

MINUTES
NEW MEXICO STATE GAME COMMISSION
State Capitol Building – Room 321
Santa Fe, NM 87503
August 24, 2006
9:00 a.m. – 5:00 p.m.

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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 85 members of the audience. Also present in the audience was Sarah Cottrell, Energy and Environmental Policy Advisor to the Governor.

AGENDA ITEM NO. 4. Approval of Minutes (July 13, 2006—Albuquerque, NM)

MOTION: Commissioner Arvas moved to approve the Minutes of the July 13, 2006 State Game Commission Meeting in Albuquerque as presented. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 5. Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the August 24, 2006 State Game Commission Meeting. Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 6. Consent Agenda.

- o Committee Reports – none given
- o Revocations

Chairman Sims: This revocation is a not-in-compliance and not a revocation where they can actually come back, get the proper insurance and be removed from revocation, correct?

Dan Brooks: That's correct.

MOTION: Commissioner Arvas moved to adopt the Department's recommendation to suspend the 2 outfitters' registration privileges until the Department receives proof of commercial liability insurance. Commissioner Henderson seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 7: Fiscal Year 2006 Annual Depredation Report.

Presented by Joshua Rector -- This agenda item reported 327 depredation complaints filed with the Department in accordance with 19.30.2.11, NMAC, for Fiscal Year 2006, including highlights from the 4th Quarter. For 583 complaints filed previously with a 1-year anniversary date during FY2006, there was a resolution rate of 94.5% within a year.

Chairman Sims: What was last year's percentage of resolution?

Joshua Rector: This is the first time we've been reporting the numbers to you this way. Last year we were in 80.

Chairman Sims: So we've made an improvement in our resolutions?

Joshua Rector: In past years it was looked at as a fiscal year basis. We had complaints starting a day after the fiscal years started. It has not had a full year to mature when we report it to you. By the way, we have run the numbers now and we're looking at those complaints that have had 1 full year to mature by statute. Each complaint has a year to be resolved and we're resolving 94.5% of those.

Chairman Sims: On elk, is that generally in 1 unit?

Joshua Rector: For the elk, many are in the northwest, some are in the southwest. They're not prone to 1 unit or 1 section of the state.

Chairman Sims: Non-resolved?

Joshua Rector: Unresolved can be where we've been working with landowners offering intervention to help alleviate the depredation problem and for 1 reason or another do not come to agreement. We may not be able to keep elk off their property. Sometimes you have herds that will be there part of the year and then they leave and the complaint should be closed out after that. We're currently addressing our process for making sure our paperwork and everything is turned in, in a timely fashion.

Chairman Sims: That result doesn't mean that we give up?

Joshua Rector: No. If it is unresolved, we will continue working with the landowner. A lot of these are rock squirrels.

Director Thompson: This is the first year we're reporting the information this way in part because this is a move to provide a better measure for performance and accountability standards. In the past, we simply were not providing an accurate perspective on the degree of resolution. We're quite pleased to indicate that our resolution rate is very close to our intended target for this coming year.

Commissioner Arvas: Josh, would you guess at the number of hours we spend investigating these complaints?

Joshua Rector: I can give you a very specific indication. In the southeast area, particularly around Cloudcroft, we've been working with a landowner and we've had officers out there every morning and every evening for the past 40 days and they will sit between 2-4 hours at a time attempting to chase elk off this landowner's property.

MOTION: Commissioner Arvas moved to accept the Fiscal Year 2006 Annual Depredation Report as submitted by the Department. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 8: Renaming Department Facilities – Parkview Hatchery and Burns Lake.

Presented by Mike Sloane – The Department sought Commission approval to rename hatchery and lake facilities in conjunction Hatchery and Burns Lake to be renamed "Los Ojos Fish Hatchery and Laguna del Campo."

Commissioner Montoya: I brought this up before the Commission and Director Thompson and initiated the conversation as a result of having been approached by members of the community of Tierra Amarilla de Los Ojos, Casa Blanca area. with local community sentiments to reflect history and culture of the area. Proposed changes were for Parkview Their message was that the name of Parkview Hatchery was out of place among its sister communities of Tierra Amarilla, Nutrias, and Ensenada la Puente. Parkview does have some history but it isn't the original name of the community where this hatchery is located. In 1972 the community of Los Ojos petitioned for it and subsequently was successful in changing its name from Parkview back to its original name of Los Ojos. Los Ojos was actually named because of its many fresh springs and 1 of those springs is the principal source of fresh water for the hatchery. This request went through the normal process we have for these kinds of requests. It went before the Governor for his approval and when we received that, I met with Mr. Sloane and discussed the cost for such a name change and we concluded with the fact that the cost for transitioning things such as signage and literature would be pretty transparent so, as far as cost we're not looking at much. The area does have a lot of history and I think it merits consideration. There are some gentlemen here that I'd like to recognize from the Los Ojos community that were responsible for gathering the signatures, and putting together the materials in the packets each of you received on the historical background of the area. I'd like to recognize Agapito Candelaria, Henry Ulibarri, and Robert Torres. Mr. Torres is the historian in the group, and a former employee of the New Mexico Department of Records and Archives. He and the others have put together the historical background.

Robert Torres: I was a state historian from 1987-2000. I'm here to support the name change. I think the report that was submitted to you explains the reasons why we think it's important. I support the name changes.

Agapito Candelaria: The documentation speaks for itself.

Henry Ulibarri: We questioned the community and everyone is in favor of going back to the original names.

MOTION: Commissioner Montoya moved to rename Parkview Hatchery to be known as Los Ojos Fish Hatchery and Burns Canyon Lake to be renamed Laguna del Campo, respectively. Commissioner Arvas seconded the motion.

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

Oscar Simpson: The New Mexico Wildlife Federation fully supports the recommendation in the renaming of those properties.

AGENTA ITEM NO. 9: Approval of Fiscal Year 2008 Operating and Capital Project Budget Request.

Presented by Marcos Tapia – The Department presented the proposed operating and capital outlay budget requests for Fiscal Year 2008 for Commission consideration. The Department requested Commission approval of the budget request documents that will be submitted by the September 1, 2006 deadline for consideration by the Legislative and Executive branch.

Commissioner Arvas: Could you tell the audience the process that you've gone through in terms of coming up with the budget request and how each individual Commissioner has interacted with you?

Marcos Tapia: The Department of Game and Fish is an executive agency and we take guidance and instructions. My supervisors worked through the Directorate on how they wanted to proceed on the expansion for the budget. In mid-July executive budget instructions came out requesting a flat budget. What is before you focuses on implementing our successes. Without the GSD rate increase for liability you see that we didn't change. The instruction was to look ahead and as you see on the capital projects for FY08, we have a 5-year plan. The divisions put together their requests. Once the numbers were put together we met with the Commissioners to see if there were concerns. Our mandatory statutory deadline for this budget is September 1. In addition to the budget, I need to turn in the capital projects. The budget is 98% complete at this time. The Department was very pro-active.

Commissioner Henderson: I've gone through 4 budget cycles and this has been the least painful of all. There's a lot of responsibility placed upon staff to prepare an understandable budget. This budget has been prepared in a way that it was actually a pleasure to go through it. Looking at the pie chart on the capital expenses, what would happen if we didn't get general funds? What's the fall-back position?

Pat Block: The likely fall-back position would be that the projects would not occur as scheduled. They would move further out into the future. Where we sit right now with the available balances in Game Protection Fund, Bond Interest Retirement Fund and the Sport Fish and Wildlife Restoration Programs which are the categories that are dollars generated by the Department, there are not sufficient balances available to finance projects at this level. We also feel strongly that the projects that you see on that list provide a wide variety of benefits and there are folks other than the license buyers who derive benefits from those lakes and dams and we feel it does provide general benefit. There's a strong case for the general fund or severance tax bonds and more general sources to contribute financially to those projects but the short answer is they would not get done because there's not enough cash.

Commissioner Henderson: I was hoping to hear that it's important for the audience to understand that we're required to do those dam improvements but the state hasn't always shared in what we believe is a shared resource and so that's why the general fund appropriation.

Commissioner Montoya: I totally understand the pecking order in terms of overall state government, but that doesn't mean I agree with what the legislature and Governor's staff do with our requests. We went before the sportsmen and anglers trying to encourage and help us go through the legislative process to support a fee increase. They reluctantly supported it when they understood that starting this year the increase was designed to carry the Department for several years so that we could build the cash balance so that we wouldn't have to come back to fee increases for quite a while considering cash inflation. Not only did we implement a fee increase, but we also did an additional \$3, but for many sportsmen and anglers that's a big hit and some may not feel the pinch, but many do. My concern is that as a Commission and Department, we need to do a better job of working with the legislature and Governor's staff to convince them that they can't expect the sportsmen to fix these dams and lakes with the fee increase. We need to do a better job of articulating that and when we're lobbying we're protecting the sportsmen and anglers of the state. Instead of having a cash balance, we're on flat budgets. We're not building cash balance. I hope I'm not on the Commission when we have to do another fee increase. I'd encourage the Commission and Department staff to work with the Governor's staff to see if we can develop a process and a better strategy for articulating what this does. We need to do it more forcefully and we need to involve our sportsmen and angler groups. It's painful to see that after a fee increase we have no balance. I fully support the budget except the part where we're forced to do all this with the sportsmen and angler fees.

Oscar Simpson: I'm with the New Mexico Wildlife Federation. The state is flush in excess money and I think politically the sportsmen need to unite and back where we have more general fund money supporting these types of recreational dollars, especially the dam repairs. Our funding is from Game Protection Fund and a flat budget for a number of years is killing the Department to protect and manage the wildlife resources.

Commissioner Arvas: It might be appropriate to add that it wasn't the Department's feeling that we should have a flat budget. That came directly from the Governor's office, so if we had the ability to have some monies available, I can assure you we can certainly expand the programs that we already have in place plus have newer programs.

Bruce, would you give us a feeling about the capital projects?

Director Thompson: The capital project budget represents nearly half as much as the operating budget and we've focused heavily on recognizing that the Governor has declared this as the year of water and many of these projects

are specifically related to ensuring that water remains available in various reservoirs, not only for sportsmen's interests but also for an array of other general public uses of those reservoirs. Again, we'll stress that completion of the warm water hatchery project is a way of producing fish that will then be used to stock many of those recreational endeavors on behalf of sportsmen, so we think we've built the capital budget very much in tune with recognizing the year of water and the kinds of facilities that help a wide array of the public use those waters in many different ways. If that's what you were looking for, that's been a common thread or theme through our budget development and it's important to recognize that with the Governor's support and support of the legislature, the Department and the Commission have in fact received a substantial increase in the past 3 years in terms of overall budget and also in terms of increases in staff. That is very much welcomed and it's 1 of the things that allows us to work within a flat budget requirement this year because we're simply working at a higher level. But we still stress as the Commission has indicated and as Mr. Simpson indicated there's a strong need to recognize a broader stakeholder group benefits from many of the Department facilities and Game Commission facilities. It will be ultimately wise for them to be able to contribute toward the maintenance of those sites.

Commissioner Salmon: We might want to look at other states and what they've done to increase their funding besides selling hunting and fishing licenses.

MOTION: Commissioner Arvas moved to approve the Department's Fiscal Year 2008 Operating Budget Request and Capital Improvement Project Request as presented, and to allow agency staff to make updates based on new directives received from other agencies or for needed corrections. Commissioner Pino seconded the motion.

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

AGENDA ITEM NO. 10: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Oscar Simpson: I'm with the New Mexico Wildlife Federation. I'd like to see what the Department's 5-year plan is. As Commissioner Salmon said, all the wildlife belongs to the State of New Mexico and outside general funding needs to be dedicated to that and that's where we need to go if we're going to get out of the economic woes from just license sales.

Chairman Sims: Commissioner Arvas and I met with the Department's budget staff and I'm suggesting that we no longer have a budget committee but we involve each individual Commissioner and doing that in April-May and each Commissioner get together with their constituents and have that direction earlier in the year.

Commissioner Montoya: Commissioner Salmon had an idea that we need to move forward with alternative funding other than fees through anglers and sportsmen. I would suggest to the Chairman that he appoint a committee to look at that based on the Commission and Department staff and those that aren't commissioners or department staff but that are interested and look at things that we can start submitting to the legislature. Other ideas of how we can start at least positioning ourselves and strategizing on how to present to the legislature a small tax on those kinds of items as funds that would revert to the Department. Unless we have a group that makes suggestions/recommendations to the Commission/Department, we haven't gone beyond. It might be late for this session but we can attempt to introduce something even if it gets shot down. We come back and refine it and develop better strategy for the following year.

Roger Peterson: I'm with the Sierra Club. Commissioner Montoya spoke about support from hunters and anglers and Director Thompson and Commissioner Salmon emphasized there are other stakeholders. The conservation community recognizes and supports the Department in its seeking general fund appropriations. Commissioner Montoya, there has been a working group. Director Thompson, myself and other members of the conservation community have been very active but unfortunately we got shot down. Non-hunters and non-angling conservation communities are in support of what was said about general funds.

Gary Johnson: I'm representing a group of concerned sportsmen in the Four Corners area. We support the proposal to go back to the forked-antler deer restriction. This will replace the current 3-point restriction on deer. We also support the requirement to complete a hunt survey following a hunt. Regarding numbers of permits to be issued for deer and elk, the Department initially made a proposal and then revised that proposal based on public input. We support the latest proposal published on the Department's website.

Mark Bender I'm from Santa Fe and I want to support what Commissioner Salmon said about the Commission needing to reach out to a greater portion of the public. If this Commission continues to be identified with hunting interests, the general public is not going to be interested in funding either in terms of providing money or water. This Commission does have the mandate to protect the wildlife and as long as agenda items are oriented toward hunting and fishing, the general public and legislators will see this as basically hunting oriented.

Rosemary Lowe: I'm with Peace and Justice for Animals. Non-hunting and non-trapping interests are where the future of the Department of Game and Fish is going.

Chairman Sims: Rosemary, our Commission as a whole, is fortunate to be rounded enough to move forward in those areas and want to move forward further in our elk viewing parks in Chama. The Game Commission is set up primarily for sportsmen of hunting and fishing. We want to be a servant to the public of New Mexico and also non-residents.

Commissioner Arvas: The fact that we have people from Sierra Club, the Peace and Justice for Animals and these other groups, we would like to see you come to our legislative meetings and testify on the Department's behalf. We get support from the New Mexico Wildlife Federation. I'd recommend that the Sierra Club and other groups form a coalition and get involved and come to Santa Fe during the legislative session.

Chairman Sims: We do have a relatively new sportsmen's group—Sportsmen, Fish and Wildlife group from Carlsbad sends their representative and we'd like to see more hunting/non-hunting, wildlife, and bird groups come support us.

Commissioner Henderson: Roger Peterson said there has been a working group. Last year we supported HB188 called the Land, Wildlife and Clean Energy Act and would have provided monies to the Department. That working group continues to work to move that piece of legislation forward. We have Governor support for that legislation this year. It's going to take a broad base and diverse population to be successful. I've been attending those working group meetings and it's not the typical players at the table. It's not just a wildlife bill, not just a land trust bill for acquisition nor easement work, but the Farm Bureau and New Mexico Cattle Growers are organizations, and as you've heard, what we need is support when the pushing gets tough.

John Dimas: I'm a lobbyist for wildlife and environmental issues. Wildlife belongs to all people and all people ought to pay. Get the Robertson-Johnson-Dingel Funds out of sporting equipment.

AGENDA ITEM NO. 11: River Otter Restoration Feasibility Report.

Presented by Jim Stuart – The results of the River Otter restoration feasibility study were presented. The Department requested Commission direction regarding restoration efforts.

Chairman Sims: Do you have an idea of the funding?

Jim Stuart: In the ball park, it costs about \$500-\$1,000 per otter.

Chairman Sims: How many otters?

Jim Stuart: About 30 otters, \$20,000-\$30,000.

Chairman Sims: That would be in the beginning of the program?

Jim Stuart: Yes.

Commissioner Riley: I've got experience with otters in Iowa and other states. How would sub-species conflict with sub-species in Colorado?

Jim Stuart: The sub-species if we're talking about going to an out-of-state source we'd have to go to a different sub-species in the southwest. The Louisiana otter is a different sub-species. The map shows a different sub-species throughout North America, I'm not sure what the boundaries are at this point. Some otter specialists recognize different boundaries. If we're going to rely on the southwestern river otter as the only source, then we don't have a choice.

Commissioner Riley: You know the reason the Louisiana otter dried up? There was only 1 old guy there trapping otters.

Jim Stuart: Commercially in 1999 he stopped doing it for state restoration projects. I have a contact in Louisiana that knows if anybody else is going to pick that up.

Commissioner Riley: Do you know how long the waiting list is?

Jim Stuart: I'm not aware what the waiting time is.

Commissioner Salmon: Isn't it Missouri by their accounts that have an excess of otters that have been raiding catfish farms and would that not be a source?

Jim Stuart: Yes, that is the case. I've talked to their otter person in Missouri and that would be a potential source although it would be a matter of how he did it.

Commissioner Henderson: Dealing with this sub-species question, obviously the other states surrounding us dealt with it because they too probably had fully extirpated their populations from their states as well. We don't list the otter as a state-listed, threatened or endangered and I'm assuming we made the judgment that they were extirpated from the state. So I don't think we have that sort of endangered species conflict except where the otters would eat endangered species. The other, I'm assuming, since it's not listed as threatened or endangered, we don't find ourselves in a situation where we have to comply with the requirements in our Wildlife Conservation Act, is that correct?

Jim Stuart: That's correct. The southwestern river otter was at 1 time listed under the Wildlife Conservation Act as endangered, but was ultimately removed from the list because there were no otters in the state. We don't have it currently listed as an endangered or threatened species and we have no plan to do that.

Commissioner Salmon: In regard to funding, there may be some private funding available from the river otter working group or perhaps some other private sources that would augment what the Department would put in. Do you or anyone in the audience know anything about that or could comment on what funding might be available?

Jim Stuart: We didn't want to get too pre-decisional on this until we could identify funds available. Members of the working group are interested in providing additional sources of funding. How many sources of federal aid funding that fund most of our operations for Conservation Services Division would be the starting point if additional sources became available.

Brian Shields: I'm Executive Director of Amigos Bravos and a member of the New Mexico Friends of River Otters. Should the Commission take this historic decision and move forward, you have a broad range of interests that have funded us for the last 15-16 years and interested in restoration of river and aquatic systems. We have different venues to get funding for this project. We've put a lot of resources into this and if the Commission was to take this historic step, we would be totally infused and totally committed to help raise money. We're not talking about huge amounts as well as offer a number of other ways we can help.

Commissioner Montoya: I had a conversation with the Director of Taos BLM field office and they're enthusiastic about this project and they happen to manage the land in the upper Rio Grande where the recommendation to 6 priority areas. This happened to score the highest and to encourage that if everyone is open to proceed with this project, we should consider the upper Rio Grande to which Amigos Bravos has a close attachment. The working group should include the Department, BLM, Defenders of Wildlife, Four Corners Institute Federation, Sierra Club and others. We should plan to monitor and what we're going to do once these 30 otters are loose. I would encourage the Commission to go forward with this and consider the upper Rio Grande.

Jim Stuart: I recommend to the Commission that the upper Rio Grande is the best location to proceed with the initial restoration effort.

Tom Serfass: I work with re-introduction of river otters in the east. I've also re-introduced fisheries in Pennsylvania, worked with the New York River Otter Project, helped with the translocation of elk in Pennsylvania, and currently work with state wildlife branch in North Dakota where river otters are starting to return naturally. I'm delighted at seeing the way the group here has initiated the work with river otters. Concerns related to sub-species are valid, potential persistence of rabid populations are important things to be considered. I'm the North American chair of the specialist group and this issue will help re-introductions and how they should be conducted. Otter populations have a benefit in the United States. Unregulated harvests and issues related to water quality were always important. As agencies started to form, we started to develop season and bag limits. The situation for otters improved particularly after many of the states that had otter populations disappear or decline and started re-introduction projects. This has been 1 of the most extensive wildlife restoration projects ever initiated in the United States. Over 4,000 of these meso-carnivores have been re-introduced in the United States, so look at the areas where otters have been introduced. North Dakota is starting to reclaim its otter population. It's a slow process. I will add, however, that as they started showing up evidence started showing up very quickly. New Mexico is the last state, therefore, not to have otter populations or to have otter populations showing up occasionally from some surrounding states for re-introduction projects. That in itself is a good reason to consider a re-introduction project. Site selection--obviously if

there's a problem you have to start thinking about re-introducing an animal. Very often it's been some type of environmental problem so evaluating the quality of the habitat is important. Public relations, you already have 800 letters of support, obviously the coalition is in place. The otter has shown to be a very adaptable animal and done well in high-gradient marine systems, it's done well in lake systems, does well in coastal marshes. It's a species that requires aquatic habitats, but in a generalist way it seems to perform in most aquatic habitats. We've had tremendous support for otter re-introduction and we've worked very hard on food studies. One of the questions from sportsmen is if they are harmful on game fish populations. Where there are crayfish available they eat lots of crayfish, especially during summer months. Fish that are eaten tend to be the slowest moving and most numerous. Will they eat a trout? Of course, they'll eat trout, but when other species are available, and generally in types of habitat that the otters prefer, will be occupied by forage-type fish—suckers, slow-moving, high-density fish. Public relations have been an extremely positive aspect of our project in Pennsylvania, an otter is on the license plate raises \$15 for every license plate sold, so timber rattlesnakes, flying squirrels are all benefiting from the otter project. We've worked hard on our live-trapping program. We did receive otters early on through Louisiana. We were criticized for it. I'm glad we stopped using the otters from Louisiana for a variety of reasons. Louisiana otters did well. Colorado did not receive Louisiana otters, but they received them from just about everywhere else in North America, so we have a real genetic stew going on in Colorado, from Alaska, even from Pacific Northwest and Great Lake states. We have regional populations of otters. I understand the complications, costs, and logistics. People used Louisiana otters because they were easy to obtain. Doing something in a unique way expand on individual populations and the genetics that are associated with those in the region. Captive management, and health evaluations isolates you from any potential criticism. We have handled rabid otters, it's been rare but we detected it during our veterinary evaluations. We surveyed about 20 kilometers of stream and we counted over 7,000 scats over this period. I support the effort and hope you will strongly consider the appeal to bring back this very interesting and fascinating animal.

Commissioner Salmon: Under criteria, 1 thing that wasn't addressed is some concern that do otters also eat things that we may want to get rid of or control? In the upper Gila River, between Mogollon Creek and the East Fork Confluence there's been for some years a virtual plague of crawfish, particularly in the lower portions. Put in the right place, these otters would be a balancing factor on the overall wildlife diversity and contribute to the fishery rather than detract from it.

Chairman Sims: Tom, the demise of the river otter in other states, what was it attributed to?

Tom Serfass: Most of the states feel that it was unregulated harvest, and I'm cautious about how I discuss that issue because we're not talking about the regulated legal harvest that occurs now. We're talking about the intensive harvest that occurred during the 1800's, somewhat during the early 1900's, until we started thinking more about how to manage these.

Chairman Sims: Harvested primarily for their pelts or because of nuisance?

Tom Serfass: It's about equal. It's difficult to attribute a single cause in all cases. So you have lowered water quality in some areas, compressing these populations in the fewer pockets of good-quality habitat and that in turn making more vulnerable to intensive harvests. Wildlife biologists in Missouri where the otters are doing quite well now, they cannot find any other reason except unregulated harvest as the primary cause.

Ron Shortes: On this issue I'm representing Catron County. We oppose the re-introduction of the river otter especially on the San Francisco River. It's another example of bad science. We dispute the siting or take in '53 of the otter on the Gila but I believe there is no credible science that establishes the existence of the otter on the San Francisco and to introduce a sub-species from another state or another continent to an area that there is no available evidence that it ever existed. Even the Department is admitting that the upper San Francisco shouldn't be considered and if you introduce it into the lower San Francisco, I believe an aggressive predator like this will expand.

Don Hurst: I'm the Vice-President with New Mexico Trout. I'm here to say that we wholeheartedly endorse the re-introduction of the river otter on behalf of New Mexico Trout.

John Dimas: I'm in support of the river otter.

Tom McDowell: We're here in support of the re-introduction of the river otter with the main concern being to allow for problematic otters be dealt with in a reasonable way. If we can be of any help in the future, we stand ready to help. Depending on where you would obtain the otter, we probably can reduce the cost.

Taylor Streit: We support the river otter re-introduction.

Roger Peterson: I'm with the Sierra Club and speaking for the 7,000 members of the Rio Grande Chapter, we strongly support re-introduction of the river otter. We've contributed a little money and if we have more we'll contribute to that purpose. The river otter is not proposed for any of the watersheds where there are native crayfish but only watersheds that have these competitors to fishermen.

Dr. Paul Polechla: My previous recommendations have not been followed. The Feasibility Study as outlined tends to only go with the idea of stocking. Although the intent is good, it's not well-thought out or planned. I'm in support of restoration first by assessing what the real potential for otters is and looking for otters at the same time. I promote the idea of looking at 50% of the waters.

Chairman Sims: Jim, are you aware of the otter findings that Dr. Polechla is talking about?

Jim Stuart: I'm aware of some of them but I've not seen a detailed list of what Dr. Polechla was referring to whether there's been more recent evidence. Some of the observations were summarized.

Chairman Sims: I think it would be prudent in our Feasibility Study to get with Dr. Polechla and go over those and address some of his concerns.

Dr. Paul Polechla: Keep in mind that I do this as a living.

Chairman Sims: Jim will be in touch with you and go over some of the facts.

Dr. Paul Polechla: I'd like to have the opportunity to speak to the group sometime in the future like Tom Serfass has being a taxpayer of the state and also studying otters more in the southwest than anyone here in this room.

Chairman Sims: You're welcome to come at anytime and speak with this group.

Francisco Guevara: I represent the New Mexico River Outfitters Association which is a group of all the river rafting companies in northern New Mexico. It's our consensus that we're in favor of the re-introduction of the otter. We're also available with volunteer labor, equipment, and expertise if you need help.

Dr. Bob MacPherson: I'm a retired scientist in Santa Fe and represent the New Mexico Wildlife Federation and am a member of the working group. We're strongly in favor of re-introducing this interesting predator to our river systems.

Brian Shields: I'm Executive Director of Amigos Bravos and we're a statewide river conservation organization with 1,600 members through the state. We support the river otter re-introduction project. We have help available from different people, manpower, we've got economic reports in terms of the river otter, and we can offer expertise, provide a match for state wildlife grant with a considerable amount of money, provide financial resources, public outreach, logistical assistance and we can help with monitoring after re-introduction.

Lisa Hummus: I'm with Defenders of Wildlife and we support bringing back the river otter. We believe it will restore balance in our rivers as well as provide numerous economic benefits to the local communities. We are interested in finding funding for this project and this type of project could be eligible for funding through the Earth Friends Wild Species Fund and we would be willing to go after funding for the project.

Trisha London: I represent New Mexico Wilderness Alliance and we recommend that the river otter be restored to New Mexico and that restoration be made in suitable river ecosystems statewide including parts of the Rio Grande, San Francisco, San Juan, Gila, and Chama Rivers.

Oscar Simpson: President of the New Mexico Wildlife Federation. We fully support that the river otter be re-introduced in the fall of 2007 and we highly recommend the upper Rio Grande, both the wilderness areas, and upper and lower stretches of the Gila. That's critical to get these areas re-introduced.

Larry Caudill: I want to make sure the working group and the proponents are prepared to address the issue of trapping in these re-introduction areas. Obviously we don't want to put these animals in and have them inadvertently trapped while there's trapping for other species.

Commissioner Pino: It's good to hear the presentation and the problems on river otters

Commissioner Montoya: This would be an interesting project for the trappers and anti-trappers to be able to bring otters into the area.

Joanne Forman: I'm a composer/playwright from Taos and I support the river otter re-introduction project.

MOTION: Commissioner Salmon moved to accept the Department's recommendation that a restoration program for River Otter in New Mexico is feasible, as presented to the Commission and in the draft of the Feasibility Study provided to the Commission for review, and direct the Department to proceed with planning for and implementation of a restoration program with the initial geographic focus to be in the Upper Rio Grande of New Mexico, and the upper Gila River from the east fork confluence downstream to Mogollon Creek, these restorations to begin by the fall of 2007. Commissioner Riley seconded the motion.

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

AGENDA ITEM NO. 12: 2006 Biennial Review of New Mexico Threatened and Endangered Wildlife, 19.33.6.8, NMAC.

Presented by Chuck Hayes – The Department presented a final draft of the 2006 Biennial Review for Commission approval. This draft of the 2006 Biennial Review was developed following 2 public comment periods, and 2 previous presentations to the Commission. The Department proposed modifications to the state list of threatened and endangered wildlife to reflect biological status changes and to update the nomenclature for listed wildlife to be consistent with currently accepted taxonomy.

Commissioner Salmon: At the Clayton meeting as I recall we took some action regarding the headwaters chub but I don't see the headwaters chub listed as threatened or endangered on this list. What's the status of the headwaters chub vs. the Roundtail chub?

Chuck Hayes: At the Clayton meeting there was a presentation about headwater chub. Even though it was the same meeting where there was a Biennial Review presentation, that's a separate listing action that's being done in conjunction with the Recovery Plan for the Roundtail Gila chub which of course headwater chub was once considered and the Gila chub so both that listing and the Recovery Plan are coming to you in November in Farmington.

John Dimas: I'm a lobbyist for native wildlife and habitat. If you don't deal with the exotics this is going to continue to grow until they're extinct.

Lily Rendt: I'm a biologist and there's 1 organism which is the stickleback and it was taken off the endangered list and the reason so inane that I feel it should be replaced. The reason was because it came down on the effluentials during the glacial era and therefore it is not an indigenous species but it's been in the Canadian River so long that I feel it should be added to the list. It's endangered now because of the Brown trout to be put in the lake on Turner's Ranch that feeds into the Canadian River and he didn't want to be cited for ruining an endangered species. I put in for a grant to save some of them along the Canadian River along 1 little species habitat but I still have a concern for this little creature because of a very interesting phenomenon--it's a male that builds nests for its young and guards the nest. The female lays the eggs and goes away, so it's an unusual species and I'd like to see it returned to the endangered species list.

Chairman Sims: Chuck, do you have any information on the stickleback?

Chuck Hayes: I believe the stickleback was removed from the state list of endangered species in 1998 because some DNA work suggested that it was a "recent" introduction into the state and it came from somewhere in the Midwest and so it wasn't 1 that had occurred here a long time ago. Now whether that was a few years ago in a bait bucket or it was 6 years old, it was hard to tell. Basically, it had occurred in 1 small pond on private land and that was it. The conclusion at that time was that it looked to be of Midwestern origin. I don't have anything that I've seen since then that suggests anything to the contrary or anything has been done since that time.

Commissioner Henderson: This process now is simply for working within the existing list of species either uplisting or downlisting but not removing or adding, so I would encourage you to put together a petition and present it to Chuck and the Department to review it. Am I correct?

Chuck Hayes: Yes, you're correct.

Director Thompson: I recommend that the State Game Commission approve the final draft of the 2006 Biennial Review of New Mexico Threatened and Endangered Wildlife as described in public session today, based on biological and ecological evidence presented throughout the 2006 Biennial Review process under the New Mexico Wildlife Conservation Act. Specifically, this recommendation is to retain the status of 119 of the 125 species listed under the New Mexico Wildlife Conservation Act; uplist spike dace, Pecos bluntnose shiner, Arizona grasshopper sparrow, and meadow jumping mouse from threatened to state-endangered; downlist shortneck snaggletooth snail and piping plover from endangered to state-threatened; and incorporate recent changes in nomenclature into the list of state threatened and endangered wildlife by revising regulation 19.33.6.8, NMAC, accordingly.

MOTION: Commissioner Henderson moved to accept the Department's recommendation regarding the 2006 Biennial Review as presented to the Commission here today, and direct the Department to amend 19.33.6.8, NMAC, to reflect these approved changes. Commissioner Riley seconded the motion.

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

AGENDA ITEM NO. 13: Update on Development of all Big Game and Associated Rules for the 2007- 2008 and 2008-2009 License Years.

Presented by R.J. Kirkpatrick -- The Department presented the Commission with an update on the development of all Big Game and associated rules reflecting public input and development process to date. The presentation included an updated summary of significant changes for each species and a summary of public input received and participation opportunities offered.

Commissioner Henderson: Why is use of leash dogs to retrieve wounded game only if they pre-register with the appropriate officer from the Department to let us know who you are and may do so if the opportunity arises an issue now?

R.J. Kirkpatrick: A lot of hunters will wound an animal and hunters are becoming more ethical. They're extremely frustrated that in some cases they cannot find them because time passes and some of those hunters have dogs or know people who have dogs that are capable of tracking blood trails or those wounded animals reduce the search and there's not much waste of game.

Commissioner Henderson: I like the recommendation and I'm curious whether you've gotten any feedback from sportsmen that it might impact their hunting opportunity having dogs out?

R.J. Kirkpatrick: It's been up front at all of our public input meetings for people to consider as they're leashed animals and they're not letting them run loose.

Chairman Sims: One of the big issues is coming from bow hunters that if you wound an animal your hunt is over and they have a lot of money tied up in those hunts.

Commissioner Salmon: With regard to the trapping regulations I've had personal communication with trappers in my area. They seemed particularly concerned that the proposal called for the season to be shortened by a full month from Oct. 15 to Nov. 15. They'd be more comfortable if it was shortened by 2 weeks to Nov. 1. I wondered if the Department would take that into consideration?

R.J. Kirkpatrick: We'd be happy to take that into consideration. We met with the trapping interests a couple of days ago. The shortening of the season was an attempt to reduce/minimize the amount of time trapping interests were out. Subsequent to that the trapping interests have read the proposal and feel it's unreasonable to take that much time.

Commissioner Arvas: Looking at Unit 4 population of elk, somewhere between 4,000-5,000--does that sound about right?

R.J. Kirkpatrick: Sounds right.

Commissioner Arvas: The bull/cow/calf ratio 30:100 sound right?

R.J. Kirkpatrick: Yes.

Commissioner Arvas: The annual harvest objective is 332 bulls and 359 cows, is that right?

R.J. Kirkpatrick: Sustainable harvest 332 and 359.

Commissioner Arvas: The estimated bull harvest for 2006 is 716?

R.J. Kirkpatrick: Right.

Commissioner Arvas: This person can't quite understand how the 2007 regulations fit with these objectives, that's the first thing he's got a problem with.

R.J. Kirkpatrick: Some of you know that Unit 4 is the most difficult elk-management unit we have in New Mexico because of varying interests, shared resource holder, multiple jurisdictions, multiple GMU's, historically extremely political game management unit, and long depredation issues. The biological evaluation that we look for is the Department's best information that population represents. The population estimate is designed to meet the number of elk between September-December the legal time we actually have. The number of elk harvested assuming that every single landowner authorization and public draw license will be used as a result of somebody hunting elk so it's probably a high end estimate given the harvest rates are the best information today. It's doesn't reflect we're over harvesting the bull segment of that elk population. We've suspected that for a long time. There are 2 ways to reduce the number of bulls harvested in Unit 4. We've tried reducing the number of bull hunting opportunities. Invariably the economic and social problems associated with reductions in hunting opportunities are adjusted upward. Currently, the 2-year cycle we're in now is to reduce cow harvest to increase the recruitment to be better able to sustain the issuance of in the neighborhood of 1,000 insurable hunting opportunities. It was agreed to reduce cow harvest and

increase recruitment. There are people concerned that too many elk will make depredation, but given more bulls now we're trying to grow more and they're killing fewer as a result of economic concerns. Our proposal is a 10% reduction on all numbers as a small step toward reducing bull harvest and increasing recruitment.

Commissioner Arvas: We did succeed in lowering our harvest by going to the antler-point restriction?

R.J. Kirkpatrick: The antler-point restriction did affect success rates the first year that I was involved in. We've not heard about the second year hunt.

Commissioner Arvas: So you feel safe in saying that the harvest of 624 is a safe number?

R.J. Kirkpatrick: It's based on the harvest rates but due to the nature of where that elk herd is, the weather is really the driving force about whether or not success rates are higher or not. We are comfortable that our proposal will result in continued over harvest.

Commissioner Arvas: So we are going to reduce the cow hunts?

R.J. Kirkpatrick: Our proposal is to reduce cow licenses 10%. We've counted our wildlife areas in that system in landscape scale. We've not done that in the past. Our wildlife areas will then afford an opportunity on equal footing with private landowners so there's no perception we're taking a bigger bite than we should. That it creates an archery hunt opportunity that was not considered before, so yes there'll be an archery hunting opportunity on the Sargent/Humphries. Commissioner Montoya has initiated establishing significant public input. We'll talk them through these issues and get some sense of where that bigger community would like us to take this big elk population and how to manage it in the future. One thing is that that bigger community would like us to take this big elk population and manage it in the future. One thing is that for years concerns about elk on private property especially during spring are concerns about elk on public land grazing allotments. The Department's response has been to put more licenses and kill more elk. We encourage in a lot of these units to kill more elk during the window of time. We're not addressing and not acting on the elk that are causing the problem. We're not doing anything about the migratory animals that are on public/private greenup.

Commissioner Montoya: Since we are on that unit, the north central is the 5 units that have some overlapping concerns. This difficult issue to some is that there are not enough and to some there are too many. The individuals that initiated these pieces of paper probably have the largest interests in those regions. I receive feedback from the medium to small interests and they're getting hit pretty hard. Up through June we were very dry, but all those farms especially the agricultural plots were getting wiped out and to them there are too many elk. While I've been on the Commission we're reduced in that region, especially Unit 4, twice.

R.J. Kirkpatrick: Prior to 2003-2004 when there were high numbers of permits, 2003-2004 we drew bull/cow authorizations down to 875. There were complicating factors and there were additional reductions to the majority of landowner figures but that's the reduction that we made on bull permits back to 1,090; cut cow permits down to 400 and that's where we are today.

Commissioner Montoya: At our meeting in Chama 2 years ago, we had to compromise because we were going so far down that almost all the medium and small were going to get hit pretty hard. The largest landowners that get 100 use 50 and if you reduce it, they don't get hurt, they still get their 50 that they use. To them it's not an impact, but to the smaller ranches if you make these reductions they're going to feel the pinch and what happens is they get the biggest burden because they're the ones that have the alfalfa fields that green up and this year especially they've been getting hit since spring then summer. In Jarrita Mesa in Unit 51, all the individuals that have Forest Service permits were asked to pull their cattle by June 30. The Forest Service hasn't done well at controlling the number of horses and we haven't done well at controlling the number of elk, but the cattle had to move out, the elk and horses could stay. In their management plan they were supposed to have 20-70 during dry spells, but there are over 200 horses. No one made an effort to pull some of the horses out but the cattle had to be moved out completely. There were large numbers of elk. We have to be understanding of what these social and economic problems are because they're getting a lot of policy makers involved and we need to be at the table when those discussions are taking place. To them there are too many elk because they had to move their cattle at someone else's expense but no one mentioned reducing the number of horses or the impact the elk had. We need to make sure we're responsible for wildlife, the Forest Service owns some of the land, the landowners the rest. We need to be having these discussions before we start making decisions on whether we want to increase our herds in times when we should keep them stable. When we're having periods of good moisture maybe is a good time to start thinking about increasing the herds, but the conditions up to June were horrible and under those conditions isn't the time to increase nor decrease

but at least staying stable. I suspect that what we're going to hear on August 31 is that people don't want to see the kinds of increases we're proposing. Remaining stable would be a better solution than increases so these interests are very different.

Commissioner Pino: Feedback from the Commissioners on options in Units 6-A and 6-C shows an attempt to have new boundaries between the 2 units. Did you take that consideration earlier?

R.J. Kirkpatrick: We just developed this proposed adjustment to that boundary. We're on the fence about whether or not we should go with that boundary adjustment or not, whether it does what we hoped it would and everyone concurs.

Commissioner Pino: Did you also take the numbers as far as possible?

R.J. Kirkpatrick: We did keep numbers of licenses and permits the same as they are now and in 6-C there was a reduction across the board. In 6-C the current proposal reflects the 20% reduction in bull hunting opportunities, 20% reduction in cow hunting opportunities and archery opportunities stayed stable. The 20% is the highest our proposal has gone. We tried to talk to the public about additional reductions in 6-C. The adjustment of the boundaries will adjust the success of a private landowner given authorization and change that public/private proportion slightly. Overall permit numbers and license numbers are about ¼ of what the proposal reflects now. We're happy to entertain additional comments or input.

Commissioner Montoya: The Jemez Mountains units also concern me in that we need to plan on a landscape basis for the unit. I have about 4 names of people that I think could offer you a lot of information, insight, and ideas for you to consider in terms of being able to manage 6-A, 6-B, and 6-C. Whatever we do in 6-A and 6-C is worth nothing unless we work with 6-B. The Valle Calderas/6-B is a sanctuary for 3,000-5,000 elk. As soon as you fire a shot in any of these units, they jump in and camp out until the end of hunting season. That's why, Commissioner Pino, the chart in 6-C shows 5% success rate. We might be exaggerating the 5% success rate, it might be 2%-3% success rate. We might as well be selling camping permits because there are no elk at the time to hunt with rifle. One shot and they're all into the Caldera and unless we start working with the Caldera on how they're managing elk, we're not going to accomplish much. My concern is that we're down to the wire. Next month we're going to be approving this and looking at 2007-2008 and the next opportunity will be 2009-2010 to resolve anything. If you could make time to meet with individuals with good ideas. I know we're limited in our influence on the Valle Caldera, but they need to be at the table as well as foresters and others because we manage the elk but they manage the property and I think we need to make some effort at changes before adopting the Big Game rule, at least some of what we're doing instead of waiting to 2009-2010. At least we can get a few things done but we can start this working relationship with others that need to be involved.

R.J. Kirkpatrick: We're happy to sit down with those folks.

Commissioner Riley: With respect to youth hunts for deer and elk, the Wildlife Service being the preservation base with 5-year recurring hunting and fishing survey the 2 major factors they found for youth particularly the number of days they get to hunt with somebody and find a place to hunt, they would be more likely to have more opportunity to hunt multiple times maybe look at the opportunities outside of what we've normally looked at, a traditional 5-day hunt for deer and elk that perhaps in November-December, Thanksgiving to New Year's or something of this nature and more opportunities.

R.J. Kirkpatrick: We'd be happy to look at that. We can try to get some deer hunting opportunity around the Thanksgiving timeframe.

Commissioner Salmon: I've had a couple of complaints from outfitters in my district that said a reduction of 17% of bull permits in 16-B was not justified. I wonder if you have some comments for justification that I could pass along?

R.J. Kirkpatrick: We have in fact met with at least 1 of those individuals. Our initial proposal was significant reductions in total license numbers in 16-B in the Gila, as we looked at some harvest information that we got right after we put that proposal out, we increased 16-B hunting opportunities significantly. The current poll requests a 2% reduction in bull hunting and a 17% reduction in bow hunting, so we brought it back to near current year levels. I don't know whether they've seen the new proposal or are comfortable with the adjustments we made but I'll be sure if that's the set of folks that I think you're talking about we'll try to make it a point to give them this before the September meeting and at least make them aware that we've brought it back up.

Mark Bedner: I'm with Peace and Justice for Animals in Santa Fe. I would encourage the Commission to consider phasing out totally the sport hunting of cougar. There was discussion this morning about how the Game Commission

needs to appeal to the non-hunting public. Increasing numbers of people see that mountain lions/cougar are worthy of protection for their own sake. If the Commission were to actually take the step of protecting the species outright, it would be taking a major step to show the public that this agency does not exist solely for the purpose of hunting.

Bob Nordstrum: I'm speaking for Bill Ferranti from the Double H Ranch. He'd like me to tell you that the numbers look fine for Unit 13. He does have concerns about lions. I know the large quota numbers in G look very good but on private ranch and mule deer management, predator control is part of that management program he has on Double H, but he's concerned that the snaring and roadkill numbers be included in sports hunting,

R.J. Kirkpatrick: The current cougar rule has 2 categories; 1 is for harvest, the other is the total sustainable mortality. Total sustainable mortality is an above-the-table total number of cougars that could be removed. Sport harvest is technically reporting of that so you're right, it does include roadkill, preventative cougar rule for Bighorn sheep protection, depredation for Wildlife Services and our agency, nuisance removal issues and human safety issues.

Mark Bedner: The numbers look sufficient but in the future we should keep an eye on that in case we're doing the mule deer programs.

Roger Peterson: For the Sierra Club, I'd like to address the cougar and trapping rules. With regard to cougar populations, we fear the Department is over estimating the population because of an over estimate of habitat. Researchers like Thompson and NMSU had some good figures on core habitat that looked more reliable than what the Department is using. We're worried about the direction of cougar population because we think you should be cutting the hunting opportunities rather than increasing them. The steadily increasing percentage of female kills indicates a declining population and specifically we'd like to see hunting stopped in game units where the kill of adult female cougars exceeds 25%. In trapping I'm alarmed with what Mr. Kirkpatrick reports he's getting together with trappers. The proposed improvements in the trapping rules were scraps tossed to a concerned majority of the public which would like trapping banned on public land. The Department is not even considering such a move but they did toss us a few scraps for instance increasing the distance from graded roads that traps could be set and shortening the season. Now I'm hearing a move toward recalling those scraps. It should go in the other direction--instead of graded roads we should be talking about all roads and 50 yards for a start. We'd like to defend the month cut in the season.

Aaron Jones: I'm a wildlife biologist representing Rancho del Oso Pardo and Rancho Lobo and some of the concerns on what the harvest objectives are. As I understand it, we're going to be harvesting 188% of our bull population according to our objectives. I encourage the Commission to look at the 332-bull and 359-cow harvest objective and further decrease the amount of bulls to be harvested. I've talked to landowners who combined have over 50 acres of land in Unit 4 and this is not just large landowners this is 20 acres plus. A 25% decrease is necessary not 10%. We agree with the 50% decrease in tags in Unit 4. I have plans on getting names/landowners to the Department by September 1.

Commissioner Arvas: I'd recommend you go to that meeting at 6:30 p.m. on the 31st of August at the Rio Arriba County Fairgrounds also called the Rural Events Center.

Caren Cowan: I'm speaking on behalf of the New Mexico Cattle Growers, New Mexico Wool Growers, and New Mexico Federal Lands Council. I get the same calls Commissioner Montoya receives about people having trouble on the ground, working with allotment owners to be able to stay on the ground, and elk continues to be a problem in the Santa Fe, Carson, Gila, and Lincoln. As to the trapping issue, we would encourage you to leave those regulations alone to the best you possibly can. This is not only between the trappers and non-trappers. There are multiple interests involved. The livestock industry depends on trappers to help in predator management and the wildlife populations depend on those trappers. If you get rid of them you're going to see your deer populations decline and predator management is a legitimate part of what the Commission and the Department is, can, and should be doing. With cougars, we see the population again increasing, they are not decreasing.

Jan Hays: I'm with Sandia Bear Watch and New Mexico Bear Watch and am here today to ask the Commission to support the Department in their request for a 24-hour hotline for bear hunters. We also support the Department in their request to move hunters to surrounding areas around Cloudcroft, Region 34 and change the bow hunt to several days to accommodate hunters hunting other species. On behalf of Bear Watch I'd be happy to go before the Legislature to speak on behalf of New Mexico Game and Fish for more funding and help you.

Ron Shortes: On this issue I'm here representing Catron County and our family ranches in Catron and Lincoln

Counties. We support the Department on the trapping rules specifically the cougar issues. We also specifically support the new changes in terms of reporting requirements. The Forest Service is doing a horrible job in terms of managing the forests otherwise there's nothing going to be left for wildlife because of these fires.

Carlos Chavez: The area in 6-A, 6-B, and 6-C is highly overlooked as needing attention from the Department. I'm a guide and the unit is good to hunt and better than the units around it. There was a 340-bull in Gallina on July 20 shot in rear legs at about 7:00 a.m. The Game and Fish officer didn't get there until well after 1:00-3:00 p.m., so we know what happened to the bull. We know there are landowners in Unit 6 that are very influential in the area but let's get past that and work as a team and work this out. R.J., why can't we split the unit maybe on the ranger districts over the parks wilderness?

Art Martinez: I'd like to thank the Department for listening to us regarding the splitting/rearranging Unit 6-C the way it is because there were a lot of problems there. My main concern is with Unit 2-B split last year from 2-B to 2-C in that you're concentrating too many hunters in 2-B. Unit 2-B has approximately 2,000 licenses issued and that's strictly a migrating herd not a resident herd. Unit 2-C is only allowed 100 licenses for 600 square miles. I want to invite any of the Commissioners to go with me. I'll take you into 2-C, and show you the amount of deer in that area, and explain to you the problems. I've talked to R.J. and he's told me that the data he's used to change Unit 2-B into 2 units was data that was collected in 2002. I wanted to know how many hunters are in 2-B compared to 2-C? Has no data. How many deer are killed in 2-B compared to 2-C? Has no data. We had a meeting on July 25 with concerned citizens in the Bloomfield area and over 80 people showed up. R.J. knew this meeting was for concerned citizens and he started talking about oryx, bear, javelina, and never wanted to hear the concerns of the citizens. We'd previously had a meeting in Coyote with concerned citizens and 50 people showed up. R.J. explained at that meeting what's happening in Units 6-A and 6-C, but he avoided the problems in Unit 2. The problems in Unit 2-B are that there are too many locked gates. The landowners are blocking access to public lands because now with the landowner's permission to hunt ranch-only deer, they're blocking roads to public land and they're hunting the public land as their own personal ranches—too many hunters killing too many deer in 1 area.

Tom McDowell: I've provided written comments on fur trapping and when we see the next draft we may wish to provide further clarification.

Chairman Sims: You're opposed to any proposed Department changes?

Tom McDowell: We'd like to see the furbearers and wildlife managed on the basis of science. To arbitrarily shorten seasons when we're not approaching harvest goals is hard to understand. I don't know the exact number of trappers this would affect, but it will affect some. On your set backs, your set backs will have profound influence and impact on the coyote control that we take as part of our fur trapping activities. We don't trap furbearers along the county roads. When you set us back we're not going to be able to take those animals—50 yards is a long way to pull a coyote.

Commissioner Arvas: How about 50 feet?

Tom McDowell: It's better now. You're at 25 yards now.

Commissioner Arvas: What of the proposed regulation would you accept—the season dates, which of the 2 would you buy?

Tom McDowell: I'd like those regulations to stay the way they are. I don't have an either/or answer for you.

Scott Bidegain: I'm a ranch owner from Tucumcari. I concur with the New Mexico Cattlegrowers. One thing we've noticed is that the porcupine and skunk populations have decreased and we attribute that to the increase in mountain lion/cougars. We're starting to see them in the daylight so we know there are more out there and the deer population has decreased over the last 10 years.

Bert Ancell: I'm manager at the Bell Ranch. The first 10-15 years there we had mule deer grazing in the yard at headquarters. Today there are few deer and antelope in herds of less than 50, hardly a Barbary sheep left on the Bell Ranch, the mountain lion has increased every year. We're in Zone D all the way to the Texas line, there have been mountain lion seen in the flats in Clayton and in the flats north of Logan, outskirts of Tucumcari above the Cap Rock toward Clovis, in the sand hills west of Clovis which we're told is not mountain lion habitat, and that tells me there are more mountain lions than realized. I hope you consider this in the regulations.

Henry Ulibarri: I'm from Unit 4 representing the small ranchers which constitute anything from a garden to ranchers with 200-300 acres. If there are 3 neighbors with a total of 600-900 acres adjoining the Carson National Forest, and all we get is 1 bull and 1 cow permit, these 3 pieces of land don't even graze 1 cow. We haven't grazed animals

there for the last 10 years. The only lake/pond that had water this year was ours. Because of the elk some of my neighbors had to haul water from the hatchery to Cebolla. The small rancher supports the biggest portion of the elk because we have water and nice grass. You claim elk come from the mountains, but elk actually came from the flats like buffalo. The elk we're getting are coming from both sides, the Jicarilla and from the beginning of the mountain on the big ranches. The small ranchers are reduced 10%, or 50 bull elk, the larger ranchers have 50 to start. The other 50 are wasted. The Department loses the money because permits that are not used. If those 50 permits would be given to the small rancher, I guarantee each 1 would buy a license.

Robert Espinosa: I'm with the Sportsmen for Fish and Wildlife. I want to express our support for most of the proposed changes. We oppose the change to the oryx rule. Of the 5 proposals that are on the web, SFW can only support 1 with no change. The general concession of the SFW, is that although the off-range hunt is a tough hunt and the success rate is relatively low, and if you open it up over the counter as proposed, the unique hunting opportunity is going to go away. I've received comment from over 25 landowners around the missile range and they share the concern about the damage to the environment if you open the hunting to everyone. The oryx that come off the range have to be managed. We encourage the Commission to retain the current structure at least for the next couple of years, do further studies, and see if there's a better solution.

Commissioner Henderson: R.J., were those oryx hunts the ones I read about that were undersubscribed and didn't have the level of interest as they were originally established and you're changing because of that?

R.J. Kirkpatrick: No, the oryx hunts in question are the off-range oryx hunts. Currently, hunters have to apply through the public draw process. There are some licenses available for each month of the year and the management objective is to minimize a number of oryx off White Sands Missile Range. Those hunts are all fully subscribed. The reason for the new proposal is to facilitate and improve the hunt and harvest those oryx by going to an over-the-counter system given the entire year to hunt.

Oscar Simpson: I'm with the New Mexico Wildlife Federation. To clarify our recommendations on the Valle Vidal, we recommended a very minimal youth/trophy hunt for 1-2 deer in the Valle Vidal to give it notoriety. It wasn't to open up deer hunting in general. We'll submit that in writing if you'd like. If you have a number of people drawn for elk hunting in the Valle Vidal, out of that pool 1-2 people will be able to hunt a buck, so that was the intent of our proposal. On the Otero Mesa, we wanted to clarify and it wasn't very successful, we'd like to have a muzzle loader trophy hunt over 5-7 day period to give that area notoriety. As for the any other criteria and hunts, we haven't yet formulated our opinion and we will do so in writing to the Commission and the Department. I do want to recommend that we address the off-road retrieval of game. All the Forest Service areas are going through a transportation management plan and I think unrestricted travel basically promotes more travel and basically destroys the habitat, especially when we're dealing with the drought.

Larry Caudill: I'm from Albuquerque. It's competing interest trying to whack a finite resource. I remind you that your job is to deal primarily with the resource and not stepping on the guides', bow hunters', or muzzle loaders' toes. The specific area of interest is Unit 2. You may recall that years ago there were 8,000-9,000 hunters in Unit 2. We're down to about 650 for each or about 1,900 rifle permits?

R.J. Kirkpatrick: We're down to about 350-1,600 rifle deer hunts.

Larry Caudill: I support the proposals made because they're made in the interest of husbanding the resource and doing the right thing for the resource. The closed gates that were referenced are primarily on oil and gas access roads. I ask you to take the criticism with a grain of salt because they're selfishly motivated or economic-interest motivated rather than what's best for the resource. I don't go along with the over-the-counter oryx hunting.

Agapito Candelaria: I'm a small landowner in Unit 4. I commend your approach on bringing back the river otter. At the rate that permits are being reduced in Unit 4, we're going to be an extinct species in 4-5 years due to impacts imposed by the elk. As mentioned before, a reduction in the big landowners' permits is no problem, but the small landowners get smashed every time.

Chairman Sims: R.J., those reductions between small and large landowners that aren't using their landowner permits, can we adjust that in a way of how many they're using and taking those permits and reapplying them with only good science?

R.J. Kirkpatrick: We currently do that. I'm encouraging everyone to do that by reviewing the new elk private land use system. That identifies the average of unconverted authorizations during the previous 2 years, those authorizations are then redistributed through a bonus issuance and the small contributing ranches throughout that

unit. Previous to this year, landowners could throw tags in the garbage. Not anymore--all the authorizations made available are distributed to the participating landowners in the system.

Edwin Gurule: I'm a rancher in Unit 52. If nothing is done with the elk in Unit 52, 10 years from now you'll be restoring the rancher instead of the otter. This year and in past drought years, ranchers in our allotment have been taking up to a 30% cut in days to help our range and it hasn't helped us because the elk population is increasing. Last year I got hit badly in the meadows because of the drought and because of the increase in elk, but yet my permits have been cut. I've contacted the Department of Game and Fish, Northeast area, and have been told that because I signed that agreement to get the permits they can't help me. The ranchers in my area are unhappy with the formula you're using to distribute the permits. You have to have separate permits for crop land.

Chairman Sims: Do we need to get together with those folks in that area?

R.J. Kirkpatrick: We recognize that last year the Commission adopted adjustments to the new landowner system. The Department's goal is to do our best to recognize contributions. Even before we did it, it was recognized that there still needs to be consideration. There are still properties out there that the current system is not able to recognize the contribution at least to the level that's reasonable. It may never be able to recognize to the level that some folks would like, but we recognize that there's still work to be done with that process/system. We've got a meeting with game managers to discuss problems that we have with the landowner system procedurally and functionally and start developing what we need to bring before the Commission.

Troy Omness: I work for Rio Hondo Land and Cattle Company. I'm here to talk about the Barbary sheep proposal on lengthening the season. We have 240-section ranch in southeastern New Mexico and have issues with Barbary sheep. We have approximately 1,000 head that live on the ranch and we're trying to manage the numbers but it's almost impossible in the timeframe that we're allowed to hunt and we'd like to see the rule go back to what it was years ago. We don't particularly support the season being during deer season and we'd prefer it to be 2 months consecutively if that's a possibility. Discussion item only.

AGENDA ITEM NO. 14: Change Manner and Method Rule 19.31.10, NMAC, to Allow the Use of Gas-Powered Motors on Lake Roberts and Bear Canyon Reservoir.

Presented by Mike Sloane – The Department will request a change to the Manner and Method rule to allow gas-powered engines to be used at trolling speeds on Lake Roberts and Bear Canyon Reservoir. Changing the designation for these lakes will allow the Department to access federal funds for needed dam rehabilitation projects at these lakes.

AGENDA ITEM NO. 15: Six-Month Update of the Project to Restore Rio Grande Cutthroat Trout to the Costilla Watershed.

Presented by Mike Sloane – The Department provided a 6-month update on the project to restore Rio Grande cutthroat trout to the Costilla watershed.

Commissioner Salmon: Will there be an Environmental Impact Statement or simply an EA on this project?

Mike Sloane: Right now the attempt is an EA.

Commissioner Henderson: One of the things I'm actually pleased with is the idea that we're building partnerships and that the partners are coming forward with resources to help move these projects along. That is reflective on the Department's willingness to work with other folks and be a little creative in their scientific designs.

Commissioner Salmon: Could you give us a quick update on the status of the Gila trout in the west fork and the update on the downlisting?

Luke Shelby: The crew has gone in twice to treat the West Fork. The first time they were pushed out because of the fires. They were prompted to leave by our friends in the Forest Service. They've since gone back in and feel that that treatment has been for the most part effective. There is 1 small stretch of the west fork they're concerned about. The intention was to go back in and sample that little stretch of the west fork but the road closure and weather have kept them out. As far as the downlisting for the Gila trout, we've had internal discussions and what we're proposing is to have a fishing opportunity available in 2007 that will be very easy to get to. The crew has already begun conducting tests on some of the hatchery trout in Mora to determine mortality from angling from different tackling types. We expect to bring that before the Commission sometime in the future for that opportunity in 2007 and then open it up more in 2008.

Commissioner Salmon: As far as the West Fork goes, I understand you've had difficulties with the weather and fires, but I do hope you can get that filled with Gila trout as soon as possible.

Oscar Simpson: I'm with New Mexico Wildlife Federation and we highly support this process.

John Dimas: I'm a lobbyist for native wildlife and habitat. It's refreshing to see everyone getting together and pulling for the cutthroat trout, but is the Department of Game and Fish still stocking Rainbow trout in the Costilla River?

Mike Sloane: Yes.

John Dimas: That's counterproductive.

William Schudlich: I'm chairman of the New Mexico Council of Trout Unlimited. We fully support this project as evidenced by the amount of money we're trying to put into it, and to protect what's listed as 1 of the outstanding national resources in the Valle Vidal. Besides the money we're going to bring to the table to work on the public land sections, we're also working with the 2 large private landowners, Turner Enterprises and Rio Costilla Cooperative Livestock Association in obtaining private/public ownership grants to get some work done on their property.

Dr. Gerald Jacobi: I'm a retired professor of environmental science at Highlands University and I've been working on aquatic macro-invertebrates and their role as indicator organism's environmental health. I would like to go on record again by saying that I do support this effort on the Rio Costilla as well as for the trout in the Gila.

Discussion item only.

AGENDA ITEM NO. 16: Proposed Changes to Commission-owned Properties Rule (19.34.3, NMAC) Allowing the Director to Restrict Use when Necessary.

Presented by Lisa Kirkpatrick - The Commission was asked to amend 19.34.3, NMAC, to provide the Director the authority to close, in whole or in part, or otherwise restrict the use of Commission-owned or managed lands when in the opinion of the Director such closure or restriction is reasonably necessary for the protection of such lands, wildlife, habitat, the public, or otherwise to respond to circumstances concerning such lands.

MOTION: Commissioner Montoya moved to amend Use of Department of Game and Fish Land Rule, 19.34.3, NMAC, as proposed to provide the Director the authority to close, in whole or in part, or otherwise restrict the use of Commission-owned or managed lands when in the opinion of the Director such closure or restriction is reasonably necessary for the timely protection of such lands, wildlife, habitat or the public or otherwise to respond to circumstances concerning such lands. The Director shall report any closures to the Commission at the next opportune time. Commissioner Arvas seconded the motion.

Alvin Garcia: I'd like to discuss it with the Commission if possible. Lisa, in the change where it says "managed lands", is it our intent to include state trust lands that are under our annual easement? We manage the wildlife there, but we don't manage the rest of the uses of that land and does that need to be clarified?

Lisa Kirkpatrick: It was not our intent to include state trust lands. The intent was to include properties that we lease for fishing and those types of leases where we actually are managing the property.

Alvin Garcia: Also, I would suggest that if we're going to have a closure for valid reasons in our Director's judgment, that we have it embodied in our regulation that he report any such closure to us at the next regularly scheduled meeting so that we're aware of them and it's not a closure that continues long-term so that we have a sense of what exactly is going on related to the closure. It's a property management issue—that's my suggestion.

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

AGENDA ITEM NO. 17: Proposed Shooting Preserve Application, 19.35.3, NMAC, and Sections 17-3-35 through 17-3-42, 1978, for the Blue Springs Hunting Preserve.

Presented by Brian Novosak - David Ripley submitted an application for the Blue Spring Shooting Preserve for Commission consideration. The proposed preserve consists of approximately 2,000 acres of deeded land located south of Carlsbad in Eddy County, New Mexico. They plan on releasing pheasants, chukars, and quail which will be purchased from registered propagators. Issuance of a permit was contingent upon the Blue Springs Hunting Preserve meeting all of the requirements of the law and rule pertaining to shooting preserves.

Commissioner Riley: Does it show the BLM land? The private property has a fence along it too?

Brian Novosak: It's my understanding that the entire boundary of the proposed shooting preserve is fenced.

Commissioner Riley: I didn't want the public land to be included in that area.

Brian Novosak: That area was surveyed by the District Wildlife officer in that community. I don't think there is any public land within its boundaries.

Commissioner Riley: Why isn't the fence going along it?

David Ripley: When I went to the BLM office and I obtained the map, she said the fences would not be accurate. Going south, there's a road that runs to the south where 22 is and there's a fence that comes right in there. It follows the road down and then comes back to the west. As far as the shooting preserve, we are not crossing Black River so it's bounded by the river. Does that answer your question?

Commissioner Riley: It does, but earlier you said that it had to be fenced.

David Ripley: No, the law does not state it has to be fenced, the law just states it has to be signed.

Commissioner Henderson: I'm not opposed but I am concerned about re-establishment of non-native wildlife. What kind of assurance does the Department have that these introduced birds aren't going to establish themselves and in fact, compete with scaled quail in particular, and what kind of monitoring does the Department have in place to make sure that is accomplished?

Brian Novosak: I'm not aware of any formal monitoring we do. Part of the contract does permit the Department of Game and Fish to access this property with reasonable notice and the proprietor is issued notice that he has to tag those animals and keep count of how many are diseased.

Commissioner Henderson: It seems that we as the Commission further encourage increasing our relationship with private landowners and giving them opportunities we need to build into our system of management that we can in fact have some sense of what's going on in these places. This is a big piece of property, we're introducing non-native birds, and I was more comfortable when we were introducing some of the quail species further north because they do die during the winter. The likelihood of them surviving in the southern part of the state is probably pretty great and if we don't have management systems in place, we're getting a shooting preserve at about every Game Commission meeting. We need to get some systems in place so that we can track them better than just saying we hope for the best and we'll get reports from the landowner. The Department needs to review their resources and see what they can do.

Chairman Sims: One of the reasons we look at different shooting preserves and have questions and 1 of the questions is why this acreage and why this amount of acreage as far as the shooting preserve. I think they'd like to hear the answer to that. As far as the birds propagating and surviving in there, 1 of our past commissioners is pretty close to our ranchers and was very active in quail and he raised a lot of quail. I spoke with him and he toured me of the ranch. He spent a lot of money on quail and pheasant and he had none survive. He hunted them but as far as survival quail after that, it was very rare.

Commissioner Henderson: I've heard that, I just want to be assured of that and I want systems that would assure that would be simple for the report, it wouldn't actually be simple to be in the field.

Chairman Sims: Mr. Ripley, would you mind if you explain to us why 2,300 acres would be needed for your shooting preserve?

David Ripley: There are a couple of reasons why I've come up with this amount of acreage. The full ranch is 4,800 acres so we're not using the whole ranch. One of our biggest things is we raise bird dogs and do a lot of training. We're trying to encourage people to come out and train dogs and if we're sitting on 300 acres and you've got 10 people out there trying to train dogs, the likelihood of those people coming into your area is great. Another 1 is the safety factor. I've been neighbors of other shooting preserves and you have people shooting at you. With this acreage we should have enough people and acreage where we can spread people out. That's 1 reason and another was the access to the back of Blue Springs. We have 1 road in and 1 road out and to get back there we have to—we just put it in the shooting preserve on the back side.

Commissioner Riley: Unfortunately, pen-reared birds in research have almost 0 survival ability, especially in reproduction, as long as there's not a big mixture of pen-reared birds of the same species as species in the area.

Chairman Sims: Mr. Ripley, where do you plan to obtain your birds?

David Ripley: I plan to obtain them from Hunter Game Birds. They are a licensed propagated business through the Department of Game and Fish.

John Dimas: I'm a lobbyist for native wildlife and habitat. They put pheasants in Texas and they laid the eggs in the prairie-chickens' nests and the prairie-chicken had to raise it and their population went right down the tubes. This is a threat to the prairie-chicken because this is close to Texas. First, I don't think we need it. Do we need more exotics?

There are 2 executive orders from the President, 1 I remember was 119857 where you cannot introduce exotics on public lands. Now you're not doing it, but if he's got public lands like BLM right next to it, it's the same thing. We don't need the species so someone can make a buck.

Brian Novosak: We present this with no recommendation and suggest that action be taken based on this presentation and testimony from Mr. Ripley.

MOTION: Commissioner Riley moved to approve the shooting preserve application for the Blue Springs Shooting Preserve. Commissioner Arvas seconded the motion.

Commissioner Pino: Before we do that, the map that we have in the packet is not the same map as the map offered during the presentation. I suggest that we get the proper map.

Brian Novosak: That's correct. The map in the packet that you have was an earlier map and then I asked Mr. Ripley to go in and fix the outlined property and got together with the BLM in the Carlsbad area and brought this map to me. This is a more accurate map than the 1 in your packet.

Commissioner Henderson: I will request that the Department put together procedures to report to the Commission on game preserves, and if we're following the protocols that we are voting on because we voted in a number of shooting preserves since I've been on the Commission and haven't asked for any follow-up information from any of those shooting preserves and I think Mr. Dimas has been here for years at least requesting follow-up information on that sort of thing and I think it's only sensible management on our part.

VOTE: Voice vote taken. All present voted in the Affirmative, except Commissioner Pino dissented. Motion carried.

AGENDA ITEM NO. 18: Potential 2007 Legislative Session Initiatives.

Presented by Tod Stevenson -- The Department provided the Commission a list of potential legislative items for the 2007 legislative session for discussion and/or amendment. These items were based on guidance provided by Commissioners at the July 13, 2006 Commission meeting and executive agency legislative approval process.

Chairman Sims: For these changes, the Department would spend money for habitat and other things without coming through the Commission?

Tod Stevenson: No, this would simply provide authority for the Commission and the Department to spend. All of those would come through the Commission like all the budget items. They would be developed into budget. As we start moving through those as we have in the past, we actually bring forward things on state wildlife grants and other things. The Commission has full authority as with the entire budget.

Chairman Sims: Would this Grand Slam permit be good for 1 year? What I'm thinking is if the hunter could buy this permit or when and actually fulfill it in 1 season?

Director Thompson: These concepts remain to be developed. Tod mentioned 1 permit—the way the concept has originally been submitted was that there would be 2; 1 would be raffled and 1 would be auctioned. The reason for that is to insure that any sportsman of any wherewithal would be able to compete for 1. We still have to go through this and see what kind of effects doing that would have on the ultimate intent which is to raise funding, but your question is a good 1. That hasn't been addressed. The models around the country basically are for 1 year or within a realistic timeframe within a license year, but nothing at this time limits that.

Commissioner Henderson: Concerning the Land, Wildlife, and Clean Energy Bill, why is it that it isn't part of the Governor's package if it's being supported and sponsored by Energy, Minerals and Natural Resources which we're attached to?

Director Thompson: The answer is because it's not our idea to start with. This is something that existed as a Governor's initiative and we're acknowledging that we would be engaged in the same way that we're engaged with the other 7 initiatives. It's just that the other 7 are emerging specifically from the Department and the Commission.

Commissioner Henderson: I just hope we don't get caught up in rhetorical communication and confuse the public, so I would suggest that we downplay that particular recommendation even though the background we understand. What the public should know is that we support it.

Tod Stevenson: I think that's the intent of getting it put here so there is no behind the wall that the Commission if you choose to move forward with that is going on record and saying that it's something important that the

Commission wants. I wanted to remind the Commission that we'll also be working on budget and there'll be some crucial things that we move forward with the legislative package.

Commissioner Salmon: I approve of this summary and appreciate all the hard work on these legislative initiatives. I'd like to point out that every legislative session has bad legislative initiatives come along, initiatives that are bad for wildlife and are contrary to our mission as wildlife managers. I'd appreciate it if the Department as they spot these things would send up a warning flag to the Commission and to the general public so that we can respond as lobbyists and cut these things off at the pass.

Tod Stevenson: We'll definitely do that. The last couple of years we updated on all legislative items. We did not track just our own but we tracked everything both positive and negative.

Oscar Simpson: I'm with the New Mexico Wildlife Federation. We're heavily involved as an organization in this land and water conservation effort. I would like to see a verbal approval from the Commission today that says that you give this blessing instead of it just coming from the Governor because there's a lot of money there and avenues to fund conservation both for the Department of Game and Fish and for private landowners. I would like to see that pushed up to \$20,000,000. This is a carryover from last year, HB 188, and this is a continuation of that process.

Commissioner Arvas I've been reminded by the Director that I need to add to that motion.

MOTION: Commissioner Arvas moved to direct the Department to continue preparation and coordination with the Commission Legislative Committee and the Governor's staff for bill introduction during the 2007 Legislative Session of the 7 items identified in this briefing, and the Land, Wildlife, and Clean Energy Act as an additional topic.

Commissioner Riley seconded the motion.

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

Tod Stevenson: You asked me last month to remind you to bring up the issue of the Legislative Oversight Committee.

Chairman Sims: Tom Arvas is going to chair that committee, Alfredo Montoya, and myself are members.

AGENDA ITEM NO. 19: Department Interaction with National Forest/National Grassland Transportation Planning.

Commissioner Riley: In the interest of time I recommend that we put off Agenda Item No. 19 on transportation planning with the Forest Service until the next meeting.

Chairman Sims: Lisa, is that something we need to address now?

Lisa Kirkpatrick: No, sir.

Chairman Sims: We'll put off the Department interaction with the Forest/National Grassland Transportation Planning and move to Executive Closed Session.

AGENDA ITEM NO. 20: 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: Chairman Sims moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H)(2)(7) and (8) of the Open Meetings Act in order to discuss several land interests at the recommendation of our Director as per 10-15-1, NMSA. Commissioner Montoya seconded the motion.

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

Roll Call Vote:

Chairman Sims – yes

Commissioner Arvas – yes

Commissioner Henderson – yes

Commissioner Montoya – yes

Commissioner Pino – yes

Commissioner 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. 21: Use of Land Conservation Appropriation Funds for Acquisition of Property in Valencia County.

Presented by Lisa Kirkpatrick - The Commission considered approval of funding from the Land Conservation Appropriation for the purpose of acquiring about 200 acres known as the Rio Abajo property in Valencia County.

Commissioner Riley: Would our conservation district have control over whether there would be hunting or not?

Lisa Kirkpatrick: In addition there will need to be a management agreement between the Commission and the district. Isn't that the intent?

Jim Karp: Yes.

Chairman Sims: Tell me about the Trust for Public Land?

Jenny Parks: I'm the State Director for the Trust for Public Land in New Mexico. With me are Charlie O'Leary who is the Project Manager, and Surae Lippel who is our attorney. The Trust for Public Land is a 501C3 non-profit organization. We've been in New Mexico since 1982. We're a national organization and have been in existence since 1972, but our primary mission is land for people and we help negotiate and also facilitate conservation transactions. We've done about 140,000 acres that we've helped preserve throughout the State of New Mexico. We're not an advocacy organization. We don't drive our own agenda. We basically work for the communities and the agencies that ask for our assistance and we try to respond to agencies' needs for their conservation purposes.

Chairman Sims: The Trust purchased the land from whom?

Jenny Parks: We negotiated and received the land from the Aurbach family.

Chairman Sims: Is it fair to ask what you paid for the land?

Jenny Parks: Yes, sir. This property was donated to us but only after 2 years of extensive negotiations and commitment of time on our part and expense in due diligence. We only came into this project because the Valencia Soil and Water Conservation District asked us to. They had been trying to obtain the property for a number of years and had been unable to do so because of the situation with BNSF and the railroad crossing. BNSF was insistent that they be released of liability and we had to negotiate between them.

Chairman Sims: What is Valencia's main objective to acquiring the land?

Jenny Parks: One of the Commissioners is here, would you like for him to speak?

Marcel Reynolds: I'm Vice Chairman of the Valencia Soil and Water Conservation District. The purpose of this is for the Whitfield property to acquire land for public use, specifically more toward wildlife. This particular area was very much like Whitfield in that it had a large amount of wetlands, bosque, things of that sort that would be very amenable to a preserve, or at least to a wildlife area. That was the intent and it still remains the intent of the district to manage this as a wildlife area.

Chairman Sims: I commend that. I think 1 of our major concerns is access and with that access it can actually happen.

MOTION: Commissioner Arvas moved to direct the Department of Game and Fish staff to work with the Trust for Public Land to assure public access through Valencia County and to defer a binding decision on this project to a Game Commission meeting later in calendar year 2006. Commissioner Montoya seconded the motion.

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

Oscar Simpson: I'm with the New Mexico Wildlife Federation. I've been heavily involved in this issue to bring all the parties together including the Department of Game and Fish. It would be nice if you had resolved and understood what some of these issues are. From our meeting a few weeks ago, everything seemed to be copasetic and we were going to go down this road and hopefully resolve things. I think the Governor put the word down through Ned Farquhar, but we need to expedite some of these issues because this track record will jeopardize a potential \$20,000,000 for that land from our conservation fund. I understand that you need to do it right, but it seems very

simply that if we had joint ownership in that access through the railroad would solve most of the problems. I don't know what your access problems are now, but I highly recommend that we further assess this since you're going to delay it further, but this is a golden opportunity and it's taken a lot of work.

Chairman Sims: The Commission had seen there's actually an access in the agreement for 25 years which is quite a long time, but an access agreement only allows for development or farming. In our acquisition and spending of monies, so if we can drive by it and we're purchasing this land for the reasons stated, it seems like we're not dragging our feet but we're actually making a due diligence call that I think is a very good one.

Commissioner Arvas: There's a fiduciary responsibility this Commission takes seriously. Each 1 of us pretty well deals with all these acquisitions as if we were buying them ourselves. So, for us to rush and do something based on the fact that Ned Farquhar said something really doesn't hold that much weight. We do have a time table, but I can tell you we have a fiduciary responsibility.

Chairman Sims: Am I correct that access is for 25 years for the railroad and is that limited to access for farming and development?

Commissioner Arvas: Sure.

Charlie O'Leary: The agreement that we're talking about is between the railroad and the District, it does provide for farming. What has been proposed by your Council is that we actually have the Commission added to that and on that application we can change that use. So, the intent has all along been that it just won't be for farming but that it will be for public access and wildlife purposes. To bring folks out to the property so the other important thing to mention is that this agreement that we're talking about does have a term of 25 years. It's a private crossing agreement will be in play for a period of 8-12 months as we were actually to get the access road that the District currently owns into county ownership and then there'll be public access to that and this agreement will actually go away. So you know we work with access on a lot of the properties and essentially every property that we work with it's an important issue. We wouldn't have brought this to you if we felt like it was premature and that we were asking you to go out on a limb to acquire the property at this stage of access.

Chairman Sims: We understand that, but with the state's money and you're talking about \$800,000, I think we need to see that access is going to happen and I don't think in real estate we actually deal in that it's going to happen without seeing it.

Jim Karp: I've been told on 3-4 occasions now, that nothing in that agreement can be changed or modified.

Chairman Sims: We've taken that action that we took today in full view and thought of our legal counsel.

Commissioner Arvas: Why does it take so long for the county to make that a county road?

Charlie O'Leary: The main thing that needs to take place before it becomes a county road is actually a good thing, and that is that we're going to upgrade that crossing. If you go out there now, there are no lights nor gates and what we're going to do. It was mentioned that the state has already committed about \$100,000 for those upgrades and TPL is going to put almost \$200,000 to bring that up to a safer crossing so that work needs to happen first before we work with the county to get that road into public ownership, but we have had commitments from them already. Once those issues are taken care of this is going to be an asset for the county. It's a very short road we're talking about. It's about 150 feet long so we feel pretty confident.

Chairman Sims: \$800,000 confident?

Charlie O'Leary: Yes.

Chairman Sims: So it shouldn't be any problem at all to quickly bring that assurance to us where you can get that done?

Charlie O'Leary: Yes.

Commissioner Henderson: I think it's important for you to understand that this is still a high priority, but we're in a position where it's he said/she said, where the county is waiting for assurances from you to make sure that the crossing is safe before they make a decision, and yet the decision we made was that we can't commit state dollars until we're assured that that is done, so it's push/pull which puts you in a difficult position I realize, but the fact of the matter is that we do have that fiduciary responsibility. We talked about it and we hope that our actions will actually help leverage some quicker action on the part of the county commission.

Jenny Parks: I want to clarify that the pressure that needs to go is to get the crossing done. We have had conversations with the county where they have said that once the crossing is done, they will accept the road and make it a public road, so it's really BNSF that we need to get in gear to get this crossing completed, and I'm not sure

