective representation. That may be where the concept of having 1 representative from Soil and Water Conservation Districts has arisen. I'll simply stress that as Chuck has indicated, there's a draft out in front of people available for comment, and nothing has been determined. It's simply a matter of getting views and today this Commission is hearing some views about something that really hadn't even come to my level yet. So, that's the best I can offer. I frankly anticipated that I would have heard something from either the Association of Conservation Districts or an individual district or the Soil and Water Conservation Commission and I hadn't.

Margaret Buck: I'm representing the Socorro Soil and Water Conservation District. Just to clarify the number 1 thing I'd like to say is there are a lot of wrong impressions today. My chairman wanted to make sure that the first thing I told you is we are not in any way against the jaguar conservation team. In fact we're very willing to participate in this and that's why we're trying to fight hard to get our own signatory vote. The problem we're having today and why we've shown up today is that in April they did vote that we would be voting signatories. It was passed, we were allowed to vote on a number of things and then when the new MOA came out, that was taken away so we inquired at the May meeting what is this all about? We were told at the May meeting that it would now be left up to the Directors of Arizona and New Mexico Departments of Game and Fish. It's not that we want to bring a war to you, what I want to ask you is I know you have to vote on that MOA when it does come before you and I would like to ask you if you would please not accept it as it is and to accept it as it was voted on in April that we all get our individual voting rights.

The nice part of it is that if we all do get to come in as individuals, we can channel a lot more funds and do a lot more educational programs for the jaguar which we're more than willing to do.

Debbie Hughes: I'm the Executive Director for the Association of Conservation Districts and I do work with the 47 districts but I have no power to sign any agreements for the individual districts or to speak on their behalf. These are elected officials, they're political subdivisions of state government, just like counties. One point I want to make is that if there is a decision to allow only 1 district or 1 representative, then that will have to occur with the county governments because we are on equal footing with the political subdivisions of state government. I hope that doesn't happen. We're participating nationwide, 3,000 conservation districts with state and federal governments and the NEPA process. Right now in southeastern New Mexico we're working with the BLM and USDA on a farm bill program putting money on the ground to help improve the habitat for the lesser prairie chicken and the Sand dune lizard specifically. Down in Socorro County, we just got through spraying a bunch of pepper weed on New Mexico Department of Game and Fish lands. We're treating salt cedar on New Mexico Department of Game and Fish lands, so I guess I'm a little confused as to why there would be any thought of not wanting to allow all of the districts and for them to bring forth their resources, money, talents, their ability to participate in state government. I haven't participated in the Conservation Team meetings because I didn't need to be there. The Conservation District Boards are very capable of representing themselves, but I did want to come here on the statewide level to let you know that statutorily we do have authority and responsibility to work on all natural resources and habitat, including wildlife, and that we look forward to working with you. I didn't realize there was an issue either, Bruce, until a couple of days ago because as far as I knew the districts were going to the meetings and everything was great and we were going to sign on and have a great partnership. I hope that you'll see that we can be of value to you and we can be great partners.

Commissioner Riley: Debbie, before you go, I just wanted clarification. You're asking that any conservation district in the state be able to go to the meeting or be a voting member, and if you're asking that, why is it important for somebody that's several counties away from where they're trying to focus the current efforts for them to have some sort of voting membership right at the meeting?

Debbie Hughes: From what I understand, what got the districts' interest to begin with is there was some kind of map that came out that showed a possible future range of the jaguar that went up into Cimarron, so a lot of conservation districts said wow, this could be affecting us. We should get in at the ground level and if we're going to do habitat restoration or whatever kind of planning, we need to participate. So, we've had a lot of interest. We feel that what is going to happen is we won't have 47 districts participating. We'll have those who really care and are most passionate about it and most committed because it's a lot of meetings, time and energy. At 1 meeting it was only going to be Hidalgo County and when the MOA came out it mentions 3 counties, I've got about 5-6 districts in those 3 counties.

Commissioner Riley: Could you come up with the list of those conservation districts that want to be in this?

Debbie Hughes: Yes, we can come up with the list of who participated in the first meeting and probably the last meeting. There were 21 voted as signatories in April. I think it's the same things with counties. I don't know how many counties want to participate.

Commissioner Riley: Are these 21 districts then inside this mapped area?

Debbie Hughes: I couldn't answer that but I know they're inside New Mexico.

Chairman Sims: Chuck, where's the map? Do you know about this map?

Chuck Hayes: Yes, I do know about the map that's being referred to. I'll try not to get into the long history of this, but 1 of the things under the original Conservation Agreement was to develop maps of potential habitat for jaguars in the 2 states. In order to do that, and Arizona first started doing this, they consulted world renowned experts in jaguars and asked them to assist in describing what is jaguar habitat, and provide description of those characteristics. That was done and then those characteristics were applied on basically a geographic analysis and Arizona at first came up with the lead and found this map and identified something like 1/3 of the state as potential jaguar habitat. Similarly, by signing onto that, we did a similar thing in New Mexico, it did not result in the map that she was referring to. We looked at it strictly from the point of view of southwestern New Mexico. When that ultimately came to the jaguar habitat sub-committee for approval, that map was not approved because they said we had deviated from the criteria and eliminated some records from northeast New Mexico, and, therefore, a non-governmental entity developed a subsequent map which was not supposed to represent jaguar habitat but what would happen if you

strictly applied the criteria that the experts had laid out and overlaid that on New Mexico. In fact, it did identify an area that has a very large portion of New Mexico in it. Now, in my professional opinion, I think the team's interpretation is that it is not representative of potential jaguar habitat. I would go even farther to say that the results of all these mapping efforts that were done under the initial MOU have resulted in the conclusion for this revised conservation framework that the priority area for New Mexico is Hidalgo County. So, yes, those maps are out there, but the way they've been interpreted and what they mean still suggests that the priority is areas limited to Hidalgo County.

Chairman Sims: Was there talk of breeding and release of the jaguar?

Chuck Hayes: No, the Conservation Team has not and does not support that and is on record as such.

DeAnne Wayne: I'm with Sierra Soil and Water Conservation District and I'm an elected supervisor. We would still ask that you let the individual conservation districts have a vote.

Commissioner Arvas: I'd like to ask whomever would like to answer this from the Soil and Water Conservation—if we're talking about 47 people coming to a meeting every time that's not going to work very well. My concept is if you can come up with a representation of somebody that represents your interests individually or collectively, that makes a lot of sense. If you've only got 5 people in a room and you've got 47 other people trying to get in, that's not going to work. We could compromise on the number if we're talking about 1-2-3, but I'm certain we're not going to compromise on 47. You can see where the vote would be outbalanced. If you've got 10 people that have whatever agenda they have, and 3 people left, it's going to be an outbalanced vote so that's not going to work. Why wouldn't 1 represent all your interests? We have 1 director representing ours.

Commissioner Henderson: In my professional life I represent non-governmental agencies and if you want to get into a contest over who can turn out the most votes, we'll ask for 47 seats. It just doesn't work. You've got to work within your organizations. The New Mexico Department of Game and Fish expects Bruce, the Director, to represent staff and wildlife interests and I think that the Soil and Water Conservation Districts have to look, I hope, to Debbie who chairs that organization to do that, otherwise we just get into a battle over who has the most seats at the table for the vote.

Debbie Hughes: There is no intention of any battle over seats or votes and I hate you saying that.

Commissioner Henderson: That's what it looks like, Debbie.

Debbie Hughes: It's not. What's happening is the Soil and Water Conservation Districts have become very proactive. We've got over \$30,000,000 a year coming in from Farm Bill money and we're matching that with another \$20,000,000-\$30,000,000 of private dollars and we're getting a lot of money on the ground for a lot of things and a lot of these things do benefit wildlife. The NEPA process allows for political subdivisions of states to be involved in the process when there is planning. It took a while for state agencies and federal agencies to let counties participate. What we're saying is if you're going to follow the NEPA process, we have the right to be there as individual districts and that you cannot discriminate against the soil and water districts and say ok districts, you get 1 person to go and counties you can have all 3 of your county commissions. You can't do that, it's not legal. I think if the MOA is within 3 counties how ever many districts we have within that county, if they want to participate but saying that the executive director of their non-profit corporation has to do everything else is just impossible. I do not represent them at that level, they're the ones that sign their MOU's, cooperative agreements. I have no voting power as far as what the individual districts decide to do. We're just saying we have the right to be treated the same as any other state agency.

Chairman Sims: So, Debbie, what it actually boils down to is if any district that is involved in the jaguar area needs to have a place at the table?

Debbie Hughes: Yes, that's exactly what it is.

Chairman Sims: As such each commissioner of the county and each department that's involved?

Debbie Hughes: Yes.

Loretta Rael: I represent Salado and the Quemado Soil and Water Conservation Districts in Datil. We also take care of Socorro County and Valencia. We strongly oppose lumping all the districts together and each district's needs and views are different from the counties they represent.

Chairman Sims: Bruce, what I'm going to recommend is that you and Chuck come up with some kind of resolution that we can look at what we're going to be doing with the jaguar process in the scope of area in the Boot Heel and

actually how broad a scope that is, and who is going to be involved and get together probably with Debbie or whomever and see what we can work out as a resolution into putting that fire out.

Director Thompson: I'm confident that we can do that. In fact, that's consistent with us being in the midst of a public comment period. We've heard the sentiments and I'll expect that our folks working with Arizona can work toward that end.

AGENDA ITEM NO. 18. General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Elizabeth Shields: I represent the New Mexico Cattle Growers. We've been sent a letter by 1 of our members and I'm here to tell you what 1 of our members thinks. Bert Ancell, Manager of the Bell Ranch, asked us to read it to the Commission—I'm writing with concerns of the move to stop trapping on public lands. History will show that when 1080 and trapping were both in use, the deer and antelope populations in the state were booming. I know 1080 is illegal, so trapping is our best alternative of predator control. If we want to see a rise in our wildlife herds, we need to support trapping. Trapping regulations were addressed in the 1990's, and those rules are sufficient. I urge you to keep trapping on public lands.

Ruben Barreras: I'm here on my personal behalf. We got drawn successfully for elk. My wife had to have surgery and I was out of the office May 25 through June 27 and upon my return on the 27th I received notification from Game and Fish that my credit card had been run through unsuccessfully and I was going to lose my license. We notified the credit card company on the 27th. My request to allow me another payment method was denied by the Department. I'm here requesting leniency for the other 3 applicants.

Pat Block: If I could add a little to that. I don't have any disagreement with anything Mr. Barreras has brought forth. I didn't say the Commission would change my mind but I did say that the meeting we'd had to decide how to proceed had taken place between the Director, Deputy Director and me. So, there wouldn't be anyone else within the Department who would change that. We talked about how to deal with these credit cards. To give you a little context and dimension, we had about 100,000 people apply with an on-line application and we had about 275 that we could not resolve the credit card charge. We originally ran the charge 3 separate times on 3 different days. At that time we decided that since they had indeed successfully drawn that license and the draw was the draw, and that the credit card charge was a separate matter we'd provide them with an additional amount of time to supply a different credit card that would pass the draw. We gave those folks a week, we posted to the website, and sent an e-mail to each of the impacted folks. Unfortunately, due to Mr. Barreras' and other folks' circumstances, they were not able to get that message in time. What we did decide though was that after the initial 3 attempts and then giving people an extra amount of time, that we needed to proceed and decided that with the remaining 275 licenses we would go down to the next person in the sequence and give them the opportunity to get that license because we didn't want to get into a never-ending process of attempting to collect on these licenses and have hunts come/go before we could successfully do that. We felt we made a thorough attempt to allow these folks to pay. I empathize with Mr. Barreras, I also had a call from a gentleman who drew a Valle Vidal license who didn't get the message in time, so these are truly people who attempted to do the right thing and couldn't, but we also felt we had to draw the line of reasonableness at some point and that's the date we chose. We felt it wouldn't make sense to keep extending that. We had to make a decision so we could start notifying people in time to accept these hunts and make their preparations so I did not do this to pass the buck on to the Commission, but I also did not talk to any of you about it beforehand either because I wanted you to hear it clean and decide what you felt was reasonable.

Commissioner Montoya: On occasion when someone refers to a board or commission a person it's with the hope that that board or commission would help the individual. Is that what you were doing?

Pat Block: No, I just told him that if he felt we were misguided in our decision, that he might want to come before the Commission to see if you agreed with that assessment or not.

Chairman Sims: He has every right to do that.

Pat Block: Sure, I did not want to deny him that opportunity. The place of the Commission is to provide us with that guidance and make sure that we're treating the public the way we should. This doesn't come up much, but I also felt he was entitled to that opportunity.

Commissioner Montoya: Director Thompson, if the Commission were to consider the request, where does that put us in terms of consistency?

Jim Karp: It sets a precedent that you're going to have a difficult time with.

Director Thompson: With all due regard to Mr. Barreras, I regret my recommendation is that you not do it because as you are all aware, you can take something that happened on April 18, April 26, May 3 and there's a litany of things that we have already not allowed to occur in an effort to be equitable. To honor this request in effect puts the Commission in a position of then not being able to avoid to revisit every other kind of request that has been some kind of deviation from a process we've tried very hard to honor these drawings and provide licenses. I think what Mr. Block has indicated is that all these licenses have been issued, or at least we're in the process of issuing those licenses, is that correct?

Pat Block: We have compiled the list of who the people in the next sequence are and are preparing to initiate those contacts with those folks, but given the fact that Mr. Barreras had indicated that he was coming here today, we felt it would be worth holding off until tomorrow to begin making the phone calls. If you want to do something different, the Director is correct and I'd recommend it not be for an individual but it be for that set of individuals that were impacted.

Director Thompson: To complete that statement, I believe you're still in the same position of doing something here that ends up excepting from the process and will not have dealt with someone else who had requested an exception. No matter what someone says, that word gets around like wildfire and we're going to be continually dealing with those sorts of things. I know it seems heartless, but that's a situation we deal with all the time.

Chairman Sims: Ruben, I personally feel where you're coming from but I really don't know what we could do without a backlash with 275 other folks.

Commissioner Arvas: I've spent 5 hours with a gentleman from Silver City that had a similar problem. It's not that we're heartless, our hands are tied administratively. If we did it, within an hour we'd be getting phone calls.

Ruben Barreras: One thing I found is that they ran the credit card on the 26th and I went on the 27th and I made every attempt to pay for it. I went immediately when I received notification, not the day after, not a week later.

Chairman Sims: Bruce, in a way did we deny him access to what we'd allowed people to do after that day?

Director Thompson: No, we didn't. He in fact is talking about a timeframe that's after the deadline that we provided for all of these credit card declines to be cleared, and I stress again that all of this has been done with utmost effort at equitability where everyone in a particular circumstance has been treated the same.

Chairman Sims: Where's his group in line for going to the next person?

Pat Block: He's not in that line. One thing I'll add is that every year we've gone through the draw process and especially with the online, we take all of these and use these experiences to make the system better. As a matter of fact, last year he would never have even heard. It would just have shown up as unsuccessful and so this attempt to give folks extra time to resolve any issues that may have come up that were not of their doing. I don't dispute his contention that there was money in the account and they had closed it right on the eve of the draw, so that's why we did that this year. We're trying to make sure that regardless of how you apply, whether it's on paper or online, your chances are not diminished 1 way or the other. We make every attempt to do that but we have to draw that line somewhere and there's always going to be some person/group who are on the far side of that. Like you said, the reason was not because we don't like money or take checks, it's because it was the day after we had said time certain this is the last opportunity.

Commissioner Arvas: Pat, I just gave you a letter from a gentleman that insisted that that's the way the thing be done.

NOTE: The Commissioners did not act on the request by Mr. Barreras; the administrative decision of the Department remained.

Daniel Murphy: I want to talk to you about a change in the fishing regulations. Why has the rule been changed to make it illegal to use live sunfish and bluegills? Mr. Sloane said they've had some problems in the lower Gila drainage of people with bait buckets bringing in bluegills and sunfish and perhaps gold fish, carp, and suckers and introducing them. I can understand the carp, suckers, and gold fish, but not the bluegills and sunfish. That penalizes the fisherman in all the state in all the waters except those specific areas. Now if there's a problem there address that problem, don't penalize everybody because of a problem in 1-2 areas. Bluegills and sunfish are the principal diet of catfish and other game fish. I'd request that you consider rescinding that new rule. I have 1 more comment that there's a conflict in the fishing regulations—bait fish may be taken by angling, nets, traps, and other means. Bluegills

and sunfish are in that category. Second column, same page—all protected species of fish including endangered and threatened species taken in nets and traps must be immediately returned to the water. I told Mr. Sloane that that was a conflict. In the hunting regulations, it says habitat management and access validation fee—the \$4. I'm not complaining about the \$4, but the regulation says--this fee will not be charged to hunters, trappers, and anglers under 18 years of age, 100% disabled veterans, or anglers 70 years of age or older. Well, I'm an angler, 70 years of age or older, but I got charged for it. I don't begrudge the \$4, but that should be in the fishing regulation not the hunting regulation. Think about those and mainly think about the bluegill and sunfish. I really think that's not a good rule and I respectfully ask you to reconsider that and rescind it.

Commissioner Salmon: I was always under the impression that you could catch bluegills or sunfish by angling and then use them for bait for catfish.

Mike Sloane: In December in Carlsbad, we came to you with a proposal to change the bait fishing rules relative to bait shops and for anglers to use and make them consistent and to try to restrict what species of fish could be used in different drainages in order to prevent the bait bucket introductions that we've seen like yellow perch in Eagle Nest Lake and Navajo, gold fish in Quemado, a variety of things. One of the things that we proposed in that rule change was that bluegill no longer be allowed to be used as live bait, but they can still be angled for and used as cut bait, and that proposal was made because of our fear of introducing any number of bluegill species throughout the state into places like the Lower Gila or Lower Pecos where we have endangered species issues or fish on the verge of being endangered and the negative interactions that those bluegill would have on those mostly minnow species. So that was our proposal and that was adopted at the Carlsbad meeting.

Daniel Murphy: I think that was well intentioned but I ask what is the basis as far as this water and Lower Gila and the Pecos, did you run samples and how many bluegills and sunfish were introduced in there? And if so, what was the bad or deleterious affect of those bluegills on the native species and also the Pecos drainage? How many were introduced and what affect did that have? Those 2 areas were the basis for eliminating them in the whole state. If that's a problem down there look at those, don't out wrong the whole state. Let us use them in Navajo, Conchas, Ute, Caballo, Elephant Butte, Abique and all the other ones.

Chairman Sims: Are there already bluegill in Navajo, Ute?

Daniel Murphy: Yes.

Mike Sloane: There are. One of the options that we could bring to you would be to allow use of live bluegill in large reservoirs and we could specify those reservoirs.

Chairman Sims: That makes sense. Mr. Murphy, does that make sense to you?

Daniel Murphy: Yes. I would agree with that.

Chairman Sims: Does that make sense with what we want to do as a Department, Mike?

Mike Sloane: We were trying to create some regulatory certainty for the bait dealers and what they could have in their shops. Not near Navajo, but if someone is selling bluegill is he selling it to someone who is going to go fish the Lower San Juan or is he selling it to somebody who is going to actually go fish at Navajo, so there are some of those kinds of issues that I don't know how else to do it other than say no you can't do it. Having said that, I guess if you find somebody on the bank with bluegill, you ticket that person and we go from there. In a perfect world, it's cleaner to just not to allow it, but we could try it the other way.

Daniel Murphy: Mike, what you've done is you've said okay you can use them, but first you've got to catch them, kill them, and cut them up. It doesn't make sense to me and I think your other suggestion about addressing those areas where they've been known and demonstrated to be a problem, statistically by monitoring or sampling address those areas. Don't penalize the rest of the state.

Mike Sloane: The other issue is that we were trying to be somewhat proactive and prevent those negative interactions knowing that bluegill will eat other fish, will eat other fish eggs in particular, so we were trying to prevent those negative interactions in the future and thereby closing fisheries into the future.

Chairman Sims: Dutch, what's your take on this?

Commissioner Salmon: I personally would support the compromise suggested by Mr. Sloane, and the other gentleman made regarding using bluegills in certain reservoirs only. That seems like a reasonable compromise.

Allowing their use if you catch them by angling.

Chairman Sims: Mr. Murphy, you're talking about using the sunfish and bluegill, you're catching them by angling and then using them live in the same water you caught them?

Daniel Murphy: I've caught them by angling. They're fun to catch.

Chairman Sims: Then you turn around and use them for bait? That solves your dilemma. So you're not buying them at the bait shop?

Mike Sloane: We also have indications from some of our officers that people are in fact catching fish in different locations and bringing them to Elephant Butte for example. If you put them in your live well and keep them and then you put your boat in somewhere else you're potentially going to release them. There are those issues, but we can craft a regulation that says you have to catch them at the place where you fish with them and use them in that location and see how that goes.

Chairman Sims: Do you foresee a big problem, Mike?

Mike Sloane: I don't actually think there are that many folks that are that heavily into this so I don't see it as a huge issue.

Chairman Sims: If you don't mind, draft some of that language.

Commissioner Henderson: I'd be happy to see a draft of that regulation. I do appreciate Mike's concern. We're trying to regulate the kind of fish we have in certain areas and you can't do it unless you have some control over the bait business.

Mike Sloane: I'll bring that proposal to you next meeting and then in September you can deal with it.

AGENDA ITEM NO. 19. Closed Executive Session.

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

MOTION: Commissioner Montoya moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H)(2)(7) and (8) of the Open Meetings Act in order to discuss several land interests at the recommendation of our Director as per 10-15-1, NMSA. Commissioner Arvas seconded the motion.

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

Roll Call Vote:

Chairman Sims – yes

Commissioner Arvas – yes

Commissioner Henderson – yes

Commissioner Montoya – yes

Commissioner Pino – yes

Commissioner Riley – yes

Commissioner Salmon – yes

Motion carried unanimously.

Chairman Sims entered into Open Session and stated that the record reflect that no action was taken during the Closed Executive Session, but several items were discussed by Legal Counsel and the Director.

AGENDA ITEM NO. 20. Notice of Commission Contemplated Action.

Presented by Dan Brooks – Request was made for direction from the Commission to the Department to send a Notice of Contemplated Action to any outfitter or guide that evidence and information indicate may have violated their Professional Code of Conduct or other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978.

MOTION: Commissioner Montoya moved to accept the Department's recommendation and send a Notice of Contemplated Action to the registered outfitter discussed in Executive Session. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 21. Modification of Access License to Fire Department at Richards Avenue Property.

Presented by Jim Karp – The Department presented the request of the Santa Fe Fire Department to modify a previously approved access license from a width of 15 feet to a width of 30 feet. The request also includes the provision of additional fencing by the Fire Department to impede public access to Commission property.

Chairman Sims: Does it specify a fire or just emergency?

Jim Karp: It's emergency use.

Chairman Sims: Would we have access to the gate on the fence if need be?

Jim Karp: Yes, we have complete access to both electronic gates. There's an electronic gate on each side of the licensed area.

MOTION: Commissioner Henderson moved to modify the license agreement between the Commission and the Santa Fe Fire Department to change the width of the licensed roadway from 15 to 30 feet and to require the fire department to construct a chain link fence, in accordance with plans and specifications presented to the Commission, along the entire southern boundary of the Richards Avenue property. Consideration payable by the Fire Department for the license shall be zero. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 22. Commission Approval to Dispose of Fixed Assets.

Presented by Carlos Valdez – The Department requested State Game Commission approval to dispose of vehicles that have reached the end of their service life. State 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. The Department included a previous erroneous version of the vehicle listing at the last meeting and this request corrected that error with a current listing. If approved, these items will be sold at a public auction on July 22, 2006 at the Department of Public Safety headquarters in Santa Fe.

Commissioner Arvas: What did we get for all those vehicles last year?

Pat Block: Most of the vehicles are extra cab, 4-wheel drive trucks and we get anywhere from \$7,000-\$10,000 on those.

MOTION: Commissioner Arvas moved approve the Department's request to dispose of the fixed assets listed in this agenda item at public auction. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 24. Adjourn.

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

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

Meeting adjourned at 6:30 p.m.

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

August 24, 2006
Date

s/Leo Sims
Leo V. Sims, II, Chairman
New Mexico State Game Commission

August 24, 2006
Date

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