

M I N U T E S
NEW MEXICO STATE GAME COMMISSION
Heron Lake State Park Visitor Center – Gray Room
640 State Road 95
Los Ojos, NM 87551
July 2, 2009
9:00 a.m. – 5:00 p.m.

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AGENDA ITEM NO. 1: Meeting Called to Order.

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

AGENDA ITEM NO. 2: Roll Call.

Chairman McClintic – present
Vice Chairman Buffett – present
Commissioner Arvas – present
Commissioner Montoya – present
Commissioner Salazar – present
Commissioner Salmon – present
Commissioner Sims – absent
QUORUM: present

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the July 2, 2009 State Game Commission Meeting.
Commissioner Buffett seconded the motion.

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

AGENDA ITEM NO. 4: Introduction of Guests.

Introductions were made by approximately 35 members of the audience.

AGENDA ITEM NO. 5: Approval of Minutes (May 28, 2009 – Albuquerque, NM).

MOTION: Commissioner Arvas moved to approve the Minutes of the May 28, 2009 State Game Commission Meeting in Albuquerque as presented. Commissioner Salazar seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 7: Adoption of the 2009-2010 Migratory Game Bird Rule, 19.31.6 NMAC.

Presented by Tim Mitchusson – The Department presented the final draft of the 2009-2010 Migratory Game Bird Rule, 19.31.6 NMAC, for adoption. The Department requested that the Commission allow the Department the discretion to adjust waterfowl season dates and bag limits to conform to federal frameworks.

Commissioner Arvas: Would you go over Eurasian dove in terms of limits?

Tim Mitchusson: Mourning dove and White-winged dove, is 15 birds per day singly or in the aggregate, Collared dove there's no bag/possession limits.

Commissioner Arvas: Explain the reason why we don't want to have a Dark goose permit this year?

Tim Mitchusson: The Dark goose permit is available through the website. These are two different seasons and that permit is only good during the conservation order which is February 1 through March 10, so it doesn't apply to the regular season that starts in October and goes through January 31.

Commissioner Salmon: Can you give us a general trend on Collared dove—are they increasing/decreasing? Are they having any noticeable affect on the White-winged/Mourning dove?

Tim Mitchusson: Collared dove have expanded throughout the Rio Grande/Pecos Valley as high as Quemado. We've got them in the northwest area along the San Juan River. Collared dove are all over the U.S. now. From studies we've seen so far there doesn't seem to be a conflict with Mourning dove. The only conflict may be with White-winged dove in our urban areas, since Collared dove are primarily an urban bird and most of our White-winged dove expansion has been within urban areas.

Public Comments:

David Stambaugh: I represent Delta Waterfowl Foundation. We'd like to coordinate with the Department to change a hunt in La Joya WMA from ½ hour before sunrise to a 1:00 p.m. sunset hunt on a Wednesday to offer hunting opportunity for hunters that can't go out during mornings during the week.

Tim Mitchusson: I haven't been able to confer with Mike Gustin who's in charge of the WMA's whether they would approve that or not, but it's something we can consider for next year.

MOTION: **Commissioner Arvas** moved to accept the Department's proposals for the Migratory Game Bird regulation 19.31.6, NMAC, for the 2009/2010-license year to adjust application fees, hunting and falconry season dates, bag and possession limits; increase Middle Rio Grande Valley Sandhill crane permits; initiate a youth crane hunt, increase the Mourning and White-winged dove seasons to 70 days; require a free permit to hunt during the Light Goose Conservation Order; increase the daily and seasonal bag limit to 2 birds for the Middle Rio Grande Valley dark goose hunt; and allow the Department the discretion to alter season dates and bag limits for migratory game birds, if necessary, to conform to federal frameworks; and the first Wednesday in November for the Bernardo Light goose hunts. **Commissioner Buffett** seconded the motion.

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

AGENDA ITEM NO. 8: Budget Status and Initial FY11 Budget Preparation Discussion.

Presented by Patrick Block – In preparation for development of the Department's Fiscal Year 2011 budget request, the Department provided a synopsis of the Fiscal Year 2010 Operating and Capital Budgets. The briefing included a historical and forward-looking perspective on cash balances in the Game Protection Fund, and discussed long-term cash balance projections and balances for all funds. The Department provided information on Executive and Legislative branch guidelines and sought Commission guidance on budget priorities and desired changes in the next request. **Discussion item only.**

Commissioner Arvas: How do you integrate federal funds into the budget?

Pat Block: They're in the budget request and they'll be a portion of what you approve. When the legislature does it they are contained within the General Appropriation Act law but they're provided as informational items only because state legislatures don't have the authority to budget or appropriate federal funds. Only Congress can appropriate those funds, so they've been appropriated/built in/reflected in everything you see.

Commissioner Arvas: With the increase in purchases of firearms and ammo this year, we should see quite an increase in our federal fund allotment, so how do we budget for that in advance?

Pat Block: In the last quarter of 2008 there was a 31% increase in firearm/ammunition sales which is money that generates excise tax that funds the Wildlife Restoration Program. Those funds go into the trust fund but won't be appropriated for another two years, so around 2011 that money comes out in the form of an apportionment to the 50 states/six territories that receive it.

It'll be a couple of years before we see that but it will provide some real opportunities to get more of that money out on the ground.

Commissioner Arvas: So for all practical purposes, whatever federal funds received for FY 2009, you've actually already budgeted for based on previous years' numbers?

Pat Block: That's correct. We should be getting new apportionment figures this fall for federal FY 2009-2010.

Commissioner Arvas: My understanding is that you have that money allocated already.

Pat Block: That's correct. The only other thing to keep in mind is that to be able to put that to use you have to make sure you have that \$.25 to match the \$.75 federal funds.

Commissioner Arvas: So that comes out of the Game Protection Fund?

Pat Block: Or from some place. We have opportunities with the Habitat Management Fund. We can use that to make habitat improvements on the WMA's which would fit right in with what's eligible for funding from the Pittman-Robertson Act, so we have lots of opportunities when that money comes online. We've been doing well even previous to the spike in firearm/ammunition sales.

Commissioner Arvas: Was the \$8M-\$9M somewhere in there?

Pat Block: Yes, around \$8M, but I'm now guessing about \$9M by the time this spike comes into play.

Commissioner Salmon: What's the schedule on the Lake Roberts Dam renovation and what level of funding responsibility is the Department going to be assigned with that?

Pat Block: The responsibility is largely a money management responsibility. We were fortunate in that even though capital outlay money was scarce during the last session, we unobligated/reprioritized money from several other projects as did State Engineer and other agencies. The legislature provided enough funding to get that whole project done. We're looking at the next 2-2 ½ years to complete that. We're also looking at whether there are alternatives that don't require draining the lake so that recreation is not hampered as much as to fully drain the lake, so we're still trying to find the most economical and least disruptive construction alternative to get that work done.

Commissioner Montoya: You mentioned that we had been going for \$10M-\$15M capital outlay requests and we would cut that down to about \$4.5M? If we went in with \$4.5M and the economy being what it is, legislative experience has taught us that we're directed to the Game Protection Fund to fund some of these requests. So this coming fiscal year we're about at the break-even point in terms of what revenue we receive and what we spend, so if we're directed to use Game Protection Fund funds to fund \$4.5M of capital projects, would that put us back in terms of that by 2014 we'd be out of cash balance, would that put us back to 2012 or sooner?

Pat Block: I believe so and that's why we're suggesting a cautious approach, and maybe \$4M is overly ambitious. We have to balance that and that's what we're asking the Commission's help with, because on the other hand if we're going to propose funding for the warm water hatchery, we're basically at the point where we've developed as much as we can, short of the hatchery building that without that last big chunk getting another \$100,000-\$500,000 to the Fisheries Division doesn't get us toward the goal and that's what we're trying to balance out. That's a concern.

Commissioner Montoya: I'm still taking heat in this part of the state for the last fee increase. Even though we think it's reasonable, a lot of people struggle.

Commissioner Salazar: Are we taking care of computers in our capital needs?

Pat Block: That's being covered within the Operating Budget that began July 1, 2009. Replacement computers will be built into this request, the cycle through those whether it's the desktop computers or servers. They're on a replacement cycle built into the Operating Budget including the replacement they're working on that we can encumber funds. We're working through the approval process with the Department of Information/Technology to replace those servers. They provide quite a bit of oversight and make sure that it is truly a need.

Chairman McClintic: For the audience, because it's dramatic when we have \$22M and within five years the projection is we're going to lose \$17M, explain what you use that fund for and why we have seen that dramatic decrease.

Pat Block: The income stays flat so if you look at the projections, we're looking at bringing in somewhere \$31M-\$32M revenue from all sources—federal funds/hunting and fishing license sales/interest on that cash does provide several hundred thousand dollars of that funding. When we send the trucks off to auction that provides another \$100,000. When we're growing alfalfa on the WMA's to rotate it through with the grain crops, we sell that so the money comes from a lot of places but it's flat. We're looking at \$31M-\$32M each year because the license fees are the big chunk and they're set in statute. You're looking at an operating budget even assuming what we've found to be realistic. We get about 95.5%-96% of that spent because not everything gets done every year. Positions are vacant, so we don't spend everything we've got. Another nice thing about having an enterprise fund is rife with peril but one of the nice things is we don't have the incentive you'll sometimes see in other public agencies—it's the end of the year and we'd better spend every dollar we can. This year we'll spend around \$34M. We had some non-recurring items, but next year \$32.5M, and the year after \$33.5M; FY 2012 \$35.5M, next year \$35.8M, and the next year right around \$37M assuming that because of inflation the things we talked about energy/health insurance/costs to replace

trucks, everything we do is subject to inflation so we assume about 3% inflation rate per year, so when inflation is knocking this curve up 3%, the red curve is staying flat. It starts to worsen as time goes on and gets steeper.

Commissioner Salazar: Sportsmen have always funded wildlife management and they've been the leading conservationists, but we're seeing a decline. Wildlife is being impacted, Sportsmen's organizations have been fighting for a portion of the dollar from climate change bills.

Director Stevenson: As you see where we are with cash balance and what we're trying to spend, the state's economy is not looking promising, and they're going to be looking hard at our cash balances when we're at that \$20M-\$22M with all our funds. It's important that the Commission and the public understand we can articulate what we're doing with those funds and we're putting those funds out there on the ground and trying to get them spent, but how important it is that we extend that money over time without coming back for a license increase because otherwise you're going to see the legislators continuing to look at what's in the Game Protection/other funds as a way to help supplement other programs struggling around the state. That puts us in a compliance issue with our federal monies and monies we bring in. If there's anything we can do and if you or the public is getting questioned about our cash balance, please get with us so we can get that information that we are being wise and that's why we have the cash balances. We're also looking at partnering, and it's crucial the Commission understand this.

Pat Block: On July 1 we turned in to DFA a 5-year planning document. This doesn't bind the Commission to any particular decision in August, but this is what we saw as a rough sketch of capital over the next five years, so we've provided that for your information.

Commissioner Arvas: Is it fair to say we're not unique as a Department to have this type of fiscal structure?

Pat Block: That's absolutely fair. In the late 1930's and on into 1950's when Pittman-Robertson and Dingell Johnson Acts that provide the federal funding were passed through Congress, they wanted to make sure that both those federal and license dollars paid by hunters/anglers/trappers were used solely for running the state wildlife management agency so there are federal requirements that say that those funds both have to be kept in tact and also before you could participate in either of those programs, states were required to pass a law that says "we promise to play by these rules forever and ever", and that's called the assent legislation, so there are pieces in Chapter 17 that relate to both sport fishing and the wildlife restoration programs, and then specific requirements in the Code of Federal Regulations requiring us to do that or we cannot participate in those funds.

AGENDA ITEM NO. 9: Mexican Wolf Recovery Program Semi-Annual Briefing.

Presented by Matt Wunder – The Department presented a Mexican wolf reintroduction program update including project activities, notable events, program status, opportunities, and prospects for the future. The Interagency Field Team (IFT) conducted their annual population census after December, 2008. The project determines population size once a year. In NM we had 24 wolves with no breeding pairs, total of 5 packs with 18 wolves, 4 single wolves, and 4 uncollared wolves that were identified. Translocations have taken place. There is a lot of interaction between the IFT and public responding to wolf sightings. A proactive management activity is an effort to prevent depredations and build better relations with landowners/permittees. Contacts between IFT/landowners do come in terms of proactive measures and one of the major proactive measures on the ground we've got at this point are the Range Riders that have been contracted through the Department, sometimes with the assistance of the Mexican wolf fund monies to put a range rider to work with the landowners/permittees to help monitor their cattle, provide a presence in/around cattle which tends to discourage wolves from entering those areas. In addition to IFT actions which typically constitute on-the-ground management of the wolves, dealing with landowners on a day-to-day basis, AMOC provides project guidance/supervision. The project is suffering because of misinformation and lack of information so there's recognition that agencies need to work together to develop consistent and aggressive plans to present comprehensive communication strategies, each public information officer or comparable function in the agencies does provide official outreach from those agencies and is coordinated through AMOC but it's not a comprehensive outreach strategy. The directors agreed that was an important ongoing activity needing to be done, and there's going to be work between the PIO's in the agencies. The environmental analysis (EA) proposed last year provided comments. It had gone back to USFWS and the EA had two features essentially to change the definition of a breeding pair, and to allow initial releases in NM. It was drafted through AMOC, and the Department commented on it, it has gone back to USFWS, they're reviewing it and are going to be preparing for final release/public comments. They hope to have that done in the next couple of months. Another issue was the MOU we'd been operating under since Oct., 2003 expired in 2008. AMOC will continue to meet under the existing MOU and recognized it needs renewal. Directors directed AMOC to get comments together to consolidate discussions. Comments on how the MOU might be revised are going to AMOC and be consolidated with USFWS. Comments will initiate discussion on MOU development. USFWS has a commitment to develop an updated recovery plan. In addition to Dave Holdermann joining the Department, we had a temporary employee that left on April 30 working in the field, so we're down to two people in the field working directly on the project.

Director Stevenson called a meeting in the southwest area on how to better utilize Conservation Officers as a resource because they have been instrumental in helping biologists in the field in terms of investigations/depredations/following up on reports of wolf sightings. In October, 2007-September, 2008 an assistant chief and myself put in nearly 1,000 hours on the wolf project, as well as time spent by members of Directorate—director/deputy director/assistant directors attending meetings, meeting with the

Governor, etc. We also have conservation officers that may be providing assistance that aren't necessarily drawing directly from these wolf grants. There are travel expenses, so while we do get a fair amount of money through the federal government which provides probably the bulk of our funding, there are other costs distributed.

Commissioner Buffett: In the MOU revision, in your opinion, do you think we have an opportunity to negotiate formalization of rotating the chair?

Matt Wunder: Yes. We had an extensive/detailed discussion about the transition of AZ v. NM and the chair of AMOC. That is part of suggested revisions we're proposing for the MOU. We'd be looking at two years for AZ, two years for NM, bouncing back/forth.

Commissioner Salmon: You said there were no breeding pairs in NM, in the briefing it says there are 24 wolves in NM, three packs are displaying denning behavior, wouldn't that indicate breeding pairs? What's that discrepancy?

Matt Wunder: In the real world it would, but there is a specific legal definition of what constitutes a breeding pair. In order to be counted as a breeding pair, you have to have two wolves that produced offspring where at least two pups survive until Dec. 31. You could have a pair of wolves that produced four pups and all four survived until Dec. 31, but if either one of those adults died, then it wouldn't be a breeding pair. You could also have a breeding pair in which both of the adults produced pups and only one survived until Dec. 31, and they wouldn't count as a breeding pair either.

Commissioner Salmon: Could you give us more detail on public lands bill funding. I understand there were \$1M a year allocated for depredation compensation and you mentioned a match. What are the chances of improved compensation through this bill and what's the match from our point of view?

Matt Wunder: The omnibus lands bill included a provision that provided \$1M-\$1.5M per year for depredation management in states where they do have wolves and primarily focusing on the upper mid-west and Rocky Mountains. There is a 50% non-federal match that's required as a result of this legislation. Part of the discussion was where we can get that non-federal match. The USFWS has been trying to de-list wolves in the northern Rockies and Upper Great Lakes. They are off/on lists depending on the court actions that are imposed but if the wolf were de-listed in the northern Rockies, there are opportunities. Defenders of Wildlife have a compensation program that'd be non-federal funds that could conceivably be used as a match if the landowners/permittees were amenable especially in areas where the wolf is de-listed, and they don't provide compensation. The Mexican Wolf Fund has provided some of the pro-active wolf management monies. They get money from large donors, unlike the Defenders which has fairly specific and broader goals in terms of wildlife management. It's possible those types of funds would be available. I don't know that we can find monies elsewhere.

Director Stevenson: We've been working with Dr. Tuggle and the Director of AZ looking at what we can do to get part of that money. It looks like we have the chance of getting \$200,000-\$300,000 between AZ/NM. Dr. Tuggle is trying to get that 50% match requirement modified. He's having some success. We've met with members of the Turner Endangered Species Foundation about funding, and if we could move forward with the larger monies if we're able to get that from Congress. I'm confident that if we get that between AZ/NM, then we can deal with part of the match issue. We have to look at programmatic items but it's one of the crucial things that we've got to get ability to help interact with permittees/landowners suffering losses.

Commissioner Arvas: Are you aware of what they're doing in Wyoming/Montana in terms of legislation that has 1/18% gross receipts tax? Do you think money is the problem—other than administrative costs?

Matt Wunder: I'm not well informed on what's going on in Wyoming/Montana. Certainly there's difficulty addressing the depredation compensation. We get a lot of money from the federal government to support this program and there are always discussions/differences between the State of AZ/NM on the comparative amounts of money we put into this program. You're probably aware their budget is nearly double ours. I have a hard time spending the amount of money we put into 20-odd wolves.

Commissioner Arvas: So in a sense, the administrative costs are fixed?

Matt Wunder: We have to participate in AMOC at mine and Dave's level. The time invested in AMOC will increase. We can't get around that, so there are some fixed/increasing costs, but if we're going to be working with this project, we've made the commitment that NM is going to take a leadership role and if we're going to do that it'll require resources.

Chairman McClintic: According to what I've read/discussed is that Wyoming/Montana are trying to get 1/18% of a cent added to the gross receipts tax to compensate depredation because depredations are up, I think I read 400% over the past 2.5 years they're looking for a way to compensate depredations. You're saying they de-listed so they can't compensate. There's a conflict there. I know legislation has been proposed.

Matt Wunder: The Defenders of Wildlife Program says they will provide compensation as long as the animal is listed, but when it is de-listed, Defenders will not pay.

Public Comments:

Caren Cowan: I'm speaking on behalf of NM Cattle Growers/Wool Growers/Federal Lands Council. Were there any pups born in NM this year?

Matt Wunder: Yes.

Caren Cowan: So they weren't listed on your mortality list--what happened to them?

Matt Wunder: In terms of the population count from last year, there were pups born in 2008 that did contribute to the population. Some of those would have died from the time they were born in April-May up until Dec. 31, so unless they were referenced in terms of known death of a wolf last year that might have been reported in the December report, so all those pups essentially became adults.

Caren Cowan: Are there pups being born that are dying before we get to the end of the year, and do we know why they're dying?

Matt Wunder: Yes, some are dying before the end of the year, and part of the issue is that when wolves give birth to pups they're in a den. IFT doesn't go in and look in the den when the pups are young to see how many there are, so there certainly is some mortality that occurs in the den. Once the pups come out of the den and if the IFT has an opportunity to spot the adults/pups, they can start developing a count and at some point they'll say we've seen a maximum of four pups so we suspect there are four pups. From that point forward if there is a pup found dead or you get to the end of the year and they only find two pups with that group, then they'll assume the others may have died.

Caren Cowan: I'm not a biologist, but after this program has gone on for 10 years and we're not getting pups being raised, is there any research into why—do we have a genetic problem with wolves that they're not producing wolves that can survive? We've been in this program 12 years and we're not getting anywhere, so at what point do we begin to look at those sorts of things to see what the issues are?

Matt Wunder: The IFT and the program has looked at the issue of wolf survival. There was an investigation of whether wolves in the wild are producing as many pups as wolves in captivity and the best guess they've got at this point is that they are producing almost as many pups as they are in captivity. Whether or not there are issues with these pups for other reasons, and there may be genetic limitations on the population because the founder population was small initially. There are a variety of reasons why they die. If one of the adults dies while the pups are young, then there's a food stress issue and then you start losing pups if you've only got one wolf trying to support a number of pups, so they die for all those reasons. I'm sure there's depredation by lions/eagles. Last year we had a bad year with illegal killings that put a dent in the adults and subsequently the pups.

Caren Cowan: You talked about the male that died of cancer and the pups were killed, were they killed by the female/male?

Matt Wunder: Because they had the family unit and then the male got cancer and died, they put another adult male in an adjacent pen hoping that they would bond but they didn't. It essentially freaked out the female and she ended up killing the pups.

Caren Cowan: In talking about supplementally feeding the wild-born wolves, what food are we going to supplement with?

Matt Wunder: That will primarily be road killed elk/deer that is available. There is a stock maintained at the field team office and then that'll be supplemented with predator logs used to feed carnivores in zoos. It's a commercial product.

Caren Cowan: There has been horse meat in those before? That just leads to problems with killing horses.

Matt Wunder: My understanding is that a large component of it is beets and horse meat.

Moises Morales: Rio Arriba County Commission has proposed a couple of resolutions opposing introduction of wolf in this part of the country. I've never received word back from the Department concerning those resolutions which we've also sent to the Forest Service. It's time this Department works with us.

Ron Shortes: I'm representing Catron County as well as our family ranches in Lincoln/Catron Counties. The situation with IFT is so bad that most residents won't have anything to do with the Wolf Recovery Program or the team. The wolf problem in Catron County is worse than it has ever been. We'd like to extend an invitation to Commission/Director Stevenson/R.J. to come out and talk to our wolf investigator and people that we have on the ground about what's going on, not only about wolves, but about elk and other issues in the County.

AGENDA ITEM NO. 10: Announcements, Miscellaneous, and General Public Comments (Comments limited to 3 minutes).

Public Comments:

R.J. Kirkpatrick: A couple of issues surrounding GMU 6/Jemez, the Department recently met with Art Martinez, spokesman for some component of landowners as well as guide/outfitter representative to discuss potential option to re-draw the boundaries of Unit 6 to alleviate issues brought to the Department. That option wasn't fruitful because of issues that small landowners did not receive many authorizations. The Department recently publicly noticed four meetings to be held the next 3-4 weeks

(Espanola/Coyote/Cuba/Jemez Springs) where we can make sure everyone is informed of the desires/issues as we move with modifications to variety of rules to accomplish improving landowners receiving authorizations in Unit 6, as well as what needs to be in the area and how we manage elk. The second issue has to do with elk—there's a group of landowners/sportsmen/outfitters in Unit 4 are concerned about in their perception of overharvest of bulls, and degradation of quality of bulls. We're working with them in an advisory capacity to figure out a mechanism by which those landowners who want to improve quality could potentially voluntarily reduce the number of authorizations they actually use, while improving the level/consistency of authorizations that small landowners who are frustrated with elk numbers and the economic benefit they get from authorizations. Discussions on a voluntary program has centered around authorizations in folks' hands and the contractual

agreements in place. They're doing voluntary reduction in harvest of elk. The Department will work with them to evaluate what that is and potentially put in place options for continuing that voluntary program, and at the same time assuring small landowners receive authorizations more consistently and more valuable.

Ronny Rardin: I'm an Otero County Commissioner, and today I wanted to let you know someone from Otero County Commission will be attending all your meetings.

Gilbert Martinez: I'm a small landowner in Units 4 and 51, and most of my land is hay fields. I cut for neighbors and damage the elk are doing is bad. I've seen around 200 elk at one time bedding down in a 100-acre field. This is constant and I almost can't cut the fields. The quality of the hay is bad because of the manure. I'm taking down the fences on my land because the elk tear them down and mat all my hay, and I wanted you to know of the impact it's having on us.

Chairman McClintic: You believe the population is too large or do you think they're concentrated?

Gilbert Martinez: It's large enough or probably too large. They want to reduce it by 30%, but it's just going to compound. It's not manageable for hay producers. If they want to give up their 30% that's fine, but the elk are still going to be there. I'd like for it to stay where it is. Most people I've talked to feel the same.

Eloy Olivas: I'm a small landowner in Los Brazos/Unit 5-B. I don't see as much damage in 5-B although I do mend fences, but most of my problem is in Los Brazos. My property on both sides of the Rio Chama River and I've talked to Conservation Officers John Zamora/James Martinez/Ken Baca, and they say there's nothing they can do. They keep referring me to some kind of management with the Department. I gave up the one permit I had in Los Brazos so that the Department would analyze the problem on my property and maybe help me, but they told me I'd be on a waiting list for seven years. I found there's no money and I'm still stuck with the problem. In subdivisions built northeast of Brazos, elk that migrated there for the summer are ending up in hay pastures and that's where the problems are. It's not only tearing down fences, but how do we put up with hay loss. Who's going to compensate us for that? I lose about 200 bales. Mr. Martinez loses crop/fields by the hatchery where he raises better hay than I, landowners losing hay every year and we don't see any compensation. We're small landowners and lucky we see one tag.

Chairman McClintic: We're aware there are people that grow hay/alfalfa that feed the state's wildlife, and that's been going on for years. Is there anything you can suggest as a solution? You were talking about compensation that would balance out your loss.

Eloy Olivas: Small landowners should get more permits and that would probably help.

Chairman McClintic: We're worried about a solution because this has become serious. I directed the Department to come up with a solution. You're not going to get everything you want and they definitely aren't going to get everything they want. We need direction/solutions/advise. The problem is it seems every solution unfortunately is money, but we take problems seriously and we definitely want to alleviate those problems. With your neighbors' crops being eaten/loss of income/fence mending, try to get together with me and see if we can make sure Commissioners/Director/Department staff are available, and we'll try to come up with something that makes sense.

Manuel Trujillo: I'm a small landowner on the Chama but I'm in the Brazos. I need clarification—is it elk that have been identified as cattle or is it going to be regular elk they're trying to improve. Per the legislature, in Rio Arriba County we have two distinct classes of elk. Elk are now considered agriculture so being that elk have cow status, I'm not sure who you're going to be working with. I no longer get elk permits. Who can compensate me for damage I've suffered the last 3-4 years. Another problem I have is access to properties managed/owned by the Department. This is a very sore spot in the traditional Hispanic cultural community. For medicinal uses—yerbas/piñon/and other products out there that we use to treat/heal ourselves traditionally without having to go to the doctor, it's hard for an aged person that has traditionally been healed this way to access these properties. They depend on people like myself, a yerbero/curandero, to access these traditional medicines for healing.

Caren Cowan: I support everything that has been said. I've learned that the rabies issue on the west side of Texas has gotten worse and being transferred from skunks to coyotes. In speaking to the Director, apparently Texas/Wildlife Services has asked for vaccine drops into NM to contain the problem. I'd encourage the Commission/Director to work to get this done. It involves the Health Department/Livestock Board/MDA/AG's Office. I wanted to make you aware of this issue and together work to get this done.

Director Stevenson: The NM Dept. of Health/NM Dept. of Agriculture/NM Dept. of Game & Fish/Livestock Board all have some authority but no real broad authority under 17.1.14, NMAC, to deal with these issues where we could allow them to drop oral vaccine in NM. We need the assistance from someone at the AG's Office to look at the synopsis of authorities to enable us to move forward, but we've planned a meeting between ourselves and Dept. of Ag on the 14th.

Dick Ray: I'm a former Colorado Wildlife Commissioner from Pagosa Springs. On the minds of the Colorado Wildlife Commission/constituents now are elk and the real perception of a drastic decline in elk north of the state line. This comes from residents/non-residents. We're aware of the alarm movement and supportive of it in concept. The mega-population that inhabits the interstate area of southern Colorado, Archuleta/Mineral/Hinsdale Counties and Rio Arriba County both north of Chama on the east side of the Divide at the headwaters of the Chama, Units 80 and 81 in Colorado, a number of dissatisfied constituents, a 10% kill on bull year after year isn't getting done, and 90% of our clients aren't killing elk. They aren't seeing elk like they used

to, so there's a real problem interstate. My thought is we're in a new world and there are more homes/trailers/subdivisions/people and people are one of the biggest problems. Year round recreation in NM/CO in our elk habitat, and NM/CO need to pay attention, and determine where we're at and re-evaluate what we can do with the resource, and then do the right thing morally/ethically/legally.

Chairman McClintic: In speaking to small landowners, you said you're in support of the alarm program, how would you solve for small landowners raising hay/alfalfa, and getting hammered by the elk? They perceive a much larger population of elk. We've got our data, how do you suggest large landowners could benefit without taking anything away from the small landowners, but at the same time benefitting small landowners?

Dick Ray: We know it's a west-wide problem, but there's no way to financially compensate in NM. We've got two types of elk/deer: urban elk/deer accustomed to and not afraid of human habitation and those are the problem; migration that comes through isn't the problem as much as resident elk in hay fields in May/June/July/September. I don't know if the solution is depredation permits. It's been tried before and not palatable and probably not even successful because they tend to be replenished by other elk that come in and learn there are fast/easy meals. That solution is particularly difficult in NM where you don't have game damage. We've got to be cognizant of all factors, value of the resource/how can we handle all this, but I think there's a solution somewhere.

Commissioner Arvas: Does Colorado still have over-the-counter sales of elk licenses?

Dick Ray: Colorado unfortunately has over-the-counter archery/second-third rifle seasons. The first and fourth rifle seasons are on a draw as is muzzle loader. About half the licenses are on draw and the other half are over the counter.

Commissioner Arvas: How many licenses are you talking about meaning half?

Dick Ray: Last year there were about 5,600 licenses from Wolf Creek Pass to Durango. There were about 5,600 licenses on draw, about 11,000 licenses total utilized.

Commissioner Arvas: I bring that up because that's about five times more than we give.

Dick Ray: There's probably 7-8 times more land area. It's a mega-population—not every animal crosses the state line either way, but there's enough transition. What's done in Unit 4 affects what happens in Unit 70-A and vice-versa. To not acknowledge that and take responsibility/ownership of the problem is part of the problem. We cannot continue with same management techniques/styles in every entity—NM/CO private/public lands. It's time everyone gets together and come up with a new plan that's unified and cooperate/communicate/coordinate.

Commissioner Arvas: You weren't a proponent of over-the-counter sales at the end, were you?

Dick Ray: Everyone that hunts loves over-the-counter sales. I think it's so bad now that units north of the NM/CO state line should be limited in some manner.

Public Comments:

Mike Rivera: I want to present a letter from a Colorado Department of Wildlife biologist on the issue of the San Juan Interstate Working Group in terms of coordinating with NM/CO/Jicarilla Apache Tribe/Southern Utes, on HJM 4 issues that Rep. Stewart did on wildlife corridors and also the Western Governor's Association letter on habitat and corridors in identifying them is one way of helping get a solution on these complicated/diverse issues. We need to start mapping these corridors and looking at these areas of wildlife habitat/winter range/haystacks/fields/land subdivisions that are increasingly complicating this, then we can work towards getting this San Juan Working Group going and that's something addressed by the Colorado biologist.

Agapito Candelaria: I understand the Department was managing the elk herd based on previous survey counts of 8,000-10,000 elk. You've done a good job maintaining sustainability but you've learned that there are actually between 18,000-20,000 elk, and by doing what in my opinion is a more accurate way of doing flight surveys during the rut. It makes more sense that more hunting opportunities be afforded since there are twice as many elk. It's my understanding that you increased the number of hunting opportunities by about 5% in Unit 4. With the growing population, if we have twice as many elk, you're only increasing hunting by 5%, logic would tell me that there are going to be more elk. You have to monitor extremely close as we don't want to be inundated with elk in the hay fields/haystacks. Along the same lines, there's a proposal being circulated that would allow larger landowners to relinquish about 40% of their authorizations without converting them to licenses. There are questions as to whether this would work. Firstly, there was a similar program done 6-7 years ago in that a cooperative was formed and large landowners contributed unconverted authorizations to the coop by assisting many small landowners who were not benefitting from the elk on their properties. The first year about 9 cow permits were contributed but the next year the whole project fizzled out. Currently, they're converting almost 100% of their authorizations into licenses and finally, small ranches along the river valleys take a disproportionate hit on their properties because irrigated hay crop produces more than open high country grazing. Most small ranches grow hay that feed elk but benefit little from hunting. Large ranchers tend to benefit more but small ranchers contribute a disproportionate share and benefits little. Growing more elk is good for some but not for small ranchers. We gain more from hay/cattle than from elk.

David Stambaugh: In light of 2009-2010 migratory game bird being adopted today, I'd like to make a suggestion. The adopted light goose conservation order requires an additional free permit per 100 to hunt for the light goose conservation order, and because of the bulk of paper waterfowlers carry, maybe those free permits could be added to the purchase area on the website

so that when the hunter receives their license, the free permits they've selected appear on one piece of paper. We feel that'd be more efficient for Department personnel in the field checking licenses.

Aaron Jones: I'm a representative for the Alarm Group and a small landowner. Unit 4 has become the nucleus of this initiative. Not to confuse anyone, our initiative is long-term conservation of elk. The information/education gathered, Unit 4 landowners represent about 56% of landowner support in total land mass. Our objective is long-term conservation of elk, a valuable resource. The trend data seems to be more valuable than data which may fluctuate from 6,000-8,000 a year showing what the elk population is based on what model is used. Even a biologist would agree that a model is an estimate of population. We have no real clue of population and we're basing it off an estimate. If we did have 200 elk left in this unit, I imagine they'd be in Mr. Martinez/Trujillo's hay meadows. I'd like to separate the issue of the hay meadow from what we're doing and looking at. Something the Southern Utes/Jicarilla Apache have recognized is a decline in the population and something needs to be done. They fly their surveys in the background which is some of the best winter habitat for the herds in Unit 4, southern Colorado and they've seen the lowest population counts in 20 years, so the population is on a decline. What we've gathered from professional biologists is that if we continue this decline, in 5-10 years depending on harvest on both sides of the state line and Tribal entities, both public/private lands, we may not have elk to hunt in the future. I'd like to promote the Alarm Group as being small landowner friendly. To separate the issue that no matter what's happening or the elk population is, elk will probably find the best habitat/grass and be living on these hay fields.

Chairman McClintic: What's the Department's position on our studies and explain why all of a sudden we went from 10,000-19,000? I believe instead of 5% we increase the permits 13%, so give us the Department's position? We've got two varied sides. I want the opinion of where this herd is and if it's declining, I want to know what you see in Unit 4.

R.J. Kirkpatrick: The Department considers the elk population in this discussion primarily the north-central population, and that's basically all of the country where we sit right now and the Rio Grande Gorge/Colorado state line south to Coyote/Gallina made up of GMU's 4, 50, 51, 52, and 5-B. Over the years the Department has flown a variety of surveys, mostly winter, and recently we used what we call the Sightability Index Survey. It's a model driven survey that generates population estimates, and designed in Idaho. We've learned estimates generated from that data worked well in populations that didn't have significant migrations to them. Unfortunately this elk herd does have significant migration occurring annually, so our model estimates 8,000-10,000 head of elk were probably not true. We got smarter and we changed how we began flying surveys. We fly in the fall in the middle of the rut, not to count as many elk as we can but to take a representative sample to determine as best we can cow/calf ratios, bull/cow ratios, spike/bull ratios give us annual mortality rates on bulls, how many bulls we are killing, and allows us to use that information in conjunction with significantly improved mandatory harvest information to generate population estimates. We didn't magically create 10,000 elk in this region the last 3-4 years. We're suggesting that back when we thought there were 6,000-10,000, there couldn't have been. If that were the case, given the level of harvest that's occurring for all intents and purposes, we'd have been out of the elk business. There had to have been significant more elk in this region over time. These new populations are more attuned/accurate. We recognized we'd underestimated how many elk were there all along. As far as what the trend of the population is, different degrees of harvest strategies within that whole region, I suggest the population trend is fairly stable, maybe growing. The reason I say growing is the Commission/Department over the last six years have significantly reduced the level of cow harvest in Unit 4, where a majority of cow harvest has been occurring to increase the number of bulls being produced to substantiate the level of bull harvest. The population may be growing overall, not at a huge rate because of the reduction in cow harvest in Unit 4.

Chairman McClintic: When did you stop the cow harvest?

R.J. Kirkpatrick: Cow harvest went from over 1,000 authorizations issued every year to 400 in 2006 rule, so 2006 was the first year we pulled it off. We've reduced cow harvest in Unit 4 for going on 4 years. If you'll look back a couple of years, this elk herd was one of the most productive elk herds with cow/calf ratios/recruitment, bull/cow ratio were fairly strong compared to other places in NM and our mature bull segment was good. Last fall's surveys indicated a decline in both bull/cow ratios and mature bull/cow ratios. I don't disagree that a lot of people who live with these elk on a daily basis are seeing decline in quality of bulls, but with the new numbers of authorizations/hunting licenses available, harvest of bulls beyond sustainability if you're wanting to improve quality of bulls. Are we destroying the integrity of the elk population? We don't believe so. If you look at Colorado's survey data, their bull/cow ratios are in the teens and continue to have viable, productive elk populations even though bull/cow ratios are extremely low. The numbers of elk are fine. The question boils down to whether Unit 4 wants to manage the elk population to improve the quality of bulls. The question of managing the population levels is a whole different question. To reduce the numbers of elk you kill the cows, and to manage for quality bulls you kill fewer bulls and let them grow up. One of the fundamental issues is how do we manage elk population so that total numbers of elk are within the carrying capacity of the habitat, how do we insure that small property owners that are significantly impacted by the presence of elk receive economic recognition and benefit from elk presence, and at the same time reduce the number of bulls harvested to maintain the value of that elk resource for all via interest in hunting bigger bulls.

Chairman McClintic: Aaron, with your studies you believe the population has decreased not only quality/quantity of bulls but the population of the entire herd?

Aaron Jones: It's important to recognize the amount of land mass we're looking at. As mentioned earlier, this isn't something that's solely happening in Unit 4. The general trend information I'm getting from professionals that have provided information is that the population is somewhat on the decline in that, of course, as R.J. mentioned, overall quality to the mature bulls are definitely suffering.

Chairman McClintic: R.J., you believe dropping the cow permits 600 has stabilized the herd? That's the Department's position at this point?

R.J. Kirkpatrick: No, the increase to 600 was recommended by the Department recognizing that over the course of the last four years, especially in Unit 4, we've allowed elk populations to grow by not harvesting cows. We didn't apply that same reduction in cow harvest to 51, 52, and 5-B, so we've continuously killed cows at significant levels, but we also recognize that it's probably time to start slowing potential growth to that population, and at a minimum, let's stabilize it. That doesn't have anything to do directly with the quality/number of bulls.

Chairman McClintic: I understand, but we've got two issues--quantity issue with the decline of the herd, and quality of the bulls. What you believe the Department's best strategy to be is to stabilize the overall herd in this huge area would be to start looking at reducing the cow permits in the other areas, is that right?

R.J. Kirkpatrick: The recommendations and the end result of the Commission's actions in October, 2008 did in fact do that. There were significant increases in cow harvest in rule to the degree that it'll completely reverse the potential stabilization. It's probably going to be pretty stable given the numbers now.

Chairman McClintic: So if the larger landowners decided that they wanted to work out a deal with themselves, and say they're going to hunt 30% of their authorizations, we're not going to convert them because we definitely want to grow quality bulls, the smaller landowners/public hunters under what I believe is that they weren't going to see any loss of permit, but the people with certain acreage were having meetings, you were trying to get them on board. Last I heard was that it'd be a voluntary situation, and you'd ask them to lower their authorizations and not use them, but that if they said I just can't do that, we weren't going to step in and say we're taking your authorizations away to small landowners. Is that correct?

Aaron Jones: That's correct.

Chairman McClintic: Is that a solution, R.J.? How many bull authorizations do you give for Unit 4?

R.J. Kirkpatrick: I'm not sure, but around 1,100-1,200.

Chairman McClintic: So, those 1,200 we've knocked down to 350, and it was a voluntary effort, would that convince you we stabilized the herd, and if we had that kind of a reduction, would you as a wildlife biologist, be convinced that we could grow better elk, or would we have to take additional steps?

R.J. Kirkpatrick: The voluntary reductions in bull harvest by a significant number of landowners in this unit that have the ability to do that, sure, it'll result in more bulls growing up to be older, it'll improve the quality of the bull segment of this elk population as long as we're allowing that voluntary reduction to occur at the same time, and insuring that small landowners are receiving a reasonable and sufficient level of hunting opportunity that there's economic benefit for them. That's something that Alarm has purported as well. How you go about doing that is probably where we are now. There are a variety of ways to do that. The idea of limiting the reductions mandated by the State Game Commission and letting it be voluntary is probably the best solution, not forcing that upon anyone. Whether or not it will turn out to be successful is in the hands of those landowners who have to make the decision to harvest fewer elk, and that's a good position according to Aaron's group.

Chairman McClintic: Other concerns are that if they voluntarily eliminate 30% of the permits that the Department doesn't say it's going to increase the small landowners 13%-15% again. It's not working if we do that and they need assurance. It's a tough issue and both sides need to agree. One thing that's right is if we grew better and more quality bulls those single tags will be worth more money.

Commissioner Montoya: In many instances there's confusing information, but as a Commissioner I take exception to comments that are in the introductory part of the position paper. It takes a very critical approach of the Commission and actually blames the Commission for all the issues we're discussing. To quote 2-3 sentences from the position paper, Alarm has been forced to conclude that the regional elk resource has been consistently mismanaged by state agencies, governmental entities, and political bodies. Alarm believes these entities should manage this important resource for the benefit of the people. In addition, it says that there's a question that the quality and viability of the elk resource has been in serious decline since at least the mid-'90's and is now in critical condition, and the unrealistic misguided management objectives that we've had. Since I've been on the Commission, we were at 1,800 bulls when I came in 2003, we reduced that to about 800, then gradually gone back up by 5% 1,100+. We reduced cows and remained at 400 for a long time. Those are the Department's recommendations and we honored and respected them and those were the last three big game rules have included those recommendations. We learned last year flying surveys that we had more elk. People have been telling us there are a lot of elk, but we've maintained all along that we wanted to keep the quantity. The issue evolves around can we manage for quality or do we continue managing for quantity. I believe we've been managing for quantity because that was the fairest way to be able to work within all of the interest/stakeholder groups. If Alarm landowners had participated voluntarily and reduced by 30%, that means that you have 30% more elk which exacerbates the problem. There are far too many elk and what we're going to do with that is say that we're

going to grow more. The influential, i.e., larger landowners are more influential by virtue of their resources. They think they know what's best for those that have fewer resources that I'll identify as the smaller landowners. In this case, the large landowner has produced his position paper suggesting that it's best for everyone in the region if the elk herd is managed for trophy elk. This Commission has made the best effort to find middle ground. We have to trust Department experts. Until we have a system where the small and mid-range landowner benefits from having more elk, this is going to be a difficult issue to resolve. Small landowners disproportionately support wildlife by virtue of having irrigated crops, but disproportionately get less benefit. What would encourage them to want to support this proposal? I think that unless we find something where everyone benefits and everyone buys into the idea that quality is a good idea, this is going to be a tough sell.

Henry Ulibarri: I'm a licensed vendor in this area. Quality of bull would have worked in Unit 4 if people would have agreed and stayed with our proposal which was that of all the cow permits big landowners get, why just trash them. Why not give them to the small landowner? I invite the Commission/Department in the spring/fall and you don't need to get off the highway, come and stand at the top of Cebolla Hill and see the elk that are migrating off the national forest. Instead of taking permits away, why don't you give us cow permits?

Director Stevenson: There have been comments about corridors between NM/CO, Governor Richardson met with Governor Ritter at the Western and I talked to him last week and I'll be work with the Director of Colorado Game and Fish to look at the entire NM border where the concerns are. Part of it will involve what's been happening with the San Juan Working Group but it'll be more extensive.

AGENDA ITEM NO. 11: San Juan River Fisheries Management Update.

Presented by Mike Sloane – The Department outlined the progress to date in developing consensus among stakeholders regarding projects intended to improve the San Juan River Special Trout Water fishery. The Department also updated the Commission on survey data collected this year and actions taken over the last year to address angler concerns. The consensus is that the river is undergoing accelerated natural change in flows, and fishing pressure. There's a desire to restore it to its prior condition and maintain it. How do you do that? Habitat projects are a consensus. The consensus projects that came to the fore that are allowable given the funding available are to try and address Rex Smith Wash to make it so that sediment that's coming from Rex Smith's Wash doesn't get into the river, and look at an area called the Braids where at low flows the water is very shallow and can't really support fish to try to make those channels deeper. The other consensus issue is making the special trout water catch-'n-release the entire length. This would require Commission action and the Commission would have to open the Fisheries rule 19.31.4, NMAC, and adopt the change.

Commissioner Salazar: Some of the things that came up that people kept asking for were the studies. We have monies available now and it was clear that those monies couldn't be used for the study. We need to be innovative in looking at how we could possibly get funding for those types of things.

Commissioner Salmon: In a larger sense, there's always going to be an issue with the larger issue of in-stream flows. Those of us who value wildlife, habitat, and fisheries would like to see state water law be more attentive to the needs of wildlife and the legal ramifications of in-stream flows and there are some real opportunities. If this fishery is really worth \$30M to the local economy there's potential for money to buy more water for the benefit of fisheries. It would behoove fisheries people and trout fishermen to look into the opportunities not only the San Juan but statewide for greater opportunities for valuing in-stream flows and gaining legal status for in-stream flows in state water law.

Commissioner Arvas: Would you guess the total number of anglers is different now than what it was when you talk about prior years?

Mike Sloane: We have a chart in the white paper that talks about the number of angler hours and since 1980 we've probably gained about triple the number.

Commissioner Arvas: So even under that kind of impact you haven't really lost any number of fish per angler per day?

Mike Sloane: Correct, but we're seeing fish in different places, they're harder to catch, change in flows is causing a lot of that and that's being affected by the Rex Smith Wash dumping sediment. There are things we can do to insure that that experience continues to be a good one.

Commissioner Arvas: I don't expect a positive answer on this but if you cut the number of anglers by 2/3, the river would be as good as it was?

Mike Sloane: I'm not sure what impact that would have. The fish probably would like it a lot more because every fish we catch has a whole lot of scars because it's caught a lot so potentially it could improve. We've heard from a huge number of anglers that they have no interest in a lottery system.

Chairman McClintic: We've got a different opinion on the survey. Oscar Simpson/Andreas Novak, Concerned Citizens for the San Juan, e-mailed me a survey where they thought the satisfaction rate was less than 20%. They gave it less than 2 and they said that most people believed the river had declined in their survey. How come our survey says that 90% think it's great and their survey says less than 20%?

Mike Sloane: I'd have to know more about who they surveyed and how they carried their survey out.

Chairman McClintic: Would you find that out so we can see where the differences are?

Public Comments:

Oscar Simpson: I'm Conservation Policy Chair for the NM Wildlife Federation. There's been disagreement about conditions/satisfaction of the river. The vote was fix the Rex Smith Wash, and the study. The USGS study which was done in Largo Canyon says you cannot apply their study to this area. The study was flawed. Therefore, you cannot equate Largo Canyon sedimentation and lack of an inadequate study to this area. I'm dissatisfied the Commission/Department doesn't work with the feds. This is a fed land-based area, the BOR says they don't have a problem with it even though your own comments and USFWS/EPA comments say mitigation and restoration are reduced.

Chairman McClintic: What was supposed to be done in this meeting was discuss how we legally could spend the \$250,000. It's not capital improvement so we can't spend it on that. The Department was strictly to determine what your group and everyone involved in the San Juan would like to see us spend that money on.

Oscar Simpson: Our overall goal/effort is to get the feds/state to work together because it's going to take comprehensive evaluation to figure out what the problems are.

Commission Salazar: This is a major issue for fishers and we'll continue to work on the San Juan and make sure it stays a quality fishery.

Greg McReynolds: We want to make sure the health of the fishery is intact for generations. When we did come up with talking points at the working group meeting we did not say that the river was undergoing accelerated natural change, we said it was undergoing accelerated change whether it's natural is still to be determined. BOR spent \$200,000 plus voluntary work hours from the Department.

Mike Sloane: The entire project was worth about \$200,000-\$250,000, but a lot of that was donated. BOR did the environmental work and paid for materials, but it wasn't anywhere close to that number.

Greg McReynolds: So we had a project on the river with donated work probably actual dollar amount was not \$200,000, but was some amount of actual physical labor and took the cooperation of three departments and a lot of work time in the jay hooks above Cottonwood. If we fix Rex Smith most of us would agree there's a problem but if we don't do a study we can spend \$80,000-\$100,000 and fix a portion which doesn't do anything to help the river.

Chairman McClintic: We don't have the money now to do the study, and if we don't spend \$250,000, we lose it. What do you want us to do because we can't do a study right now?

Greg McReynolds: A good start is working with the aquatic invertebrates. It makes good sense working with baseline data and do new surveys. In addition, I'd hope the physical capital projects would be approached in a way where perhaps the Department put together a list of the projects and then we get an actual engineer with BLM/BOR participation to look at these things, prioritize them, decide how affective they're going to be, and what the impacts are. When was the last time Rex Smith had a major wash and contributed sediment?

Mike Sloane: Two years ago.

Greg McReynolds: Two likely issues with the river—the first is BOR. We talked about how we could work with them to improve flows for the fishery, and sediment coming off the BLM property. Sportsmen want to take the forefront and make sure we're being leaders on this, and the Commission is in making sure we're leaders on this. It's also important we make sure BOR/BLM are doing their part and being held accountable.

Chairman McClintic: We can try and hold them accountable but we have no control over them.

Grey McReynolds: Wildlife agencies have good track records working with BLM, identifying problems, and getting BLM to mitigate those issues.

Deputy Director Jenks: Pursuant to our work to date, we'd recommended that the Commission open the Fisheries rule, 19.31.4, NMAC, so that we may consider future changes to that rule.

MOTION: **Commissioner Arvas** moved that the Commission open the Fisheries Rule, 19.31.4, NMAC, to enable consideration of future changes. **Commissioner Buffett** seconded the motion.

Director Stevenson: We'd like to accomplish the public input, and if we're ready we'll put that on the August agenda.

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

AGENDA ITEM NO. 12: Opening the Deer Rule (19.31.13, NMAC) to Consider Changing the Deer Application Deadline, Eliminating the Requirement for a Deer Permit, and to Provide Various Licensing Options for Deer Applicants.

Presented by Barry Hale – The Department asked the Commission to open the deer rule to allow for consideration of moving the application deadline for deer from April (Draw 2) to February (Draw 1). The Department also requested that the requirement of a deer permit be eliminated, requiring deer hunters to possess only a deer license. The Department also requested consideration of various licensing options for deer applicants. The Deer rule's original intent was to look at moving this application deadline/draw to the early period. A lot of the reasons for doing this is for hunters/anglers to take advantage of some discounted licenses offered. The Commission adopted that starting with the next license year, all the license fees are now to be submitted with the application, which now includes deer starting next year. So, the point is, if somebody is a hunter/angler and

they apply for deer and they are going to want to fish starting April 1, they can go ahead and submit the fee for a general hunting/fishing license, select that checkbox, make that application, and if they are successful, the Department will send them a general hunting/fishing license with the hunt code for deer. If they are unsuccessful in the draw, then they'll be refunded the cost of the license.

Commissioner Salazar: I've heard concerns from handicapped that we had handicap for general hunting/fishing, but we did not have a handicapped category. Can we address that? I also think we should have outreach to the bow groups on the quality hunts. The Dona Ana Consolidated Sportsmen had issue with changing/timing of the deer regulation. They said it was a conflict with our youth education classes.

Commissioner Arvas: You said you're going to refund the license fee up front for the average applicant for the deer license?

Barry Hale: Now they're required to put the license fees up front, and if they're unsuccessful we keep the application fee, but refund the license fee.

Commissioner Arvas: Can that same person go back and buy a private land license once he's rejected from the draw?

Barry Hale: Absolutely, he can then go back to any vendor after April 1 and buy whatever type of license he wants and if he wants to obtain a private land only, he can do that, but then he'd get whatever general hunting/deer license.

Commissioner Arvas: Does this affect the vendors in terms of what they make?

Barry Hale: When we were entertaining the draw, we thought there'd be a lot of resistance because now that takes foot traffic out of their business. That argument could be raised but to what extent I don't have a clue.

Commissioner Salmon: I assume that if we open up these rules for consideration and we could end up adopting one and not the other. They don't all run together, or do they?

Barry Hale: No change can be made especially if we open multiple rules. Some changes might be made because it has been opened, and it may not be what we intended initially.

Commissioner Arvas: I think somehow you need to get a sounding board on this quality hunt. Before you make any laws, come back before the Commission and tell us what you want to do. That's was another criticism we've received—that your definition of high quality isn't everyone's definition of high quality.

Barry Hale: What we can do is, but we thought before opening the rule, leave it to the more general stuff. We can put on the web some language that is the criteria which is in rule that defines that, and certainly that's open up to change as well.

Chairman McClintic: What's the discounted rate from a pre-paid general hunting/fishing as opposed to buying your fishing license then buying a hunting license? Theoretically, what you're saying is that if we do go to the early draw, we're going to lose \$27 because 95% of the people will go ahead and take advantage of it and buy the combination, is that correct?

Barry Hale: A regular deer license if you're a resident/standard is \$39, where if they got a general hunting it's \$43, that's a \$4 difference. The general hunting/fishing with the example is \$62, so we're looking at \$23 difference. In putting this together, there may be some revenue that we may lose because of them not taking advantage of the discounted license, but I looked back and those are dollars that we shouldn't be getting.

Chairman McClintic: If a general concern of the Department is to make this advantageous so people can save money, just discount the resident deer license. You haven't changed a thing. They still get the fee. Overwhelmingly if the general public comes to us and says we hate the early draw, then we still have the option of working out the deal so we aren't affecting you on the other. It'd be basically the same thing. Specifically, on this early draw you're expecting 95% will buy the general deal with the draw. What's the difference, we're refunding \$43 or \$16.

Alexa Sandoval: In terms of changing a license fee, that's actually a statutory change that's required, so that's a process we'd have to take to the next level.

Public Comments:

Michelle Briscoe: I'm with the NM Wildlife Federation. Another option, instead of moving that draw up move the license year down so that they all start the same. We've been hearing from Southwest Consolidated Sportsmen that their concerns are the youth getting through hunter safety in time to be able to take part in the draw. They also have a concern about aerial studies typically used to determine the number of permits, are those going to be completed in time?

Henry Ulibarri: What about the land owner's written permission to buy a deer license? The reason that should stay is because as it is we have a large number of trespassing.

Garth Simms: I'm with the NM Council of Outfitters. Our issue with moving that draw up to February is that outfitters do all their marketing in January/February of every year. If they've got to go through that application process for potential clients at the same time they're doing these shows, it creates a tremendous hassle because they've got to be on the computer doing those applications. As alternative would be if someone early in the year buys a small game/fishing license and they're successful in the April draw, all they have to do is go back and pay the difference to get their deer license.

Chairman McClintic: The problem with that is we have a fee up front now going into next year so that's not going to work to have a second.

Garth Simms: They'll still be paying their fee up front to out-of-state residents not buying those general hunting/fishing licenses or those small game plus deer licenses. They'd still be paying the out-of-state fee at the front and paying that when they do the

April draw so it doesn't affect the in-state residents. They'd still have to provide the full fee, but they'd come back and get a refund if they've already got a fishing license. It's an administrative issue but you still have the April draw for deer and somehow discount that deer license to get them back to the level they'd be paying anyway for the general hunting/fishing or for the fishing license plus deer license.

Commissioner Arvas: Option 2 would work for you if we moved everything down.

Chairman McClintic: Would it be possible to move the fishing license down? That's the big concern because it changes March 31.

Alexa Sandoval: It's something we could look at. I don't know all the places where license year is defined in statute or rule.

Chairman McClintic: Our general hunt is usually April 10-15, and if we have to have a new fishing license by April 1, I don't think that'd be a big issue.

Garth Simms: It still doesn't deal with the issue of outfitters having to do those applications for deer licenses at the same time they're marketing.

Chairman McClintic: If we can't have it in early February, we'll have it in April with the general hunt applications.

Garth Simms: I think that'd work for us.

Commissioner Salazar: Are those shows set every year for a certain reason at that time? So setting it back would be the preference?

Garth Simms: Those are set trade shows that go on during a specific time the first week in March every year, and the second week in February, so setting it back would work.

Barry Hale: Section 17-3-1, NMSA, 1978, in statute does say that each license issued under chapter runs from April 1 to March 31, so that would be an issue that would have to go through the legislature.

Garth Simms: Instead of having the statute specify a date, you could get the statute changed to let the Commission set the dates which would give you flexibility on other issues.

Greg McReynolds: The idea of reducing that into one document is helpful. A lot of people hunting aren't buying that license because they don't know they have to.

MOTION: **Commissioner Salazar** moved to open Deer Rule, 19.31.13, NMAC, to develop amendments to move the deer application deadline, eliminate the requirements for a deer permit, provide various licensing options for deer license applicants and consider changes to the definition of quality hunts, and in addition move to open Hunting and Fishing License Application Rule, 19.31.3, NMAC, to develop an amendment to exempt private lands from the Quality/High Demand application restriction for deer. **Commissioner Arvas** seconded the motion.

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

AGENDA ITEM NO. 13: Rule Promulgation and Public Comment Process.

Presented by Bob Jenks – The Department presented alternative methods for establishing a consistent and predictable process for receiving public comment associated with the promulgation of future rules by the Commission. Those options/alternatives were brought forth because of individuals' concerns on behalf of a rule posted/presented, but over time changed/modified to reflect the best recommendation the Department could bring to the Commission. The consequence, however, is those individuals were not adequately prepared to speak to the rule presented/considered on the day of the Commission meeting. Subsequent to the March meeting, we went back and based on comments received as well as internal deliberations and other comments we're bringing this alternative back to you for consideration. The proposed alternative would establish a process by which the Department would develop a draft rule at least 60 days in advance of a Commission meeting at which that rule might be considered for adoption. After 60 days it would be posted to the Department's website and made available for public review at least 21 days to provide comment to the Department. Based on comments received, the Department would modify/finalize/post that rule at least 30 days in advance of prospective adoption by the Commission. The Department policy would outline the minimum time frames provided for draft rule in the 21 day public comment and the posting of a final rule prior to Commission consideration. This proposed policy includes a provision recognizing that more than likely during the course of the year will be some kind of exigent circumstance where the Department can't meet that posting requirement 30 days and 60 days, so the Director can certainly request concurrence with Commission/Chairman to move forward with a rule and waive requirements.

Commissioner Salazar: I'm concerned that you don't present us with alternative rules at times. Another concern is when the Director/Chairman have to make that change in the timing process, that they notify the Commission/public within a certain period of time, so that they do not come to the meeting unprepared.

Bob Jenks: Regarding bringing forth alternatives, there's merit depending on the circumstances. Potentially this policy could be re-drafted to reflect that while alternatively when the Department comes before the Commission and requests a rule be opened, specific direction be given to the Department at that time that this particular rule is one that the Commission would like to see as alternative(s) considered/presented prior to final adoption.

Commissioner Buffett: I echo Commissioner Salazar's suggestion of alternatives including no-change option, no action taken as an option for the Commission/public to understand what the different paths are. Are we as the Commission under the jurisdiction of the NM Regulation/Licensing Department?

Mona Valicenti: No.

Bob Jenks: Ours process is somewhat fluid with good intentions, but I don't know that there's actually a regulatory framework that stipulates how agencies would do this. I don't believe the Game Commission falls under those.

Commissioner Buffett: In any case, I think it's healthy we're moving in a direction of more transparency and public participation.

Public Comments:

Oscar Simpson: I'm Conservation Policy Chair with NM Wildlife Federation. This is a great opportunity to get transparency and public input to the process.

Greg McReynolds: When you pass this rule, you're laying the groundwork for future Commissions to follow in your footsteps. It's a great idea to have alternatives and hopefully when the Commission/Department present alternatives, those will also have an idea where that idea came from.

Michelle Briscoe: I'm with NM Wildlife Federation and wanted to reiterate how we support this process.

Commissioner Buffett: A year ago or so we adopted a rule related to rule-making where we have the authority of the Chair/Director to make certain determinations and in that rule we said the full Commission shall be informed within a period of 72 hours or so. Should we be staying consistent with that, and if the Chair/Director make a change, the full Commission be informed of that within a set time period?

Director Stevenson: Three days.

Commissioner Arvas: That's already in place.

Commissioner Buffett: That was rule and this is policy.

Commissioner Arvas: Yes, that's two different animals.

Commissioner Buffett: Don't we want to at least stay consistent, and reiterate it here with the Chair/Director?

Mona Valicenti: It was a policy statement, not a rule.

Commissioner Buffett: This is not a rule either?

Mona Valicenti: You make a good point.

Commissioner Buffett: We should say that with the concurrence of the Chairman of the State Game Commission we may authorize an exception to this policy for good cause and all members will be alerted within three working days.

MOTION: **Commissioner Arvas** moved to adopt the policy of the State Game Commission that it is the policy of the Game Commission that the public and federal state, Tribal and local governments, and interested parties have adequate opportunity to review and offer comments regarding rules proposed for adoption by the State Game Commission. Therefore, a draft of any proposed rule will be posted to the Department of Game and Fish Department website no less than 60 days, adoption when appropriate at the discretion of the Commission, and the Department will present alternative proposals for public comment identified potential advantages and drawbacks to each proposal, including no action, and quantify those with public comments presented to the Commission. Interested parties will be given no less than 21 days from the date of posting of the draft rule to the website to offer comments to the Department. The Department shall post a final proposed rule to the Department website no less than 30 days prior to the scheduled Commission meeting at which the rule will be considered. No changes to the posted final proposed rule shall be made except by action of the Commission on the date of its possible adoption. The Director, with the concurrence of the Chairman of the State Game Commission, may authorize an exception to this policy for good cause. Upon such action, the Director shall notify the full Commission within three (3) working days of this action. After the Commission is notified, the citizens be notified via the Department website within three (3) days after Commission action.

MOTION: **Commissioner Arvas** moved to table action on this policy statement until after the Department has had the opportunity to review and modify at the subsequent meeting. **Commissioner Salazar** seconded the motion.

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

AGENDA ITEM NO. 14: State Game Commission Final Approval Sought for 2010 Habitat Stamp Program Projects.

Presented by Dale A. Hall – The Department presented to the State Game Commission for approval, recommendations made by five (5) regional Citizen Advisory Committees concerning the Habitat Stamp Program's 2010 and 2011 habitat improvement project lists.

MOTION: **Commissioner Montoya** moved to accept the tiered list of 2010 and tentative list of 2011 Habitat Stamp Program proposals as recommended by the Citizen Advisory Committees and presented by Department staff. **Commissioner Arvas** seconded the motion.

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

Dale Hall: When you assign money to them they become projects, but the idea here is so that we can do some context planning. So you can see the 20 years worth of work that's out there and now we're building upon what we have already completed. With your support we'll do that for another decade.

Commissioner Buffett: In a few of the items, it mentions wells for cattle, etc., how do the teams determine that it's primarily a wildlife benefit v. livestock benefit.

Dale Hall: Generally when we're taking a person's water from his cattle and reserving it for wildlife, he has a traditional use of that spring, but we protect the spring but then pipe the water outside of an enclosure so that he could still have a trough to water his cattle without the cattle being in the spring and trampling the spring. Wildlife then goes to the spring, so it's keeping the cattle off the springs but still providing them a place for water. They're responsible for maintaining their water, the trough outside. We've had instances where they don't maintain that and then we see that cutting of fences into our spring. It's a trade off. The next step is we're looking at purchasing software to post this on the website so everyone can look at it and derive information from it. The software is expensive.

Director Stevenson: The Forest Service/BLM have worked tirelessly over the last 3-4 years trying to get all of these on GIS locations. It'll get us to a place where we can look at what's going on out there, where we spent those dollars, and where we're overlapping.

AGENDA ITEM NO. 17: Amending the Aquatic Invasive Species Rule (19.30.14, NMSA).

Presented by Bob Jenks – The Department requested the Aquatic Invasive Species rule be amended to provide for contractors with the Department, State, Federal agency employees to temporarily have custody of AIS for monitoring or transporting for the purposes of testing. This is one of those circumstances that is exigent and would have been one that would not have been able to fit into the 60/30-day comment period. The legislature passed and the Governor signed the Aquatic Invasive Species Control Act during the 2009 session. The purpose/intent of that act was to provide the legal means by which the Department and others can effectively manage aquatic invasive species. Unfortunately, the statute as passed did not adequately contemplate some of the things that needed to happen in order to implement fully the intent of that statute. Specifically, the statute prohibits anyone from knowingly shipping/transporting aquatic invasive species. We're requesting the Commission to consider an amended rule. Today we're requesting you consider allowing/amending this rule that would then provide some mechanism by which Department personnel could legally transport those AIS in the event they're doing monitoring/decontamination work, or disposal of AIS. While we have this before you we thought it'd be best to do clean up. We're making some terms in the rule consistent with the definitions. Effectively, it would be 19.30.14.11, Waiver and Release of Liability, wherein this will state upon your approval, prior to being eligible for decontamination by the state or it's designee, the owner or person in control of the warning tagged/conveyance/equipment shall sign and deliver to the Department a release of liability in a form approved by the Department. This stipulates that if an owner is unwilling to do so, then we cannot affect decontamination.

Commissioner Salazar: The person's conveyance would not be allowed to be used in any of our waters?

Bob Jenks: That's correct, if it's tagged.

MOTION: Commissioner Arvas moved to amend the Aquatic Invasive Species Rule, 19.30.14, NMAC, as presented.

Commissioner Salmon seconded the motion.

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

Director Stevenson: As an update, we've got an infested boat at Navajo. We're doing decontamination of that boat today which will be our first foray at that. We've got inspectors from USFWS/Colorado Game and Fish. Colorado Game and Fish is actually loaning us the equipment to do part of it so it's a team effort.

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

Michael Rivera: I delivered letters from Jicarilla Apache/Southern Ute and a letter from Mr. Waite that works as a biologist for the Colorado Bureau of Wildlife related to HJM/Western Governors Association memorandum on the habitat/corridors. That's a good way of mapping/approaching/defining areas/habitats/issues related to those.

AGENDA ITEM NO. 19: Adjourn.

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

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

Meeting adjourned at 3:43 p.m.

s/

Tod W. Stevenson, Secretary to the
New Mexico State Game Commission

August 20, 2009

Date

s/

Sandy Buffett, Vice-Chairwoman
New Mexico State Game Commission
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August 20, 2009

Date