

MINUTES  
 NEW MEXICO STATE GAME COMMISSION  
 University of New Mexico-Gallup Campus-Gymnasium  
 200 College Road  
 Gallup, NM 87301  
 July 18, 2007  
 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 9:25 a.m.

**AGENDA ITEM NO. 2: Roll Call.**

Chairman Montoya – present  
Vice Chairman Arvas – present  
Commissioner Buffett – present  
Commissioner McClintic – present  
Commissioner Riley – present  
Commissioner Salmon – absent  
Commissioner Sims – absent

QUORUM: present

**AGENDA ITEM NO. 3: Introduction of Guests.**

Introductions were made by approximately 100 members of the audience. Present in the audience were Patrick Lyons, NM State Land Commissioner; Steve Padilla, former Game Commissioner; Dr. Benjamin Tuggle, Southwest Regional Director, U.S. Fish & Wildlife Service; Ed Wehrheim and Hugh B. McKeen, Jr., Catron County Commissioners; and Garth Simms, former NM Representative.

**AGENDA ITEM NO. 4: Approval of Minutes (May 3, 2007—Española, NM)**

**MOTION:** Commissioner Buffett moved to approve the Minutes of the May 3, 2007 State Game Commission Meeting in Española as presented. Commissioner Arvas seconded the motion.

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

**AGENDA ITEM NO. 5: Approval of Agenda.**

**Chairman Montoya:** Director Thompson, do you have any changes?

**Director Thompson:** I have none other than if you wish to insure that the public comments occur at a timely point in the morning.

**Chairman Montoya:** It's been a general practice to allow the public attending our meetings an opportunity to express their views during our general comments segment and allow up to 3 minutes on any subject that is of concern to them or take the opportunity to share information. We'd like to move a general comment period to sometime before lunch. If there's no objection, we'll hear Item No. 19 after Item 12. We will have a second general comment session at the end as Item 26.

**MOTION:** Commissioner Arvas moved to accept the agenda for the July 18, 2007 State Game Commission Meeting and hear a general comment period after Item No. 12. Commissioner Buffett seconded the motion.

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

**AGENDA ITEM NO. 6: Revocations.**

**Presented by Dan Brooks** – The Department presented a list of 14 individuals that met established revocation criteria and the Commission considered 13 for revocation and 1 re-instatement. The Department provided proper notice and an opportunity to be heard by 12 individuals who have failed to provide proof of commercial liability insurance as required by 19.31.2, NMAC, and the Department recommended suspension of outfitting license privileges. The Department also provided proper notice and an opportunity to be heard to 1 individual recommended for revocation of license privileges as required by 19.31.2, NMAC (Parental Responsibility Act). The Hearing Office concurred and recommended revocation until compliance is achieved. The Department provided proper notice and opportunity to a hearing as required by 19.31.2, NMAC, to 2 wildlife violators, who have accrued a minimum of 20 violation points, and the Hearing Officer's recommendation is revocation.

**MOTION:** Commissioner Riley moved to adopt the Department's and Hearing Officer's recommendations on re-instatement/revocation and point assessment for the attached list of 14 individuals for the period of time specified.

Commissioner Arvas seconded the motion.

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

**AGENDA ITEM NO. 7: State Game Commission Approval Sought for 2008 Habitat Stamp Program Projects.**

**Presented by Dale Hall** – The State Game Commission was asked to approve recommendations from 5 regional-Citizen Advisory Committees concerning the Habitat Stamp Program's 2008 and 2009 habitat improvement projects in partnership with the Department, Federal land management agencies, sporting/conservation groups. Habitat improvement projects have been designed for funding by the Habitat Stamp Program. These projects have been reviewed and prioritized by appropriate regional Citizen Advisory Committees appointed by the State Game Commission. The committees, through the Department, presented projects to be initiated during the 2008 fiscal year for public review, comment, and final approval. With funding of \$1.2M, 67 projects for implementation and 43 back-up projects to utilize should 1 of the previous projects go wrong. Tentative approval was sought for the 2009 projects identified that totaled more than the available funding, and there are back-up projects if a higher ranked project will not be able to be conducted. A correction to the 2008 list in the Cibola Forest--Project #CF-08-10, Bluewater Meadow Restoration for Deer, Phase I of II, was withdrawn and a modified proposal will be submitted in 2008 that will address the maintenance needs in the Mount Taylor Ranger District of the Cibola National Forest. Projects #CF-08-08 (Tajique Meadow Restoration, Phase I), CF-08-09 (Horse Mountain Springs Re-development for Deer), and CF-08-06 (Tajique PJ Treatment for Deer), will be fully funded.

**Commissioner Arvas:** Can you give us an update on Sikes Act Fund as it exists today in terms of the balances?

**Dale Hall:** We, with Commission approval last year, instituted a normal budget of \$1.2M but a secondary budget for \$1.2M for a total of \$2.4M. The extra money is going to landscape-level projects. We expect those projects to be completed. That would spend down the balance to about \$2M.

**Commissioner Arvas:** So, we're going to spend \$2.4M in 2007 and have \$2M left? Is \$1.2M the approximate income per year that we get from the Habitat Stamp or what is that income?

**Dale Hall:** The actual income is around \$900,000 worth of stamps per year. Depending on interest rates, we do have interest coming in on the fund balance itself and as we spend down, we receive less interest.

**Commissioner Arvas:** So, in a sense we almost have an endowment-type project in effect now?

**Dale Hall:** Yes, that's true, but we took such a big chunk out in 2007 and those bills have not come in to be paid, but as they do that balance will drop significantly to about \$2M because every year we have money coming in, then we have the interest, so we're trying to balance it off so we maintain in the balance about 1 year's allocation.

**Commissioner Arvas:** So you'd be comfortable drawing down to \$1M?

**Dale Hall:** About \$1.5M would be comfortable.

**Commissioner Arvas:** Have we established a policy for that or is that something we do automatically?

**Dale Hall:** No, that's just at the direction of Director Thompson to bring down that balance so that we can be more responsive to sportsmen and to the fund.

**Commissioner Arvas:** Recently at the WAFWA meeting in Flagstaff, I was disappointed that more western states don't have a Sikes Act. Can you give us a reason why they don't seem to be interested?

**Commissioner Riley:** Many of the states for 1 reason or another have not initiated but some states are actually passing their own state law that is more or less similar and so they're requiring their hunters to pay a fee based on state law, not on the federal Sikes Act.

**MOTION: Commissioner Riley** moved to accept the Department's tiered list for 2008 and tentative list for 2009 Habitat Stamp Program projects as recommended by the Citizen Advisory Committees, with amendments.

**Commissioner Arvas** seconded the motion.

**Commissioner Riley:** I wanted to ask about a couple of projects—on p. 2 of your 2008 projects—the Kiowa grassland, 1 of those is habitat work for prairie-chicken, a burn—are there prairie-chicken on the Kiowa grassland?

**Dale Hall:** No, sir, but it's 1 of those locations where we've had former lesser prairie-chicken biologists look at that area and it has potential for habitat improvement for lesser prairie-chicken habitat, so we're burning some of the vegetation in the event we could ever transplant lesser prairie-chicken or maybe they'll come because true habitat is about 5 miles from the location where we're actually doing the burning so they could move there.

**Commissioner Riley:** Are you saying that there are leks within 5 miles?

**Dale Hall:** The good, *bona fide*, prairie-chicken habitat is about 5 miles away so if we can get them into that habitat it would be a hop-skip-jump there, so we're identifying the habitat and trying to improve it for the eventuality of lesser prairie-chicken moving into the area either by transplant or by themselves.

**Commissioner Riley:** Does the Department have any prospects to start transplanting lesser prairie-chicken?

**Dale Hall:** Not at this time. We have a new biologist for lesser prairie-chicken and we need to sit down to meet and discuss those types of options. In the past, they have not been successful so we want to evaluate and make sure that we're up to speed.

**Commissioner Riley:** Second question, Project #9 planning, food plots for quail? I don't know that there's any science that says that planting food plots for quail does much for survival or anything. What's the purpose of the food plot?

**Dale Hall:** In a small format it probably would not do a whole lot for the entire population, but maybe we can see some successes from what kind will take in that area and maybe we can go on from there and provide more of those types of plants in the future. This is the area in which we'll be doing quite a bit of work and so if we can find what kind of seeds will grow it is possible

**Commissioner Riley:** The final question, on page 6 of your report under the Southeast BLM—Roswell office—Project #SEBR-08-03, Mather's Prairie Chicken Habitat Enclosure, what's going to be done there?

**Dale Hall:** This is that shed-type trick tank that we've replaced and basically what we're going to do is enclose about 500-acres of habitat around this trick tank so the idea is to allow that grass to get knee-high for nesting purposes for the lesser prairie-chicken and this is *bona fide* prairie-chicken country and they will have the water to drink, so the idea of that is to enclose this habitat so that we can grow taller bunch grass.

**Commissioner Riley:** Aren't there about 80 acres fenced there already?

**Dale Hall:** It could be. I have not actually looked at the project myself.

**Commissioner Riley:** Will it be expanded?

**Dale Hall:** Yes, it will be expanded and probably replace that old fence. That's part of the maintenance issue. This stuff was built in the '50's and it's difficult to keep this stuff maintained.

**Commissioner McClintic:** Explain to the Commission, you have this broken down into Tier I and II. You say projects planned for completion and then Tier II is back-up projects. Explain to me how you make the determination which are Tier I and Tier II projects? What percentage of Tier II projects get instituted over the calendar year?

**Dale Hall:** The Citizen Committees actually rank each 1 of those projects—you'll see the ranking down the list, then the money is bled off the top until it runs out. After it runs out, those become Tier II projects so it's actually the citizens that rank those and bring those up for funding or as back-up projects. How many actually get pulled up the list, relatively few but we always have instances. For example, if we can't burn for 1 reason or another, we drop down the list and pick up another project and implement that. Therefore, the money that is allocated gets spent. That's 1 of the reasons we have such a high balance. We didn't have a procedure in place so that when a project did not get accomplished, that money reverted back to the fund so that fund built up over time. This is to address that and we've gone from about 70% use of the money and we're hovering right about 85% use of the funds that are allocated.

**Commissioner Buffett:** Can you educate me as to the process and methods the Department is using for salt cedar removal?

**Dale Hall:** There are multiple processes that we undertake. Currently on the Jackson Wildlife Management Area we have a backhoe that grabs that whole root ball and tries to pull that out; we're doing that on some of the larger areas. In the smaller areas, we did that also and as the re-sprouts come back we're using stump treatments, cutting, snipping and doing stump tree treatments. For example, on the Oro Villa on the Rio Grande we're using the community to oversee and help cut those salt cedars and do the stump tree treatments because they were concerned about using herbicides, so we're using a minimum amount of herbicides to maximize the kill on that salt cedar.

**Commissioner Buffett:** Similar methods would be used on the Canadian?

**Dale Hall:** Yes, absolutely.

**Director Thompson:** Regarding the motion, Dale recommended a slight change on page 3 of 15, and that change was to delete Project #CF-08-10 and move the money down on the list.

**Chairman Montoya:** Commissioner Riley, your motion included the deletion of Item 5 on page 3?

**Commissioner Riley:** Correct.

**Chairman Montoya:** Let the record show that that motion does include that change.

**Robert Espinoza:** I'm with Sportsmen for Fish and Wildlife. It's apparent that the extensive list of projects will benefit all of New Mexico's wildlife for years. The foresight of the Commission in creating the Citizens Advisory Committees has obviously been instrumental in deployment of the projects. We urge the Commission to retain these Citizens Advisory Committees to advise the Commission on future issues. Also, since the SFW has members all over the state, the SFW would like to offer our assistance in maintenance of any of the type of water projects around. Maybe not the installation as we're not versed in that, but in the maintenance as we have members all over and we'd like to develop with the Department a maintenance program that we might be able to participate in.

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

**AGENDA ITEM NO. 8: State Lands Access Easement Presentation and Approval.**

**Presented by Luke Shelby** – The Department presented, for Commission action, the proposed easement for access to State Trust Lands for the purpose of hunting, fishing, and trapping activities upon State Trust Lands administered by the State Land Office (SLO) and the Commissioner of Public Lands (CPL) for regulated harvest of protected species. The new easement is for a 4-year period and the fee is based on a formula (unchanged from the previous easement) that considers applicable license fee revenues, the amount of state land included in the easement, and proportions applicable to providing hunting, fishing, and trapping opportunities on State Trust Lands. Notable changes or additions to the new easement included CPL authorization of some hunting, fishing, and trapping activities on lands with SLO business lease designation; opportunity to take unprotected species by persons holding a valid license for protected species on those lands during period of taking; clarification of qualifying license types for easement fee determination of bighorn, Barbary sheep, ibex, oryx, furbearers, javelina, and turkey; CPL and SGC mutual agreement to consider the establishment of quality hunting areas; designation of 1 or more access points that provide reasonable access to areas with multiple existing access points; no off-road retrieval of big game except for certified mobility impaired hunters; and complaints to be resolved at the lowest possible level and possible use of conservation officers to ensure access, at the request of CPL.

**Pat Lyons:** I wanted to emphasize that we're signing up 8.3 million acres of state trust lands for the benefit of hunting, fishing, and trapping. We want to keep all of our lands open. We've picked up an extra 24,000 through exchanges over the last 4 years for hunting, fishing and trapping and we want to continue that series of exchanges and work with those areas. Several million acres of our lands are not available to hunting, fishing, and trapping because they're surrounded by private lands, so we can help block these up we can open up more lands. We're also working with the Department of Game and Fish closely on Bighorn, Aplomado falcon, and 2 sites for turkey releases. Jackson Wildlife Area is adjacent to state trust land to improve that wildlife area. We also did a prairie-chicken set-aside and we are working on several wildlife drinkers to enhance wildlife.

**Dennis Garcia:** When we hammered out the easement, it wasn't a 1-sided issue. We met with Department of Game and Fish staff, State Land Office staff over several months until we decided what would work for both agencies and this is the result.

**Chairman Montoya:** We appreciate all the changes. I can see that many of them are things that the Department initiated. I can see many of the concerns we've had addressed there. The fact that's it has been extended is good so that we can have longer-term agreements.

**MOTION:** **Commissioner Arvas** moved to approve the State Trust Land Easement for hunting, fishing, and trapping activities for July 2007 – June 2011 as presented. **Commissioner Riley** seconded the motion.

**Edward Olona, Jr.:** On October 30, 2006 I was asked to speak at a press conference with the Governor and some of the Commissioners were there along with Dr. Thompson. During that press conference, the Governor stated that he wanted to retain access to state lands. In this proposal, it seems we're in direct conflict with the Governor's agenda. Now we're taking away from multiple accesses into 1-2 accesses into state lands. How does the Department of Game and Fish plan to address these issues which have nothing to do with hunting? Commissioner Lyons, on a retort during that press conference stated that he was in favor of retaining access to state lands. Once again, I feel that by saying 1-2 accesses we are in direct conflict with what the Governor's intentions were.

**Kent Salazar:** We'd like to see assurances that the Department would provide maps and clear access to sportsmen so that they will be in compliance with State Land Office access points and we'd also like to see that there be

reasonable and equitable access points on to state lands so that no parties have more access than public sportsmen and that it's all reasonable for those people and any road closures that occur during the season be announced and made clear

**Edward Olona:** To delete any road accesses to the 41,000 acres in Unit 48 will be of no support to sportsmen. It is necessary that there be an abundance of accesses in Unit 48. The federal government says that federal routes will not be done away with. Those remain on the books and it's part of New Mexico history with regard to the mountain area that that road has been in litigation with the District Attorney from San Miguel County, Matt Sandoval, and also the Colfax County District Attorney.

**Chairman Montoya:** Is that road part of this agreement?

**Edward Olona:** Yes, this would be part of that agreement. The district attorneys indicated to J.A. Whittenburg that if any obstructions were to be placed on this road, they would go ahead and file criminal charges against them. To delete any of these accesses to the state trust lands in the Whites Peak 41,000 acres would not be an advantage.

**Alvin Garcia:** Regarding the easement, significant changes concerning easements and enforcement I think there may be complications. In the Whites Peak area there are a large number of roads inside the state trust lands and the status of those particular roads is questionable at times and the different branches that go off of it. I wanted to mention to the Public Lands Commissioner and to the Game Commission that the established roads—there are so many ways to establish public roads that this easement could not supersede by contract any of the establishment of public roads that are already in existence either by prescription that had been established prior to ownership or had been established pursuant to logging leases, or as Mr. Olona mentioned established post-roads that are protected by the U.S. Constitution, federal law and state law.

**Director Thompson:** With respect to the comments from Mr. Olona, Jr., and Sr., we're certainly well-aware of that circumstance and are sensitive to it and I think are continuing to work. The State Land Office easement that we're discussing here is providing for all Land Office lands throughout the state and attempts to set a structure within which we deal with all those situations. One of the improvements in this easement is that we will consciously work with the Land Commissioner to provide resolution at the most local level possible. We think that will promote dealing with any kind of situation whether it's in Unit 48 or elsewhere. I'll also mention that this week some lingering concerns about access on Hwy 199 was improved for sportsmen because we've insured that the gate that has been there is now open unless closed under specific provisions of a permit from the Department to the adjacent ranchlands, so there are a variety of things underway that we're working with and we believe that this agreement moves us even further forward in working effectively to resolve any kind of local road-access concerns.

**Chairman Montoya:** Item 20 in the agreement under Cooperation pretty well spells out the process for working out any disagreements on access and that clause gives the Department an opportunity to address concerns that may be brought to the Department.

**Commissioner Buffett:** I'd like to express my belief that as we enter into this agreement, we enter it with the spirit of maximum transparency and equitable access and I like the suggestion that the parties shall provide timely and clear maps to the public and we want to insure that the everyday hunter/angler has a chance to access these areas.

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

#### **AGENDA ITEM NO. 9: Mexican Wolf Interdiction Program Concept Review.**

**Presented by Dr. Benjamin Tuggle and Brian Millsap** - Representatives of the U.S. Fish and Wildlife Service presented an overview of the concept for a Mexican wolf interdiction program that is currently being developed by the Southwest Region of USFWS. This item covered the approach and current status of this concept to provide additional tools for diminishing some social and economic effects of Mexican wolf restoration efforts in the Southwest. This is a concept that has been in the works for about 9-10 months and felt that as a management tool needed to develop because it was sort of a gap in terms of management strategy for the re-introduction of the Mexican wolf. USFWS is in the process of developing and implementing the Mexican Wolf/Livestock Interdiction Program, a pilot program because there's nothing else like it in the country. This is specifically designed to try to provide some economic relief to the impact of depredation. Direct impacts from the wolf program range anywhere from \$38,000-\$206,000, and in order for us to address this impediment issue we're going to have to address the economic impact as we move forward. The proposal is basically a non-federal pilot program that looks at how we can get money into a wolf/livestock interdiction program that can basically provide preventative measures or

compensation for depredation for domestic livestock and alleviate some of the barriers to success as it relates to the wolf re-introduction program and also equally as important provide a tool that local managers and stakeholders feel they have in terms of control in terms of management options. One of the options we're talking about is an interdiction program which is a pro-active way of keeping wolves separate from cows. Depending on the kinds of options that you're talking about employing, it can range anything from additional range riders to calving pastures, any number of options that would be considered pro-active in terms of keeping wolves off of cows during the most vulnerable period. Another option that we looked at was incentive. If you're ranching an area where you have wolves, if you decide to participate in this program, if you wanted to be paid up front, then you should be paid up front. Depending on how this works out, if you were paid for 12 cows and you didn't lose any you still would get the incentive payment. So, there's a reverse incentive as much as you get your money up front, but then you still continue to work to try to reduce the depredation on your livestock during that particular part of that year. The other part of the program talks specifically about compensation. When you lose a cow/calf/horse, you will be paid for that particular depredation. That particular fund will generate an annual interest by which the program will operate off of. We're talking about a local management group that is probably comprised of stakeholders that would be from the local areas, whether they're in New Mexico or Arizona, and probably would also be tribal members because they have wolves. We're also talking about this program from the standpoint of the participants being voluntary. One of the other options, of course, is the voluntary participants would get to choose which option they would want to employ. They would either have the opportunity to speak to get compensated directly for depredations, or they would have the opportunity to participate in the incentive part of that program, or they would have the opportunity of participating in the interdiction part of that program. There are basically 4 components—donors, the fund-holding group, program management group, and livestock owners. The principle gets put into the management fund, and that management fund can get money from any number of sources. Certainly federal leadership should take place in this particular instance, we think state leadership should take place in this instance. The fund can be flexible enough so that it can take money from just about anybody that's concerned about re-introducing wolves and reducing economic impacts on the ranching community and therefore, that could be environmental groups, livestock owners, or any mechanism by which people wanted to contribute specifically for this particular purpose. A third party would actually manage this group and I've been in conversations with the National Fish and Wildlife Foundation and they've agreed to serve as the holding company or management of the principle fund. The only thing we're waiting for now is an agreement that we'd sign between the service at this particular time, or other people that want to join into this cooperative agreement, to have them start to manage the money once it comes in. That particular group that's in between the program participants and the money managers and we're calling this the local management group and we think that this group should be made up of local stakeholders will do the heavy lifting. When we talk about this from the standpoint of who should participate in this group, we thought about cattle growers, environmental groups, or any number of other people that would be in that local area that would have a peer-to-peer relationship with the livestock owners, and I think we can still maintain some degree of flexibility in that regard. I've been in conversations with people like Caren Cowan, and Doc Lane from the Cattlegrowers to see who they would recommend that would be on this group. This is probably the most difficult group because this is the group that will have to come up with protocols for how this program is going to be designed. There will be some oversight from the standpoint of the state and the federal government or the program participants. They're the ones that should be able to go into a discussion in terms of how much a cow is worth, what is the economic impact of these kinds of things once wolves are depredating in those areas. We want to get people that are committed to participating in this process and we want to get people on this particular group that have a vested interest in the 2 goals that we're trying to address here—reducing the economic impact and getting wolves recovered on the landscape. The donations would go to the holding company which we think would be the National Fish and Wildlife Foundation. On a long-term basis, what does a program like this do for livestock owners? It provides more options in terms of management for wolf/livestock interactions and probably the second is the most controversial certainly from the standpoint of the wolf management program. SOP 13 is the 3-strikes rule that takes wolves off the landscape. Modification of SOP 13 this kind of program would basically modify or in some instances get rid of the 3-strikes rule which will keep wolves on the landscape. There have been questions in regard to what this program represents in terms of the other wolf management options and that does not mean that the other options go away. We need to be able to address all of the major impediments as it relates to wolf recovery. Make no mistake I'm here to recover wolves, but we recognize

that when a wolf takes a cow, there's an economic disparity that exists and it's an issue of fairness and this is what we're proposing as 1 of the options to deal with that fairness issue.

**Chairman Montoya:** This has been a project that's been of great concern to the general public as well as to differing groups. Items on the agenda will indicate that the Department and Commission are concerned with impacts on wildlife and how we'll deal with those in the future as we determine what our management goals are. If there are scenarios where there's an impact on wildlife we'd like to prepare ourselves for that and see how we're going to offer other kinds of programs that will address that side of it.

**Public Comment:**

**Steve Titla:** San Carlos Apaches where I'm from we're being economically impacted by the wolf depredations. We don't have any satisfactory response from Fish and Wildlife Service through the central or regional office. In San Carlos we have a 75% unemployment rate. Apaches have a tradition of cattle raising and we're horse people. Recently they started the wolf introduction program another federal policy that now is eating our cattle and really hurting poor Apaches. The San Carlos Apache Tribe has passed a motion 3 times opposing the Wolf Re-introduction Program and a San Carlos SOP is to remove wolves immediately. Recently wolves have run through the reservation and I think they're denning on the reservation. We've tried to contact Fish and Wildlife but there's no adequate response from them. We're also opposed to the eagle de-listing and we tried to talk to Dr. Tuggle about it but it's on deaf ears.

**Dr. Tuggle:** I apologize for not being able to meet with you when I met with your Chairman. We actually spent the entire day at the San Carlos and talked about a number of things. I'm more than happy to come back and talk to you about any number of other things that you'd like to share with me and I'll look forward to scheduling that.

**Tom Klumker:** The livestock owners are always in the headlines and getting taken care of but a big share of Catron County's economy is hunting, outfitting, and wildlife related. We had talked about some of this interdiction program that the Fish and Wildlife Service is instituting and trying to include. Reserve and the small towns in the recovery area are going to be vitally impacted. It's terrible what's happened to the elk herds and the economy of the local towns.

**Hugh B. McKeen:** Catron County Commissioner. If you're going to put the wolves out there you're going to have to get some different kind of ranchers. Can I pay you \$100,000 a day you go live in hell every other day? Money going to help you any?

**Mary McNab:** I feel that the success of the program will never be measured by whether compensation successfully pays back for dead cows. It will be measured by how many wolves are successful in the wild and do not depredate. That's the only way you'll be able to measure a successful program. This is to address the fact that solving the problem with compensation is not really solving the problem because it does add to this culture of wolves that are depredators.

**Joe Delk:** This program to try to put in some kind of interdiction program into this arena, with all due respect, sir, you're a day late and a dollar short. How are we going to go back 10 years and compensate them for what they've been through? It's a dismal failure and I'm going to have to lay the blame on management agencies—NM Department of Game and Fish, Director Thompson, and Dr. Tuggle who keep trying to force a square peg into a round hole and it's not going to go.

**Tom McNab:** You can't possibly compensate for what this is doing to our lives. We don't feel that we have to enter into deals with you so you can invade our lives and violate our rights.

**Dudley Byerley:** My comments are from the payment deal; the easiest way to do away with that is to eradicate the program? As is being seen today, the wheels of government turn very slowly and anytime there are government agencies involved, things are just going to get worse. The I-40 corridor the more these wolves come in contact with populated areas the worse it's going to be. The easiest way to do that is do away with these things. Thirdly, I'm new to this but I haven't seen any undisputable proof anywhere that these are real wolves. I think they're hybrids. Why isn't that out there? I know there's no DNA from when they eradicated them before, so where do these things come from? I own a wolf hybrid so I kind of know what they are and these aren't much different. We need to do away with this thing before it comes into contact with more people.

**Ed Oliver:** I understand why there's a need to establish wolves on the landscape. What about human-wolf interactions? We never talk about that. Some of the concerns I have with this are inbreeding hybridization questionable genetics in contract lab work which will say whatever the paying agency wants them to say. The wolf is

not the same as it was. People's livestock need to be in the equation not just wolves. There's numerous documentation of healthy, non-rabid wolves attacking humans in the lower 48 states. What about the safety of our children? That should trump any concerns for wild animals wolves included. Wolf attacks kill horses, cattle, sheep, dogs, and I've even seen a confrontation with young hunter in the Gila area. There have been ranchers whose calf crops have dropped from 85% to 30%-40%. The government incentive to document wolf predation doesn't coincide with that of the ranchers. Ranching problems with the wolves should be left to those impacted by them. Grazing buyouts seem to me nothing more than world cleansing especially when you only have 1 in 7 actual attacks by wolves are documented as authenticated by the organizations that says they will pay compensation and then they turn around and say compensation is never guaranteed. There certainly are wolves at the door and I think this program needs to be scrapped.

**John Diamond:** I live at Beaverhead and I've worked closely with the Department as well as with Fish and Wildlife Service on some ideas about this program. It's a great idea and it can be compared to the elk tags and the grazing of elk on private property. I think we should be open-minded about the program. I'm interested on following up on it and working with you, but there are some other problems I see with the program. One is the number of wolves that are going to be the target and where the boundaries are going to be. 100 is the target number of the experimental part of the program. Recently, I've spent a lot of time working with both agencies and I want to spend a lot more time doing it because I feel that cooperation is the only way to get things done and coming to the table and everyone talking about it. Recently I've had a couple of slaps in the face—1 was on a strike that I have where 3 wolves were involved in the depredation and only 1 strike got pinned on the wolf and I have not yet understood why it went that way and for what reasons. Another is with what Governor Richardson did by wanting to put a stop to SOP 13. Why should I have to work with people that don't want to work with me? I'm ready to work on this compensation program but I think we need to get by some things and make this program fair and have everyone involved with it and start working together instead of against each other.

**Bob Atwood:** I'm President of the New Mexico Council of Outfitters and a couple of these folks pretty much reiterated what I was going to say so I won't repeat other than let's not forget the outfitters/guides/sportsmen that rely so heavily on quality elk/deer hunting in the Gila. One other thing I'd like to ask Dr. Tuggle and the Commission is that the New Mexico Council of Outfitters and Guides be represented in your program.

**Joel Alderete:** I'm with the NM Farm and Livestock Bureau. I hope it's not too little too late. Frankly, we're having so many problems now on the ground we need to find some relief quickly for these people. This program is spinning out of control so quickly as far as we're concerned and it's definitely a problem. We need to find relief quickly.

**Laura Schneberger:** What I wanted to say about the interdiction program is it is the first time that the ranching industry has been brought into the mix and been allowed to become part of the solution. I think that a lot of our members have been part of the solution for a long time and they are a resource that has been neglected. In the past 4 weeks we've found 4 sick elk. We called the Department of Game and Fish and we've had some very professional people come out and help us deal with them and take them to Santa Fe for testing. The elk calves are not doing well. The wolves are eating them all. If we have sick elk and we don't know what it is yet, we're going to find out, and we have no way to re-grow those numbers. We're going to have some serious game issues in the next couple of years and I would hope that rather than beat up on SOP 13 which is all we have right now for mitigation, that some resources would be spent trying to figure out how to manage and mitigate and manage the problems with the problem animals.

**Jack Diamond:** Thank you for having this issue on the agenda instead of dodging this issue and waiting 5 years when possibly it's too late. It's a major problem.

**Ron Shortes:** I represent our family ranches in Lincoln and Catron Counties as well as Catron County. In speaking to Dr. Tuggle's proposals, I beg you to keep in mind that as a rancher the livestock problem is not the whole problem with this program. This proposal is well-intentioned but I don't see how it can work because the amount of money that would have to be raised to make enough interest to pay for this could pay for it. I don't want to raise cattle to feed wolves. Another issue that always gets ignored is the human element. Lawyers for the Secretary of the Interior for the United States called me about this and obviously this has been shifted all the way to Washington, D.C. Fish and Wildlife Service just sent people over to arrest human beings. They're not worried about that but should you do anything to 1 of these precious wolves, they're going to start arresting people. Your Department is a big part of this problem by refusing to do anything meaningful to address any of our concerns.

**Commissioner Buffett:** I want to thank Dr. Tuggle and Fish and Wildlife Service for seeking out and presenting the inception of an innovative way forward.

**Commissioner McClintic:** I want to apologize for the perception of the people that we and the Department really aren't doing much or trying and you don't feel that you're getting the amount of time on this issue. Dr. Tuggle was very specific that his main goal is recovery of this wolf. I think the best thing is that the people that are most affected by this issue have the right to sit down with the powers that be to come up with a solution that is adequate to them. We're never going to make anybody happy with any of the solutions totally, but it's a serious problem with our state, it's a serious problem with the federal government, and we're going to have to get the right people to sit down and come up with solutions to where you people on a day-to-day basis are not totally ruined by this. We have to come up with something that works and we have to make it immediately and I'm challenging my Director and my Department and my Chairman to immediately start working on solutions to get you people to sit down so we can move forward and try and make a bad situation more tolerable.

**Commissioner Arvas:** As of early April until this point in time, I think we've come many miles from where we probably should have been a long time ago. This Department and Commission are actively involved in trying to help you with the problem.

**Commissioner Riley:** The National Fish and Wildlife Foundation is a relatively bureaucratic organization and checks don't come in the mail real quickly with them. Hopefully, you'll look for ways to resolve that problem. The paperwork is a nightmare at times.

**Dr. Tuggle:** One of the nuances we're working with is a deviation from the normal way they do business and we think that with the intermediary, this management group, the check isn't a matter of having to bill out as much as it is once the interest is generated, you send that amount of interest to that group so we've cut out the middleman, but I understand what you're saying. We'll do everything we can.

**Director Thompson:** This is a difficult act to follow. There are a couple of things I've noticed in the past few months which are very significant. First of all, as everyone knows, the Game Commission, at the request of Governor Richardson, and the Department have been asked to re-double efforts. Doubling the slow pace still doesn't make it that fast and 1 of the things that I see is, and we're hearing it today, is a desire to see things happen more quickly. I think that's something the Department of Game and Fish and the Game Commission, and I'm sure the Fish and Wildlife Service recognize is important but before I come back to that I'll mention that there are a couple of other things that I've noticed since March. In the effort to get closer to really understanding what all of the wolf program means to so many different kinds of people. I've seen a shift to hearing the word cooperation, to hear the term working together, to hear the terms help us be more a part of the solution. The Department of Game and Fish at the request of the Governor and the Commission are prepared to do our level best to cooperate more, to provide more opportunity for all the various interests to help make their views more a part of prospective solutions. I'll admit on behalf of the Department that many of these desires to resolve problems have worked way too slowly. So, we are going to re-double if not re-triple our efforts to attempt to work with you in an effective way on a much quicker pace measured in weeks and months, not measured in years like it has been. I hope that that goes some distance in indicating that since March, when we had the listening session, we've done a lot more effort in truly being sensitive to and understanding how these events affect people. We now need to work with you and draw from you to the extent we can what will be helpful. We're going to attempt to increase the pace on being helpful and I look forward to working with the Fish and Wildlife Service to our partners in Arizona Game and Fish and all the other partners in this endeavor to do a much better job of that than has happened in the last 8 years.

#### **AGENDA ITEM NO. 10: Perspective on the Relationship between Elk and Wolf Demographics in the Blue Range Wolf Recovery Area.**

**Presented by R.J. Kirkpatrick** – The Department presented the Commission with a preliminary evaluation of elk demographics in and around the Blue Range Wolf Recovery Area and how that intersects with wolves. The presentation focused on current knowledge and assumptions and considered possible management options for both species into the future. Attempts were made to demonstrate the effects of various demographic assumptions and elk management scenarios using simple mathematical models. The Department has sought assistance from the Cooperative Fish and Wildlife Research Unit at NMSU to re-evaluate elk population size, structure, productivity, and survival rates in the Gila elk region. Results may warrant consideration of adjustments to elk population size and

sustainable removal levels currently established in the elk rule. The State Game Commission has held several public Commission meetings and listening sessions where public comments and input regarding wolves has been encouraged and documented. Representative individuals identified during those sessions have been engaged by the Department staff to assist with reviewing elk demographics.

**Chairman Montoya:** Take a unit and use your historical memory, and put those numbers in your spreadsheet to see how it works, the size of the herd, what happened between January and June, what the calf/crop ratio are, how many were harvested, then when you came back in 2007 what did it look like so that you can give us a glimpse of that particular unit. We'll get a better idea of whether we're on the right track.

**Director Thompson:** One thing I think is important is this tool is designed to work on a herd basis. Game management units aren't herds. They're really areas for allocating license opportunities, so just for the audience's awareness, this isn't rigged to operate on a unit basis but rather on a herd basis.

**R.J. Kirkpatrick:** Let's assume that our best science is that we've got 1,700 head of elk, recognizing that there are more/less than that as a range. Let's make an assumption that bull/cow ratio is that for every 100 cows we've got 30 bulls and every 100 cows we've got 30 calves and that's January 1. Some of the assumptions we make and maybe some of these assumptions are founded because of a lot of research that's been done across the west for a long time, but not dead right. Natural mortality—somewhere between 3%-15% annually for bulls, 3%-10% annually for cows, usually higher for calves because they're more vulnerable so we plug in assumptions keeping in mind this is a scenario. Let's assume we're losing 5% of our bulls to natural mortality, 3% of our cows, 15% of the pretty big calves during that window of time. Those are the numbers of elk that are removed—we're losing 69 bulls, 138 cows, and 207 calves. A variety of research being done regarding what kinds of elk wolves are killing—are they healthy individuals, are they the sick and wounded or diseased. Are they feeding mostly on roadkill and wounded lost during hunting seasons? We've taken some kind of middle of the road assumptions that during this window of time let's assume that wolves are killing about 2 elk for every wolf for every month during that 5-month window. When we plug that in and assume we have about 30 wolves in New Mexico, wolves are taking out 30 bulls, 90 cows, and 180 calves. We all can concur that that number of elk killed by wolves, those aren't all healthy individuals perfectly fit animals--some number of those elk that wolves take are actually part of that natural mortality. Some component of that number of elk wolves are killing is probably of that natural mortality. Do we know what that is? I do not. I think that Fish and Wildlife Services biologists, maybe Department biologists over time will try and get a better handle on what that is. It's a difficult thing to ascertain but hopefully we'll recognize that some of those elk that wolves are taking actually are a part of natural mortality. We're giving wolves credit for killing and removing more elk than maybe they are. For the sake of the example, all the elk wolves are taking are in addition to what would have died anyway. We visited the perception that when a wolf kills an elk some of them run to the neighboring units or run completely out of the country. That's very difficult to know what level that would be so I'd offer that even though we recognize that it may be occurring, we're not prepared to put forth any kind of assumptions about what level that may be. We've committed that we're going to pay attention to the changes and populations in neighboring units to see if that's a reality or that there's some validity to that assumption. The mother cows that were on the ground in January that were pregnant all have calves. Our assumption based on research 75%-80% of those cows that were there in January are pregnant and have calves so you get this huge calf crop. In this example it's going to be 8,000 calves hitting the ground June 1 theoretically. One other thing that happens is that all those bull calves and female calves that you considered calves in January turn into adults so you've got increased numbers of bulls/cows and you have 8,000 calves. Real quickly thereafter elk start dying again so removals happen. Cows/bulls that were crippled/sick die, cougar kills, and elk calves start getting eaten by coyotes/lions/bears/wolves/stray dogs. Our assumption would be that natural mortality of our adults is less than it would be in the winter/spring scenario but still there so we're assuming 2% of bulls die during that June/July/August window, 1% of our bulls/cows die, but we assume 40% of calves are going to die for whatever reason, that brings us to September 1. Some research suggests that wolves are eating twice as many elk as they were in that late winter-early spring timeframe so let's assume they're eating 4 elk for every wolf for every one of those months. We plug in those removals and we end up with a population that ought to exist on the ground September 1—we would then conduct surveys to determine bull/cow ratio and cow/calf ratio. We picked up that timeframe as it's the best mixture of age/sex that we see on the ground during that 12-month window. The rut is coming on, bull/cows are mixed together, calves are easy to identify much easier than in January. It's a good time for us to look at that population. We'd assume that our structure—we'd have 38 bulls for every 100

cows, 56 calves for 100 cows. Maybe we'd do aerial/ground surveys and if what we see is different than that, we recognize that some of our additions/subtractions were then incorrect. If cow/calf ratio is a lot less than it should have been mathematically, what's going on? We don't know but this tool starts pointing us in those directions. Hunting season starts and additional removals of elk pursuant to recreational hunting—bulls/cows are getting harvested but in addition to those legitimate harvest we've got wounding/illegal kills going on and none of the natural mortality causes go away. Elk are still getting hit by vehicles on highways, old/diseased animals are still dying and so we're losing elk from a variety of reasons adding to that hunting and wolves are still there and probably still eating elk. In our scenario, we make some assumptions about what those removals are. The rates that animals die during that September through December windows probably less than late winter/spring so we're assuming 1% of bulls are dying, 1% of cows, and calves that were born in June early July are probably pretty strong so a lot less natural mortality on those calves. We're choosing to go with 10% calves may be removed during September through December window. On top of that we add wolf removals. We're making some assumptions that during that timeframe wolves have great access to wounded kills/gut piles/illegal kills where maybe not all the animal is taken. What seems to be reality on the ground is that the level of elk predation by wolves is less during the fall so let's assume that wolves are killing 1.5 elk per wolf per month during that window of time. That takes us back to January. We'll go in there and fly comprehensive census surveys and mathematically we ought to have 30/100 and calf/cow ratio ought to be 58/100. The other removal that we're actually getting good with because of mandatory reporting is what the hunters removed. That mandatory system actually gives us more confidence in what the removal is vs. the old days. January 1 mathematically we ought to have that structure there 30 bulls/100 cows, 58 calves/100 cows and we ought to have 21,000 odd elk. We fly surveys, do the models and if it isn't close to what math says it ought to be, we can go back and revisit that window. Calf/cow ratio is only 37/100—we didn't account for losses, we didn't account for cow losses that made that ratio change and we start focusing our attention on where we missed judging what those removals and additions are. We start the process all over again, go through the next year and so we can run these scenarios all day long with all kinds of perceptions and assumptions and potential numbers. This will run it for 2 years and as you see with 30 wolves on the ground, the assumptions we had in that population we actually ended our 12-month clock with more elk than we started and improved cow/calf ratio. We didn't change bull/cow ratio at the end of the first year but as we run through the second year using the same assumptions, the cow/bull ratio actually increases. That may or may not tell you that the bull/cow ratio is getting better. Do we want to afford better hunting opportunity or do we want to wait and improve the quality of that bull segment of that population? Do we want to continue harvesting cows via recreational hunting or sport hunting at the level we are or do we want to speed up growth of that elk population? In that scenario the presence of wolves with those assumptions would lead you to believe that wolves are not preventing the population from growing and not minimizing sport hunting opportunities. We can build scenarios where wolves would impact population growth and sport hunting opportunities. We're talking about the greater Gila but for many years we've gone in and flown only portions of that mega population. We'll fly Unit 15 1 year, 16A another year. That makes us less confident that we are accurate with the population estimate for that mega population. Maybe 1 of the things we ought to do is fly a more comprehensive and better designed survey during that January window that incorporates all of the area. This allows the Department to make recommendations to the Commission on an annual basis about adjustments in hunting opportunities that relate to what sustainable removal would be in the face in the assumption about wolves.

**Commissioner Arvas:** Would it be fair to say that after you substantiate by surveys your hypothetical numbers we could actually predict in advance the number of wolves that the habitat will more/less support? Once it's documented and substantiated, could we use your model to predict the number of wolves a certain area can utilize?

**R.J. Kirkpatrick:** Sure. This tool represents adaptive management in that you can plug in the best science, plug in assumptions and see whether reality exhibits what math should tell you.

**Public Comment:**

**Tom Klumker:** I encourage the Department to make an effort to do better aerial surveys and get a better handle on the elk herds. I know that they haven't flown 16-B for 3 years unless they've done it this spring so we don't know what we've got. I think the wolf is a superior predator and they are going to do more damage than what these models are showing.

**Hugh B. McKeen:** We have irrigated fields in Glenwood and try to raise a high-quality hay/alfalfa grass mixture and 3 years ago we had 15 elk, last year we had 30 for Unit 23 and I was given 10 elk permits last year, and this year we

had 50 elk and I was given 2 elk permits. When I questioned the Department and it was pretty evident that when they made changes they don't think about the people that it's affecting. What they told me was in Unit 23 we did away with quite a bit of private land around the Mule Creek area and by law I guess they can do that, but on the other hand when they did away with that much private land in Unit 23, it left very little private land in the rest of Unit 23 and so they can only allocate 3% of the elk permits to private land, so the Department can change everything not by law which results in something that can't be changed by law. I believe it's wolf-related because the elk are going to leave where the wolves are. The other issue is I don't think that you consider the fact that a person with irrigated fields is more highly damaged than someone with just grazing land. The other thing you need to consider is the elk come across the highway out of 16-A and I say well give me some permits in 16-A. I've learned that they've crossed over in units and given permits out of an area that's being damaged into another unit. I was happy with the program last year. I could put up with the elk damage, fences down and the amount of grazing they do, the elk pellets in the hay, all the areas in the field where they lay down, but I can't now—2 permits and its going to increase and they tell me that the reason they do it is because they want to increase the elk in Unit 23. There's 1 thing we need out there and those ranchers should have the right to protect their cattle on forest land. Delineate the area—this is wolf area and the rest of the area let us protect our livestock and if those wolves are going to survive they'll go back into those areas where they're not hunted and you won't have these problems with habituated wolves. That's our biggest problem in the county now. You have wolves running around out there that are starving and they'll take off after a human being.

**Garth Simms:** I'm the Executive Director for the NM Council of Outfitters and Guides. We had the opportunity 3 weeks ago to sit through about ½ day of this development and run some scenarios to see what the impacts would be and there's 1 concern and it's the data processing. When you start making assumptions of everyone of these areas you're just going to get out an assumption. It won't be as valuable as if you have hard data to go into everyone of those assumptions--predation, winter kill, hunter take, poaching and everyone of those has to start from baseline of actual number of elk and wolves. We'd like to offer to work with you to get the resources to do those field/aerial/ground surveys and go to the legislature/federal government to help get those resources. I'd like to encourage you to bring the management of that program into New Mexico/Arizona. We want to work with you to make a successful program for all sectors and we'd rather deal with a government agency that's headquartered in a city on the Acequia Madre than a government agency that's headquartered in a city on the Potomac. One of the great basics of doing government management in administrative law is to set the rules openly and fairly and follow them. The Department violated that very drastically last month when they tried to stop the removal of the wolf that was being removed under force under Fish and Wildlife Services protocol. Don't let that continue to go on in our Commission and Department of Game and Fish.

**Ron Shortes:** I'm representing our family ranches as well as Catron County. We've told the Commission going back to 2001 that the Department needed to do better evaluation of the elk populations and later some better evaluation of wolf impact on wildlife and other predators. I was criticizing the Department's leadership and not the professionals in the Department and I agree with Mr. Simms that in order for the people in the Department to do this job right is you're going to have to find more money in your budgets or out of the legislature. We're pleased that finally an evaluation has been on elk but I don't see any way you can do it and come up with anything meaningful without more money the Department needs.

**Joe Delk:** I was part of the meeting the Department called a few weeks ago to start exploring the opportunity to determine what degree of impact the wolves were having on the elk population in the Gila. I agree this is a good model to use, but unless we have the good numbers to go into it it's not going to be very useful. If we rely only on Department numbers, because the credibility of the Department has dropped so drastically, I insisted that they involve the ranchers/outfitters that spend 200-300 days a year in the woods. The Department is underfunded and understaffed to perform some of the work that needs to be done on this project and yet we're talking about expanding a program. I'm offering the Department that I'll volunteer by doing the leg work for whatever plan we can put together to gather the input from the folks down there and do it in a credible way.

**Joe Alderete:** I'm Regional Director with NM Farm and Livestock Bureau. I think it's a good idea to do this and I think we can get some hard numbers on the elk but also on the wolves. We've got to be careful how we do that because it's a model. A few years ago we used to have the elk capacity working group and it wasn't necessarily only

on elk capacity, but I think we need to re-vitalize that group and start working with the Forest Service and BLM on these issues.

**Jack Diamond:** Remember the Gila as the best elk hunting in the world and I want to protect that. By the Department coming up with this is better than waiting 5 years down the road and say that we were too late. Something else I think would help is if you'd hire a contractor that's good in the woods and could get on the ground and give you hard numbers as far as what the wolves are killing, age class of elk, and you could even run it for a 6-month period during certain times and could possibly help the Department with getting numbers so we have some science behind it and protect what we've got.

**Byron Delk:** I believe you might cut out cougars/bears in the program since it's wolf interaction and hard numbers on the ground in certain units. Currently there are 3 packs in 16-C. I'm President with Mesilla Valley Sportsmen's Alliance based in Las Cruces. I represent close to 700 people who signed and presented a petition to the Commission at the March meeting in Las Cruces asking you to recognize that the elk in the Gila National Forest are being decimated by wolves and to take action to protect and preserve elk hunting opportunities for elk hunters in New Mexico and those of us who hunt the 15-16 hunt units. We know that there are 3-5 packs of wolves either denned or localized in 16-C. This would represent 10-15 wolves or possibly 20-25 and an unknown number of pups. We also know that between the Diamond Ranch and the Adobe Ranch there have been at least 6 confirmed cattle kills in the last 2 months. The density of wolves within the 16-C game management unit is extreme. We find it amazing that this degree of density has been allowed to exist. The elk in 16-C have been hammered by wolves and a majority of the elk that occupy this area have either moved out of the unit or completely out of the Gila. Other hunters are also aware and we have a great concern of the quality of elk hunting opportunity remaining in 16-C. Furthermore, a great concern is that the current Director of Department of Game and Fish is directing wildlife management to the sole benefit of the wolf with no consideration for hunters/outfitters/ranchers and would recommend that you consider making a change in that position to someone with a more reasonable and balanced approach.

**John Diamond:** A point I'd like to make is that we're going to have to keep the elk and wolves at a level and if the wolves increase so do the elk. Are we going to keep elk/wolves at a constant level by removing wolves or increasing elk numbers? I'm concerned that wolves will not be managed and we'll have to manage the elk solely with the wolves increase in population. Another concern is that the Department has created the mandatory harvest reports which are a great idea but we need to do mandatory harvest reports on wolves too and starting managing for the elk.

**Ed Wehrheim:** Sheriff Menges in Catron County has done a very complete investigation into the killing of 924. He has interviewed everyone, the report is complete, the investigation is complete and I would be glad to give that to any of you and it details the involvement of Department of Game and Fish. The first thing that came to my mind when I heard that that wolf had been killed was \$237,000. I've seen how you're trying to manage the wildlife in New Mexico, what could you do with an additional \$14M? This program is a waste.

**Director Thompson:** In an attempt to clarify 1 item, I stress attempt, because it will be up to everyone in the audience to draw their own conclusion. There's been an impression created that I personally or professionally asked for something that didn't ever actually happen. The only thing that happened on July 5 with respect to 924 was that I learned that morning that there had been a lapse in communication in that I didn't receive information I anticipated and I merely asked the Fish and Wildlife Service to do a temporary hold on that order until we could determine what had happened. The request was for what could be just a few minutes and no more than a couple of hours. It is regrettable that those circumstances happened, but I really feel it's important for everyone in the audience to be aware that there never was any attempt to rescind the order, to cancel the order, or to do anything other than just take a pause to determine why there had been a lapse in communication. I only ask your indulgence to deal with the facts as they occurred and that's literally what occurred. At least go to your sources and check to see if that's a plausible description of what occurred and let's try to move beyond that sort of thing because the Department of Game and Fish did not attempt to interfere with that removal order that in fact existed. We are doing something which I think everyone has asked for here today and that's to improve or enhance effective communication

**AGENDA ITEM NO. 11: Presentation of Prospective Mid-Cycle Adjustments to the Turkey Rule 19.31.16, NMAC, and the Deer Rule 19.31.13, NMAC.**

**Presented by R.J. Kirkpatrick** – The Department presented draft amendments to the Turkey Rule 19.31.16, NMAC, which clarified the process by which turkey hunting opportunity is afforded on the Valles Caldera

National Preserve, added turkey-hunting opportunity on the Humphries and Rio Chama Wildlife Management Areas in GMU 4, and added Youth-Only turkey hunting opportunities on the Huey WMA in GMU 31. In addition, draft amendments to the Deer Rule 19.31.13, NMAC, were presented that provided additional deer hunting opportunity on the Brantley WMA in GMU 31 and additional Youth-Only deer hunting opportunity on the Huey and Seven Rivers WMA's in GMU 31. Additionally, draft amendments to Deer Rule 19.31.13, NMAC, were presented that provided additional deer hunting opportunity on the Brantley WMA in GMU 31, and additional Youth-Only deer hunting opportunity on the Huey and Seven Rivers WMA's in GMU 31.

**Commissioner Arvas:** Have we visited with the Valle Caldera folks?

**R.J. Kirkpatrick:** Yes, I've talked to Dennis and we're in concurrence with the proposed language before you and we'll bring amended versions of both rules to the August meeting to adopt and discuss.

**AGENDA ITEM NO. 12: Presentation of Draft Rules (19.31.18, NMAC) regarding use of Big Game Enhancement Authorization Packages and (19.31.19, NMAC) Hunting and Fishing Authorizations for Governor's Special Events.**

**Presented by R.J. Kirkpatrick** – The Department presented draft rule 19.31.18, NMAC, entitled Big Game Enhancement Authorization Packages and 19.31.19, NMAC, entitled Governor's Hunting and Fishing Authorizations. These rules established procedures and restrictions for the sale, issuance, and use of authorizations pursuant to statutory requirements resulting from legislation passed and signed during the 2007 Legislative Session. Formal public involvement regarding the statutes that established the requirements for these rules began with the introduction of bills at the 2007 Legislative Session. By public presentation of these rules, public input and comment on the draft rules can begin and continue until the Commission acts on the final drafts during the August 23, 2007 meeting. The Department will have to work closely with White Sands Missile Range pursuant to the oryx hunting opportunity so that the timing of access to White Sands and the restrictions of being escorted will have to be worked through with White Sands and White Sands is willing to work with the Department. The intent of the original proposal was that 1 package would be auctioned and the other to be raffled so that 1 obviously generated funds to be purchased by people with financial means, but the other would be available to those that weren't financially able to purchase an auction package. The adopted legislation only provides for auction.

**Big Game Enhancement Authorization:**

**Public Comment:**

**Don Englehart:** I'm a Board member of Sportsmen for Fish and Wildlife and I commend the Commission and the Department for making these packages available for the sportsmen's group. We'd like the Commission and Department to reconsider their reasonings behind restricting the season dates to not allow hunting for elk with rifles from September 20 through October 1 and deer with rifles from December 1 through January 31. When an earlier statement is quoted as season dates and hunts are designed to maximize the desirability of each hunt and subsequent value of each package, is it not the intent of the rule to generate as much revenue as possible for the Department's Game Protection Fund? By being restrictive it may or may not have an affect on what the resulting revenue may be since there are only 2 of these packages available the impact to the deer or elk and the conflict with any other licensed hunters will be minimal?

**Commissioner Riley:** I assume that specific restriction on hunting with rifles during that period of time is that to avoid conflict with elk hunters with bow?

**R.J. Kirkpatrick:** We're actually discussing 2 different rules pursuant to 2 different legislative actions. The 1 we're on now is the "grand slam"—it's the big game enhancement authorization packages. I've got an initial draft of what the rule may look like for those enhancement packages. In those enhancement packages we propose that the season dates are September 1 through January 31 for deer anywhere you can legally get, the same for elk, much the same for our specific elk and deer enhancement. We do want to maximize. The language in the briefing talks about the second rule pursuant to the second legislative action and that's the hunting and fishing authorizations for Governor's special events.

**Commissioner Arvas:** Why would they differ?

**R.J. Kirkpatrick:** I hope you give me guidance on that. We have a deer enhancement program already in place where 1 deer hunt is auctioned and 1 is raffled and those are valid anywhere you can legally get in New Mexico, any weapon type, mature buck bag limit from September 1 through January 31, we sell 2 of those a year. Elk the same,

Bighorn sheep a little bit different. The grand slam—these big game enhancement packages will also have a deer and an elk as a component so those individuals that purchase all or any of those will be theoretically competing against others. We evaluated whether the legislative initiative would create conflict and diminish the value. We didn't think that 4 deer hunters in the whole state being able to hunt anywhere they could legally get from September to January would be too big of a competition vs. the tradeoff. The same with elk—when we move on to the Governor's special authorizations there are potentially more of those that would be available and the guidance I'm looking to the Commission for is do we want what the Governor's special authorizations may or may not be? The Department is proposing that what the Governor's authorizations represent doesn't conflict with the potential value of the enhancement authorizations in that they are less desirable—not that they're not desirable but less desirable so they wouldn't be allowed to occur in the rut windows and during the timeframes that these enhancement ones would.

**Commissioner Arvas:** So it's a question of enhancing the package to get the highest dollar value in relationship to the tiered ones where that's going to obviously be a decreased value because they don't bring as much money.

**R.J. Kirkpatrick:** Yes, but again I'm looking for Commission guidance on that.

**Commissioner Buffett:** I'm curious about the transferability by sale or gift and how that is consistent or varies from how we do other authorizations and is it 1-time transferable or could this become a hot potato that gets auctioned or sold again and again?

**R.J. Kirkpatrick:** The language is consistent and standard with deer/elk/bighorn sheep the other enhancement programs we have. Yes, the transferability is unlimited until the point and time in which an individual that possesses that authorization walks in and turns it into a license, and at that point it's no longer transferable. But yes, theoretically an individual could win or purchase or be the high bidder on a package and he could sell/barter/give away/donate 1 of those authorizations to someone who then could sell it. We haven't seen people selling them over and over again.

**Commissioner Arvas:** Why don't you go ahead and finalize your proposal and present it to the Commission at the August meeting, and that way we'd be able to see it in black/white. The 1 thing I recommend is that you try and figure out a way that purchaser A pays X amount of dollars, try to figure out a way that he doesn't profit from that in the sense that he'll pay \$25,000-\$30,000 for the package and then sell it for \$200,000.

**Luke Shelby:** What we've found with enhancement authorizations that are transferable is that people will pay a lot more money for those than they do an authorization that is not transferable. We'll try our best to craft something to get where you're going.

#### **Hunting and Fishing Authorizations for Governor's Special Events:**

**Commissioner Buffett:** What do other states do in terms of setting face value/transferability? What was paid for it that it couldn't be re-sold for more than that?

**R.J. Kirkpatrick:** OK.

**Commissioner Arvas:** Are you going to find groups to do this for us, is that the way it's going to work?

**R.J. Kirkpatrick:** My perception of how this particular process would work is that the Governor's office contacts the Director and says we're going to be holding an event and we're going to try and raise funds for fish/wildlife conservation in New Mexico and we would like 2 deer hunting opportunities, elk hunting opportunity, and a special fishing opportunity to auction at this event. However the rule requires that the Director/Chairman determine what those authorizations represent, what's the opportunity, we submit the authorizations to the organizer, those authorizations are auctioned however the event decides via professional auctioneer, silent auction, and the funds are then remitted to the Department within 30 days.

**Commissioner Arvas:** I'd sure like to get a check. The success and volume of dollars brought in by some of the bigger organizations they're all 501-C3 organizations so that means that when I go to 1 of these things and I donate "X" amount of dollars it's a tax write-off so I'd recommend that somehow that we'd make more money if it's a tax deductible item.

**R.J. Kirkpatrick:** I'll talk to our tax/legal experts on how to do that.

**Director Thompson:** The way R.J. has described this tended to sound like a more *ad hoc* process. That's not necessarily the intent. The statute is flexible. Actually the intent would be as much as possible that these would be planned in advance of processes or opportunities and these questions would be addressed in advance but it leaves open the opportunity for something done on a quicker turn around basis.

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

**Public Comments:**

**Mary McNab:** Within the last year I spoke with the Department Director and he denied that he knew of any serious impact that had been imposed by the wolf program. Then he proceeded to question me as to how I'd been affected. We didn't have a lot of depredation on the Blue River but there were months when the Aspen pack of wolves was not removed and my neighbors that did have livestock were very conscious and wake up night after night. The point I wanted to make about interdiction and doing away with SOP 13 is that SOP 13 or some sort of control as recognized by L. David Mech who was the Dean of Wolf Biologists when wolf studies began back east. Control of the wolf is the tool for successful wolf populations. If you don't control the wolves that aren't behaving and you continue that culture on the ground, all of the other factors besides the financial, which the interdiction would address, become worse. The endangerment to children and livelihood, the stress and time distress required in dealing with depredations would skyrocket. Every other aspect that people are being impacted will get much worse if there's no control. Control is the only aspect for directing the program to successful wolves on the ground which would be wolves that do not cause these problems who behave like other large predators.

**Dale Buser, Jr.:** I'm from Gallup and we've had depredation problems in Unit 10 in the Page area and I want to be recognized that for the last 2 years we've had depredation on private ranches and there are several ranchers that are killing over 100 elk and it's concerning the sportsmen. I wanted to bring it as an issue before the Commission and the Director so you're aware.

**Dusty Perry:** I know there was legislation about taking away landowner permits when they do what we're hearing they're doing. What's your position on that?

**Director Thompson:** There was no legislation regarding landowner authorizations. This is Brian Gleadle's area so we should hear from him.

**Brian Gleadle:** For the 3 landowners that were specifically identified in this situation, staff has been meeting with them since about 2002. Department staff has successfully negotiated resolutions to 2 of those complaints and we're currently waiting for the fencing contract and the monies to be issued for this fiscal year. Once we get that in place we'll proceed with fencing of 2 properties. The question about whether or not a landowner is entitled to stay within E-PLUS is very clear in the new rules, and they are not. As soon as these elk were killed those properties were removed from E-PLUS. Once we get into the resolution of the 2 properties where a fence will be built on a portion of the property to protect the crops and the other concerns that they have, the remaining property outside of the fenced area will be allowed to return to E-PLUS, so I think it's a win-win situation for the Department/landowners.

**Matt Gilstrap:** Because the re-introduction of the wolf directly competes with bear/lion/coyotes I think the number of wolves you have now is a substantial number. To shoot for 100 is way out of hand. For the past 5 years I've done my own biological surveys of elk and in particular in the Diamond Creek area and the east fork of the Gila and typically we have about a 50% calf crop as of the 15<sup>th</sup> of June and by September 1 which is bull season we're usually down to about 25%-30%. Since the re-introduction of the Aspen pack which is the 1 I'm most familiar with, you're down to about 10% of the calves. The way it's looking by September 1 you'll probably be down to about 2% of your calves. Last fall after hunting season there were about 400 cows between Diamond Creek and the east fork of the Gila. This spring there were about 250 cows there. The Department needs to look at this rapidly because I don't want to see happen in the Gila what I've witnessed in Montana.

**Brenda McCarty:** We've had wolves howl outside our window—I mean right there in the yard. My children can't go anywhere. My son is terrified to let his sister out.

**Kent Salazar:** The New Mexico Wildlife Federation is in favor of the Interdiction Program and the way it has been handled by Dr. Tuggle. They're trying to work with the people. This is a good program for everyone.

**Edward Olona:** We've been working the Department in the northeast quadrant and our pleas have fallen on deaf ears. We've had problems with access to public lands, gates being locked, trespass signs being placed on state trust lands and all these issues we've addressed with the Department. We've been through 4 directors in the Raton District office. We've never had any real support. I come before you asking you to listen to our needs. Dr. Thompson says 1 gate has been removed and he assured me that the other may go down soon but it still exists today. Access to Hwy 199 which was in litigation for 8 years, the fence on both sides of that lane, there's a state-erected cattle guard and a sign that says Express Ranches UU Bar Ranch Private Property Keep Out. We were instrumental in getting through Dr. Thompson these signs removed. There are some signs and Dr. Thompson has

explained that it is necessary to have that gate. There's no reason for that gate to be there. That gate must be removed. Attorney General Garcia can specify that this gate serves no purpose. We're not being heard.

**Director Thompson:** Mr. Olona does speak about some things that have been chronic problems in some of the areas he's referenced. With regard to the gate on State Road 199, you'll be happy to know that that gate this week has been locked open. I know Mr. Olona disagrees with us to some degree, but the gate exists under a legitimate statutory provision. There has been a permit issued to UU Bar that provides all the stipulations under which that gate could be used and 1 of the stipulations is that it is open unless closed by the Game Commission. We think things have been resolved as far as the gate being seen as an impediment, but the gate does remain and it remains in concert with some statutory provisions. There may continue to be some disagreement, but we believe we've reconciled the movement through that gate.

**Alvin Garcia:** A few years ago we had a 2-week trial that was a very difficult process and we finally won that case on behalf of the State Game Commission in the Court of Appeals and we were able to open that gate up last year and provide the permanent access. There are continuing issues with access into the area and the State Game Commission was granted 21.8 miles of State Road 199. Mr. Olona reported to me recently that the opposite end of that road—the western end—as it enters State Road 120 has been blocked by a different rancher. That's an issue I've informed our Litigation Division Director of and we're beginning research to try and figure out what the exact situation is. I've also called the District Attorney in Taos/Raton area to gather information and make him aware this is happening. If there's an additional blockage of the road then we'll have to figure out exactly what to do about it. I hope to have a report to the Commission by our next meeting.

**Commissioner Buffett:** I'll assure you Mr. Olona that before the Raton Game Commission meeting in November I'll be coming to the district.

**Mr. Olona:** About 2.6 miles from the gate that was opened the State Land Office permitted the rancher to go ahead and erect a funnel-shaped enclosure with openings on both sides. I contacted the State Land Commission and a young gentleman there was very derogatory with me. He said we make the rules not you.

**Robert Espinoza:** I'm the Executive Director for Sportsmen for Fish and Wildlife of New Mexico. We'd like to bring to the Commission's attention an important issue that was brought to us by members several months back. The SFW State Board at a recent meeting prepared the following statement on their position regarding this matter: The area we'd like to address in regard to population reduction hunts of oryx being held off of White Sands Missile Range and the authorizations being issued to private landowners. The short synopsis is that over the last several years the Department of Game and Fish has normally issued 4 oryx authorizations per landowner per year. The authorizations were good for the current license year and were good on all private as well as public lands that the landowner was leasing adjoining their private land. The authorizations were issued to the landowner via mail at a request sent to the southeast/southwest office usually at the beginning of the license year. The landowners were then free to give or sell the authorizations to whomever they wished. The same procedures have been in place for several years without any real issues. The Department officials have indicated to the SFW that there some problems regarding misrepresentations to the prospective hunters as to the amount of oryx on particular ranches. According to the Department officials, this is 1 factor in advising how the Department issued the landowner authorization. The research the SFW has conducted has not uncovered any misrepresentation and ask that Department officials on more than 1 occasion provide this information in its attempt to see if the alleged misrepresentation was an isolated incident or was global in nature. As of today, the Department has not provided the SFW with any of this information. The other reason indicated the reason for ceasing the practice of automatic issuing of landowner oryx hunting authorizations certifications annually upon agreement by individual landowners was the objective to reduce oryx presence outside the White Sands Missile Range. Based on observations from field officers as well as reports from hunters that have participated in these hunts of oryx presence outside the Missile Range has to varying degrees and locations been reduced. Based on data we've collected 150 hunters participated in the 2006-2007 license year and the current license year were surveyed, these report that almost 1,200 oryx were seen off range the last 15 months. This translates into an average of 7.83 oryx were seen per 100. Virtually every hunter that we surveyed before had seen oryx on their hunts. Those numbers alone tell us that the Department is either using inaccurate information for their March letter, or consider the 1,200 oryx an acceptable number off range. In either case, it is evident that oryx still have a real presence off the confines of White Sands Missile Range. In March, 2007, landowners received this letter referenced March 16, but informed that the Department had changed the regulation or the way it was enforcing

it—that's the way we're going to issue oryx authorizations to landowners. In short, authorizations were now good only on private land and would only be issued after the Department had done an assessment as to the number of oryx on private land at the time of the assessment. The SFW is aware that some of the landowners have gone through this assessment process and have been denied authorizations at this time. The Commissioners should be aware that the Department is mandated by federal law to keep all exotics such as oryx off of federal lands. Thus, the Department's primary objective is to remove oryx from lands outside the confines of the boundaries of White Sands Missile Range using population reduction hunts as a primary vehicle to accomplish this objective. Thus the success of maintaining the objective is the number of oryx harvested each month. The success rate obtained from license obtained from landowners has an average success rate of approximately 70% based on information obtained by the SFW. The public draw hunters over the last 15 months have slightly over a 52% success rate based on a survey conducted by the SFW. As indicated by the results, licenses issued as a result of the authorizations issued to landowners have a slightly higher success rate than those issued to public draw hunters. This would suggest that the licenses issued to hunters via landowner authorizations go further in reaching the Department's objective of removing oryx than those hunters of the public draw. As evidenced by the agenda item at this Commission meeting as well as by the public meetings that took place last year, it is apparent that the Commissioners regard public input as a very important aspect to the overall structure of the Department's regulations. The SFW applaud the Commissioners for their foresight and believe that when the public is able to provide input the Department/Commissioners take these comments seriously. What we're saying is that the SFW feels the public was short-changed and was not allowed input. Therefore, we respectfully ask the Commissioners to take into the account all we've addressed and consider acting on the following request. We ask the Commission to make a motion today to direct the Department officials to retract the contents of the letter dated March 16, 2007 that was sent to the landowners. This will allow the landowners to receive the 4 landowner oryx hunting authorizations that they've done in the past along with the past restrictions that were in place. We also ask the Commissioners to direct Department officials to re-address the oryx reduction hunts and the landowner authorizations for the next regulation change in 2007. This request received 3 very important purposes. First, return the hunters to the field that have enjoyed a success rate that is more than that of the public hunters thus will go further in meeting the Department's objective in complying with the federal mandate thus reducing the number of oryx off the White Sands Missile Range; second, an injustice has been created as a result of the regulation to the landowners and sportsmen that acquire the authorizations from landowners; and third, it will give the Department officials time to receive the public input and review the relevant data like the data we've gathered from our survey. In conclusion, the most prevalent response that came from our survey was that 91% of those surveyed answered yes to the following question: Would you be willing to take part in our future surveys? What this tells us is that the Commission should be hearing is simply that New Mexico sportsmen want to be heard now and in the future. They are in fact shouting that we want to be part of the Game Commission and the Department regulations and what they do and how it affects us. They are willing to take time to answer the questions that will benefit their hunting opportunity in New Mexico and our wildlife. Our opinion counts and in no case should we be left out, after all are not the regulations for us?

**Chairman Montoya:** We won't be entertaining motions or taking action on items you've requested because none of those are action items on our agenda and we're prohibited from doing that, but R.J., can you comment on oryx/landowner authorizations.

**R.J. Kirkpatrick:** There was no private landowner/oryx hunting system. They're based on depredation complaints, presence of oryx, and tearing down fences. There was an allowance that the license subsequent to the authorization was valid on public property as well as the private lands. The Department feels that was creating a similar situation that we were in with the elk landowner system in that the more people complained, the more authorizations they got and that perpetuated the problem of no resolution. Landowners tended to be managing for oryx because there was an economic stimulus in doing so. The rule that is in place was presented to the Commission and it basically said that it's much more flexible to the landowners. The landowners have oryx on their privately deeded property, and we would like those oryx to be hunted and removed as much as possible. A landowner can approach the Department and provide justification and we'll evaluate the property on which there is oryx presence such that it justifies reasonable hunting and we'll have the landowner provide us with a list of individuals that want to be licensed, or we've even been willing to work with cooperative entities where several landowners get together and we're willing to issue authorizations to the cooperative or individual property that they determine who gets them. We've also been

willing to allow this scenario that has happened: you've got a couple hundred acres base deeded property. We're willing to identify a hunt area pursuant to a private land authorization that's reasonable and appropriate so we increase the likelihood of harvest of an oryx. The hunter that buys the license has a reasonable chance to see an oryx and harvest 1. What the current rule doesn't allow us to do is allow for private land authorizations to be valid on massive amounts of public lands anywhere around those ranches. We've currently got 60 public draw hunters every month that can access those public lands hunting oryx. Allowing landowner authorizations to partake of a hunt in that same area is compounding and conflicting with the 60 public lands. If you'll recall, the Department's original recommendation regarding this was to move off-range oryx hunting to over the counter so that anyone wishing to go oryx hunting off White Sands Missile Range could do so on legally accessible public and private lands with written permission. We still think that's a valid management recommendation for minimizing the number of oryx off White Sands pursuant to federal edicts placed on the BLM. SFW did the public input survey, and we too want our public sportsmen to be engaged in decision-making processes. We encourage SFW to be engaged in the processes by which rules are promulgated.

**Robert Espinoza:** R.J. references that that information is readily available and I agree. This particular regulation change we cannot find anywhere where it was brought before the Commission for public input and our position is that the public did not have the opportunity to voice any kind of opposition and that's what we're asking permission for. Regarding his position on opening it up for unlimited licenses, based on our survey, over 77% say they would not support that.

**Director Thompson:** As you can tell, there's some disagreement that Mr. Espinoza has with some rules and processes we have in place that were subject to Commission action and are consistent with what the Commission has asked of us. However, given that this disagreement still seems to exist, I'll pledge that we'll review that particular question regarding the way in which this regulation was proposed, processed, and ultimately adopted by the Commission.

**Larry Smith:** I'm here on depredation of elk in the Page area. I'm not proud of it but I'm going to tell you I was being eaten out. A population of 300 head of elk on a 560-acre parcel—that's a lot of elk on 1 piece--reason being I steward my land--I've got water and salt. I've got a natural place for cows to come have calves in the spring. For 15 years I've put up with it and not said anything. Now I'm at the point I'm getting no action so I called the Department, Albuquerque office, and I was told that I have the right to protect my property. The last time I hunted was 1984 and I hadn't pulled a rifle out until this last year. I'm not proud of this but I am going to protect my property. I think we've resolved this with Brian Gleadle and his staff's help. This is not totally what I want but I think I can work with the Department. The problem I want to address with you is grasses and how long it takes to come back if it's been eaten out. I don't agree with your E-PLUS and I think you've had some comments about people receiving landowner tags. The Game Commission needs to staff people in the field. I'll bet there aren't very many people that have seen a cow elk have a baby calf. Sitting behind a desk is not going to do the justice the Department needs. It has cost me \$40,000 a year to raise your elk and I can't afford to pay anymore.

**AGENDA ITEM NO. 13: Adoption of the 2007-2008 Upland Game Rule 19.31.5, NMAC, and Waterfowl Rule 19.31.6, NMAC.**

**Presented by Tim Mitchusson** – The Department presented final drafts of the 2007-2008 Upland Game Rule 19.31.5, NMAC, and the 2007-2008 Waterfowl Rule 19.31.6, NMAC, for Commission adoption. Migratory bird species management uses existing Flyway management plans that involve bag limits, season lengths, and beginning and ending season framework dates. Sandhill cranes and waterfowl in the MRGV are managed under the Plan for the Management for Waterfowl, Sandhill cranes, and other migratory birds in the Middle Rio Grande Valley. The Department has a long-range plan for the management of Sandhill crane in New Mexico. Rule changes are adjustment for new calendar year, hunter opportunity, and species biology. There is no strategic plan for resident small game, with the exception of the Lesser Prairie-Chicken Plan.

**Commissioner Arvas:** There was a lot of confusion last year when the upland game bird proclamation was published concerning the Eurasian dove and the description of the bag limit. Did we go through all that and get it squared away?

**Tim Mitchusson:** We cleared that up and that was the second thing on the agenda today.

**Commissioner Arvas:** Do you remember Frank Bond from Santa Fe had some problems with the falconry issues?

**Tim Mitchusson:** He was saying that the time of the season was too early in the year for his birds because it was too hot and he requested extending the season through December and we did address that request.

**Commissioner Arvas:** So you satisfied his concerns?

**Tim Mitchusson:** Yes, and I did agree to keep everything else as is.

**Commissioner Arvas:** For the dark goose season, you're still going to have permits but you're not going to have any way to monitor the harvest or are you going to send out something?

**Tim Mitchusson:** It'll be just like last year. The permits came through the area offices.

**Commissioner Arvas:** Are you concerned about the harvest?

**Tim Mitchusson:** Yes, I always am. After the season, like last year, we'll send out harvest surveys.

**Commissioner Arvas:** Is it going to be mandatory?

**Tim Mitchusson:** Nothing is mandatory as far as small game except for the cranes, but I do get 80% return rates. You can't complain about 80% on a non-mandatory harvest, and that is sufficient to make sound harvest estimates.

**Commissioner Arvas:** For my own edification, can you tell me what our dark goose situation is in the Middle Rio Grande Valley?

**Tim Mitchusson:** The year before we had over 8,000 birds wintering. Last year for whatever reasons we had half that number. It just didn't get as cold in Colorado and the winter birds were still in Montana. The guys in Wyoming and Montana complained about the lack of birds so we had half the numbers. Our harvest was about 2/3 what it was the year before and we still maintained the same number of permits—about 635 permits were issued. I expect since it'll be over the holidays, more kids will be able to take that opportunity, we'll probably see an increase in permits and maybe a few more adults, but it shouldn't be that significant.

**Commissioner Arvas:** I'm sure you're involved with the concern that Bernardo and Sevilleta had, did we resolve that snow goose problem by retaining more water in terms of why we're not getting as many birds coming back?

**Tim Mitchusson:** That was cured last year. We had 20,000-30,000 birds that were using Bernardo last year and the main change was we didn't allow any hunting on those ponds during our light goose hunts. In the past, we would allow the youth hunters toward the end of the day to go on to those ponds and hunt them, but it drove all the birds to Bosque del Apache. Last year we did not hunt the ponds at all and the birds stayed in the area and we went from a harvest of 25 birds the year before to 169 last year.

**Commissioner Arvas:** Where are we in terms of our efforts to get more involved with the quail population?

**Tim Mitchusson:** Larry has completed the habitat management guidelines and it has to go to Quail Unlimited in Las Cruces for final review and then we'll be publishing it and putting it on the web. We're still not proposing to do a quail plan. We'd like to address it with this habitat management issue. The Forest Service and BLM both agree that they'll be able to incorporate these management guidelines into their planning process and that should address a lot of the issues that were raised at the Quail Unlimited meeting.

**Commissioner Buffett:** Can you repeat the reason for initiating the experimental earlier season for grouse?

**Tim Mitchusson:** I had a request to open it up a week earlier and it came through Administration so we went through with that request.

**Commissioner Buffett:** Were there any staff biologists that we can hear from today? Are there any concerns as to doing that earlier rather than later in the season?

**Tim Mitchusson:** It is setting up a precedent in that it will be the earliest grouse season in all the western states. Everyone else starts September 1 or later. The only exception is California who does allow for an August 19 opening but that's for archery only. I talked to Lief Ahlm and if we opened it up unit wide he'd have concerns, but if it was in the Pecos region, there'd probably very few people that take up this opportunity and he felt there were sufficient numbers of birds in that area to support an additional week hunt.

**Director Thompson:** The only thing to add is that there'd been some interest expressed in the prospect of hunting grouse a little earlier because of the prospect of finding other people out on the traditional September 1 opening, so what Tim has said is correct. We're conducting an experimental season in a small area to determine what kinds of response there is in terms of hunter use as well as getting information on the number of birds that are taken. So, it's a matter of attending to a sportsman request and determining to what extent it works and if it has applicability for a larger area perhaps in the future.

**Commissioner Riley:** With respect to the grouse, I assume you're going to do some sort of research or survey other than just look at a post-season survey on mailing? What about the age of the bird? Obviously there are a lot of

game birds that aren't quite fully feathered and mature by late August and I know a lot of other states with other game bird species have issues with that. Are you going to check on that to see if these birds are ready?

**Tim Mitchusson:** That was our main concern, how we'd be impacting the recruitment and the percentage of the young birds would be in the harvest and if they'd be of sufficient size. This year, just given the timeframe we have, we're not going to be able to do that. I've directed Larry Kamees, our resident upland game biologist, to initiate and develop a proposal that will evaluate the harvest in that unit plus compare it to the harvest outside of those areas. Next year we're talking about a statewide grouse permit otherwise we won't be able to compare so for this year about all we'll be able to get is the number of hunters that utilized that area and the harvest. Next year we'll be planning on wing barrels to get age and things like that.

**Commissioner Riley:** What proportion of the population do you think are harvested each year?

**Tim Mitchusson:** We have very little information on Blue grouse so that would be part of this proposal—to get more background information on our grouse and the number of hunters we do have pursuing that species.

**Commissioner Riley:** With respect to dove, you're obviously recommending a more liberal season on Eurasian collared doves than we've had in the past; so basically, you believe that the hunters can recognize them without too much trouble and the probability of illegal harvest of the other 2 species is inconsequential?

**Tim Mitchusson:** I'll say that there may be some problems identifying birds between collared and White Wing dove in areas where they co-habit. Generally the areas that the Eurasian collared dove are found in the White Wings are usually around your dairy barns, feedlots, things like that, whereas the White Wings tend to be more associated with urban areas or more of the desert habitats. Even though they're found in the same areas they use different habitats. Most of the hunters should be able to identify the birds.

**Commissioner Riley:** Based on that information, I'd recommend we change that to have the season open on Eurasian collared doves from September 1 through December 30.

**Tim Mitchusson:** That's possible because they're not controlled by mandatory bird laws.

**Commissioner Riley:** Next issue is rabbits. Since we're going to have some new opportunities or at least some legalized opportunities on state trust lands with respect to unprotected species, it's spelled out better in the agreement, I'd like to have a section in the small game proclamation on rabbits to explain: 1) what the hunting season is on rabbits—obviously it's year round but I think it's important to have just a section on rabbits like you do on pheasants and quail, but also in that section state that they are legal to shoot on state trust lands during the regular season of other critters. When people go through the regulations it's kind of hard to find anything on rabbits and I think a section in there on rabbits would be of value in describing what those are. Finally, on lesser prairie-chicken thinking off into the future I'd like to propose that we consider next time we go through the regulations some limited hunting opportunities for lesser prairie-chickens on a permit basis only.

**Tim Mitchusson:** That's in the planning process. We just have to complete it.

**Commissioner Buffett:** To clarify 2007-2008, that would be 2 weeks from now--a month from now? What's the rush for that if there's not good data?

**Tim Mitchusson:** It was a request and we're trying to accommodate it.

**Commissioner Buffett:** Shouldn't we operate based on data and then experiment?

**Tim Mitchusson:** We're designing the protocol. There's no concern that we're going to be over-harvesting this population to begin with it. The number of hunters that are going to be utilizing this opportunity is going to be limited, so I don't think there's going to be any harm to the resource. We're just adding 1 week. We'll be able to design the project there for next year and we'll be able to evaluate it more appropriately, but I don't think there's any harm in adding 1 week this year.

**Commissioner Buffett:** I don't see it described in the public involvement section.

**Tim Mitchusson:** I thought I had incorporated it. If I didn't I apologize.

**Commissioner Buffett:** There's no reference to any request by sportsmen in the public involvement section.

**Director Thompson:** There's no mention in the Section 5 of the background materials about that request. That's correct in reading it. Two hunters asked about the prospects of having some earlier hunting on grouse. The question is, why is there a rush to do this? It's not a matter of a rush—it was a request that didn't have a compelling reason not to consider as long as it was done on an experimental basis in a small area where we could have some ability to assess the degree of interest. If there isn't a sufficient degree of interest that may signal no need to continue. If there is sufficient interest and we're not able to identify any negative resource effect, then basically it would stand as

either a possibility of further experimental use or the possibility of expanding. Of course, the ability to have data that wouldn't be possible without actually conducting such a hunt to see what the interest and harvest levels are.

**Commissioner Buffett:** You have no concern about the biological impacts?

**Director Thompson:** I don't and, as Tim indicated, what we know of the current level of grouse hunting, distribution of grouse populations, and the relative percentage of the experimental area to the total grouse range, no.

**MOTION: Commissioner Arvas** moved to accept the Department's proposed changes to the Upland Game Regulation 19.31.5, NMAC, for the 2007-2008 license year to initiate an experimental early grouse/squirrel season in the Pecos region and require grouse hunters to obtain a free permit to hunt in Unit GS-1E; redefine Eurasian-collared dove bag and possession limit, and proof of species requirements; redefine upland game seizure by conservation officers; adjust upland game season dates for the current calendar year; adjust bag limits, possession limits, hunt codes, permits, tagging and check station requirements for the special seasons sandhill crane hunts; increase falconry sandhill crane season length in the Estancia Valley; and allow the Department the discretion to alter season dates and bag limits for migratory game birds if necessary to conform to federal frameworks. **Commissioner McClintic** seconded the motion.

**Commissioner Riley:** I just wanted to amend that motion to make sure it includes the changes I suggested on the Eurasian-collared dove season from September 1 to December 30.

**Chairman Montoya:** What we'll do is make a motion on your amendment, we'll vote on the amendment, and then we'll go back to the main motion.

**Commissioner Riley:** I move to modify the proposed Eurasian-collared dove season to open the season on September 1 and close the season on December 30. **Commissioner Buffet** seconded the motion.

**Commissioner Arvas:** I'd like to ask Commissioner Riley why he wants this?

**Commissioner Riley:** Because I think that leaves open a lot of opportunity that would otherwise be closed in various parts of the state from basically September 30 in the south all the way through November 30 in the rest of the state, and there's biologically no reason not to allow people to shoot those and if there is no reason to think that there's going to be a lot of over-harvest of the Morning dove and White Wing dove, then why not leave the opportunity open and we also know that there is some segregation of that species hanging around farm lots and dairies, so it's a more concentrated hunting opportunity.

**Commissioner Arvas:** Commissioner Riley, would you like to also use the south?

**Commissioner Riley:** No, statewide.

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

**Chairman Montoya:** Now, back to the main motion. Commissioner Arvas, do you approve that this amendment be incorporated into your main motion?

**Commissioner Arvas:** Yes.

**Chairman Montoya:** Commissioner Riley, do you approve that it go into your second?

**Commissioner Riley:** Yes.

**Chairman Montoya:** All those in favor of approving the Upland Game Rule recommendations as were stated in Commissioner Arvas' motion, please signify.

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

**MOTION: Commissioner Riley** moved to accept the Department's proposed changes to the Waterfowl regulation 19.31.6, NMAC, for the 2007-2008 license year to adjust season dates for waterfowl, migratory game birds, falconry, Bernardo light goose, Middle Rio Grande Valley Dark goose, and the Bernardo youth waterfowl seasons; redefine requirements to obtain Bernardo youth waterfowl hunt permits remaining after the draw; reduce permits for the Bernardo light goose hunts, redefine the definition of waterfowl seizure by conservation officers; and allow the Department the discretion to alter season dates and bag limits for waterfowl if necessary to conform to federal frameworks. **Commissioner Arvas** seconded the motion.

**Commissioner Arvas:** Tim, are you satisfied with the change from Administration at Bosque del Apache with their plan?

**Tim Mitchusson:** Yes, I am. In fact they're initiating a youth light goose hunt for this year. They seem to be very pro-hunting. They're very willing to work with the Department. Managers and biologists come from a hunting

background, we work very well together. They helped us tremendously last year collecting our Avian influenza samples and they'll be a big part of that again this year.

**Chairman Montoya:** I'd like to read into the record a comment by the Sportsmen for Fish and Wildlife-New Mexico. The SFW wishes to commend the New Mexico Department of Game and Fish on all the effort and thought that has gone into the proposed changes to the Upland Game and Waterfowl Rule, especially the fact that public involvement was solicited and addressed. The fact that the public comments were taken into considerations and in some instances adopted into the rule are testament to what should be a part of every rule change.

**Kent Salazar:** The New Mexico Wildlife Federation wants to oppose that special hunt because there's no data being collected on it, we felt that wasn't an appropriate reason at the last minute to put something in like that and we'd propose possibly putting it at the end. I know you've already acted on it, but I wanted my comments put in that we're opposed to having it like that. We'd rather have seen it at the end since it did come in at the last minute and a lot of the hunters don't even know about this change after we've had our input. If it's going to happen, we'd like some data collected on it. I don't think it'll hurt the resource because there are not enough people hunting the grouse now so that's not a concern.

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

**AGENDA ITEM NO. 14: Reservation of Two Elk Licenses for Non-Profit Wish Granting Organization(s) under Section 17-3-13.5, NMSA, 1978.**

**Presented by Dan Brooks** – The State Game Commission considered approving the reservation and issuance of two elk licenses, each for a qualifying individual, plus an alternate for each individual, whose name has been submitted following the criteria established in Section 17-3-13.5, NMSA, 1978. The Department recommended that the Game Commission award 2 elk licenses (1 through each organization) through the Hunt-of-a-Lifetime Foundation and Outdoor Dream Foundation as per a law enacted in 2003. Under Section 17-3-13.5, NMSA, 1978, the State Game Commission is directed to reserve no more than 2 elk licenses a year to persons under the age of 21 who have been determined by a physician of a life-threatening illness and who have been qualified through a non-profit, wish-granting organization. The law had public support, and was signed by Governor Richardson, and the law continues to receive broad public support from individual sportsmen and citizens.

**MOTION: Commissioner McClintic** moved to accept the Department's recommendations with the names of David Gilbert and Deric Glenn Hanna as first choices and as alternates Justin Reed and Austin T. Mullet and reserve 2 elk licenses for the 2 individuals brought forward as named, plus their 2 alternates should the individuals not be able to come on their elk hunt. **Commissioner Riley** seconded the motion.

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

**AGENDA ITEM NO. 15: Opening Rule for Oryx Hunting Prohibitions on White Sands Missile Range (19.31.12, NMAC).**

**Presented by Dan Brooks** – The Commission considered opening this rule for future amendments and public comment. The Department sought to initiate the process to amend the Barbary sheep, oryx, and Persian Ibex Rule (19.31.12, NMAC) because of growing concerns over hunters being found in prohibited areas while hunting oryx on White Sands Missile Range. The Department initiated the process to amend the Barbary sheep, oryx, and Persian Ibex Rule, 19.31.12, at the request of White Sands Missile Range staff. Growing concerns have arisen over hunters being found in prohibited areas while hunting oryx. WSMR has several areas that prohibit entry by unescorted hunters because of security and safety concerns. Hunters that access these areas unescorted could cause great bodily injury to themselves or others by encountering unexploded ordnance, breach the security of defense experiments that are not open for public viewing, and depending on the circumstances, cause WSMR to alter or prohibit oryx hunting. WSMR and the Department are discussing possible options on how to deal with hunters that ignore mandatory briefing and/or posted warnings not to enter prohibited areas. Because the Commission has broad authority over the manner and method of hunting oryx, the Department requests opening this rule to consider further oryx hunting restrictions. The Department proposes to initiate this process and will be seeking input from the public and Commission for rule development in this regard. The public involvement process is just beginning. It will focus on working with key individuals, groups, and agencies that have an interest or concern

over oryx hunting or Missile Range access. Public input will be summarized in the final agenda briefing that brings forward a written rule recommendation to the Commission.

**MOTION: Commissioner Arvas** moved to open the process for public involvement and have the Department work with individuals, groups, and agencies to formulate a recommendation for safe guarding oryx hunter and oryx hunting in prohibited or restricted areas on White Sands Missile Range. **Commissioner Buffett** seconded the motion.

**Commissioner Riley:** Do you think this is being caused by people knowing they're going outside into restricted areas or do you think they don't know any better?

**Dan Brooks:** I actually think it's about half/half. Because the Missile Range is a big place there really is no scouting. People do get confused but that's part of the behind-the-scenes effort as well. I've asked the Missile Range to examine their signs and make sure that they place signs properly at all points of access as we go forward with this public involvement process. So, I do think there are some uninformed people, but 1 of our next steps in this process is to make sure that the Missile Range actually signs every point of access that can be entered by vehicle and they've agreed to do that. We've worked on some language with Luis Rios and his staff at the Las Cruces office so we have that other part on track. Part of this is an education process but where I want to go is once we know beyond a doubt these people would know where they shouldn't be then we can take the action we need to take.

**Commissioner Riley:** Don't they already have an education process before you hunt on White Sands Missile Range—a training session?

**Dan Brooks:** Yes. There is about a ½ hour briefing. The only thing to remember is during that briefing it's often before daylight hours, people don't really know where they are, and even after they tell them where they are, they still don't know where they are.

**Commissioner McClintic:** That's only the lifetime hunt. The badged hunts have no implication in this?

**Dan Brooks:** The badged hunts are actually people that already have clearance and already should know where they're at and restricted areas.

**Commissioner McClintic:** How many people on the lifetime hunt last year? I know the year before there were 4 that got caught where they were not supposed to be and got their hunting privileges revoked. How many did that happen to last year?

**Dan Brooks:** I couldn't answer that. I think that sounds about right, but I could not swear to that. There were a few individuals. Of course, that's of concern to us because they're often in areas where there are unexploded ordnance.

**Commissioner McClintic:** But it is a problem?

**Dan Brooks:** Oh yes, it's a problem. About 4-5 years ago, 1 of the soldiers picked up an item of ordnance and of course a tragedy occurred. That shut down hunting and, of course, we had to restructure the hunts and quite a few things had to happen. No one wants that kind of harm to happen to anyone.

**Chairman Montoya:** I'd like to read a statement left by Sportsmen for Fish and Wildlife-New Mexico. The SFW fully supports the New Mexico Department of Game and Fish in seeking public comment on this issue. Oryx represent a unique opportunity here in New Mexico that is cherished by many New Mexicans as well as others from around the country as evidenced by the amount of applicants each year.

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

#### **AGENDA ITEM NO. 16: Providing for a Proper and Valid License to Assist Compliance of Game Laws (19.31.3, NMAC).**

**Presented by Dan Brooks** – The Commission is asked to consider amending 19.31.3, NMAC, to clarify proper use of license while hunting for protected game species. The Department requested a rule amendment that will aid in the enforcement of game laws and rules. Clarification is needed to assist Conservation Officers in conducting law enforcement compliance for hunting and fishing activities. Under Section 17-3-1 (NMSA, 1978) state law restricts that “no personal shall shoot, hunt, kill, injure, or take, in any manner, any game animal, game bird or game fish without paying for, and having in his possession, the proper license required by law for the year in which the shooting, hunting, fishing, or taking, is done.” However, there is no statutory definition for “proper” license. Conservation Officers are allowed to set up artificial wildlife like deer and elk to apprehend and deter road hunting, spotlighting, and hunting without a proper license. Officers have brought forward concerns that some individuals apprehended shooting at artificial wildlife often have a license for a different unit or area, hunt outside of their license dates, use a rifle during a more primitive-weapons type hunt, or attempt to take artificial wildlife that does not

represent their bag limit. If the Commission clarifies the proper use of license and what is improper, field officers will have clearer criteria for enforcement of hunting or fishing without a license and a more uniform application of enforcement will be established. The Department is seeking to enhance adherence to conservation laws and Commission rules especially while carrying out artificial wildlife operations. Over many years, fishing and hunting license buyers have expressed great concern over seeing and reporting individuals that do not follow rules that govern fishing and hunting. Officers also have expressed concern for the same thing. This agenda item would allow for a more effective application of enforcement using artificial wildlife.

**MOTION: Commissioner Buffett** moved to amend 19.31.3, NMAC, and added the following language: "C. Improper license and permit: Any person who attempts to capture or shoot, hunt, kill, injure or take, in any manner any game animal, game bird, or game fish, other than in accordance with the specified hunt code or dates, legal sporting arm, bag limit allowance or area designated on a license or permit issued by the Department to that person is deemed to be hunting without a proper license as required by Section 17-3-1, NMSA, 1978, unless otherwise exempted by a valid Commission rule. Subsequent paragraphs in that section are re-lettered sequentially.

**Commissioner McClintic** seconded the motion.

**Commissioner Riley:** Will this address the issue of someone shooting an elk within the unit and they have a proper license, but they shoot it on private land without permission so now they've shot a supposedly legal elk on private land so all they'd be doing is trespassing. Can you resolve that issue?

**Dan Brooks:** That is moving us in that direction but not yet. Now we can look at it as a Department and if we actually put some restrictive language on the face of that license then we might fall into the area speciality. But generally the way this is worded, no.

**Commissioner Riley:** I'd like to see that.

**Commissioner Arvas:** That happens often doesn't it? You have a hunter who either voluntarily or involuntarily shoots game on private land thinking that he's on public land and if he's caught, is that game confiscated?

**Dan Brooks:** I wouldn't clarify that as happening often. The majority of our sportsmen are in compliance because they want to go out there and have a good time, but it does happen on occasion. Right now the only way that we see those animals is by the deer rule because there are some requirements. Now, to go back to what Commissioner Riley said, it doesn't happen during elk season but I think we have the ability to explore that.

**Alvin Garcia:** You have a separate statute addressing violations for trespass and specific enforcement authority in your statute and I think in your regulations for enforcement of trespass, but that also can revolve around proper posting so there are other circumstances that need to apply to enforce citations for basic trespass. Private properties are still within the game region that's being regulated.

**Luke Shelby:** There's a statute that says what we can confiscate illegally taking game animals. Criminal trespass is not 1 of them. If you'd like to see us pursue that, we can talk about that next month at the legislative session because that will require legislative action.

**Bill Ferranti:** I'm from the Double H Ranch Torstensen Wildlife Center. It doesn't do us any good if someone shoots an elk on the Double H Ranch if we have a ranch-only hunt going on so only ranch-only hunters are hunting and they tag the elk legally they can get written up for trespass but legally they can take an elk. Under the new civil penalties law that you passed earlier, they're not even subject to that.

**Ed Olona:** In Unit 48 we addressed the situation about having a system wherein the sportsmen turn in any poaching or illegal actions in the area and Mr. Tod Stevenson asked me if we could incorporate that situation throughout the state, yes. The situation is that many of us sportsmen in the northeastern portion of the state in Unit 48 we observe any violations and what we intended to do was to contact a game officer and letting them know that a violation has occurred and we don't get involved. All we have to do is contact that game officer in the field. They are the ones that investigate the situation. That would help the Department immensely with any violations that happen and it would support the lack of game officers in the field. This could be incorporated throughout the state and the local sportsmen get involved in stopping any game violations that would be beneficial to all game management.

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

**AGENDA ITEM NO. 17: Establishing Rules for Exemption to Hunting by Spotlight or Artificial Light Prohibited (Section 17-2-31, NMSA, 1978).**

**Presented by Dan Brooks** – The Commission considered initiating the process to create a new portion of rule that allows permitting under Section 17-2-31, NMSA, 1978. The Department requested to open this process to solicit public comments on permitting criteria under the exemptions that a person may receive a permit to be in possession of a firearm or other implement while casting the rays of artificial light in the fields and forests of New Mexico. The Department is initiating the process to establish a new rule that will allow for permitting as exempted from the hunting by spotlight or artificial light prohibited. HB 509, which became law on June 15, 2007, allows individuals to receive a permit from the Department which will allow individuals to be in possession of a firearm or implement capable of taking big game or livestock while casting the rays of artificial light in an area where big game or livestock may be found. The Department will initiate this process to seek input from the public and Commission for rule development. The new amendments to Section 17-2-31, NMSA, 1978, states, however, that the following shall be exempt from the provision of this section: an officer authorized to enforce the game and livestock laws of the state; a government employee acting in an official capacity; a landowner or lessee or employee of such landowner or lessee, while on the land owned or leased in connection with legitimate activities; or a person who has received a permit or authorization from the Department of Game and Fish to conduct such activities. Since a person can receive a permit from this prohibition, the Department is initiating the public involvement process and also seeks Commission direction during this time, focusing primarily on 3 areas related to permitting: who should be allowed to receive a permit; what qualifying circumstances should a permit be issued; and is it necessary to have limitations or restrictions to permits. The public involvement process is just beginning and will focus on working with key individuals, groups and public agencies that have an interest or concern over this allowance.

**MOTION: Commissioner Riley** moved to open the process for public involvement and have the Department work with individuals, groups, and agencies to formulate a recommendation for permitting individuals under the new exemption found in Section 17-2-31, NMSA, 1978. **Commissioner Arvas** seconded the motion.

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

**AGENDA ITEM NO. 18: Proposed Shooting Preserve Application (19.35.3, NMAC), and Sections 17-3-35 through 17-3-42, NMSA, 1978, for the Spur L Hunting Preserve.**

**Presented by Roy Hayes** – Dwight Luna submitted an application for Commission consideration for a shooting preserve permit submitted by the Spur L Ranch located 17 miles southwest of Encino, NM, in accordance with Sections 17-3-35 through 17-3-42, NMSA, 1978, (Regulated Shooting Preserve Act), and 19.35.3, NMAC, (Shooting Preserves). The proponent intends to release propagated pheasants, chukars, and scaled quail on the preserve. Department-Southeast Area personnel have inspected the property as per the application, and agree that the application meets the terms of law and rule. The preserve is composed of approximately 4,800 contiguous acres of private land. The property managers that adjoin the Spur L Shooting Preserve have been contacted in reference to the proposed shooting preserve, and there are no prior known conflicting interests.

**MOTION: Commissioner Riley** moved to approve the Spur L Shooting Preserve/Dwight Luna as presented by the Department. **Commissioner McClintic** seconded the motion.

**Commissioner Riley:** Does Mr. Luna own all 4,800 acres? They are deeded to Mr. Luna?

**Roy Hayes:** Yes. I verified that.

**Commissioner Arvas:** Does Mr. Luna allow any hunting on his property now?

**Dwight Luna:** We have Pronghorn hunting and that's the only game that exists on the property at the present time.

**Commissioner Riley:** Is the land completely fenced?

**Dwight Luna:** It is.

**VOTE:** Voice vote taken. All present voted in the Affirmative. **Motion carried with dissenting vote by Commissioner Arvas.**

**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), NMSA, 1978, to discuss litigation, personnel matters, acquisition of real property or water rights, and to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated their Professional Code of Conduct as per 19.30.8, NMAC. If in the

Commission's determination an individual shall be served notice, he/she will be afforded an administrative hearing following 19.31.2, NMAC.

**MOTION: Commissioner Riley** moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H) 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 Buffett** seconded the motion.

**Roll Call Vote:**

**Chairman Montoya** – yes

**Commissioner Arvas** – yes

**Commissioner Buffett** – yes

**Commissioner McClintic** – yes

**Commissioner Riley** – yes

**Commissioner Salmon** – absent

**Commissioner Sims** - absent

**Motion carried unanimously.**

**Chairman Montoya** 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: Land Conservation Action on Lewis Ranch.**

**Presented by Jim Karp and Luke Shelby** – The Department presented for Commission action the proposal to purchase the Lewis Ranch in east central New Mexico using Land Conservation Appropriation funds.

**MOTION: Commissioner Arvas** moved to direct the Department in conjunction with Commissioner Terry Riley to continue negotiations to establish a purchase price for approximately 5,281 deeded acres in Roosevelt County known as the Lewis Ranch adjacent to Commission-owned prairie-chicken habitat, such negotiated price to be subject to approval by this Commission and further direction regarding terms and conditions of the Purchase Agreement. **Commissioner Buffett** seconded the motion.

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

**AGENDA ITEM NO. 22: Budget Status, Revenue Review, and Initial FY09 Budget Preparation Discussion.**

**Presented by Carlos Valdez/Patrick Block** – In preparation for development of the Department's Fiscal Year 2009 Budget request, the Department provided a synopsis of the Fiscal Year 2008 Operating and Capital Budgets. The briefing included status of revenue expenditure and cash balance, to show historical and forward-looking perspective on cash balance and Game Protection Fund, and also to discuss long-term cash balance projections and operating fund balances. The Department sought Commission guidance on budget priorities, areas of emphasis, and desired changes in the next budget request. The briefing included information on current status of operating fund revenues, fund balances, and long-term projections. The Department incorporated any guidance or information garnered from this agenda item and included it in the budget request instructions provided to agency staff.

**Commissioner Arvas:** Are we thinking through the next legislative session any alternative funding requests?

**Pat Block:** Not necessarily alternative funding requests but some of the expansion items that we have been discussing would potentially have funding from sources other than hunting/fishing license dollars and I think that as we get through this item the Director may have a couple of items on that to share.

**Director Thompson:** As we move forward in building the budgeting request for FY '09 over the next month, we'll have additional opportunity to communicate with each of you. We'll be able to demonstrate that where there is a substantive need for any type of expansion or increase of operations that we will show largely where that can be paid for from a combination of various federal funding as well as from cooperators and possibly General Fund. This follows in the spirit that this Commission has mentioned for several years of recognizing the need for these other demands on the Department to come from a broader constituent base rather than just from sportsmen.

**Chairman Montoya:** I'm going to read a statement from Sportsmen for Fish and Wildlife-New Mexico for inclusion into the record. The Sportsmen for Fish and Wildlife-New Mexico would request the Commission and the New

Mexico Department of Game and Fish provide the details of how the final recommendations and resulting fee to the Commission was determined be posted on the Department website for public inspection. This information is helpful to the public to understand why a fee increase is justified and necessary.

**Pat Block:** This presentation is to give you the timeline and sequence of events that's going to lead to the request to approve Fiscal Year '09 budget request at the August Commission meeting. At this time I'd like to determine whether there's any specific instruction or guidance that the Commission would like to provide us as we develop the budget request and that way we'll make sure the budget that we bring you in August is consistent with the Executive Branch guidelines and the expectations of the Commission. They're saying budgets should be flat FY '09 unless you're working on something that is tied to the Governor's COER agenda or other things. There are guidelines that come out from the State Department of Finance and Administration and those are the sideboards that agencies including Department of Game and Fish operate within.

**Commissioner Riley:** As you may know, the Landowner Incentive Program may not be authorized in 2008 at the federal level and we obviously have a sizeable amount of money in that fund at this time. Because it may be discontinued, we have a lot more liberal use of those funds than we've had in the past and we've had some problems with spending that money because of the way they're situated within the Department. I'd like to see if we can get those monies transferred to the Game Management Division so that we can get them spent more efficiently on habitat projects, particularly on private land and the prairie counties in the eastern part of the state.

**Discussion item only.**

#### **AGENDA ITEM NO. 23: Review of Hunt Application Fee and Administrative Costs.**

**Presented by Patrick Block** – Under Section 17-1-14(13), NMSA, 1978, the Game Commission sets the amount of the non-refundable fee for special hunt application processing. The statute requires that the application fee amount cannot exceed the administrative costs of processing applications. The current fee of \$6 per applicant has been in place for over 10 years. The Department continues to refine application processing operations to make them as cost-effective as possible to minimize the amount of the fee. The Department is engaging in a process to analyze application processing costs to determine if the current fee is sufficient or if an adjustment is warranted for the 2008-2009 license year. The Department will provide the Commission with an overview of the component costs associated with processing applications, whether they are paper applications or submitted online. The Department expects to provide the Commission with a final recommendation at the August 2007 meeting. The Department is currently re-assessing costs to determine if the current fee is sufficient or if an adjustment is warranted. The Department provided the Commission with an overview of the component costs associated with processing applications. The first is staff time—the Department spends a large amount of time to process 177,000+ applications that are received for the 3-draw deadlines. Staff is brought in statewide. Another cost is printing—the Department prints several hundred thousand big game and small game rule books, and application forms. Then every paper copy application is photocopied and then shipped by truck to the data entry contractor, they key enter, then send back to the Department electronically and physically return the paper applications. Another cost is postage for refunds and license mailing. There are credit card merchant fees and fees associated with having a secure website and some other shared costs are printing and license mailing. During the next month the Department will accumulate and analyze the current costs, project what they'll be for the coming license year, and the Department will present the results of analysis during the August Commission meeting.

**Commissioner Riley:** Did you say you actually photocopy the applications?

**Pat Block:** That's correct.

**Commissioner Riley:** Could you scan and make a PDF file out of them or is that just as time consuming?

**Pat Block:** It'll entail about the same amount of time.

**Commissioner Riley:** So the cost would be the same, basically?

**Pat Block:** It might save a little money. We would not be using the reams of paper that we do.

**Chairman Montoya:** As a result of your analysis you end up coming forward with recommendations for any increases in application fees, make sure you have strong rationale and justification.

**Pat Block:** Yes, we can do that and just to give you a preliminary sense of what we're looking at is it doesn't look like it would be. If there is a change at all it will not be double/triple or anything like that. I would be in \$1-\$2 range from

what we're seeing so far. We want to make sure we're not missing anything but by the same token that we're not attempting to take credit for costs that are not true costs associated with that processing.

**Chairman Montoya:** What percentage of applications are being processed online?

**Pat Block:** About 70% and it varies from species to species, deer being the lowest because it's \$6 either way and others are in the high 90's.

**Discussion item only.**

**AGENDA ITEM NO. 24: Approval of Joint Powers Agreement Continuing Use of Cimarron Canyon, Fenton Lake, and Clayton Lake as State Parks and Approval of Appropriate Agreement for Continuing Recreational Use Controls at Ute Reservoir by State Parks.**

**Presented by Jim Karp** – The Department presented for Commission approval a proposed form of Joint Powers Agreement with State Parks Division of NM Energy, Minerals, and Natural Resources concerning continued use of Cimarron Canyon, Fenton Lake, and Clayton Lake as state parks and a proposed form of agreement continuing recreational use controls by State Parks at Ute Reservoir. The present agreements concerning these sites are in the process of terminating. The proposed Joint Powers Agreement updates and replaces agreements that have been in effect between the 2 agencies for numerous years. All authority to enforce Chapter 17 and Commission regulations of parks and all Commission regulations apply to the parks. State Parks can charge fees for the use of the parks but cannot charge fees to hunters/anglers/trappers using free access areas in each park for hunting/fishing/trapping. All signage/literature by State Parks and their website will include references to the Department/Commission/sport fish and wildlife acts as owners/contributors to funding for the parks. State Parks would comply with all federal and sport fish and wildlife acts, requirements, or record keeping and recording annually will prepare for approval by the Department an annual work plan with respect to any proposed projects.

**MOTION:** Commissioner Buffett moved to approve the Department entering into a Joint Powers Agreement with the NM Energy, Minerals, and Natural Resources Department concerning Clayton Lake, Fenton Lake, and Cimarron Canyon as State Parks in a form and with content as the proposed draft provided to the Commission for its review.

**Commissioner Arvas** seconded the motion.

**Commissioner Riley:** Under Section 1, G, second sentence, it says "DGF shall provide 20 posts and rolls of barbed wire", are we saying we're giving them 20 rolls of barbed wire or they get 20 posts and 20 rolls of barbed wire?

**Jim Karp:** No, there will be 20 posts and a supply of barbed wire which we can re-supply.

**Commissioner Riley:** Why are we so specific on the posts and not on the barbed wire?

**Jim Karp:** They asked for 20 posts.

**Commissioner Riley:** The second has to do with Section 3, D, 6th-7th line it says "The complete fiscal state—".

**Jim Karp:** That should be "statement". That has been corrected.

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

**AGENDA ITEM NO. 25: General Public Comments (Comments Limited to 3 Minutes).**

**Public Comments:**

**Ron Shortes:** At the Commission's request, I found out today regarding the unfortunate incident where Female 924 was dispatched by US Fish and Wildlife Service—the sheriff's department initially investigated the red car involved in this and began the investigation immediately. The State Police showed up several days later and when they discovered that the investigation had already begun and was already being done in a thorough and competent manner by the skilled criminal investigator. The sheriff offered them the ability to either participate as a team or whatever they wanted to do and they chose not to. One of the officers was involved in interviewing the Department employee or contractor at 1 point in time as I believe. I believe that our sheriff's office has bent over backwards to insure that highly competent people were involved in this and that they've obtained all of the information. They may need the Department's cooperation in terms of access to the drug test that I understand was administered because state/government regulations about governmental employees having accidents or breaks and they're supposed to be trained and tested after an accident. I'm not sure that they were initially able to obtain that. I understand that the district attorney's office subpoenaed it anyway but in terms of why this has taken so long obviously the Department could help to speed this along somewhat. Their report as it stands now without the subpoenaed information that they don't have yet is in the district attorney's office for the Seventh Judicial District and I talked to the DA's office this

morning. They indicated that they were also totally committed to doing a thorough and comprehensive investigation on this and they were not attempting to go into it with a pre-disposition for 1 side or another. Several of you have asked me why this is taking so long and according to the sheriff's office and the DA's office because they are bending over backwards trying to make sure they have all the information and arrive at a fair and just decision in terms of who to prosecute if anyone or what to do with this case. Another unfortunate result is that these wildlife service officers who I believe from the reports that I've seen and have been given were not doing anything more than being on site doing their job and I personally know these men and I think they're devoted to what they've spent their careers doing. Our sheriff now has a concern for their safety that because of the publicity, animosity, and acrimoniousness that's gone around in this whole issue that these men who I believe were doing nothing more than their job anyway now rests in terms of doing their job in the future because the Albuquerque paper in my opinion did not accurately report the facts in terms of what happened. These men are not sharp shooters or snipers but scientists. They are predator control officers that have been involved in a valuable job of controlling predators for many years as a service to the State of New Mexico's agricultural community. In any event, there aren't any conclusions. At this point in time the long/short of it is that the district attorney' office has it and they're working on it and they haven't made decisions.

**Brad Latham:** We've got an elk problem in McKinley and Socorro Counties. Two years ago Mr. Thompson was instructed by Senator Joe Fidel to do something. He never has. We've taken matters into our hands. We've been shooting elk. I don't like doing it. It's a waste. I don't know what else to do. We've got to get them cows off us. On 1,100 acres I've got 330 head of elk so what does that tell you about my grass, my water? Last summer it was so bad we couldn't run cattle in there. There's been a drought in New Mexico for 8 years. We cut them back every year. We're fed up with it. I've spent thousands of dollars on fencing. We're spending that kind of money and don't get anything out of it. Help us.

**Chairman Montoya:** What unit are you in?

**Brad Latham:** In Unit 9 and 10—I have a ranch in 9 and 10. That's about 14,000-16,000 acres.

**Chairman Montoya:** This is the second rancher that comes up today in this part of the state that has admitted to shooting elk. Have we always had this many or are they just going into these places now?

**Brian Gleadle:** The area Mr. Latham speaks about is a fairly dense privately-owned area within McGaffey Lake. The elk have developed an area where they calve. Mr. Latham is correct and I'd agree that there are 200-300 head of elk that congregate in this 1 area. We estimate the population around 600, so to assume that many elk in this specific location is significant. This Commission under the current rules did adopt a recommendation from my staff to develop a sub-unit for Unit 10 to localize some of the cow harvest in this specific area to look at this issue and address it. As previously stated, we've gone through quite a few negotiations with landowners in there. It's a fairly involved process to develop reasonable approaches within E-PLUS and the depredation system. We've been able to either resolve or in the process of resolving all but Mr. Latham's issues. Some of the major concerns that Mr. Latham did bring to our attention were fence damage by elk and I think Mr. Latham would agree that the fence is fairly old—about 60 years, but that doesn't negate the fact that when the fence is standing it keeps his cattle. One of the last recommendations we did propose to Mr. Latham was to think outside the box and provide him with some barbed wire fencing materials and hopefully we could get into a cost-share and Mr. Latham build the fence and we provide the materials. We're talking about 1,000-1,100 acres in the Page area. It's a significant amount of cost and we're talking about and started brainstorming about putting in a water guzzler. Obviously, if elk are coming in and using the water maybe we can put a water guzzler in that the cattle and wildlife can use. Those were some of the thoughts we had but those interventions were not something that was agreeable. It got to the point where we were running out of options. The property that Mr. Latham speaks about in Unit 9 is located outside the COER for Unit 9 so we're more than prepared to enter into non-COER hunting opportunities because they don't fit within the same parameters of E-PLUS—private land within the COER has to compete for a set number of permits. What we can do is look at the non-COER property by itself, try to determine how many elk are in the area, and establish a good population management tool in the fact that we can issue permits. I think the biggest issue is going to be the Unit 10 property in Page and we're pretty much at the level that what the current E-PLUS rule and the current depredation rule is giving me the tools to offer to Mr. Latham. Mr. Latham did reject those options and suggests that he was just going to have to address those himself.

**Brad Latham:** I've got part of a ranch that I cannot use. That's where I keep my saddle horses and I can't turn them out and this fence is not 50-60 years. It's about 15 years old and we re-did it 2 years ago so it's got brand new steel

posts, cedar stays, and 4 strands of barbed wire. The elk tear it down. My saddle horses get out on a major road and they're going to get hit and who's going to pay for it and more likely I'm going to get sued. I'm fed up with the whole situation.

**Commissioner Arvas:** If you were sitting on this side of the table, what would you do?

**Brad Latham:** I'd try to come up with some sort of resolution as far as how many elk I pasture because they give me 1 cow tag.

**Commissioner Arvas:** So what you're looking for is some kind of compensation?

**Brad Latham:** Something along those lines.

**Commissioner Arvas:** Can't do that. Would you allow people to come on your property and shoot those elk?

**Brad Latham:** You bet. We've been shooting them for 2 years.

**Commissioner Arvas:** How many do you think you've killed?

**Brad Latham:** Over 100. I shot 50 last summer and I'm not proud of doing that. We started out with 60 head in there and after 3 weeks I got them out. I don't know how many we've killed or how many we've wounded but we got them out of there. I've been without elk on that ranch for about 1½ months but when I go to another ranch it's the same thing. All these elk tearing down fences, cattle get out, and it's a bad scenario because my cattle get into the neighbors and then I've got to go get my cattle out and get into arguments with the neighbors. It's a bad situation.

**Commissioner McClintic:** R.J., do we have any type of a special program in place where it's justified that this man is getting eaten out of house and home, we have sportsmen in this state that are dying to hunt elk that don't draw anything. Is there anything that we have in place in a special depredation situation where we can increase this gentleman's tags and he could sell them on the open market or let whoever wanted to go in there and get rid of a certain number of elk?

**R.J. Kirkpatrick:** We have a variety of tools available to us, but the first tool as Brian Gleadle touched on is the current rule where we have what we call Web cows. Those are antlerless hunting opportunities that will be made available to the public via the website through a registration process sometime during the course of the fall. We reserve the right to define that hunt area and those season dates so we can specifically focus some antlerless harvest in and around those areas that are being impacted by too many elk. That harvest is included in the overall sustainable removals the Commission adopted that we presented to you last September. The second tool pursuant to the landowner system—we recognize that properties' ability to compete for authorizations pursuant to E-PLUS inside the COER which Unit 10 is somewhat limited by acreage. We also recognize E-PLUS allows us the flexibility to recognize that in those cases where the allocation process is unable to recognize the contribution that private lands make pursuant to the regular allocation. We've got 2 tools there—1 is incentive authorizations. That's a property that is doing a lot of good things for elk or because of the circumstances of where it exists and the nature of the elk and property, there's a lot of contribution to elk going on—we can afford incentive authorizations to that property. The next step is private properties that are doing some significant management practices via habitat, fence modification, grazing management to attract elk and as a result of that they're accruing additional hunting opportunity unique only to them and those are called special management properties. I'm sure Brian and staff have discussed those options with the various landowners in Unit 10. There's another tool that we have available to us through population reduction. A variety of public draw hunters that apply for population reduction elk hunting opportunities are typically called up when we have a circumstance where there needs to be management action taken via sport harvest of elk in particular areas. We've not used population management as a tool in many places in the state over the last couple of years but that tool exists.

**Commissioner McClintic:** There's nothing in the rules as they are right now if this man has that number of elk on this property. They are tearing his fences down, he can't run his cattle—there's nothing in place now where under an emergency or depredation situation we could furnish this man with some extra cow or bull tags?

**R.J. Kirkpatrick:** How we can address these situations would be under the population management provision of the elk rule and our depredation program. We do not issue authorizations directly to landowners who claim depredation.

**Brad Latham:** One of my ranches is in the COER in Unit 10 and the other part is out of the COER. They'd give me all the tags you want. Those tags are worthless. I've got elk in there now but the reason they're in there now is because I'm pumping water. Most years they don't come in there unless it's really dry or in the winter. They were going to give me 8-10 tags and 1 cow tag and I told them that wasn't going to work.

**Commissioner McClintic:** So, answer the question R.J., is there anything in place where he gets 1 cow tag when the elk are really on him?

**R.J. Kirkpatrick:** One of the other important provisions in E-PLUS that is probably playing a significant role in our inability to reach some consensus is that one of the requirements to participate in E-PLUS is acceptance of elk on your property and if you chose to seek compensation and basically file depredation complaints or claim property damage, that needs to be dealt with pursuant to the depredation program. We drew a distinct line between those 2 programs. The objective of the landowner system is to recognize the contribution private lands make for the benefit of elk. The objective of the depredation program is to minimize or eliminate the contributions private lands make for the benefit of elk. They're 2 distinct programs and my understanding is that probably is the road block in resolution. The design of E-PLUS is not intended to provide private landowners with compensation for damages whereas the depredation program is designed to minimize or eliminate the need for damages to continue occurring. The depredation program has limitations.

**Commissioner McClintic:** What should be done is that this gentleman be given in writing everything that we can actually do to try to help him under the current rules.

**R.J. Kirkpatrick:** I'm sure that Brian has done that.

**Brad Latham:** When they came with the fence proposal this is what they told me--we're going to build you a fence. I said ok. We agreed on 5-6 miles. They said—how do you want the fence? I said—those elk are going to have to be able to come and go out of there? They said correct. I said let's go 4-5 strand barbed wire, 14-foot centers, 2 stays and we need to find out where these elk are crossing. Those elk are going to come in there and eat and drink. I said we have to work this out because just because I got a fence out of the deal doesn't mean I can still factor that many elk and stay afloat. In a couple of days he comes to my house and slides a proposal over and it had all changed. I did all the work and they supplied the material and I got 60 days to put the fence up or I'm going to be fined. I said we aren't going to do that and that was that.

**Commissioner McClintic:** A lot of people such as yourself tell us you killed 100 elk the past 2 years and it's very distressing. I suggest you get with Director Thompson and Department staff and come up with a solution that makes more sense.

**Chairman Montoya:** Brian and R.J., we encourage you to continue working on it within the rules that exist.

**Dan Brooks:** Michael Montano had to leave and he wanted me to read his statement—he was asking for a paper survey to fill out for the mandatory harvest, his words were "old people don't know how to use computers", and he believes that everyone should be required to apply and be restricted to the same hunt code.

**AGENDA ITEM NO. 26: Adjourn.**

**MOTION:** Commissioner Buffett moved to adjourn. Commissioner Riley seconded the motion.

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

Meeting adjourned at 7:17 p.m.

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

\_\_\_\_\_  
**August 23, 2007**  
Date

\_\_\_\_\_  
s/  
**Alfredo Montoya**, Chairman  
New Mexico State Game Commission

\_\_\_\_\_  
**August 23, 2007**  
Date

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