

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 New Mexico Highlands University-Leveo Sanchez Lecture Hall (G-35)
 Thomas C. Donnelly Library-Ground Floor
 802 National Avenue (Corner of 8th & National)
 Las Vegas, NM 87701
 July 23, 2008

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AGENDA ITEM NO. 1: Meeting Called to Order.
 Meeting called to Order at 9:00 a.m.

AGENDA ITEM NO. 2: Roll Call.
 Chairman Arvas – present
 Vice Chairman Salmon – present
 Commissioner Buffett – present
 Commissioner McClintic – present
 Commissioner Montoya – present
 Commissioner Simpson – present
 Commissioner Sims – present

QUORUM: present

AGENDA ITEM NO. 3: Introduction of Guests.

Introductions were made by approximately 75 members of the audience.

AGENDA ITEM NO. 4: Approval of Minutes (May 29, 2008 – Farmington, NM).

MOTION: Commissioner Salmon moved to approve the Minutes of the May 29, 2008 State Game Commission Meeting in Farmington as presented. Commissioner Simpson seconded the motion.

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

AGENDA ITEM NO. 5: Approval of Agenda.

MOTION: Commissioner McClintic moved to accept the agenda for the July 23, 2008 State Game Commission Meeting. Commissioner Sims seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. Motion amended by Commissioner Salmon to move Item 26 to precede Item 16; accepted by first and second. **Amended motion carried unanimously.**

NEW BUSINESS:

AGENDA ITEM NO. 6: Revocations Review for 4 individuals: Review of the Hearing Record.

Presented by Dan Brooks – The Department presented the Hearing Officer's recommendation on evidence and current criteria on record for 4 individual cases involving Richard Hidalgo, Gerardo Pacheco, Zachary Flowers, and Nathan Green.

MOTION: Commissioner Sims moved not to adopt the Department's and Hearing Officer's recommendations regarding Mr. Flowers of 1 year and do what is dictated under statute which is a 3-year revocation. Motion failed due to lack of a second.

Commissioner McClintic: In your years of experience what's standard in this situation? Is the hearing officer being more lenient? Does the law say first instance, criminal trespass, 3 years—20 points? Is 20 points 3 years, or do they determine what they think they should do on an individual basis every time?

Dan Brooks: The first question goes back to the law. The 20 points is actually established by the Commission, but in 30.14.1(E) the law says whoever commits criminal trespass is guilty of a misdemeanor. Additionally, any person who violates the provisions of Subsection A, B, or C of this section when in connection with hunting/fishing/trapping activity, shall have hunting/fishing license revoked by the State Game Commission for a period of not less than 3 years pursuant to the provisions of Section 17-3-34, and as reference, 17-3-34 provides for a person to have a hearing.

Commissioner McClintic: So what you're saying, and I'm trying to clarify Mr. Sims' position for you, is that we have a regulation passed by this Commission, yet that doesn't apply if he requested a hearing then what you're saying is the hearing officer can change what that says and recommend how he wants to handle it one way or the other?

Dan Brooks: Yes. What has happened is that the way the Department of Game and Fish rules are the hearing officer looks for mitigation and he is applying it to criminal trespass as well. Your other question was it standard, what's the normal? Criminal trespass currently over the last many years is probably the most mitigated cases that are brought to the hearing officer.

Commissioner McClintic: Don't you think it would be important to the general public/Commission/Department that we get more consistency in our policy as opposed to people thinking that 1 person makes a recommendation and it can go up or down the scale? We just seem to have a problem on this Commission that 99.9% we seem to take the hearing officer's recommendation. So, I hope that this is very trying for me and other members of the Commission/Department and I would like to get more consistency in the hearing officer's rulings. I'd like to have guidelines tightened up to where when people do have these penalties, whatever they say that we should give them we ought to stick close to it. This is creating a tremendous problem with members of this Commission because we continue to get letters and calls from the public because 1 person got this why are we getting this? I'd like to see it cleaned up.

Commissioner Sims: I think we have a vast amount of private land and we've been asking for years that private landowners come on board with the Department and help produce better quality/number and ask them to give us access to their private lands to get to state lands and when it comes down to protecting private property rights, we seem that a first offense is not that big a deal. It's a very viable asset for this Department and this Commission to understand all the rules and act on them because 1 of them is trespass on private land. If we're coming in here and someone had shot an elk and they said they didn't know it was out of season, we're going to give him 1 year. Our statutes are written for a reason and it's time we send a message that as we do with poaching and all our statutes, that we're serious about them, and they're not fluctuating and if there are mitigating circumstances, we understand

that. If there are no mitigating circumstances and just don't know where you are, there are consequences. The consequences are written plainly in the proclamation that you're to know the area you're supposed to be in.

Chairman Arvas: As a result of a lack of a second, we are going to accept the hearing officer's recommendation on Zachary Flowers. Let's have a motion to that effect.

MOTION: Commissioner Salmon moved to adopt the Department's and Hearing Officer's recommendation on revocation and point assessment for Zachary Flowers for the period of time specified. **Commissioner Simpson** seconded the motion.

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

Dan Brooks: Nathan Green was guiding some elk hunters. He trespassed on railroad property and then was subsequently charged and convicted for criminal trespass. The hearing officer's recommendation is revocation of hunting privileges for a period of 1 year to commence at the date of your final action. You also have the criminal complaint form that Mr. Green got for criminal trespass. After that is his conviction. You also have the transcription and the notices sent to him for the hearing.

MOTION: Commissioner Sims moved that we not take the recommendation of the hearing officer and state a 3-year revocation in this case. **Commissioner McClintic** seconded the motion.

VOTE: Voice vote taken. **Commissioners Sims and McClintic** voted in the Affirmative; **Commissioners Salmon, Montoya, Buffett, Simpson** cast dissenting votes. **Motion failed.**

MOTION: Commissioner Salmon moved to adopt the Department's and Hearing Officer's recommendation on revocation and point assessment for Nathan Green for the period of time specified. **Commissioner Simpson** seconded the motion.

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

Dan Brooks: Gerardo Pacheco's case out of Deming involves hunting in the wrong area. He was elk hunting in 16-D and should have been in 16-E. Mr. Pacheco and Mr. Hidalgo were hunting together. I'd like to do them separately and treat each 1 individually. Before you is the hearing officer's recommendation that the Department and Mr. Pacheco stipulate to mitigation as this is Mr. Pacheco's first violation in many years of hunting and he had a license to hunt elk in a nearby area and had been misguided into the wrong area which he was not familiar with. The parties stipulate to revocation of hunting license privileges for a 1-year period commencing from Commission final action. The stipulation is fair and supported by the evidence presented and is adopted as this hearing officer's recommendation to the Commission. He further recommends that the suspension of hunting privileges for a 1-year period to commence from your final date and after that you have several copies of citations that Mr. Pacheco received. He paid the fines on all of those so that actually involved unlawful possession of elk, hunting elk in the wrong unit, and also unlawful killing of elk. The elk was seized and he paid his fine.

MOTION: Commissioner Salmon moved to adopt the Department and Hearing Officer's recommendation on Mr. Gerardo Pacheco for the period of time specified. **Commissioner McClintic** seconded the motion.

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

Dan Brooks: Before you is the hearing officer's recommendation similar to the 1 you just heard. Some mitigation and this is Mr. Hidalgo's first violation in many years of hunting and he had a license to hunt elk in a nearby area and had been misguided into a wrong area which was an area of land he was not familiar with. The parties stipulate to revocation of hunting license privileges for a period of 1 year commencing from final Commission action. The stipulation is fair and supported by the evidence presented and adopted hearing officer's findings and recommendations to the Commission, and he brings forward a similar recommendation which is hunting privileges for a period of 1 year to commence from the date of final action. After that you have a copy of the citation Mr. Hidalgo received, hunting elk in the wrong unit. You also have the findings of the courts and the magistrate's signature on the photocopy, and you have the hearing transcription and other documents.

MOTION: Commissioner Salmon moved to adopt the Department and Hearing Officer's recommendation on revocation and point assessment for Richard Hidalgo for the period of time specified. **Commissioner Simpson** seconded the motion.

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

AGENDA ITEM NO. 7: Revocations.

Presented by Dan Brooks – The Department presented a list of 339 individuals with timeframes the Commission considered for standard revocation that met established revocation criteria—329 revocation candidates: 298 individuals on the certified list received by the Department regarding the Parental Responsibility Act, 20 are wildlife violators, and 4 individuals that had an exception to the hearing, 2 individuals (Andrew Salazar and Larry Horton) on the list asking for a change in status because of point accumulation error, and 4 individuals related to the Wildlife Violator Compact these being violators from other states and because of our statutory obligation under the Wildlife Violator Compact, Section 11.16.1, the Department is bringing forward recommendations for their hunting privileges, and Debra Boyer, outfitter with a 10-point assessment, and 4 individuals for failure to provide proof of commercial liability insurance.

Commissioner McClintic: In looking at the list, the most blatant is Mike Leonard. You awarded 20 points charged and convicted with illegally killing and possessing a deer and yet the mitigating circumstances gave him 6 months. I'd like you to explain the mitigating circumstances.

Dan Brooks: On page 22 is the hearing officer's report which says that the Department and Mr. Leonard stipulate to the revocation of Mr. Leonard's hunting license for a period of 6 months. The stipulation is based on substantial mitigating circumstances in that Mr. Leonard had drawn a permit to kill a deer in the area he killed his deer but Mr. Leonard unknowingly forgot to buy the required license stamp. Mr. Leonard has had no prior violations in over 45 years of hunting in NM. The stipulation as to the disposition of this matter is fair, just, and equitable and supported by the evidence as accepted by the hearing officer's findings and recommendation to the Commission.

Pat Snyder: He had everything but the license. He had previous years' license. He had the permit, he killed it in the right unit, right timeframe—

Luke Shelby: He didn't buy the license.

Commissioner Sims: I notice with Mr. Frank a couple of these mitigating circumstances were with a guide?

Dan Brooks: Yes, that also is an exception and I would like to pull him out and talk about him in detail.

Commissioner Sims: There's another 1 that I read was with a guide.

Chairman Arvas: We're getting disorganized here. Dan, can you deal with the bulk of the revocations to get those out of the way. In other words, the ones that you have no problem with, then we'll go to the 20 and then the others. There are actually 3 different groups.

Dan Brooks: If I may clarify, there are 2 groups but of the 2 groups of the 20, there are 4 that have an exception that the Commission needs to hear.

Chairman Arvas: So we can act on the bulk group without any problem?

Dan Brooks: Correct. It is the standard revocation recommendation that you adopt the Department's recommendation or the hearing officer's recommendation. Basically it's the Department's recommendation on all the individuals other than the 20.

Chairman Arvas: So to make the appropriate motion, is it 300 or 305?

Dan Brooks: It would be 309.

MOTION: Commissioner Buffett moved to adopt the Department and Hearing Officer's recommendations on revocation and point assessment for the attached list of 309 individuals for the period of time specified.

Commissioner Salmon seconded the motion.

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

Chairman Arvas: Let's go to the group of 20 and subtract 4 so that leaves 16 and we'll act on those.

Dan Brooks: I note for the record that Kirk Bonds, Charla Bryant, David Frank, and Abel Ortega have all written an exception to the hearing officer's recommendation.

MOTION: Commissioner Salmon moved to adopt the Department and Hearing Officer's recommendations on revocation and point assessment for the attached list of 16 individuals for the period of time specified.

Commissioner Simpson seconded the motion.

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

Dan Brooks: I'll deal with the remaining 4 alphabetically--Kirk Bonds had a hearing and on page 12 the hearing officer's recommendation says that Mr. Bonds procured an antelope license as an out-of-state resident based on the NM allocated quota system of 12% of the hunts conducted by and through an outfitter. Prior to the hunt Mr. Bonds was told by and received a written release from the outfitter he initially hired to apply for the licenses who indicated that he could hunt without the use of that particular outfitter. Mr. Bonds assumed he could hunt antelope alone without the use of any outfitter and proceeded to hunt and kill an antelope with that license on his own. Mitigating circumstances were produced at the hearing--a letter from the outfitter that was sufficiently vague on its

face to give a reasonable person the impression that he could hunt for antelope alone. The letter stated that Mr. Bonds was released from his outfitter to hunt with whomever he wanted. Mr. Bonds provided testimony from his father and Ms. Bryant, which you will hear shortly, that the outfitter Andrea Hulse, Trophy Ridge Outfitters, had come to Texas and verbally told him that it was okay to hunt alone after procuring the out-of-state license. However, the 2006-2007 Hunting Proclamation (pg. 16) which Mr. Bonds read, does state that the out-of-state hunter must have the use of an outfitter under contract to use such a permit and conduct the hunt. Mr. Bonds could have verified this requirement with Game and Fish before hunting alone, notwithstanding the statements and opinions of the outfitter. This is Mr. Bond's first violation of Game and Fish laws and regulations in any state, including NM. Therefore, based on mitigating circumstances revocation of Mr. Bonds' hunting license is recommended for a period of 1 year. Now, Mr. Bonds once he received that from the hearing officer has written the Commission a letter and says the State Game Commission—I won't go through the technical stuff—Dear State Game Commission: We [Kirk Bonds/Charla Bryant] would like to file a written exception in connection with the notice of results of administrative hearing that took place on June 17, 2008 referenced above wherein the hearing officer recommends revocation and suspension of our hunting privileges for a period of 1 year. We feel that our antelope licenses were not unlawfully procured based on the fact that we were provided the outfitter number by the outfitter to obtain the licenses and were misled by the release letter provided by the outfitter and the conversation with the outfitter which released us to hunt on our own. We would like to recommend the Commission reduce the revocation and suspension of our hunting privileges to zero. We have spent 1 day in jail, paid \$361 each in fines, and are both subject to 545 days probation each, we neither have any prior game violations. Thank you for your consideration in connection with this matter. Sincerely, Frank Bonds and Charla Bryant.

Chairman Arvas: So, what's your recommendation on this?

Dan Brooks: Well, remember what we do is bring forward the hearing officer's recommendation. We had already talked to the hearing officer and felt that it was a violation with less mitigating circumstances than he recognized.

Chairman Arvas: So then you'd like the Commission to take that into consideration?

Dan Brooks: Well, I want to give you the full flavor of the hearing since you asked the question.

Commissioner Sims: Dan, do you feel that there are mitigating circumstances to this?

Dan Brooks: Yes. There are probably some mitigating circumstances. As far as the timeframe, clearly the hearing officer wanted to give them the benefit of the doubt. We didn't quite see it that way.

MOTION: Commissioner Salmon moved to adopt the Department and Hearing Officer's recommendations on revocation and point assessment for the individual Kirk Bonds for the period of time specified. **Commissioner Sims** seconded the motion.

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

Dan Brooks: Next is Charla Bryant who was with Kirk Bonds. She has her own results of hearing but the exception letter is the same. So, the hearing officer's comments to the Commission are the same.

MOTION: Commissioner Montoya moved to adopt the Department and Hearing Officer's recommendations on revocation and point assessment for Charla Bryant for the period of time specified. **Commissioner Buffett** seconded the motion.

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

Dan Brooks: On page 20, you have the hearing officer's results. Mr. Frank was convicted after a San Juan County Magistrate Court jury trial of criminal trespass on private land while guiding and assisting another hunter on a goose hunt. Evidence of substantial mitigation was presented and that Mr. Frank had a goose hunting license but did not shoot at any geese while on the hunt, had no gun with him at all and was only assisting guiding another man and his son who did have guns and licenses to shoot geese on the adjacent public hunting area. During the hunt, they crossed over a downed fence when they went on to a private ranch but did not see any posted signs where they crossed over the downed fence. No geese were shot on the private land by the other hunters. The posted signs were only at the ranch road entrance and not visible to these hunters who walked across the land over the fallen fence in a different area. Mr. Frank has never been convicted of any other game and fish violation in over 40 years. The hearing officer recommends hunting privileges for a year and a half, 18 months. Mr. Frank received that and the Commission may have received this letter and states my name is David Frank. At your next Commission meeting you will likely be advised to consider rescinding my hunting privileges for 18 months. Please take a moment to consider the facts from my side of the story. I was convicted of accidentally trespassing on private property. There was no attempt to prove that I was hunting or guiding at the time of the incident. In fact, the game warden and sheriff didn't even bother to show up to the trial because the state did not press charges in the case, the landowner did. In fact I was not even seen on the property. My friend was the one caught but I admitted being

there because I was but I never admitted being or guiding my friend because I wasn't. The incident happened in December 2005 and the proclamation that year didn't mention that landowners only had to post the vertical entrances to their property and since there was no sign on the fence, and since there were thousands of miles of old BLM fence in this country, and since there was no sign of cattle, private improvements, etc., we assumed it was BLM land. My friend who was hunting pled guilty to hunting while trespassing. He was not fined or threatened with losing his hunting privileges because I believe there was reasonable doubt. I fought the trespassing charge but in the end lost. After my conviction I was fined \$500 by the judge. He said he saw no reason to bring my hunting privileges into question since that had never been an issue brought up during the trial. Now 2 years after the conviction I am having to defend myself from the very accusation, namely, that I was guiding my friend when he was caught. I ask you, is that fair? Because of these facts I have to ask myself who in the game and fish would suddenly get the zeal to prosecute me after 2 years and why? If the sheriff deputy and the game warden didn't think this was a violation worth issuing a citation when they checked us and neither one bothered to testify at the trial, why all of a sudden this interest in a 2-year old conviction? Sure I made a mistake only that I will never make again. I have paid for it both monetarily in headaches and heartaches. Have you ever accidentally broken a traffic law? What if the police then decided you should have your driver's license revoked? I have hunted in NM for 4 years with no problem whatsoever. On the first incident, even if nothing was harmed and the signs were not in place to let you know you were doing wrong. Even the head of the Game Department made a similar mistake and he was actually hunting and killed game, so I am asking for some understanding and mercy, please. I don't think I should have my privileges rescinded for any amount of time, or in that decision I would at least ask you to consider imposing the sentence after the September bow hunt, since I had already applied and for once got drawn to my favorite hunting area before I was informed of these proceedings. My son and I have already got vacation days reserved for the elk bow hunt. Since this happened so long ago what difference would a couple more months mean? Thank you for your consideration. My hope is that you will show me that fairness and common sense is still part of the governing process.

Commissioner Sims: I have heartburn when I read his letter stating I'm having to defend myself from that very accusation. I was guiding my friend who was caught. I ask you is this fair? So, he was caught because of his friend? Is that the way you take that?

Dan Brooks: Yes. This is a criminal trespass case and although it doesn't really matter—

Commissioner Sims: Is this guy a registered guide? He was guiding?

Dan Brooks: Not that I'm aware of. He was assisting. Guiding can mean many things to many people. I think what you've picked up on is clearly the hearing officer found that he was guiding someone. He is telling you something different.

Commissioner Salmon: This is a situation where they crossed the fence property and in such a situation am I right in thinking that the fence need not be posted if the entrance entry ways to the pasture are posted? Is that the way the law reads?

Dan Brooks: That is correct. The trespass law requires that posting be at all points of access. So if the fence is up, how many strands are up or high it is doesn't matter. If there's a fence there it's within the law.

MOTION: Commissioner Sims moved not to take the Hearing Officer's recommendation and to suspend David Frank's hunting privilege for 3 years. Motion failed due to lack of a second.

MOTION: Commissioner Salmon moved to adopt the Department and hearing officer's recommendation on revocation and point assessment for the individual David Frank for the period of time specified. **Commissioner Simpson** seconded the motion.

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

Dan Brooks: On page 26 is the hearing officer's report. Mr. Ortega was convicted of shooting at an elk decoy with a muzzle loader from within his vehicle on a public road with only a bear license. Mr. Ortega's actions were knowing and flagrant violations of game and fish law, no evidence of any mitigating circumstances were presented, Mr. Ortega was the driver and his nephew, passenger in Mr. Ortega's vehicle, had already shot at the decoy elk from outside the vehicle before Mr. Ortega then shot from within the vehicle and had time to deliberate on his actions. The following is recommended regarding the hunting/fishing/trapping license and all other license and privilege certificates recommendation and suspension of all license privileges for a period of 3 years. Mr. Ortega has written an exception. He says regarding notice of results of administrative hearing I wish to request a hearing to contest the decision made on my case in June 23, 2008, if possible to have a less suspension privileges of this action. Thank you. July 10, 2008. Abel Ortega. In other words, he's asking for less or another hearing.

MOTION: Commissioner McClintic moved to adopt the Hearing Officer's recommendation on revocation and point assessment for the individual Abel Ortega for the period of time specified. **Commissioner Simpson** seconded the motion.

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

Chairman Arvas: Could you give the public an estimate of how many revocations on an average year appear before the Game Commission?

Dan Brooks: I estimate that the Game Commission hears 1,800-2,500 revocations a year, and several hundred per meeting. To clarify, a lot of those are under the Parental Responsibility Act, people that are not in compliance with their child support. They cannot have a recreational or professional license.

Chairman Arvas: As the public can understand, this is a very serious issue and we have a lot of people that are violating our rules and regulations. As a result of the serious concern about this violating factor, the Game Commission last November opened up the revocation rule and sometime in the near future, we're going to look at that revocation rule closely.

AGENDA ITEM NO. 8: Catch-a-Dream Non-Profit Organization.

Presented by Dan Brooks – The Commission was requested to consider approving Catch-A-Dream, Inc., as a non-profit organization/wish-granting organization to designate applicants eligible to receive donated/qualifying hunts in New Mexico. This organization allows kids under 18 to participate if they have a life-threatening illness and if they haven't had a hunt/fish award granted elsewhere. The Commission previously designated 2 wish-granting organizations to participate in donated hunting opportunities and this would be the third wish-granting organization allowed to participate.

Bill Ferranti: I'm from the TWC/Double H and we support this proposal.

MOTION: Commissioner McClintic moved to allow and recognize Catch-a-Dream Foundation, Inc., as a non-profit wish-granting organization that may qualify recipients to receive donated hunting licenses following all applicable rules and laws. **Commissioner Simpson** seconded the motion.

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

AGENDA ITEM NO. 9: Reservation of 2 Elk Licenses for Non-Profit Wish-Granting Organizations.

Presented by Dan Brooks – Under Section 17-3-13.5, state law allows 2 licenses to be reserved for youth hunting with any legal weapon in any area where elk hunting is legal. The Department presented 2 names and 2 alternative names for the Commission's consideration to reserve 2 elk licenses through Outdoor Dream Foundation and Hunt-of-a-Lifetime from September 1 through December 31, 2008, for 2 qualifying individuals under the age of 21. The 2 individuals—Ben Carlson from Catch-A-Dream, and Pearl Lynn Barr from Outdoor Dream Foundation, both juveniles suffering from life threatening illnesses, and Tyler Tankersley and Michael Bruner are the alternatives.

Chairman Arvas: Explain to the public how the Department participates in terms of cooperation.

Dan Brooks: These groups submit names for our consideration. They allow us to know what the illnesses are and it gives the Department a chance to help them. There are other hunts they go on but these 2 elk hunts are important because they are allowed to get a trophy.

Chairman Arvas: Go into more detail about which hunts they're allowed to go on.

Dan Brooks: These 2 the Commission is approving are elk hunts that are good statewide from September 1 through December 31 with any legal weapon type.

MOTION: Commissioner Simpson moved to accept the Department's recommendation and reserve 2 elk licenses for the 2 individuals brought forward as named, plus their alternates, should the primary individuals not be able to participate in their elk hunt. **Commissioner McClintic** seconded the motion.

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

AGENDA ITEM NO. 10: Importation of Live Non-Domestic Animals, Birds, and Fish, (19.35.7, NMAC).

Presented by Dan Brooks – The Department highlights considerations proposed in developing a Director's list of prohibited/domesticated/allowed (with permit), and under review lists to assist in importation determination and criteria. Because of changes, there are grave concerns about invasive species; consequently, the Department has dealt with disease concerns in the past from free-ranging and captive species of wild animals.

- Give the Director the ability to maintain a list of different prohibited/allowed/domesticated species;
- There is a need to look at the importation rule in reference to invasive species; and
- Work with fish suppliers regarding locations and assurances that they don't have any invasive species and we'll be seeking written assurances from suppliers that they're free of aquatic nuisance species.

Commissioner Sims: I understand why we're doing this and I'm looking at the list, but Russian boar is a feral hog. Is there a process that we're going to determine whether the hog being brought in is feral or non-feral?

Dan Brooks: If the Director has the approval, we have the latitude that if it's viewed as domesticated, it'll go on that list and no permit is necessary. I can't answer the question about what's feral and what's not, but what's important is that when we look at Russian boars, it could be considered wild by nature and they're invasive.

Commissioner Sims: Are we or the livestock board going to be making that determination because as a Commission we need to act on it especially when we're doing case-by-case?

Dan Brooks: I can clarify most of the Suidae which are feral pigs. The livestock board does have jurisdiction. We do not try to exert our authority. What we look at is this a wild-by-nature animal, not domesticated.

Commissioner Sims: How are we going to tell?

Dan Brooks: We deal with importation on a case-by-case basis. As people bring forward applications we look at the exact animal we're trying to bring in, so we'd be able to make a determination.

Commissioner Sims: But in bringing that in the livestock board is going to issue a permit whether to transport that animal into the state or not. If the livestock board issues them a permit to transport that hog are we saying we're going to have authority to overrule what the livestock board says?

Dan Brooks: No, that's not the purpose. We work hand-in-hand with the livestock board and if they're going to recognize it as property someone owns as a feral pig or domesticated pig we don't intervene.

Director Thompson: This rule is open and subject to public comment and your point is well taken. We will examine that in close detail with the livestock board and with the Department of Agriculture to make sure there is no conflict.

Commissioner Salmon: I've known people who've raised European hog and it appears if raised in a pen like domestics, they're no more wild than any other hog. On the other hand domestic pigs turned loose revert to the wild and it's a sticky wicket to try to determine which is the wild-by-nature animal.

Discussion item only.

AGENDA ITEM NO. 11: Adoption of the 2008-2009 Resident Upland Game Rule, 19.31.5, NMAC, and Migratory Game Bird Rule, 19.31.6, NMAC.

Presented by Tim Mitchusson - The Department presented updated drafts of the 2008-2009 Resident Upland Game Rule, 19.31.5, NMAC, and the 2008-2009 Migratory Game Bird Rule, 19.31.6, NMAC, for adoption. The main thing is the Department is removing several species out of the Upland Game Rule, migratory birds/dove/band tailed pigeons/Sandhill crane/September teal. We're also proposing making Upland Game Rule effective for 2 years 2008-2009 and 2009-2010 instead of an annual rule. Blue grouse the Department is proposing requiring a statewide free permit. The permit can be obtained over the internet/website or through Department offices. We're also proposing adjusting the Pecos season dates for 2008-2009. When this experiment was proposed last year, the Commission directed the Department to have the season date the weekend prior to 9/1/2008. This year that will be Aug. 30 which is Labor Day weekend. The Department would like direction from the Commission if the Commission would like to maintain this or if they'd like to move back to 8/23/08. For lesser prairie chicken the Department is proposing a limited draw hunt with up to 50 permits and 5 falconry permits. It would be a 2-bird per day, 2-bird per season limit. The rule establishes hunt boundaries and hunt requirements. Efforts that the Department/landowners have made to increase these species have been successful in NM. The Department believes outdoorsmen ought to be able to take advantage of the population increase. For pheasant we need to suggest season dates for the current calendar year. For squirrel/quail maintain current regulations and bag limits. For our management areas we're proposing allowing upland game hunting on the Socorro Escondido tract and the new Sandhills Prairie Conservation area. For falconry we need to adjust the season dates to conform to the current calendar year.

Director Thompson: You will notice there is a recommendation for limited lesser prairie chicken season and I wanted to call your attention to 1 additional item and that is the regulation proposes or provides for up to 50 permits. That is not an automatic. It provides that the Director and Chairman will identify based upon evaluation of biological information and other factors what an appropriate number might be. The other thing I'll emphasize is that this of course would bring back after a number of years without a prairie chicken season an ability to have some limited sustainable harvest of a species that the Department has spent a great deal of time and continues to spend time working to conserve. That's an extremely significant consideration that's embedded in this upland game regulation this year.

Tim Mitchusson: Also in that regulation it does stipulate that the Director and Chairman do have the option to not have this hunt if mitigating circumstances are present.

MOTION: **Commissioner McClintic** moved to change the dates on Blue grouse from current August 30 back to August 23 and continue through Oct. 15.

Tim Mitchusson: We'll also need to amend that for 2010 which will be Aug. 22 I believe.

Commissioner Sims seconded the motion.

Commissioner Simpson: When is the public going to have the opportunity to comment?

VOTE: Voice vote taken. **Commissioners Buffett and Simpson** dissented. **Motion passed.**

MOTION: **Commissioner Buffett** moved to amend the motion to strike approval of the lesser prairie chicken hunt.

Chairman Arvas: So you don't want the hunt at all?

Commissioner Buffett: That's correct.

Director Thompson: After working for quite a number of years with other agencies as well as the Department, the recognition that there is a substantial number of Lesser prairie chickens in the state with a healthy population within bounds, so this is simply a recognition that this is a species that can be sustainably harvested within limits and also offer some additional opportunities and time for the generation of additional financing for lesser prairie chicken habitat restoration and conservation. So that's the basic rationale behind it. We recognize that there are concerns that this is a species that is viewed as at risk, has been under consideration for some time by USFWS for listing; however, enjoys a rather strong situation regarding distribution and populations. That's why the proposal is to have it be a very constrained endeavor. That's essentially the rationale.

Tim Mitchusson: Also, our population after our survey is currently around 8,000 birds this year. Our proposed hunt would remove 100 birds which is 1.3% of our population. This population could easily withstand 100-bird harvest.

Commissioner Buffett: Do our oil/gas guidelines make recommendations for oil/gas operations in lesser prairie chicken habitat?

Tim Mitchusson: That's out of my purview, but yes, the Department does make recommendations for oil/gas and a large part of the area that's concerned is not in the oil/gas areas. Our hunt boundary is north of U.S. 380, the main population concerned with oil/gas is south of 380 so that area is not even in our hunt zone.

Commissioner Buffett: I found it curious that we got a request from BLM to be more concerned with conservation of a species. That was not the usual letter I would have expected to receive from BLM. I wanted to know if we truly have a healthy population at 8,000? What's the status with the federal listing? What do we need to get to?

Grant Beauprez: The population is healthy considering past spring surveys. In 2001 the estimated population was about 3,400 birds so we've increased the population 2½ times. It went down last year due to drought and this year it went back up. Over the past 8-9 years it's been on the increase significantly. So in the primary population area which is basically the hunt boundary between U.S. 60/U.S. 380, as far as the listing recommendation, USFWS review every year the status of Lesser prairie chicken and consider all the threats whether it be oil/gas, agriculture or whatever it may be that threatens lesser prairie chickens as well as hunting. They don't consider hunting a threat especially in NM considering how small a number of take that there will be and how management will be especially since it's only going to be in the primary population area.

Commissioner Simpson: Would someone identify how these 50 permits are going to be issued/allocated and what the particulars are?

Tim Mitchusson: It's by drawing like any of our other small game hunts. Apply for the permit and if drawn you'll receive the permit along with the hunt letter with all requirements and hunt boundaries specified in the rule.

Commissioner Simpson: Is there any application or distinction between resident/non-resident?

Tim Mitchusson: No, there's not.

Commissioner Simpson: Is most of this land public or private?

Tim Mitchusson: Majority of the lesser prairie chicken habitat is private. We do allow prairie chicken hunting on our Sandhills Prairie Conservation Area and all of our state lesser prairie chicken areas.

Commissioner Simpson: So to hunt on private land you need to have an authorization, correct?

Tim Mitchusson: Yes.

Commissioner Simpson: This would be part of the lottery system we have, not only big game but same type of scenario, right?

Tim Mitchusson: Yes, it would.

Commissioner Simpson: And what would that application and drawing time be?

Tim Mitchusson: That deadline date I believe is September 10.

Commissioner Simpson: I too join Sandy's concerns about the hunt. There are a number of organizations, BLM/Audubon and others that contacted me that we are trying to promote and there wasn't good information to make sure everybody was comfortable so I suggest we don't hold the hunt.

Commissioner Simpson seconded the motion.

Director Thompson: One additional piece of information is that I fully respect and understand the question or concern raised by Commissioners Buffet/Simpson. I add, and I'm not sure if we're speaking of the same letter, but I received a letter from the State BLM Director as well and the letter primarily expressed concern about whether the

working group was adequately informed. I don't know the answer, but I'm meeting with the State Director of BLM on Friday of this week to discuss lesser prairie chicken and other conservation matters, so nothing has been conveyed thus far to indicate other than a concern that this be done appropriately and I think that that's the proposal before the Commission.

Commissioner Buffett: What are the proposed dates for lesser prairie chicken hunt?

Tim Mitchusson: Should be in mid-November.

VOTE: Voice vote taken. **Commissioners Buffett and Simpson** voted in the Affirmative. **Commissioners Salmon, McClintic, Sims, Montoya** dissented. **Motion failed.**

Greg McReynolds: I'm concerned with 2 weeks early for the GS 1-E. That seems excessive. I'd like to see the Commission extend the season to the way other Rocky Mountain states have them. Let's take it all the way to January but not put an extra week on the front. I'd rather see the whole season open that Saturday, August 30 and add a week to the end instead of the front for 1 unit.

Chairman Arvas: We've acted on that and next time we'll try to get to you earlier.

Luke Shelby: Commissioner Buffett, did you get the dates you wanted on the prairie chicken?

Commissioner Buffett: You said mid-November?

Luke Shelby: Right. It's Nov. 22 through Nov. 30 for 2008, and Nov. 21 through Nov. 29 for 2009.

Commissioner Simpson: I raised concerns about making sure that the public commented before we voted. I think it's ridiculous to have the special area in the Pecos when it was 2 days earlier and now it's a week earlier. The key thing is the Commission ought to consider rescinding the extra permit because in the Albuquerque office a member of the public told me the permits weren't there yet. I suggest opening it up and consider a grouse hunt Aug. 30 through Nov. 19 and that way we have 1 system, there's no special unit, and there's uniformity, open on the weekend and close on the weekend. When we have multiple approaches, it doesn't give the Commission/audience the opportunity to say what the particulars are and this is the way things get rammed down without adequate participation.

Director Thompson: This is not the first year for this. The experimental grouse season began last year and the rationale basically was that it was in fact possible to time a hunt then and conduct it without interfering biologically with young birds and they would be timed so that it didn't interfere with the Labor Day weekend. It was an oversight on our part when this regulation was proposed believing that Labor Day was later. Aug. 30 and 31 didn't meet the original intent which was to provide 1 week prior to that period, and that's to reduce the prospective interferences that can happen between grouse hunters and other Labor Day recreationists and also the beginning of big game season. This is the second year. This is a 2-year regulation proposal so it would allow for a 3-year experimental period at which point data what's being collected can be fully evaluated to determine if it's continued that way or changed.

Commissioner Buffett: What sort of biological data was gathered in last year's experimental hunt?

Tim Mitchusson: Larry Kamees conducted phone surveys but I don't have any other information at this time.

Commissioner Buffett: I'm recalling when we discussed this last year and 1 of the suggestions was that we have gathering of biological data from this experiment, so after this meeting can you provide to us what was gathered?

Tim Mitchusson: I will assign Larry to get you that information.

Commissioner Simpson: I would like to have an exception to the grouse season statewide.

Chairman Arvas: That's all inclusive.

Commissioner Simpson: I understand that. On a motion I think we need to set it aside.

Chairman Arvas: No, we've already changed the dates of the grouse season. All we need now is a general motion to accept the Upland Game rule as recommended by the Department, other than the motions that have already been made and changed.

Commissioner Simpson: For the grouse season, would someone give me the dates statewide?

Chairman Arvas: Aug. 23 to Oct. 15.

Commissioner Simpson: My point is Oct. 15 is a Wednesday and you need to extend it to the 19th which is a Sunday, and it gives the hunter an opportunity to extend and go through the weekend instead of stopping it in the middle of the week.

Chairman Arvas: Would you like to make a motion to that effect?

MOTION: **Commissioner Simpson** moved to extend the Blue grouse season from Aug. 23 to Oct. 19.

Commissioner McClintic seconded the motion.

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

MOTION: Commissioner Salmon moved to adjust the 2009 grouse season to begin Aug. 22 and end Oct. 18. Commissioner Buffett seconded the motion.

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

Commissioner Simpson: I'd also like to go over the quail scenario because I have the same concerns about opening/closing in the middle of the week so please provide for the public and I for the quail hunt season opening/closing and then if we need to adjust those to open on a Saturday and close on a Sunday.

Tim Mitchusson: Those season dates have been that way for ages. It's always been Nov. 15 through Feb. 15 regardless of what day it opens. There are some arguments from avid quail hunters that they don't want all those hunters out there to chase them on the weekend so we'd like opening on Wednesday so we can be out there. The arguments are on both ends.

Commissioner Simpson: I've heard those arguments for years. I've got a number of suggestions over the years that they want it opened on Saturday and closed on Sunday. I'd like to amend those season dates for 2008-2009 that allows that as long as they're within close association with 2008 opening Nov. 15 and 2009 Nov. 15.

Director Thompson: Perhaps a handy way to handle this is if you were to make a motion that the season open on a Saturday nearest Nov. 15 and close on the Sunday nearest Feb. 15 you won't have to deal with the calendar. We can then take care of adjusting it.

MOTION: Commissioner Simpson moved that the 2009 quail season open on the Saturday closest to Nov. 15 and closed on the Sunday nearest to Feb. 15. Commissioner Salmon seconded the motion.

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

MOTION: Commissioner Salmon moved to accept the Department's proposed changes to the Upland Game regulation 19.31.5, NMAC, for the 2008-2009 license year and make this rule a 2-year regulation cycle; remove dove, band-tailed pigeon and Sandhill crane from this rule; approve the Lesser prairie-chicken hunt; require grouse hunters to obtain a free permit; and adjust upland game season and falconry season dates, bag and possession limits for the current calendar year including the amendments made regarding quail, prairie chicken, and Blue grouse. Commissioner Montoya seconded the motion.

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

Tim Mitchusson: The main change is the name change from Waterfowl Rule to the Migratory Game Bird Rule. With this we will include doves, band-tailed pigeons, Sandhill crane, and September teal. We're going to allow migratory game bird hunting on the Socorro Escondido tract and the Sandhills Prairie Conservation Area. We're proposing allowing dove hunting at La Joya Waterfowl Management Area east of the railroad tracks, and require waterfowl hunters at Bernardo/La Joya Waterfowl Management Areas to have a free permit. For applications, we're proposing allowing free band-tailed pigeon, Middle Rio Grande dark goose, and the Bernardo/La Joya Waterfowl Management Area permits to be obtained through the Department website. To do this we will require eliminating the tagging requirement for Middle Rio Grande dark geese. We're proposing increasing the season length 23 days on Middle Rio Grande dark geese, and proposing changing the daily bag limit and seasonal limit to 1 goose. For the Bernardo youth waterfowl hunts we're changing the regulation to allow a maximum of 2 applications to be drawn/issued for this hunt during any license day, and also to allow youth hunters north of U.S. 60 during each day of September teal and youth waterfowl days to hunt in that area. For the Bottomless Lakes overflow wetland we'd like to establish hunting hours for waterfowl/crane to ½ hour before sunrise to 1:00 p.m., and for Sandhill crane we're proposing increasing the Middle Rio Grande Valley crane permits, and we're proposing increasing the bag limit from 2 per day, 4 per season, to 3 per day, 6 per season, to take into account our increasing allotment, and there's no change for the Estancia Valley and southwest crane hunts. For ducks we're proposing continuing the hunters' choice evaluation in the Central Flyway. This will require partial season on Pintails and Canvasbacks again if approved by USFWS. USFWS is considering increasing wood duck bag limit, reducing the scaup season and closing the Canvasback season so this will impact whether or not we are allowed to continue with the hunters-choice evaluation. Our duck season frameworks won't be published until early Aug. For migratory game birds and falconry we need to adjust the season dates and bag limits for the current calendar year and federal frameworks. In Valencia County we're proposing allowing the Department to establish spot closures on the Rio Grande and Valencia County for waterfowl/Sandhill crane hunting in areas where public safety risk has been verified. The main area is in Los Lunas around Banco Road. The islands you can see in the circle and what happens is the hunters get on these islands, sun to their back, and they shoot toward the west and they've been peppering houses in this area. The Department proposal is we go at the beginning of the season, talk to these hunters, and if they're not willing to abide by our request to not hunt this area, we will post this area as a closure. We request the Commission

to allow the Department discretion to adjust waterfowl season dates and bag limits to conform to federal frameworks.

MOTION: Commissioner Simpson moved to accept the Department's proposal to replace Waterfowl regulation 19.31.6, NMAC, with the Migratory Game Bird regulation 19.31.6, NMAC, for the 2008-2009 license year and include dove, band-tailed pigeon, and Sandhill crane into this rule; adjust hunting and falconry season dates, bag and possession limits, and permits for migratory game birds; allow dove hunting on La Joya WMA east of the railroad tracks; require hunters on Bernardo and La Joya WMA's to obtain a free permit; redefine requirements to obtain Bernardo youth waterfowl hunt permits remaining after the draw; designate hunting hours on the Bottomless Lakes overflow, designate areas on the Rio Grande in Valencia County where migratory game bird hunting is not allowed; and allow the Department the discretion to alter season dates and bag limits for waterfowl if necessary to conform to federal frameworks. **Commissioner Salmon** seconded the motion.

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

Chairman Arvas: There was some question about the Upland Game rule in terms of the grouse season dates.

Luke Shelby: The Department needs clarification from the Commission regarding the season dates that were moved. In your books, go to tab 11, page 11, Upland Game rule, about ½-way down, where it reads 19.31.5.10, Open Area Season Dates, the motion was made to change the opening date to Aug. 23, and we need to know if that is for all of the seasons as in GS-1, GS-1 E, the experimental area, and GS-2, or just GS-1 E area that we were discussing?

Chairman Arvas: Commissioner McClintic says it was his intention to make it GS-1 E only.

Luke Shelby: So as listed there, GS-1, Sept. 1 through Oct. 15 stays intact?

Commissioner McClintic: Yes.

Luke Shelby: GS-1 E opening date Aug. 23 and closing date Oct. 15 for 2008?

Commissioner McClintic: To Oct 19 for 2008, then 2009 would be Oct. 18?

Luke Shelby: Then 2009 beginning date Aug. 22 to Oct. 18, and no change to GS-2 season?

Commissioner McClintic: Correct.

Commissioner Simpson: That was not my motion, and I made those comments on those season dates. There's a lot of confusion but I wanted a statewide season starting Aug. 30 ending for example 2008. I recommended a statewide season for all 3 areas opening Aug. 30 and ending Nov. 15, that way there's 1 uniform date/time statewide. The only exception is GS-1 E with those dates.

Chairman Arvas: It's my interpretation that we were talking about GS-1 E when we made that Aug. 23 through Oct. 19 date. Was that your intention, Commissioner Salmon?

Director Thompson: According to my notes, Commissioner McClintic made the motion regarding the Aug. 23 start point, and we were only discussing GS-1 E at that point.

Chairman Arvas: So that would leave the rest of the grouse season dates as are stated and recommended by the Department.

Luke Shelby: That's correct.

Commissioner Simpson: No, that's clear because that's what I objected to and I thought that's what we voted on—an Aug. 30 ending Oct. 18 statewide season dates for all 3 areas.

Chairman Arvas: I'm sorry for the confusion, but that's the way it is and the Minutes will reflect that and I think the Director is right and Commissioner McClintic did make the motion to change those dates. Initially from Aug. 23 to Oct. 15 and then you commented about Saturdays so that went to the 19th.

Commissioner Simpson: Anyhow, I think you misinterpreted it. The Department wanted clarification so I'm just providing clarification so we don't have miscommunication. I think you've inaccurately stated what I intended.

AGENDA ITEM NO. 12: Proposed GAIN Rule (19.34.3, NMAC) Change Regarding Dogs and Other Domestic Animals on Commission-owned Properties.

Presented by Luke Shelby – The Department presented to the Commission a proposal initiated at the May 29, 2008 Commission meeting in Farmington to restrict the use of dogs for hunting purposes on Commission-owned properties only during seasons when dog use is allowed and to ensure that dogs or other pets are leashed when on a wildlife management area except for hunting purposes during established seasons. The Commission approved re-naming 2 recently acquired properties which involved new terminology which should be included under the pertinent section of the rule. The new terms are conservation/wildlife management areas and under the proposal will be incorporated into the definition section of the rule that provides a description along with the WMA that the Commission has control over.

MOTION: Commissioner Salmon moved to accept the Department's recommendation to amend Rule 19.34.3, NMAC, to read: It shall be unlawful to possess canines or other pets on any Commission-owned property that are not leashed. Exception: Dogs may be unleashed for hunting purposes during established seasons only and only on Commission-owned properties where rule allows for use of dogs for hunting purposes. Also, add the term Conservation Area to the Wildlife Management Area definition in the definitions section of the rule. **Commissioner Buffett** seconded the motion.

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

AGENDA ITEM NO. 13: Update on Opportunities Available Pursuant to the Governor's Special Events Authorizations.

Presented by R.J. Kirkpatrick – The Department provided the Commission with a summary of the Governor's Special Events Authorizations Program and prospective opportunities for the upcoming hunting season. The program initiated by legislation authorized the Director of the Department to issue authorizations to Governor's appointed individuals for special events called by the Governor specifically for wildlife conservation-type activities and to help fish/wildlife conservation funding endeavors.

Chairman Arvas: I do want to call the Commission's attention to page 7, item 10, the Director with the concurrence of the Chairman of the State Game Commission may consider the Governor's request for a specific game bird or trophy fishing opportunities and provide authorization listing specifics that are consistent with sound and appropriate fish and wildlife management. It's important that the public know that the Commission actually is involved in the whole regulation itself. The Director does the allocation and serves under the pleasure of the Commission.

Commissioner Sims: It doesn't read that the Commission will be involved in that direction. The Director with the concurrence of the chairman testifies that the Commission is involved in that.

Director Thompson: What you're reading is the entire regulation that the Commission approved for this entire purpose which is what is referred to. If you go to page 4, Title 19, Chapter 31, Part 19, Governor's Special Events Authorizations.

Commissioner Sims: I'm stating that it's not the Commission, it's in concurrence with the Director and Chairman, and I wanted to make that correction.

R.J. Kirkpatrick: For clarification, that particular Section 10, Paragraph 10, only applies to specific game bird or trophy fishing/hunting opportunities. The reason for that paragraph is that sometimes game bird hunting opportunities aren't specified by hunt code or set with limits in rule as many draw hunts are for big game species, turkey, etc., neither are fishing opportunities typically specified in rule by hunt code or with specific application and draw endeavors next to them. That paragraph is more directed at game bird or trophy fishing/hunting opportunities that may be asked for and what would be required for example if the Governor's staff asks for a permit to auction off an authorization for an individual to catch 47 Gila trout and use spinners and power bait to do it, the Director and the Chairman will discuss whether that is appropriate and sound fish/wildlife management and weigh the request against that.

Chairman Arvas: Commissioner Sims is asking whether it's possible for the Director and Chairman of the Commission to do anything of that nature without the inclusion of the whole Commission.

R.J. Kirkpatrick: Yes, it is. All of the provisions in the rule would allow for the Director and in some instances with the concurrence of the Chairman to make these fishing/hunting opportunities available.

Director Thompson: If I could direct the Commission's attention to page 5 of this agenda item, the very bottom says, Upon ensuring that the requested . . . , to the next page, you'll notice that this entire rule provides that all of these hunting/fishing opportunities must comply with rules adopted by the State Game Commission. This was already prepared to contemplate Commission action regarding overall hunting/fishing operations, and then these opportunities are built consistent with that.

Commissioner Buffett: A comment on the letter of the statute v. spirit of the statute, I'd request for transparency that by e-mail the Commission is apprised of decisions on these actions.

Commissioner Simpson: Item 10, page 7, what would it take to amend that?

R.J. Kirkpatrick: It would simply take the Director directing me to put forth an agenda item to potentially amend this rule.

Commissioner Simpson: When would that come up?

R.J. Kirkpatrick: Earliest date would be Oct. 2, the date currently scheduled for a Game Commission meeting.

Commissioner Simpson: I suggest that in order to make sure that that is followed through the Department come up with a regulation change that says with the concurrence of the chairman and that the Commission is notified of all these actions so that it's in there and it's a requirement.

Chairman Arvas: We can certainly do it that way if you'd like and I can have the Department prepare that as a separate agenda item with specific wording. I think it's possible the Commission wouldn't be apprised of something like this, but hopefully not in my tenure, so if that's something you need to decide and you want to do, we'll make that an agenda item but I can't imagine I would act without you being aware of what's going on, and the Director isn't going to do that.

Commissioner Simpson: I'd like to remind you of the antelope scenario in Roswell and other instances where not even the Commission or Chairman knew what was going on so as Commissioner Buffet said we want it transparent, out in the public, so we need to know what's going on.

Chairman Arvas: Let's have the Department draft a recommended revision of that rule and then we'll have all Commission members review it, and we'll have until the Oct. 2 meeting to do that. I'll get it to each of you and see if that's what you want.

Director Thompson: I offer this as a prospective consideration for the Commission. Rather than trying to do this regulation by regulation, the Commission could adopt a policy and we'd be pleased to prepare a draft policy for your consideration that addresses this particular desire across the board, rather than going in on a regulation-by-regulation basis.

Chairman Arvas: That would be more inclusive, is that satisfactory?

Commissioner Simpson: I'd like to have both considerations as an option.

Chairman Arvas: Let's have both considerations as an option and see what the pleasure of the Commission is.

Discussion item only.

AGENDA ITEM NO. 14: Update on Progress of Big Game Rule Development Process.

Presented by R.J. Kirkpatrick –At a Commission meeting earlier this spring, the Department requested the Commission to open big game regulations for the 2009-2010 and 2010-2011 hunting seasons. The update summarized public involvement to date and highlighted the most beneficial and challenging components. All appropriate species' plans and Department strategic plan were utilized as guidance in developing the big game rules draft.

Steve Henry: I sit on the Board of Trustees of Valles Caldera National Preserve. We're coming up with ideas to maximize funding for the Preserve. Enabling legislation to create and purchase the Preserve requires that the Preserve be financially self-sustaining by 2015. We'll organize something where 3 of the Commission members at a time can tour the Preserve to help you understand our mission, and why we ask for some of these special things.

Commissioner Sims: I'm looking at 2008 licenses/proposed licenses on elk and I notice the changes made, but in the northeast the proposed changes are for an additional 53 cows. What process did it take for you to come up with that?

R.J. Kirkpatrick: I'd have to look at the data on a game unit by game unit basis. Probably the most significant change in the northeast area regarding public draw hunting is the initial suggestion to reduce the number of hunters on the Valle Vidal because we've been receiving concerns from hunters that we're putting so many into the Valle Vidal that that unique once-in-a-lifetime status is being jeopardized by overcrowding. In addition, we had significant antlerless hunting opportunities over the rule we're in now because neighboring ranches weren't harvesting elk at very high levels and we felt we needed to bring those populations down. Subsequent to that, Vermejo Park and neighboring ranches have stepped up their cow harvest which eliminates our need for aggressive cow harvest on that property. Additional hunting opportunities may be why you're seeing additional elk hunting opportunities in some of those northeastern units where your property is. There is accessible public land that has elk on it so we want to get hunters in there.

Commissioner Buffett: I'd be interested in having more detail and discussion in August on the bear and cougar rules. I attended a presentation on the 3 recommendations regarding female cougars and am especially interested in the online hunter education Colorado passed which seems quite effective. I'd like to hear more on that and the entire slate of recommendations on protecting female cougars in the state. On bears I'd like to know more about the Jemez/Manzano populations in light of the recent fires.

R.J. Kirkpatrick: Would you like information delivered to you or arrangements made to visit with you prior to the August meeting?

Commissioner Buffett: Yes, I'd be happy to visit prior to the August meeting and to have it on the agenda for discussion.

Bill Ferranti: I represent Torstenson Wildlife Center/Double H Ranch. My concern is the ability of a unit-wide hunter to come on to private land and shoot an elk. If he tags that animal legally, the Department at this time can't confiscate that animal. You can get them for trespass but you can't confiscate the animal and he's also not subject to the new civil penalties regulation that was passed 2 years ago, while on public land if he shot it illegally, he would

be under that regulation. We're concerned that what you're doing is encouraging people to come on to private land and shoot something. In our case someone can come on to the ranch and shoot a 400-point bull, be able to take it home and I don't think that's the spirit of the law.

Commissioner Arvas: Bill, I've been advised that your request is under serious consideration and you should see it reflected in the big game regulation this year.

Robert Espinoza: The increased opportunity for youth hunts is 1 of our organization's big pushes. More opportunity for youth is a good thing and hopefully that'll come to fruition and more detail we can provide our members and sportsmen. Also, we'd like to see more information available on the website.

Jan Hayes: I'm with Sandia Mountain Bear Watch/NM Bear Watch. NM has come a long way in the management of the bears and our hope is that we continue to improve the management of this species.

Commissioner Simpson: In reference to setting this expanded harvest unit we had a hard core number and the Department is proposing a sliding scale be allowed and basically the Department consider and I support your recommendation because it allows for slow reporting or inaccurate reporting, you have some caution there on the number of bears kills and it stops the hunt for any excess to basically go over the limits that we're targeting. We had all agreed that the numbers would be for 5 years, so it shows that the present recording system is not good enough to keep those numbers in check and we constantly keep for the last 2 years and as I understand they've been exceeded. I support margin that you shut the season down at 90%-93% in order to make sure we don't exceed those limits because of past activities and lack of the Department being able to control the numbers of bears taken.

Commissioner Buffett: Jan, can you clarify? In your e-mail you mentioned a harsh drought occurred in 2002 and 2003 where the population declined significantly and that there's a 6-year lag of when sows start to reproduce so that's actually this year.

Jan Hayes: That's right. In fact you're going to see the female cubs that survived in 2002 are producing for the first time this year, 2003 will be producing next year. I think we have a healthy population but I'm not sure we have a growing population yet because of the 2002-2003 drought. The population that I think is doing quite well is the Sandia's/Manzano's. This Commission had no sow hunt for 5-6 years and that's made an enormous difference in the population. I'm not sure that population has come back to where it was because we lost 50% in those 2 years in the Sandia's/Manzano's, but it is coming back and I think that's why I'd like to see this Commission have a zero sow hunt in the Jemez. We've seen that it's worked in the Sandia's/Manzano's and I think it will work in the Jemez.

Commissioner McClintic: What Jan is saying about the 2003-2004 reduction, were we overharvesting?

Rick Winslow: The harvesting that occurred at that time, and I wouldn't necessarily call it overharvesting, involved high bear populations preceding that time. There are large numbers of nuisance bears statewide at the moment, large numbers of road kills statewide and those are things that indicate a high bear population. We've already moved almost the full harvest limit for the year in the Sandia's/Manzano's. There are 6 bears of the harvest limit of 13 that have been removed from that area. Several have been euthanized and the rest have been moved to other parts of the state to keep them out of trouble. What occurred during the 2001-2003 drought was that there was a very low cub crop. That doesn't negate the fact that sows that were alive at that time were still productive sows. That cubs from that period are starting to produce now is true.

Commissioner McClintic: We have a conflict and Jan states 1 position, the Department states another. She thinks we're overharvesting.

Jan Hayes: I'm not saying we're overharvesting. I'm talking about Sandia/Manzano Mountains and I'm talking about the 2001-2002 drought.

Commissioner McClintic: I'm saying you've got 1 side of the story, our Department has another side and when you're saying we're overharvesting I wanted Rick to explain to me why we did that.

Jan Hayes: Just in 1 year, 700+ bears is an overharvest.

Chairman Arvas: Well, I suggest that you get together with R.J. and Rick, you keep talking until the August meeting and we'll get an update from R.J. at the August meeting as to where we're at, and certainly you're welcome to come and comment at that meeting. I think Commissioner McClintic does have a point. If there's a conflict of facts, we need to delineate that conflict.

Jan Hayes: This is why the Commission changed the hunt so that what happened in 2001-2002 would not happen again. That's why we have a limit to protect the species and the Department has made enormous progress.

Chairman Arvas: I'm asking you keep talking to them and they'll keep talking to us and a final decision will be made at the October meeting, but I can assure you we'll be apprised of the facts. If you have a problem with what Rick is saying or he has a problem with what you're saying, I want that resolved before the meeting.

Jan Hayes: Those figures are all in the past.

Chairman Arvas: Why do we keep bringing them up then?

Jan Hayes: Because I want to show—you wanted to see what was in the past and what was in the future, and we've got good management in place and I think all we need is a just a little bit of nudging here and there.

Commissioner Sims: We were talking about the bears we were re-locating/nuisance bears/bears that are getting run over in 2006. Have we improved on our success of re-location since and what can we do on road kill fatalities?

Rick Winslow: We're trying to avoid re-locating bears. We prefer to have people change their habits rather than trying to change bears' habits. To relocate a bear, we're getting to the point where we're going to have to euthanize that bear or move it, so we're moving less than we used to. As far as road kills, there's not a lot we can do other than wildlife-proof fencing and that's not practical.

Commissioner Sims: Jan, how successful are you with Bear Watch? Has your success been greater on educating people on the nuisance bears?

Jan Hayes: We're working on it and spending \$15,000 a year. We're hitting every newspaper in bear country, we're on radio. I'm not here to complain about the Department. What I want to do is for us to stay with this limit and make it simple. We're working together on it and the Department has come a long way in 10 years.

Commissioner Sims: This Commission definitely wants to continue working with Bear Watch and have a viable species and serve all interests, but if we can get all facts on all sides then we're miles ahead in making decisions and it will benefit all.

Jan Hayes: Some of the depredation problems we're having have nothing to do with overpopulation. We've had spotty forage for these animals.

Greg McClure: I represent Black Bear Benevolent Bureau.

Chairman Arvas: Your organization needs to coordinate their activities with R.J./Department/Jan's organization.

Greg McClure: There are many of the opinion that members of the Commission automatically side with any of the guiding groups before they'd look at the evidence of reduction in bear population.

Chairman Arvas: Well, the first time you have any evidence of that happening you come see us.

Discussion item only.

AGENDA ITEM NO. 15: General Public Comments (Comments Limited to 3 Minutes).

Public Comments:

Representative Lucky Varela: I'm a representative from District 48 in Santa Fe and I'm also the co-chairman of the Legislative Finance Committee. Issues before the Commission from our perspective today are 2 things: 1 is to comment on the study done by the Department and presented to the public today. The other is to give you a preview of the legislative process, Items 16 and 17 on today's agenda, so that the general public will understand where we are in terms of the legislative process and the funding for state government. The Pecos Canyon State Park as you're aware, has been under consideration for a number of years and briefly for those not familiar that canyon is comprised of a number of tributaries including the headwaters of the Pecos and Mora Rivers, and also other tributaries of the Windsor Creek, Holy Ghost Canyon, and Willow Creek in the Upper Pecos. This canyon is approximately 18-20 miles long starting at Monastery in Pecos and going all the way to Jack's Creek in the Upper Pecos. The legislature appropriated \$300,000 over a number of years to provide for a study of the needs of the Pecos Canyon. The extra funding, and Mr. Thompson probably understands what the residual amount is, but the additional funding can be utilized to start the process of implementing or improving the campsites along the Pecos River. That study is also a pictorial study of the different areas that are under repair or in need of enhancement to try to prevent erosion of the land, and riparian areas where efforts have been made to contain the traffic going into the river. That report presents pictures of the areas that are in need of repair. I don't think all the areas are recommended in the report but the most important areas were recommended in terms of the funding that would be required to put them into a recreational component. We had a meeting with the Governor and Mr. Thompson/Dave Simon of State Parks were present at the meeting along with the Mayor and Senator Phil Griego from San Miguel County to request the Governor's consideration making or creating a state park including the entire Pecos Canyon. We attempted to convince the Governor that this was of major importance in terms of providing recreation and fishing/hunting for the state. There were 500 petitions submitted to Commissioner Hugh Ley from different parts and outside of the state requesting that the State of NM consider making the Pecos Canyon a state park. We also have the Upper Pecos Watershed Association that's involved in preserving the waters of the Pecos to make sure that the areas are not adversely affected with the common camping/fishing/recreational use by a number of people that exceed the capacity of these campsites. We also requested the state collaborate with the Forest Service. As you're aware, there are a number of off-river campsites that accommodate the public that are not necessarily interested in fishing along the river to be able to off set some of the load that's being presented to the river area to try to relieve the river area of the congestion to camping along the river and not necessarily wanting to fish but just to have a place to recreate. We're hoping the Forest Service will collaborate with the state. The Forest Service has

additional areas they might want to consider. I'm hoping that the report has been presented to the Commission in terms of the meeting and this Commission will take that into consideration.

Mayor Tony Roybal: For the past 2-3 years Representative Varela and I have been touring Pecos Canyon for the purpose of what's going on. As Mayor I get feedback from the campers and their main concerns is that if they don't come on a Wednesday or Thursday, they find no place to camp. They're pulling their campers/vehicles alongside the river and for the past 2-3 years we've been seeing trash existing in the Pecos River. These campers with RV's have been dumping waste into the Pecos waters. I've witnessed it and as Mayor of Pecos I'm building a \$5,000,000 wastewater treatment plant in Pecos. I'm also going to build a dump station for that purpose. As you know, the Pecos River is 1 of the main waterways in the state. I'm concerned about the contamination and that we do not have sufficient bathrooms/tables for campers. One of the better campgrounds in that area, Jack's Creek, has facilities for all the campers and the Forest Service has their employees picking up trash on a daily basis which had not been done until 2 weeks-month ago. We toured that area this past weekend and were surprised to see a Department employee picking up trash in a Department vehicle. We also noticed they've repaired the Mora River campground which is very much utilized. It's not unusual to see 200-300 campers in there on the weekends, but there's only 1 bathroom. That does not suffice.

Representative Lucky Varela: As you're aware, the legislative session is 60-days this year and I'm sure this Commission and the Department will look at other legislative initiatives besides the budget that will need to be considered and the process is extensive. We need adequate time to consider the different committees that will provide input for the Department's legislation. Regarding the budget, there's a substantial amount of \$400,000,000 non-recurring surplus/general fund monies available. We also have \$400,000,000 severance tax for special projects. All this will be considered during the special session and the remainder will go to the regular session. We're looking at trying to provide adequate funding for the Department. We have substantial dollars in terms of general fund that we need to support the Department in terms of maintaining integrity of the special programs for the Department. For the benefit of the audience, we're hoping that there will be people attending the session and committees and make your requests. Otherwise, if we don't see public support, sometimes we're not as conscious about the needs of the public unless the public participates in the process.

Chairman Arvas: I assure you the Commission will be very concerned with your request. We certainly appreciate whatever legislative support you can provide. You've always been a friend and hopefully you'll always be a friend to the Department/Commission. Director Thompson has been well advised for the past 1½-2 years about continuing efforts in the Pecos campground area to provide more than what we have in the past. Our resources are limited but we made a special effort this year and as the Mayor says it shows. Even though it's 1 employee with 1 truck you did notice that he was there. We'll give you monthly updates between now and the session in terms of where we are with our state park negotiations.

Art Martinez: We've had problems in Unit 6 for the last 8 years and the major problems we have are taking care of the landowners because if we can solve problems with the landowners then I think all other problems will be solved. We're getting together facts/figures/petitions and we want to invite the Commission to a meeting so you can hear the landowners'/citizens' side in that area.

Carlos Chavez: I'm a landowner from Gallina. I believe our unit is 85% public. We along with Unit 6-C have a lot of issues.

Max Trujillo: I'm Interim President of Sportsmen Concern-Las Vegas Chapter. Issues that need to be addressed by the Department are access, camping, and tags.

Bert Ancell: I'm manager of the Bell Ranch. I have grave concerns in the way the Department approaches problems in this state.

Caren Cowan: I'm speaking on behalf of NM Cattle Growers/NM Wool Growers/NM Federal Lands Council. What I saw during the license revocations and not penalizing people for breaking the law is going to put the Department in a situation where landowners are not going to work with the Department.

Garth Sims: I represent the NM Council of Outfitters/Guides. A number of our members have had discussions about the Unit 6-A issue. I feel compelled to respond to comments made that the Commission is showing bias toward business interests in its decision making in particular to the outfitter/guide industry. Keep up doing the balanced job you do, make the most professional decisions you and the Department can make.

Robert Espinosa: I want to thank Director Thompson/Department for meeting with us and encourage the Commission to encourage the Department to make more meetings happen. While we had several differences we made a lot of headway.

AGENDA ITEM NO. 26: Focusing Future Department Efforts Regarding Petroleum Development Review.

Presented by Bob Jenks - The Department reviewed energy development on public land to re-affirm what the Department is doing and building in terms of capacity to work with and evaluate energy development on public lands directed toward evaluating and working cooperatively and effectively with federal land management agencies to determine potential consequences to wildlife and habitat. Specific individuals have been designated, delegated and empowered to make judgments regarding what might be an appropriate or mitigation associated with proposed nominations.

Commissioner Simpson: I haven't seen this information posted to the website well in advance so sportsmen can utilize this information in time to take that information to comment or protest to BLM, and that means a week ahead of time for the first of the month.

Bob Jenks: As we go through the process, we intend to operate in an open and transparent manner. Any information we gather through our discussions with BLM is available for public review. To the extent that we post that on the website I don't think that will be a problem although it may be confusing and we will consider an appropriate way to do that to ensure the information we provide is in fact informative and not misleading.

Commissioner Buffett: Can you give us a quick update on how the Department will interact on the Galisteo Basin moratorium?

Terra Manasco: About 3 months ago we submitted comments to OCD in terms of our concerns. They've requested more information and we did a more thorough review and gave them more suggestions which I can supply to you. We're continuing to collaborate with OCD in terms of how we can make suggestions. We've been invited to review APD's that may be up for consideration not only at the Santa Fe level but at a statewide level.

Commissioner Simpson: Have you had any discussions with SLO about how to proceed or open up dialog?

Terra Manasco: We have and we've been invited to work with SLO staff on how we can cooperate. I anticipate that will happen in August/September.

Commissioner Montoya: On a point of order, Rio Arriba County needs the Commission's/Department's assistance in identifying impacts gas/oil drilling/extraction will have on habitat in Units 4 and 51. This is a proposal on a 90,000-acre area. There will be numerous wells/well sites and major disturbance. It is an area with much wildlife and I'm not sure whether to proceed with requesting assistance from the Commission, through the Department, for identifying impacts. The County and OCD will also be involved and I'm not sure if NM Energy, Minerals and Natural Resources would make the request or if I could make the request as a Commissioner or if you suggest administratively.

Chairman Arvas: I suggest you make a motion concerning Rio Arriba and what impact oil/gas development have in terms of habitat and wildlife. That way you'll give the Department direction to move into that area of concern you have.

MOTION: Commissioner Montoya moved that the Commission direct Director Bruce Thompson and Department staff, to assist Rio Arriba County in studying and providing assistance to determine what impacts drilling will have in Units 4 and 51. **Commissioner Buffett** seconded the motion.

Bob Jenks: That is certainly consistent with our objectives in terms of understanding and mitigating as may be necessary to the impacts of energy development on wildlife and habitat.

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

Robert Espinosa: Regarding the Department's involvement in pre-leasing aspects, I'd like Department personnel to provide that information to sportsmen/public on a more-timely basis.

Ross Tuckwiller: I'd commend the Department on taking steps to improve the process and hope you'll continue to improve it and work to make it more transparent for the public/sportsmen.

Greg McReynolds: I've passed out recommendations released from Sportsmen for Responsible Energy Development. This might be a possible framework of recommendations you can use to move forward.

MOTION: Commissioner Simpson moved to direct the Department to evaluate the recommendations prepared by Sportsmen for Responsible Energy Development and through evaluation of the recommendations, address Department staffing and budget needs to accomplish these goals, and make a presentation to the Commission on August 21, 2008 in Albuquerque. **Commissioner Buffett** seconded the motion.

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

AGENDA ITEM NO. 16: Legislative Initiatives Discussion and Approval for 2009 Session.

Luke Shelby: The Department submitted legislative initiative proposal to the Executive Branch and are awaiting their feedback. We continue to seek input from Commission members and the public on other prospective topics for consideration.

Pat Block: Expanding the number of violations subject to a penalty assessment where the violator would pay the fine. That's limited to fishing without a license and hunting small game without a license, and there'd be several other violations that would be applicable to a penalty assessment payment.

Luke Shelby: Other initiatives were changes to the depredation law and additional Commission authority for non-game/fish take, some expanded authority over aquatic nuisance species, and increasing the Commission's ability for bonding authority. We also had an alternative funding proposal.

Pat Block: Also to look at the authorities contained in state law having to do with wildlife/habitat impacts on energy development decisions, and how that fits with what the NMEMNRD/Oil and Conservation Division does, and how that ties into a State of NM package.

Commissioner Buffett: Please refresh our memories as to milestones in getting the budget together that were passed in August/September in terms of Executive/DFA?

Pat Block: We're covering that in the following item. Basically what we were waiting on at the last meeting were the Executive Branch guidelines for agencies. Those have come out and the divisions are working on their requests and hopefully will give you more details under the following item.

Commissioner Buffett: Are staff members attending relevant interim committee meetings?

Pat Block: Yes. I'll attend the first meeting of the Water and Natural Resources Committee. There are several items on the work plan that'll impact the Department and we'll keep the Commission posted as those are scheduled.

Commissioner Salmon: Could you explain the reference to non-game/fish take?

Luke Shelby: Yes. Not in the last session but previous session this was a bill that the Commission approved as was the Executive Branch approved pursuit through the session. It was passed by both houses then died due to lack of action at the end of the session. Basically what happens is we find people taking non-game fish through means that are legal and then impacting some of our game fish populations. They're using pitchforks, certain kinds of nets, shovels, buckets, things that even though the law says game fish have to be returned to the water, oftentimes we're losing game fish because of those ways of taking non-game fish. The Commission doesn't have authority now over the take of non-game fish, or the manner and method of how those are taken. So that's what we're seeking.

Commissioner Simpson: You've presented 4-5 topics: oil/gas, alternative funding, aquatic nuisance, regulation of non-game fish, and paying fines for violations. Where is that written up and would you explain you submitted to Executive Branch for their review. We haven't seen any language or general derivation, and at what time the Executive Branch says yes/no and how the Department is going to proceed?

Luke Shelby: Basically the process is we seek input on legislative initiatives from Commissioners and from the public, and then determine which of those can be taken into consideration. We make that proposal to the Executive Branch but there's a form that's completed and submitted to the Executive Branch. It doesn't require legislative language just a detailed explanation of why the change or additional authority is needed, and then the Executive Branch makes the decision about what we'll pursue as an agency.

Commissioner Simpson: When were the forms submitted?

Director Thompson: I think it was mid-June. The information has been shared with the Commission's subcommittee on legislation and that's where things stand at this point. There is no distinct timeline for that other than providing initial information and we still have the ability to submit additional information if anything further is identified. This item is the second of 3 intended items, the next 1 being at the August meeting where we're attempting to gather information from the Commissioners as well as from the public that may illustrate additional legislative initiatives to be considered.

Commissioner Buffett: The summary says the Department will request designation of 2-3 members of the legislative subcommittee, do we plan to do that?

Chairman Arvas: We've done that.

Commissioner Buffett: Can you let us know who's on the legislative subcommittee?

Chairman Arvas: Yes. The subcommittee consists of Commissioners Montoya, McClintic, and myself.

MOTION: **Commissioner McClintic** moved to direct the Department to further develop, assure appropriate review by the Commission legislative subcommittee and Governor's office, and prepare for bill introduction during the 2009 Legislative Session the items discussed today. **Commissioner Salmon** seconded the motion.

Chairman Arvas: Director Thompson has stated that it's wide open, so if you want to do something, please make us aware of it and from that point on we can introduce it and put it into the package.

Luke Shelby: We'll be coming before you again with similar topics.

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

AGENDA ITEM NO. 17: Budget Status, Revenue Review, and Initial FY10 Budget Preparation

Discussion.

Presented by Patrick Block – This is a synopsis of the Department's Fiscal Year 2010 budget request beginning July 1, 2009 to be considered during the upcoming legislative session. The Operating and Capital Budget for 2009 are in place. An update of capital projects was submitted on July 15. Discussion was on long-term cash balance projections and operating fund balances for all funds. During submission of FY 10 budget, the Strategic Plan will be included.

Commissioner Simpson: Going back to special revenue funds and regarding the Open Gates fund, please explain how much money is generated, what ratio from every license sale goes into that, and how come we haven't created a special fund to track that money?

Pat Block: The reason you don't see an open gate fund is because there is no such fund. The reason we don't create a fund is because those are only created by the legislature. The amount that comes into that is around \$200,000 a year. We have the Habitat Management and Access Validation that each hunter/angler is required to purchase 1 of per year, and that's a \$4 fee, \$3 goes into the Habitat Management Fund which is created in statute, and \$1 is reserved for use in the Open Gate Program but it is deposited into the Game Protection Fund.

Discussion item only.

AGENDA ITEM NO. 18: Approach to Enhancing Public Awareness of Department Conservation and Management Planning Actions.

Presented by Matt Wunder – The Department is encountering difficulty in that there is variation on information across the Department in different divisions even within some of the divisions, depending on the kinds of activities that are planned. The Department is attempting to systematize this and any time there's a planning activity that either requires or benefits from public notification, the Department is able to actively/effectively communicate that information to the public so the foundation of this will be a Department-wide strategy for acquiring/incorporating/maintaining key contacts. The Department is committed to better informing the public about Department activities and the way the Department wants to accomplish this is through a strategic comprehensive development of contact lists that we can utilize and maintain to inform the public.

Discussion item only.

Jacob Tolk: I'm the State Chair of the Mule Deer Foundation in NM. Anyone that has an interest in wildlife and would like to be heard and get their information out can subscribe to a free webpage I'm developing and sign-up for an e-mail list to get all the different groups communicating.

Caren Cowan: I'm speaking on behalf of the Cattle Growers/Wool Growers/Federal Lands Council. While we support the Department's efforts on enhanced notification and working with the public on a greater basis, I'd ask the Commission/Department to consider how many different items are opened up at any 1 time. At this time, the Big Game/depredation/guide-outfitters/E-PLUS/antelope situation/Director's domestic import list is open and it's overwhelming to take on this much.

AGENDA ITEM NO. 19: Conservation Populations.

Presented by David Propst and Mike Sloane – The Department presented to the Commission perspectives on current status of core populations and conservation populations of fish with respect to federal ESA considerations. Native trout populations in the intermountain western US have declined from their historical distributions. One factor contributing to the decline is the decline of trout to interbreed with other trout species in the genus *Oncorhynchus*. Rainbow/Yellowstone cutthroat/Snake River cutthroat trout are 3 main species widely stocked outside of their native ranges. This situation is also reflected in the current status of both NM native trout: Gila/Rio Grande cutthroat trout. There have been recent federal listing and status review processes for both species. Populations and definitions associated with 2 native trout in NM, Gila and Rio Grande cutthroat trout, we're concerned about conserving. We have limited restoration opportunities. James Brooks with USFWS is in the audience today and can answer any specific questions regarding federal listing status requirements for both species

Commissioner Simpson: Someone whispered in my ear that USFWS considered climate change and global warming in their potential listing of the Rio Grande cutthroat. You didn't list that as 1 of the criteria unless it's related in the human cost. Did you address that and what actions we are or aren't going to take or does it change our course of action any?

Jim Brooks: Service-wide for every potential listing or any kind of an environmental review process that's being undertaken now climate change is right in the middle of it. We've budget initiatives for 2010 looking for funds to deal with the climate change issue. The status review done for Rio Grande cutthroat trout by the Ecological Services Office used climate change as an issue, but there are a number of federally funded projects that are

undergoing Section 7 consultation under ESA that are also being assessed for their potential relationship to climate change and what climate changes are projected for our region. There are models that project anywhere up to 20% decline in runoff. In the case of Rio Grande cutthroat trout or any kind of trout, then the issue is going to become where do you put your conservation efforts.

Commissioner Simpson: We know a number of streams don't have vegetative cover to keep them cool. That would tie in with climate change potential—if we don't keep them cool, the temperature rises, riparian areas are in poor health and we have poor water quality. Have we identified those areas and streams that we need to start concentrating in reclamation?

Mike Sloane: The 2 answers are: first, we are selecting systems that are high-elevation and very good habitat with the thought that those will best survive any type of global warming over the long term; the second part of your question is that we as an agency don't have a lot of authority over habitat. The Environment Department does put together the 403-D list which is about impaired waters. There are 319 grants that have been used for example on Comanche Creek to work on habitat. A lot of those waters have been identified but who exactly is working on them and pushing habitat restoration at this point is not clear.

Commissioner Simpson: In relation to our Comprehensive Wildlife Plan, how do you tie that in because everybody recognizes that fisheries should be our primary targets and you say the Department can't have much control of habitat but there has to be a working relationship, how are we going to change the game?

Mike Sloane: I think with both the Gila trout and Rio Grande cutthroat trout, the potential for listing with Rio Grande cutthroat/Gila trout has motivated the land management agencies to work more diligently on habitat issues and certainly we talk about that with them and how we can better improve those. Both species are listed as species of greatest conservation need in the Comprehensive Strategy so I think that gives additional impetus to those dealing with habitat to make better efforts to restore.

Commissioner Salmon: The concerns some of us have had regarding purity standards is that we may have taken on standards that in some cases we can't achieve. The Rio Grande cutthroat recently became a candidate species for listing under ESA although it's so far down the list it will probably never get listed, but nonetheless 1 USFWS printout says the Service found several changes had occurred to Rio Grande cutthroat trout populations since last review in 2002. In 2002 there were 13 core populations of Rio Grande cutthroat trout considered sufficiently secure that federal protection was not considered necessary. This latest review shows only 5 core populations still meet that definition. Of the 120 conservation populations . . . in short stream segments in most cases the 5-miles or less and supported a limited number of fish. Anyway, 5 core populations and 120 conservation populations—well, the Service got around that with the Colorado River cutthroat trout. I found a news release from June, 2007 that said the range-wide status for the Colorado cutthroat trout found at least 285 Colorado River cutthroat trout conservation populations to collectively occupy 1,700 miles of stream in 42 watersheds. A conservation population is defined per state standard as either genetically unaltered, i.e., a core population, or slightly intergressed 10% or less and possessing attributes worthy of conservation. The Service has adopted the state's standards and considers all core and conservation populations to be Colorado River cutthroat trout and are referred to as conservation populations in this finding. They did this to beat back a lawsuit to list the Colorado River cutthroat trout. It's obvious that if you lower your standards somewhat 5%-10% you've got a better chance of avoiding the listing and you've got more trout of that species than if you stick to the 100% goal. I think 100% purity in some cases may not be achievable and I'd like to get any kind of response to this flexibility of the Service from Jim Brooks.

Jim Brooks: One thing I'd say is that the Service with all the different status reviews for the different cutthroat subspecies is trying to do them the same way and so flexibility/genetic standards are part of it. That's exactly what the USFWS-Albuquerque office did with the status review for Rio Grande cutthroat and so they included the conservation populations within that assessment so any future action/inaction by the Service regarding listing would treat core/conservation populations the same way. I will say that with the West Slope cutthroat or many subspecies of cutthroat trout and Rainbow trout naturally co-occur. Their ranges overlap so all the native trout in the west U.S., there's an ancestral form of Rainbow trout that basically gained access to the Rockies through all these coastal streams. When the original finding for West Slope cutthroat went to 80% and controversial and most of the geneticists would completely discount that status review. There was such an extensive overlap in the native range between naturally occurring Rainbow/West Slope cutthroat trout, their historical records on genetics weren't very good so that was essentially by process of elimination the best standard they could come up with.

Commissioner Salmon: Does the Albuquerque office consider the conservation populations of the Rio Grande cutthroat trout as counting toward recovery?

Jim Brooks: I can't answer that for the USFWS, but I assume at least from the way the status review came out that they would contribute.

Mike Sloane: They consider those populations in the last status assessment and still determined that it was warranted but precluded.

Commissioner Salmon: They did count those?

Jim Brooks: That was to do exactly what you were I think looking for an answer to was the Service providing some consistency for cutthroat trout listing issues.

Greg McReynolds: I'm with Trout Unlimited. This is not the time to lower our standards. This is the time to redouble our efforts. The USFWS says listing is warranted but precluded. We've probably got some time to increase those populations, make them better/stable, and keep that fish from going on the list.

Discussion item only.

AGENDA ITEM NO. 20: Gila River Assessment.

Presented by Bob Jenks and Terra Manasco – The Department has been actively engaged in a collaborative process carried out for the purpose of identifying/implementing, if appropriate, measures in response to the 2004 Arizona Water Settlement Act (AWSA). AWSA provides that NM receive the right to use an additional 14,000 acre feet/year of water from the Gila/San Francisco Rivers and received \$66M-\$128M of federal funding beginning in 2012 for development. This law has its origins in the Colorado River Basin Project Act of 1968 (CRBPA) which authorized the Central Arizona Project (CAP) which delivers water from the Colorado River near Lake Havasu across Arizona to Phoenix/Tucson. AWSA modified parts of the CRBPA to allow the Secretary of the Interior to contract with water users in NM, with approval of the Interstate Stream Commission, or with NM, through the Interstate Stream Commission, for water from the Gila River, its tributaries, and underground water sources in amounts that will permit consumptive use in NM not to exceed an annual average in any period of 10 consecutive years of 14,000 acre feet, including reservoir evaporation, over/above consumptive uses provided for by the U.S. Supreme Court decree in Arizona v. California. AWSA provides funding for NM to develop water supply alternatives, including NM Unit of the CAP if desired. NM is required to notify the Secretary of the Interior prior to December 31, 2014 whether it intends to build a NM Unit of the CAP. Governor Richardson issued a statement in 2007 which provided perspectives and guidance. Imbedded in the statement was the view that the process must consider a range of alternatives and there not be strict focus on a diversion structure or construction of a dam. Further he expressed the expectation that the process will be open/inclusive/collaborative to include scientific ecological/hydrological/economic/demographic studies to provide insight into how the Gila River system functions, how it might be better preserved, and its natural operation protected. Given the species-rich biota and ecology of the area potentially affected by the AWSA, it's important that the Department participate in a constructive role.

Commissioner Salmon: The involvement of the Department on these committees is essential, and I think it's important that we stay involved and pursue the issue. I point out that of \$66M-\$128M subsidy it isn't necessary to divert or consume the water in order to get those funds and that's 1 reason the Governor has asked the stakeholders group to look at the non-diversion alternative as well as the diversion alternatives that might develop during these studies.

Commissioner Buffett: I'd like to express my support for the no-diversion option that the environmental NGO's have put forward and community members from the area. I wanted to clarify in the Governor's statement that says that the process must consider a range of alternatives and not focus only on diversion. In our agenda packet it says for the following reasons the Department is examining the potential impact of a major diversion, so I wanted to make sure that that's not the only area of the Department's focus in terms of the technical assistance we're providing. Are we also providing technical assistance on non-diversion options?

Bob Jenks: The Department is going to participate in all levels of this process and will be actively engaged in evaluating non-diversion/diversion alternatives and ultimately a suite of alternatives will be evaluated and we'll provide input regarding each and every one of those.

Commissioner Simpson: Is there an ongoing study, consultant hired or what is the status of that?

Bob Jenks: The process in fact is moving forward in terms of identifying what research needs exist and that is being accomplished by identifying what extent data already are available. When that's assembled, and the contract is going to be let potentially as soon as mid-August to do that assimilation of information, and those data gaps are determined, then the research needs to be further defined.

Commissioner Simpson: I know the Interstate Stream Commission was trying to drive this study where they're only considered diversion and the impacts. Is that still their contention or what is the role balance or is there any?

Bob Jenks: I can't speak for the ISC and what they're attempting to accomplish but I can say that there are a myriad of interests involved in this ranging from organizations/individuals that would like to see that water developed, and those that would rather see nothing happen. So as a consequence, all those things will be on the table, but ultimately what position the ISC will take I don't know.

Commissioner Simpson: Who's the Department representative sitting on that committee?

Bob Jenks: The Department's representative on the Stakeholders Committee is Dr. Propst, I sit on the Implementation Committee and Terra Manasco sits on the Technical Committee.

Alison Williams: I'm with the Interstate Stream Commission. I want to clarify that the ISC has no plan for a diversion. We have no desire for outcome of this process other than a completely open and transparent stakeholder process based on the best available science which the Department will participate in. I do point out that in June, 2008 the Governor has updated his policy statement that specifies no dam at all can be considered so we can consider other alternatives. A dam is completely off the table and it has never been part of ISC's plan and it will not be in the future so we will be taking the recommendations of the Stakeholder Group and we have much flexibility to be able to implement any of those.

Discussion item only.

AGENDA ITEM NO. 21: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Director Thompson: I wanted to point out because we had a number of messages come to us from the interests in the San Juan River and several asked that this be noted. The primary concerns being raised are the importance of considering the water-release schedules and volumes from Navajo Dam, and concerns about siltation in the river and the role that the Department could play. They're fairly lengthy messages which we will have for the record and I'll indicate that those I have, there are undoubtedly more, were from Kent Berlind, Jack Wood, Mike Maurer, Warren Slade, Lattie Mills, Vincent Villasencio, and Andreas Novak.

Commissioner Simpson: I received about 30 e-mails from different individuals that love to fish the San Juan River below Navajo Dam area, the quality water areas. Basically what they're saying, and I agree and propose, that in the legislative issues and/or financing for a contract and devise a study to do a comprehensive analysis to determine what is going on. There are a number of sources of problems but in order to do that we need to fund the study and propose it through legislation or in a budget request to evaluate what needs to be done.

Director Thompson: We've heard that, and several of our staff are taking notes and that's an appropriate thing for us to consider as we move further into the budget process.

Ed Olona: I'd like to address concerns on State Highway 199, consisting of 21.6 miles. Here we are a year later and nothing has been done. Why hasn't the Department pursued this matter?

John Hernandez: I'm with the NM Dept. of Transportation. We did a survey in mid-October, 2007 and ran GPS and got mapping grade on that road and it seemed it was an existing road at 1 time and still has been used, and we observed where culvert pipes/cut-fill areas were. The NMDOT does not want to maintain this roadway and they turned it over to the Department.

Chairman Arvas: Mr. Olona, you made a statement that if any member in this audience didn't understand the subject as well as you do, it sounds as though the Department has done nothing since Nov., 2007. I'm going to get Director Thompson or General Counsel, Jim Karp, to tell you exactly what we're doing.

Ed Olona: Before you do that, I'd like to read the statute that deals with occupation of public lands—Section 7-3-11, which says—unlawfully closure of public lands--it shall not be legal for any person(s), company, corporation to construct and maintain enclosures upon land considered and held as public lands in this state, nor to apply the same to private use which may result in prejudice to the citizens thereto unless the same to be made and sustained to conformity with the provisions of the U.S. laws relative to government lands and laws of the state. This law protects this road. Nothing has been done. No research has been done on the Department's part. It's been quite evident because we have not seen an outcome. Chairman Montoya had indicated this get done as soon as possible.

Jim Karp: We've been in contact with the Attorney General's office for many months over this issue. One problem is that the State Land Office has taken the position that what was known at 1 time as State Road 199, does not exist and that the only way that the public or the Department can obtain access through state lands is by purchasing an easement. It's been our position that what was formerly known as SR199 does in fact exist but it is not within the province of the Department to file whatever action would be required to establish the existence of that road. It would be the Attorney General's determination since it represents the Game Commission and not the Department, and the road to the extent we can establish ownership, would be owned by the Game Commission, not the Department. We had scheduled a meeting to discuss this issue as to how we would handle the question of establishing the state's right to that road through SLO properties and also through several private properties that exist along the route of the road. One of those meetings was aborted and we're in the process of scheduling another meeting within 1-2 weeks to specifically discuss this. One problem the Attorney General's office may have had with this issue is UU Bar Ranch and it's closure of a portion of the road on it's property is still being litigated.

Oral arguments will be held I believe on Aug. 21 and then it's up to the Court to determine when it will rule. At that time I'm sure the Attorney General's office will not feel constrained to hold back on any further action that might prejudice either that litigation or any other litigation that may ensue. We have done a substantial amount of research, met with the Attorney General's office several months ago, turned that research over to them in addition to the extensive research that they have done in conjunction with the UU Bar litigation. There are a number of claims that can be asserted, but we can't just knock on the SLO door and say there's a road so stop giving us problems. This probably will have to be litigated and as I said, if it's litigated it'll be litigated through the Attorney General's office with our complete involvement.

Chairman Arvas: Ed, I admire your tenacity and I'm going to make 1 more offer—I'm going to make arrangements with Mr. Karp for you to go with Mr. Karp to the AG's office and you will listen to what they tell us. We're concerned as you are but we feel we've done everything possible to get this resolved.

Jim Karp: I believe it might be subject to the approval of the AG's office to have other than counsel participate.

Chairman Arvas: We'll make that request. I've visited with the Assistant Attorney General present today and I think she's understanding what our predicament is as a Commission. It's not as if we're not trying and that's what I take offense at.

Ed Olona: I've written a letter to Attorney General King requesting that we have an opportunity to meet with him and discuss the SR 199 and status. To clarify something Mr. Karp said regarding the lawsuit, the pending lawsuit for August 23 at the Supreme Court will be on the width of the road of State Highway 21-199. It doesn't include the 199 that goes over the mountain to SH-120. That has no bearing on it at all. This lawsuit has nothing to do with opening the gate on the west side. David Thomson was going to write a letter to each Commissioner.

Jim Karp: The pending motion to be heard by the Supreme Court I believe is to clarify the judgment in the Court of Appeals both with regard to the width of the road and to a very small section that was not included in the judgment, a section of the road that results in the judgment not extending the public right-of-way all the way through to state lands. The Attorney General's office is attempting to have that clarified so that the intent of the litigation, in other words to provide access to public lands, would be reflected what I imagine would be a clarified judgment and therefore it does concern whether or not if we do have to file additional actions, that portion on the UU Bar property would also have to be included.

AGENDA ITEM NO. 22: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H)(1), NMSA, 1978, 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 regulating procedures and conduct as per 19.30.8, and 19.31.2, NMAC.

MOTION: Commissioner McClintic moved to enter into Closed Executive Session pursuant to Section 10-15-1, NMSA, 1978, of the Open Meetings Act in order to discuss litigation, personnel matters, and acquisition or disposal of real property or water rights. Commissioner Salmon seconded the motion.

Roll Call Vote:

Chairman Arvas – yes

Vice-Chairman Salmon – yes

Commissioner Buffett – yes

Commissioner McClintic – yes

Commissioner Montoya – yes

Commissioner Simpson – yes

Commissioner Sims – absent

Motion carried unanimously

Chairman Arvas 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. 23: Notice of Commission Contemplated Action.

Presented by Dan Brooks – The State Game Commission, after meeting in Executive Session, determined and directed the Department to send a Notice of Commission Contemplated Action to 2 outfitters/guides that evidence and information indicate had violated regulating procedures and conduct or any other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978.

MOTION: Commissioner Salmon moved to accept the Department's recommendation and send a Notice of Contemplated Commission Action to the registered outfitters discussed in Executive Session. **Commissioner Simpson** seconded the motion.

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

AGENDA ITEM NO. 24: Land Conservation Opportunities through State Wildlife Grant Partnerships.

Presented by Matt Wunder – Department staff discussed prospects for additional land conservation opportunities using State Wildlife Grant funding through implementation of the Comprehensive Wildlife Conservation Strategy for New Mexico. Department staff discussed a need to protect wildlife habitat and there are a variety of sources that have been used recently that the Department is proposing with these actions as well as a number of other potential funding sources that would help provide matching funds and other contributions in terms of material support from both conservation groups/landowners involved. Specific discussion was provided regarding prospects for leveraging with Land, Wildlife, and Conservation Easement funding to acquire a 35-acre addition to Wagon Mound Wildlife Area, acquire Ainsworth Ranch in cooperation with TNC, and acquire a joint conservation easement in Ancones Ranch with New Mexico Land Conservancy. This approach has proven successful given 3 acquisitions discussed and these actions do have strong stakeholder support and benefit to the state.

Scott Wilbur: I'm the Executive Director of NM Land Conservancy and proponent of the Ancones Ranch conservation easement acquisition. These 205-acres on the Chama River protect approximately 1 mile of the river corridor and we're proposing to put 185 acres under a conservation easement. The landowner had this property on the market this past year for \$2.5M and has agreed to take the property off the market and give us an opportunity to try to complete this conservation project. The easements are approximately 50% of that so if you assume the fair market value of the property is between \$2M-\$2.5M, we're essentially using \$100,000 of state funding to acquire this easement and he'll be donating the rest of the value and applying for 1 of the new state tax credits. I understand that the Department has a potential interest in acquiring this property so obviously having this property encumbered by an easement would significantly reduce the value of the property and make it accessible for purchase at a much lower price. There's a lot of leverage for \$100,000 investment and we would cover all of the costs associated with completing the transaction and the landowners has agreed to provide a stewardship endowment to cover our costs of monitoring the easement and legally defending it over time. Essentially we're looking for a partner in order for us to be able to access Land, Wildlife, and Conservation Easement funding available through NMEMNRD. We're proposing to co-hold the easement with the Department, but basically assume the primary responsibilities of monitoring the stewarding of this easement.

MOTION: Commissioner Buffett moved to direct staff to explore specific acquisition conditions and perspective partner costs for Wagon Mound Wildlife Area addition, Ainsworth Ranch, and Ancones Ranch conservation easement sufficient to provide for Game Commission action on respective purchase agreements for each project by December, 2008. **Commissioner McClintic** seconded the motion.

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

AGENDA ITEM NO. 25: Approval of Tower Lease with Lance Broadcasting.

Presented by Melinda Benavidez – The Department presented a request from Lance Broadcasting for a tower lease site at the Sargent Wildlife Area in the location known as Rabbit Peak. The lease follows Department standard fees/terms and would involve construction of a 113-foot tower and a 8'x10' pre-fabricated building/power supply. The Commission was asked to approve the proposed lease between the Commission and Lance Broadcasting, d/b/a KZRM that would allow Lance Broadcasting greater radio coverage in the Chama Valley and adjacent areas than available from it's co-use of an existing communication tower at the site.

Chairman Arvas: I received a letter that says I'm approximately 800-1,000 meters due east from the proposed upgrade to the Chama radio station tower located at the summit of Rabbit Peak. I'm unaware of health/environmental impact studies done either by your agency or the Chama radio station. I'm concerned for my health and have already experienced an echo effect on my phone reception as well as interference with my television reception. I believe an upgrade of the Chama radio station towers will further aggravate these conditions and could result in serious bodily harm to me. I'm also aware that in the last 2 weeks an employee of the radio station has made public threats of violence against Ed Sanchez and other long-time residents of the Chama area. Threats of intimidation are reason enough to deny this application. For all the reasons stated above, I oppose the lease between your agency and the Chama radio station. I've also made my view known to Congressman Udall. It's signed Ray Leal, Ph.D., P.O. Box 746, Chama, NM.

Steve Padilla: I stand in full support of approval of this permit.

Scott Flurry: I'm the General Manager of KZRM. Basically, every aspect of the community has written letters of support which I've forwarded to Commission members.

Ed Manzanares: I'm Athletic Director at NM Highlands University. I fully support approval of this permit.

Paul Edwards: I stand in support of this permit.

Billy Elbrock: I'm a resident/business member in Chama and Board member of Chamber of Commerce/Council member on Village of Chama. I support approval of this permit.

Ralph Hamilton: On the gentleman about the signal strength reaching his house, that's covered by the Paragraph 73.318 of Federal Communication rules and the radio station is required by the Commission once it has the transmitter on the air to be of the signal measured by a consulting engineer in the area of the transmitter so that it does not exceed those values approved by the FCC and EPA. Any interference people suffer within a given area as indicated 73.318 will be remediated by the radio station as required by the FCC rules and we will immediately inform all users on Rabbit Peak of our power increase. I support approval of this permit.

Ed Sanchez: I'm from Cebolla, NM. We've been working for several years to try to preserve Rio Arriba's wealth of history/culture diversity. NM music is rich in heritage and culture. As we approached them with the Chama Valley anti-heritage agenda they said it wasn't an issue. They need to be more conscious to concerns of endangered species.

MOTION: Commissioner Simpson moved to authorize the Chairman to execute a lease with Lance Broadcasting for the construction and operation of a communication tower at the Rabbit Peak site for a term, including renewals available, not to exceed 25 years in a form of proposed lease as has been presented to the Commission for it's review. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 27: Adjourn.

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

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

Meeting adjourned at 6:42 p.m.

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

 August 21, 2008
Date

 s/Tom Arvas
Tom Arvas, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
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 August 21, 2008
Date