

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 STATE BAR OF NEW MEXICO
 5121 Masthead, NE
 Albuquerque, NM 87199
 August 23, 2007

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AGENDA ITEM NO. 1: Meeting Called to Order.

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

AGENDA ITEM NO. 2: Roll Call.

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

QUORUM: present

AGENDA ITEM NO. 3: Introduction of Guests.

Introductions were made by approximately 40 members of the audience. Also in the audience were the Honorable Larry Larranaga, NM State Representative; Robert (Bob) S. Jenks, New Mexico Department of Game and Fish Deputy Director Selectee; and Matt Wunder, Division Chief Selectee, Conservation Services Division, as well as former Game Commissioner Steve Emory, and Carol Becker, widow of Dr. Richard Becker, and Dr. Richard Becker's father, brother, and sister.

AGENDA ITEM NO. 4: Approval of Minutes (July 18, 2007--Gallup, NM)

MOTION: Commissioner Buffett moved to approve the Minutes of the July 18, 2007 State Game Commission Meeting in Gallup as presented. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 5: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the August 23, 2007 State Game Commission Meeting, and with Item 24 to follow Item 11. Commissioner McClintic seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: Revocations.

Presented by Dan Brooks – The Department presented a list of 58 individuals that the Commission considered for revocation or point assessments with timeframes attached that met established revocation criteria.

MOTION: Commissioner Riley moved to adopt the Department's recommendations on revocation and point assessment for the 58 individuals in the attached lists for the period of time specified. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 7: Incentive Licenses Drawing.

Presented by Kerry Mower – The Department conducted incentive drawings for those individuals that submitted samples of harvested deer or elk for CWD testing and those individuals that submitted harvest reports. Authorizations to purchase licenses will be awarded through the drawing. Cooperation by hunters for CWD surveillance assists the Department in preventing and controlling wildlife diseases. If hunters report their hunt results, the Department will have data necessary to maximize hunter opportunity in accordance with the objectives of the Sport Hunting and Fishing Program of the Strategic Plan. CWD could potentially affect deer and elk hunting license revenue to the Department and associated economic impacts in New Mexico. Management actions that maximize opportunity to hunt deer and elk in a sustainable manner as reflected by accurate harvest reporting also impact license revenue and wider economic activity associated with deer and elk hunting in the state. A history of these incentive drawings during Commission meetings in the last several years has created an expectation and anticipation for the drawings of these incentive authorizations. Public action is expected to heighten awareness of and support for Department programs.

Oryx (5) Draw:

	<u>Page</u>	<u>Column</u>	<u>Row</u>	<u>Name</u>	<u>City/State</u>
1.	7	3	19	Vincent Romero	Chimayo, NM
2.	16	17	29	Garrett Cunico	Albuquerque, NM
3.	17	32	28	Gus Roybal	Santa Fe, NM
4.	19	31	34	Barbara Richards	Silver City, NM
5.	21	32	21	Alvis McCray	Crownpoint, NM

Valle Vidal Elk (2):

1.	29	10	21	John Greve	Poplar Bluff, MO
2.	25	33	8	Herbert Boyer	Rancho Santa Fe, CA

AGENDA ITEM No. 8: Presentation of the 4th Quarter and Annual 2007 Fiscal Year Depredation Report.

Presented by Cal Baca – The Department presented the 4th Quarter and Annual Fiscal Year 2007 Depredation Report for approval in accordance with 19.30.2.11, NMAC. The annual report provided the resolution rate for all depredation complaints that have reached the 1-year time limit. During the April 1, 2007 through June 30, 2007 Quarter, 115 complaints have been filed, 48 have been resolved, and 67 are unresolved at this point. Intervention methods to resolve these complaints are currently in progress. Of the 115 complaints filed, species with more than 1 complaint included raccoon, fox, mountain lion, squirrel, elk, bobcat, deer, bear, and beaver. Fiscal Year 2007 (July 1, 2006 through June 30, 2007) 337 complaints were filed and the top 6 species complained about were bear, raccoon, elk, deer, fox, and squirrel; 287 (85%) were resolved within 1 year, and 22 species categories involving complaints 10 categories had unresolved complaints at the end of 1 year mostly related to elk.

Commissioner Salmon: How do you deal with the issue of beavers getting into places where we wish they wouldn't if you decide to take out a beaver colony?

Cal Baca: What we've been doing is working with landowners interested in live trapping and relocating beavers to resolve the complaint. We've seen more landowners willing to work with our officers and other non-governmental organizations to do live trapping and removal of problem beavers. We've had landowners who have started contacting the Department and expressing an interest in having those beavers relocated to their private lands. We're also developing other types of technologies to reduce beaver damage while still leaving them in their habitat. We are working on different ways instead of killing/removing those beavers.

Commissioner Salmon: In the Gila Forest we're seeing an increase in beavers and wildlife benefits, so I would say keep up that direction.

Commissioner Buffett: I'd like to comment on John Zamora who recently did the Department proud by removing the mountain lion from the Santa Fe jewelry store. It could have gone very differently.

MOTION: Commissioner Arvas moved to accept the Fiscal Year 2007 Annual Depredation Report as submitted by the Department. **Commissioner Riley** seconded the motion.

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

AGENDA ITEM NO. 9: Farm Bill Conservation Program Impacts on Fish and Wildlife in New Mexico.

Presented by Mike Neubeiser, (U.S. Department of Agriculture/Resources Conservation Service/State Program Manager for the Environmental Quality and Service Program and Wildlife Habitat Service Program) and Cal Baca – The Conservation Programs authorized under the (2002 Farm Security and Rural Investment Act) 2002 Farm Bill probably have the greatest potential to protect and restore fish and wildlife habitats across the U.S. relative to other federal or state conservation programs. Funding for these conservation programs exceeds the combined budgets of the U.S. Forest Service/U.S. Fish and Wildlife Service/Bureau of Land Management. This presentation by NRCS and Department staff enhanced Commission understanding of how these programs are being utilized in New Mexico for fish and wildlife. The current Farm Bill we're operating under was authorized in 2002. Congress is working on development of the new Farm Bill for 2007 and the full House approved the Farm Bill on July 21 but it didn't get through the Senate before they recesses for the summer, and upon return September 4, the Senate will take up the Farm Bill. The Senate's version will not jive entirely with the House bill so will eventually go to a conference committee and hopefully, by October 1 we'll have a new Farm Bill. The Environmental Quality Incentives Program is most important from the standpoint of budget and workloads as it impacts every area of New Mexico. 36 field offices have Farm Bill activity. There are a total of almost 2,800 totaling almost \$93M, that have been signed with ag producers equipped as designated to provide assistance to primarily private agricultural producers, not all of them necessarily wildlife habitat issues. Unfortunately in New Mexico we don't have a large budget for WHIP and that's why we've spent more time talking about EQIP because there are some benefits to wildlife habitat. We're working with agricultural producers to identify and address various resource concerns we look at major resource concerns, categories, soil erosions, soil conditions. Fish and Wildlife is 1 of the major resource concerns. Under fish and wildlife concerns are such as inadequate food, inadequate space, teeny fish and wildlife species. When we work with producers, if they have a wildlife interest and resource concern associated with wildlife, we can include dollars in those contracts that will address those resource concerns. Under the Farm Bill, since 2003 there have been over 660 applications received requesting assistance under EQIP. Of those applications 423 have been accepted for contracts and within those contracts there are 1 or more conservation practices to address 1 or more of the identified fish and wildlife resource concerns. It has an impact and benefit to ag producers all over the state.

Chairman Montoya: Before Congress recessed, what was the status of the Farm Bill? Have any of them gotten to the point where they're ready to come to committee?

Mike Neubeiser: The full House passed the Farm Bill legislation and now the Senate will review that when they reconvene. They may/may not adopt that exact version or they may come up with their own version. I'm assuming the Senate will come up with some variations from the House bill so eventually a conference committee will hash out a version, so we're hoping to have a fully authorized Farm Bill by October 1.

Chairman Montoya: I've heard that a more appropriate name for the Farm Bill would be Food Bill since 75%-80% of the money appropriated are nutrition programs—WIC, Food Stamps, commodity programs. The majority of what's appropriated/allocated goes to other non-farm-related activities, and farms actually end up with only 10%-15%. Is that accurate?

Mike Neubeiser: Yes, that's correct. The first Farm Bill, of course, was authorized in 1949 and it truly was a Farm Bill. Over the past 60 years there have been other programs that are administered by the U.S. Department of Agriculture and although we still refer to it as the Farm Bill, a small percentage of all funds appropriated go to programs and interests related to farming operations.

Chairman Montoya: Farmers are a small minority of the population in this country and this Farm Bill touches the entire population of this country.

Commissioner Salmon: Compared to the last Farm Bill in 2002, the acreage set aside for conservation reserve programs of that acreage, how has that changed as compared to the last Farm Bill—more/less.

Mike Neubeiser: Would you be referring to the 1996 Farm Bill? We're still operating under the 2002 Farm Bill until the end of this fiscal year.

Commissioner Salmon: How does the conservation reserve program acreage line up that's before the Senate?

Mike Neubeiser: I don't have specific figures but I know that recently they went through a re-enrollment procedure for conservation reserve program acreage. A lot of the contracts expire the end of this or next fiscal year. I believe a great majority enrolled in CRP elected to extend their contracts but how many acres might be authorized in the new Farm Bill I'm not certain.

Commissioner Riley: The bill that passed has a 39.2M-acre cap on CRP which is the same as the 2002 Farm Bill. The 1996 Farm Bill was 36M-acres so we are up above the cap but we're going to hopefully maintain the same. The Senate has passed 2 versions of the conservation title they're looking at now and both of those have a 39.2M-acre cap so it should remain the same unless someone tries to raid the dollars that are available to pay for something else.

Cal Baca: The issue we also see with those CRP acres is a limit to 25% of the crop land in each county so we find that most of our counties that are eligible for CRP in New Mexico already subscribed to that 25%. We were able to go a little above that in the last Farm Bill. We were at about 33% in some of those counties but they're trying to bring New Mexico back down to those 25% caps in each of those counties. Currently Lea County is 1 of the few counties eligible under the current version of CRP to enroll any more acreage into conservation reserve programs for any long-term conservation easements.

Commissioner Arvas: Michael, would you tell us how you interface with the Department as far as the issues?

Mike Neubeiser: The Department is involved because we have the New Mexico State Technical Committee which serves as an advisory body to USDA mostly to state conservationists because some of those programs are administered by NRCS. The Department has a representative on that committee and the Department also has membership on what we refer to as the local work groups. Each year, at the local level, as we start to prepare for next year's implementation of various Farm Bill programs, we have our local field offices work with the local Soil and Water Conservation Districts to have meetings. The Department is a member of those local work groups and we recently completed those local work group meetings in preparation for fiscal year 2008 and there was a Department representative at a couple of those meetings, so they are involved and they do have input in helping to shape the local programs.

Cal Baca: We also have been getting on the ground working with the actual landowners who have those contracts in place. Through our private land deer incentive program, we're working with ranchers who are wanting to enter into those private-land deer conservation programs to use EQIP money which is the largest portion of that Farm Bill for New Mexico budgetwise to implement those conservation practices to benefit multiple use on those private lands to include benefiting habitat. We try to have site visits and then work with the local NRCS district conservation and range specialists to develop a conservation practice in a way that benefits multiple use. Also, on the eastern side of New Mexico where we're pro-actively working with NGO's and private land owners to benefit lesser prairie chicken habitat to use some CRP incentive payments and rental payments to improve the habitat in eastern New Mexico on the short-grass prairie for these species and to try and figure out ways to help offset some of that landowner cost share with the intent of them using that money to benefit the different wildlife species in those areas. We're trying to have our field staff be more pro-active in working alongside their field staff to provide more of a well-rounded view of the conservation practice, and not limited to growing grass but also growing other species and benefiting the multiple use on that property. In New Mexico 45% is private property so we have a huge ability to benefit a large amount of habitat if we work pro-actively with these private landowners to use these EQIP/WHIP dollars a little wiser.

Commissioner Riley: With respect to the lesser prairie chicken, the Farm Service Agency recently approved a new conservation practice for state-specific wildlife. I notice that proposal was limited to 1 county. I assume primarily because that's the only county that hasn't reached it's 25% cap. Would the Senate bill that's floating around exempt all continuous signup practices from that 25% cap and would give us a good reason to at least look at the other counties as well as distribute those 2,600 acres we're getting?

Mike Neubeiser: One handout is the news release from the Farm Services Agency about the program and after that is a proposal that has been submitted to Farm Services Agency under these state acres for wildlife enhancement and it has to do with lesser prairie chicken habitat. As I understand it, each state was allocated by their wildlife acreage proportion and this proposal I believe takes up the whole 2,600 acres allotted to New Mexico. For this year, I doubt they'll add acres but if it's going to be an ongoing component of CRP.

Cal Baca: We worked closely with FSA to develop it and the reason we chose the 1 county is because they had eligible CRP acres left, but they did put 50,000 in reserve nationwide for the SAFE Program and we are trying to go after that. We asked for 2,600 with the intent of hopefully asking for more of that 50,000 reserve to see if we can get more into CRP SAFE Program specifically for Lesser prairie chicken and to benefit other species.

Debbie Hughes: I'm the Executive Director with the New Mexico Association of Conservation Districts. I work with the 47 Soil and Water Conservation Districts and in most cases we are co-housed with the NRCS. The way the Farm Bill programs are delivered, the landowners come in and sign up as a cooperator. A couple of things you might be interested in are that for the past 4 years the New Mexico State Legislature has been appropriating \$500,000 matched with federal dollars to help with the technical support because when the Farm Bill changed, Congress didn't allow the NRCS to increase the federal staff and to be able to take advantage of the most money possible, we needed more technical support. We currently have 35 employees and another 20 folks under

contract. Those folks are retired from either NRCS or BLM and are helping with the technical side by signing up contracts. That's enabled us at the end of the year to be able to get an extra \$1M-\$2M because we're so much more prepared for additional workloads. Farm Bill programs that go on private land have a requirement for 50% match so it's not just a government handout. Every private landowner has to match those dollars and as you know substantial wildlife is on private land. I point out that all of these Farm Bill programs are benefiting the program, not just WHIP/CRP. Probably every practice we put on a ranch benefits wildlife because most of those things are brush control, additional watering sources, and grazing management. Another thing is that a couple of years ago we started taking a portion of the Farm Bill money and spending it on federal land. Congress designated us primarily/historically for private land but because of the different issues that we've got, a lot of those having to do with depredation issues, we were told to take the money and put it on federal land so we now have a program where we work mainly with BLM. BLM has come to the table and matching that with about \$1M and it also applies to Forest Service land but all those programs are benefiting wildlife too. A big percentage of those programs are benefiting the prairie chicken and the sand dune lizard. BLM was given a huge appropriation and New Mexico got \$3.5M last year and a lot of that is going to go on the ground to do things that will benefit wildlife. They're hoping to have about \$10M in the next 5 years. I think we need to work closely with the Department to leverage these other federal dollars. Through the program there are some wonderful opportunities if we look at doing landscape scale and watershed scale type of projects instead of piecemeal things we can accomplish a lot in our partnerships.

Mike Neubeiser: One of the national priorities for EQIP is to address resource concerns related to at-risk species. That can be federal/state T and E species, candidate species and because of that we develop the criteria we use to evaluate applications received under EQIP. We have to take into consideration what wildlife concerns might be on land that the individual is applying for and what are they willing to do to address those wildlife concerns. Because that's part of the ranking criteria they will earn points toward a contract and contracts are selected on a competitive basis. Last year we had 1,400 applications statewide on EQIP and a little over 500 were funded. The individuals who have the concerns and are willing to address those are more competitive.

Discussion item only.

AGENDA ITEM NO. 10: Texas Hornshell Recovery Plan.

Presented by Stephanie Carman – The Department presented the final draft of the State recovery plan for Texas hornshell, a state endangered mussel native to the lower Rio Grande and Pecos River basins. The recovery plan was written and reviewed with the assistance of an advisory committee following the procedures for recovery plan development under the Wildlife Conservation Act (Section 17-2-40.1, NMSA, 1978). This Recovery Plan was developed under the authority of the New Mexico Wildlife Conservation Act (WCA) amendments of 1995 which directs the Department to develop recovery plans for species listed as threatened or endangered. Each recovery plan should describe actions that will restore and maintain viable populations of listed species and habitat so that species may be delisted, mitigate adverse social or economic impacts resulting from recovery actions, identify social and economic benefits and opportunities, and use existing resources and funding sources to the extent possible to implement the plan. This Recovery Plan addresses the Texas hornshell, *Popenaias popeii*, listed as endangered in New Mexico. The process in developing the Recovery Plan followed that designated in the WCA, including public involvement. Organization of this Recovery Plan follows *Guidelines for Writing Long Range, Action, and Operational Plans* which includes background information on the distribution, habitat requirements, biology, and ecology of Texas hornshell; goal for recovery of the species, associated objective and objective parameters, issues affecting attainment of the goal and corresponding strategies; and Recovery Plan implementation schedule. The goal of the Recovery Plan is that self-sustaining populations and habitats of Texas hornshell are restored and conserved in New Mexico. The Department sought approval of the recovery plan from the Commission so that implementation of the strategies and actions within the plan may begin.

Commissioner Buffett: Which other species depend on a healthy population of the hornshell as a food source?

Stephanie Carman: Currently we don't know of much predation on Texas hornshell. They're a bit more reclusive than many other mussel species that otters or muskrats would eat. We don't have otters in the Black River and haven't seen muskrat predation. We know Dragonflies feed on them, but they don't seem to be a food source for many species.

Commissioner Buffett: You mention their sensitivity to pollution so in a way they serve as canary in a coal mine for knowing if our sources of fresh water are being contaminated, is that a characterization you'd agree with?

Stephanie Carman: That's true, fresh water mussels are often indicator species across the United States. In the eastern parts of the U.S. there are hundreds of species of mussels in the streams. An estimated 2/3 of freshwater mussels are currently imperiled. In New Mexico this is the only 1 we have left. We used to have 7 and we only have it in about 12% of its habitat. One of the reasons we're looking at protecting the Black River is because it's still strangely pristine with all the oil/gas around it but enough that the mussel has been able to live, so we're looking to preserve that. The Black River is in about the last example left of excellent lower Pecos habitat. We have many other endangered species. We have 2 reptiles and amphibians with the highest diversity of turtles in the area. We have several endangered fish species as well as birds and other riparian animals, so the Black River is a unique and special place.

Commissioner Riley: There's been a prescribed fire used in the Black River to improve habitats for wildlife and livestock raising and restore health of the vegetation along the streams, do you know if there are any negative/positive impacts from the aftermath of the

fire? Also, the designation of the Black River or a portion as outstanding national resource waters, have you pulled together and submitted a petition for that, and if not, when?

Stephanie Carman: The prescribed burn is going on in the Black River and they've been higher up in the watershed and the Black River actually is perennial around Rattlesnake Springs and then it goes sub-surface and comes back up. We've not seen negative affects this year. We unfortunately did not coordinate Texas hornshell biology with the prescribed burn but now that we have been in contact since finding out about it we will definitely be talking to each. Because of the intermittent area it wasn't a problem. As for the outstanding national resource water designation, we're still gathering data on the current water quality in the area and we're working closely with the N.M. Environment Department and with the private landowners. Without their buy-in the program it's not going to go forward so we've been down there just about every week doing biological surveys, stopping in and talking to the landowners, talking to BLM and the State Land Office. At this point everyone will support it and we will be doing our final water quality assessment in September.

Commissioner Arvas: We have a list of all species that are endangered, so how does the Texas hornshell rise to the top in terms of priority?

Stephanie Carman: Each year the biologists in the Conservation Services Division sit down and a few years back we made a master key of how we wanted to go about doing the recovery plans. Federally endangered species that have a current active federal recovery group and plan moved to the bottom of the list, like silvery minnow. Then we look at their endangerment in the state and Texas hornshell is probably our second most imperiled invertebrate species in the state currently so imperilment meaning how much habitat lost, how many populations lost, and we also look at it's importance as a federal species. Texas hornshell is a candidate species and it's being evaluated annually by U.S. Fish and Wildlife for listing so our actions go a lot further with backing from Fish and Wildlife. They'd like to see us do stuff at our level so that they don't have to list the species. In addition to looking at the imperilment, we also look at our opportunities for the species. For Texas hornshell because of it's candidacy and because of partners and BLM and NRCS, we have a lot of opportunities.

Commissioner Salmon: What would be the reason that it can't seem to spread beyond that 9-mile stretch into the Pecos where it could expand considerably if conditions were better, what's holding up the sequestering this creature into this 9-mile stretch?

Stephanie Carman: Currently the population seems to be limited by 2 low head dams—1 on the upstream and 1 on the downstream. Water quality is a huge consideration on the downstream side of the reach. There is an irrigation return and the salinity goes up about 50 fold and Texas hornshell are sensitive to salinity. They live in the Pecos basin so they're fairly tolerant but not when it goes up that much. It's Pecos River water that's being introduced into the Black River so the salinity seems to be a huge problem. Most of their historic habitat in the Pecos is currently too saline. We've done studies to find out their lethal salinity levels and most of the historical habitat is too saline. Additionally, the travertine ledges they need have been significantly reduced in the Pecos River through channelization. The building of dams has changed the morphology of the river and there's not a whole lot of available habitat. The best place we see now is in the Delaware River where we have salinity issues and it's not perennial so that's where we're thinking is the most likely place.

Commissioner Salmon: The flathead catfish is a carrier in the life cycle of the Texas hornshell, is there any concern that the harvest of that fish by fishermen is in balance with what the Texas hornshell needs?

Stephanie Carman: It seems there are enough host fish. Both the number of species and the populations now support the Texas hornshell population in the Black River. Flathead catfish we don't find too often there. If Flathead were removed, there are several other species that can provide the host relationship. It's a concern when we start losing many and right now 2 of the ones we know of are endangered/threatened. Actually the next recovery plan will coincide with this because protection of the host fish is important and as we look to re-introduce Texas hornshell into other habitats, it will be vital to have appropriate host fish.

MOTION: **Commissioner Sims** moved to approve the Department's Texas Hornshell Recovery Plan as presented, subject to final formatting and layout for printing. **Commissioner Salmon** seconded the motion.

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

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

Presented by Mike Sloane - The Department proposed adding the Grants Riverwalk Pond, Estancia Park Pond, and Corona Pond to the list of waters with restricted bag limits for catfish. The Department also proposed allowing handicapped persons and seniors to fish at Grants Riverwalk Pond instead of restricting fishing to children age 11 or under. At the request of the BLM, the Department proposed removing the winter closure for Santa Cruz Lake, but leaving the no ice fishing and fishing hours restrictions in place. Finally, the Department proposed closing Pinelodge Creek in the Capitan Mountains to fishing to allow post-fire restoration of Rio Grande cutthroat trout. The rule was updated to reflect approved name changes to Burns Canyon Lake and Parkview Hatchery to Laguna del Campo and Los Ojos Hatchery. This will increase angler opportunity and more equitable distribution of limited numbers of large catfish currently stocked in those waters. The proposed change to close Pinelodge Creek will over the long term allow increased angler opportunity to fish for native fish by allowing new fishery to establish in this creek and increase the economic benefit of local fisheries by allowing more anglers to fish for catfish in local waters. The closure of Pinelodge Creek will result in a minimum of 2 miles of additional Rio Grande cutthroat trout fishing opportunity.

Commissioner Salmon: Would the closure of the Pinelodge Creek be temporary? What would you assume at some point in the future would be re-opened?

Mike Sloane: The expectation is we know we have some small Pecos drain fish that we could stock in there immediately--probably next year. We would go and take some from a stream system in the Pecos and transfer them into Pine Lodge, so we're to wait until we see natural reproduction occurring and the population is established, we'd then remove the closure.

MOTION: Commissioner Riley moved to adopt proposed changes to the Fisheries Rule 19.31.4, NMAC, as presented regarding Grants Riverwalk Pond, Estancia Park Pond, Corona Pond, Santa Cruz Lake, and Pinelodge Creek. **Commissioner McClintic** seconded the motion.

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

Pat Block: To set the stage and give you a little lead in and follow up to what we talked about in Gallup, you're about to hear the Fiscal Year '09 budget and capital request. I wanted to start off by mentioning to the Commission and the audience that once again the budget request emphasis is on implementation and capitalizing on our recent successes. We've been able to add 8 conservation officer positions, and staff the warm water hatchery. The base budget is a flat budget but 1 of the main areas with emphasis within that budget is getting a grip on the wildlife management areas. They provide a huge amount of hunting and other recreational opportunity and we want to make sure that we are taking care of those Commission-owned properties. We also have within the budget request some expansion requests and they continue to emphasize what should be beginning to sound like a recurring theme in some of the things that I've talked to the Commission about and that is that the Commission and the Department provide a broad array of programs and services to a diverse public, but traditionally the financial fuel for that \$1B economic engine that is wildlife-associated recreation has come from the hunter/angler. So you'll see some General Fund within the funding for the expansion request and that's just to recognize the fact that the programs that are delivered are utilized and enjoyed by a broad public and they ought to be able to share within that funding. What we've also tried to do in those expansions is that whenever we do have a General Fund request, that those dollars are leveraged with either federal or partner dollars so that for every \$1 general revenue investment, you get a \$3 program impact. As you will see when they move on to the capital request, it focuses largely once again on dams, warm water hatchery completion, and other vital needs.

AGENDA ITEM NO. 24: Approval of Fiscal Year 2009 Operating and Capital Project Budget Request.

Presented by Marcos Tapia – The Department presented the proposed operating and capital outlay budget requests for Fiscal Year 2009 for Commission consideration. The budget provides for the Department's annual operational capabilities to perform biological and protection services for hundreds of species that support more than \$1B annual economy in wildlife-associated recreation statewide, including opportunities for about 310,000 licensed hunters and anglers annually. The annual budget request is prepared with consideration given to public input and requests offering during at least 6 Commission meetings in the past year, thousands of contacts during regulation-setting processes, and public interaction with Department staff year-round. The Department requested Commission approval of the budget request documents that will be submitted by the September 1, 2007 deadline for consideration by the Legislative and Executive branch. The Capital Improvement Projects will be submitted to the Department of Finance and Administration's Capital Projects Unit by August 31, 2007. Per prior Commission direction, the budget includes efforts to obtain operational and capital support from other than the Game Protection Fund to acknowledge that wildlife resources have broader public values and clientele.

Pat Block: To provide more information on those—Lake Roberts Dam and spillway renovation has been previously funded at a little under \$3M. We now are in the construction bidding phase and based on the latest estimates from the engineers we would need about another \$3.5M to complete that project. Same with the Rock Lake Warm Water Fish Hatchery, we have had a \$4M capital request for completion of that facility in last year's request and we were successful in having a \$500,000 appropriation made so the remaining \$3.5M that is still outstanding to complete that project is part of this year's request. Bear Canyon we are in the engineering phase and this would provide the next portion of funding to begin construction on that facility. Some of the next dams with a large emphasis on dams within the capital request, so the initial piece of the process in figuring out what we need to do to bring them into compliance is to perform the assessment and hazard analysis. So we're planning to move into that phase with McGaffey Lake and Laguna del Campo near the Los Ojos Village and Parkview Fish Hatchery and those are 2 more of the 16 dams that are owned by the Game Commission. Then there's aircraft replacement which was in the request last year and was not funded. We also propose to continue development of a watershed education and technology center and the warm water fish hatchery which was part of a prior appropriation for the continuing implementation of that facility. The last 1 is to continue wildlife management area improvements and we've had 2 prior appropriations for that purpose and we continue to make improvements to the wildlife areas. The other is to provide both habitat improvements and the opportunity to educate the public as to the importance of that aquatic habitat on the San Juan River and the trout fishery below Navajo Dam.

Chairman Montoya: Marcos, what's the total price tag on the aircraft?

Marcos Tapia: We're looking at replacement and that's \$900,000.

Chairman Montoya: What will you replace for \$900,000? Is that what it costs?

Marcos Tapia: That's the estimate that was provided.

Pat Block: It's the Partenavia (now Volcanaire) aircraft again and that includes the base price of the aircraft and then the additional equipment that we would need to make it function.

Chairman Montoya: So that's a total price for it?

Pat Block: Yes, sir.

Marcos Tapia: The thing that we've been going at is that the hunters/fishermen are supplying a lot of the efforts and what we're looking at the biggest pie to fund these sources is severance tax bonds and General Fund monies.

Pat Block: The Commission owns the dam and they certainly do provide fishing opportunity at the lakes behind those dams but if you look at just about everyone of those facilities there are a number of other beneficiaries whether they're municipal water supplies, irrigation systems, flood control, and so that's why we feel it's appropriate to pursue funding from that general source for these dam repairs because lots of people get benefits from having those dams, not just the Commission or the license buyer.

Commissioner Salmon: We had public meetings regarding the Lake Roberts Dam recently and the idea of breaching the dam was brought up as it was the cheapest option. There might be some benefit there in just turning a sub-creek into a trout stream instead of a reservoir that it is now, but it was met with such uniformity of opinion from the locals that they didn't want that, that I didn't attempt to carry the idea any further, so I think we're stuck with trying to repair the dam or replace it rather than de-commission it.

Pat Block: That's exactly correct. We did analyze and present to the public that as 1 of the options through the environmental compliance process and wanted to make sure that that was understood as an option. It was essentially that the 3 most viable options were to make improvements to the existing structure through armoring the dam, to remove the existing dam and replace it, and the cheapest was to no longer have a lake at Lake Roberts and we did not receive much positive input toward that scenario.

Chairman Montoya: Marcos, we're hoping that the list of capital projects receive some kind of consideration and we can complete them? So the following are what we hope we can accomplish in FY '10, '11, and '12? If we were to continue with our priorities, those are items 11 through 25? So some of these projects are into the future?

Marcos Tapia: Yes, Mr. Chairman. Some of these projects go into 5-year Capital Outlay Plan which we're required to submit on September 1, that's part of the capital outlay that will go with that. The FY '09 that you see is what we're going to go to the legislature this coming fiscal year. Some of them go beyond that for the next—10, 11, 12 that we go out.

Commissioner Buffett: We know the thriving aircraft industry in the state, has there been any attempt to look at purchasing a locally made aircraft such as Eclipse?

Pat Block: No, because the Eclipse is a small business jet and what we need is an aircraft that's suitable to work wildlife surveys and law enforcement. That is 95% of what that aircraft does and so we need something that can take off and land in a relatively short area, can operate at high altitudes, and at times at fairly low speeds, so we're looking at a propeller driven aircraft rather than a jet aircraft.

Marcos Tapia: We have to present and prepare our budgets a couple of weeks before the statutory deadline and because of that we're usually the guinea pig preparing this budget. We have General Services-Risk Management Division, our self-funding liabilities. Those have not been published. I was able to get an unofficial copy so that what the budget does have will be subject to change when it is published would make some changes to the budget to reflect the cost that we have no say on. We have to budget those but I don't see the budget at all increasing significantly.

Pat Block: We will ask, if the Commission deems it appropriate, to have the flexibility to correct any errors that we find and make those adjustments once we receive the final rates from General Services. We do not expect it would have a material affect on the budget, we just want to make sure that we have the flexibility to submit a document that is as good as we can make it and as up-to-date based on everything we learn. Information is still coming in from the Risk Management Division.

MOTION: Commissioner Sims moved to approve the Department's Fiscal Year 2009 Operating Budget Request and Capital Improvement Project Request as presented, with modifications or adjustments specifically identified by the Commission and any updates or new directives received from any executive board or regulatory agencies before the statutory deadline of September 1, 2007. **Commissioner Riley** seconded the motion.

Commissioner Riley: I'm pleased to see the 2 positions that you're seeking in the expansion budget to deal with the Farm Bill issues within the state. Obviously, we heard earlier the importance of the Farm Bill and how much money you can bring to the state for fish and wildlife habitat on private land, and even to this point on public land. I also notice there's a position in there for non-shared position that's not like the Farm Bill for energy development issues working with BLM. All 3 of them are great especially when you can get somebody else to pay half of the cost. I would suggest that we look at the possibility of approaching BLM and seeing if they'd be willing to help share the cost of that energy position because obviously there's a lot of benefit for us to work closely with them and if you could share a position and potentially put 1 of those positions, or at least that 1 position, in 1 of the pilot offices either in Farmington or Carlsbad that the Department of Interior has established to process energy development projects at a more efficient pace, and also to deal with a lot of the other issues that go along with energy development. I would really recommend we seek that with BLM and see if there's a possibility of getting funding for that or maybe 2 positions, 1 for Farmington and 1 for Carlsbad.

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

AGENDA ITEM NO. 12: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Joe Delk: There are many of us who believe that the elk population in the Gila National Forest is being decimated by wolves. I've talked to several ranchers and/or several outfitters in the Gila and they have seen unprecedented depredation on elk calves this summer. I expressed to R.J. during our telephone conversation prior to the meeting we had in Albuquerque that it was critical and imperative to the credibility of this perspective that the ranchers/outfitters in the Gila be brought in to participate in the determination of the numbers of elk and wolves which will be entered into the record for the model that was developed by the Department to serve as a tool to validate whether or not the elk population is being impacted to the extent that the elk hunting opportunity for hunters is being negatively impacted or affected by these wolves. I have 2 questions for Dr. Thompson—what is the status of the wolf/elk perspective project, and are you or are you not going to include the ranchers/outfitters that live and work in the greater Gila National Forest to be recognized contributors to this process?

Chairman Montoya: I'd like to restrict comments and then if you provide the questions, we will instruct Director Thompson to address them at a later date. He can mail/e-mail/call you so if you leave those questions with us, we'll make sure Director Thompson gets a copy.

Joe Delk: I also included pictures recently taken of elk calves in the Gila and I've included those for your use.

Chairman Montoya: Director Thompson, please take note of the questions. They're in written form here as well.

Director Thompson: I have noted that. (NOTE: Response was provided to Mr. Delk via e-mail on 24 August 2007.)

Garth Simms: I'm the Executive Director for the New Mexico Council of Outfitters/Guides. We're very much in agreement with Mr. Delk on issues of understanding what's going on with those wolves and elk population that are critical not just to outfitters but to the people that live in that part of the state. What's the position of the Commission and Department on off-road game retrieval in the national forest areas? We seem to be getting conflicting information about where the authority lies for that determination about what can be done in that regard. Some are saying the Forest Service is going to make those determinations and some say that the authority for that determination is going to be delegated to the game departments and to the commissions in the states. Maybe it can be put on as an agenda item for the next Commission meeting and get some kind of written confirmation from the Forest Service as to where the authority lies and who will be making decisions.

Chairman Montoya: I know R.J. Kirkpatrick is paying close attention to this and he has plans on monitoring that elk population in that part of the country and please keep us updated on that R.J. That's a big concern to all of us and I know you've made plans to fly over and continue to monitor.

Larry Caudill: Three points I'd like to make: (1) I've got a problem with the experimental blue grouse season and it strikes me as ironic that we have nothing else while the adult hen birds are still rearing young. I hope data will be in prior to next year and that this will be a formal agenda item as a part of the Upland Game rule; (2) it strikes me with great irony that now we've got a problem with loss of cow elk or loss of elk in the Gila when 5-7 years ago there were too many elk; and (3) I would like the Commission to consider an agenda item for open discussion of a permit application system. Under the current system the numbers of applicants have gone up perhaps as much as 40% or more but it is getting increasingly harder to draw a tag because it doesn't force anyone to make an economic decision about whether you're going to apply or not because it's only \$6. I get a lot of complaints about people that can't draw a tag and I think the system needs to be looked at. That could be done without a huge administrative overhead. The argument in the past has been that refund checks have to be written and go through state finance processes. The success rate is down around 5% and I think that's due to excessive numbers of applications and like a lot of other economic decisions.

Chairman Montoya: That's also a concern that has come to the Commission, Director Thompson and his staff have been charged with looking at that.

Ron Shortes: I represent Catron County and our family ranches. After looking at Dr. Tuggle's plan, it's exactly what he presented almost 1 year ago to the cattle growers with the same problems for livestock depredation and ranchers problems. Catron County is up about \$1M a year in losses due to the wolves. If you expand the recovery area or cut back the ability to control the wolves by killing wolves under the 3-strike rule that are depredating livestock that's going to go way up. When you look at the numbers that Dr. Tuggle wants to pay for a compensation plan that costs \$5M a year because of all of the counties that would be involved if you expand this it would take \$100M or more to pay for that on interest alone. I don't think that he can raise that in donations and I don't think that's going to work. The other 2 issues, elk and humans, Dr. Tuggle is totally ignoring and I would hope that you wouldn't ignore those. This proposal is not going to deal with the elk problem. Right now I understand from the ranchers on the ground in Catron County they've had a dip in their livestock losses because they say the wolves are eating all the elk. That's going to change and cycle back and forth and if you sit on it for a year I think you're not going to have any elk and what to do to feed all of these wolves because you can't afford to pay for the cows they ate and you're not going to have any elk left. I don't think that you can live with yourselves if you gamble a child's life that this will happen. It is a problem and just because Fish and Wildlife is willing to ignore it, we'd ask you not to ignore it.

Chairman Montoya: There was a comment earlier regarding U.S. Forest Service travel management question. I'd like to ask Director Thompson if he'd like to address that.

Director Thompson: Part of the question related to who has the authority and I call back to the May, 2007 Commission meeting where the Regional Forester provided a substantial briefing to the Commission. It's clear that the Forest Service ultimately has the authority and responsibility to develop the travel management proposal that includes game retrieval and that they will ultimately adopt whatever the final rule will be. The Department of Game and Fish like many other entities is playing a role in trying to get the best proposal developed. I'm not sure where the confusion arises. The regional forester has some general guidance responsibilities and authorities in the midst of this, but the actual travel management rules are going to be established on a forest-by-forest basis. The Department and I are willing and happy to talk with anyone here who needs more information. Game retrieval is a component of that overall process and the Department has been working with the Forest Service and has been briefing the Commission and there have been public sessions. The approach has been that there be no greater restriction on individuals interested in game retrieval than would be placed on anyone else and there's also due regard given to things like mobility impairment. All of that is currently subject to being developed into forest-by-forest proposals by the Forest Service. The Department of Game and Fish has no authority or specific responsibility in the midst of this process but is playing an active role to attempt to maintain ultimately a reasonable designated road system and provisions for sportsmen in context with the overall forest travel management. I hope that clarifies things regarding whether there's question about responsibility.

Garth Simms: We're getting an entirely different reading on that from people who have talked to Gila National Forest people. I'd like to get something in writing about where they intend to go with the game retrieval issue. I'd also like to ask the Department and Commission to be advocates on this road plan that they're putting together. Our understanding is that it's going to be so restrictive that every road has to be on the map and if you leave that road on the Forest Service map you can be cited. It's crazy and outrageous and we need some advocacy with the Forest Service for a sensible approach.

Larry Caudill: I gave the Commissioners a copy of a letter I wrote to the Journal early this week on the depredation issue and we all know this is a bad law. The Department is in an unenviable position in terms of being forced to do some things that are not the most desirable or else tolerate killing of the animals. I think the only hope for this law to be changed is an aroused public whose sentiments get expressed to the politicians in Santa Fe to the point that ultimately a change in the law is forced. I would simply like to point out that in that letter I've made that point but it got left out. I'm hopeful that more publicity of this issue will assist in getting the needed change.

AGENDA ITEM NO. 13: Adoption of Mid-Cycle Amendments to the Turkey Rule, 19.31.16, NMAC, and the Deer Rule, 19.31.13, NMAC.

Presented by R.J. Kirkpatrick – The Department presented, for adoption, final draft amendments to the Turkey Rule, 19.31.16, NMAC, that will clarify the process by which turkey hunting opportunity is afforded on the Valles Caldera National Preserve and add turkey hunting opportunity on the Humphries and Rio Chama Wildlife Management Areas in GMU 4, as well as additional youth-only turkey hunting opportunities on the Huey WMA in GMU 33. In addition, final draft amendments to the Deer Rule, 19.31.13, NMAC, were presented that will provide additional deer hunting opportunity on the Brantley WMA in GMU 31 and additional youth-only deer hunting opportunity on the Huey and Brantley WMA's in GMU 31 and 33. Both deer and turkey rules result in significant economic values to the state. Both species are found in each quadrant of the state and deer and turkey hunting represent millions of dollars of direct economy annually. Formal public involvement began at the April 2006 Commission meeting when rules were opened for development. The Department compiled and evaluated comments and ideas that had been brought to its attention over the course of the previous year. As reasonable and appropriate comments were received, adjustments to the appropriate rules were made and subsequent draft proposals were adopted by the Commission.

Turkey Rule:

R.J. Kirkpatrick: With the amendment we're going to clarify the process and requirements for hunting turkeys on the Valles Caldera National Preserve and Game Management Unit 6-B. We're adding 12 entry hunt opportunities on the Humphries-Rio Chama wildlife areas in GMU 4 and we're adding 15 youth-only turkey hunting opportunities spread across 4 hunts on the Huey wildlife management area in Unit 33. The dates for the Valles Caldera spring hunt should reflect the 2008 year not 2007. If the Commission would remind themselves as the motion is made that those dates do need to be changed to 2008.

Commissioner Riley: The closing date on turkeys is May 10 and I've talked to turkey biologists around the country and the National Wild Turkey Federation and a lot of other states close it quite a bit later than that and they've suggested that we consider looking at an earlier closing date. Perhaps as you go forward with turkey rules in the future try to examine and look at what we gain/lose by extending the turkey season.

R.J. Kirkpatrick: We'll begin development of the next 2 years' worth of species rules next spring and we'll look at that and get the science.

Deer Rule:

R.J. Kirkpatrick: In summary we're going to add Brantley Wildlife Management Area to that portion of GMU 31 that's allowable for public draw hunters. We're also adding 15 youth deer hunting opportunities on Brantley and Huey Waterfowl Management Areas in GMU 31 and 33.

Robert Espinoza: On the turkey rule you have a youth hunt for 5/17 of 5/18 and in the general season for 2 days and the general season is 25 days long. The parents would not utilize that since they're both unlimited tags, seems redundant that you'd add 2 days for youth.

R.J. Kirkpatrick: The rule development process that occurred last spring, Wild Turkey Federation membership out of the Las Cruces area requested that we establish some youth-only specific hunting opportunities so that when fathers took their sons hunting, only the son was hunting but the father still had the opportunity to go on the regular hunt and he didn't have to necessarily watch over the child during the course of the regular season. We evaluated that request, thought it was appropriate and established those youth only 2-day weekends when they're not in school for kids at public input request.

Robert Espinoza: Would it be appropriate to add another weekend to that during the tail end of the season?

R.J. Kirkpatrick: We'd entertain any considerations/comments as we develop the next rule cycle which we'll start February/March, 2008. We'd be happy to discuss adjustments to season dates and evaluate the biological soundness and value.

Robert Espinoza: On the deer hunt I've got the same question. Is it 2 days for youth mainly in consideration of taking them out of school?

R.J. Kirkpatrick: Good abundance of deer on those wildlife management areas. Typically, kids are in school during those dates and getting out of school is difficult so weekends makes sense, and it's opportunity that otherwise wasn't afforded.

MOTION: Commissioner Riley moved to amend the 2008-2009 portion of Deer Rule 19.31.13, NMAC, to add additional area where deer hunting is allowed in GMU 31 and add additional Youth-only deer hunting opportunities in GMU 31/33 on the Brantley Wildlife Management Area and W.S. Huey Waterfowl areas and amend the Turkey Rule 19.31.16, NMAC, to clarify the process by which turkey hunting opportunity is afforded on the Valles Caldera National Preserve as well as adding additional turkey hunting opportunities on the Humphries and Rio Chama Wildlife Management Areas in GMU 4 and additional Youth-only turkey hunting opportunities on the Huey Wildlife Management Area in GMU 31, as presented by the Department. **Commissioner Buffett** seconded the motion.

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

AGENDA ITEM NO. 14: Presentation of Final Draft Rules 19.31.18, NMAC, titled Big Game Enhancement Authorization Packages and 19.31.19, NMAC, titled Governor's Hunting and Fishing Authorizations, for Adoption.

Presented by R.J. Kirkpatrick – The Department presented final draft rule, 19.31.18, NMAC, titled Big Game Enhancement Authorization Packages and 19.31.19, NMAC, titled Governor's Hunting and Fishing Authorizations. These rules established procedures and restrictions for the sale, issuance, and use of authorizations pursuant to statutory requirements resulting from recent legislation passed during the 2007 legislative session. All appropriate species plans and the Department strategic plan were considered in development of these rules. The relevant Department strategic plan sections are the Sport Hunting and Fishing Program that provide 75% of the state's hunting interests expressing understanding and support of the Department's game strategies and the establishment of broadly supported management objectives for 9 species of big game, 4 species of small game, and 7 species of fish that maximize recreation and economic benefits within the context of relevant biological, ecological, physical, social, economic, political, spatial and legislative factors. The Conservation Services Program objectives to conserve, enhance, or positively affect an additional 500,000 acres of wildlife habitat statewide will be more attainable as will a Commission-approved framework defining purposes and policies governing acquisition, management, and use for Commission-owned properties and development of 10 wildlife area-specific management plans. The Administration Program objective will positively affect helping to ensure decisions being made with the contest of relevant biological, ecological, physical, social, economic, political, and legislative factors organized in spatial relationships, and this program will be benefited in that work achieved with this enhancement funding and will demonstrate to affected interests that the Department is a knowledgeable and competent manager of the state's wildlife.

Chairman Montoya: The motion does not take into account the 3 items that Mr. Kirkpatrick has brought up and I believe we should discuss those before a proper motion is made. One of them is the minimum price. There are some pros/cons to that. The comments refer to the idea that the market should dictate what that minimum price should be which is now \$125,000. The other item that merits discussion is the idea of transferability of that license. If it's not transferable it could possibly lose some value. On the other hand you could end up have speculators to barter/trade/profit off of it. The last item for discussion before the motion is changing the season date on antelope from August 1 to November 1.

Commissioner Arvas: R.J., would you go through the process as to how these authorizations are actually going to be bid upon and where they're going to be bid?

R.J. Kirkpatrick: Pending approval of this rule the Department will prepare and put out for public consumption an RFP (Request for Proposal). The State Procurement Code requires that we go out to RFP for a contractor to market and sell these packages. We'll only accept bids from non-governmental organizations that have in their mission wildlife habitat conservation and wildlife habitat improvement. Historically, we've dealt with FNAWS and they've marketed some of our Bighorn sheep enhancement. Rocky Mountain Elk Foundation/Mule Deer Foundation/Safari Club International have been interested. Once an entity such as that is contracted, of course, the scope of work that we'll identify is promoting/marketing/ensuring that New Mexico receives as much value

for these opportunities as possible. Once that happens they put up for auction our packages at their national conventions—Rocky Mountain Elk Foundation in Reno; Mule Deer Foundation in Salt Lake City; and FNAWS was in Salt Lake City this year.

Commissioner Arvas: I think the point that needs to be made about this part of the rule is that if the RFP is not picked up by a 501C3 organization, odds are that you'll never make the \$125,000, and if you think that as a result of past experience we'll have even more of an opportunity to get more than \$125,000, then I think your recommendation is sound. I do want to caution you that if for whatever reason the package is not picked up by a 501C3 which allows the person making the donation to be taxed as deductible, the odds are that you won't get up to \$125,000.

R.J. Kirkpatrick: In that scope of work that's identified in our RFP, we can identify that requirement. To date, Rocky Mountain Elk/Mule Deer Foundation/FNAWS probably are 501C3 organizations.

Commissioner Arvas: So if they bid individually on these 5 items, you're not thinking about that—you're thinking about the package, the whole package?

R.J. Kirkpatrick: That's correct. It's not individual authorizations within it, it's the entire package.

Commissioner Arvas: So the assumption you're making is that it'll be a 501C3 that will pick up the package? Have we talked to them individually as to whether or not their interest level is such that they feel that the \$125,000 is adequate?

R.J. Kirkpatrick: We have talked with representatives from a variety of those NGO's that typically would bid on marketing these packages for us. Their interest level in securing the contract to do so is high. They've expressed to us that setting a minimum bid on our packages may result in decreased total value of the package instead of letting the market drive what they end up selling for.

Commissioner Arvas: It's been customary for these organizations to charge us a percentage of the value, is that still going to hold true for the package?

R.J. Kirkpatrick: When we put that request out for proposal we'll evaluate the capability of the NGO to market what we think is appropriate to ensure that there are significant numbers of people available to consider the purchase. On average we're paying 10%-12% of total value to the people that have those contracts in place, but I would suggest that we may end up having lower costs with these packages because the demand for them seems to be a little greater than a single species. I'd suggest we'll see competitive bidding in that RFP process trying to secure the ability to market these for themselves so they would charge us less of a fee for marketing.

Commissioner Salmon: What's the process that lures these people up with trophy animals that gives them a better chance for something special that they'd be willing to pay additional money?

R.J. Kirkpatrick: As with elk/deer/Bighorn sheep enhancements which are included in these packages, there are several attractive components to them that draw significant amount of economic expenditure willingness. The season dates are such that they're able to hunt during rut windows for most of the species. As we discussed earlier, being able to go through the public draw process and secure a White Sands Missile Range oryx license is somewhat difficult and in great demand. Pronghorn antelope is extremely difficult to draw as well and so the purchase of this guarantees them the ability to hunt. It guarantees them the ability to hunt anywhere in the state that they can legally get to; it increases economic potential for the guide/outfitter industry if they secure the services of those; it potentially increases or provides for economic benefit to private lands that may or may not have significant quality animals on them. The Department offers it's somewhat limited assistance in areas/contacts/locations that they may want to scout, so those are some of the mechanisms that make these worth a significant amount of money. The other thing that's probably the number 1 thing that makes these worth a lot of money is that New Mexico does hold some of the world's largest elk/deer/pronghorn antelope. We're about the only place oryx can be hunted outside of Africa, and a similar situation with Ibex. New Mexico's unique multiple species and trophy quality is probably the number 1 driver for what these enhancement opportunities bring. If I may, this agenda item actually holds 2 different rules. This is the first of 2 rules.

Chairman Montoya: I think we'll keep in mind the 3 items that you're recommending we consider for modification then we'll go into the second part and see how complicated that is.

R.J. Kirkpatrick: The second rule before you for consideration is 19.31.19, NMAC, the Governor's Special Events Authorizations. The objective of the rule is to establish procedures and restrictions for the provision/sale/issuance/use of no more than 12 big game authorizations and 12 game bird or trophy fish special authorizations, the important part being available to the Governor each license year in conjunction with special events to raise money for fish and wildlife conservation in New Mexico. All authorizations pursuant to statute shall be auctioned, they can't be raffled, in conjunction with special events called by the Governor, all money collected/deposited into the Game Protection Fund and those exclusive uses of it. Some of the highlights that may warrant discussion have to do with requirements for sale. The Department would be responsible for contractual obligations and payment of marketing costs associated with auctioning those packages. Statute requires that these Governor's authorizations be auctioned but we're proposing that no cost will be incurred by the Department in that we don't have any way to significantly prepare for securing or marketing a contract or marketing professional that the Governor's event would be responsible if that ever happened or maybe a silent auction would be the mechanism by which those would be sold. We wouldn't be responsible for any costs associated with the auction. The second big issue has to do with the restrictions for use of Governor's hunting and fishing authorization--Section 4, Restrictions for Use, that language says that the provision of a big game hunting opportunity would be almost exactly as is identified in the RIB or the species rule. If there are 250 public draw deer hunting opportunities in GMU 2-C, we would be able to provide for

auction 1 of these events, an additional hunt like that or any variety of hunts that are established in rule. There may be discussion about extending the hunt dates, hunt areas, and those requests for extending what is foundationally established already in rule would be at the discretion of the Director and the Chairman. We're proposing the language in the rule minimizes any extra allowances over and above what's currently established occurring in rut windows or basically knowingly undermining the value of the enhancement hunting opportunities that we have with the grand slam package and with elk/deer/Bighorn sheep. Maybe something else to discuss is that the rule specifically states that no special authorization certificates for Bighorn sheep or Ibex shall be made available until such time as those populations and the level of hunting opportunity requested doesn't compete with what's there now. Both of those species are very limited in opportunity. We would propose that the rule state they're not available until such time as we've got more of them and the provision of them doesn't compete with anything else. The last paragraph in the rule is broad, not necessarily ambiguous, but as it relates to game bird and trophy fishing opportunities. Until we know what kind of opportunity is being requested to auction, it's hard to draft a rule that specifically identifies that. So that last paragraph says that any game bird or trophy fishing hunting opportunities would be approved and considered by the Director and Chairman of the Commission on a case-by-case basis. There were no public comments pursuant to this new rule.

Commissioner Arvas: Would you tell us how that money is going to go once it's raised?

R.J. Kirkpatrick: The money raised from the auction of the 2 big game enhancement packages will be deposited back into the Game Protection Fund and will be labeled enhancement dollars and they will be used exclusively for habitat restoration and improvement acquisition related to big game species.

Commissioner Arvas: So they won't be earmarked for any individual species?

R.J. Kirkpatrick: No, sir. The package enhancement authorizations can be used for any hunted big game species.

Luke Shelby: The statute says that the money from the Governor's authorizations shall be used exclusively for fish and wildlife conservation activities or projects in New Mexico and the money generated from the big game enhancement package can be used exclusively for big game habitat enhancement conservation and protection.

Commissioner Riley: I notice that turkeys weren't included in either the description of big or small game, is there a specific reason for that?

R.J. Kirkpatrick: The desire for Merriam and Rio Grande turkey hunting opportunities in New Mexico isn't such that it would command a significant amount of funding that would benefit our endeavors in habitat improvement but 2 or 3 legislative sessions ago, statute was created for Gould's enhancement much like Bighorn sheep like we're talking about, but Gould's enhancement legislation required that populations and the hunting of them pursuant to this enhancement did not interfere or contradict the Wildlife Conservation Act and was biologically sound. We've spent the last couple of years with some intensive Gould's turkey surveys to determine whether it is valid and biologically sound to take a couple of birds a year. We're at a point where we've got data that suggests we probably can. It's not included in this because it's a separate statute.

Commissioner Riley: If someone came and said we'd like a Merriam's turkey hunt you wouldn't be able to authorize 1 of these types of permits for that?

R.J. Kirkpatrick: We'd be able to authorize that pursuant to the Governor's rule. The Governor can basically ask for any kind of hunting opportunity.

Commissioner Salmon: Has there been any interest in trophy fishing opportunities within the enhancement program?

Luke Shelby: We don't know exactly how the trophy fish part is going to work. Some of the ideas we've had is an authorization that allows a person to fish at Charette Lake or McAllister Lake the day before the season opens or drag a trophy fish out of the show pond at Red River Hatchery. That would take another rule change, but we don't know exactly how that would play into it just yet.

Commissioner Salmon: I'd think there'd be potential for some of the more unusual species available. In recent weeks I've had 2 outdoor writers for fishing magazines ask me to take them up Black Canyon so they could catch a rare Gila trout legally for the first time and maybe some of those kinds of things would be of special interest and would fit in with an enhancement program.

Robert Espinoza: R.J., on the Governor's tag you were saying that the Department was not going to afford any organizations at all, any marketing costs on that? All the money raised would go directly to the Department?

R.J. Kirkpatrick: Correct. Under the Governor's authorizations rule, let's suppose that it requested and provided to a Governor's special event 2 deer hunting and 2 elk hunting opportunities. An auction occurs and the auction value generates \$100,000, all \$100,000 would come back to the Department to be deposited into the Game Protection Fund to be used exclusively for those allowances. The Department wouldn't be fiscally obligated to pay any costs associated with the auction. We wouldn't pay for auctioneers or anything as we do when Rocky Mountain Elk sells enhancement authorizations where we pay them 10% of value. This rule doesn't provide that the Department would be responsible for any of those costs.

Robert Espinoza: Would it not be appropriate to allow for say that 10% because it would increase the value if some of our organizations had some of those authorizations?

R.J. Kirkpatrick: I don't think your organization can have any of those authorizations unless it is a special event called by the Governor. That's the only place these can be auctioned.

Chairman Montoya: On rule 19.31.18, NMAC, are all Commissioners okay with disregarding the \$125,000 limit and let the market dictate what the price would be?

Commissioner Riley: Yes.

Chairman Montoya: On allowing for transferability, are all Commissioners okay?

Commissioner Buffett: I want to reiterate for the record that R.J. did indeed say that if we do see individual speculation that we find unacceptable that at a later time we can come back and re-visit that section of the rule?

R.J. Kirkpatrick: That's exactly right. Any time we notice something is not quite right with what's going on and there's some commercialization of this, we would bring it to the Commission's attention and ask for a rule adjustment because we don't want that to happen.

Chairman Montoya: Another thing is to change the date of the Pronghorn to November 1. In rule 19.31.19, NMAC, there was a recommendation but isn't included in the motion to insure that there is no cost to the Department in regards to auctioning.

R.J. Kirkpatrick: No, sir, the rule does not allow for us to incur any costs so there's no change in the second rule necessary.

Chairman Montoya: Everything else, the hunt dates that you indicated for Ibex and Bighorn are fine?

R.J. Kirkpatrick: Yes.

Chairman Montoya: So Rule 19.31.19, NMAC, the motion could stay as recommended by the Department?

R.J. Kirkpatrick: Yes.

Commissioner Sims: I think all we're concerned with in 19.31.18, NMAC, is the minimum price of transferability on the season change on Pronghorn.

R.J. Kirkpatrick: There is another change that has to do with the setting of maximum value for the resale or barter of an authorization.

Chairman Montoya: When you transfer it?

R.J. Kirkpatrick: Right. If you purchase the package that currently the rule says you can't sell authorizations to someone else for more than 20% of what you paid we're recommending we strike that language.

MOTION: **Commissioner Sims** moved to adopt new rules 19.31.18, NMAC, titled Big Game Enhancement Authorization Packages with the amendments that we remove the minimum price issue and we allow transferability of that license and also that we change the date on the antelope from August 1 to November 1, and setting a maximum value of no more than 20% over the purchase price, and 19.31.19, NMAC, titled Governor's Special Events Authorizations as presented by the Department.

Luke Shelby: Commissioner Sims, to clarify, your motion is to accept it as presented with no minimum bid, is that correct?

Commissioner Sims: That's correct.

Luke Shelby: The authorizations are transferable without restriction, is that correct?

Commissioner Sims: That's correct.

Luke Shelby: That the season ending date for Pronghorn be changed to November 1?

Commissioner Sims: That's correct.

Chairman Montoya: And the maximum amount on the transferability?

Luke Shelby: Commissioner Sims, that's what we're trying to get to. You want a maximum amount on the transferability?

Commissioner Sims: Yes, where we set a maximum on the transferability of no more than 20% over the purchase price of the tag.

Luke Shelby: So you want to keep under use C-2 as it is written?

Commissioner Sims: Yes.

Luke Shelby: We've got that lined out, R.J. So you want to keep that 1 in tact, is that correct, Commissioner?

Commissioner Sims: That's correct.

Alvin Garcia: So you want a second on that and then go into discussion on the specifics and then I think we might have some issues with regard to the dates.

Commissioner McClintic seconded the motion.

Commissioner Riley: This 20% maximum barter amount, is that something that we can enforce very well, or how are we able to handle that?

Luke Shelby: Perhaps something that will help the Commission come to a conclusion on this is that we really don't feel that the authorization is going to be transferred at all because typically the people that buy this type of authorization want to hunt. They're not there to transfer it or make any money off of it. If the person buys that for \$125,000, they're going to go hunting. We have not seen at any of our other authorizations that are transferable when they are purchased, not 1 in a lottery, but when purchased the winners typically do not transfer those, they go hunting. So it's questionable whether this is really going to be an issue or not.

Commissioner Riley: Why even have the 20%? Where did we come up with that?

R.J. Kirkpatrick: That request for consideration at this meeting I think was brought forth by Commissioner Buffett at the Gallup meeting. I wanted to make sure that we're not creating a black market of buying low and selling high. The proposed language under C-2 says that any authorizations transferred via sale or barter from the package so you could take the deer authorization you can't re-sell it for more than 20% of what the total package price was, so if the package costs \$100,000, you could sell the deer license separately for \$20,000. You're correct in that there's no way in the world the Department would ever know if that happened and if we did know that happened, there's no provision for what we would do if that happened, and as Luke reiterated, we don't think that

this language is necessary and to clarify is that C-2 be stricken in that you can re-sell these authorizations for whatever you want. The likelihood of that happening is fairly slim.

Chairman Montoya: Is there any more discussion on that item?

Commissioner McClintic: I thought that if you transferred, you had to transfer the whole package of all 5 hunts and that you couldn't break them down individually, and what you're saying now, R.J., is that they could do that. I don't think that's our intent.

R.J. Kirkpatrick: Under Section C, Use, in the rule, the first paragraph basically establishes the ability to transfer each individual authorization within the package. Each authorization issued within the package may be transferred through sale/barter/donation/gifted by a successful purchaser to another individual. The reason that probably needs to be there is let's suppose that an individual purchases the package and he wants for his son to be able to hunt a deer and he wants for his long lost cousin to hunt Ibex, his wife to hunt oryx, he's got to have the ability to transfer them for someone else. What C-2 does is that it says that if he transfers them and receives money for it, he can't get more than 20% of what he paid for the whole package. After consideration we think that's probably not a necessary restriction but the transferability of each individual authorization within the package is an important component in that we're not forcing a person to have to use all 5 and that he could give them to family members, business associates, or whatever, so we want that to be available.

Commissioner Arvas: So you're recommending that Commissioner Sims has the option of amending his motion?

Chairman Montoya: I was getting to that. Commissioner Sims, are you open to amending your motion to delete the 20%?

Commissioner Sims: My concern is that if a guy buys his package and just wants to go elk hunting, if he goes out and sells individually each 1 of these deals and he gets \$150,000 and goes elk hunting, he's got a lot of money left on the table. That's going to be a problem.

R.J. Kirkpatrick: It's a potential problem.

Commissioner Sims: I know it's not enforceable but at least it's some kind of deterrent.

Director Thompson: There's 1 clarification. The discussion has been that if the limit was 20% over the original sales price but that is not actually what this provision says. It provides that if any authorization were subsequently transferred and sold that it couldn't be sold for more than 20% of that original price which would be 1/5 of it. What Department staff is recommending and I concur is that this provision be stricken based on public comment that has indicated it has no place to start with and that then the Commission could come back and install if there were indications of problems. So, if that were the wish of the Commission it would be a matter of amending the motion to strike C-2 in its entirety.

Chairman Montoya: Commissioner Sims, are you open to striking that 20% provision?

Commissioner Sims: Yes.

Chairman Montoya: Therefore, the motion will stand except for the item that addresses that no one can barter or re-sell for more than 20%, that part to be stricken, and on the second, Commissioner McClintic, are you willing to amend?

Commissioner McClintic: Yes, I'm fine with that. I just wanted to say that we're saying a package of 5 for a price and then they have the right to transfer the individual hunts inside the package, so it's very confusing to get an exact number because obviously antelope isn't going to go for the same as a bull elk during the rut, so to try and break it up equally into fifths is just not going to work. I would like to say if there's a way we can get clarification on that language so that when we do pass it it's easier for the Department to supervise what you're trying to do.

Chairman Montoya: There are amended first and second motions and what I'd like to indicate to the Commission is that it's been stated that if the possibility of abuse of this language occurred, the Commission has the ability to come back and implement provisions to address that abuse, but there is no indication that that's happened or that it will happen.

Larry Caudill: I agree with Commissioner McClintic and Commissioner Sims in the sense that the thing I see looming on the horizon with respect to wildlife is more commercialization and big money and I'd hate to see the state getting into the business of setting up a situation where permits could be brokered and if a bighorn sheep permit is worth \$50,000-\$60,000 and a guy wants that 1 and then he can sell off the other 4 for enough profit to cover his sheep hunt, I think there's an incentive whereby that can happen and I gather that these packages go with 5 species, R.J.?

R.J. Kirkpatrick: That's correct.

Larry Caudill: Would these be auctioned at FNAWS, but what's the venue whereby they are auctioned?

R.J. Kirkpatrick: That's to be determined.

Larry Caudill: We have 3 opportunities—Mule Deer Foundation/Rocky Mountain Elk Foundation/FNAWS, correct?

Commissioner Arvas: These 2 packages will be on an RFP so they'll be put out to bid, the odds are that a 501C3 organization will pick them up and there are only 2-3 organizations that have the viability to make this kind of sale.

Larry Caudill: Ok, so this wouldn't be a public auction?

Commissioner Arvas: No, so that means that if it's a 501C3, you're going to have a higher possibility of getting more money for each individual package as a result of the tax deductibility.

Larry Caudill: Those organizations would then be able to re-sell them?

Commissioner Arvas: Those organizations are going to be the sellers.

Larry Caudill: So they would make some profit on them if they sold them for more than \$125,000?

Commissioner Arvas: They can't make any profit, that's the whole idea. They will give us the amount of money that they sell the item for.

Larry Caudill: My concern was in fact the brokering in this because I don't think we want to set it up that way.

Commissioner McClintic: They're putting it on an RFP and somebody is going to get the bid through auction or sell the tag. They don't buy it from us, it's going to be put up for sale at that point. We don't know who's going to get that opportunity. It's not that they're buying it and then re-sell it, that's a misconception.

Larry Caudill: When they do that, then that public purchaser can re-sell?

Commissioner McClintic: According to this, yes.

Larry Caudill: Therein lies the crux of the concern because of the possible brokering but then it can be fixed if it goes bad.

Chairman Montoya: If we go too deep into this motion, it'll require additional changes in regulation and how we're going to enforce and so on. If there's a need, we'll address that at that point.

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

AGENDA ITEM NO. 15: Proposed Approach and Concept for Development of New Antelope – Private Land-Use System (A-PLUS) and Associated Rule Development.

Presented by R.J. Kirkpatrick – The Department presented the Commission with a comprehensive review of current processes used in the determination and distribution of pronghorn hunting opportunities and demonstrated the need for development of a more equitable, flexible, and effective system. The presentation included a proposed approach for initiating the development process. From 1999-2006 seasons, total antelope hunting opportunities have ranged from 4,563-5,850 annually on public and private lands in New Mexico. All appropriate species plans and the Department's strategic plan have been considered in the development of these rules. Relevant Department strategic plan sections are the Sport Hunting and Fishing Program and the objectives that provide for 75% of the state's hunting interests expressing understanding and support for the Department's game management strategies, and that provides for the establishment of broadly-supported management for 9 species of big game, 4 species of small game, and 7 species of fish that maximize recreational and economic benefits within the context of relevant biological, ecological, physical, social, economic, political, spatial, and legislative factors. The Administration Program objective will be positively affected by helping to ensure decisions are being made within the context of relevant biological, ecological, physical, social, economic, political, and legislative factors organized in spatial relationships in this program will benefit in that work achieved with this enhancement funding will demonstrate to affected interests that the Department is a knowledgeable and competent manager of the state's wildlife.

Commissioner Arvas: The main reason for development of the A-PLUS System would be to increase hunting opportunity?

R.J. Kirkpatrick: That would be 1 of the big advantages to doing it but I don't know if more/less but insuring equity in the distribution of hunting opportunities would be important much like it was in the elk system and ensuring there's flexibility to accommodate desires and reasonableness that currently don't exist, customer service, encourage habitat management for antelope benefit and other species. Currently, we're unable to do any of those things so not only would potentially increase hunting opportunity but it would have those other tangible benefits.

Commissioner Arvas: If you had to say off the top of your head what the response from landowners would be, what would that be?

R.J. Kirkpatrick: I've already heard from landowners about what we're proposing to do. There's a perception of a private property right inherent with public leased properties and I think this might start to change that. I think that the access issues are concerning them--about having legitimate public access to public lands that they've otherwise been prevented from. In the elk landowner system, those default properties couldn't get a viable hunting opportunity. We redistributed unused/unspoken for hunting opportunities to them. Now there are going to be small properties that are going to receive antelope hunting opportunity.

Luke Shelby: I think the message we'll want the Commission to take from this presentation is that we want you to be aware that we are undertaking this endeavor to develop an equitable and effective program to allocate pronghorn hunting opportunity. We went through this process with elk and now we're going to go through a very similar effort with antelope. We'll be coming back to you in late October with the basic concept of how this is going to work.

Commissioner Riley: Whether we solve all the problems, I think by going into a better and improved system, it's time to get public input, try to identify what some of those problems are, and see if there are some ways of dealing with those in the future.

Commissioner Salmon: Would you say the overall statewide antelope population is on the increase?

R.J. Kirkpatrick: Yes, based on precipitation patterns over the last couple of years.

Larry Caudill: Fences restrict antelope to a given pasture since they're not very good at jumping fences. Fences are absolutely key to the way antelope move and if part of this package were to modify fencing to allow freer movement the animal would not be restricted. The other thing is that antelope are restricted to the wide open bottoms and during fawning season when those antelope hunker down to nurse, it's like ringing the dinner bell for every coyote in sight. They found that by removing the bottom wire of the fences and allowing those doe antelope to go where they would normally go to fawn, they doubled/tripled their survival crop on fawn, so there are a lot of subtleties in the way antelope can be managed that aren't happening. A third point is that I think there's 1 part of the state in the northeast that has a 3-day antelope hunt at this time. When you have a certain number of permits you can only

handle so many hunters at a time otherwise it turns into a complete circus. If the season were extended where there is a series of probably 3-day hunt separated by an interval the way there are with deer/elk hunts then you have a more quality situation.

Caren Cowan: I represent the New Mexico Cattle Growers/New Mexico Federal Lands Council/New Mexico Wool Growers. I've sent out the message that this is a process we're going to have plenty of time to participate in so I urge you not to speed the process up but let's be sure that we get everyone involved and we do it right.

Chairman Montoya: The question before the Commission is whether we want to proceed with looking at improvements to the A-PLUS system.

Oscar Simpson: I represent the NM Wildlife Federal and we appreciate the Department's assessment of the antelope system. We want an in depth, transparent approach. We want to identify public lands that are landlocked. In your GIS analysis we want those roads identified that allow access and have been locked or illegally blocked. We're having a huge increase of illegally landlocked public lands and illegally closing roads.

Robert Espinoza: I'd like to echo Caren Cowan's comments about speeding the process up. Public input is vital but I don't think the next few months are going to give us enough time to receive the input.

Chairman Montoya: I think the message is to give the Department the authority to continue looking at the numerous ways that have potential for making the A-PLUS system better. The concern that has been voiced by the public is the timing. I know there are deadlines with the Proclamation, but as much as you can do to ensure that the public's awareness, input, and opportunity to participate in the process.

Director Thompson: What R.J. has said was based on a single conversation we had, but it's clear what the interest is so I can assure everyone that we will take the time to do the analysis, to be transparent, to engage all that have interests, and if that means that something is for 2009, so be it.

AGENDA ITEM NO. 16: Summary of and Proposed Extension of the Mountain Lion Control Program to Protect State-Endangered Desert Bighorn Sheep Populations (19.31.11.12, 13.31.11.14, and 19.31.11.17, NMAC).

Presented by Eric Rominger –The Department presented a comprehensive report detailing the effects of mountain lion control on New Mexico's Desert bighorn sheep populations from 1999 to the present. The Department further presented a draft rule amendment for 19.31.11, NMAC, titled Bear and Cougar, for Commission discussion. The amendment extended the current preventative cougar control program (19.31.11.17, NMAC), expanded the year-long cougar hunting area boundary to include the Caballo Mountains (19.31.11.14, NMAC), and included a year-long cougar season in the Caballo Mountains (19.31.11.12, NMAC) in Cougar Zone H. In response to high-mortality levels of state-endangered desert bighorn sheep from mountain lion predation, in 1999 the Commission approved a management action to reduce levels of predation. Delays in attaining effective levels of mountain lion control resulted in continued decline of statewide desert bighorn sheep populations to fewer than 170 individuals in autumn 2001. Mountain lion removal began in autumn 2001 and this preventative mountain lion control program is scheduled to expire in October 31, 2007. Selectively removing mountain lions in desert bighorn sheep ranges, combined with an aggressive transplant program has resulted in a current estimated state-wide desert bighorn sheep population of 410-480. A 1999 population viability analysis indicated that a 5% annual mortality rate from mountain lion predation would cause all desert bighorn populations in New Mexico to go extinct. The average mortality rate attributed to mountain lion predation declined from 16% to 3% following effective mountain lion control. Mountain lions were removed from less than 0.75% of statewide mountain lion habitat and the number of mountain lions removed is considered to have little or no demographic effect on state-wide mountain lion populations. A total of 78 mountain lions were removed from 4 desert bighorn sheep ranges since October 2001. This was 14 mountain lions per year and less than 4 mountain lions per range per year. The ability of the Department to use the preventative mountain lion control program during restoration of desert bighorn sheep is a vital management option. A new subpopulation of 20 desert bighorn sheep in the southern Caballo Mountains apparently self-started from the Fra Cristobal population. This subpopulation resides outside any mountain lion control area. Inclusion of this subpopulation in the preventative mountain lion control program will require the addition of the Caballo Mountains. The Department also recommends a year-round mountain lion season in the Caballo Mountains. This season would be in accordance with management objectives in the mountain lion population matrix adopted in 2006. During the drafting of the Recovery Plan for Desert Bighorn Sheep in New Mexico 2003-2013, invitations to public meetings were sent to more than 100 agencies, special interest groups and individuals. In 2006, public meetings were held in Truth or Consequences and Lordsburg.

Commissioner Riley: Since you opened up the presentation with stocking are you going to be moving into other areas with the desert bighorn?

Eric Rominger: The proposal at the moment is that we've had some lion issues at Red Rock. Several lions in the pen this year have made a couple of kills. We had a population low enough in the spring census that we've anticipated delaying the 2008 capture from Red Rock until 2009. The proposed translocation sites in 2009 would be either a northern San Andres starting the subpopulation in the northern portion of the San Andres Mountains or augmenting the southern Caballo population depending on public meetings to be held in the Truth or Consequences area. Those are our 2 top priorities for Red Rock release anticipated in 2009.

Commissioner Riley: What's your opinion about stocking either species on the Double H Ranch or in those mountains on the northern side of that ranch?

Eric Rominger: I've looked at that country only from the air. We've struggled to keep the Ladron population from going extinct. The sheep that have been observed on the Double H have come out of that Ladron population. By far the better habitat is in the Ladron and the Salado. In my overflights, I don't see classic bighorn sheep range on the Double H, but R.J. and myself hope to schedule a field trip soon to give a better assessment.

Commissioner Salmon: If we were to achieve the population of 500+ desert bighorn sheep in these various ranges, what would you anticipate the opportunities might be for the Department regarding hunting opportunities?

Eric Rominger: Upon delisting and returning desert bighorn sheep to game animal status, the Department envisions opening a desert bighorn sheep hunt which would include these 5 ranges currently unhunted. We anticipate 8-10 new desert bighorn sheep licenses as opposed to the 1 that's currently issued. There were 3,315 first-choice applicants for that 1 license this year. So it would dramatically increase the sportsmen opportunity for perhaps the rarest animal in North America. I also envision some substantial revenue return for first time statewide desert bighorn sheep authorizations at the FNAWS Convention or wherever we might sell that. Initially we'd start conservatively.

Commissioner Arvas: How many Rocky Mountain bighorn sheep do we have?

Eric Rominger: We feel we're right at 1,000 Rocky Mountain bighorn sheep in 8 populations now and that doesn't include the meta-population. There are probably 50-75 or maybe more sheep on that Colorado-Oklahoma border we share.

Commissioner Arvas: Am I correct that you've said last year that we might consider increasing the hunter opportunity for Rocky Mountain Bighorn sheep soon?

Eric Rominger: Yes, we've gone from about 8 licenses a decade ago to 18 licenses this year, so we've increased hunter opportunity in the Pecos/Wheeler Peak and the newly opened Latir Wilderness was hunted last week for the first time ever. I think we probably won't increase Rocky licenses much more than that until the Rio Grande Gorge and the Dry Cimarron come on line and maybe the San Francisco River makes a comeback. It's currently closed but we've gone from 8 licenses in 1996 to 18 licenses issued this year.

Commissioner Arvas: Is that a generally accepted ratio if you've got 1,000 Rocky Mountain Bighorn sheep and you have 18 licenses? How did we come up with that ratio?

Eric Rominger: Normally we look at about 2 rams per 100 bighorn sheep harvested so traditionally the Pecos Wilderness sits at 300 sheep. They used to be 5 and then there were 6 licenses. We've gone more liberal because we track the scores on sheep and because we're trying to keep that as a quality/trophy hunt so the hunting is much more conservative than hunting cervids. We've increased that to 10 in the Pecos and we're tracking that closely so that we don't feel that we over harvest trophy rams but had 10/100 that's probably as high as I anticipate going.

Commissioner Buffett: Your numbers from past experience estimate less than 4 mountain lions per range removed annually, is that correct?

Eric Rominger: The removal during this period was less than 4 mountain lions per range per year, yes, about 13.6 lions were taken a year out of those 4 ranges during this control period.

Commissioner Buffett: What are our options for separating bighorn sheep and lions? Are there transplant options?

Eric Rominger: I think we're fairly limited in the options for separation of those 2 species. The research done by Logan suggested that transplanted lions have very low survivability or animals that are unaware of the dominance in the habitat they're released, extremely high mortality on translocated lions so we've euthanized these lions and donated them to the Museum of Southwestern Biology at UNM.

Commissioner Buffett: Those are done through contracts?

Eric Rominger: Yes, we have 4 contracts in those 4 ranges—3 snaremen and 1 houndsman in the Peloncillos where 2 jaguars were sited.

Luke Shelby: It has never been the Department's intention to continually do lion control in bighorn sheep areas. These are temporary measures to ensure that those populations get above the threshold that they need to sustain themselves. It's always been our intention to back off lion control in those areas when we have enough sheep to be able to do that. It's just that when we start these new populations, they're very susceptible to predation.

Commissioner Buffett: The recommendation is year round in the Caballo? Is it year round in the other areas?

Eric Rominger: Yes. I think the way those read in the rule is April 1 to March 31 for a year round season. Yes, in desert bighorn ranges there's year round hunting seasons, yes, April 1 through March 31, so that's year round.

Commissioner Salmon: For the sake of perspective, what's the approximate total lion population for the state--14 per year from these ranges what base population do we have for the state?

Eric Rominger: I believe in the range of 2,500 adults.

R.J. Kirkpatrick: Somewhere between 2,000-3,000 pursuant to the cougar matrix.

Commissioner Salmon: When you juxtapose 14 control lions taken out with the total lion population of the state I can see where it would not affect the state population.

Oscar Simpson: I'm with the NM Wildlife Federation. We support the continued program control of the mountain lions in order to make sure that we've got a viable population of desert bighorn and other sheep.

Robert Espinoza: The SFW supports the managed predator control as a vital part of all wildlife management not only for the bighorn sheep but for all game animals and we encourage the Commission at the next meeting to continue this vital management tool for lion control on the desert bighorn and other sheep around the state.

AGENDA ITEM NO.17: Changes to Private Land Entry and Sportsmen Enjoyment Program Rule 19.34.7, NMAC, (now called Open Gate Program).

Presented by Kerry Guiseppe – The Department presented for Commission action changes and updates to the current PLEASE Rule. The actions included updating the rule to reflect the program's name change to Open Gate, expanding the ability for agreements to include other entities and not solely private landowners, and adjusting access fee flexibility and eligibility constraints. There are 4 proposed changes: (1) name change; (2) expand agreements to include other entities; (3) adjust fee flexibility; and (4) to delete Department of Finance and Administration signature requirement.

Commissioner Buffett: I've heard from folks that've been working hard on the Sabinoso Wilderness Area that there is a willing landowner that wants to participate in the program and there have been some holdups. The suggested motion and changes will resolve the holdup?

Kerry Guiseppe: Right now the holdup for the Sabinoso is red tape. We need to do an appraisal for the property because we're more interested in doing an easement for 10 years instead of year-by-year because we don't want to open it up for 1 year and then have people think that they have access through there when it's only going to be for 1 year, so we need to do an appraisal and as far as the money goes, everything is under 1 budget code now and in order to do an appraisal which is a professional service, we have to move money to a different budget.

Commissioner Buffett: How can we help facilitate that?

Kerry Guiseppe: Currently I think that it's in Administration and they're working on it.

Commissioner Buffett: This is an open gate client that you're prioritizing?

Kerry Guiseppe: Definitely because he said he'd been approached many years ago and he seems very willing and very knowledgeable of the area and we don't want to lose him.

Commissioner Buffett: What sort of timeline do you expect?

Kerry Guiseppe: I'm hoping within the next month or so we can get the change made and we can get the appraisal started. I've already talked to an appraiser who is willing to do it and he specializes in conservation easements so he'll be a good choice.

Commissioner Riley: How are we standing now with respect to the program itself—is it growing, is it growing in number of contracts and acreage or is the size of the typical area increasing or decreasing, can you give us any information?

Kerry Guiseppe: So far we have 11 properties signed up for the upcoming year. We have 5 either in negotiation or under review by the district Conservation officers so if we accepted all 5 that would bring us to 16 total where we had 11 last year. We had about 26,000 acres last year and we're already up to almost 34,000 this year and 1 of the properties that I just yesterday spoke to a landowner who is very interested which is 8,000 acres on its own, so we are starting to get slightly larger properties interested as landowners find out more about the program.

Commissioner Riley: As you know, we have quite a bit of money in the program—do you foresee us reaching a point where we're going need more money?

Kerry Guiseppe: Maybe not soon but I feel that if we start to do more easements as the Sabinoso, I think that will be a big chunk plus paying for the appraisals, and the Forest Service has some areas they're interested in working with us on where they're limited by the amount of money they can pay landowners for an easement through their property so we'll try to work in conjunction with them so that we can use some of the money for that. As people expect more money, this 8,000 acre landowner wasn't interested in \$1 but he was interested in \$1.50 per acre. So as that happens our expenses will go up and we'll start to use the money.

Commissioner Riley: As you may know, the Transportation Bill passed by the federal government 2 years ago has money in it for trails and access to public land. The State of Arizona BLM has tried to access 21 pieces of federal land that is land locked as we have in New Mexico, have you considered the possibility of putting in a proposal to try to get some of those funds?

Kerry Guiseppe: No, I hadn't heard of that program but I'll definitely look into that.

Commissioner Arvas: How much money do we have in that account?

Kerry Guiseppe: I believe my budget is \$250,000 and so far with the 11 properties, we've used over \$16,000.

Commissioner Arvas: What type of species are we hunting on those properties?

Kerry Guiseppe: Most of them are dove/quail. We do have crane this year. We do have waterfowl, and fishing opportunity. This new opportunity would also include turkey, so we are slowly expanding the species.

Pat Block: The open gate budget for this year is \$500,000 and that is 1 of the reasons why we're looking at multi-year agreements. Since we've started the program in the past and not been able to fully expend the funds raised through the access portion of the habitat management and access validation we worked with the budget process for 1 big year to hopefully get some of the backlog of dollars expended and move into some lasting agreements. Next year the budget request is back to the \$250,000 level so we're hoping to have some success with these longer-lived agreements that we get done within this budget year.

Commissioner Arvas: If it's possible I'd like for you to break-the-ice and maybe try and get into the big game species. Until you do the first 1, you're not going to get any probably.

Kerry Guisepppe: We did have 1 deer last year. He chose not to re-sign and has not expressed his reason why. We also do have some people who are interested in deer but the biggest problem is that they're very concerned with overrun. They're concerned that they're going to get 1,000 hunters to hunt 2 deer that are on their property and they're going to have issues. I think that's something we're going to have to look into and have a firmer idea of how we're going to work that before we get more signups. We are pursuing it.

Commissioner Arvas: You're familiar with the block management plan in Montana?

Kerry Guisepppe: Yes.

Commissioner Arvas: How do they cope with that problem?

Kerry Guisepppe: I don't know that.

Commissioner Riley: The landowners in Montana have the ability to limit the number of people that can enter per day, sometimes even for half a day. It's up to the landowner if he wants to interface with the hunter or not. More states are looking into that where they're trying to limit the number of visits per day so that there is some control over overcrowding that occurs very quickly particularly in areas close to any kind of metropolitan areas.

Commissioner Arvas: Would that be a practical consideration for us to try?

Cal Baca: We've talked to quite a few landowners looking into doing this even for dove/quail, but they'd like to restrict the number of public hunters coming onto their properties. The problem with that is we don't know how we would be able to enforce because a lot of these properties are remote. District officer resources are limited to trying to maintain their district and watch hunters. We're looking at what types of ways to regulate. The landowner who wanted to sign up this year was interested in deer and wanted to limit it to youth only which would be a great opportunity for youth hunting, but we don't know how we can regulate that and help the landowner and not encourage the overrun of deer hunters on that property once they find it's accessible. The other thing we look at when looking at this program is that we like having the ability of free, equal, and unrestricted access to any legally licensed hunter to take part and enjoy these opportunities that sportsmen's dollars are paying for. We've been trying to figure out ways to expand the program but expand it in a reasonable way that we're able to regulate how each landowner limits or not limits the amount of hunters.

Oscar Simpson: One of the key deals we have with this program is that the landowner would have some kind of control over the number or people. As an example off the top of my head, if the person allows 10 people to hunt deer, he can check with the district office and he can say here's the signup list and you're authorized to go onto that property. The Game Commission has control of what 10 people are allowed on that property if the landowner doesn't want to have to deal with them. We need to have the flexibility in order to open these public lands up if they want to have a certain number of people. The Department has some way of saying what 10 people show up. We support this program but we'd like to have more discussion because we're talking only about private land and now we're talking somehow Forest Service and BLM and State Land Office which I don't understand the connection. I'd like to have more discussion to see what is going to happen there because now we're diluting our dollars.

Luke Shelby: The purpose of the Open Gate Program has been and always has been to provide access to hunters/anglers/trappers on private lands or access through private lands to land-locked areas of public land and that's a more valuable program than to try to deal with the private landowner whom we've found out since the inception of this program how many people go on their land. We're working with 2 landowners for access through their private land to areas that have been previously blocked that opens up tens of thousands of acres as opposed to a few thousand or a few hundreds of acres that the private landowner controls, so an important aspect of the problem is to get access through private lands via Open Gate to big chunks of land locked public land that was not accessible before. What we're also finding out is that at least in 1 case we have taken the initiative to offer a property owner an open gate agreement first and then later build a road around it because in most cases that is an option. We have the ability to build a road to some of this land locked public land with the Forest Service's help but instead we chose at least offer the option of an open gate agreement first.

Commissioner Riley: In answer to your question I don't know they're necessarily changing the program so that we're going to pay the State Land Office money to access State Land Office land or the Forest Service money to access Forest Service land. It's so that we can have a clear opportunity to work with those federal and state agencies and other entities associated with government some way to go into a partnership with them to pay for access across private land on to some piece of public land that otherwise would be unavailable. Sometimes a lot of these easements across private lands are greater than the appraised value for the easement and as a result the only way any one entity can deal with that is come up with extra money because legally they can't pay more than the appraised value.

MOTION: **Commissioner Arvas** moved to approve updates and action changes to Rule 19.34.7, NMAC, to name the Open Gate Program, expand agreements to additional qualifying entities, adjust access fee flexibility, and revise eligibility constraints.

Commissioner Sims seconded the motion.

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

AGENDA ITEM NO. 18: Special Hunt Application Fee Level for 2008-2009 License Year.

Presented by Patrick Block – By statute, the Game Commission sets the amount of the non-refundable fee for special hunt application processing. The application fee amount cannot exceed the administrative costs for processing applications. At the July 2007 Commission meeting, the Department provided information regarding the components of the application process. The Department has completed an analysis of processing costs and based on that evaluation, will recommend the application fee levels for the 2008-2009 license year. The Commission sets the amount of the special hunts application fee which is currently set at \$6 having been increased by \$3 in 1995. Authority to accomplish this is contained in Section 17-1-14 B(13), NMSA, 1978. Within the past 5 years, the Department modified the application process to control costs and increase efficiency. This streamlining along with the public's increasing use of online application processes has helped to control some costs, but inflation of costs has also increased expenses. Given the changes and the longevity of the current fee, the Department seeks to ensure that the application fee provides sufficient funding to pay the costs of conducting hunt drawings, thereby improving services and diminishing difficulties occasionally experienced by applicants. This request is consistent with the strategy and objective of the Administration Program portion of the Strategic Plan to competently manage and control the Department's financial resources.

MOTION: Commissioner Sims moved to approve the Department's recommendations to set the special hunt application fee at \$8.00 for 2008-2009 license years. **Commissioner Arvas** seconded the motion.

Commissioner Riley: Does this include the fees for applying for a license online? If you wanted to buy a small game license online what's the fee for that and how does fall into this group?

Pat Block: It does not. That is contained within Section 17-2-7, NMSA, 1978, and that specifically relates to vendor licenses that are purchased over the counter. The Department is also the license vendor for those. We had previously utilized an outside vendor and felt like the customer wasn't getting the level of service that they should so we've taken that back in house this year and by statute that fee is up to a \$5 convenience fee and that covers the cost of issuing those licenses where you can just buy a license and go fishing/small game hunting, those kinds of licenses so this is different and that stays at \$5 and that's set within statute. Since we do have the number of applicants that we see over the course of a year, I will mention that that results somewhere between 60,000-70,000 opportunities that are granted which is a little closer to 40%, not the 5% success that was mentioned earlier. As you heard from Dr. Rominger earlier we have 1 license for 3,000 desert sheep applicants; on the other hand we have a number of deer/elk hunts that are undersubscribed so the success rate for those is 100% so it really runs the gamut but overall about 37%-40% of the applications do result in a permit or license being granted.

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

AGENDA ITEM NO. 19: Future Recruitment and Retention of Hunters.

Presented by Marty Frentzel – The Department provided an examination of past hunting trends and future considerations to assist in long-term planning for Department hunting activities and licensing. New Mexico's growing and changing human population has important implications for the Department, including public interest and participation in recreational activities. Several key issues on recruiting and retaining hunters will be considered. There are 4 basic requirements to hunt: a population of huntable game, a place to hunt, hunters, and a public that accepts hunting. Growth in urban populations also means losing wildlife habitat and places to hunt to expanding cities and subdivisions. These factors have the ability to change the future of wildlife conservation. This presentation is a summary of changes in the state and participation in outdoor activities with an emphasis on hunting and focuses on hunters with the opportunities to be considered being expansion of youth outdoor skills programs, expansion of hunting opportunities, additional shooting opportunities (recruitment and acceptance benefits), and additional conservation and education opportunities close to urban areas.

Commissioner Arvas: I'd encourage the Commission to support the proposal. The number of hunters being lost is a scary number to me because 10 years ago we had 20,000,000 licensed hunters nationally and we're down to 13,000,000 which is not a trend we like. The mentor program has helped a lot and there are many other states that have incorporated that. There are many states that have actually gone through the legislature to lower the hunting age in order to have them start earlier.

Commissioner Salmon: Dove is 1 place I agree we might start. Certainly there's no more challenging big game animal than a feral hog and you don't need a license. All you need is the permission of the landowner and you can feral hog hunt in New Mexico. You can hunt jackrabbits all year. Eurasian collared dove's got 3-4 month season now and very liberal and I read that the big drop in hunter participation has not been in big game hunting but in small game hunting and yet small game are more readily available. Licenses are cheaper, seasons longer, and red tape is less so we should focus on traditional small game hunting.

Robert Espinoza: The SFW supports the Department in all the 4 areas addressed and the opportunities to be considered in the portion of the briefing. The SFW plans to hold several events around the state in the future that encompasses and recognizes those 4 areas as well as others. We'd like to explore how our cooperative efforts between the Department and SFW can be had that will serve to accomplish the goals. Understanding that the Department has limited funds that can be appropriated and SFW already has plans for programs in the future that again encompass those objectives it only makes sense that we work together. Although we have other events that are planned, the SFW will have already paid for the facilities, advertised, and an audience has already been secured. We'd welcome the opportunity to work with the Department in exploring that.

Discussion item only.

AGENDA ITEM NO. 20: Legislative Initiatives Discussion and Approval for 2008 Session.

Presented by Luke Shelby and Pat Block – The Department requested that the Commission provide legislative item suggestions for discussion for the 2008 Legislative Session and re-affirm or designate up to 3 Commission members to a legislative subcommittee. This was an opportunity for the Commission, the Department, and the public to provide input on items to be addressed during the 2008 Legislative Session. The Commission provided direction to the Department regarding potential legislative initiatives to develop and pursue through the appropriate executive agency processes for the upcoming legislative session. Discussion included topics that were suggested by Commissioners, the public, and initiatives and ongoing initiatives from previous legislative sessions. The Department also requested that the Commission designate 2-3 members of the Commission to a legislative subcommittee to provide guidance and appropriate review of potential legislative actions from the Governor's office. This item refers to the goal of the Department's Administration Program that the Department's provision of an adequate and flexible system for furnishing direction, oversight, accountability, and support of all divisions results in attainment of planned outcomes for all Department programs that by 2012 decisions being made by the Department within the context of relevant biological, ecological, physical, social, economic, political, and legislative factors organized in spatial relationships, and attaining an expression of 85% executive and legislative branch confidence. Approval of this item provided direction to the Department regarding legislative strategy. There was no public involvement process with this issue aside from the process normally used for Commission meetings and agenda items.

Commissioner Buffett: Is your suggested motion restricting us to those 3 items or if other things come from the community or from the Governor's Call?

Chairman Montoya: He asked for anything that the Commission might have interest in that we'd like to pursue.

Luke Shelby: We'd pursue that through the appropriate executive process first.

Commissioner Arvas: I think it's at the pleasure of the Chairman to appoint a legislative committee of 3 and those 3 inter-relate with each other initially and then with the rest of the Commission in terms of developing topics that are presented to the Governor's office for approval. The Governor/Commission/Department come to an agreement as to what we need to do.

Chairman Montoya: We need to meet with the Department and discuss what our legislative agenda is going to be. Commissioners, if you have an interest in serving on that committee, please let me know today.

Commissioner Arvas: Is the deadline of September 1 still in effect? This is going to be a fiscal session so the variety of subjects won't be available until the following year, but we can talk about what we can possibly introduce of a fiscal nature.

Luke Shelby: There is a deadline date that the Director has knowledge of. Would you like to appoint your committee or give it more thought?

Chairman Montoya: I'd like for the Commissioners to give it some thought and get back to me. Can you give us the 3 potential items?

Luke Shelby: (1) Confiscation of game animals in relation to the crime of criminal trespass; (2) extended penalty assessment; and (3) agents of landowners under the guide/outfitter rule are currently exempt from registration and therefore do not have to fall under the Code of Conduct in the guide/outfitter rule which is the issue that was brought up at the Espanola meeting.

Director Thompson: It would be appropriate for the Commission to make a motion to at least provide staff direction to pursue those 3 items if there's agreement among the Commission, and the other thing is that if there are any other topics that any of the Commissioners wish to advance, it simply helps us to know them as early as possible particularly if it's something that's fairly significant and has some implications to interim committee consideration.

MOTION: Commissioner Riley moved to direct the Department to further develop, assure appropriate review by the Commission legislative subcommittee and Governor's office, and prepare for bill introduction during the 2008 Legislative Session the following items:

- (1) Confiscation of game animals in relation to the crime of criminal trespass;
- (2) Extended penalty assessment; and
- (3) Agents of landowners under the guide/outfitter rule are currently exempt from registration and therefore do not have to fall under the Code of Conduct in the guide/outfitter rule.

Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 21: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H), NMSA, 1978, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated their professional Code of Conduct as per 19.30.8, and 19.31.2, NMAC. If in the Commission's determination an individual shall be served notice, he/she will be afforded an administrative hearing following 19.31.2, NMAC.

MOTION: Commissioner Buffett moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H) of the Open Meetings Act in order to discuss several land interests at the recommendation of our Director as per 10-15-1, NMSA.

Commissioner Salmon seconded the motion.

Roll Call Vote:

Chairman Montoya – yes

Commissioner Arvas – yes

Commissioner Buffett – yes

Commissioner McClintic – yes

Commissioner Riley – yes

Commissioner Salmon – yes

Commissioner Sims - yes

Motion carried unanimously.

Chairman Montoya entered into Open Session and stated that the record reflect that no action was taken during the Closed Executive Session, but several items were discussed by Legal Counsel and the Director.

AGENDA ITEM NO. 22: Notice of Commission Contemplated Action.

Presented by Dan Brooks – The State Game Commission after meeting in Executive Session determined, and if necessary, directed the Department to send a Notice of Commission Contemplated Action to any outfitter or guide that evidence and information indicated may have violated their Professional Code of Conduct or other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978, the purpose of an administrative hearing will be to assess points against the outfitter and/or guide registration as they apply to the revocation process. The Department's provision of statewide system for hunting activities and self-sustaining and hatchery-supported fisheries satisfies the participation expectations of New Mexico residents and takes into consideration hunter safety, quality hunt, high-demand areas, guides/outfitters, quotas, and local and financial interests.

Chairman Montoya: In Executive Session we had presentation by Mr. Brooks on possible contemplated action. There's a need to proceed with action/no action on Department recommendation regarding individuals for contemplated action.

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

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

AGENDA ITEM NO. 23: Land Conservation Appropriation Update and Action as Needed.

Presented by Jim Karp – The Department presented an update of the status of projects proposed for funding under the Land Conservation Appropriation. Depending on the readiness of some of the projects, the Commission was asked to take action. Since July 2005 there have been more than 40 public nominations evaluated.

There are 2 prospective purchase matters each of which have been discussed before the Commission.

Rio Abajo: Is approximately 190 acres in Valencia County that's being purchased by the Game Commission with some participation by the Valencia Soil and Water Conservation District. The Game Commission will be expending approximately \$800,000 and the appraised value of property is approximately \$1.5M. No purchase agreement has been executed as of this date but the only remaining issue that's being resolved is access to the property from public roads over a BNSF right-of-way. Valencia County has agreed to acquire the existing road which would continue over the BNSF right-of-way thereby providing that particular access. The acquisition of the roadway by the county is subject to completion of improvements of the existing right-of-way infrastructure. It's our understanding that financing for that right-of-way improvement has been obtained and it's anticipated that it will probably be sometime in June 2008 before it's completed. One other issue that has yet to be resolved is the possibility, although not a probability, that the county at some future date could abandon the right-of-way. That being the case, we're requiring that BNSF provide us with written and recordable assurances that were that to happen, we would continue to have free and uncluttered access to the property. The Trust for Public Land who is the seller is presently negotiating a form of agreement with BNSF. Upon acquisition of the property, the Commission will enter into a form of management agreement with the Valencia Soil and Water Conservation District. The current draft of the agreement calls for it being completed the closing being not later than June 30, 2008; however, I've been advised by the TPL that they may be in a position to bring that forward to March 30, 2008.

MOTION: Commissioner Sims moved to take no action on the Rio Abajo property at this time. Commissioner McClintic seconded the motion.

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

Lewis Ranch: The next property is the Lewis Ranch which is approximately 5,280 acres in Roosevelt County that is adjacent to the Commission's existing prairie chicken properties. The proposal is to spend up to \$1,200,000 which includes estimated closing costs which comes to approximately \$224 an acre. This property does have prairie chicken habitat and some deer/antelope hunting opportunities available.

MOTION: Commissioner Riley moved to expend up to \$1.2M including estimated closing costs from the land conservation appropriation and any federal funding as applicable to acquire approximately 5,281 acres at \$224 per acre located in Roosevelt County known as the Lewis Ranch for not more than the property's approved appraised value subject to approval by the Department and counsel to the Commission of survey of the property, state-reviewed and approved property appraisal, preliminary title report/commitment, form of negotiated purchase agreement, Phase I Environmental Report, and such other documents of due diligence deemed to be reasonably necessary to affect the purchase. The Chairman is authorized to execute all documents necessary to affect the purchase upon the advice and direction of the Department and counsel to the Commission. Commissioner Buffett seconded the motion.

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

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

Public Comment:

Oscar Simpson: I think it'd be appropriate to have an explanation when you say no action of what that means. Also, in the future on these land actions I think it'd be most appropriate for the public to show up and have a chance to comment.

Chairman Montoya: I apologize as it was my oversight. Anyone wanting to make a comment may do so at this time. There will be further deliberations on it.

Charlie O'Leary: I'm with the Trust for Public Land and I'm the project manager on the Rio Abajo project and I wanted to comment that we have been working diligently since September 2006 to perfect access that would be appropriate for public access and it's been a long and difficult process working with the county and BNSF and we've made some great progress and this is a very important acquisition. I'm discouraged about the no action and am curious what that means because we have been working closely with Jim Karp and Bruce Thompson on the items that are necessary to get into a form that's acceptable to the Commission. I also wanted to point out that last September there was a motion made to transfer \$800,000 of the conservation funding for this acquisition and wanted that to be clear. So, again, not clear on what it meant to take no action and I wanted to point out that my understanding was that the motion by Commission Arvas last September and that the motion carried unanimously to move forward with the acquisition.

AGENDA ITEM NO. 26: Adjourn.

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

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

Meeting adjourned at 5:45 p.m.

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

November 1, 2007
Date

s/
Alfredo Montoya, Chairman
New Mexico State Game Commission
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November 1, 2007
Date