

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 State Bar of New Mexico - Auditorium
 5121 Masthead, NE
 Albuquerque, NM 87199
 August 21, 2008

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

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

AGENDA ITEM NO. 3: Introduction of Guests.
 Introductions were made by approximately 50 members of the audience.

AGENDA ITEM NO. 4: Approval of Minutes (July 23, 2008 – Las Vegas, NM).
MOTION: Commissioner Montoya moved to approve the Minutes of the July 23, 2008 State Game Commission Meeting in Las Vegas as presented. Commissioner McClintic 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 Simpson moved to accept the agenda for the August 21, 2008 State Game Commission Meeting. Commissioner Montoya seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: Consideration of Revocations and Suspension.

Presented by Dan Brooks – The Department presented a list of 8 individuals, 7 of which were afforded a hearing. One has to do with proof of commercial liability insurance and no hearing required.

Commissioner McClintic: On page 3, you have G/O, does that mean guide/outfitter?

Dan Brooks: Yes. This has to do with the individual's hunting privileges not guide/outfitter privileges.

Chairman Arvas: For the public's benefit, how do we get to the point to where the hearing officer comes up with a recommendation presented to the Commission?

Dan Brooks: When a violation is issued, notice is sent by us, and they then have the ability to request a hearing. If a hearing is requested, it goes before our hearing officer and the hearing officer weighs the evidence/information, looks for mitigating circumstances, he'll recognize aggravating circumstances, and once he receives the information he hears the case in total, provides the Commission with a summary and recommendation. That recommendation the Commission either accepts, rejects, or modifies.

Larry Caudill: I'm not carrying a vendetta against the Director, but there's a lot of controversy and concern about commensurate penalties for all individuals and without further elaboration that whatever the appropriate penalties are, they should apply to all violators equally for the good of the image of the Department and consistency.

MOTION: Commissioner Buffett moved to adopt the Department's and Hearing Officer's recommendations on revocation and point assessment for the attached list of 8 individuals for the period of time specified. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 7: Fiscal Year 2008 4th Quarter and Annual Depredation Report.

Presented by Barbara Coulter – The Department reported the total number of depredation complaints filed and resolved, in accordance with 19.30.2.11, NMAC, for Fiscal Year 2008 with highlights from the 4th Quarter. April 1 through April 30, 2008, we had 161 complaints filed with the Department, 85 of which have been resolved. The remaining 76 complaints are unresolved at this time and intervention methods to resolve those complaints are currently in progress. Of the 161 total complaints filed, the top 5 species complaints are bear at 63%, raccoon at 17%, elk at 8%, beaver at 7%, and tied in fifth place are deer/fox both at 6%. The majority of bear/raccoon/elk complaints took place in the northwest area; beaver complaints most often occurred in the northeast area while deer complaints were most frequent in the southeast area. Fox complaints typically occurred in the southwest area. Overall the northwest area had the greatest total number of species complaints for the 4th Quarter. During FY '08 from July 1, 2007 to June 30, 2008, 469 complaints were filed with the Department; 277 have been resolved. The remaining 192 complaints are unresolved at this time and intervention methods are in progress. Of the 469 total complaints, 5 species are bear at 25%, raccoon at 19%, elk at 14%, deer at 8%, and beaver also at 8%.

Commissioner McClintic: It's been all over the news about what happened in Roswell with the antelope, so it's appropriate that it's explained to the public that these are the number killed that the Department took up, not necessarily under Jennings law. So I want to make it specific to everyone so they don't think we're leaving stuff off.

Commissioner Salmon: Can you give us an update regarding rabid foxes in the southwest part of the state?

R.J. Kirkpatrick: I don't have information that's necessarily new. We have a rabies outbreak that has been going on/around Grant/Hidalgo Counties. We had rabid foxes north and south of Beaverhead in the heart of the Gila. We've had various animals believed to have rabies and taken in for testing, but the results were negative in northern NM. It's still contained in southwestern NM. Kerry Mower, our disease specialist, is working with NM Department of Agriculture/Veterinary Diagnostic Services/NM Department of Health as they wrangle with this issue.

Commissioner Simpson: Since bears have been the problem for the last 3 years, summarize the main problems? Have they changed over the last 3 years and if so, what are the problems/solutions?

R.J. Kirkpatrick: I'm going to assume you're referring to bear problems around urban areas: Ruidoso/Raton//Eagle Nest/Albuquerque.

Commissioner Simpson: Well, you made a general statement. If you want to clarify that, go ahead.

R.J. Kirkpatrick: I don't know 1 specific problem that occurs on an annual basis that results in bears showing up in people's campgrounds/back yards. When we have drought years and not much natural forage/food sources available for bears, we see an increase in bears coming into communities/raiding dumpsters/birds feeders. We see similar levels during years

when natural food sources should be sufficient. Bear Watch has put out a good deal of public information to make people aware of keeping their trash out of the bears' reach. I can't give you the answer that there's a specific cause for bear/human interfaces throughout the state. It depends on food supplies/bear populations/weather/taught habits from mom. I don't believe the Department can put its finger on a single cause.

Commissioner Simpson: A majority of these are complaints related to bear-proof containers. There was a law passed the Department has the authority to require bear-proof containers/dumpsters and the key thing I'd like to see is that once you habituate a bear, that bear is basically going to end up dead sooner/later. I'd like to see the Department identify what those problems are and what we're going to do/not do other than just ignore the community not bear proofing the canisters or people leaving out trash.

R.J. Kirkpatrick: Different forests throughout NM are continuing to implement the establishment of bear proof trash receptacles in a majority of campgrounds. It's an ongoing process dependent on budget but we met with Forest Service last week and they assured us they're moving forward. The real challenge is who's going to foot the bill for costs associated with putting bear proof dumpsters throughout Chama/Ruidoso/Eagle Nest.

Jan Hayes: Bear depredation fluctuation occurs year to year and 1 of the main causes is climate. Another big cause is human indifference and lack of knowledge habituates bears. We can initiate a statewide program to bear proof communities, provide co-existing bear information, initiate bear proofing ordinances, strengthen existing bear proofing law, and have better enforcement. We ask that when you look at the depredation policy officers are destroying bears in depredation when they kill chickens and turn over beehives. We'd like the Commission to reconsider and allow officers in the field to make the decision whether to destroy/relocate bears.

Luke Shelby: To update the Commission, the General Powers and Duties of the State Game Commission, §17-1-14, (16) states as necessary designate areas of the state in which bear-proof containers are required on public and private lands to reduce potential human/bear interactions. Since inception of that law, we found our efforts have been more fruitful if we work together with those communities in a collaborative fashion. We've had successes in Red River/Angel Fire. We were close with Raton but it didn't happen. It's very expensive to implement those bear-proof containers and it's not a simple fiscal fix. It costs a lot of money and that is the biggest barrier although there were several other partners working with us. Regarding officers in the field, they have broad latitude on whether a bear should be removed/destroyed. Nearly all those decisions about destroying a bear come through their chief and then me, and we seldom second guess the suggestion in the field.

Chairman Arvas: What do those bear-proof containers cost?

Pat Block: It's not necessarily the cost of dumpsters but the cost of the truck to pick them up because municipalities go to automated trash pickup.

Lief Ahlm: Two years ago it would have cost \$450,000-\$500,000 for the City of Raton to go to bear-proof containers because they would have to purchase a new truck to handle the containers and containers for every household. To convert to bear proof dumpsters, these are the options: replace lids--\$200 can buy a new bear proof dumpster which may fit the existing truck; for \$600-\$800 a dumpster, communities have 100-500 of those pricey dumpsters; but the best option is to go to individual curbside containers like you see in Albuquerque that cost \$75-\$90. When you bear proof it's about \$200 a container. In Raton there are 2,600 residences at \$200 a container plus a truck that costs \$200,000, it's not something easily done. We offered them money to try to help them, but we can't offer them the whole cost and they were unwilling at the time to make the change. Then they have to pass that cost to the resident.

Commissioner Simpson: Did the Department ever establish those maps saying these are bear proof areas?

Luke Shelby: The Game Commission has not established those areas.

Commissioner Simpson: No, did the Department establish those areas—a map showing those areas that need to have bear-proof containers?

Luke Shelby: As I stated before, the Department does not have the authority to designate those areas, the Commission has the authority to designate those areas.

MOTION: **Commissioner Salmon** moved to accept the Fiscal Year 2008 Annual Depredation Report, including the 4th Quarter Report as submitted by the Department. **Commissioner Simpson** seconded the motion.

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

AGENDA ITEM NO. 8: Approval of Fiscal Year 2010 Operating and Capital Project Budget Requests.

Presented by Reagan Smetak –The Department presented the Proposed Operating and Capital Outlay Budget requests for FY 2010 and sought Commission approval of the budget request documents that will be submitted by the statutory deadline of September 1, 2008 for consideration by the Legislative and Executive branches. The 4 programmatic areas the Department budget is broken up into are Sport hunting and fishing being the largest program making up 57% of the total request, Conservation Services and Administration 20% each, and the wildlife nuisance and depredation abatement program is 3% which is the smallest program in the Department. The recommended operating budget request is

\$37,268,100, and the recommended capital budget request is \$12,075,000. The operating budget request includes 17 priority and expansion requests totaling \$3,282,700.

Pat Block: We've talked about what we've received in terms of guidance from the Executive branch, the need to keep general fund expenditures in the base budget flat. We'll provide a request that balances the needs of the state and desires of the Department/Commission. Base budget is what it's going to cost to deliver the same services/programs to the public that you did the year before, accounting for inflation/changes in health insurance premiums/especially notable this year will be transportation costs.

Reagan Smetak: On the base budget, personnel services/benefits, and insurance are things that increase with cost each year and that's the reason for the increase of \$450,000. Contractual services are what the Agency will pay for to construct a dam or those types of things. An increase of \$192,000 is significant and that's the price of fuel. The overall increase is \$900,000.

Chairman Arvas: Explain to the audience how we use the airplane.

Pat Block: The use of the airplane has to do with biological surveys—flying aerial surveys to count elk/antelope/telemetry tracking flights for radio-collared animals. There's also a significant portion of aircraft use devoted to law enforcement. It's also used for transportation which is the smallest use.

Commissioner Simpson: How much money has been spent on the San Juan River restoration and manipulation of habitat?

Mike Sloane: We don't have a specific number but it's somewhere in the range of \$250,000. I think that's exclusive of the time Marc Wethington has spent and some of the donated engineering and Army Corp of Engineers time. It might be closer to \$300,000-\$350,000.

Commissioner Simpson: Explain to me, under capital outlay what is the San Juan River habitat improve aquatic education going to do for \$250,000?

Mike Sloane: The plan is to use that money to design additional habitat structure in the stream that would assist with sedimentation movement and in order to do that you'd have to look at how much sediment you'd expect to come into the stream and how to deal with that.

Commissioner Simpson: So that includes the study of the sediment and all the problems associated with it?

Mike Sloane: It would include an assessment of how much sediment you'd need to deal with and the structures that would be required to deal with that sediment.

Commissioner Simpson: Would you look at the drainage system that flows in there to figure out how to design—would you look at the whole picture and not just what you may do in the stream?

Mike Sloane: It would include an assessment of how much sediment would come in through those drainages.

Commissioner Simpson: A number of citizens have requested a \$100,000 study be done. That study would look at all the information and data and do an assessment of what needs to happen and I think that's something sorely missing that ties in with what you're going to do because unless you have an overall assessment, that's a missing part of the budget and the analysis. What I've seen so far on the stream restoration hasn't done anything and hasn't solved the problem.

Director Thompson: We had discussion with all Commissioners about budget items and in examining it and the prospective funding sources it's uncertain there's a need for this study/research as has been described given the substantial amount of work which has been done by the Department and others in that system. As Mr. Sloane indicated, it's possible to estimate with current information the siltation/sediment inflow and how that relates to prospective habitat structures that would be potentially constructed. The second consideration is that according to the Commission-approved San Juan Management Plan, all indications are that the relative magnitude of angling has been maintained at the objective levels and the level of satisfaction is also at target level. Presently it's not clear that a study/investigation is necessary but in fact that we have existing information or the ability to use existing information and some further analysis that can be done to ultimately do what's necessary and that's to interact more effectively with Bureau of Reclamation/BLM regarding water flows and prospective sediment inflow.

Chairman Arvas: From what you just said I make the assumption that you and the Department are comfortable with what we're doing on the San Juan at this time?

Director Thompson: I'm not sure I'd characterize as we're comfortable with all we're doing. We're comfortable with the information that's available and the role the Department is playing and can play in the future regarding important interactions with Bureau of Reclamation/BLM.

Commissioner Simpson: Other sportsmen and I listened to information provided by the Department on the San Juan River conditions/scenarios that go with it and basically everyone's happy based on the limited data, but people who've fished there for 10-15 years have noticed significant degradation due to sedimentation. There are significant problems and because people are happy with catching fish in limited stretches, that doesn't look at the whole problem and what we're facing because oil/gas development is significantly going to increase over the next few years. We need to look at an analysis/study to figure out what's going on and what we're going to do because what we've done so far has been

ineffective. A number of people have sent in numerous e-mails/comments to the Commission. Therefore, I and a lot of other sportsmen disagree with the Department's position/management plan on San Juan River.

Commissioner Buffett: Does our current understanding of the sedimentation situation provide us with enough detailed information to know which specific industry and location of those activities may be contributing to the sedimentation problem?

Mike Sloane: I don't think we have that information. As you know the drainage around the San Juan is made of sandstone. It's highly erosive and there's an expectation of sedimentation in that region given flash floods, etc., so we don't have a good handle on the exact sources. We've worked with BLM to develop a map of where they've done some re-vegetation. We're going to go back to them and get a map with pad/road locations and see if we can't further develop an understanding of that.

Commissioner Buffett: So you feel you can get a handle on the sources/causes of sedimentation related to increased industry with existing resources or do we need more money for a study?

Mike Sloane: Marc Wethington in talking to BLM, BLM interested in working with us to better understand what's going on in those systems, so I think that a good first step would be to work with them in a collaborative way and develop those maps and those understandings.

Director Thompson: I'd like to add that there is existing information that's been produced through research by the U.S. Geological Survey that allows the ability to estimate sediment loads produced from at least general categories which is natural surface disturbance. All of those estimates have not been prepared but are capable of being prepared and we've identified that to be done. To emphasize something Mike said, it's very clear that thus far the predominant contributor of those sediments is natural erosion in that particular area. However, as we look to the future with some of the additional planned oil/gas development and a few other land-disturbing activities, we do believe it's possible to effectively estimate what that would contribute. That then becomes a significant topic of our discussion with BLM and their permitted activities.

Commissioner McClintic: Director Thompson, to clarify Commissioner Simpson's view, I think what the issue is do we believe that in-house studies have addressed all the issues that the sportsmen in that area and their concerns or is it lacking in some areas? I agree that we have to address all the problems before we can try to get funding to correct them and they have to be solid in our assessment so is an additional amount of money needed to research and address more issues or do you feel confident in your role with the Department that what we have done so far is adequate?

Director Thompson: No, I don't believe that everything has been done. There are additional questions that have been identified that can be effectively addressed with some additional analysis of existing information and as recently as this week some of those additional questions were identified primarily related to the way in which people fish the river and whether there have been some changes in that. It may be that Mr. Sloane can offer additional information regarding what we see as far as overall angling, but when it comes to knowledge of waterflows/prospective sediment inflow we do believe that sufficient information has been analyzed or exists and can be analyzed to answer some of the questions that you've just identified before there's any certainty of additional research being needed.

Mike Sloane: I agree. We have an abundance of information and we've looked at it largely as a single stretch of river and some of the questions that are being asked are about specific segments. We've collected that information by specific segments and we can go back and look at that and see if use patterns are changing within certain segments, if fish numbers are decreasing within certain segments, and try and tease out the reasons for those changes. The overall fishery is stable but when we start to look at smaller segments, we may see some changes that would help us understand why sportsmen are seeing things and help us address those if necessary.

Chairman Arvas: You feel fairly confident that the Department has the capabilities to make these judgments?

Mike Sloane: Yes, I do.

Commissioner Montoya: Mr. Sloane mentioned that currently there are about \$250,000-\$300,000 being allocated to that either through in-kind or direct support so with that amount in addition to the \$250,000 being proposed for habitat improvement, would that allow us to go beyond the river itself and into those drainage areas with some expertise so that when we meet with BLM we're fully aware of the full impact of what that drainage is doing and is that sufficient? Can you use some of those habitat improvement funds if they're allocated for the work that we're describing in terms of the impact that the gas industry is having on the river itself?

Mike Sloane: If we identify projects that are out of the river itself, it's largely BLM property so I think that Sikes money could be applied there for habitat-type projects.

Commissioner Montoya: With the \$500,000-\$550,000 identified as being available for this project and engaging BLM/BOR with their assistance, is that sufficient to do what we're discussing?

Mike Sloane: Yes, I think it is. We're in the fortunate position of having a biologist dedicated to the San Juan. He lives near the river, is on the river every day, and is close to BLM/BOR/State Parks offices, so he's coordinating with them on a weekly basis.

Commissioner Salmon: I've been somewhat perplexed by this issue and frankly somewhat conflicted by it. I think Commissioner Simpson has a point in that I think the decline in the fishery based on what I've learned and talking to people who fish it, has been perhaps a little more serious than the Department has portrayed. At the same time I'm not convinced that a study is necessarily the most direct answer to improvement. I think the Department needs to be a stronger advocate for that stretch of water and be more active in collaboration with other agencies involved, particularly BLM/BOR. I can think of many instances when we've had similar type issues in the Gila Forest area where we've had to work with other agencies and we've managed to make improvements/changes in management through collaboration and sometimes through pushing harder and without necessarily spending more money. I'm leaning that way at this time while at the same time acknowledging that Mr. Simpson is pointing to a serious issue that we need to address.

Commissioner Buffett: It occurs to me that maybe what we need is not only the biological expertise on the fisheries side but an environmental impact assessment the way industry typically retains a consultant to do an EIS. It seems that's the information we need.

Chairman Arvas: Director Thompson, does USGS do that? Is there some work they've done in the past that we could use?

Director Thompson: There's a substantial amount of past work and some ongoing work. I can't speak to all the specifics of this but this is an incredibly involved system where BOR/USFWS/Department have worked for quite sometime and what it comes down to is water flow which I mentioned earlier. There's work ongoing regarding prospective biological implications of different water flow levels. I understand that will in the near future yield revised recommendations. Because that work is ongoing and supported by various investigations, and information compilations analysis, I think that is addressing a key component. Ultimately, the water flow is a product of decisions that the BOR must make with respect to water owners/users in the area.

Pat Block: That's what we're working with BLM on before beginning to make the leasing decisions to assess those impacts which would include any impacts on the sedimentation issue on the San Juan. I'm hoping the overall budget request and this expansion are consistent with the efforts you're referring to even though it's not necessarily the study advocated by Commissioner Simpson.

William Schudlich: Chairman of NM Council of Trout Unlimited. I feel it's great that we have technicians but I also feel that we have to have someone at the level of a biologist who can understand the idiosyncrasies that go with restoring Rio Grande cutthroat trout and other native fish into those water sheds.

Robert Espinoza: Executive Director for Sportsmen for Fish and Wildlife. I've seen the degradation of the San Juan River. Sportsmen for Fish and Wildlife support that \$100,000 request for an independent study to identify problems and gather data necessary to make improvements.

Jeremy Vesbach: I represent NM Wildlife Federation. It's a small request in overall budget, brings more resources to the Department.

Director Thompson: For clarity, this is the budget we bring to the Commission because the Commission is the fiscal oversight body for the Department. Whatever is approved goes into the state budgeting process which means we submit it to the Executive and Legislative branches. They ultimately determine what's included in a budget that goes before the legislature. I wouldn't want anyone to think this is an approval process that produces budget as you've seen it. The other item is that Mr. Block or Mr. Sloane comment regarding fishery biologist associated with Rio Grande cutthroat trout.

Pat Block: We talked about concept of additional technician positions and what that gets to the heart of is that the biologist working on Rio Grande cutthroat trout do more than biology. There's a significant chunk of time that is taken up doing procurement/assembling bids/going through the whole process of acquiring goods/fixing nets/doing tasks that potentially could be better spent doing applied research, doing the biological job they were hired for, but they do have a mix of duties so we're trying to achieve maybe not exactly the same as a new biologist but that we're allowing the current biologist to focus time on biology and not mundane tasks.

Mike Sloane: While we use the term technician it would be a degree-required position. We'd send them out as a pair or with another fisheries technician to do surveys/collect fin clips/send for genetic analysis/assess barriers to do a wide variety of things biologist currently do but needs to focus on other things. These folks can't do an array of things and bring the information back for him to compile. We don't need another biologist in the mix as much as we need more hands out in the field collecting information.

Commissioner Salmon: Regarding the \$100,000, if such money were allocated what fund would it come from?

Director Thompson: It could be identified as coming from 1 or several sources, and what we commonly see is that if there's a general fund component, that item may be kept at the amount but it may be changed to all Game Protection Fund, or the priority on it alone may simply leave it out as it goes through Executive/Legislative process. There's no way to say with certainty but an item as this appears to be the type that if there were a general fund component which is what we're striving for in this budget expansion, it probably would either eliminate the item or make it a target for being changed to all Game Protection Fund.

Commissioner Simpson: The Department has not really assessed and doesn't have the capability to assess and based on the information which has been provided to me, they will not have the capability to have a thorough understanding of drainage structures/water flows and it hasn't been proactively taken care of. Even though we've brought light to this; therefore, I request we have an independent third party evaluate the information related to the water flows and sedimentation in drainage areas flowing into the quality waters because that generates almost \$38,000,000 of revenue to the state. We cannot continue to go along at a snail's pace because things are going to be expedited and increased erosion.

MOTION: Commissioner Simpson moved to include in the budget \$100,000 study done by a third party to look at all the information/water flows/sedimentation rates/past sedimentation estimates from USGS and other sources.

Commissioner Montoya: On a point of order, we need to make a motion to approve the operating budget and if at that point, motion to amend that budget is made then it would be acted upon at that time. We can't amend something we haven't approved.

VOTE: Motion failed due to lack of a second.

MOTION: Commissioner McClintic moved to approve the Department's Fiscal Year 2010 Operating Budget Request and Capital Improvement Project Request as presented, and to allow agency staff to make technical adjustments and changes necessary to incorporate Commission requests and rate changes provided by Executive agencies after this approval, but prior to the statutory deadline. **Commissioner Montoya** seconded the motion.

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

MOTION: Commissioner Simpson moved to amend the budget and approve \$100,000 study to be done by a third party to review all information including water flow rates, sedimentation, and all environmental aspects to assess and state what is correct, or not correct, or what we need to do. **Commissioner Buffett** seconded the motion.

Commissioner McClintic: Is that \$100,000 in that capital outlay the San Juan River habitat to \$250,000?

Pat Block: The answer would have to be no. That work is for habitat improvement that would be done in recognition of the sedimentation concerns, but it is not a study by a second or third party to purely study how the sedimentation is getting there.

Commissioner McClintic: When you were outlaying the \$250,000 you mentioned it was a study and improvements.

Pat Block: That's the longer than yes/no answer. It had to do with the explanations provided that this would be work on that habitat that would recognize the sediment load that's coming into that system.

Mike Sloane: By necessity to understand how to design the structures and size them appropriately, it would have to understand the amount of sediment coming into the system so it would have to make some level of assessment of that sediment in order to size the structures appropriately.

VOTE: Voice vote taken. Commissioners Salmon, Montoya, and McClintic dissented. **Motion failed.**

Commissioner Montoya: I know the vote has been taken, but in terms of Commissioner Simpson's and all sportsmen that have communicated their concerns, with the impact on that river and as I voiced, do we have the capacity to do the work that needs to be done to work with BOR/BLM to try and coordinate how we can mitigate some of these impacts? I felt that question was answered satisfactorily so I'm hoping that with this discussion, at some future date, we can have a report back as to how we're progressing with the work.

Commissioner McClintic: I want to echo that. There isn't anyone on the Commission that hasn't been to the San Juan that doesn't want to do whatever possible. We have a fiduciary responsibility to the citizens of this state that when we do allocate funds that we are conscious those funds are being used appropriately. There's no question we want a study or spend money, but we want to do it responsibly. We have to allocate funds to make the improvements, have an understanding from the Department what they think it would be to build those structures, to work with other agencies or other groups and by no means do I want people to think that because we voted against this proposal, it's not that it's dropped. I was specific in the proposal to have an opportunity to make changes and move forward. We are all obligated to continue with those changes and move forward, it's just that I didn't think it was appropriate to at this time to make that commitment with funds we don't know where they're coming from.

AGENDA ITEM NO. 9: Biennial Review of New Mexico State-listed Wildlife (19.33.3, NMAC).

Presented by Renae Held - The Department presented a revised draft of the 2008 Biennial Review following a 90-day comment period on the initial draft. There are 2 actions to take on the Biennial Review: to change the status of a species which can be done by downlisting species from endangered to threatened/uplist a species from threatened to endangered. These changes are solely based on biological/ecological factors. During this process, wildlife may not be added nor removed during the Biennial Review. That's a listing or delisting, a separate process undertaken—a 2-year process, a

longer and more extensive process. This is a mandated activity. This presentation also requests opening another required 14-day comment period on the Biennial Review before a final recommendation is presented to the Commission for approval.

Stephanie Carman: Loss of the Gray redhorse habitat is our primary reason for concern. This led to the listing of the species as we only found Gray redhorse from Brantley Dam downstream. In the past 5 years or so, we've witnessed a severe loss of Gray redhorse populations such that currently we only find them in the Black River and then a little in 6-mile Dam near Carlsbad. This severe loss is primarily due to fish kills resulting from golden algae as has been previously presented to the Commission. We have it throughout the Pecos in Gray redhorse habitat. Golden algae has severely impacted this fish and because of this increased threat we're proposing uplisting the fish to endangered.

Commissioner Salmon: What's the cause of the algae blooms? Too much nutrient in the water?

Stephanie Carman: There's a lot still unknown about what's causing the golden algae outbreaks in the Pecos/Rio Grande Rivers in NM/Texas/Arizona. There is some thought that it is increased nutrients, and temperature and salinity changes. It's not fully understood whether or not algae is native or introduced, but none of the researchers working on golden algae outbreaks have been able to identify how to stop it.

Commissioner Salmon: So people are working on the base problem? Does it kill fish generally up and down the river or is the Gray redhorse particularly susceptible?

Stephanie Carman: Golden algae has killed all the sport fish/bass/catfish that are important to the anglers in the Pecos River as well as endemic species. It will impact the native invertebrates in the area and we've seen it outside the Pecos Basin. Shawn Denny the Department's fishery biologist in the southeast area is doing a lot of work on golden algae. Texas/Arizona have large task forces, academia and state agencies committed to the golden algae problem. Texas has it in their hatcheries so they're overwhelmed by it. Unfortunately I haven't heard of any new research to what's causing it or as to how we can control it.

Director Thompson: Renae spent a lot of time on all of the different contact avenues that have been used for this particular process. Perhaps even more importantly at the last Commission meeting in July, staff briefed the Commission on an increased approach to provide for comprehensive and systematic awareness of the public. We're still in the process of building that but basically it's focused on ensuring that we have captured all the contact points that have been used within the Department that were not being used across the Department. The intent is that we will have in the next few months put in place a comprehensive and systematic contact process so that there's no presumption made about whether someone wishes to know but rather they will have multiple opportunities to be made aware of any conservation management recovery planning or other type of activity that the Department/Commission are engaged in.

Renae Held: Director Thompson said we did put in a lot of time and effort into this because we do want to increase the amount of information about the biennial review even though it does happen every 2 years. We tried to utilize all the e-mail lists available to us but also hit the main newspapers and larger organizations.

Elise Goldstein: I'm pleased to propose downlisting desert bighorn sheep from endangered to threatened since it's rare to downlist a species.

Commissioner Simpson: Are there any other meta-populations/areas that still need to be re-introduced? What other locations in the state can we have viable populations, and will this change anything in the number of animals that can be harvested/hunted by sportsmen?

Elise Goldstein: We're looking to expand the population in the San Andres Mountains. Right now the population lives primarily on the national wildlife refuge. In terms of other ranges, the Sacramentos might have the most potential. Other places that would be good are the Guadalupe Mountains but there definitely is a problem with domestic sheep.

Commissioner Simpson: Expand on the Guadalupes. They've got what seems to be an ideal place if you remove the sheep grazing sometime in the future. That is a huge range and offers a lot of opportunity and since you're down there a lot of the barbary sheep are down there and does that cause any disease conflicts?

Elise Goldstein: The problem with removing domestic sheep grazing is that a lot of it is done on private land and we don't have authority over private land, so they'd have to stop willingly. Regarding barbary sheep, we're concerned but there's no evidence of disease transmission fortunately. We do know that barbary sheep are more aggressive than bighorn sheep and we've seen that the males will herd/roundup the females and interfere with breeding, but there are desert bighorn sheep herds in Texas that have this problem and they deal with it and seem to do okay. Having domestic sheep there is a deal breaker because wild sheep are going to die if domestic sheep are there. Barbary sheep I'd definitely like to see limited because we don't know how the numbers impact things, but I don't think it's a deal breaker having barbary sheep there.

Commissioner Salmon: How about the potential sheep habitat upstream/downstream of Red Rock Refuge itself? Is there potential there?

Elise Goldstein: It's marginal habitat in that area. If you go north into the Gila, we do have 2 populations of sheep but they're Rocky Mountain bighorn sheep. That habitat was historically filled with desert bighorn, but in the 1960's, those populations were extinct and the Department decided to repopulate them. There were no desert sheep to put there so they were repopulated with Rocky Mountain sheep. They are 2 distinct subspecies so they have genetic differences and we're

trying to preserve the genetic differences. What's currently low elevation Rocky Mountain habitat is not the best and those herds struggle.

Commissioner Salmon: For perspective, approximately how many mountain lions are killed each year as part of the sheep protection program?

Elise Goldstein: We take an average of 3.3 mountain lions per mountain range per year. The numbers are quite small but we've found that when we initially go into a mountain range to remove mountain lions it has the potential to be a large number initially but once the lions are gone from there, they repopulate very slowly so that averages over all the mountain ranges in which we do lion control work. The actual number once the control is done is quite small.

Commissioner Buffett: Since this positive report about a growing healthy population allows for consideration of downgrading, what's your opinion about the trajectory we could be on in terms of reducing and eventually eliminating the mountain lion removal program?

Elise Goldstein: The way we have the mountain lion program set up is that once we believe that the herds can sustain some level of predation on their own, we'll back off the lion control. I don't feel we're there yet with those herds but in some of the herds we have prescriptions laid out. In the Fra Cristobals we very explicitly have thresholds at which point we will change lion prescription. Even though we don't have that in writing and formalized for other ranges, we're looking to do some more things so that when the total population numbers specifically the number of ewes increased to certain thresholds we can back off. One of the problems we're having is that even though the herds are doing okay, getting population growth once the transplants occur and even though we have low adult mortality we are not getting a lot of lamb recruitments. I hypothesize it's mountain lions but don't know for sure. We only have limited information on causes of lamb mortality so I don't think we're there yet, but I think if the numbers do increase we can back off the lion control.

Commissioner Buffett: In the Caballos which I think we approved last year, what would be the target number that we could then eliminate mountain lion removal in that range?

Elise Goldstein: Having 75 ewes in the population would probably be about in a herd of 150 in the Caballos, something in that level maybe we would say we're going to back off now and then when the herd gets to 100 ewes we might say okay we're going to stop and not do lion control and as long as the population stays over 100 ewes we won't do it, but if it starts to decline then we would reinstate it.

Commissioner Simpson: You alluded to some of the limitations as basically the visibility in the habitat and the juniper encroachment, so if we're going to increase the size of these herds, that's a critical habitat issues let alone the nutrition they rely on. Is that a true factor and what is being done to get grazing reduced so you can have control burns and more mechanical things and that involves more money, so what's the likelihood of making significant progress?

Elise Goldstein: Habitat is an issue. Right now there's so much empty habitat that it's not what's limiting things at the moment but in the future we will get to the point where it is limiting things. The Department did a mechanical thinning in the Little Hatched Mountains prior to releasing sheep but it was on a small area. The Department has proposed a larger project in the Peloncillos. BLM is requiring an archeological clearance to have 5 people walk around with a chainsaw and this is not required anywhere else, and the cost is prohibitive. We're looking at way too much money to accomplish that. BLM and other federal agencies do put prescribed burns on the ground but as you know that's inflammatory and when they do get those burns, the problem is that because of the lack of fine fuels, they don't burn as broadly/hot and junipers are difficult to get rid of. As to cattle grazing, most of the problems are more on BLM lands opposed to private land.

Lanny Rominger: I'm President of the NM Chapter of the Foundation for North American Wild Sheep. This looks like it's finally the culmination of an effort for about 20 years with regard to the re-establishment of desert bighorn sheep in their original ranges.

Chairman Arvas: Can you give us an estimate in the last 10 years how much money your organization has contributed?

Lanny Rominger: Through the 2 sources of funding, 1 is raised through an auction at the Wild Sheep Foundation's annual convention which is a governor's permit that allows the purchaser to hunt either a Rocky Mountain sheep or a desert bighorn sheep either/or of his choice, and the second is through a raffle that's coordinated by the NM Chapter of the Foundation for North American Wild Sheep. The net numbers that have been raised in the last 18 years at FNAWS for sheep in NM is \$1,702,050. In addition to that, the raffle has generated approximately an additional \$360,000 but the most important part of that is the fact that in 1937 probably the most sweeping piece of legislation ever passed in this country with regard to wildlife conservation was the Pittman-Robertson Act. What that allows and directed states to do was to receive matching funds for programs that were approved and expended for conservation in the various states and if you add all those monies expended as a direct result is \$3,795,840 and that's money brought into the state through national FNAWS, local organization and matching funds from Pittman-Robertson. The highest priced item auctioned at FNAWS Convention for 2 years prior (2006 and 2007) were from NM and that speaks volumes to the quality of the sheep population in this state, including Montana/Arizona/Canada which are noted as the place to hunt wild sheep.

Brian Bartlett: The state has 1 of the most successful wild sheep programs in the U.S./Canada, and as a result the Wild Sheep Foundation has expressed great interest in working more directly with the state in trying to promote wild sheep conservation and wild sheep biology all over the country.

Nicole Rosmarino: With WildEarth Guardians. Our organization has specialized in reducing grazing on BLM lands. It would be helpful if the Department would engage in the renewal of grazing permits. There needs to be an environmental assessment and the Department's voice would be helpful in that process.

MOTION: Commissioner Montoya moved to open the 14-day public comment period on the revised draft of the 2008 Biennial Review as presented to the Commission, and have the Department develop a final draft Biennial Review to be presented to the Commission for approval in October 2008. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 10: Prospective 2009 Legislative Initiatives Update.

Presented by Luke Shelby and Patrick Block – The Department provided the Commission with an update on prospective 2009 legislative initiatives. Transmittals of prospective legislative agenda items have been provided to the Executive Branch and we're awaiting interaction with them. We're awaiting feedback on what the Department will be pursuing during the session. At a meeting last week of the Interim Land Grant Committee, they wanted information on the Open Gate Program and the Elk Landowner. The Interim Water and Natural Resources Committee also had interest in hearing about Department/Commission activities in the areas of depredation/human wildlife conflict.

Commissioner Salmon: Explain the proposal for non-game fish regulatory authority and provisions for reliable conservation funding. Regarding conservation, is that exploration of alternative funding for the Department and on the non-game fish regulatory authority, what's the need?

Luke Shelby: We were successful with non-game fish authority until the end, but basically what that bill does is provide authority to the Commission to determine how non-game or bait fish can be removed from waters. We're finding several of the techniques anglers are using to remove bait fish are actually injurious to game fish so we want more say on the Commission's behalf on how those species can be removed from the water. On the reliable conservation funding, is a proposal to take a small percentage of the gross receipts tax for fish/wildlife/habitat purposes.

Director Thompson: Today is the third Game Commission meeting where this item has been held and certainly it's still appropriate for Commission members/members of the audience to identify prospective topics. That's 1 of the reasons we've done it this way this year—to provide a maximum opportunity for prospective legislative topics to be identified.

Commissioner Buffett: The Department should be aware that the NM environmental community came together recently and determined that 1 of it's priorities this session will be moving forward an environmental assessment act or a state-level environmental protection act.

Susan George: I'm a senior attorney with the Wild Friends Program at UNM-Center for Wildlife Law. Three topics students are considering for the 2009 legislative session are amending the bear proof container law, doing something with the Western Governors Association's recommendation about state actions that could be implemented to strengthen wildlife corridor planning at the state level, and aquatic invasive species.

Jeremy Vesbach: Executive Director with NM Wildlife Federation. We support this because it increases the strength and authority of the Department in areas needed and sportsmen are happy to see that.

William Schudlich: Chairman of NM Trout Unlimited. We support this moving forward. On authority concerning aquatic invasive species we need to stay in front of this issue. We also support wildlife habitat considerations and energy development decision making and very much support provisions for reliable conservation funding, especially on native species.

Larry Caudill: Does the Department plan to take a pro-active approach on modifying the depredation rule?

Luke Shelby: Yes, the Department has that identified as 1 of our suggested topics provided to the Executive branch so we are considering changes to that statute.

AGENDA ITEM NO. 11: Adoption of Amendments to the New Mexico Hunter-Trapper Harvest Reporting Rule, 19.30.10, NMAC.

Presented by Tim Frybarger – The Department provided the Commission with proposed amendments to the New Mexico Hunter-Trapper Reporting Rule, 19.30.10, NMAC. The first amendment allows hunters applying for hunts with an application deadline prior to February 15 annually, and to make the deadline February 15 for all hunters. The second amendment deals with trappers/furbearers. Their deadline is March 31 and several trappers report that they trap up until March 31 and they don't get home until the next day so there's no way for them to report. The Department is requesting the Commission move that deadline to April 7 to give them the time to report their harvest.

Commissioner Salmon: What can you trap until March 31?

Tim Frybarger: You can trap beavers/nutria/muskrat until March 31.

Jeremy Vesbach: Executive Director with NM Wildlife Federation. We support this and when you do the February applications, a reminder will pop up if you haven't submitted your harvest report.

MOTION: Commissioner Montoya moved to accept the Department's recommended amendments to the New Mexico Hunter-Trapper Reporting Rule, 19.30.10, NMAC. The first amendment will remove the requirement to submit a harvest report prior to the application deadline, if the application deadline is between January 1st and February 15th annually. All hunters applying for hunts will have to submit their harvest report prior to February 15th to be eligible for any hunts with an application deadline prior to February 15th annually. The second amendment will move the reporting deadline for trappers and furbearer hunters from March 31st to April 7th annually. **Commissioner McClintic** seconded the motion.

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:

Craig McClure: President of the Black Bear Benevolent Bureau. We request the Commission consider as they apply to bear management hound hunters take 5 times the bear other hunters do, and the fall hound hunt be cut back to 2 weeks on all zones. Further due to the bears attempting to gain weight in the pre-den period, we ask that there be no hound hunting north of the I-40 corridor after September; we ask the Commission to look to the future as the trend continues to be less hunting and more people move into the state and to find other areas for funding. As to depredation information, the Black Bear Benevolent Bureau asks that a bear depredation report with all pertinent specifics on deaths of bears be issued each year so that the public might profit from information and look into potential problems that might be headed off for the next year to reduce depredation numbers. We continue to disagree with Rick Winslow on estimates of bear population numbers and we see a continuing trend to increase harvest numbers regardless of forthcoming data. Lastly, we hope a bear management task force be made up of not only state but also federal agencies.

Larry Caudill: Regarding scheduling of Commission meetings, 85% of meetings have been held somewhere other than the central area and is an unreasonable hardship on license buyers because 2/3 of license buyers live in the central core area. During last 2 years, meetings of most general interest in the state big game season setting regulation rule last year was in Tucumcari, this year in Alamogordo, and of all the meetings in the state that meeting should be in the central area equidistant from everyone in the state and a disservice to the support base.

Director Thompson: I had a similar conversation with Mr. Caudill and I've not yet prepared the information I told him I would follow up with. I don't believe his 85% figure is correct. Nonetheless, his point is well taken but we do this because the Commission has seen the value in having meetings around the state: better connection to communities/legislators/topics. We have strived in recent years to have basically 1/3 of the meetings in the core area he's mentioned, and 2/3 of meetings elsewhere around the state.

Larry Caudill: Unfortunately that's not what's happening. I disagree and take exception to that.

AGENDA ITEM NO. 13: Update on Progress of Depredation Assistance Rule, 19.30.2, NMAC, Amendment Development Process.

Presented by R.J. Kirkpatrick – In April the Department requested the Commission open the depredation assistance rule so the Department could work on developing amendments that would allow the Department to be more efficient/effective in dealing with property damage or depredation complaints. The Department provided the Commission with an update on the development of potential amendments to the Depredation Assistance Rule and the development of a "Depredation Response Manual", designed to improve the Department's effectiveness at resolving wildlife damage complaints. The Department is proposing eliminating language and making the intent of the development of interventions so that the Department is developing strategies that actively and fiscally responsible minimize/solve problems, and accomplish mitigation of damages.

Chairman Arvas: Under list of topics initially considered, identify language in the depredation rule that is inconsistent with other rules to eliminate or modify?

R.J. Kirkpatrick: In current rule under potential interventions, depending on how you interpret it, there's language that asserts that the provisions of landowner authorizations may be an intervention. The Commission/Department have moved away from doing anything in response to depredation that provides significant and economic benefit to a landowner that would likely result in encouraging continued complaints. Providing landowner authorizations in exchange for complaints has led us down many bad paths so we're going to eliminate that language.

Chairman Arvas: What timeframes are you looking at to be able to implement this?

R.J. Kirkpatrick: Depending on the guidance from the Commission, we'll finalize draft amendments between now and October.

Commissioner Simpson: A gentleman from Raton shot quite a few antelope, and said he had elk authorizations. That conflict should be changed. Is that going to be addressed or is that something that you've already set?

R.J. Kirkpatrick: If you'll recall, the elk private land-use system rule we implemented in 2006 has a provision in it called participation requirement. Landowners that participate in the E-PLUS Program specific to elk have to voluntarily accept elk on their property. If a landowner chooses to file a depredation complaint against elk or take action pursuant to statute, i.e., kill, they've made a decision not to participate in E-PLUS any longer, so we remove them. The antelope private land-use system rule that we're developing will also have the same provision. A landowner that's participating chooses to file a complaint or take action pursuant to statute, he would have made a subsequent decision not to be eligible to participate in the antelope private land-use system as well. The other component of your question is do those 2 overlap each other in that if an individual is receiving elk authorizations pursuant to the elk private land-use system and takes lethal action or files a depredation complaint would we remove him from E-PLUS? We don't currently do that nor would I suggest we make both of those overlap.

Commissioner Simpson: I recommend you do that approach. I think there's lots of leeway there. You're using 1 scenario to leverage the other and leverage we need.

Gene Tatum: President of Albuquerque Wildlife Federation. I recall at the Santa Rosa Commission meeting that part of the reason for pursuing the change to the depredation rule was the killing of 48 antelope in the Cimarron area. The Albuquerque Wildlife Federation formed a sub-committee to review the rule to try and develop a better understanding of the relationship to the rule and make recommendations that would help amend the rule, and to work with the Commission/Department in trying to reach a reasonable conclusion to the killing of the antelope. Based on our review of the rule, it's our opinion that the rule/law is sufficient now to consider the killing of those antelope a violation of law. Since we've completed that review, we've been informed that the Department has a legal opinion that states that private landowners have the right to follow the law and not comply with rule. As long as the law is interpreted that way, you can change the rule and it still won't prevent senseless killings of wildlife in the name of depredation. So we can better understand how the law is being interpreted, we request a copy of the legal opinion that the Department has used to make the determination that private landowners have a right to follow the law and ignore the rule.

Commissioner McClintic: I didn't want to convolute both areas. We work on our depredation rules inside the Department and what you're referring to was not our rule, it's a law that the legislature approved so we are all working together trying to amend that and have a better understanding so instances don't continue to take place. But you are absolutely correct—our depredation rule would have no effect on that whatsoever, and we are trying to work together to try to make some headway in these areas.

Gene Tatum: The rule is promulgated under the statute so they are working in conjunction to each other and we would like to see the legal opinion that the Department has on how the law/rule fit together. If the law needs to be changed to prevent abuses of this sort, then we need to understand how the law has been interpreted, then subsequently apply to the rule.

Luke Shelby: I've attempted to work with Gene several times and haven't been very successful. It's a difference of opinion of how some people interpret the statute. I don't know what specifically he's referring to about how a landowner can violate rule and other accusations made. We'll make another attempt to try to work through this difficult situation if you so request it. Regarding the legal opinion, I believe that came from a conversation I had with Gene and it's not a written legal opinion nor has it ever been a written legal opinion. There was nothing in my comments to Mr. Tatum that would ever have indicated there was a written legal opinion. Several directors and representatives from the Attorney General's office have interpreted that rule and what it allows a landowner to do. I think we can get to a better spot now that we have something on paper and I'll endeavor to persevere with Mr. Tatum and members of his group.

Chairman Arvas: We have the handout you've given us, and we'll get back to you with a response.

Gene Tatum: The letter has more detail about the Department not following the rule because it clearly states in the rule that there has to be an assessment of values of wildlife and private property and we can't find where any of that was done. If that's not done, then people have no authority to kill or to take. It further states that for depredation there's another procedure for non-lethal actions that need to be taken.

Jeremy Vesbach: Executive Director of NM Wildlife Federation. Reviewing the Department rules and making sure there's nothing that offers financial reward that comes from complaints. Along those lines I'd like to second what Commissioner Simpson said about looking at it across species and big game. We got a lot of calls from our membership after what happened near Cimarron. They did not feel he should keep getting landowner authorizations for elk. The Department's made progress by separating depredation from landowner-elk system within elk. It should seriously be looked at across big game species.

MOTION: Commissioner McClintic moved that R.J. put this together quick and bring us something you recommend and get this in place. Commissioner Simpson seconded the motion.

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

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

Presented by R.J. Kirkpatrick – The Department provided the Commission with an update on Big Game Rule development and unresolved issues for the 2009-2010 and 2010-2011 hunting seasons which focused on specific, unresolved issues, detailed information on enhancing youth-hunting opportunities, and new ideas not previously discussed. R.J. reminded the Commission/audience that the Department asked the Commission to open all these rules for taking public comment, having discussions, and input. **Deer:** We feel comfortable that 99.9% accomplished incorporating vast array of interests/desires into prospective deer rule for 2009-2010 season. **Bighorn Sheep:** Is fairly resolved to date. Big issue had to do with proposal to establish possibility of ewe hunting opportunity in Pecos. Keep in mind that language in the amended bighorn sheep rule establishing the bighorn ewe hunts does have the caveat that director/chairman can re-evaluate prior to making licenses available depending on success with trapping activities/population status. **Turkey:** Turkey rule is fairly complete with a few outstanding/unresolved issues. The Department doesn't have biological significance in that the harvest of gobblers doesn't necessarily make for more turkeys the following year but it will make more gobblers available for hunters who have yet to fill their tag. **Javelina:** There's a separate bow season for javelina. We've added a new youth-only javelina hunting opportunity advantageous to youth. **Bear/Cougar:** The Department is in process of finalizing a new bear resource and harvest management matrix. Recommendations of female cougar take have basically centered on the Commission adopting rule requiring cougar identification course implemented such that you must take that course and pass it prior to being able to purchase a cougar license. To address the perception that too many females are being harvested with kittens we're going to propose starting the season a month later in November. A predominant issue brought forward is reporting. **Exotics--Barbary Sheep/Oryx/Ibex:** The Department's perspective on oryx issue is that our current objective is to minimize oryx populations outside WSMR and do that in a manner that's not restrictive/complicated/prohibitive. **Barbary Sheep:** Currently barbary sheep hunting is over-the-counter with no limitation on who or how many are bought. We've recommended moving public component of barbary sheep hunting to a special entry/draw process.

Commissioner Simpson: Seems to be a kind of dichotomy that we're going to have a limited hunt on barbary sheep and there's significant interest about making sure we don't decimate numbers but we're going to do opposite for oryx. My personal opinion is and you're doing something for barbary sheep to protect it and make sure it has viable options and we want to significantly reduce oryx. It's not good policy. These 2 species have been around a long time and we need to protect them and maintain at least some fairly decent populations, provide good hunting opportunity not only for public hunters but for outfitters. Bring in economy. We need to be uniform and make sure we're doing something for both animals equally and I'd like to see good viable populations that provide hunting opportunity.

Commissioner Salmon: I reiterate what Commissioner Simpson said at least based on input I've been getting from southwestern sportsmen, in particular, relating to oryx. They weren't fond of the proposed rule change and wanted the species managed more sustainably on/off the reserve. Regarding the wanted hunts, is there any other game animal in the state where the rules governing the hunt are different on private land than they are on public land?

R.J. Kirkpatrick: Yes. Deer for example. Private landowners can purchase deer hunting permits/licenses over the counter, while all public land hunting is through a public draw restricted.

Chairman Arvas: R.J., you need to qualify that statement. Private landowner can get permits during the established seasons. It's not year round.

R.J. Kirkpatrick: Yes, that's correct. With deer there's no permit getting but they are restricted to hunt windows as compared to cougar hunting on private land that is a year-round opportunity for private landowners.

Commissioner Salmon: I suggest on lion hunting we look at returning at a system with more consistency between private/public landowners. If we've got a resource we want managed sustainably, we should consider consistency on public/private lands.

Commissioner Buffett: I understand that in the 2006 process there was a commitment to take the teeth from female lions to conduct an analysis to make sure no more than 25% of females killed were breeding females, and that was the threshold set based on literature that suggests that's where decline happens. Has this analysis been conducted on a regular basis?

R.J. Kirkpatrick: I've requested Rick Winslow put that information together and he can give you the numbers exactly, but in 2006 season we collected relatively few teeth from cougars. In 2007 we collected more than that. To date none of those teeth have been analyzed but they are with the lab that contracts with us.

Rick Winslow: We'll get results next June/July.

Commissioner Buffett: So we won't have the benefit of those data prior to making the rule related to cougars?

Rick Winslow: No.

Commissioner Buffett: That's a 2-year old request? Why such a delay?

Director Thompson: In part the answer is that was discussion involved with rule making in 2006, but those rules weren't actually effective until 2007 so we've been under that for 1 year. That would have been related to cougar harvest last year so while it looks like it's 2 years, it's actually about 1 year at the most.

Commissioner Buffett: But I do hear a commitment that that's going to get analyzed and provided to us?

Chairman Arvas: I think you do.

Commissioner Simpson: I think went to a mandatory course for evaluating and assessing female cougars and how that benefited and propagated and made sure we don't wipe out too many female cougars and why you're going from a different direction which I thought was a good scenario based on what Colorado set up.

R.J. Kirkpatrick: I'm not sure when Colorado moved to a mandatory cougar identification course and passing that course prior to being able to be licensed to hunt cougars. My understanding in talking with Colorado is that that was actually an adjustment to their requirements requested in large part by their houndsmen and cougar hunters which resulted in no significant issues. It was a step to ensure that the female component of harvest was within sustainable limits to ensure populations stayed within management goals or maintained viability. We could go into details about what kind of cougar harvest is occurring in NM under our current rules and how establishing a female sub-limit would fall into line with that. Our cougar populations are healthy and the level of female harvest is well within limits of sustainability based on a variety of research done. If in fact, we had cougar populations in the state or even a sub-population in NM where the level of female harvest was such that it was in excess of 20%-30% of a population, we would be extremely concerned and be more aggressive about worrying about this female harvest component but the reality on the ground is that the female harvest in NM isn't jeopardizing the viability of our statewide nor our regional populations at this point. It may take us 1-2 years to implement the online cougar identification course/test.

Commissioner Simpson: Enlighten me/public what reporting has to happen on private land? If I remember correctly, private land is year round hunting for cougar, correct?

R.J. Kirkpatrick: Correct. Anyone that partakes hunting cougars on private land must be licensed. Anytime a cougar is harvested, they have the same reporting requirements, all those kills are brought to the Department, they are tagged, tooth is collected since 2007. They fall under same restrictions/requirements as do anyone else except for the length of the season they have available to them. The harvest that occurs on private land is also recognized as a component of the total sustainable mortality by zone in NM. The perception is all the harvest that occurs on private land is accounted for and population assessments at zone levels is not out of bounds.

Chairman Arvas: Go over the rationale of why you're considering off-range oryx hunting?

R.J. Kirkpatrick: The Department's recommendation 2-3 years ago is recommending that off-range oryx hunting opportunity be made available over the counter and hunters can go anytime he wants during the course of the year—year round over the counter. The resistance to that has to do with being that we're going to decimate the oryx populations outside of WSMR. That's the direction the Department/BLM have been trying to go, maybe not eliminate but keep them at low levels outside the missile range. A lot of the concern is that a significant number of our sportsmen see them as a unique hunting opportunity and they want us to manage those populations within reasonable limits off the missile range and over the counter year long would not lead us to that end. That's the differing opinion and why this continues to be an issue. If the overwhelming consensus and the Commission's desire is that we continue to regulate the take of oryx outside WSMR through a drawing process and restricted hunter number process we will continue to do that. The issue on barbary sheep is similar. The Department's recommendation was hypocritical compared to oryx in that the Southeast Area after having spent 3-4 years visiting with sportsmen/landowners felt we've got too many people because of liberal ability to purchase an over-the-counter license in lengthy seasons to hunt barbary sheep. There are more people every year going down there and doing that. The worry was the harvest is becoming excessive and populations will be decimated/decline significantly and the desire that that not happen thus the recommendation to move public barbary sheep hunting through a draw process. The other component for request to move to a draw was currently when sportsmen purchase licenses from us over-the-counter, our ability to know who that person was it's a long time for us to get that information. It would enable us to know who those hunters are immediately because they'd be licensed electronically through our systems and we could start doing telephone surveys to see what kind of harvest these increasing numbers of hunters are having. That harvest information in combination with survey effort would let us be smarter about what kind of barbary resource we have in that country. That was the other component of recommending moving barbary to a draw process. The controversy is whether or not we want to manage barbary at some sustainable level and take steps to insure they are not excessively harvested and that becomes detrimental to barbary hunting opportunities, or do we want to be liberal about barbary hunting opportunities that we're not worried those populations are declining because of harvest and we don't want that many barbary anyway and that's the issue at the heart of this.

Chairman Arvas: Are you leaning toward a more lenient policy for private landowners?

R.J. Kirkpatrick: Currently it's pretty flexible on barbary sheep hunting. A license can be bought over the counter. There's a shorter window of time in those GMU's, but there's no limit to number of licenses.

Chairman Arvas: But they're saying that's not enough time?

R.J. Kirkpatrick: The landowners are saying they'd like more time. They wouldn't mind year round, but what you have is the public hunter perspective and Department perspective that outside those 100% private properties licensing is over the counter, even though it's only 4-6 week season. The belief is we're killing too many barbary because we've got so many more hunting them and that's why they suggest we put it into a draw process, not only to identify those hunters and do

telephone survey work but create a process that an individual would have to go through. Over the last years there has been an increasing desire by hunters for the Commission/Department to do something about the application/drawing process so people can draw a license/permit more often. Other components to licensing/application having to do specifically with mule deer are people who apply for deer that application deadlines are second draw, in April, and in an attempt to accomplish no negative impacts to license vendors by people not having to go into stores to purchase licenses we move to this permit system where if you apply for deer and successfully draw, you receive from us is a permit. You then have to purchase a license from a vendor and if you're going to hunt on private property you have to have written permission.

Commissioner Salmon: The Director sent a proposal similar to 1 you just mentioned that seemed to increase changes by about 1/3 if you don't draw the first time around. I disseminated that essential information to a number of big game hunters in my area and it met with general approval. That was 1 system on a local level that seemed to get a good response. Can you comment what essentials of that proposal were?

Director Thompson: R.J. has largely described that with the birth year bonus approach as something that could be put in place relatively simply compared to other kinds of things. The way it would operate is every second year depending on whether a person had an odd/even year birthdate, they would essentially have an additional chance in the drawing and by doing that on average 2/3 of opportunities would be distributed to half of the individuals. Depending on how a particular individual might apply and what their choices are may have little to no effect. The entire public drawing process is conditional on the choices that any applicant makes as well as in what the entire application pool does, but the simplest way to think about it is approximately 2/3 of the opportunities would be distributed to half of the individuals and it would reverse the next year.

Pat Block: This system does not fix everything, but it hopefully changes that distribution where more people are drawing less often compared to each year as an independent event and the past has no influence.

Chairman Arvas: What would you guess if we went to the full fee payment up front, what would be the percentage of improvement in getting drawn? What would the total number be of people that you think wouldn't apply?

Pat Block: It's hard to tell. It depends on how much income people have available they can tie up for a couple of months. People that have enough money apply for every species and tie that money up for a couple of months are going to keep applying for every species but someone who doesn't have that kind of money is not going to apply. One thing we've heard is that we get a lot of non-resident applications because of the \$8 application fee. Those would certainly go down but what we're seeing now is with that 10%-12% quota, there are already quite a few more applicants than opportunities. You could cut the applicant pool in half and those hunts are still going to fill out on the 78-10-12 quota so I don't see that making a huge difference on converting every license to a resident license or running of any non-resident hunters because there are many more that want to hunt than have opportunity.

Chairman Arvas: If we go back to the years when we did have that as policy, and look at the number of applicants in comparison to the number of permits, I don't think we've increased the number of permits significantly have we?

Pat Block: We have in that many more deer applicants go through the draw so that's where we've seen the increases. There weren't as many deer hunts involved with the public draw prior to the last few years, so that's where the biggest increases come. We have also seen increases in other species and some of those fairly long shot hunts. We're getting more applications for bighorn sheep and that's in part because of the application fee only so you'd certainly get less applicants but it's going to be 3,000 applicants for 18 licenses instead of 6,000 applicants for 18 licenses.

Commissioner McClintic: For clarification, I've misunderstood was that if you had 6,000 applicants for 3,000 hunts and you made them put up the license fee up front and it got down to 3,000 applications, your percentage to draw that hunt would be much greater? I'm not saying we're not going to fill the hunts then by doing that. I think the question is that it would increase the opportunity for people to draw that didn't pay for the license up front, you agree with that?

Pat Block: Under that scenario everybody is going hunting.

Commissioner McClintic: How do you figure?

Pat Block: You said if you had 3,000 licenses—

Commissioner McClintic: No, I said do you agree that it increases somebody's chance? I said I didn't ask you if you agreed that all the licenses—

Pat Block: Yes, sir.

Commissioner Montoya: Most people that comment to me aren't necessarily on this e-mail list or go to meetings, but nonetheless, they relay their comments to us in different ways. On the deer hunts, practically all comments are in favor of the 3 things discussed here: developing a system where the opportunity is spread out more whether it's birth year bonus or another idea, but some people draw 5 years in a row and others don't draw at all and I think a system that will spread it out more is what I think people would like to see. R.J.'s idea on the comments he's received are in line with what I'm getting as feedback in that the less we complicate things with an application process the better. If we would bypass so many steps and put in an application and if you draw, you get a license. I've been out in the field and met up with people that have a permit but not a license. I hear a lot from people that would like us to go back to paying the full license fee up front and that

would spread it out more. Unfortunately some might not have the resources to do that but that'll impact those individuals. If you want to hunt you're going to have to come up with the resources either in February or whenever you buy your license.

Pat Block: By way of background, the change from full license fee on deer to permit only and the license purchase only after the fact happened as we were transitioning from over-the-counter deer hunting on public land to the draw scenario. What we heard was when we went to that and the first year we did require people to pay for the deer license along with the draw was we heard it from legislators/public was impose a fee increase without going through the legislature because I used to buy the senior general hunting and fishing license which cost less than the deer license so you took that discount opportunity away. So that's what has taken more thinking how can we preserve the ability for people to buy these discounted licenses that are provided for in law and still end the draw process with everything they need in 1 shot.

R.J. Kirkpatrick: Elk is a significant rule development. One unresolved issue is reduction in number of Valle Vidal opportunities. That was a result of our officers interacting with hunters where we've had significant increase in opportunity and concerns that Once-in-a-Lifetime status, i.e., totality/quality of that hunt is being degraded because we're putting too many people into that system.

Commissioner Salmon: Assessing the input of local hunters, I got a few requests for the crossbow option roughly what is the elk population statewide?

Stewart Liley: We believe the current statewide elk population is, and this is a pre-season estimate, roughly 70,000-90,000.

Commissioner Simpson: The public doesn't have a good appreciation about who makes the decision, what's valid, but at the last Commission meeting in Las Vegas, public notification process is going to be more formalized to apply to everything. We've only got 2 months left but I think in order to get a valid idea for the public to understand who's pushing buttons and who's complying. I think we need to have some kind of information pasted on a board that says here's who's commenting and here's a recommendation just in a simple excel spread sheet so we have an understanding of who's pushing this, what's viable, and it just may take 1 person to have a whole new idea. I think it's critical because I see a lot of push/pull, I fought this crossbow over a number of years once you get it in the door I've got to have a special season they put a bow season in the middle of a rifle javelina hunt and it causes a lot of conflicts and there's a lot of disparity about who got what just because a few people wanted it, and somebody in the Department says yeah and it gets thrown in there. I would personally like to again say and several other sportsmen have told me that they want to see who's submitting comments, what their proposals are and it's on the website and everyone can go in there and see what's being said to make some valid comments or make counter arguments. I want you to consider that.

R.J. Kirkpatrick: At the last Commission meeting the Chair asked me that when we go to the October meeting with our final recommendations that we develop some simple tables that demonstrate currently what are we doing, proposing, what's change, and what's level of support pro or con.

Pat Block: In discussions with some Commission members and other venues we're learning that social networking online is a way to make sure that people have better access and knowledge of our program.

Commissioner McClintic: I know it's difficult for people to understand that when the federal government owns this that we're offering people any opportunity for an extra 5 tags but they're going to have to pay quite a bit more. I know the Valles Caldera is under budget restraints and they're under mandates to be self-sufficient by a certain year and I realize they're trying to examine every possible opportunity. I caution you on those 5 hunts to put them all in together with the 13 to maybe put an asterisk and a caveat next to it that says special fee refer to Valles Caldera and then we have no problem.

Garth Simms: I'm Executive Director of the NM Council of Outfitters. I'm going to touch on 4 issues that the Council would like you to consider in terms of increasing the success in the draw. We'd recommend the Commission go to a system of requiring people to submit their license fee with their application on provision that if they're not successful in the draw they get the license fee back. We'd like to see the Commission re-open negotiations with White Sands Missile Range on number of oryx on the range. We support the Department's recommended increase in the number of elk bow hunts in the northern part of the state; and we support the Department's recommended decrease in the number of elk permits in Unit 6-C and we encourage them to go ahead and look at Unit 10 and get the number of permits down in that unit.

Jeremy Vesbach: Executive Director of NM Wildlife Federation. We support the youth proposal.

Jack Diamond: From Beaverhead Ranch. I'd like to see the Department enter into a new agreement with White Sands to keep the population at least at current levels. I support the license fee issue. Regarding lion hunting, if the biology says lion hunting is fine now why would you change it.

Michael "Mick" Trujillo: I'm with Valles Caldera and a landowner in Unit 51. In Units 4 and 51, there are many private land plots, small farms/ranches and they're concerned with depredation elk damage to their crops/gardens especially with the economic situation. In northern NM more people are relying on gardens/hay crops they raise for their livelihood so there's a question about Unit 4—increase/decrease tags. There's still controversy about the union of Unit 5-B and 51. The Valles Caldera would like to be included under the umbrella of the Ferranti trespass complaint.

Larry Caudill: I support the NM Council of Outfitters that we should be putting in money for applications up front.

Ron Shortes: I represent Catron County and our family ranches. As a landowner it's been my experience that the Department is now putting a lot of effort into giving landowners credit for what we do for habitat and wildlife and I think most landowners do to some extent but obviously programs the Department now has require us to show what we're doing for habitat.

Robert Espinoza: Executive Director of Sportsmen for Fish and Wildlife. We support going either to a full application fee instead of the \$8 fee. One other viable option the Department might look at is Colorado/Utah/Arizona where you buy an actual hunting license prior to application.

Bob Atwood: President of NM Council of Outfitters/Guides. If barbary sheep goes to a restricted draw, we'd like to see in place private land permit system like with deer to allow landowners to conduct hunts on their property. We do not support any boundary change between Unit 6-A and 6-C.

Deborah Risberg: Wildlife Programs Manager for Animal Protection of NM. We support a conservative female cougar sub-limit paired with the mandatory hunter education because it'd still be necessary for hunters to distinguish between males/females. We support a Commissioner's suggestion to manage kills on private lands consistently with public lands. We support dismantling GMU 30 program, preventative cougar killing in southeast NM.

Nicole Rosmarino: Wildlife Program Director with WildEarth Guardians. We support 3 areas we see for improvement: mandatory hunter education, count all cougars killed in the state, and we ask the Commission eliminate the state sponsored cougar killing program in GMU 30.

Troy Omness: Wildlife Manager for Rio Hondo Land & Cattle Company. We oppose going to draw system for barbary sheep. We'd like for you to consider going to year round hunting for barbary sheep.

Kent Salazar: Regional Director for National Wildlife Federation. We need to stick to science based game management appropriately developing future sustainable management populations. I support cougar education program. I'd like to see equal hunt period between private/public land. The oryx/barbary sheep public hunt I think is working.

Commissioner McClintic: Kent/Jeremy/Robert when we talked about Valles Caldera, what I was saying is that we have no say in what they want to charge. I'm saying that to protect hunters that apply rather than apply for 13 permits and then be subject to a much higher fee if we put in there that if you do apply for the 5, you're going to be subject to a special fee. We weren't saying yeah, that's a good idea.

Chairman Arvas: Valles Caldera can charge any fee they want for trespassing, so technically, if they want to review all 13 licenses, they can do that.

Commissioner Montoya: I've been receiving comments/calls/petitions from individuals that perceive that there are a lot more elk than what the Department numbers reveal. Of particular concern are comments from sportsmen/landowners are being hammered in their hayfields and they don't agree there are fewer elk. They propose more opportunities be given to harvesting more elk. There are more and more elk feeding on alfalfa/hay fields but what they're saying is that elk are adaptable and are starting to like that alfalfa/grass hay better than the grass in the higher country so they're staying. So the results are that landowners are being economically impacted and their livelihoods are being threatened and so the Commission and the Department encourage them to pursue relief through the depredation program but the depredation program is not working. What happens in Unit 6-A and 6-C is that they're there when no hunting is occurring. As soon as hunting starts they go where they can be protected in the Valle Caldera where there are only 8 hunts.

Discussion item only.

AGENDA ITEM NO. 15: Update on Antelope Harvest Management Review and Planning.

Presented by R.J. Kirkpatrick – Due to the ambiguity and arbitrary nature of how the Department made decisions about the level of antelope hunting opportunity and distribution of hunting opportunity to public/private interests, we're updating the Commission on the development of the Antelope Private Land-Use System (A-PLUS) Program and how it will inform and interface with the concurrent pronghorn antelope rule development for initiation in the 2009-2010 hunting season. We made available a questionnaire to 3,000-4,000 participating private land ranches in our antelope system. There have been many discussions with a variety of interests across NM about pronghorn management. In summary, the sentiments of public hunters are that currently it's extremely difficult to draw an antelope hunt.

Commissioner Simpson: Is all this stuff on the web yet?

R.J. Kirkpatrick: No, sir. Today is the first day this concept has been made available to the Commission/public. Discussions about building concept have happened but the concept was finalized about 3 days ago.

Commissioner Simpson: My recommendation is we put this off and work out details instead of running headlong into areas that haven't been worked out and possibly the public/private ranchers won't get to have input. I don't like what I see so far because of the short timeframe and lack of participation or opportunity before we make a decision.

Commissioner Salmon: Is the general trend in the antelope herd up or down statewide?

R.J. Kirkpatrick: Today the trend of antelope population overall in NM is up due to precipitation which has been favorable for fawn survival and recruitment. As with upland game species and antelope, they're very cyclic and dependent on precipitation so those numbers do go up and down.

Commissioner Salmon: How much of a factor is predation particularly coyote?

R.J. Kirkpatrick: I don't have any figures or NM research that would substantiate an answer. We do know other states implement strategic predator control in specific places to enhance fawn survival. I'd only be able to say that coyotes do eat antelope fawns at varying rates.

Chairman Arvas: You said you sent out 1,149 questionnaires to landowners and of those you received 321 back. What was the consensus of opinion of the landowners?

R.J. Kirkpatrick: The consensus from them was if it's not broke don't fix it. They're happy they're receiving authorizations. They were willing to put up with public hunters to an extent but keep in mind current practices. The advantage is to the landowners on what we're doing. We suspect they'd be opposed to doing anything that took away from what they currently have and most landowners are fairly happy with it.

Chairman Arvas: What kind of response did you get from sport hunters?

R.J. Kirkpatrick: Sport hunters' response rates were fairly poor and again there was no consensus.

Chairman Arvas: You had 13 public meetings, how many more are you going to have time to do between now and Oct. 2?

R.J. Kirkpatrick: Unless otherwise directed, there's very little time to have more open house or public meetings with regard to this subject. The turnout for these public meetings especially when you're talking about the public component of people that attended these fairly low anyway and the way we'd approach ensuring that the public had ample opportunity to consider this new approach to pronghorn management is our e-mail list is growing everyday/newspapers/websites/sporting organizations would be strategically how we'd try to ensure as many people as possible knew about this and could comment on it in the next 30-40 days. We're intending to mail this presentation and additional information to every participating landowner in our system so they'll have a month or so to chew on it.

Commissioner Simpson: Can you give me a perspective on population/trends over the last 30 years on how antelope have been done?

R.J. Kirkpatrick: I don't know that I can. I've been with the Department 15-16 years. Prior to becoming chief I didn't deal with antelope management.

Lief Ahlm: I speak from my experience in the Northeast Area and how we've addressed antelope management. Basically we've surveyed every year and we've looked at the number of available bucks to harvest based on our surveys, knowing that we don't count every antelope but we do count a large number of them. We've gotten very good at surveying antelope over the years and then we project how many antelope can be harvested from those available bucks that's how we set the numbers. Over the last 10 years antelope numbers have not fluctuated a lot in the Northeast Area. They've been fairly stable. We've been through a long-term drought and different areas have been better than others but antelope tend to move to those areas depending on winter/summer conditions. About 15 years ago we trapped approximately 1,000 antelope out of 1 sub-unit in the Northeast Area because we had so many and we moved those throughout the state. That was after several years of very good rainfall. We haven't seen the fluctuations in the last 10 years but prior to that we had seen greater fluctuations. We've always based hunting on the number of available bucks that we can harvest approximately half of those bucks or we can give permits for about half of those bucks with about a 90% harvest. It's based on numbers and we look at it conservatively knowing that we're trying to maintain a reasonable population of bucks for the next year. We've also had some doe hunting in the past. We have not done that in the Northeast Area for 10 years because we've had very stable populations. When those populations were high we tried to estimate a reasonable hunt of about 30% of those does.

Commissioner Simpson: What I'm looking for are historical trends. What's happened to the habitat? Where are the number of animals whether it's deer/elk/antelope, where are we going, what are we doing, and how are we adapting? Are we just controlling hunting numbers and not really looking at the big trends?

Lief Ahlm: In the Northeast Area, most of the habitat is on private land and it's driven mostly by precipitation. I don't believe the numbers have decreased. I think they're very stable and consistent with the quality of the habitat. We have some very good quality antelope habitat there. I believe it's all related to how the livestock market goes, how the rain cycle goes, and I don't think we have a lot of control over the change or developing habitats for antelope. I think we're in pretty good shape on private land.

Mark Madsen: I agree with Lief. The number of antelope we saw in the mid-70's is a significant decrease. I think that's due to 10 years of drought. We have seen a slight increase in antelope numbers the last couple of years due to precipitation. This year those numbers fluctuate drastically depending on when that precipitation falls. This year we probably aren't going to make a lot of antelope fawns in southeastern NM. I think our antelope herds in southeastern NM public and private are actually stable to increasing. Fawns have survived. As far as the historic data, I can't go back more than 15 years that I've been doing it.

Darrel Weybright: I happened to bring with me some of the historic records. The population survey data which is variable depending on how much we decide to spend/fly/how well the observers actually count so you have some variation but it's interesting that it went back 15 years. We consistently count somewhere between 2,000-4,000 animals in the last 10 years both in the number observed and harvested. The harvest data went back 20 years and the last 10 years look like both number observed and harvested were down. They're in about 3,000 but 20 years ago it was 5,000 and last year it was high 4,000 harvested. There is lots of variation annually but the long-term I would say from 20 years ago to the early 2000's there was a general decline and then the last 4-5 years there's been a little bit of a climb both observed and harvested animals.

Chairman Arvas: R.J., before the October meeting I'd like input from each area because we're never going to be fully prepared to say it's going to work until we actually try it. I think these guys have the experience and background to give you the input you need to make up your mind whether this is worth presenting at that time. I have to agree that if you don't think it's worth presenting at that time, then you'll go ahead and tell us that. I don't think you're being forced to present this in Oct.

R.J. Kirkpatrick: Lief/Mark have all been involved in discussions toward the development of this. They've had their reservations and this is the result of discussions inside the Department about this approach. We continue to have reservations with Lief's country. As to whether or not we move this forward this year, I would defer to having conversations with the Directorate and keeping you informed over the next 4-6 days about whether that's how you want to do this.

Kent Salazar: I'd like to see that we don't mix up the access program with the A-Plus system so the landowners opt into 1 or the other so there's no conflict. I'd like to see several options presented to the Commission, maybe some options from other states where they have some of these antelope systems already and maybe they could present those as well as this preferred alternative system so that we have a number of options.

Larry Caudill: I did get a copy of the questionnaire. I'm concerned the timeframe is getting compressed and this is a complex issue. Unlike some landowners I think the system is broke and we need a better system. There's been resistance to longer hunts but I think those went back to the days when antelope didn't have the value for permits they have today. There's more lucrative aspect in terms of the economic value of the animals so ranchers ought to be thinking more in terms as a source of revenue but should be tied to some benefit to the public. Under drought conditions there's more to it simply than how much they have to eat, there's a cover factor. There's also a factor of the more growth you have the more alternative prey species are available to the coyotes so there's less pressure on deer and antelope.

Discussion item only.

AGENDA ITEM NO. 16: Overview of Roswell Area Pronghorn Antelope and Deer Population Management Action Plan.

Presented by R.J. Kirkpatrick – By way of background, over the years the drought conditions that have existed around the Roswell area pronghorn have found their way into irrigated agricultural production property and private lands west of Roswell. The Department's general perspective was that some harvest needed to occur as a component of this management endeavor so the Department is providing the Commission with an overview of circumstances leading up to the need for antelope/deer population management initiatives in the Roswell area and the multi-faceted action plan developed to address the situation.

Commissioner Simpson: I sat in on those meetings and observed what was said and lack of specifics. I see the same scenario here where it was outlined and there was sort of agreement based on what the Sportsmen for Fish and Wildlife and NM Wildlife Federation said. I haven't seen anything different that changed course of what got you into trouble the first time and caused a lot of controversy about going over and having a cup of coffee and working out some agreements especially on the numbers presented. I still don't see anything different than what was discussed except you're still going down the same path despite the sportsmen's input from those 2 organizations. It'd be opinion based on what you've just told me and what you're going to do, until you get more detail I would be totally opposed to let you guys go forward to do whatever, whenever because I don't trust what's been going. I have asked for copies of that information and permits and what's been given out and still haven't gotten them so I have a serious distrust with how things are going to be managed or how it occurred until you get it down in black/white saying here's what we're going to do so that's just to make sure it's transparent, the public knows what's going on.

Chairman Arvas: I think you're going to have to start developing a little bit more trust in what the Department tells you in terms of the numbers and if there is any specific information that you haven't received, all you have to do is ask for it.

Director Thompson: I also was present at the meeting that Commissioner Simpson referred to as were R.J. and several other staff/organizations. Within a matter of days of completing that meeting, I issued guidance to Department staff to accomplish exactly what we discussed at that meeting. I don't recall whether a copy of that was provided to Commissioner Simpson. I can assure you that we have moved forward first of all with the action plan that existed in advance and with the kind of discussion that we had from all of the interested parties that have been identified to date. That's where things stand and I'd be quite pleased to provide as would R.J. to anyone who is interested how this entire process is being implemented.

Commissioner Simpson: I trust the Department when they give you the data and it's black/white, but when I ask several times and don't get data or information and what has occurred, that's why I have a little reluctance to say this sounds great and I can trust the data and information. That's where I'm coming from—the sportsmen ask for the same thing, the level of detail wasn't really discussed other than you guys are going to come back and say here's how we're going to do this stuff. What R.J. has just said from that meeting it's still very vague, a lot of options on the table, a lot of latitude and I don't think I received the guidance but I may have missed it or I ignored or I didn't pay attention to what it was. I'm saying based on that meeting what has transpired in my discussions with NM Wildlife Federation/Sportsmen for Fish and Wildlife there seems to be a lot of vagueness about what we're going to do and specifically when we're doing it and I discussed this with Jeremy and other people 3 times. We would like to see specificity this is what you're going to do in writing here's where we're going to go to make sure we don't have any disparaging opinions about what should be going and then I think that puts it right square in face this is what we all agreed to the sportsmen know because there was a large number of antelope at risk here and quite a few deer and I didn't see any depredation complaints to say we got a big problem. I'm just saying there is a large multitude of things that's kind of fuzzy and I didn't see any really glaring things that says we got a real emergency and here's what we gotta go do.

Chairman Arvas: Once again Commission Simpson, I think it's important that when you don't receive what you want and I've mentioned this to you in the past, all you have to do is call me and I can help implement that, but I don't think you have to call me. All you have to do is call the Director/R.J. directly and they'll give you whatever you want but you've got to be specific in terms of what you want. You just can't ask for everything because everything is too darn much.

Commissioner Simpson: I understand and I haven't asked for anything. I asked for all the 29—they told me there's 29 hunt applications—I mean depredation permits given so I asked for those just to see what was going on, still haven't got them and I've asked for it twice verbally. If they want me to put it in writing that's fine.

Chairman Arvas: I recommend you put it in writing because I think at times your requests are not understandable.

Commissioner Simpson: Well, I understand you may understand that but when you talk 2-3 times and the sportsmen ask for all the documents and in that meeting they said they'd provide all those documents so I'm just saying that information and specificity hasn't come across based on that meeting and what was done in the past to verify what's going to happen in the future. That's just a flat statement.

Chairman Arvas: To close this discussion, R.J., I'd sure appreciate you putting together a report to Commissioner Simpson and to all of us because we have to get to the point to where we trust what the Department is telling us.

Holt Williamson: I'm a Roswell resident. I've had a problem getting information regarding the hunt in the Roswell area. To be very specific I'd like to have a copy of the Multi-Faceted Action Plan.

Director Thompson: Mr. Williamson, if you go to the notebook that's on the table out in the hall look under Item 16, you may remove that document from that notebook and you'll have a copy today.

Kent Salazar: The NM Wildlife Federation did not bring this to the media, media called us and when we tried to find out from the Commission what was going on, the Commission didn't know. Dr. Thompson has addressed this and we're happy with the multi-faceted approach that he's doing, that they addressed so quickly. I feel landowners participating in the landowner system should not benefit from depredation complaints.

Chairman Arvas: Have you asked for anything that you didn't receive in terms of information or anything along those lines?

Kent Salazar: If they have it, they've usually given it to me. Open communication is what it's about, it's a public resource, and certainly when it's a big issue the Commission should be aware at all times.

Discussion item only.

AGENDA ITEM NO. 17: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Nicole Rosmarino: Program Director for WildEarth Guardians. Regarding oil/gas, the BLM/Farmington Field Office just closed a National Environmental Policy Act scoping process yesterday pertaining to granting of wildlife exceptions and this is an issue I've spoken to the Commission about before where Farmington has granted over 400 exceptions to timing stipulations designed to protect pronghorn/mule deer/elk. That's an important National Environmental Policy Act/NEPA process. We asked for no exceptions, that they honor the promises they make but regardless what's crucial now is that we and the Department and other interested agencies/members of the public be able to participate in the next stage of the NEPA process which is the environmental assessment stage. What we fear is that BLM will not put out an EA for public comment but will simply make the decision behind closed doors, so it'd be helpful if the Commission formally communicated with the BLM/Farmington Field Office and with State Director Rundell that we would like to see a draft EA circulated and public comment allowed.

AGENDA ITEM NO. 18: Review of Conservation Organization Recommendations for Wildlife and Sportsmen Considerations in Petroleum Development.

Presented by Terra Manasco – At the Commission meeting in Las Vegas the Department was asked to review this document, comment and provide feedback in terms of how the Department can be involved as to it relates to this report. The Department reviewed this report and this is a basic overview of the Recommendations for Responsible Oil and Gas Development prepared by Sportsmen for Responsible Energy Development. It was developed by a group of sportsmen at regional/national/local levels individuals, business organizations in response to growing concerns in the west on public lands for responsible energy development. The purpose of the group is to reform laws/regulations/policies/guiding principles of responsible energy development, and conservation and a look at alternatives as opposed to how it's currently done. We need to make data available as appropriate for BLM and public.

Commissioner Simpson: I add that we went through a rough scenario about FTE's and some positions may or may not have been done but you have identified many areas on the regional scanning and the human impacts and monitoring and being able to deal with it on a landscape scale. I would like us to see the Department do a comprehensive white paper on here's what it's going to take and here's the resources because this is not going to go away, it's only going to get worse and we need to put some serious evaluations but I think it would tie in very well with lots of other programs on how we approach not only energy development but some of the other cumulative impacts and other big things. I would like to see a resolution or some kind of motion that we do something to give you some incentive.

Commissioner Buffett: I feel this should be the beginning of a continued conversation.

Terra Manasco: There have been many Department people that have come together quickly who have not had the time or the resources but have made the time and resources to pull something together because we recognize how important this issue is. It's challenging in terms of our regulatory authority and relationship building is important and I appreciate the support we gotten at the Commission/Department levels and BLM/Oil Conservation Division/Jicarilla Ranger District have been willing to work with us to come up with a creative solution.

Kent Salazar: I urge your support because this can be a tremendous impact on wildlife and we need to address it right away.

William Schudlich: Chairman of the NM Council of Trout Unlimited. The Commission/Department are conduits through which sportsmen can make our voices heard on this.

Ross Tuckwiller: Field Representative for Theodore Roosevelt Conservation Partnership. These recommendations are important for what's going on. They're not a solution but they create great work for developing solutions and I want to encourage the Department/Commission to keep up the good work.

Commissioner Montoya: I appreciate this document submitted to BLM-Farmington Field Office. This demonstrates how important these things are. I heard the Chairman say there's a meeting with the State Director so all of these activity certainly is putting us in a situation where it's known that we want to be a player in all of this. The biggest threat that wildlife and habitat currently face is energy development and certainly none of us are anti-energy. This Commission/Department is charged with the primary responsibility and our biggest goal is to protect wildlife and to work to ensure that we protect it's habitat as well. I think it's incumbent upon this Commission to take the lead on any issues that deal with wildlife and habitat, and to support ideas when they're good and when they can do a lot of good to meet what we think is our goal.

MOTION: Commissioner Montoya moved that the 7 recommendations in the report that were developed by the Sportsmen for Responsible Energy Development and move that the Department take all necessary action to implement those recommendations that are within our jurisdiction and those that aren't within our jurisdiction that we then enter into cooperating agreements with those agencies that have the jurisdiction so that we're players and participants in all that decision making as we've been with BLM and that we do that fairly quickly, hopefully by the end of the year that we're able to formalize this commitment where we have jurisdiction and where we don't we enter into cooperating agreements as we have with BLM. **Commissioner Buffett** seconded the motion.

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

AGENDA ITEM NO. 19: Game Commission Resolution to Support of Reform of the Federal 1872 Mining Law.

Presented by M.H. "Dutch" Salmon – The State Game Commission discussed and considered approval of a resolution to support reforming the 1872 Mining Law. The Hardrock Mining resolution is the other half of the mining reform rather than oil/gas. It's based on 1872 Mining Act which has 2 basic flaws 1 of which is it allows the patenting of public lands for a pittance and that aspect has been under review. People have tried to change it since 1872 and so far have not succeeded but HR 2262 would do so. The other aspect is that under current Hardrock Mining Rules the mining takes place and the proceeds are taken out and the minerals are taken with no royalty paid to the public agencies/lands from which the profits are taken. The Governor at the Western States Governors Conference was among those who supported HR 2262.

Senator Bingaman head of the Natural Resources Committee and is committed to passing Senate version of HR 2262. He felt it was an important issue and joins w/Governor in supporting it. Considering the effect Hardrock Mining can have on wildlife and as a resident of Grant County I know that all too well this would not curtail Hardrock Mining It would just make it

more responsible to public interests and wildlife. This action was considered to encourage Congress to enact changes to this 19th century law that are necessary reforms for the 21st century.

Kent Salazar: We urge you support this, they pay a fair royalty, and those monies be applied to reclamation and to help reclaim lands for wildlife and make sure in certain cases areas not mined if it does not fit in with strategic wildlife plans.

William Schudlich: We need to support this act and this act adds more responsibility to the process and common sense restrictions and funds to help with restoration efforts.

MOTION: Commissioner Salmon moved to approve Game Commission Resolution 2008-01 that supports the Hardrock Mining and Reclamation Act of 2007 (H.R. 2262) as a Congressional action to promote reasoned revision, update, and public policy with respect to minerals extraction from publicly owned lands and associated royalties paid for public benefit, thereby benefitting public lands, wildlife, and public interests of the U.S. Commissioner Simpson seconded the motion.

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

AGENDA ITEM NO. 20: Adjourn.

MOTION: Commissioner Montoya moved to adjourn. Commissioner Simpson seconded the motion.

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

Meeting adjourned at 6:16 p.m.

Bruce C. Thompson

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

October 2, 2008

Date

Tom Arvas

Tom Arvas, Chairman
New Mexico State Game Commission

Minutes Transcribed by: Katie Gonzales

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October 2, 2008

Date