

**MINUTES**  
**NEW MEXICO STATE GAME COMMISSION**  
**State Capitol Building – Room 322**  
**Santa Fe, NM 87503**  
**August 22, 2005**  
**9:00 a.m. – 5:00 p.m.**

**AGENDA ITEM NO. 1. Meeting Called to Order.**

Meeting called to Order at approximately 9:16 a.m.

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

**Chairman Riordan – present**  
**Vice Chairman Arvas – present**  
**Commissioner Henderson – present**  
**Commissioner Montoya – present**  
**Commissioner Pino – absent**  
**Commissioner Salmon – present**  
**Commissioner Sims – present**  
**QUORUM: Present**

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

Introductions were made by approximately 50 members of the audience.

**AGENDA ITEM NO. 4. Approval of Minutes (July 7, 2005—Reserve, NM)**

**MOTION: Commissioner Arvas** moved to approve the Minutes of the July 7, 2005 State Game Commission Meeting in Reserve as presented. **Commissioner Henderson** seconded the motion.

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

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

**MOTION: Commissioner Arvas** moved to approve the Agenda for the August 22, 2005 State Game Commission Meeting as presented. **Commissioner Salmon** seconded the motion.

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

**AGENDA ITEM NO. 6. Consent Agenda.**

- **Revocations**
- **Committee Reports**

**Dan Brooks** I brought forward recommendations for revocation. On Steve Lewis, the recommendation is no revocation; John "Doc" Rolston 15 points in reference to his outfitter/guide registration but that's not enough to put him out of business, that's enough to keep him going but sends him a clear message; John J. Marron I want to bring to the Commission's attention because Mr. Marron is a landowner and he was getting credit for 3,400 acres but had only about 1,200 and he did that for about 4 years, so this is unique and we're bringing forth the Hearing Officer's recommendation that Mr. Marron not be able to participate in the landowner system for 1 year. Under the Parental Responsibility Act we're bringing forth 99 people to lose their hunting and fishing privileges.

**Chairman Riordan** Mr. Brooks, you feel that everyone we're acting upon has had the ability and the opportunity to go before a Hearing Officer and state their case?

**Dan Brooks** Yes, we sent them certified notices and those that asked for a hearing got it and those that didn't we moved forward on.

**MOTION: Commissioner Arvas** moved to adopt the Department's/Hearing Officer's recommendation on revocation and point assessment of the list of individuals for the period of time specified. **Commissioner Henderson** seconded the motion.

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

**Commissioner Henderson** For everyone's information, I attended a joint session of the Colorado Game Commission and talked about cross-border interests that we might share. They have expressed a strong desire to come to New Mexico and attend 1 of our Commission meetings if we can schedule 1 in Taos. We discussed how we deal with migratory elk populations in the northern part of the state and the re-introduction of lynx in Colorado and the potential of lynx coming into New Mexico. They're helpful meetings especially because of our relationship in the northern part of the state. I encourage that we continue to participate in these.

**Commissioner Montoya** In Canada, there were a number of issues that relate to some of the things we're doing. There were several states like us that have gone through a legislative fee increase but the item that was the most controversial were Arizona's and Nevada's lawsuits and the ratio of non-residents that they allow to hunt in their states.

**Commissioner Salmon** In Canada, in particular, I had a conversation with several of the big game managers from the Province of Alberta concerning their predator situation. They have black bears and mountain lions like we do. They also have a fair population of grizzly bears and several thousand wolves. That means they have 50 times as many wolves as we do and they get about 1/10 the complaints and 1/10 the problems. The Canadians are dealing with some of the same issues we're dealing with here and they've got some different approaches we could learn from.

**Commissioner Montoya** The big emphasis at these meetings was conservation and New Mexico fared well because of the legislative success and the appropriations we got to work on conservation. They highlighted conservation by bringing landowners that had changed their mindset from being part of ag-business, planting, and harvesting and many of them turned to conservation.

**Director Thompson** One of the highlights that will be important to this Commission is that the Western Association of Fish and Wildlife Agencies Directors voted to approve a letter of support which has been submitted for the nomination of Dale Hall as the Director of the U.S. Fish and Wildlife Service.

**Chairman Riordan** Dale Hall is the Regional Director of the U.S. Fish and Wildlife Service and he's being nominated as the National Director of the U.S. Fish and Wildlife Service and we wholeheartedly support his nomination and wish him well.

## **NEW BUSINESS**

### **AGENDA ITEM NO. 7. Amend License Application Rule, 19.31.3, NMAC, Regarding Mobility Impaired Certification.**

**Presented by Dan Brooks** - The Commission considered amending 19.31.3, NMAC, regarding conditions and procedures for certification and possible recertification of mobility impairment hunting and fishing licensees. The Department presented information including, but not limited to, mobility impaired and handicapped criterion that qualifies an applicant for these types of licenses. The name of these types of licenses is subject to amendment consideration. A special presentation was heard from a representative of veterans with mobility impairments.

**Commissioner Arvas** Do those numbers represent the total number of applicants that we've had in previous years or just this past year?

**Dan Brooks** That is this drawing season. We didn't go back any further so that's the demand we had right now.

**Commissioner Arvas** Would you guess there were more last or less applicants last year?

**Dan Brooks** I don't know.

**Commissioner Arvas** Are we seeing a trend in terms of an increase as a result of the mobility impaired description and are we going to be able to design these hunts appropriately for these folks because in the past there has been criticism that these hunts weren't applicable to the mobility impaired in terms of the facilities there?

**Pat Block** They're going up a little every year because there's always the opportunity for more people to obtain the permanent certification and that pool is getting larger every year. What doesn't get larger is the resident 78% of

those licenses, so as more people find out that New Mexico offers these opportunities we're closer to filling the 22% reserved for non-residents, so the overall pool is getting bigger and we're seeing non-resident participation go up.

**Dan Brooks** The question about the timing and mix of the hunts, the way the mobility impaired and youth hunts are set up now are sharing the same hunt area so we're there to encourage the youth hunting opportunities and to provide a mobility impaired people a good hunting opportunity.

**Commissioner Arvas** My concern is that you don't slice the pie thinner. Are all factors considered, the facilities available in these MI hunts? How do you plan an MI hunt?

**Dan Brooks** There aren't any facilities because they're hunting out in the field. My understanding is that when they talk about road access because physically impaired people have the ability when they get the MI card it allows them to shoot from a vehicle.

**Pat Block** One of the factors considered when they're allocating those hunts are no hunting facilities at the hunt locations. They look at proximity to cities where they have accessible hotels. Some of those hunts aren't too far out of T or C and my understanding is that's 1 of the more popular hunts because there are accessible hotel facilities and it's reasonable to get out from a hotel. They do try and provide opportunities in different parts of the state because someone may want to have a different experience and doesn't necessarily need proximity to a hotel.

**Chairman Riordan** Mr. Brooks, why only the 40 licenses for youth antelope and a 14% success rate on their draw?

**Dan Brooks** I'm going to speculate a bit, but antelope has a high demand but low supply. Most of those hunts are immature females so we've got to be careful on what we harvest.

**Commissioner Arvas** On the antelope hunts you go through the same process as regular hunts in terms of the drawing?

**Pat Block** Mobility impaired antelope hunts are not restricted to a single ranch but rather open to the whole area that the hunt covers. Most rifle hunts for the regular hunt codes you are assigned to 1 specific ranch.

**Chairman Riordan** What is the success rate for the average public on the antelope draw, the same, less, or more?

**Pat Block** It's probably closer to the youth percentage. It's about a 1 in 10, long odds to draw an antelope hunt and mobility impaired licenses are considerably higher as far as 1 out of 3 getting to go than other hunt types.

**Chairman Riordan** Why is it so much higher?

**Pat Block** There aren't as many people putting in for that as there are for other hunts.

**Commissioner Montoya** I suggest we hear from the 2 reps present to speak then we can come back to Mr. Brooks and Mr. Block with additional questions.

#### **Public Comment:**

**Manuel Quintana** I'm the Commander for the Disabled American Veterans for Chapter 15 in Santa Fe, representing the mobility impaired veteran and non-veteran hunters. We'd like hunts made available for 100%-service connected disabled American veterans, for all mobility impaired hunters when they don't have to compete with able-bodied persons. Mobility impaired hunters would also like to hunt other big game species. Returning Iraqi-Afghanistan veterans had 10 hunts with 50 licenses available. Was there any feedback for this hunt? The Rio Chama Wildlife Refuge would be an excellent area for 100% disabled American veterans and mobility impaired only hunts. The State of New Mexico voted to defer taxes on 100% service-connected veterans' primary residents. I see no problems with the Department of Game and Fish and this Commission to giving disabled veterans specific hunts. I'd offer my assistance in working toward bettering distribution of hunting opportunities.

**Alan Martinez** Director for State Benefits for the Department of Veterans Services. New Mexico has gone a long way in supporting veterans and New Mexico is 1 of the country's leaders supporting and providing benefits for returning veterans.

**Marcus Burkhardt** I'd like to suggest on your information sheet where you have recommended changes, you delete the word "handicapped", and do not associate handicapped with mobility impaired hunt. Your definitions of "handicapped" and "mobility impaired" are different definitions and need to be separated.

**Pat Block** The language is in brackets and signifies that it's meant for deletion and the proposal is to remove the word handicap and replace it with the words mobility impaired.

**Marcus Burkhardt** I don't mean to step on the toes of my fellow veterans' associations, but I'm mobility impaired and I hunt. I've applied for mobility impaired hunts for the last 5 years and I've never drawn. The reason is the mobility impaired people don't apply for those hunts anymore. Mobility impaired means that we're allowed to hunt from our vehicles in certain instances. My chances of drawing a regular hunt are better than drawing a mobility impaired hunt.

I'd rather hunt when there are more people in the woods moving the game around. We still have mobility impaired designated hunts. The changes that the Department of Game and Fish is proposing have 100% of our support.

**Chairman Riordan** Did we change the regulation on the archery hunts and allow mobility impaired to use crossbows, did you participate?

**Marcus Burkhardt** No, I didn't this year. The crossbow suggestion was for anyone who is incapable medically of drawing a standard or compound bow.

**Chairman Riordan** R.J., let's go ahead and look at that and see how we can accommodate Mr. Burkhardt on that. One comment I'd like to make is, I'm also a 30% disabled vet, and it does irk me when I see individuals that are out hunting running across a field faster than I am and they've got the handicapped certificate and they're getting preferential treatment. I've discussed having our youth hunts at the same time we had mobility impaired and I'm not very flexible on that. I do think we've had an abuse of the system with many individuals applying that doctors are giving certificates out. We do have the latitude and ability to take down these license numbers and review those applications.

**Commissioner Arvas** R.J., is it going to be difficult to create mobility impaired deer draw hunts?

**R. J. Kirkpatrick** Not a problem. The timing will be the big game development regulation process for the 2007-2008 hunting season.

**Commissioner Montoya** I'd like to encourage Department staff to do as much as they can to accommodate these individuals because hunters in the field are decreasing and we're looking at increasing the pool of applicants. The numbers heard during the presentation are impressive in terms of the potential for individuals that would like to hunt and fish.

**Chairman Riordan** R.J., what's the success rate on our mobility impaired hunts? I'm not saying the success of the draws; I'm saying success of the harvest?

**R. J. Kirkpatrick** Because of the seasons we offer for elk and methods allowed, mobility impaired hunters have higher success than average hunters.

**Chairman Riordan** I can remember from 1 of our previous Commission meetings it was as high as 80%-90% in some areas.

**R. J. Kirkpatrick** That would be correct especially around antelope hunts. Sometimes those approach 100% success.

**Chairman Riordan** As we strive to have balance with disabled and youth hunters, there's no guarantee that we have to provide a 90% opportunity hunt. I don't think that putting kids out in the field affects that ability to have a good quality hunt. I would like to explore the 100% disabled vet qualification. We'll review that and see how we can include that in the future. We need to look at some of the other special hunts, but as long as we're providing opportunity, we can only do so much with 12 permits. Mr. Brooks, on mobility impaired during a regular hunt, are the mobility impaired still allowed to shoot from their vehicles?

**Dan Brooks** Yes. They just can't shoot across a public road.

**Pat Block** We have certified hunters, whether mobility impaired, draw, or other hunts, we do make reasonable accommodations to allow them to hunt in the same manner. What the 100% service-connected disabled American vets get is a card that allows a lifetime of free fishing and small game hunting and the opportunity to get a free deer license.

**Chairman Riordan** That's on our 100% disabled American vets?

**Pat Block** Yes, and the opportunity to get a free deer license every year. Going to the statewide draw, they did have to draw a permit or hunt on private land but the license itself is free.

**Chairman Riordan** Mr. Quintana, we'll look at that for you and see if there's some way we can work something out.

**Marcus Burkhardt** I'm curious how the 100% disabled American vet gets his free deer license now?

**Chairman Riordan** Why don't you talk to Mr. Kirkpatrick?

**Pat Block** What he bought was a permit that was at no cost except the \$6 application fee. The free license is the same as it has been in past years.

**Commissioner Arvas** I'd like to see in the future, before we amend the big game regulation, what surrounding states are doing in the same area.

**Jerry Martinez** Why does a handicap hunt come out and keep it mobility impaired because you've got people out there who have cancer and other medical problems. I feel it's discrimination against others.

**Cody Morrow** Commissioner Lyons will wholeheartedly work with the Department and the Commission to identify the better spots for these hunts. We have a GIS system which has the maps for the roads, so Commissioner Lyons supports this effort.

**MOTION: Commissioner Arvas** moved that the Commission approve the Department's recommendation to amend the rule by adding the name of Mobility Impaired (MI) licenses to physically restricted licenses found in 19.31.3.11.N, and also as part of that motion, change the duration for Mobility Impaired licenses eligibility to a 4-year period, and changing the qualification form to include clearer language about qualifications for these licenses and to create Mobility Impaired public deer draw hunts. **Commissioner Montoya** seconded the motion.

**Commissioner Henderson** There's a lot of work yet to be done and certainly the Commission is anxious to work with you and find the right solutions for the hunts.

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

**Chairman Riordan** I appreciate your bringing this item up for our attention. We weren't aware that it was being abused to this point. We will look at the 100% disabled vet. It will take us a while to figure that out but we will look at that, Mr. Quintana.

#### **AGENDA ITEM NO. 8. Approval of Department FY 2007 Operating Budget Request.**

**Presented by Barbara Morin** - The Department presented and discussed a proposed budget request for Fiscal Year 2007 for Commission reference and evaluation. Commission direction and approval was requested regarding content of budget to be submitted by the September 1, 2005 deadline for consideration by the Legislative and Executive branch analysts.

**Director Thompson** The Fiscal Year '07 Budget has been developed with 2 key considerations. First, is the substantial success that the Department and Commission enjoyed in the past legislative session, and this budget is primarily focused on implementation of a variety of on-going desirable programs as well as several new programs such as P.L.E.A.S.E and GAIN; the second item is, after meeting with our analyst on the legislative and executive sides, focus some attention on the "small funds", particularly, the Habitat Stamp Fund to insure that we're more effectively budgeting money from those funds that are already dedicated to very specific uses, primarily habitat management and species conservation.

**Barbara Morin** We're required by statute to submit this 2007 Fiscal Year budget by September 1 to the Department of Finance and Administration and the Legislative Finance Committee. The current budget we're proposing for submission is a total base of \$33,494,300. This represents 4.1% increase over our current FY'06 operating budget. We operate on a state fiscal year which begins July 1 and ends June 30, so the proposed budget before you will begin July 1, 2006 and end June 30, 2007. The 4.1% represents increases of \$1,320,600 and the request from the executive for all agencies was to come in flat. Although we have this increase, the increases you see here are comprised of those for the small funds. The Game Protection Fund is coming in flat for FY '07. In addition to the Game Protection Fund we also have 6 additional small funds. We formerly had 4 but the legislature approved 5 during the last session the Habitat Management Program and the Department will start accruing money in April, 2006, so we have budgeted the coming fiscal year for a portion of that money.

**Commissioner Salmon** During the review meeting in Alamogordo last week, you mentioned certain increases were associated with maintenance, restoration, diversion, and holding dams, where does that show up here and detail that?

**Barbara Morin** We have 2 budget agenda items, this 1 is dealing with our operating budget which pays for all staff personal services and employee benefits, all contractual obligations, and pays for all recurring operating costs for the Department. The next agenda item will deal with our capital projects which are the large 4-year projects, non-recurring costs and that includes the dams, the warm-water hatchery and those sorts of things.

**Commissioner Arvas** How much flexibility does a state agency have in taking a budget and making changes?

**Barbara Morin** After an appropriation has been made through the General Appropriations Act, we submit these budgets so early that there are changes. We're looking at this budget beginning July, 2006, so in the General Appropriations Act there is what is called a BAR/budget adjustment request language and what it allows agencies to do is move money, in some cases increase between programs, certainly within categories and/or increase/decrease our budget. In the case of Department of Game and Fish, the general language says that we have the ability to move this money between categories which mean personal services and benefits to operating costs or contractual

services, but we do not have authority to move money between programs. We also have authority, if forthcoming revenues exceed what we have estimated in our budget, to increase our budget by up to 5% through a BAR. When we do that, it takes the directorate's permission, we submit that to DFA, it goes to LFC for review, and then after 10 days, if both sides concur, then that can go through.

**Commissioner Arvas** Is the reverse true? If revenue is down, can we cut programs?

**Barbara Morin** We are mandated to do that.

**Commissioner Arvas** So we look at those numbers quarterly?

**Barbara Morin** We look at them all the time internally. We would do a budget analysis, budget status reports on a monthly basis, and make them available to each division and the small fund managers. Revenues are trickier. Realize that what is approved are estimated revenues as well as estimated expenditures. We usually spend less than what was appropriated. We try and do revenue estimates which are what we're doing at this point. You'll see an increase in game protection fund monies because the license fee increase will go into effect in this budget, but there could be catastrophic circumstances whether it is drought, fire, or whatever that could impact our ability to generate the revenues that we've estimated. We would then work with LFC and DFA and yes, we would decrease the budget. The complicating factor is that the majority of our money comes in at the end of the year which is why you see a mix of re-budget cash balance and revenues. It's difficult because we're spending our money throughout the year in anticipation that those estimates are going to materialize.

**Chairman Riordan** Director Thompson, we have a Budget Committee with Commissioner Pino chairing and Commissioner Sims on that Committee don't we?

**Director Thompson** There is a Budget Committee and Mr. Pino is the chair.

**Chairman Riordan** How involved was the Committee from the Commission in setting up this budget?

**Barbara Morin** I was not privy in terms of meetings between the directorate and the Committee members. I do know that we did try and schedule meetings to meet with them individually to go into this budget in more depth.

**Director Thompson** We met specifically with Mr. Pino in advance and went over the entire budget process and he interacted with us during that. As the budget was developed into draft form, we then scheduled to meet with all the Commissioners. That wasn't 100% successful because we were not able to catch everyone, but I believe we met with all members of the Budget Committee. This is a draft budget brought before the Commission for consideration and prospective changes before we finalize for submission by the September 1 deadline.

**Barbara Morin** Yes, Commissioner Pino did meet with all of us during the planning stages of this budget.

**Commissioner Arvas** For the public's benefit, when hunters or anglers go to buy a license, they are obligated to buy what stamps?

**Pat Block** If someone is going to hunt, fish, or trap on BLM or Forest Service lands, when they buy their license they would also purchase the Sikes Act Habitat Stamp for \$5. When any license is purchased that allows the holder to hunt big game, already included in that fee is a \$3 resident, or \$10 non-resident depredation damage stamp. That money accrues to the Depredation Damage Fund. Beginning April, 2006, there will also be a \$3 fee for the Habitat Management Program, so for a resident it would be \$11 in total for a big game license, they are going to partake in that activity on federal land.

**Chairman Riordan** I'd like to go back to the point I made on the Budget Committee chair. Mr. Sims, how involved were you in the implementation of this budget?

**Commissioner Sims** I didn't know we had a budget meeting.

**Chairman Riordan** That's the point I'm trying to make. I think we have to have the Commission more involved, Director Thompson, for the future, I would like to have our Commissioners more involved in the process, especially our Budget Committee. As we formulate policies and programs I'd like to have more interaction with staff and with the Director.

**Barbara Morin** In terms of the impact of the Game Protection Fund, we are relatively flat. The increases that you do see in this budget pertain to small funds and in particular the Sikes Act Fund. I've been making reference to a flat budget, also included in here is the Habitat Management Program which we've budgeted \$250,000 what estimated revenues will be in FY '07. Increases that we have also are in personal services and benefits because they incorporate the raises that state employees received. One thing that's not noticeable is a 1.75% increase but another benefit to state employees was the fact that insurance premiums went down for state employees and a larger share was absorbed by all state agencies. We do have the 1 program change which doesn't include any individual FTE.

We've tried to consolidate and we do know that in the long run the Game Protection Fund is going to be challenged in terms of our cash balances. The Department did receive \$1,250,000 in the current fiscal year, for a Department of Game and Fish compensation package. While that has not been distributed it is in reserve and that is showing up in personal services and employee benefits and the distribution date will probably be in November.

**Chairman Riordan** Director Thompson, Mexican wolf biologist, \$138,000? Is that one of the FTE's we requested?

**Director Thompson** Yes it is. That amount represents all costs associated with that position including personal service employee benefits, and equipment, in the expectation that at least we will seek to have some of that paid via federal funding.

**Commissioner Arvas** How do we go about getting the additional funding?

**Director Thompson** We're working with the U.S. Fish and Wildlife Service as we jointly implement this program to determine how much we are able to extract from them. There's no guarantee that we will get anything additional from them, but we do have the ability to put federal funds toward that as available.

**Chairman Riordan** So there is the possibility that some of these costs could be paid by the federal government?

**Director Thompson** Yes, there is. At this juncture, I'd say it's less likely rather than more likely because we know that the U.S. Fish and Wildlife Service of this region has experienced their own cutbacks.

**Chairman Riordan** Would we be duplicating any services that the federal government is doing?

**Director Thompson** No, I don't believe we will. This position has been described to focus specifically on more of the outreach necessary for us to be more effective with the people on the ground, so it's not a headquarters position, it's a field position to work specifically with our implementing the memorandum of understanding as this Commission requested and voted on previously.

**Commissioner Henderson** I wanted to comment on the increases as I understand them and 1 of the largest factors contributing to the small fund increases is the Sikes Act and it's my understanding that for a number of years that fund had been growing but not being spent as quickly in part because of weather conditions. A lot of the fund had assigned to it controlled burns for habitat purposes and hopefully we'll be able to spend it now coming out of a drought cycle.

**Chairman Riordan** Director Thompson, I'd like to see the Budget Committee involved along with the Chairman and Vice-Chair on implementing policies and reviewing where these policies are. I'd also like to see '07 and '08 budgets before us during the July meeting and not the August meeting.

**Director Thompson** We do this at the August meeting because at the July meeting we do not have enough information to construct a budget like this, but I believe we can work with you to present more of the rationale and identify the key considerations the Commission looks for. We won't be able to present a budget that will be quite this complete in July simply because we are only getting our information on the budget preparation in the first week in July.

**Chairman Riordan** We should be able to do something. If we have to have a late July meeting, we'll have a July 30 meeting, but I'd like some preliminary hands-on information so we feel comfortable with what we're doing.

**MOTION: Commissioner Henderson** moved to approve the Department's Fiscal Year 2007 Budget Request as presented. **Commissioner Salmon** seconded the motion.

**Commissioner Arvas** I too share your concerns about the process and I know in my case I had an unfortunate scheduling of events. In years past we've spent at least a full day going over this. As long as we're in agreement that there can be some changes and flexibility in the budget, I can certainly support the budget as presented.

**Chairman Riordan** I'd like to congratulate Director Thompson, Assistant Director Block, and Budget Director Morin on doing an extremely good job this last year in identifying good quality programs and working with this budget and working with the staff on raises and everything else.

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

**AGENDA ITEM NO. 9. Commission Approval of Fiscal Year 2007 Capital Projects Budget Request.**

**Presented by Barbara Morin** – The Department presented a brief overview/summary of FY 07 Capital Projects requests to be submitted to Department of Finance and Administration Capital Projects Unit by August 29, 2005. Certification must be signed by Commission Chairman. Every state agency that does capital project is required a 5-year capital plan so there's some indication an agency/department is having some long-term planning regarding their infrastructure. The Department is unusual in that we own buildings, land, or vehicles and we have special needs and exemptions in terms of those being included not only in our operating budget but also in the special-use vehicles. What I'm bringing forth in terms of asking the Commission's approval is the ability to submit a request for 7 projects.

**Chairman Riordan** Can you go over the Parkview Hatchery covers for me?

**Barbara Morin** The Parkview Hatchery covers is not our current request. This is an appropriation that has already been made.

**Chairman Riordan** So we've already made the appropriation on this. For clarification, for purposes of us eliminating our whirling disease, where are we taking the water from for this hatchery? Commissioner Padilla brought this up to me that we're still having issues there.

**Mike Sloane** We have 8-10 springs that are covered that bring water into the hatchery. We originally had a spring that we thought was a spring but was not so we removed that from our use 3 years ago.

**Chairman Riordan** My information is that we have contamination again at this hatchery.

**Mike Sloane** Yes.

**Chairman Riordan** You think this will eliminate the contamination?

**Mike Sloane** I think that when we go back through and cover the raceways, do some work on the adjoining ditch that we know is positive and go and do the thorough disinfection of the entire facility, we're planning to shut it down probably in November, and disinfect the entire facility thoroughly which we haven't done up to this point. I think that will correct the problem, yes.

**Chairman Riordan** What are we looking at doing with the fish that are infected now?

**Mike Sloane** This coming Saturday from 10:00 a.m.-4:00 p.m., both at Lisboa Springs and Pecos Fish Hatcheries and at the Parkview Hatchery in Los Ojos, we'll open it to the public to allow the public to fillet those fish and remove the fillets. No license requirement and no limits.

**Chairman Riordan** So you're allowing them to catch fish?

**Mike Sloane** We're going to bring them the fish and they're going to fillet them.

**Chairman Riordan** On those fish and some of those raceways, I'd like to see letting the kids go out and do something.

**Mike Sloane** The Director has that at his discretion and regulation if that's the Commission's desire.

**Chairman Riordan** Director Thompson, we could open that up for the kids?

**Commissioner Sims** When you're talking about fishing these raceways, do you have a large amount of ground between the raceways there?

**Director Thompson** No, there's not necessarily a large amount of ground but there is some space. I understand what you said and I think that fits within our desire if we can provide some short-term youth opportunity there. Certainly we can do that.

**Mike Sloane** The raceways at Parkview in particular are 8-10 feet wide, about 60-80 feet long and between the raceways there are approximately 10-15 feet, so we can get a good number of kids around.

**Commissioner Sims** My concern is we're going to stack a bunch of kids in there and not a lot of supervision from the Department and we're going to have an accident.

**Mike Sloane** We've done this once before at Parkview Hatchery and it does require a significant amount of our staff time, but we'll dedicate it to that.

**Commissioner Arvas** Barbara, as a result of last year's legislative effort, we've acquired the \$5,000,000, right? You seem to have separated that \$5,000,000 into \$4M and \$1M.

**Barbara Morin** Yes, there were 2 separate appropriations. I tried to put down what the exact legislative language was in terms of those appropriations and they have to do with our priority ranking because those were not included in our request, but 1 appropriation was for \$1M and HB885 appropriation language states, "to plan and acquire land and conservation easements to comply with the Federal Endangered Species Act." That is the exact language that

was in the bill and it was appropriated to the Department of Game and Fish. The second General Fund appropriation stated, "to acquire property that has unique ecological value, acquire conservation easements and forested areas to reduce wildlife risk, protect open space, and improve wildlife protection areas statewide." That was for \$4M and what we're doing at this point is the directorate and a number of staff are meeting with other state agencies. Some of this goes beyond what our statutory responsibility is and we feel that there are other agencies that perhaps have the talent and resources to help us develop a broader, more unified approach in terms of how we're going to utilize and spend this money. It's probably true we'll be transferring some of this money to some of our partner agencies in these endeavors. I believe Commissioner Henderson is meeting about these appropriations with our Department and other agencies to develop that scope of work.

**Commissioner Arvas** So explain to me how we go about prioritizing or how will the Commission know how you are going to propose spending the \$5,000,000? Commissioner Henderson how are we going to know as a Commission what you are going to propose and when will that be and when we have to spend this money by or do we have any timeframes?

**Barbara Morin** We have a 4-year timeframe. It ends FY 2010.

**Commissioner Arvas** Commissioner Henderson, how do you propose we go about doing this?

**Commissioner Henderson** We haven't set a date but I've been talking with Director Thompson about setting a date. We've been working over the last 2 years with the working group that led in part to this appropriation. I know Director Thompson has met with some non-governmental agencies, i.e., the Cattle Growers, Nature Conservancy, Trust for Public Land we're going to have a meeting early in September to bring this group together and start setting priorities and we must include the Commission in understanding how these dollars should be and could be spent. The Department is already putting together a lot of their priorities, organizations, and agencies are providing their list of interest and priorities to the group.

**Director Thompson** As a clarifying reminder, the Commission addressed this item at the July meeting in Reserve when we presented an approach that involved about 13 different components, features, or considerations. Since that meeting the Department has moved forward through an array of contacts including news releases and is in the process of compiling potential projects for this purpose, so we are operating on a Commission-approved approach.

**Commissioner Arvas** I would recommend to both Director Thompson and Commissioner Henderson that we try and keep the Commission as much up to date on a month-by-month basis as to your progress instead of waiting for 1 meeting where you expect us to say yes, we'll vote on the whole thing because there's going to be a lot of interest from members of the Commission on how that money is going to be spent and then from that point on I think it'll be a much easier process as far as Commission action. My next question is, these FY '07 priorities done by the Department, where are we going to get that \$9M from again?

**Barbara Morin** The total for the 7 projects is \$9,000,000. Out of that \$9M, \$7.1M we are requesting come from severance tax bonds.

**Commissioner Arvas** That's done in what fiscal year?

**Barbara Morin** That will be during the next legislative session when all of these capital projects will be coming forth in terms of their ability to be funded or included.

**Commissioner Arvas** So this is a wish list at this point?

**Barbara Morin** Yes, I guess you can call it that although we feel strongly particularly in terms of the dams that we have a real obligation to work toward securing funding for these and, of course, our big *caveat* is the fact that the Game Protection Fund balance really can't afford to pay for these. Because the state derives substantial revenues from oil and gas and because of what's happening with oil and gas, the reserve that had been anticipated has grown enormously and because oil and gas prices are volatile, we do not look at that as recurring revenue, so there appears that there will be quite a large pot of 1-time non-recurring money available to state government in the form of STB's. I think the legislature will be looking at non-recurring projects, so we stand a wonderful opportunity. One of the things we feel strongly about is that these dams provide benefits not only to the people who provide income for the Game Protection Fund and we'd like to see some support outside of that. So we'd like to see perhaps other than Game Protection Fund help us in repairing these dams.

**Commissioner Henderson** It's my understanding and by far the biggest capital expenses in the dam repair area, that's required by the State Engineer's Office and that's why we have to be on the schedule. We have a requirement

to have these dams upgraded and approved by certain date, right? Does the State Engineer's Office have a fund that we can try to use?

**Barbara Morin** They have a fund but it is fully committed and we've worked closely with the Office of the State Engineer and they've been supportive in terms of being present to testify as to the need for the dams. Every special fund is created by statute with statutory limitations. I think the State Engineer is looking at the possibility of maybe some of the Homeland Security monies being available for a couple of these dams. Eagle Nest Dam which we don't have on here would qualify for that, but there's no certainty at this point that that would be available to us so we have to proceed based on the schedule that we have.

**Commissioner Henderson** It's going to be critical. We had a very successful legislative year and it was through the hard work of Commission, staff, and our lobbyists, but I think this is a critical 1 for us to work on getting Severance Tax Bonds for some of these efforts. It's much like what happens at the federal level using off-shore oil revenues which is a non-renewable resource to pay and we're providing all these wonderful wildlife habitat and recreation opportunities and some of our non-renewable oil and gas revenues should be dedicated to those and it will take the work of the Commission and our lobbyists to make that happen.

**Commissioner Salmon** It's been my experience with Lake Roberts, Bear Canyon and some of the other local facilities that generate a tremendous amount of local support if we work with our local constituents we can stir up tremendous lobbying pressure at the legislature.

**Public Comment:**

**Paul Aguilar** I'm with the Legislative Finance Committee and addressing Commissioner Henderson's request for information on the funding for dams, the State Engineer does not have a specific fund for that. However, the Legislative Finance Committee is well aware of the new requirements that the State Engineer has put forth regarding the evaluations of dams, the establishment of emergency response plans and then the ultimate repair and new construction that's going to be required at any number of dams owned by any number of owners in the state whether it be the State Engineer's Office, Department of Game and Fish, or Energy, Minerals and Natural Resources. It's 1 of the Committee's priorities this year to start looking at the overall cost to the state, not a specific agency, for those dams in total and then try to determine a long-term plan for making those repairs as necessary because it appears to the Committee that the cost to each individual agency that owns dams in this state is going to be significant and perhaps prohibitive on on-going budgets. Not to say that a decision has been made, but it is a concern and it is intended to be part of the budget discussions throughout the budget season beginning in September.

**Chairman Riordan** I'd like to go on the record that I think it is totally unfair for the burden of these dams to be put on this agency and on the sportsmen. We need to have something else happen on this.

**Paul Aguilar** I will note that to the Committee.

**MOTION: Commissioner Arvas** moved to approve the Department's Fiscal Year 2007 Capital Projects Budget Request as presented. **Commissioner Sims** passed. **Commissioner Montoya** seconded the motion.

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

**AGENDA ITEM NO. 10. Native Fish Restoration in the Rio Costilla Watershed.**

**Presented by Mike Sloane** - The Department requested Commission approval to move forward with planning and implementation of native fish restoration in the Rio Costilla watershed.

**Luke Shelby** As we continue to restore native trout in our state waters providing those unique angling opportunities in helping to insure it is not listed as threatened or endangered, we feel it is important to apprise the Commission of this project. This effort has a number of cooperating agencies and partners including Vermejo Park Ranch and the Rio Costilla Cooperative Livestock Association. The goal of the project aside from sharing our state fisheries survival is to connect fragmented populations of Rio Grande Cutthroat trout within the Rio Costilla Watershed.

**Commissioner Salmon** It's my understanding that Rainbow trout stocking continues in the Rio Costilla Drainage even as we're considering the restoration of the native trout. How much stocking is going on and what's the plan as far as possibly ending that stocking.

**Mike Sloane** Based on a lease with the Rio Costilla Community Livestock Association we're obligated to stock trout in about a 4-mile stretch of stream through the canyon and that does continue. I believe we stock in the neighborhood of 200-400 fish per month during May through October and that may be in excess of what we actually

do. The plan is to continue to do that until it conflicts with the project which it will obviously do as it moves forward. The longer term plan is to convert that to Rio Grande Cutthroat trout.

**Commissioner Salmon** Are there barriers or something in place now to keep those stockings from coming upstream into the Rio Grande area?

**Mike Sloane** There currently are barriers on Vermejo Park that protect those areas. There's a barrier on Powderhouse Creek which protects Powderhouse, there is no barrier on the upper part of Comanche although there are plans in place to put 1 in.

**Commissioner Salmon** I'm not familiar with these streams but I've been told that over the past 10-12 years fisherman have found that gradually areas that were formerly Rio Grande Cutthroat trout at least by phenotype are beginning to show up as cutbows and I'm concerned that as we're trying to restore this 1 species, we're pushing against ourselves with these continued stockings.

**Mike Sloane** The longer-term solution for stocking Rainbow trout near Rio Grande Cutthroat trout is to move toward stocking only Triploid trout in areas with proximity to Rio Grande Cutthroat trout and we were going to do that this year although we were unable to get some eggs from another state. Next year we will make the conversion and that will reduce that potential and the long-term plan is to stop that and convert it to Rio Grande Cutthroats and try and protect the population there.

**Chairman Riordan** When do you expect that barrier to be completed?

**Mike Sloane** The Forest Service I believe has the categorical exclusion completed and they intend to do the culvert replacement next summer.

**Commissioner Salmon** Is the long-term goal to remove all the non-native fish from some 127 miles of stream and 27 lakes in this drainage and to achieve virtually 100% purity on all the Rio Grande Cutthroat trout in that portion?

**Mike Sloane** Yes.

**Commissioner Salmon** I'm concerned that this is a monumental undertaking and that the way the proposal is worded we're stepping into a situation where streams might be treated and treated again and then if they're not 100% pure if we don't get all the brown trout that we would have to re-treat the streams and the timeframe which is listed as possibly up to 10 years could extend a lot longer than that. It strikes me as extremely difficult to achieve 100% purity for all these trout over that amount of stream mileage and that number of lakes and I'd like to hear what other people have to say. I have a suggested change in the actual proposal. What I'm trying to get at is that the Commission can continually review this process and access it as it goes along so that we can decide if it's proceeding accordingly.

For example, the so-called conservation populations which are Rio Grande Cutthroat trout, by all appearances are pure but not pure by genetic analysis. Is there any allowance for these types of fish to exist in these 127 miles?

**Mike Sloane** It is a very large project. That's why we're planning to try and take it in smaller bites. We would be more than happy to come back to the Commission each year and give a report on the status of the project and how it's moving forward. I think that there are opportunities given that the plan to put temporary barriers for each segment for the Commission to say enough is enough and stop the project somewhere along the way. While that would not be our preferred alternative it's certainly within the Commission's purview. Relative to conservation populations of fish, that goes to the basic question of why we are doing this. There are 2 primary purposes for this project. One is to provide angling experience to get people catching the state fish and to provide that opportunity. The second reason is to prevent listing of the species under the Endangered Species Act. The second reason prevents consideration of conservation species. We have in fact met with the U.S. Fish and Wildlife Service and they've provided us with a letter indicating that "hybrids are excluded from protection under the Act, and it has been the policy of Region 2 to only consider pure populations in listing and recovery actions. It is not anticipated that a new hybrid policy will be developed.", so for that reason we are focused solely on pure populations. If the Commission would like us to go in a different direction, we could certainly do that.

**Luke Shelby** The goal of the project is to take another measure to prevent its listing. If it's listed, we have only 1 percentage of Rio Grande Cutthroat trout to work with and that is 100%. As it is now, if this project goes forward, it will bolster our ability to prevent its listing and we can still take advantage of those populations that are not 100% pure and as you've heard from presentations before, we have those broken down by percentages and we make full use of those that are not 100% pure.

**Commissioner Salmon** You can understand that in our portion of the state in the Gila National Forest where we've been trying to recover the Gila trout and involving ourselves in the same sorts of processes on considerably less than

127 miles of stream and no lakes, and in that 20-year span in spite of very aggressive measures, we've had a devil of a time keeping these streams pure. There have been any number of streams that either through broken barriers or sabotage or inability to get all the fish even with the piscicides, we've ended up with streams which are something less than pure and the Fish and Wildlife Service has had to go back in again and again and treat and re-treat streams with piscicides and since this project is more than double the size, particularly when you consider the lakes involved. I'm concerned we're going to get into something that could go on long past our own lifetimes. I'm just looking for a way in the wording of the proposal where we can have a little better Commission review of the process as it goes along and I might be able to suggest that language at some point.

**Public Comment:**

**Dr. Bob MacPherson** I've read a number of articles on the re-introduction of the Cutthroat trout and I've listened to the presentations of the Department and I believe they understand the problem and we should give them the authority to proceed.

**Doug Murray** I'm the Interstate Stream Commission Project Manager for the Rio Costilla Creek Compact. ISC understands the importance of the Rio Grande Cutthroat trout restoration in the Costilla Watershed. ISC supports the project and looks forward to a comprehensive fisheries restoration and a management plan which adequately addresses the concerns of all the stakeholders. ISC also supports the CCAA which will in our opinion include components of said fisheries restoration and management planning.

**Norman Segel** I'm the immediate past President of New Mexico Trout. New Mexico Trout has been involved in this Rio Costilla restoration primarily through habitat restoration for about 15 years. We have spent 100's of volunteer hours on this project with our membership, and we do support and endorse the proposal made by the Department of Game and Fish in terms of this restoration.

**Mike Maurer** I represent New Mexico Trout presently and we've supported this project for many years. I also would like to point out that we supported the Department of Game and Fish and worked as a partner on the Rio Cebolla restoration project. That went well and it was a 5-6 year project and turned out beautifully and so our statewide membership supports this project.

**John Dimas** I'm a registered lobbyist for wildlife and environmental issues. I commend you on trying to protect the Rio Grande Cutthroat trout but I've got problems with using different types of poison, with introducing Rainbow trout into the system when you're trying to deal with it.

**Gerald Jacobi** I'm a retired professor from NM Highlands University. I support the re-introduction of this native fish and restoration of this fish to its former habitat in the Rio Costilla Watershed using all available options and that includes the use of piscicides. It's a prime habitat for re-introduction of the pure Rio Grande Cutthroat trout.

**William Schudlich** I'm with Trout Unlimited and we view the Valle Vidal and Rio Costilla Drainage as essential to the long-term viability of the Rio Grande Cutthroat trout. We applaud the current efforts by Director Thompson and the Department to gain ONRW status for the streams of the Valle Vidal and we see preserving the streams of the Valle Vidal to include preserving the native fish. This project if completed would go a long way toward saving the Rio Grande Cutthroat trout from Endangered Species Act listing. The current petition to list the Rio Grande Cutthroat trout under the Endangered Species Act is still in litigation at this time. I've been told that the petitioners wanted to amend their petition to include this Commission's decision to bar the use of piscicides as an additional reason that the fish should be listed. What that tells me is that if the litigation doesn't go their way, that they will likely file another petition immediately which would include the Commission's prior actions. We've been sitting on a large sum of potential National Fish and Wildlife Foundation grant money for years waiting for a project like this 1 to move forward. If we cannot move forward on this, I need to direct the national organization to use that money elsewhere in Colorado or even on another species of Cutthroat trout. To get that grant or other grant monies, we need the Commission's approval so that we can enter the NEPA process and prepare for the evidentiary hearing before the Water Quality Control Board which is the state agency that is supposed to be tasked with determining whether piscicides use is appropriate. Trout Unlimited is interested in preserving our coldwater resources from all pollution. If we felt that piscicides were a threat to the habitat, we would not be in favor of using them and in fact we've put together a national policy on piscicides use which is the result of extensive research. With regard to Commission Salmon's concerns, I share those concerns with regard to the 100% pure fish and if the area is compromised sometime in the future, I think at that point you need to make an assessment of what is going on with the whole population of Rio

Grande Cutthroat trout throughout Colorado and New Mexico and then you would make a decision on whether or not you're going to treat again.

**Jeremy Vesbach** I represent the NM Wildlife Federation. We support this project and we'd like to thank the Department for a very detailed in depth proposal. I think it addresses many concerns as far as what's been the primary concern to restore our native trout which we support very strongly but how do we do it right. This level of detail leads to good decision making with the Commission. I thank Commission Salmon for making sure we have good oversight and we have a good project and we're not undoing what we want to do but re-introducing non-natives. This is a significant project. It's going to help us make sure that we do not have the Rio Grande Cutthroat trout listed which would lead to a loss of angling opportunities across New Mexico and Colorado and so we strongly support this project and hope you'll approve it.

**Sam Hitt** I'm with Wild Watershed. There is healthy debate in the west over the use of Antimycin and other poisons to restore native trout. I'm strongly in favor of native trout restoration but I don't think this program especially as it has been done the last few years is working. We're not accomplishing the objectives of native trout restoration and I think we need to take a broad and in depth look at this whole program. I'm concerned with stocking hatchery cutthroat that could perhaps be contaminated with whirling disease into a population that looks like a Rio Grande Cutthroat. Putting hatchery fish in there that is not adapted to local conditions I think is counterproductive. I'm also concerned with what's happening at the national level as far as the National Environmental Policy Act. The Department is relying in part on public input through the NEPA process developed in EA. We're seeing a strong effort at the national level to gut NEPA to do categorical exclusions. Given the recent hearing in Albuquerque I think the Republicans in Congress could very well prevail in that area.

**Dr. Ann McCampbell** I support the Commission's previous decision to disallow the routine use of piscicides out of concerns for putting poison in clean water and of the known and unknown hazards in non-toxic organisms.

**Taylor Streit** I have a guiding business called Streit Fly Fishing. The last thing I'd like to see is an on-going project where we have poor fishery 1 year and good fishery the next.

**Billy Stern** I'm with Forest Guardians. We support the restoration of native fish in the Castillo Watershed. We also support starting a NEPA process in the hearings before the Water Quality Control Commission, but we want that NEPA process to look at a variety of alternatives as the NEPA process requires and 1 of which should very clearly be not using chemicals in these watersheds and efforts as some have suggested in preventing this from being an on-going process. We urge the Commission to use extreme caution before reversing their decision last month to use chemicals on non-native fish.

**Chairman Riordan** I find that 1 of our more prominent conservation groups are the environmental groups against the use of piscicides where I've been assured that a majority of the environmental groups were in favor of the use of the piscicides.

**Commissioner Arvas** Can you tell what the time intervals are on that flowchart? If we go ahead and proceed with the planning, how much more planning do we have?

**Mike Sloane** I expect the planning to take approximately a year, so a year from now we would be ready to go out and do something on the ground.

**Commissioner Arvas** How long is implementation going to take?

**Mike Sloane** It's a phased project so each phase would take about a year and my guess is that it's probably going to be a 7-8 year project because of the chunks we're biting off.

**Commissioner Arvas** Can you give me some idea on those grant monies? Were you aware of those?

**Mike Sloane** Yes, I am.

**Commissioner Arvas** How much are we talking about?

**Mike Sloane** I've never heard a dollar amount.

**Commissioner Arvas** I'd like to hear that now if Bill has that dollar amount?

**Bill Schudlich** The National Fish and Wildlife Foundation grant would probably be in the area of high 6 figures. We would also be looking at other grants opportunities for the private land sections. The NFWF is to be used on public lands so that would address some needs on Comanche and on the Costilla regarding habitat improvement with barriers or things of that nature. We would also be looking at money for private landownership from different foundations to do the work on the RCCLA in particular LaTir Creek and I don't know that Turner needs any help on Vermejo Park, but the potential is there for us to get grant money for that.

**Chairman Riordan** Is Trout Unlimited putting up any money?

**Bill Schudlich** Yes.

**Chairman Riordan** How much?

**Bill Schudlich** As this goes along we go to the national organization each year for a small grant money maybe \$3000-\$10,000 range for small habitat portions and I can't tell you what that is until we know what the project is. It's difficult to say. The National Fish and Wildlife Foundation has let Trout Unlimited direct this grant money from them so Trout Unlimited is doing.

**Chairman Riordan** You're saying that Trout Unlimited is putting up \$3000-\$10,000 for the benefit of the whole project?

**Bill Schudlich** I can't go to Trout Unlimited and ask for money unless I have something to ask for. In the past, we've asked for money for Comanche Creek to do a study of that area in the stream and figure out what needs to be done to improve that stream.

**Commissioner Arvas** The reason I'm asking these questions is I sense that there probably will be a motion to proceed with the planning but, of course, what I'd like to see is to be able to say to those citizens that anywhere along the way the Commission can decide to change its mind and I think that's an appropriate measure that should be applicable in the motion once that motion is made because the concerns are there, you're hearing them like we're hearing them and the last thing I'd want to do is give the citizenry the feeling that we're going to cram this down their throat. Once we vote to go ahead to implement and proceed whether there is any other action that can be taken at any other time.

**Mike Sloane** I think that it goes without saying that you will always have the opportunity to re-direct us in any fashion. The U. S. Fish and Wildlife Service has a categorical exclusion for re-introduction of native fish. The Department determined that the level of controversy is high enough that we're going to go through the entire process whether the federal government thinks it's necessary or not.

**Commissioner Henderson** For clarification, would you have to go before the Water Quality Control Commission if part of the proposal wasn't to seek some level of approval for the use of piscicides?

**Mike Sloane** No.

**Commissioner Henderson** So this is *pro forma* to at least provide options for all the tools whether we use them or not, but this gets that process completed so that those tools are available if desired?

**Mike Sloane** That's correct.

**Commissioner Henderson** Is that a lengthy process?

**Mike Sloane** It does tend to be very lengthy. What will happen is we will present a petition. We have presented a petition to the Commission but their rules have changed at this point, so I don't know whether we'll have to present a second petition or whether they'll use the old 1. They will set a hearing date which my guess would be sometime at the earliest probably December, more likely sometime during the legislative session. On previous occasions they've had a hearing officer rather than the Commission, the hearing officer then presents a report and a recommendation to the Commission. Usually that takes about 3 months because the hearings generally are 12 or more hours in length. The Commission debates the hearing officer's report and makes a final decision, so it'll probably end up taking virtually a year before we would have any approval or denial.

**Commissioner Henderson** At the end of that process, the Commission isn't obligated to anything. It's simply a permitting process?

**Mike Sloane** Correct. One of the things with the environmental assessment is those require you to have all your permits for the selected alternative in place in advance of final issuance of the decision. In some ways going before the Water Quality Control Commission if the alternative involves piscicides is required by having the EA. Sometimes they'll issue a decision on the EA contingent upon your getting that final say from whatever permitting entity, but again, that would draw it out another year beyond where we are now.

**Commissioner Henderson** In terms of overall recovery of the Rio Grande Cutthroat trout, where does this project fit in to the degree of importance for recovery of the species?

**Mike Sloane** From my previous presentation, we've traditionally done 5-6 mile segments of river up at the high end of the headwaters of the stream and we've been relatively successful but in terms of insuring that a fire doesn't go through there and destroy that bit of stream or some other catastrophic event those streams don't do the work we need them to do which is why we've picked a large project, lots of tributaries. You could have a disaster in 1

segment and still survive in the other. In terms of preventing listing and persistence of the species, this project is critical or at least 1 this size if this location isn't the place. We certainly need 1 of this magnitude.

**Commissioner Montoya** It appears to me that we're very close to getting the Rio Grande cutthroat listed, especially if we don't do anything. If it is listed, the consequences can be devastating to our state and especially our local communities, and don't think we can afford that. When other species have been listed, it's been a train wreck economically and it usually hurts small rural communities that depend on natural resources for their economy and livelihoods. They all appear to be in support of this because I think they understand what it means to them economically but to their environment and they're still supportive of it and the last thing I would like to see is this Commission and this Department lose control of this if it gets listed. We need to use all the tools available to us to prevent that.

**Commissioner Salmon** I'd like everyone to appreciate how difficult things can be when you tie yourself to 100% purity standard. It only takes 1 or 2 fish slipping into a population of a stream to lower that standard of DNA a point or 2 and thereby render those fish as suddenly inappropriate and subject to another treatment. I'd also point out that the Endangered Species Act itself written in 1973 didn't address the issue of hybrids. It didn't define what a hybrid was. The DNA analysis that's being used now to define hybrids wasn't even available until much later in time. What we're dealing with here is essentially a policy and I believe that at some point in the next 10-20 years the Fish and Wildlife Service will be forced to lower their purity standard to accept some of these conservation populations; not because they want to, but because they're going to find it impossible to maintain 100% purity in many of these streams. I do think we need to go forward and implement a process to save this fish, and I'm not totally opposed to the use of Fintrol, but I do think the Commission needs to retain a better review of this process as it goes along. With that in mind, I had a suggestion of a few word changes in the proposal. I'd like everyone to consider if I could read that, I would suggest we say the following "move to allow the Department to proceed with planning and implementation of native fish restoration activities, including a consideration of a variety of tools in the Costilla watershed. Additionally, if a chemical treatment is deemed necessary, its use shall be reviewed by the Commission, and if used, applied judiciously within the protocols," etc. What this essentially would do is insert an extra step into the process so that when we get to the piscicides stage, these piscicide applications would be reviewed by the Commission and we'd have a chance at that point to look at the management processes as it goes along.

**Chairman Riordan** Let me get a comment from Taylor. Then, Bill, I'd like a comment from you on that proposal.

**Taylor Streit** It hasn't been mentioned that all of that fishing is catch-and-release fishing. So the people that fish there are used to throwing the fish back and then I think a salvage order would be kind of a ludicrous idea because it wouldn't have much effect even if people were keeping fish and would just degrade the fishery and electro-shocking, I think anybody that has done it knows it doesn't fare very well. I would hate to see the fishery degraded as the process is going along.

**Bill Schudlich** I have a problem with the motion in that I don't know that I can go out and ask for this grant money based on—and I don't think anybody really wants to go through all the work that they have to do to go through the NEPA process and the Water Quality Control Commission process which is an evidentiary hearing to have it come back to this Commission and them saying no at that point in time. I'm all in favor and I think it will be important for the Commission to continue to review this project on an on-going basis, but I think that the tool box has to be open to include the use of piscicides for this thing to move forward.

**Chairman Riordan** Commissioner Salmon, if we approved the initial Department's suggested motion with the *caveat* that you'll come to us before we go ahead, I mean you'll come before us every 6 months, but you'd come to us before the introduction of any chemical use, am I correct?

**Michael Sloane** Yes.

**Chairman Riordan** Okay, are you comfortable with the suggested motion knowing that they will come to us before anything else takes place without putting it in the motion. I'm trying to make it as easy for the federal funds to come in as possible, but at the same time we still have control, Dutch, over anything that the Department is doing.

**Mike Sloane** I can give you any kind of updates you'd like, either informally or formally.

**Chairman Riordan** This is not going to happen this year. We're not going to be using the introduction of piscicides on this stream this year, am I correct?

**Mike Sloane** The earliest possible date would be September of 2006 and that depends on the process and public comments and getting the barrier in the forest and those sorts of things.

**Chairman Riordan** Bill, the way we have the original motion set up by the Department, could you read that Commissioner Montoya?

**Commissioner Montoya** Move to allow the Department to proceed with planning and implementation of native fish restoration activities using a variety of tools in the Costilla watershed. Additionally, if a chemical treatment is necessary, it shall be applied judiciously, within protocols that emphasize extreme care for and sensitivity to human considerations, acceptance of non-native trout replacement and utilizing sentinel species, enabling interested parties to witness treatment activities, and controlling mechanisms to demonstrate and ensure a complete neutralization process.

**Bill Schudlich** You may want to add the review by the Commission.

**Chairman Riordan** You're comfortable with that ongoing review by Commission?

**Bill Schudlich** Absolutely, I think it's important.

**Chairman Riordan** Are you [Commissioner Salmon] comfortable with that?

**Commissioner Salmon** Yes, I'd like to somehow have it on the record that when the Department comes forth with a proposal to use a piscicide in a portion of this drainage, that we get to look at it.

**Chairman Riordan** That is absolutely going to happen.

**Commissioner Salmon** That's the sort of review we're looking for on the record.

**Commissioner Henderson** Obviously, I'd like that assurance as well. I would need to be reminded. When we voted the last time, but everything has to come back to the Commission before any application takes place so we're already on record and committed to that.

**Commissioner Salmon** If we're assured that we would control the use of piscicides, that vote still stands then I think that would satisfy my concerns.

**Chairman Riordan** I don't personally think that if we voted on that motion that that does stand for this particular issuance. I think that what we're doing is approving a plan where we can use all tools necessary within that particular tool chest, including the use of piscicides but what we are getting are assurances from the Department that they will come to us before any introduction of piscicides to go ahead and give us either assurances or see what our direction is at that particular time.

**Commissioner Salmon** Basically, that's what I was trying to get at with my change of language, but if we have it on the record, then perhaps we don't need to change the language of the motion.

**Luke Shelby** It's all on record.

**Terry Riley** I'm President of the New Mexico Chapter of the Wildlife Society and I'd like to at least echo somewhat what Commissioner Salmon talked about as far as reporting. I think not only reporting to the Commission but also reporting to the public might be appropriate here and perhaps a modification to the proposal might actually be that the Department actually prepare an annual report for public consumption that could be posted on the website so that the public could see what's happening here because obviously there are lots and lots of issues that are important to the public with regard to this project.

**Chairman Riordan** I understand the well-intentioned views of some of our trout associations and I commend you on what you all are trying to accomplish. As you can see, it is still a very contentious issue on the use of piscicides. My suggestion is that we move forward with the original plan that the Department has laid out in the original motion with the *caveat* that we will get feedback every 6 months, Michael, as to your progress?

**Mike Sloane** I'm going to review every 6 months.

**Chairman Riordan** I don't want to see any introduction of the piscicides without at least coming to us and letting us know what's going on and that we have a comfort level that there has been adequate community involvement where all these piscicides or chemicals are being proposed and if they are proposed that it is your last-ditch effort to have to use these things. I'm looking at where the priority is on this and their use and there seems to be at the last absolute implementation.

**Ann McCampbell** I have to say I'm a little confused by the action that's being proposed to be taken. It seems that the Department doesn't need permission from the Commission to proceed with planning or restoration efforts, it only needs permission to use piscicides.

**Chairman Riordan** I'm not going to have a discussion with you, but they do need the approval to move forward with this plan and that's what we're looking at.

**MOTION: Commissioner Montoya** moved to allow the Department to proceed with planning and implementation of native fish restoration activities using a variety of tools in the Costilla watershed. Additionally, if a chemical treatment is necessary, it shall be applied judiciously, within protocols that emphasize extreme care for the sensitivity to human considerations, acceptance of non-native trout replacement and utilizing sentinel species, enabling interested parties to witness treatment activities, and controlling mechanisms to demonstrate and ensure a complete neutralization process. I'd like to add as part of this motion, the Commission will require periodic reports and approval as we go forward with this project. **Commissioner Salmon** seconded the motion.

**Chairman Riordan** Once again, the *caveat*, report back to us.

**Mike Sloane** Every 6 months, sir.

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

**Chairman Riordan** requested to move Agenda Item No. 15, Approval of Shooting Preserve Application of Posada Shooting Preserve" for consideration at this time.

**Commissioner Montoya** I'd like to suspend the rules temporarily here so that we can make a change in the agenda. We've requested consideration because the individuals making this presentation need to leave.

**MOTION: Chairman Montoya** moved to consider Agenda Item No. 15, Approval of Shooting Preserve Application to Posada Shooting Preserve. **Commissioner Arvas** seconded the motion.

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

#### **AGENDA ITEM NO. 15. Approval of Shooting Preserve Application for Posada Shooting Preserve.**

**Presented by Luke Shelby** – The State Game Commission considered approval of a shooting preserve license application from Roger Friedman for a 60-acre shooting preserve for pheasants and chukars to be located along the Pecos River near Pecos, NM. Northwest personnel have inspected the property as per the application and agreed the application meets the terms of law and rule. The property is composed of 60 continuous acres and this shooting preserve if approved, would provide increased hunter opportunity to this area bringing upland game bird hunters to this part of New Mexico and would have a positive economic impact to the surrounding communities as well as to Mr. Friedman. We find no significant impact on indigenous species is expected due to the nature of proposed action. The owner proposes to release pheasants and chukars and hunt 5-10 times a year.

**Roger Friedman** This would be a non-charge, not be charging people to hunt on our place. This would be mainly for friends, not my relatives, a couple of times a year. The property is not connected to any state highway or public lands, it's on the west side of the Pecos River and we've had that ranch since 1946 and is entirely fenced.

**Commissioner Salmon** As you develop habitat for chukars and pheasants and work on habitat for songbirds and other non-game birds on the property as well. I'm sure you'll want to do that.

**Roger Friedman** Yes, we planted maize and milo which seem to be the best combination that they have in England so we put about 50 yards of maize and then a 10-yard strip of milo so this should provide habitat not only for the game birds but also for the songbirds.

#### **Public Comment:**

**John Dimas** I'm a lobbyist for wildlife and environmental issues. When you introduce exotics or non-indigenous species, you're taking the chance of hurting native wildlife. I understand you're trying to do it for a good purpose, but look at all the other exotics that have been brought in that we have problems with, i.e., Barbary sheep, ibex, oryx, Himalayan taur, sika deer, and Muflan sheep. There are so many diseases and we continue to do it. We've got to have more consideration of the native wildlife and habitat and if we don't we're going to lose it.

**Chairman Riordan** I do think that a lot of the private preserve people are concerned about chronic wasting disease affecting their particular animals.

**MOTION: Commissioner Arvas** moved to approve the issuance of a permit to Roger Friedman contingent upon the applicant meeting the requirements of law and rule that regulate shooting preserves. **Commissioner Montoya** seconded the motion.

**Commissioner Henderson** Mr. Friedman, how do your neighbors feel about you having a shooting preserve?

**Chairman Riordan** It was brought up by Assistant Director Shelby that the neighbors have been contacted and they are all in agreement that it posed no threat, nor problem with them.

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

**AGENDA ITEM NO. 11. Chronic Wasting Disease Control (CWD), Mandatory Requirements for Removal of Game Parts May be Changed, 19.31.8.32, NMAC.**

**Presented by Dan Brooks** - Current rule only allows certain portions of game parts to be transported outside of a game management unit where CWD is found. The Department presented information that will allow adjacent units or areas to be identified and placed under transportation restrictions. This change, if accepted, could affect hunters licensed to take deer or elk in those areas identified. The consideration was brought forward to assist in managing this contagious disease. Request is being made that people basically de-bone meat and immerse the skull plate in a solution in an attempt to prevent the spread of chronic wasting disease in an area where the disease was found. The old rule had it for the whole unit, but we're seeking more flexibility to allow the Director the ability to designate it as an area smaller or larger than a game management unit or larger. The way the rule currently reads the whole carcass, no part of the spinal column and head, except for the skull plate if immersed in a solution, can't be transported out.

**Commissioner Sims** You say there's a lot of water and feeding of these deer by the residents in Timburon?

**Dan Brooks** Yes, that's correct.

**Commissioner Sims** You see that as a big accelerant for spreading the disease?

**Dan Brooks** I think that is a contributing factor. I don't know about an accelerant. It's not illegal to feed wildlife especially deer and elk, but it is to bait them in and kill them. Right now the residents aren't breaking any laws, but it does seem to be a popular past time there.

**Commissioner Arvas** Have any of the other adjacent states that have chronic wasting disease gone to this length as far as having their hunters do the same thing?

**Dan Brooks** Yes, they have. This is our commitment to work with other states because the basis for this rule not only protects us and the rest of our state, but also protects those states because we have hunters that come from out of state that hunt here and that was 1 of the things that the Western Wildlife Committee recommended that each state adopt these pro-active measures and we've done that. This rule has been in place for 1-2 years. We're finding that by giving it the game management unit designation, it may not be realistic. We might need to expand or shrink the area.

**Chairman Riordan** Getting back to what Commissioner Sims asked you, how do you see that feeding deer may contribute to CWD?

**Dan Brooks** What it does is it concentrates deer and it probably makes them more susceptible if it's already there so that it will spread more.

**Chairman Riordan** But the feeding itself doesn't contribute to the CWD?

**Dan Brooks** No, it would probably have to be there and I would tell you 1 thing as a point of reference—there is no known means identified on how chronic wasting disease is transmitted. There's much unknown about the disease, but the 1 thing we do know is that if a deer or elk gets it, it will be fatal. The prevalence is quite low, 5%-7% or less in some areas.

**Commissioner Sims** When was the first case that we had chronic wasting disease in New Mexico?

**Dan Brooks** Around October, 2001.

**Commissioner Sims** Is that basically on the same timeline as Colorado and other states, or were they earlier or later than us?

**Dan Brooks** No, we were later. There are still some states that are discovering it but when you look at the west over all, Colorado and Wyoming has had it for years. We were actually shocked when we got it in 2001 and had it identified.

**Commissioner Sims** Does Texas have it?

**Don Brooks** Texas does not have it, but they do not have the same testing protocol that we do, but to date they do not officially have it.

**Chairman Riordan** What steps are we taking now on White Sands?

**Don Brooks** This rule is in place for the White Sands Missile Range on Unit 19. That's really where this has popped up and the 11 positives are there in the Organ Mountain complex and we have the same rule in place and we've treated it as a unit because there was a very limited hunting only on the Organ Mountains. We've done the same exact thing there as we're asking to do here.

**Public Comment:**

**Those requesting to make public comments were not available.**

**Commissioner Salmon** So the way it would read if we make these changes within the designated units, what exactly could they then transport out of the area after they kill their animal? What portion of the animal would they take out legally?

**Dan Brooks** That part isn't changing and what that part is, is the meat, the skull cap and the hide. Of course, we felt the hide was needed in case they wanted to do any taxidermy-type work.

**Commissioner Salmon** So that part will stay the same?

**Dan Brooks** Yes, that part stays the same.

**Commissioner Salmon** It gives you more flexibility on designating the unit where it applies?

**Dan Brooks** Exactly, whether it's the whole unit versus a different boundary, exactly.

**MOTION: Commissioner Arvas** moved to approve the Department's recommendation to amend 19.31.8.32 to allow the Director the ability to identify and restrict carcass removal in areas as designated surrounding CWD detection to control the spread of this disease. **Commissioner Salmon** seconded the motion.

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

**Commissioner Arvas** Dan, am I correct in making the assumption that the concern for CWD seemingly is slowing down some?

**Dan Brooks** Yes, that's right. Probably not as much concern and interest as there was, but there is still some.

**AGENDA ITEM NO. 12. Private Land Elk License Allocation Rule Adoption, 19.30.5, NMAC.**

**Presented by R. J. Kirkpatrick** – The Department presented current information on amendments to Title 19.30.5, NMAC, the Private Land Elk License Allocation Rule. The presentation included a summary of the reasons changes were desired, a summary of the most significant questions, and a brief account of the public involvement opportunities and processes involved in developing the proposal, and a suggested new name for the program to emphasize beneficial aspects.

**Chairman Riordan** I'd like Commissioner Montoya to give us a brief introduction as to how we've gotten to where we are before you make your presentation, R.J.

**Commissioner Montoya** We've delayed presenting this item for consideration before the full Commission for any rule changes because we realize how important this program is and the importance of insuring that there's enough public input. R.J.'s been before us for the last 3-4 meetings giving us updates. The presentation coming up is probably the last presentation prior to presenting the rule changes to the Commission for adoption at the September meeting. What has resulted with us taking longer to present the rule changes is that we feel good about the amount of opportunity that we've given the general public to comment and provide feedback. Ron Shortes, attorney for Catron County took time to scrutinize the proposals and a lot of the recommendations. In Otero and Rio Arriba counties there have been opportunities not only for the general public, but local governing bodies to have input and provide feedback, and what has resulted are numerous positive changes, including the name. If it's approved, it will no longer be called L.O.S.S, it will be called P.L.U.S which is more positive. It's given us an opportunity to send surveys to sportsmen and all landowners. It's given us an opportunity to publish on the Internet for quite a while and the end result will be a good, thought-out rule change. R.J., Ruth, field staff and others have been working very hard at this and this is our last presentation before we present it to you for full adoption in September. I wanted to thank R.J. and his staff for their time on this and we can rest assured that everyone has had a chance to provide feedback. Up through Friday, there have been changes as comments come in because we can't always see everyone's point of view but when it's presented we've been able to accommodate a lot of comments and included them.

**R. J. Kirkpatrick** The final clean version of what the Commission will potentially adopt in September will be available to the public at the end of this week. Some of the foundational subjects that this new rule entails and why it's so beneficial toward solving the big issues that we tried to resolve as Commissioner Montoya alluded to, there's a proposal that we name the system P.L.U.S Program, Private Lands Use System with the idea that antelope A+, elk E+, both have positive connotations. This system is going to be area based. It's going to include sound elk biology, management goals that result in harvest objectives that lead to licenses and hunting opportunities, how do we go about distributing them and it also gives us flexibility to deal with increasing number of properties that are interested in doing more conservation-minded work on their ranches, farms or properties that relate to wildlife.

**Commissioner Arvas** How does P.L.U.S affect the large private lands?

**R. J. Kirkpatrick** Large private lands have a variety of options like everyone else. Large land owners that want to entertain putting together an elk conservation plan with the Department will help assist in that and can work out that agreement and agreed on hunting levels that occur within the boundaries of their private property, most of it driven by harvest objectives. They can participate in the allocation process as any other ranch or if they lie outside that core, they can sit with us and develop a hunting strategy or elk management strategy outside of the landowner system.

**Commissioner Arvas** We've got a representative here from the Double H and Vermejo and I'd like to hear their comments.

**Public Comment:**

**Terry Riley** I'm speaking for myself and my question has to do with the flexibility that private landowners will have with these permits to go on public land and hunt. Obviously, you're trying to achieve a management objective throughout the entire unit, I understand that, but it would seem cow permits would be an appropriate management strategy throughout the entire unit and because private landowners have so much more flexibility to hunt as far as dates and seasons, it would appear that they have more opportunity to take advantage of resources than the public land hunter.

**R. J. Kirkpatrick** You're right in that this is more flexible for private landowners, but all these authorizations that we're proposing under this new idea will be unit wide unless the rancher requests them to be ranch only. In this new proposal, ranch-only permits will be valid on the deeded private property for that ranch. With that decision comes the pick-any-5-days-you-want, but any ranch that is afforded the unit wide and chooses the unit wide is then subject to public established season dates, weapon types, bag limits that are the same as public hunters, so the only way that you can get to a flexibility in where you hunt is to choose ranch only and engage us in a conservation plan.

**Jeremy Vesbach** This is a solid review of the proposal, and we feel there's been a lot of public input. Separating depredation from this program would be a major victory in itself; however, I do feel obligated to point out the essence of the system and that is that it exempts some people from the draw. The wealthy go to the head of the line the idea being to benefit ranchers who are doing something for elk. Something to think about is how this affects hunter recruitment and in particular those people who can't pay as much, young or local people, and the fact that we haven't analyzed how this impacts non-land holding hunters, and people who go through public draw. This emphasizes the need to put an equal amount or more time into the P.L.E.A.S.E Program to produce that win-win option and make that program more attractive for landowners.

**Bill Ferranti** I'm from the Double H and we support the program. It's a radical change from what we've had before and with anything new, there's concern. Some of these contracts don't come out until June 15 and I emphasize from the landowner that sells permits or any outfitter that sells permits, the earlier that we know what the permit numbers are, the more marketability they are for us.

**Chairman Riordan** R.J., there's got to be a way for us to have some kind of a number or good ideas on some of these large ranch owners, how many permits they're going to get, how much they're going to be affected, whether they're going to be affected at all if we do adopt this new program. You need to get together with some of these people and try and make their marketability as easy as possible.

**Commissioner Arvas** When are you planning on implementing this?

**R. J. Kirkpatrick** If the Commission chooses to adopt some semblance of this proposal at the September Commission meeting, the Department is capable of implementing the program for the distribution and allocation of hunting opportunities for next fall's hunting season.

**Commissioner Arvas** If that's the case, then what's the holdup as far as coming up with the numbers because you'll have to publish those in the Proclamation?

**R. J. Kirkpatrick** The numbers of permits or hunting opportunities that are available to private and public lands are already established by this Commission in the Big Game Rule. It's the distribution and allocation that changes on an annual basis, depending on what percentage of the private lands are or aren't enrolled. We've talked about this and I fully expect that we can have a good sense of distribution to private land permits in January/February, but there are always things that change as a result of ownership, but this puts us in a more stable position. We've always been able to give individual property owners an estimate of what they're going to receive ahead of time.

**Commissioner Arvas** That should pretty much answer Bill's question as far as the outfitting part of this.

**Ron Shortes** I'm representing our family ranches as well as Catron County. We support this P.L.U.S system. I hope there's a provision for a neutral third party to be involved in the appeal process. Another good thing is the possibility of a game management plan on any size property and not the more than 10,000-acre property.

**Chairman Riordan** R. J., we do have a conservation plan under 10,000 acres in existence for elk?

**R. J. Kirkpatrick** Under this new proposal, a property of any size could engage in a conservation plan. Any property engaged in a conservation plan with us is currently 10,000 contiguous acres or above.

**Jim Baker** We're in a different position than a lot of these places because unit wide is virtually all private land, us being the largest portion of Unit 55 so we're not as affected as some of other places. The positive I see is for the smaller landowners to be able to at least try and group together or put in for some sort of permit without going to depredation with what I've seen does not work as far as curtailing elk numbers.

**Discussion item only.**

### **AGENDA ITEM NO. 13. Preliminary Consideration for Legislative Initiatives - 2006 Session.**

**Presented by Pat Block and Luke Shelby** - The Department presented to the Commission possible initiatives to pursue at the 2006 Session of the New Mexico State Legislature. Commission direction and approval was sought for initiatives to be prepared in consultation with the Office of the Governor. Pursuing severance tax bonds and general fund monies for repair of dam and similar structures owned by the State Game Commission during the budget presentation was alluded to and this will assist on easing the burden on the Game Protection Fund to repair these structures that many in the state enjoy the benefits from. The second is to improve budgeting considerations for the small funds separate from the main department budget including the Habitat Stamp Fund, the Big Game Enhancement Fund, the Share with Wildlife Fund, the Big Game Depredation and Damage Fund, and the new Habitat Management Fund. All have specific purpose for the revenues and cannot be spent on anything other than what they're intended for yet we must budget for these funds normally at much less than their revenues.

**Commissioner Arvas** Have you had a chance to visit with the Fourth Floor yet?

**Luke Shelby** No, this is our first step. Before we take it to the Fourth, we'd like your input.

**Chairman Riordan** We're not taking it to the Fourth right away. I'd like to see us look at that big game poaching, but the wording needs to be changed. What I'd like to see is further exploration from staff and from the Commission to give us some direction. I'd like to see a felony if you are poaching big game and you remove only the head or antlers of that animal and leave the rest of the animal in the field. Whoever is taking the head off and leaving the body in the field is not poaching for meat. He's poaching for profit or for his own personal benefit.

**Dan Brooks** Yes, there is a lot of public support for that and that's been dubbed trophy poaching.

**Chairman Riordan** Assistant Director Shelby, we need to look at that and identify it for what it is. I promised the Conservation officers that and I'd like to see that on the agenda.

**Alvin Garcia** I suggest that you work with the District Attorneys Association on promoting that kind of legislation because they have their own legislative agendas because to prosecute a felony you're not going to be using your game officers to prosecute felonies in magistrate court. You're going to be in the district court level so you're going to need the district attorneys offices support to prosecute those types of felonies.

**Chairman Riordan** Any comments from our lobbyists, former Commissioner Steve Padilla?

**Steve Padilla** We've been working on that bill. I've been working with Representative Vigil and leadership in both the House and Senate. The only thing we need help with is to get it on the Call. For your information, when I was on the Commission we were informed at a WAFWA meeting that the State of Wyoming is having a lot of problems with wealthy individuals coming in from the Bay Area and poaching bighorn sheep and they didn't care if they got caught because they just paid the fine and when it became a felony to do that, it stopped it cold in its tracks.

**Chairman Riordan** What are we doing on confiscation of vehicles? Are we still forfeiting vehicles or has that stopped?

**Dan Brooks** No, we have not forfeited vehicles because of the new Forfeiture Act. It's all been incorporated there and there's a pecuniary value so we have not done any in about 3 years.

**Chairman Riordan** I know when we had that in effect, all poaching ceased. I'd like to explore that also and see what we can and cannot do there with the consent of the Commission.

**Commissioner Arvas** If I remember right the biggest problem we had with that when we would confiscate a vehicle we had to pay off the mortgage and that was a rough deal for us because usually the mortgage was more than the

value of the vehicle.

**Commissioner Montoya** We would lobby not to confiscate those that weren't worth Blue Book value.

**MOTION: Commissioner Montoya** moved to approve the 2006 legislative initiatives to incorporate the ideas from this discussion in addition to having the ability to add others as they come up. **Commissioner Henderson** seconded the motion.

**Jeremy Vesbach** I'm representing the New Mexico Wildlife Federation. I wanted to ask the Commission to consider looking into the P.L.E.A.S.E Program expanding this year with more funding.

**Chairman Riordan** Jeffrey is your organization supporting our initiatives?

**Jeff Davis** Yes. I'm here representing Sandia Mountain Bear Watch and the issue under Item 13 that we're concerned with is the bear-proofing garbage and dumpsters and we would urge the Commission and the Department to make that a legislative initiative. The point to be made is that the bill the Governor signed a couple of years ago isn't doing the job, it's too vague, and lacks enforcement teeth and we understand that the Department law enforcement people and the legal department are willing to re-write that bill to make it do what it's supposed to do in terms of enforcing bear proofing statewide. What Bear Watch can contribute here besides matching funds is that State Representative Kathy McCoy is willing to sponsor the bill if you can get a bill drafted that satisfies your needs.

**Chairman Riordan** Jeff, my suggestion is go ahead within the next couple of days and come up with a list of things that you think are wrong with the existing bill, get them to us and we can go ahead and incorporate things into a new bill. My suggestion is that you get a senator to sponsor it because it's a 30-day session.

**Jeff Davis** I was under the impression that the Department itself knew what they needed.

**Commissioner Arvas** Also, remember that the 30-day session is for fiscal matters so the Governor is going to be picky as to what he's going to want on his Call.

**Jeff Davis** My instructions are just as soon as it's feasible to do it because this session may be too short.

**Chairman Riordan** May not be though and if we don't present it for sure you're not going to get anything.

**Jeff Davis** The Department will have to sign off on it though.

**Chairman Riordan** We understand that but that's why we're asking you to get with the Department, let's figure out what the problems are with it and let's come up with a bill that makes sense for both of us and see if we can put it on the agenda and try to tie it to something fiscal so we can get it entered with funding from the state.

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

#### **AGENDA ITEM NO. 14. Commission Approval of Non-Profit Organizations for Donations of Hunting Licenses.**

**Presented by Patrick Block and Dan Brooks** - During the 2005 Legislative Session, House Bill 203 passed and was signed into law by Governor Richardson. This bill amended the law to allow hunters to donate licenses to nonprofit organizations approved by the State Game Commission. The Department requested Commission approval to work with 2 such organizations; the *Hunt-of-a-Lifetime Foundation* and the *Outdoor Dream Foundation*. These organizations will provide a means for the agency to distribute donated licenses to hunters suffering from life-threatening illnesses. The other thing we're doing is opening up the application rule 19.31.3.11. We were in that rule earlier working on mobility impaired certification, but we didn't feel it would be appropriate to make this amendment at the August meeting because we had not specifically noticed it to the public. So we request that this be opened and we come back in September for final approval and that rule changes define the conditions under which we could have folks transfer licenses to another, obtain refunds for licenses already issued, or allow for the donation of a license. Today we're requesting approval the *Outdoor Dream Foundation* and the *Hunt-of-a-Lifetime Foundation* as the non-profits we deal with on the donation issues.

**Commissioner Henderson** These are 2 great organizations. Have we heard from anyone who's feeling left out that would like to participate?

**Pat Block** No, not yet but we are leaving the door open for other organizations to help facilitate these transactions as we learn about them. There's a party of 3 that received licenses through the draw, a father and 2 sons, 1 of the sons has a friend who has been diagnosed with acute lymphoma and he'd like to donate his license to his friend, so I believe that that's the kind of transaction that we'd be able to work on and we already have requests because people have asked and we've told them about the law change and we're waiting to see how we come through today.

**Chairman Riordan** I too would like to make sure that we keep the door open as you get new organizations who want to participate. I feel you'll find many instances when you draw a license you can't use and you want to give it to somebody.

**MOTION: Commissioner Sims** moved that the Commission approve the *Outdoor Dream Foundation* and the *Hunt of a Lifetime Foundation* as the first 2 organizations that the Department works with to distribute donated licenses and permits. **Commissioner Henderson** seconded the motion.

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

#### **AGENDA ITEM NO. 15 MOVED TO BE HEARD PRIOR TO ITEM NO. 11.**

#### **AGENDA ITEM NO. 16. General Public Comments (Comments Limited to 3 Minutes).**

##### **Public Comment:**

**Bill Stern** I'm the Grazing Permit Coordinator with Forest Guardians. As you're aware, Mexican Wolf issues were discussed extensively in Reserve. The lack of responsibility from these local ranchers must be recognized as a major factor and the problems they're having with the wolves. While there are local problems, I ask the Commission to remember that there is widespread support for the wolf program. We ask the Commission to publicly oppose the moratorium and any new measures that make it easier for ranchers to shoot wolves and ask the Commission that their representatives to the Mexican Wolf Adaptive Management working group do the same. Finally we request the Commission to do what they can as individuals to ask the task force members to drop unreasonable demands and come to the table with a positive approach and work toward reasonable solutions that can be accepted statewide.

**Chairman Riordan** I think the individuals representing their interests in Reserve were as genuine as you are in representing your interests. We have differences of opinion and I respect their opinion and I jumped on the rancher who I thought was disrespecting your opinion at the Reserve meeting. I would like to say that those people do have those fears for their children, their animals, and they are legitimate fears. They may not be legitimate fears for you here in Santa Fe, but I do believe they are legitimate fears for them in Catron County.

**Bill Stern** As I did state, I do believe they are sincere fears. Whether they are based in fact is an open question.

**Chairman Riordan** The purpose of the task force is for us to try and come to some kind of balance on this whole proposal. Something that's equitable to the wolf, to the ranchers, to their private property rights, to their family values, and I have been a proponent of the wolf and the re-introduction program up to something that makes good common sense.

**Ron Shortes** After working with the wolf re-introduction issue, we're dealing with 3 issues: the moratorium which we support because the NEPA impact study on other wildlife has not been done; these wolves do not appear to be acting like wolves in the wild either because the genetics are bad or maybe these wolves are too hybrid and they're acting more like dogs than wolves or the breeding program has been too long and too incestuous; the third issue is protection of humans and private property and something has to be done to deal with that especially if these wolves are restrained and clearly U.S. Fish and Wildlife have been unwilling or unable to restrain these wolves to any of the original contemplated recovery areas.

**Commissioner Sims** When these wolves are in captivity, what do we feed them?

**Ron Shortes** They've been fed road kill but they've also been fed beef which is what we believe is the reason for their taste for beef cattle. The other thing is that all of these wolves are derived from wolves that were originally captured because they were cattle killers.

**Commissioner Sims** My point is that someone told me they'll eat the meat before they eat the carcass.

**Chairman Riordan** Director Thompson, did you ever find any information?

**Director Thompson** For clarity, I dislike disputing with Mr. Shortes, however, I think he is incorrect in 2 cases: the wolves that these were derived from were not all captured as cattle killers; and the other is the wolves are fed some road kills but also fed a ration for captive animals. It does not contain beef to our knowledge; however, in some occasions it does contain horse meat, I understand.

**Chairman Riordan** I think that with common sense and some place in here we need to make sure that we're not feeding these animals beef or horse. It makes absolutely no sense. If we want to get these animals to get accustomed to 1 particular type of meat, we don't need to be feeding animals in captivity beef. It's a program that needs good common sense and Billy, as to where we can go with this wolf program in something that makes sense.

Billy, you should be a huge proponent of captive elk, deer carcasses, road kill but something that these animals are out there hunting and that's the taste they get accustomed to.

**Richard Becker** I'm a member of the Albuquerque Wildlife Federation and a few weeks ago we received an e-mail from the Department about the desire of the Department to have recommendations on how to spend that \$5,000,000 discussed earlier in Barbara Morin's report. We had a board meeting on August 11 and we compiled a series of recommendations which I forwarded to Lisa Kirkpatrick. I want to mention opportunities for partnerships and I think the e-mail we received from the Department was being looked at. What I'm encouraging is to have Lisa or someone compile this list within a certain timeframe and get it out. I want to illustrate that I've showed these photos to some of you but the Albuquerque Chapter of the National Turkey Federation partnered with the Habitat Stamp Program to build this drinker on the Bluebird Mesa property by Cuba. We're partnering with Habitat Stamp Program to put this drinker on Game Commission property and I'm saying that if we can produce a list of proposals this might be an opportunity for the Department to enlist the interests of conservation organizations to identify within all the proposals where we might be of interest and available to help the Department achieve something in conservation benefit in this process.

**Chairman Riordan** We had discussed about everyone turning in their nominees for the Sikes Act, have we done that? Please get those to us within the next week.

**Commissioner Salmon** I would agree with Mr. Shortes about some of the wolves in the program in my view are not behaving like normal wild wolves. In the task force we've talked about some aversion techniques that might be employed and perhaps the state could contribute to that to either cause these wolves to become more spooky and wild or replace them with wolves that would be more normal. The task force has been a contentious process but 1 thing that has come out positively are some excellent ideas regarding improved compensation for livestock losses which might in part be funded by state funds. I believe that the Governor has instructed us to look at this exact sort of solution. At some point we will be reporting on what that compensation program might be.

#### **AGENDA ITEM NO. 17. Closed Executive Session.**

**MOTION: Commissioner Arvas** moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H)(2)(7) and (8) of the Open Meetings Act in order to discuss personnel, litigation and purchase, acquisition, or disposal of real property or water rights, and licensing issues as per 10-15-1, NMSA. **Commissioner Sims** seconded the motion.

#### **Roll Call Vote:**

**Chairman Riordan – yes**

**Commissioner Montoya – yes**

**Commissioner Arvas – yes**

**Commissioner Henderson – yes**

**Commissioner Pino – absent**

**Commissioner Salmon – yes**

**Commissioner Sims – yes**

**Motion carried unanimously.**

**Chairman Riordan** The matters discussed in the Closed Executive Session were limited to the items on the Agenda for the Closed Executive Session. No action was taken in the Closed Session.

#### **AGENDA ITEM NO. 18. Adjourn.**

**MOTION: Commissioner Salmon** moved to adjourn. **Commissioner Arvas** seconded the motion.

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

**Meeting adjourned at 3:58 p.m.**

s/Bruce C. Thompson

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

9/21/05

Date

s/Tom Arvas, Acting Chairman

**Guy Riordan**, Chairman  
New Mexico State Game Commission  
Minutes Transcribed by: Katie Gonzales

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9/21/05

Date