

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 State Bar of New Mexico - Auditorium
 5121 Masthead, NE
 Albuquerque, NM 87199
 August 20, 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 – absent
 Vice Chairman Buffett – present
 Commissioner Arvas – absent
 Commissioner Montoya – present
 Commissioner Salazar – present

Commissioner Salmon – present
Commissioner Sims – present
QUORUM: present

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Montoya moved to accept the agenda for the August 20, 2009 State Game Commission Meeting. Commissioner Salazar 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 50 members of the audience.

AGENDA ITEM NO. 5: Approval of Minutes (July 2, 2009 – Chama/Los Ojos, NM).

MOTION: Commissioner Salazar moved to approve the Minutes of the July 2, 2009 State Game Commission Meeting in Chama/Los Ojos as presented. Commissioner Salmon seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: Updates and Miscellaneous.

Chairwoman Buffett welcomed Senator Tim Eichenberg to the meeting.

Director Stevenson: Bill Graves is the Department Planner and has been for approximately 15 years. Bill's last day with the Department is tomorrow Friday, August 21. I wanted to take the opportunity to express my gratitude for Bill's work to the public/Commission and wishing you good luck with your future endeavors. Shirley Baker, Human Resources Division Chief, is also retiring at the end of the month. I'd like to also express mine and the Department's gratitude and also wish her good luck with her future endeavors. Thank you very much.

AGENDA ITEM NO. 7: Revocations.

Presented by Dan Brooks – The Department presented a list of 201 individuals the Commission considered for revocation that met established revocation criteria. Five outfitters haven't provided proof of commercial liability insurance, 196 individuals that are not in compliance with the Parental Responsibility Act and not allowed to have a recreation license if they're out of compliance with child support. Once they come into compliance with Human Services and once they do their name would be removed and they'd be eligible to participate in recreation including hunting/fishing.

MOTION: Commissioner Salazar moved to adopt the Department's and Hearing Officer's recommendations on revocation and point assessment for the attached list of 201 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.**

Dan Brooks: Regarding Case No. 20090624.001, the individual was Drummond Lindsey, and this has to do with hunter harvest false report. Mark Pickering, Hearing Officer, report dated June 25, 2009, recommended revocation/suspension of license privileges for a period of three years. Mr. Lindsey's attorney filed an exception to the Hearing Officer's report.

Chairwoman Buffett: We'll delay this portion of the item until further discussion and review after lunch during Closed Executive Session.

AGENDA ITEM NO. 8: Fiscal Year 2009 4th Quarter and Annual Depredation Report.

Presented by Tim Frybarger –The Department reported total number of depredation complaints filed, resolved, and pending with the Department in accordance with 19.30.2.11, NMAC, for the 4th Quarter of Fiscal Year 2009, and presented the Fiscal Year 2009 annual report. The 4th Quarter is April 1 through June 30, and there were 120 complaints filed with the Department, 73 were resolved, yielding a 61% resolution rate; the remaining 47 complaints are pending. Of the total 44 complaints filed, 5 top species for which the most complaints were received are bear/raccoon/beaver/elk/cougar. During the fiscal year there were a total of 380 complaints, 270 have been resolved, yielding a 71% resolution rate as of today, the remaining 110 complaints are unresolved. Intervention methods to resolve these complaints are currently in progress. Of the 380 complaints filed, the five top species are bear/raccoon/cougar/deer/elk. There were 476 past complaints that had a 1-year anniversary date, and of those 354 resolved within one year, for a resolution rate of 74%.

Commissioner Salmon: Unprotected animals like coyotes/skunks aren't under our jurisdiction and that's why they don't show up on this report, correct?

Tim Frybarger: Correct.

Commissioner Salmon: Animals like varmints/woodpecker, under whose jurisdiction do they fall, and how do they get on here?

Tim Frybarger: Woodpeckers are under federal jurisdiction, but we do handle those.

MOTION: Commissioner Montoya moved to accept the Fiscal Year 2009 Annual Depredation Report, including the 4th Quarter Report, as submitted by the Department. **Commissioner Sims** seconded the motion.

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

AGENDA ITEM NO. 9: Approval of the FY 2011 Operating Budget and Capital Improvement Projects Request.

Presented by Alexa Sandoval & Patrick Block – The Department presented and discussed the proposed Fiscal Year 2011 Operating Budget Request, and the Infrastructure Capital Improvement Project (ICIP) Request for Commission review, approval, and certification. Final direction and approval were requested of the Commission regarding contents of budget for submission by statutory September 1st, 2010 deadline.

Commissioner Salmon: Under today's economic times there's not much chance for alternative funding that might come into the Department, correct?

Pat Block: We were specifically directed by the Governor's Finance and Administration Department not to request any additional general fund money given that the General Fund appropriation was reduced to zero. We've perceived aggressive expansive project agendas for a few of the past budget request cycles. This year we've focused aquatic invasive species and the off-highway vehicle expansions are entirely funded through the Trail Safety Funds so we've taken a conservative/cautious approach with the Game Protection Fund. It's a critical time to pause from being aggressive in the area of the budget.

Commissioner Salazar: What percentage of the budget is covered by sportsmen and how much by federal funds like the Pittman-Robertson/Dingell-Johnson Acts?

Pat Block: About 55%-60% of the budget comes from the sale of hunting/fishing license, about 1/3 comes the federal reimbursements, and those trust funds are fueled by excise taxes levied at the manufacturer level on hunting/fishing/other outdoor equipment. The wildlife restoration funding comes from guns/bows/ammunition so it's hunters that predominantly provide funding for that but sport shooting that's non-hunting also does. Dingell-Johnson is on fishing equipment so those are tied to those that buy licenses, so depending on how you look at it you could say that with the loss of about 1% that we used to receive from the General Fund that virtually all funding is coming from sportsmen whether they're hunters/anglers/sports shooters but in essence all the money. The Game Protection Fund and other Department funds are non-reverting so any interest they earn stays with the fund. There are other small sources, i.e., waterfowl farms when those crops are in rotation and we're growing alfalfa instead of grain, the sale of the crops comes back into the fund and stays in the fund. When the trucks wear out and we replace them and sell the trucks at auction, that comes back into the fund and stays in the fund so it's protected revenue.

MOTION: Commissioner Montoya moved to approve the Department's Fiscal Year 2011 Operating Budget and Capital Improvement Project Requests as presented; and to allow Department staff to make technical adjustments and changes necessary to incorporate assessment rate changes provided by executive agencies after this approval, but prior to the statutory deadline. **Commissioner Salmon** seconded the motion.

Director Stevenson: As the revenues of the state continue to be problematic and with the issues the state is facing, the Department is not going to be exempt. I ask we pass it the way it's presented. We'll seek other means from state government whether it be severance tax bonds or something else, if it looks like it will be moved back and 100% of that be borne by the Department. At some point we may want to have that discussion. We may need to come back in and make some suggestions to the Commission. The Department is in a better position than other agencies.

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

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

Public Comments:

Larry Caudill: The tendency of the legislature is to raid Department funds, so I suggest those of us who'd like to help out to simply report any measure that might impact Department budgets/funds, and we have lead time and hopefully some ability to help out.

Ron Smock: Has the Commission considered with the draw system of doing a week long hunt for the serious hunter, and a weekend hunt for those that are clogging the draw system? Is there any development in a point system for NM?

Commissioner Sims: You're proposing that people that hunt on weekends aren't serious hunters?

Ron Smock: I'm saying that's the majority of the people. I believe a lot of them do go out for the weekend and have a good time. There are a lot of people I know put in for the draw so they can go out for the weekend, but I think the serious hunter goes out for the entire week.

Commissioner Sims: You might suggest to them that we have a G.A.I.N permit that allows them to go camping.

Robert Espinoza: I'm Executive Director for NM Sportsmen for Fish & Wildlife. We're getting a lot of input from NM sportsmen on the quality high-demand in the antelope regulation in the Big Game Proclamation. They don't like the regulation and would like it removed. I'm asking the Commission if that rule can be opened up for public comment and put it on the next agenda to see if there are other things we can do for the draw and get that removed.

AGENDA ITEM NO. 11: Proposed Change to the Fisheries Rule 19.31.4, NMAC.

Presented by Mike Sloane – The Department proposed a rule change that would make the entire length of the San Juan River Special Trout Water (Quality Waters) catch and release only. This proposal is being brought forward based on input from a variety of stakeholders over the course of the last year to convert the entire length of the special trout water on the San Juan River below Navajo Dam to catch-'n-release only. This proposal was generated over the course of the past 1 ½ years so as we've interacted with the public regarding the 2-fly rule/sediment in the river/concerns over the fishery, a consistent theme has come up to make the special trout water catch-'n-release only on it's entire length.

Commissioner Salazar: Is this the recommendation of the San Juan River working group the Department is now working with?

Mike Sloane: Yes, among others. When we were in discussion about the 2-fly rule that the Commission adopted, I received many comments but many among those requested catch-'n-release on the special trout water but the most recent request has come from the San Juan River working group consisting of a wide variety of entities.

Commissioner Salazar: Currently, what's the limit they can take in these quality waters?

Mike Sloane: It's catch-'n-release for the first quarter mile and then one fish over 20 inches for the next 3 ¾ miles.

Commissioner Salazar: Do you feel that one fish is making a significant impact on the population of the breeding stock?

Mike Sloane: No, biologically I don't think the rule change will change anything, but it may make enforcement easier and the anglers will feel better. They feel they're protecting the resource more.

Commissioner Salmon: Are there any other species found in that 3 ¾ miles that would come under this rule besides Rainbow/Brown trout?

Mike Sloane: No.

Vice-Chairwoman Buffett: Can you explain any further seeking of public comment on what the Department did to get comment on this?

Mike Sloane: Of the e-mails that went back and forth over the 2-fly rule, there were probably 140 contacts with many commenting on the 2-fly rule and why not make it catch-'n-release only. We met with NM Trout/guide association/Trout Unlimited/Concerned Citizens and they've requested that this be a priority change.

Vice-Chairwoman Buffett: So you'd describe that this was a consensus item of the working group?

Mike Sloane: I think so, yes.

Public Comment:

Larry Caudill: How do you convert that waste into recovery?

Mike Sloane: I won't argue with the fact that catch-'n-release does in fact kill fish. The concept will biologically change the system. I think the concept should be less handling. There've been concerns raised that someone catches a 20-inch fish and an hour later they catch a 24-inch fish and they dump the 20-inch fish in the bushes and keep the 24 and that might reduce some of that. It'll probably help some but I don't think it's the solution.

Jeremy Vesbach: It doesn't seem a controversial item but it's nice to see public comments quantified and the Department made great progress in making decisions more transparent and accessible.

Oscar Simpson: We had one formal working group meeting and this issue wasn't brought up. It needs more public process and not rule on it this meeting. We need a transparent public process.

Mike Sloane: I disagree. We went through a process of prioritizing the long/short term needs on the San Juan. This came up as a priority.

Vice-Chairwoman Buffett: Do you keep Minutes of the working group?

Mike Sloane: I sent Minutes out to all the members of the committee.

Commissioner Salazar: I do recall it was brought up in the working group meeting. I don't think there was a voter discussion, but I can see this as clearly helping the law enforcement aspect. That's how it was brought up in the meeting. Is that correct?

Mike Sloane: Yes, and I think there was a general belief that it would help the fishery itself, not just the law enforcement effort. I don't think there was a lot of discussion because everyone agreed on it.

MOTION: Commissioner Sims moved to adopt changes to the Fisheries Rule 19.31.4, NMAC, making the San Juan River Special Trout Water catch and release only. Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 12: Update on the Proposed A-Plus System and Possible Extension of Final Rule Adoption.

Presented by Jim Lane – The Department updated the Commission on the A-PLUS system and discussed the decision timeframe for possible final rule adoption. WMD proposed a new version of A-PLUS during the winter of 2008-2009 and this new version was presented to the public/Department/Commission.

Commissioner Montoya: One authorization per enrolled landowner, that's regardless of the size of the ranch, one per enrolled landowner?

Jim Lane: Yes, that would follow the statutory mandate that the Department has for enrolled properties. Each enrolled property would get one free license regardless of size.

R.J. Kirkpatrick: To clarify, statute requires a free license to properties that have engaged in agreements with the Department that allow public access hunting on their property, so even though a property may be enrolled, typically, most of our properties that are enrolled do sign agreements that allow public hunting opportunity.

Director Stevenson: I don't want folks to think that because there are alternatives that those are preferred alternatives. This issue is a difficult one as we look at modifying changes.

Public Comment:

Jeremy Vesbach: We support this process.

Larry Caudill: I support the Department.

Darrel Weybright: As a result of our spring surveys for pronghorn, we generally saw a decline of roughly 10%-20% in many of our survey areas. A particular one, Stallion Range on White Sands Missile Range, declined. We offered those hunters the option to move to other hunts and some accepted and some preferred to stay on. We're proposing that in September we'll have a rule that will eliminate 15 hunts from that hunt area.

Discussion item only.

AGENDA ITEM NO. 13: Update Regarding Prospective Amendments to the Elk Rule (19.31.14, NMAC) and Private Land Elk License Allocation Rule (19.30.5, NMAC) for Game Management Units 6-A and 6-C.

Presented by Jim Lane – The Department updated the Commission regarding public input associated with elk management in Game Management Units 6-A and 6-C.

Public Comment:

John Hernandez: I'm a larger landowner representing the W.R. Hernandez Ranch in 6A. We've worked with Representative Debbie Rodella/Department and we've told them that we need consistency. Please do not combine these units.

Ronny Rardin: I'm an Otero County Commissioner. In Otero County the answer to our problem is enough permits given to the ranchers to maintain business/livelihood and to work with sportsmen to find a happy medium. It's about people making a living first and enjoying the land second.

Garth Simms: I'm with the NM Council of Outfitters. On behalf of the Council we oppose the combination of the two units.

Art Martinez: You keep hearing 6A is for elk and 6C is against it, but all we want is equality.

John Hernandez: I wanted to make the Commission aware that there are a number of smaller landowners being shoved into Unit 9A. What tags do they get? They're competing against larger landowners and they don't get any tags, and if they get tags they're shoved into units they don't want to hunt. I'm adamantly opposed to any more fencing and I request the Commission direct the Department to determine whether this fence should be left or not. Come up with something so that the smaller landowners receive some compensation and I'm not competing as a larger landowner against them.

Public Comment:

Brian Thompson: I support the units stay the way they are. There are issues with some of the landowners that need to be re-visited and make adjustments for them. I did notice that some landowners want permits for income, but not all of them have elk problems.

Carlos Chavez: Despite the numerous meetings it's not fair, and we've got more elk/deer than anyone.

Commissioner Montoya: It's inevitable that we'll have to make a decision at our next meeting. I think the reason we've delayed is because we wanted to make sure that everyone that has an interest in these units has an opportunity to provide suggestions/input/comments. The Department is almost there in terms of making a recommendation. A couple of issues still need work. It's difficult for the Commission to make a decision at this time. At that time, Banelier/LANL/U.S. Forest Service joined in the comments/concerns. I didn't hear much from any of them except that there was some presence from the Forest Service, but they never suggested/commented on whether they were in favor or opposed to any of the options. I'd like to be assured that those conditions exist. At that time, all those federal agencies/organizations had an impact on our decision making because it got to the legislative level and those legislators that represented LANL/Banelier were very vocal about what direction Commission/Department should take. I don't know if they submitted comments this go around. Another issue I still have is whether we can/cannot if there is a revision to the E-PLUS in 6A and 6C, can we do certain things to one unit that aren't applicable to other units across the state or are we setting precedent. I know we treat units differently based on circumstances and whether they're public/private. I'm not sure whether we've made revisions to the E-PLUS System that aren't applicable

across the board. If we could possibly do revisions/adjustments to a particular unit and I don't know whether that discussion has taken place.

Vice-Chairwoman Buffett: Mr. Lane, can you post this to the website?

Jim Lane: We'll put it on the website.

Discussion item only.

AGENDA ITEM NO. 14: Update Regarding Prospective Amendments to the Deer (19.31.13, NMAC) and Hunting and Fishing License Application (19.31.3, NMAC) Rules.

Presented by Barry Hale – The Department provided update on public comments pertaining to prospective amendments to the Deer and Hunting and Fishing License Application Rules. Specific amendments addressing the deer application deadline, eliminating the deer permit, providing various licensing options, modifying quality deer hunts, and exempting private land licenses from the 'Quality/High Demand' application restriction were presented.

Commissioner Montoya: Is there a reason why this isn't an action item or why it can't be separated?

Barry Hale: The deer and application restriction are interrelated because of the quality designation and the exemptions. There is no specific amendment/rule action that can't be handled separately.

Pat Block: We're trying to get everything set in place in order to facilitate printing of the publications and development of the changes to the computer system, so that's why we built the timeframe to keep it all together so that we have that process set in place for September. Until we have the final wording for the rule developed, it'd be more advantageous to let the public have a look at that than to take action today. The public has to get the whole package before them for some time leading into the September meeting. We're trying to have a transparent process with enough time.

Commissioner Salmon: Can you articulate about what in general terms is the rationale for having these various quality hunts? How did that all develop?

Barry Hale: The quality hunt issue has been in place for a long time. In some cases it would start off as units and we tried to manage those as quality to give hunters the ability to experience criteria and our ability to manage.

Pat Block: In the early to mid-'90's when we started talking about having a limitation in statute on the number of non-residents that purchased licenses, another thought was that you could potentially use some economics and market conditions to decrease the number of non-residents in a given hunt code. A lot of that came from the designation of quality and then later the creation in statute of high-demand as a way to use the market by making a higher-priced opportunity to reduce the number of residents applying. The thought was that the reason they were applying so heavily in some of those areas was because those hunts had certain attributes that you now see described in rule as those quality hunts whether it's low hunter numbers/expectation of trophy animals/location so those were a variety of those factors but that came about as a way to use price to either encourage/deter folks from applying. That's why when you see those quality fees they exist only in statute for non-resident hunters so there's no price differential when a resident applies for a quality hunt v. standard hunt. On the non-resident side was that you would have a higher price and economically discourage some non-resident participation or at least if you did the state would realize a higher financial value from those hunts from the non-resident applicants. That came in at the same time as the quota so you have now both the percentage limitations and the higher prices on those hunts that have that designation. As to which hunts got lumped into that group and which did not that was a whole different matter and that's set by rule and was made by the Commission based on the factors I mentioned.

Public Comment:

Todd Welch: I appreciate you combining these because for several years I haven't bought a fishing license. I wish all draws would be moved up because kids get out of school in May and it gives them more time to find out what I got drawn for and go scouting, more camping opportunities. If I find out I get drawn for my third choice and already scouting my first choice, I'm limited because of the school schedule. Also, I like limiting the amount of paperwork we have to carry.

Larry Caudill: The notion of applying for license/permit and then being obliged to report the results of the hunt should you draw a permit provides a way to control hunter density/pressure/harvest, and the second provides better data so you know what the harvest was and then make better decisions in terms of next year.

Barry Hale: Currently, you're required to draw a permit and then purchase a license. Now you're only going to have a license. The permit goes away.

Larry Caudill: The end result is the same, we just eliminated a paper step? I'm in total support of paying the license fees up front. When you went to the electronic online application process the number of applicants was going up in terms of total applicants because there was no significant cost associated.

Pat Block: They did go up. To exactly quantify is hard because we went to the statewide deer draw at the same time.

Larry Caudill: The drawback is it becomes harder to draw permits especially with more permits being allocated to private land hunting and hunts. This forces the applicant to make an economic decision. It suppresses the casual applicant where everyone in the family puts in with the hope that someone will draw a permit. That results in making it harder for the serious hunter to draw

a permit. It's simply a matter of issuing credit to credit card if you don't draw. The positive is that it's simple to refund the money if you don't draw.

Garth Simms: I'm with the NM Council of Outfitters. The application date issue for deer for outfitters involves quite a bit of paperwork. We'd like to maintain the application date as it is to accommodate the outfitters that are trying hustle to hunters into the state. That's a legitimate goal and they've been able to accommodate the outfitter industry by using this recommended option.

David Blair: When the Department sets a deadline, the Department should stick to it. The quality high-demand hunt rule is not fair as an archery hunter. I don't hear anyone talking about giving us an exemption.

Michelle Briscoe: I'm with NM Wildlife Federation. My concern is in assuming that it's going to work for everyone. There are people who have concerns and if they weren't given a chance to see the options I hesitate to make the assumption that it's going to work. Are all other private hunts in quality units exempted?

Barry Hale: Yes, that's correct. If a landowner/hunter obtains a private land only permit in a unit that's designated quality, currently we're entertaining that yes, those would be exempt as well.

Michelle Briscoe: I'm curious as to why a private land hunter would be exempted from the every-other-year rule if a public land hunter is not.

Barry Hale: The logic is that there are some private land hunts that go through the public draw. That's what brought it to our attention. Regarding having a private land hunt in a quality unit is that the public land hunter has the capability of hunting a large landscape. That is part of the quality designation/criteria. If you're a private land only hunter you might only be able to hunt a small ranch so you're not taking advantage of those other criteria that the quality unit offers so at least in first cut is why we decided to at least make that offer.

Pat Block: The whole notion behind the every-other-year holdout was to spread the opportunity over a greater number of people through the public draw. The people who purchased the private land deer hunts or landowner elk licenses are not going through a draw. They are chosen by the landowner. It's up to the landowner who they want to open the gate for so we don't really have any ability to tell a landowner who they can/can't allow on to their property. When we designed the holdout it was to spread a limited number of licenses that we choose who gets to hold by the random draw over a greater number of people. That's why we have not included private land hunting either on the deer/elk/antelope in the every-other-year holdout because we don't have an influence over determining who landowners open their gates for. We have the ability to spread them over a wider number of people and that was what I believe was contemplated in that every-other-year holdout.

Michelle Briscoe: If a member of the public draws in a quality unit, would they then be eligible to purchase a private landowner, if lucky enough go every other year, the next year? I'm not entirely sure that's an equitable process if a public hunter simply can't afford a private landowner's tag. It seems they're unfairly burdened by this.

Vice-Chairwoman Buffett: Let the record reflect Mr. Hale nodded his head "yes".

Oscar Simpson: I share the concern when you have quality high-demand we're basically turning everything over unlimited seasons/no restrictions on seasons on private land and now we're going to exempt permanently deer enhancement/private land tags in these units considered quality high-demand. If you want to solve the problem, go back and eliminate the regulation that creates the quality, high-demand hunt restriction. Look at input between October when it was barely introduced by Chairman McClintic and then it was voted on in December in Deming. We're objecting to those privileges to the private landowners.

Robert Espinoza: I'm Executive Director of the NM Sportsmen for Fish and Wildlife. We support Option 2. Regarding the quality, high-demand, if that rule wasn't enacted we wouldn't be talking exemptions for the quality, high-demand. If we address that rule none of these exemptions/restrictions for quality, high-demand comes into play. All of that is to address every-other-year. I ask the Commission bring that onboard as an action item at the next Commission meeting. I also request that September's meeting be moved to October to give the public more time to comment.

Garrett Veneklasen: I concur with Mr. Simpson with his approach to private landowners being exempt from this rule. It's completely discriminatory.

Jeremy Vesbach: I appreciate bringing up and discussing something at a Commission meeting before acting on it. The quality, high-demand is a good example. That was acted on quickly and the Commission identified a desire to see something done with the draw to spread opportunity around; however, there wasn't a lot of time for public comment and now we're in a situation where we're trying to revise it on the fly after it's been implemented. What's the overall impact on the Department's revenue of re-designating quality hunts? On exempting private land only permits, discussion on fixing the deer tag permits issue with the different options/drawbacks there was no discussion of advantages/drawbacks. As we move forward it would be nice to see that explained more. The private land only draw, what are the advantages/disadvantages of this because it strikes people as being inequitable.

Richard Winn: I'm a hunter ed instructor and propose it go to February 2 because we get bombarded from January-April and then we don't have that many after April. We get full classes five minutes after registration starts so it'd be better to work the full year and that way you have more chance of reaching more people.

Commissioner Salazar: People are clear about options. The other is still clouded and I'd like to see more input. What effects would that have on you if we took those apart?

Barry Hale: We weren't planning any action at this meeting. We can prepare separate motions for the September meeting. As far as the application deadline issue, there doesn't need to be any formal motion. It's a decision the Commission makes annually on when the draws are going to be and what species. Historically it's always been in Draw 2. If there was going to be a reason that we all wanted it to move to Draw 1 that would be identified formally. The quality designation and application restrictions obviously are more complicated and we can certainly break that into separate motions at the next meeting.

Pat Block: There is no meeting scheduled in October. The next regularly scheduled meeting is on September 24 in Las Cruces. While Option 2 is the most advantageous to the public, it's also fairly complex to build a computer system that doesn't exist that needs to know that if I draw, I want a general hunting/fishing, but if I don't draw I want a small game/fishing license. There are a number of combinations and that's why we talked about making that online only. You can teach a computer to take people through all the myriad of choices, but you can't make a piece of paper accommodate all that without it requiring the backpack needed to carry it. We didn't have one application form for deer that was very complex and one for other species. Even if we don't move it to the February deadline, we're still looking at making a system accessible to applicants after the first part of the year. We need time to print the rules/information books to be shipped to all licensed vendors. We cannot print those until we know what words we're going to put into those. I'm reluctant to say that we'd be able to hold that off until December. We feel there's a need for people to have enough time to look at this. That's why we're discussing today and not suggesting any action until the September meeting. We hope that gives people enough time to sufficiently understand what we're trying to do. To address a couple of the other points that were made, coming in and making adjustments to a system to make it work better and to specifically address some of the concerns you've heard today, but you don't want to hold people out from hunts that no one wanted to begin with. I don't feel that is a bad thing or indicates that a notion is flawed. That's why we come through and review rules/laws on a regular basis.

Commissioner Salazar: I think we should separate these two issues at the September meeting.

Discussion item only.

AGENDA ITEM NO. 15: Amend the Barbary Sheep, Oryx, and Persian Ibex Rule (19.31.12, NMAC) to Clarify Certain Provisions.

Presented by Darrel Weybright – The Department proposed adding a paragraph to the License Application Requirements and Restrictions section to further clarify the current requirements in the rule. Clarifications were intended to reduce trespass conflicts and improve the hunter-landowner relationships.

Commissioner Salazar: We don't want to lose that quality hunt. I understand we're trying to keep them from spreading and reduce off-range numbers, but I think we need to maintain the quality of the population.

Darrel Weybright: Next year instead of making a big change in the oryx hunt structure, we want to visit that oryx population, and how best we might be able to distribute hunting opportunities, and do that for the next two-year rule. We'll begin those discussions this winter.

Commissioner Salmon: Is there any connection between the previously mentioned decline in the antelope herd on WSMR and the decline in the oryx numbers?

Darrel Weybright: I don't think so. On the opposite side of the range the only thing I attribute it to is the ongoing drought might have some impact. Our knowledge about oryx is that they're resistant to the drought.

Commissioner Salmon: Outside the missile range, what's the general trend population?

Darrell Weybright: Hunter number success rates have dropped as we've seen fewer oryx move into that country.

Director Stevenson: WSMR and the National WL Refuge have been doing studies regarding that antelope herd trying to figure out what's causing a decline. That's something happening in other areas of the state. We've been visiting with them to try and figure out how we're going to continue monitoring that issue.

Public Comment:

Larry Caudill: Last weekend hunters were so numerous and the Department was less than responsive. Regarding the Turk case, it's my understanding the limitation applied to Ibex and Bighorn sheep, and not oryx?

Director Stevenson: Currently we're interpreting the Turk as not applying. We've got a formal request before the Attorney General's office based on a couple of the more recent court decisions that have come out across the U.S. to determine whether our interpretation is correct or not, and if there's a mechanism to modify that. The AG's office has acknowledged they will be moving forward.

Larry Caudill: With due respect, I don't think it's the Department's right to interpret that decision. The decision was based on a decision brought by Turk and I believe it referred only to Bighorn sheep/Ibex.

Vice-Chairwoman Buffett: Mr. Weybright, can you make sure the various data requested by public can be posted to the website?

Darrel Weybright: Yes.

Director Stevenson: Commission/Department met with Patrick Morrow and other members of WSMR regarding this. There are a lot of complex issues but WSMR folks have different ideas of how we might hunt this differently and still address everyone's concerns.

Discussion item only.

AGENDA ITEM NO. 16: Furbearer Management.

Presented by Jim Lane – The Department presented an overview of furbearer management in New Mexico. Management objectives, harvest information and the regulatory framework were discussed.

Commissioner Salazar: Currently how are the trapping permits issued on furbearers?

Rick Winslow: Those are over-the-counter tags.

Commissioner Salazar: Are we getting data in a timely manner, or how are we keeping track of the population take?

Rick Winslow: Three years ago we implemented the mandatory harvest reporting for deer/elk/furbearers, so in a timely manner we're getting reasonably good returns.

Commissioner Salmon: I'd heard that the rate of compliance on the harvest report was in decline gone from 75% to 58%. Could you explain how it is that some trappers do not comply with mandatory harvest? There's a system in place, but there's a loophole as I understand it.

Jim Lane: That's correct. The compliance rate with the mandatory harvest reporting has declined. Over the three years it's been in place, it has averaged about 65% which is nowhere near where we'd like to see it. If there is a loophole, it may be that the penalty doesn't affect some folks, that they might not hunt big game and exclusively hunt furbearers/trap furbearers so therefore if they don't comply, it doesn't affect them.

Commissioner Salmon: We want to get the best data on furbearer harvest/population trends and the harvest report would be key, so if you don't send in your harvest report then you wouldn't get to buy a furbearer license the following year. How could we set that up?

Jim Lane: That's something we've discussed and would be a viable solution to increasing harvest reporting. It would be something that we could address in the license/app rule and something that with public input/comment we could entertain the idea at the Commission's pleasure of opening that rule and adjusting that requirement to where a furbearer license holder could not buy a furbearer license the following year if in fact they had not reported the previous year's data and harvest.

Commissioner Salmon: Could you explain how you work and rationalize sustainable harvest limits—what that means exactly?

Rick Winslow: Basically what we did in 2006 was a literature search which is accepted currently and anything that had occurred up to that point, we looked at where NM furbearer populations given that we're in an arid environment, we have patchy habitats, how that would affect our furbearer populations and with all 16 of the different furbearing species we tried to determine how many of those could possibly exist on the landscape given the available amount of habitat. We used the southwest re-gap for habitat typing which is a program that's been done throughout the southwest and we basically used those numbers to come up with an estimate of the habitat type and then used density estimates from the literature and you can't say there's 5,000 of a given type of animal on the landscape. You basically are going to have a range no matter what of different potentials based on different resource availability, drought conditions or very good moisture conditions and where that's going to leave those animal populations. You have to make an estimate in these cases. It's not something that's easy to count so we went through all the available literature and determined as close as we could what could be out there. We were extremely conservative based upon habitat types in NM.

Commissioner Salmon: I presume that if you found that a given species was being taken at a rate above the spread, that you'd recommend some changes in the take of that species.

Rick Winslow: So far in the three years, there was one year where the harvest of both gray fox and bobcats was barely taken into the lower end of the sustainable yields that we determined were viable. Before then it had not been and since then it has not been.

Commissioner Sims: When a person buys a furbearer license, are they required to have the hunter safety course?

Rick Winslow: No, sir.

Commissioner Sims: Could we not incorporate into our hunter safety course a course involving trapping and require that the furbearer license because of the bobcat being a furbearer and they're sports hunting?

Jim Lane: That's something we could look at. There's a federal aid component to that hunter safety training course that we offer. It has been done in other states and valid here.

Commissioner Sims: These guys doing these calling contests, if they're taking a bobcat, are they aware of the rules that they have to report that?

Vice-chairwoman Buffett: Can you give us some institutional memory at which intervals this full rule was opened since 2000 or so?

R.J. Kirkpatrick: The last time we formally opened the rule was 2006 in development of the 2007-2008 big game rule process. 2006 was a massive overhaul of furbearer management and trap restriction discussions. During the 2006 development process

we developed the furbearer resource/harvest management matrix. Prior to that I believe the furbearer rule was open in conjunction with all the big game rules every two years so it was probably discussed in 2002, and 2004, two years back. The discussion the Department had during that 2006 development process seemed years ahead of where we'd been and there was concurrence across NM about the fundamental value of what we developed. There were outstanding issues we wanted to worry about over time. One is as we instituted mandatory harvest reporting are we going to be able to compel reporting. We recognized we may need to do something along the lines of what suggestions have been.

Vice-Chairwoman Buffett: Is there a place on the website where a rule-making schedule on everything is posted?

R.J. Kirkpatrick: No, we don't, but it'd be easy to put up all Commission rules, species, or big game rules?

Vice-Chairwoman Buffett: It'd be useful for me to access species rules.

Commissioner Sims: Pelt prices are directly tied to the economy and more so world economy—do you see furbearer licenses increase/decrease with the economy applications?

Rick Winslow: License sales have over time risen but that's more a matter of state population rising. Fur prices are based on demand and that's world markets. The current forecasts are actually for bobcat pelt prices because they're the ones that attract the best due to requirements. The big markets have been in the Orient and in southern Europe/Russia. Apparently the Russian economy is falling apart because of oil prices crashing so forecasts are for basically the bobcat pelt prices to start to plunge. It's all speculation at this point but definitely tied to demand and demand is tied to world markets. We don't have a huge market in the U.S. at this time.

Commissioner Sims: How many furbearer licenses does the Department sell in a year?

Rick Winslow: Approximately 2,000-2,100 and has stayed stable for 4-5 years and during the whole middle part of the '90's the fur prices were so low that we were not selling many licenses at all. We figured that about 50% of licenses were sold to coyote callers so they could take the occasional bobcat.

Commissioner Sims: Last year what were the fur prices?

Rick Winslow: For bobcat pelts it was averaging \$260 for Western bobcats.

Commissioner Sims: Is that high?

Rick Winslow: It's pretty high.

Commissioner Salazar: It seems there's a big equity issue on furbearer licenses. The educational/reporting requirements aren't the same as other sportsmen and I'm hearing that from the Department as well. I think that's something we possibly need to look at in the future to help bring that in line with the other species. Why are we requiring mandatory reporting from other people and where there's not for this and that's a matter of equity for the sportsmen.

Public Comment:

Jeremy Vesbach: We support your request of having on the website something the public can follow in terms of how rules are made.

Tom McDowell: I'm Secretary to the NM Trappers Association and National Trappers Director. I support any efforts made to get better data and we stand fully ready to support the Department get better data.

Commission Sims: When you trap you specifically target the animal--you use different methods for different species?

Tom McDowell: Yes.

Commissioner Sims: So, if you've got another 50% reduction in your bobcat pelts, most trappers out there still trying to get them?

Tom McDowell: In this economy there's a production/effort cost to get bobcats for each particular species. Bobcats take more effort to go after. They're in a more rugged terrain so they cost more. When you see the prices fall, you consistently see the harvest fall. There's 40 years' of data that tracks exactly with the prices. Prices are way down and you're going to see a great reduction in fur harvest this year. Trappers don't kill animals they can't sell. We harvest animals either for control issues such as coyote, in some cases bobcats in sheep country, but for the most part it's to get some return financially, so it's driven by the markets. Most trappers will trap some but when the market's not there, we don't trap. Last year the market dropped off about 50%. Pelts weren't being purchased last year until February by our local buyers. With the internet, we know what the auction houses/North American Fur Houses data is. Year before last prices were high and people got after them and we had a good harvest because we had a good population to harvest.

Commissioner Salazar: I'm pleased the association stepped forward to make that offer for education and abiding by the rules. That's admirable. How do you deal with rabies striking the fox population in southeast/southwest part of the state? Do you still go about trapping those animals?

Tom McDowell: Yes, as far as I know the trappers kept working. Trapping activity is the best/good tools to help reduce the spread of rabies.

Caren Cowan: Executive Director on behalf of NM Cattle Growers/Wool Growers. We've worked with the Trappers' Association. We too support the idea that everyone needs to abide by the rules and open the license regulation to make sure they mandatorily report. We also support the Vice-Chairwoman's suggestion about more information on the website.

Bert Ancell: I'm speaking as a private land rancher. I support trapping/keeping coyote population down. The W-Bar Ranch has documentation of increase in farm population due to their extensive predator control. Without trapping the deer population will decrease. Our hunters still pay a state license fee to hunt but they also pay us a fee to come on private land which we can in turn do something for wildlife. How many public hunters pay extra to keep wildlife going on public lands?

Mary Katherine Ray: I'm the Wildlife Chair for Rio Grande Chapter of Sierra Club. We have concerns about management with trapping. It's been too long since we've reviewed what's actually happening because of the recent high pelt price years. My understanding is that the matrix discussed came primarily from a paper published in 1992, but that was a compilation of literature that goes back as far as 1970's with some citations back to 1940's. It appears that information could be out of date.

Jean Ossorio: My concern regards the effects of trapping on public lands within the Mexican wolf recovery area in NM. I urge the Department to check with the field team and find out how many animals are losing their legs. If you re-open this rule, you might want to look at making some of those changes mandatory.

Brad Janes: I'm President of NM Trappers Association. We fully support the Department and believe getting trappers to teach youngsters in hunter ed is great.

Margot Wilson: I'm a Sierra Club outings leader for the southern NM. The Sierra Club endorses the precautionary principle that activity that potentially threatens the integrity of the environment proponents of the activity has the burden to show it's harmless. There needs to be better monitoring of foxes/bobcats and a real plan that can respond to environmental conditions for furbearers which unlike any other game species includes the commercial demand of the market. A real plan will not only catch problems before they escalate but will trigger an action to keep them from escalating. The first step is to open the rules for review.

Trisha London: What I'm hearing today indicates to me that there's been far too little attention to monitoring and science used in the process.

Robert Harrison: I'm a Research Assistant Professor at UNM. The Department should pay more attention to furbearers because we have two sets of data to compare: first, is the number of animals taken each year and second, is the estimated sustainable harvest limits.

Debbie Risberg: I'm the Wildlife Programs Manager for Animal Protection of NM and we're asking the Commission open up the furbearer rules for review.

Commissioner Salazar: There's a need to study this issue further and I'd like to see the Department establish a working group to look at what type of changes could be made to the regulation to provide equity with other regulations as far as hunter education/reporting requirements, make recommendations to the Commission on other things needed to improve science on furbearer regulations.

Vice-Chairwoman Buffett: So you're saying you'd eventually like to see rule opened but at this time you'd move to have a working group of stakeholders with the Department/public/1-2 Commissioners?

Commissioner Salazar: Much like we're working on some of these other big game regulations then the Department put together a scientific approach and what needs to be done.

Vice-Chairwoman Buffett: Stakeholders came to me and said they'd like us to open the rule, place it on the agenda as a discussion item from which we would determine a way forward. I'm hearing Commissioner Salazar say is that the way forward is to have a stakeholder working group.

Commissioner Salazar: I'm looking for a stakeholder group to work on this issue, then we'll determine how to proceed with comments/presentation from the Department/committee.

MOTION: Commissioner Salazar moved that the Department form a working group with affected stakeholders and some Commissioners to look at various aspects of the furbearer rule for future recommendations for opening the regulation and making changes if necessary. **Commissioner Salmon** seconded the motion.

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

Director Stevenson: Several Commissioners/public have talked about the need to move forward with mandatory harvest. There are two rules we'd need to open—mandatory harvest rule to modify language that now precludes those who haven't met mandatory harvest requirements to apply for a public land big game draw hunt during elk primarily. Is that something the Commission is interested in us trying to address over the next couple of Commission meetings? I'm not necessarily advocating that but it's something we can get that increased it might be positive on all fronts that we could increase that amount of information we're getting from all trappers?

Vice-Chairwoman Buffett: That's something that could be part of the working group as well.

Commissioner Salazar: Then we could look at as well. I don't know if we need to open it up at the same time. I want to hear the recommendations first, but clearly there's a problem with the equity and reporting. If sportsmen are being required then the trappers should as well.

AGENDA ITEM NO. 17: Discussion and Possible Amendments to the Hunting and Fishing Manner and Method of Taking Rule (19.31.10, NMAC) Regarding Hunting on Public Land With a Landowner License.

Presented by R.J. Kirkpatrick – The Department presented a brief summary of the recently approved rule regarding written permission to hunt, fish, and trap on private land. The Commission discussed consideration of defining requirements for sportsmen holding a private land license to demonstrate legal authority to hunt on public land.

Public Comment:

Larry Dwyer: It's my opinion that the rule be left alone. This seems an afterthought that for reasons not clear to me to open up again.

Oscar Simpson: We spent a lot of months discussing/developing this rule. There was agreement between the landowners and the sportsmen. This is a good rule and we need to let it work. We need to keep this rule closed.

Commissioner Sims: Oscar, if you've got a hunter whether he's on private/public property, he'd still be a licensed hunter and could/could not be a NM citizen, correct?

Oscar Simpson: Yes.

Commissioner Sims: So, the rule we passed if private hunter/citizen a licensed hunter can walk on a piece of property that is public and accidentally enters private property that's ok, but the same hunter when he's not supposed to be on the public land in the same path and then it's not ok? I'm not talking about a rule change, I'm talking about something we're adding to the rule to give equality of protecting both sides and give the same break to all hunters.

Oscar Simpson: As I said before, this rule should not be opened. In two years we can address that issue because this rule needs to take effect and we need to see what the consequences are.

John Hernandez: I support both, but there should be something to clarify the point hurting the people that have started on private land and now have had to go on to federal land.

Todd Welch: I see both sides of the issue and I think a lot has to do with respect as a hunter. I respect the landowners. I'd like to think it's more ethical/responsible to get hold of them before hunting season. I see both sides of the issue and if you wound an animal on public land and it goes on private land, you go find the landowner and explain what happened before you retrieve the animal. The problem with that is with the heat you don't have time to do that. It's more responsible/ethical for landowners and public hunters to work together.

Jeremy Vesbach: I represent the NM Wildlife Federation. If you change this rule and implement it as Commissioner Sims has suggested, you'd be incentivizing the person who gets a private land authorization, the landowner not post their land because if they did not post their land, their hunters could go off on to public land and would not have a penalty without the posting, so then you're saying that the forest service/BLM/State Land Office would be required to post. I don't think that's in state law and that's not necessarily reasonable/practicable; so we support the higher penalties. It's been a good public process and we ask that you stick with it.

David Blair: I support posting private land.

Bert Ancell: Make it equal.

Ed Olona: I'm the President of the NM Wildlife Federation. NM Wildlife Federation supports leaving the rule the way it is.

Rodney Woods: Markets are down now making it tough, and it's not a good time to re-open some of the rules because that creates turmoil in the markets outside the state.

Larry Caudill: I see no reason for it to be revised at this point. There needs to be equity.

Discussion item only.

AGENDA ITEM NO. 18: Update Regarding Prospective Changes to the Use of Department of Game and Fish Lands Rule (19.34.3, NMAC) with Emphasis on the Gaining Access into Nature Program.

Presented by Matt Wunder – The Department briefed the Commission regarding prospective changes to the Use Department of Game and Fish Lands Rule (19.34.3, NMAC). The update included an overview of the public comment process, synthesis of comments, and potential draft revision.

Commissioner Salazar: Are commercial enterprises primarily echo-tourism? What are we looking at when you talk about application?

Matt Wunder: At this point, we have a permit on the Sargent for horseback riding. We've had discussions and expressions of interest. Someone last year was interested in taking cross-country skiing tours on the Sargent.

Commissioner Salmon: On specific properties, what kind of criteria are you using to decide what's in/out?

Matt Wunder: Part of the initial review of these activities which set the stage for what guided the signage and the discussion we're having at this point was sitting down with representatives from each area office/Directorate/Mike Gustin/myself/other interested parties and going through each area and deciding what we can't allow to happen during certain times. If you have a closure for calving season, certainly you'd want to have a limitation in terms of time. Given the purpose of the property, you'd want to make sure activities were compatible with the purpose for which the property was purchased. There were regulatory/federal aid requirements we looked at specifically to identify what's absolutely not feasible/legal either

statutory/regulatory through our deed agreements. There was a question of what kinds of opportunities would be desirable at these properties, are they compatible with the existing uses, so we looked at a wide variety of criteria trying to sort out/weight them and based on input from area offices, what their on-the-ground feel was. We should have a finalized version of the proposed draft rule for public inspection on the website next week. When the Commission approves a revised rule, we'll then have the opportunity and even without a rule change, we can always go back and look at each specific area to identify if it's working and should it be part of the G.A.I.N Program and are the identified activities appropriate.

Discussion item only.

AGENDA ITEM NO. 19: Reservation of Two (2) Elk Licenses for Non-profit Wish-granting Organization(s) 17-3-13.5, NMSA, 1978.

Presented by Dan Brooks - The State Game Commission considered reserving 2 elk licenses, each for a qualifying individual, plus an alternate for each individual, whose name has been submitted following the criteria established in Section 17-3-13.5, NMSA, 1978. This is an action item that allowed the Commission to approve the reservation and issuance of 2 elk licenses—for Samantha McDonald, Hunt of a Lifetime, and Dustin Godfrey, Safari Wish, and the alternate is Bridger Card, Hunt of a Lifetime. **Commissioner Salmon:** Is there some way we can expand this program so more youth similarly afflicted could partake of an elk hunt?

Dan Brooks: That's already occurred. Not in this form because this is a statute and you're creating two licenses that you haven't done before, but we try to match hunting opportunities with those that can't use a license. There's another set of rules that allows a license to be transferred to a wish-granting organization so you've already qualified four.

Public Comment:

Sue Gregory: I'm the Board Member of the Safari Club International, and President of the Northern NM Chapter of SCI. The Safari Wish is a project of the foundation and besides fundraisers we need to complete some projects and one is the Safari Wish. We'd like for you to approve this to give that chance to a child who is terminal the opportunity.

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

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

AGENDA ITEM NO. 20: Rule Promulgation and Public Comment Process.

Presented by Bob Jenks - The Department presented a proposed policy for establishing a consistent and predictable process for receiving public comment associated with the promulgation of rules by the Commission. Succinctly, the policy effectively provides for public notice and presentation of an original/initial proposed rule and alternatives as appropriate at least 60 days in advance of it being adopted. The public will have a minimum 21 days in which to provide comment. Based on public comment, the Department will develop a final proposed rule that will be posted no less than 30 days in advance of possible adoption by the Commission. There's one slight departure from direction given by the Commission. Specifically, the Commission had asked that language specify that alternatives be presented as may be directed by the Commission. That was considered and it was determined that logistical complications would be created because of the timing. Effectively, this process could be extended another 30 days and that would be a potentially complicating factor for those rules needing adoption in a more timely manner. Additionally, it would have constrained the Department to act upon the Commission's direction rather than the Department taking the initiative by the Department needing to develop alternatives because of a determination to be in the public's interest to do so. Another thing in the proposed policy is that wherein we do have a provision in the event exigent circumstances exist and more quick action is required, that might be provided by this policy that the Director, with the Chairman's concurrence, can provide for an exception to the rule, but all Commissioners will be notified within 72 hours of the exception being determined.

Public Comment:

Jeremy Vesbach: Thank you, we've seen this with easier to understand data and more comment period.

Larry Caudill: I'm in favor of a more open public process where rule promulgation goes.

Oscar Simpson: Over the last 2-3 years we've had numerous problems with last-minute changes/suggestions with no public input. Hopefully this process will bring transparency and bridge the gap and have better public trust/respect for public/Commission/Department.

MOTION: Commissioner Salazar moved to adopt the proposed policy as presented, and direct the Department to ensure all rules to be considered for promulgation beginning in December 2009 conform to the policy. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 21: Briefing and Update Regarding the Transfer of the Off-Highway Vehicle (OHV) Program from the Tourism Department to the Department of Game and Fish.

Presented by Marty Frentzel – The Department briefed the Commission regarding the recent transfer of the Off-Highway Vehicle (OHV) Program from the Tourism Department to the Department of Game and Fish. Significant education, enforcement and safety initiatives were highlighted. Organizational alignment and administration considerations were presented.

Pat Block: One of the major thrusts of the new law is enforcement. There was recognition and due to a lot of prompting that this law would not succeed without enforcement by law enforcement agencies. This is not something the Department could take on alone and get done in a successful way. In developing the curriculum to teach requirements of law to law enforcement officers is that once that was approved by the Law Enforcement Board, the Department through Dan Brooks made a request that that become a mandatory training requirement for all law enforcement officers in the state. If this is successful, it will be a two-year training requirement so within the next two-year training cycle, every city policeman/county sheriff/certified peace officer in the state have that training. That'll go a long way toward helping enforcement of these laws.

Marty Frentzel: The budget proposal the Commission approved earlier today will put \$80,000 in there for cooperative law enforcement to provide other agencies through grants. That'll go a long way towards encouraging people to follow the law.

Public Comment:

Garrett Veneklasen: Off-road activity has had a huge impact on big game populations. Increased road densities/off-road activity is destroying our hunting opportunities. It's important the Department take an active role in influencing the Forest Service decisions on severe restrictions on off-road use.

Nancy Kaminski: Agreed with the comment that damage to the resource is the most extensive. We're glad the law enforcement issue will be with the Department.

Oscar Simpson: Resource protection is the most critical thing the Department can do to find those areas where winter range/corridors and make sure road densities are eliminated, and establish large tracks because the higher road density the less wildlife.

Vice-Chairwoman Buffett: Please explain to us the status of the OHV Advisory Board, when it's going to meet, etc.

Pat Block: The Governor's office is working on the process of selecting the advisory board. They've received input from several places—legislative sponsors/people from organized groups both OHV/other recreationists. We have a couple of rule changes we've been discussing—to take the old rule and change where it reads Tourism Department and insert Department of Game and Fish, places where it took the former policy making board and change to Department, and set changes once board is constituted. We anticipate using that board much the same as the Commission operates in terms of getting the public to show up and express their opinions, provide that input. The only difference will be that in the end the responsibility for adopting those rules lies with the Department rather than with the Commission/advisory board that existed before. We still see this as an effective medium for gathering and getting public to the table to make sure we're considering all opinions before any changes are made. The board will be comprised of seven members—landowner near forest/off-highway vehicle industry/hunter-fisherman/livestock producer-operator/quiet recreationist/healthcare professional with injury prevention specialty/OHV user. We plan to let everyone know when they meet the same way we do with Game Commission meetings.

Discussion item only.

AGENDA ITEM NO. 22: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session, pursuant to Section 10-15-1 (H) (1), NMSA, 1978, to discuss matters related to litigation, the possible acquisition of additional lands for conservation and habitat purposes and disposal of surplus land, and the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated regulated procedures and conduct as per 19.30.8, NMAC. If in the Commission's determination an individual shall be served notice, he/she will be afforded an administrative hearing following 19.31.2, NMAC.

MOTION: Commissioner Salazar moved to enter into Closed Executive Session pursuant to Section 10-15-1(H)(1), NMSA, 1978, of the Open Meetings Act in order to discuss matters related to litigation, possible acquisition of additional lands for conservation and habitat purposes and disposal of surplus land, and the determination of sending "Notice of Contemplated Action, for outfitter and/or guide registration to any identified individual(s) that may have violated regulated procedures and conduct as per 19.30.8, NMAC. **Commissioner Salmon** seconded the motion.

Roll Call Vote:

Chairman McClintic – absent

Vice Chairwoman Buffett – yes

Commissioner Arvas - absent

Commissioner Montoya – absent

Commissioner Salazar - yes

Commissioner Salmon – yes
Commissioner Sims – yes
Motion carried unanimously.

Vice-Chairwoman Buffett entered into Open Session and stated that for the record the matters discussed in the Closed Executive Session were limited to those specified in the motion to close the meeting. No action was taken during the Closed Executive Session.

AGENDA ITEM NO. 7: Revocations.

Dan Brooks: This is what's left over from Agenda Item No. 7, Case# 20090624.001, in reference to Drummond Lindsey. The Hearing Officer's report and Drummond Lindsey's attorney's exception is before you for your consideration and it's the Commission's prerogative to act on this if you so choose.

MOTION: Commissioner Salazar moved to adopt the Department's and Hearing Officer's recommendations on revocation and point assessment for the two individuals that were Case# 20090624.001. **Commissioner Sims** seconded the motion.

Dan Brooks: For clarity, what is before you is in reference to Drummond Lindsey's false hunter harvest report for 20 points, a three-year revocation recommendation for hunting/fishing.

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

AGENDA ITEM NO. 23: Notice of Commission Contemplated Action.

Presented by Dan Brooks - The State Game Commission determined and, if necessary, directed the Department to send a Notice of Commission Contemplated Action to any outfitter or guide that evidence and information indicated may have violated regulated procedures and conduct or any other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978. The Department requested that the Commission consider allowing the Department to initiate the Notice of Commission Contemplated Action for the two outfitters discussed during the Closed Executive Session.

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

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

AGENDA ITEM NO. 24: Land Acquisition and Disposal Report.

Presented by Jim Karp – The Department presented update of the status of land projects acquired or disposed of. Depending on the readiness of some of the projects, the Commission was asked to take action. This past year the Commission had a License Agreement with the Stanley Ranch to access portions of both private/state lands adjacent to the White Peak area. The Department proposed that the Commission enter into a similar License Agreement for the period commencing September 1, 2009, and ending May 15, 2010 for a license fee of \$12,000 the same as last year.

MOTION: Commissioner Salazar moved to enter into a License Agreement with Stanley Ranch for approximately ten (10) miles of access to private and state lands for a cost of \$12,000 for the period September 1, 2009 to May 15, 2010. **Commissioner Sims** seconded the motion.

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

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

Public Comments:

John Hernandez: It's my impression that you're going to take action at your next Commission meeting. Your next Commission meeting is in Las Cruces and it's not fair to those of us that are going to be affected by this action. These two units are in the northern part of the state—Cuba/Gallina/Coyote. My concern is we're not going to be fairly represented if you take action when you meet in the southern part of the state. I'd like you to re-consider and take action at a time when you meet in Albuquerque/Farmington.

Garrett Veneklasen: Special interest groups are in attendance today but I'm discouraged that not many public attendees are here. I think it's both a function of it being a Thursday and also that the public is uninformed.

Oscar Simpson: I'm representing NM Wildlife Federation. I too reiterate that we need Game Commission meetings on the weekend.

Vice-Chairwoman Buffett: Director Stevenson, on the point of public participation, are we aware of other boards/commissions using webcasting, and is that something we can look into?

Director Stevenson: I'm not aware of any NM commissions/boards currently using that technology. We've participated in viewing one done by AZ. We've asked our staff to look into that technology. We'll pursue that and report back to the Commission about the feasibility and options available.

AGENDA ITEM NO. 26: Mexican Wolf Reintroduction in Northern Mexico.

Presented by U.S. Fish & Wildlife Service – Brian Millsap from the Region 2, U.S. Fish and Wildlife Service, briefed the Commission on the status of plans of the Government of Mexico to release Mexican wolves into northern Mexico. The Service discussed the management implications if these animals disperse into New Mexico.

Matt Wunder: The historic range of wolves includes parts of southern NM/AX/TX/old Mexico. There's a current re-introduction program in NM/AZ and the primary/secondary recovery areas in Gila/Apache Sitgreaves National Forest in southwest NM/southeast AZ, the non-essential experimental zone includes area between I-40 and I-10 and everything outside that area. The program in Mexico that's leading the re-introduction program is PACE. There has been general coordination at the Tri-Lateral Committee, i.e., meetings between U.S./Mexico/Canada that deal with a variety of issues that affect the three countries. At a Tri-Lateral Committee coordination planning meeting between USFWS/AZ Game and Fish Dept./NM Dept. of Game and Fish, we were made aware of the plans for the release in Mexico. The two areas in Mexico selected for potential re-introduction were Chihuahua-Sonora/Chihuahua-Central. The area most northern next to the border, Sierra San Luis, is where the potential release may take place.

Commissioner Salazar: Are these wolves being released on federal lands on those large ranches in that area?

Brian Millsap: The federal government of Mexico has not officially told us where they're releasing those wolves. A lot of that land is private land and they're in the midst of interacting with landowners. One of the factors that led to their selection was that at least among the Mexican individuals involved there was a greater acceptance of wolves than in some of those more southern areas based on their earlier surveys, but in terms of the exact release sites, I don't think they've actually firmly decided where they're releasing the wolves. They have a number of sites they're looking at, they just haven't shared that information with us. A lot of the cattle ranchers were surprised when they heard the discussions at the AZ Game and Fish Commission meeting. The federal government of Mexico was having public meetings in Sonora to talk to landowners. One of the big challenges is information exchange and making sure folks weren't surprised. We don't have answers, but as get answers, we're committed to making sure you have them and those affected by it have them.

Commissioner Salmon: I'd heard that the initial release might involve a total of four wolves and that there might be a second release already scheduled. Could you comment on that?

Brian Millsap: The initial release would be four wolves as we understand it. Those wolves have all originated from the captive population in Mexico and it would consist of an alpha male/female and two yearlings. There is a plan in place to make another release as early as December, 2009, that might involve as few as two individuals and then there are discussions of a release in the spring of 2010. I know there was a species survival program meeting that does the genetic mixing of the captive population in Mexico two weeks ago, and at that meeting they discussed which individual animals would be the most helpful/beneficial to be released.

Public Comment:

Brad Lagorio: This is an exciting possibility that enables federal/state agencies in NM to develop a border corridor not only for wolves, but would enable the passage of wolves across our national borders and be protected.

Ron Rardin: I'm an Otero County Commissioner. We have webcasting at Otero County Commission meetings and it's working very well. I'm worried a quorum is not present here. Otero County has an ordinance that if you release a wolf in our county, the wolf won't only be killed, but you'll be put in our jail.

Ron Shortes: I'm representing Catron County and our family ranches in Lincoln/Catron Counties. The wolf situation/problems in Catron County continue to get worse. USFWS has not been responsive to our problems.

Mary Katherine Ray: I'm the Wildlife Chair for the Rio Grande Chapter of the Sierra Club. Having the possibility of connectivity between wolf populations makes for the possibility that we won't constantly be arguing about wolves and eventually we could get populations that are stable enough that we could not have to intensely manage them.

Caren Cowan: I'm here representing NM Cattle Growers and NM Wool Growers. It's imperative those wolves be collared. We're in a comment period for the listing of the white-sided jack rabbit as endangered. The habitat for the white-sided jackrabbit is about 30 miles north of where they're going to turn these wolves out, so now we have endangered wolves that are going eat endangered rabbits and our members are going to be penalized for both of them. We need to plan work sessions with Mr. Millsap/NMDGF/Commissioners to figure out how we're going to work through this.

Jean Ossorio: This is an exceedingly exciting development and one that we've been aware something of this nature was going to happen.

John Hernandez: How far are these animals going to be allowed to move? Is the Commission/Department going to draw the line they cannot cross over?

Brian Millsap: With wolves that are in the established 10j population, which is the experimental area, non-essential designation, the Mexican gray wolf is part of the gray wolf which is listed as endangered, but the 10j area has a special status and that's the zone that non-essential, experimental zone. The rules require us, under different circumstances, to retrieve animals that move out of that second recovery zone into the non-essential, experimental zone. We have those animals under our rules

responsibility for managing. The wolves that will be released in Mexico if they enter the U.S. will be endangered. We will have no rules that require us to do anything so those wolves will be able to move wherever they want. Now, while they're within that 10j area, the non-essential, experimental rules will apply to them, but if those wolves move further north, they would again become endangered, so, those animals will have a different status than the animals that are released within the 10j area. That's a complexity we're working through.

John Hernandez: What rights do I have as a private property owner? What right does the county/state/federal governments have to force these animals on me on my own private property? You're cramming it down my private property rights. The decisions you're making have a ripple effect. You're affecting my livelihood.

Phil Carter: I'm President of the UNM Wilderness Alliance which is an environmental organization of students on the UNM Campus. I support the Mexican gray wolf re-introduction program.

Nancy Kaminski: What we need at this junction is education/outreach/pro-active depredation measures.

Eva Sargent: I'm Southwest Director, Defenders of Wildlife representing our members. I'd like to make the point that compensation is our program that provides reimbursement to ranchers who've lost cattle/sheep/livestock to wolves. Our pro-active program tries to prevent conflict between livestock and wolves.

Kaisa Lappalainen: I see this release of wolves in Mexico as an incredible opportunity for the Mexican gray wolf in the U.S.

Bob MacPherson: I'm a retired scientist and I second most of the previous comments. My concern is that the recovery program be driven by science, not by policy. Policy is necessary and policy ought to concentrate on mitigation of problems that wolves cause while at the same time restoring the wolf to its former viability.

Garth Simms: When the wolves come across the border into the U.S., and be treated as endangered species, who's going to manage the endangered species? The people that live in that part of the country are subject to all endangered species restrictions, but what will happen with the wolves? Will they run amuck without any kind of regulation? Who's going to be responsible for that? Is the AMOC management system going to be extended to those wolves when they come in the country like the Gila wolves are being managed? If the Department is to take over some of those responsibilities for managing those wolves, does the Department have the resources to do that? I'm glad to hear the Defenders' person say they're willing to extend their program of reimbursement to the ranchers. Do they have the resources to extend to depredation and other areas? Are these wolves introduced in Mexico going to be subject to the three-strikes rule if they're depredating cattle down there? It seems to me there are huge number of management issues that need to be sorted out as concerns those wolves when they do, not if, cross the border.

Oscar Simpson: I encourage the Department to give Mexico it's full support, and also take an active role in NM's recovery project.

Kevin Bixby: I'm Executive Director of the Southwest Environmental Center in Las Cruces. I/our members are thrilled and support wolf recovery in the southwest.

Commissioner Salmon: Brian, there's some augmented funding discussed this past year, Dr. Tuggle's interdiction efforts, and the omnibus public lands bill which included money possibly for depredation compensation in the southwest. Could you update us on those efforts and whether we might see some additional funding for rancher compensation?

Brian Millsap: You touched on the interdiction program which USFWS/others have been trying to stand up. We have just this week gone back/forth on the final draft of agreement with the National Fish and Wildlife Foundation to establish endowment for that interdiction program. The idea is to raise enough money through appropriated funds/donations to establish a core fund, the interest which can be used to provide relief to these ranchers both in the Blue Range recovery area and now outside if Mexican wolves cross the border into that area outside 10j to augment what Defenders is doing. That's an extremely high priority of ours. The real issue still is that there's no consensus/agreement putting muscle behind raising the money to make that work. We've made a funding trip to D.C. this spring and talked to the NM/AZ congressional delegations and received a lot of encouraging words. The omnibus bill you're talking about at this point we still don't know whether money will be appropriated. It could be a vehicle that would help. We're not sure where that money will be appropriated in terms of wildlife services/state fish and wildlife agencies. We'd very much like to see funds become available through that process, that they be directed in a way that would fund if not the interdiction program as we've discussed it, something similar to it. We think it's critical that ranchers on the ground who know how their places work, have the flexibility to put that money where it will do the most good.

Director Stevenson: The Commission/Department will be working with USFWS and everyone, one of the things we've tried to make a commitment and you see the Commission/Department moving forward with transparency atop the table ways to do business. I hope we can establish that with this program. It's one of the things that hurts us with the other programs is our credibility/trust in the Blue Range area and if we can do that differently. Brian, the Department hopes to get out in front and start working with the federal agencies and the people who're going to be affected as soon as we can. I know we don't have all the answers but at least get information out.

Meeting adjourned at 5:55 p.m.

s/ Tod W. Stevenson

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

September 24, 2009

Date

s/ Jim McClintic

Jim McClintic, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
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September 24, 2009

Date