

**MINUTES**  
**NEW MEXICO STATE GAME COMMISSION**  
The New Mexico Farm & Ranch Museum – Tortugas Room  
4100 Dripping Springs Road  
Las Cruces, NM 88011  
September 24, 2009  
9:00 a.m. – 5:00 p.m.

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

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

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

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

**AGENDA ITEM NO. 3: Approval of Agenda.**

**MOTION:** Commissioner Montoya moved to accept the agenda for the September 24, 2009 State Game Commission Meeting.  
Commissioner Buffett seconded the motion.

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

**AGENDA ITEM NO. 4: Introduction of Guests.**

Introductions were made by approximately 60 members of the audience.

**AGENDA ITEM NO. 5: Approval of Minutes (August 20, 2009 – Albuquerque, NM).**

**MOTION:** Commissioner Arvas moved to approve the Minutes of the August 20, 2009 State Game Commission Meeting in Albuquerque with the exception that Commissioner Salazar requested to be shown with a dissenting vote under Item #11.

**Commissioner Salazar** seconded the motion.

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

**NEW BUSINESS:**

**AGENDA ITEM NO. 7: Revocations.**

**Presented by Dan Brooks** – The Department presented a list of individuals the Commission considered for revocation that have met established revocation criteria. Hearing Officer's recommendations for the assessment of points against registered outfitters was included. Three individuals committed violations out of state but as part of the Wildlife Violator Compact we are honoring that state's revocation. The individual used artificial light while hunting basically a spotlighting violation. Then there are 462 individuals that received the penalty assessments where they were caught in the field violating either fishing without a license or hunting small game. They were offered a penalty assessment. They committed to mail in their payments but have not. The recommendation is a revocation for three years. The rule says until in compliance so those 462 could mail in their payments as they committed at any time and then we'd remove them from the list.

**Commissioner Arvas:** Would you explain to the public what failure to pay penalty assessment means?

**Dan Brooks:** These individuals are in the field and are found not to have either a fishing license or a small game license. They actually have the option of going to court or they can agree to remit a fee which includes their license fee and send that directly to the Department.

**Commissioner Arvas:** So that basically means that for three years they won't be able to purchase a license?

**Dan Brooks:** They will be on revocation and cannot hunt/fish/purchase license for three years.

**Commissioner Arvas:** Are you surprised that there are that many people that don't care about purchasing hunting/fishing license for three years?

**Dan Brooks:** These individuals, based on my experience, don't hunt/fish that much. They went to the lake probably thinking they'd never see an officer, probably go once a year.

**Commissioner Salmon:** Do these hunting restrictions apply to non-game animals/game animals if they're found guilty?

**Dan Brooks:** They will not apply to a resident because no license is required to hunt non-game; however, non-residents still have to have some sort of hunting license by statute. That would apply to them because of the way our statutory scheme/restrictions work.

**Commissioner Sims:** Three violations that are here were committed out of state and we have agreements with other states and we recognize their violations and then remove their hunting/fishing privileges, correct?

**Dan Brooks:** That's correct.

**Commissioner Sims:** What states do we have these agreements with? Do we have border states that aren't in that compact?

**Dan Brooks:** The states we have the Interstate Wildlife Violator Compact with, approximately 25-28, and each year more states join. If you belong to the compact and you have violated in that state, we compare to see if it meets our revocation scheme. Texas is moving toward entering the interstate-wide Interstate Wildlife Compact as are AZ/CO/Utah.

**Commissioner Sims:** We've met with Texas and you think they're moving forward to join that compact?

**Dan Brooks:** Yes, they are and they've worked through the legislative process and a formality now.

**Commissioner Arvas:** Is there an instantaneous awareness on the part of neighboring states on these revocations?

**Dan Brooks:** That depends on how they enter the information through the Wildlife Violator Compact. What'll happen in NM is that as the Commission approves these, they'll go back to the Law Enforcement Division. The LE Division enters their names into the Interstate Wildlife Violators Compact and at that point it's up to the other state to decide what it wants to do. If it immediately recognizes that and they have a point of sale system, those individuals will not be able to purchase a license. I cannot tell you how fast that will work.

**Commissioner Arvas:** Some applications ask whether the individual has ever been denied a license in another state, is that a question that's on a normal license application?

**Dan Brooks:** Yes, in NM that is not. The only time we ask that is if you're trying to be an outfitter/guide.

**Commissioner Arvas:** So there is a possibility that an individual could come to NM, license has been suspended in one of the neighboring states and be able to purchase a license and the process to find that out would be difficult?

**Dan Brooks:** Yes, it does take some work. We probably deal with about half a dozen of those a year. We do check the names when we do the special drawing hunts. We check those prior to draw.

**Commissioner Salazar:** Is there a database that we use to identify those individuals by social security numbers, or how do we go about doing that?

**Dan Brooks:** Yes, there is a database. It's maintained by the LE Division and we look for name/address/date of birth/last 4 digits of social security numbers.

**MOTION: Commissioner Arvas** moved to adopt the Department's and Hearing Officer's recommendations on revocation and point assessment for the list of 471 individuals for the period of time specified. **Commissioner Sims** seconded the motion.

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

**Chairman McClintic:** Agenda Item 8 we're not hearing because the gentleman never filed his appeal. Agenda Item 9, the Mexican gray wolf/recovery, I asked Dr. Tuggle, Regional Director of Region 2-USFWS, if he'd give me a statement that I could read to the audience. I never got it. I was under the impression that he was sending his second in command to speak, but he didn't show up either. I refer to an article in the Albuquerque paper written about 10 days-2 weeks ago, where he reiterated that he makes the final call and it was strictly his decision, not AMOC's. I'm not trying to take the heat off the Department/Administration. I'm not saying the Department did not agree with his statement but it stated that because this is the only breeding pair of wolves in the state they were not going to remove them. He's intensified harassment on these wolves to move them off these cattle. I realize that has not worked, but I did query the Governor to get a response from him. He did send it and I'm going to have Director Stevenson read it to you and then we'll open up for public comment.

**Director Stevenson:** This is titled "Governor Bill Richardson's Statement on the Mexican Gray Wolf Recovery Program prepared for the NM State Game Commission meeting September 24, 2009. I strongly support the effective recovery of the endangered Mexican Gray Wolves in the Southwest, done in a responsible and sensitive way. I confirmed this position in a statement to the Game Commission in March 2007, and I am reaffirming it today. In New Mexico, the Mexican gray wolf (*Canis lupus baileyi*) had been all but eliminated from its native range by the 1970's. Its plight in the rest of its native range, which included portions of Arizona, Texas, and Mexico, also was grim. In 1976, the Mexican gray wolf was listed as endangered under the *Endangered Species Act of 1973*. A captive breeding and recovery program was established the following year. The Mexican Gray Wolf Recovery Program is led by the U.S. Fish & Wildlife Service, with participation by the New Mexico Department of Game & Fish and other state, tribal, and federal partners. Despite our substantial collaborative efforts, wolf populations in New Mexico and Arizona have not reached a sustainable level. One of the most challenging obstacles to successful recovery of the Mexican wolf is livestock depredation. Periodically this program requires that difficult, sometimes controversial, decisions be made. Recent decisions regarding leaving wolf packs with partially grown pups in the wild after several livestock depredations is a good example. Although I am very concerned about the impacts to landowners and livestock producers, it is important to keep wolves on the landscape in order to move this program forward. Dr. Benjamin Tuggle, the Regional Director of the U.S. Fish & Wildlife Service, has proposed a federal interdiction program to help address depredation, and I have written to Congress in support of his efforts. Ultimately, such solutions must come from the federal government. As keystone predators, wolves play a critical role in maintaining balanced ecosystems. We must increase our efforts to promote healthy wolf populations co-existing with our communities and land stewards – both in New Mexico and across the country. The Mexican Gray Wolf Recovery Program has struggled to achieve that balance, and we must continue to work together to find ways for indigenous wildlife species and our ranching communities to co-exist."

**AGENDA ITEM NO. 9: General Public Comments (Comments Limited to 3 Minutes).**

**Public Comment:**

**Joe Delk:** That letter clarifies how things are. We hear the rhetoric how everyone must work together and we've got to find a way to make these wolves fit into the ecosystem and the ranchers and everybody has to learn to live with them, but you never hear anything about any outreach to the ranchers in the communities that are losing their livelihood. The economic situation in Catron County is not good and a lot of it is directly related to the wolf program. There's no outreach to try to mitigate that. We've got all these rules/regulations that we live by, but when it comes to this wolf program, it seems USFWS/NMDGF are not living by the same rules.

**Paul Heiberger:** I thank Commission/NMDGF for the recommendation to USFWS highlighting the biological/genetic importance of the Middle Fork pack. A concern for myself/others at the Southwest Environmental Center is that this is only a stay until Nov. 1, so I'd encourage Commission/Department to work to make sure that pack can stay in the wild as a breeding pack.

**Oscar Simpson:** You'll be setting up the schedule for the 2010 Game Commission meetings and again I'd like to reiterate on behalf of myself/sportsmen across the state that we need to have Commission meetings on Saturdays, and hold those Commission meetings in Albuquerque/Las Cruces/Santa Fe.

**Rinda Metz:** I'd like to thank the Commission for supporting/not removing the Middle Fork pack in the Gila. I'd also like to ask for an update on the situation with the river otter in the Gila. Has a date been set and the EIS completed?

**Matt Wunder:** The Department is continuing to work for the re-establishments of otters in the Gila. There are a number of steps that need to be completed in terms of the NEPA compliance. We do not have a specific date at which that process is going to be completed, but we are working with the Forest Service and some interested groups to get those otters, but we don't have a date at this point.

**Commissioner Salazar:** How did the otter release go up in the upper Rio Grande—the Taos Pueblo release? Did we have any problems?

**Matt Wunder:** We haven't had any problems *per se*. Otters were released and we're only aware of one otter that has been killed. I believe it was run over on the highway and I think there was some evidence that otter may have had pups previously. The otters are on the ground and they're moving up/down the Rio Grande.

**Michelle Briscoe:** I hear from sportsmen who want to be more involved in the process and give more feedback and that Thursday meetings are difficult for them.

**Kevin Bixby:** I'm the Executive Director/Southwest Environmental Center in Las Cruces with about 1,000 members. Thank you for supporting the decision by USFWS to leave the Middle Fork pack in the wild. This is management flexibility we've been advocating to AMOC, and we're encouraged to see AMOC showing that sort of flexibility. I thank the Department for investing resources to assist the landowners with the hazing/monitoring those wolves and to offer our organization's assistance with volunteers if there's a role for volunteers to play in that effort. Finally, you may be aware the alpha pair of the Middle Fork pack are both 3-legged animals that lost their legs due to leg hold traps that were legally set. We can't have leg hold traps in an area where we have endangered species, so I urge you to consider looking at the trapping rules.

**Chairman McClintic:** They weren't trapped there, they were released after they'd been in captivity. Let's be specific here. I want the facts on whether these wolves were trapped in NM, lost their legs and then re-released because I'm getting a lot of different reports from different people.

**Matt Wunder:** I'm a little unclear on the first one, but I do know they observed the male that appeared to have a problem with his leg, captured it from the helicopter, they saw the leg was injured. My understanding is that they do not know what caused that injury, and they took it to the veterinary clinic in AZ and amputated the leg and when the stump healed, they re-released it. I'm not exactly clear on the other wolf situation regarding the loss of it's leg, but I could get that information for you.

**Chairman McClintic:** If we have an accusation those wolves were trapped and that's how they lost their legs, I want that confirmed/denied.

**Jean Ossorio:** I keep detailed records on Mexican wolves in the wild and have for many years. Regarding when the female was injured, I'll send the Commission the official monthly update from USFWS which indicates that her injury was discovered at the end of the 2007 survey, in mid-January, 2008. These wolves met, paired up in the Middle Fork of the Gila in 2006 and she was injured later on.

**Chairman McClintic:** Do you have the cause of her injury?

**Jean Ossorio:** All I know is from the public record. I've observed a yearling of the Middle Fork pack in the wild this summer. This pack contains a large proportion of the genetic diversity of the least represented lineage of Mexican gray wolves, the Aragon lineage. If they are removed, a good chunk of that diversity will be removed with them and this is the pack that is still of breeding age, so I hope that they are left in the wild in order to continue to reproduce. I support various pro-active measures, including anything that the Department can do in the way of providing pro-active measures to the livestock owners in this area and would definitely support that as well in order to mitigate some of the problems.

**Ginger Whetten:** My husband wanted to be here but he's investigating another wolf kill. Last night he found another calf that had been eaten and it's still alive so they're looking for it. We have never asked for wolves to be killed. My husband asked them to move them further down into the Gila where there are no livestock. We don't like the hazing because we feel it's a problem for our neighbors. They don't give us any GPS locations, they say they have pictures. There's no proof, we don't have pictures of brands, there are no GPS locations with the cattle that they're finding.

**Commissioner Arvas:** Have you been compensated for any of the nine confirmed kills?

**Ginger Whetten:** No, not yet.

**Commissioner Arvas:** Could you tell the public what the process is that you go through in terms of trying to achieve some level of compensation.

**Ginger Whetten:** Whenever we get investigated, a report is mailed to Defenders of Wildlife, but when the article was written in High Country News where they accused us of baiting because we were branding our cattle, we weren't compensated for anything. That's been over two years ago. We were contacted recently by Defenders of Wildlife but we were gathering cattle and not able to do anything about it.

**Bud Fazio:** I'm the new coordinator of the Mexican Wolf Recovery Program for USFWS.

**Chairman McClintic:** We have tremendous problems. One side opposed to any type of ranching activities, we've another side that's opposed to any wolves. Arizona Fish & Wildlife wanted the Middle Fork pack removed, your Director overrode them. Explain to this audience exactly what power we have. I understand that whether a wolf pack is going to be removed/captured/killed, that lies with you, that you have the final say, so you have the right to override decisions by AMOC, is that correct?

**Bud Fazio:** Director Tuggle of USFWS-SW Region does have authority to make the final decision under the Endangered Species Act.

**Chairman McClintic:** And is making the final decisions, correct?

**Bud Fazio:** Yes, he has been doing that. There is a process in place. The Field Team and AMOC are composed of members from different agencies. Each time a depredation occurs, a recommendation is made by each agency. If there is no agreement across the Field Team or AMOC, all views are documented, all positions are stated. Both Field Team and AMOC recommendations are forwarded through me to Dr. Tuggle. Dr. Tuggle then takes the information into account, and other information including discussions with the different agencies involved and their directors before he comes to a final decision. In the past, we have followed special operating procedures that have been developed by AMOC. Lately there has been some divergence to account for such things as biological considerations, i.e., genetic makeup of animals of a given pack or whether or not a pack is raising pups at the time. All these decisions are difficult because we do not want wolves depredating on livestock. We're willing to do everything we can to try and prevent that. The Middle Fork pack is a difficult case because we've been working to keep the wolves away from livestock while at the same time trying to keep them and their offspring out there so that the special set of genes/genetics that they represent can be passed on into the wild wolf population,

**Chairman McClintic:** In reality, if there's no wildlife where the pack is because I understand from the Department and the people that elk are well out of that country and they're used to eating cattle. We push them the 4-5 miles they've been hazed off of it seems they come right back. Is that correct?

**Bud Fazio:** There has been a pattern of them circling back and we're basically considering this situation week by week in determining how to manage these animals. We're still striving to keep them away from livestock especially now that the majority of livestock have been brought down to lower pastures, but the aim is to try and keep their genetics out there long enough to be of benefit to the wild population of wolves at the same time we're trying different techniques to keep the wolves away from livestock.

**Commissioner Sims:** When you spoke earlier about the different agencies that make these recommendations, what agencies are those specifically?

**Bud Fazio:** There are agencies and there are cooperators. Primarily the agencies are USFWS/AZ Game & Fish/NM Game & Fish/U.S. Dept. of Agriculture-Wildlife Services/U.S. Forest Service/White Mountain Apache Tribe/lower level of cooperation with the San Carlos Tribe.

**Commissioner Sims:** The cooperators you mentioned would be?

**Bud Fazio:** Cooperators are largely the counties, so there are three counties in AZ who are active in the issues, and we have a few counties in NM—Catron/Otero have voiced concerns one way or the other on the issues?

**Commissioner Sims:** During general comments, we were talking about two wolves with the leg problems. Do you have the information on what caused those problems?

**Bud Fazio:** Yes, I do. One of the animals did suffer injury from leg traps.

**Commissioner Sims:** Where was that trapping injury suffered?

**Bud Fazio:** The geographic location I'd need to talk further with my staff.

**Commissioner Sims:** Was that trapping injury sustained in NM?

**Bud Fazio:** Yes, it was.

**Commissioner Sims:** And the other?

**Bud Fazio:** The other was a gun shot, and that is under investigation.

**Commissioner Arvas:** Would you give a quick synopsis of Dr. Tuggle's interdiction program?

**Bud Fazio:** Dr. Tuggle, I, and others in USFWS have been working to develop an interdiction program to benefit livestock growers and their communities. There has been progress this year. We have the beginnings of a program where Dr. Tuggle himself has been talking with the National Fish and Wildlife Foundation about starting such a fund and about the structure for setting up trustees who would oversee the fund. We have an initial donation of \$10,000 and we're currently talking with the foundation about completing the set up for that fund so that others can donate to it to benefit livestock growers.

**Commissioner Arvas:** How could the proponents of the Wolf Reintroduction Program be able to help Dr. Tuggle in getting this program to pass?

**Bud Fazio:** Honestly, by getting involved in conversations including legislative representatives at all levels would be extremely helpful.

**Commissioner Arvas:** Have you had any of the proponents of the wolf program do that at this time?

**Bud Fazio:** We've had some discussions. We are aware of one private organization that's a proponent willing to donate once the fund is up. There's some interest in donating and we invite everyone interested in assisting both cattle growers and wolves to work to help this fund be successful.

**Commissioner Arvas:** If you were in Mrs. Whetten's position, what would you do with the documented nine kills on their ranch?

**Bud Fazio:** We're working to keep the wolves away from the cattle and at the same time we've been speaking with Defenders of Wildlife. Defenders has assured us that they will compensate losses that occurred previous to this incident in addition to the 8-9 incidents that have occurred thus far.

**Commissioner Arvas:** Please tell Mrs. Whetten again that you're going to go ahead and compensate her for that.

**Bud Fazio:** Mrs. Whetten, we've had assurances from Defenders of Wildlife that the previous depredations before this Middle Fork pack incident will be compensated for, and Defenders assures us that the eight incidents documented and if a ninth is confirmed today, that those nine will be compensated for as well.

**Chairman McClintic:** Nine are confirmed, they're working on 10 today.

**Mrs. Whetten:** No, they're working on the ninth today. Two years ago when we had the pack in our back yard, they were in our weener calves that we were holding to fatten up before we shipped. We were not compensated for those either. They ran the calves every night. They were sick, and my husband doctored calves every day. This is not what you want to do as a cattle producer. They ran the weight off the calves and we have records to validate what our calves weigh every year. We lost over \$100,000. Defenders of Wildlife will not compensate for that. They only compensate for things that have been verified. It's good if they'll compensate us for that, but they've been up there running our calves. They've run them through fences, and they're so wild we can't get near them. None of that has been compensated so I want that in the record.

**Commissioner Arvas:** How would you respond to that Mr. Fazio?

**Bud Fazio:** We have assurances from Defenders that a previous disagreement on what would be compensated for is being resolved. I don't have details but I encourage the Whetten's/USFWS/Defenders/NMDGF talk further about how we can address livestock growers' needs better at the same time we restore wolves to the landscape.

**Commissioner Arvas:** It should be apparent that the success of the Wolf Reintroduction Program is dependent on compensation for landowners. If there's any proponent of the wolf program that doesn't see that, they're going to have to realize that this is a reality and if compensation isn't in some form brought to light, the program probably won't be as successful as it could have been.

**Bud Fazio:** It's important to address the needs of both people and wolves, and livestock growers have unique needs because they're out on the landscape. I invite all of us to work better together to come up with solutions.

**Commissioner Salazar:** Do we have any other endangered species program where they have an SOP 13 program with three strikes and the animal is gone?

**Bud Fazio:** USFWS generally we do not. There is a policy in the northern Rockies where removing wolves under specific depredation circumstances but I believe there's nothing exactly like SOP 13.

**Commissioner Salazar:** This Middle Fork pack, what percentage of the population of endangered wolves does that represent?

**Bud Fazio:** We have roughly 50-52 animals on the landscape and with new information we believe this pack is one that consists of seven animals. We initially thought it was six animals—two adults, four pups, but we have word that there may be a yearling, an animal about 18 months old running with the pack. Simply, six out of 52 is a significant percentage and what is unique about this pack, is the set of genetics they represent. As those genes disperse further into the population, this same kind of circumstance may not occur in the future, but at this time the genetics are quite important.

**Commissioner Salmon:** Apart from Defenders' compensation program and interdiction proposal, there's the Omnibus Public Lands Bill recently passed that allocated a considerable amount of money for wolf depredations. I understand none of that money has been put on the ground as yet. Could you give us an update on that compensation as it applies to the southwest?

**Bud Fazio:** Yes, that legislation was initially proposed with an eye towards the northern Rockies. Dr. Tuggle//and others in the southwest region have been very vocal about that to say, we have equal or greater needs here. That has been said all the way up to Washington. We've worked to make it clear that if that legislation is funded, we'd like a significant percentage to come here on behalf of cattle growers. Within the last two months we've received word that the funding has not been approved. We've been having a conversation that if the money becomes available through Congress, can we have it directed to USFWS-Southwest Region so that we can directly disperse it to cattle growers. That discussion is ongoing but sometimes the discussion sways towards all the money being managed by USDA Wildlife Services, other times the discussion leans towards money coming through USFWS. The money has not actually been approved, but we're still promoting the idea, still pursuing that legislation and making it clear to folks that we'd like that legislation to be funded and see significant portions benefit people in the southwest.

#### **AGENDA ITEM NO. 10: Discussion Regarding Prospective Re-authorization of the Habitat Stamp.**

**Presented by Dale Hall** – The Habitat Stamp Program in New Mexico will sunset in April, 2011. In anticipation of that, Department staff provided an overview of the program, plans for re-evaluation of the program and considerations for future re-authorization.

**Dale Hall:** There's been \$15.4M worth of sportsmen's money on the ground, then agencies are matching that. Since 1999 there's been \$2M worth of volunteer support to the program.

**Commissioner Montoya:** How much of the fee does license sales generate per year?

**Dale Hall:** We sell about \$850,000 worth of stamps every year, so our standard budget since 2005 has flattened out to be about \$850,000. We've lowered our budgets so we'll be providing services at an \$850,000 level.

**Commissioner Montoya:** I've noticed you've done salt cedar treatments so you have some projects that address the proliferation of non-native and invasive weeds? There are organizations across the state and soil conservation districts that are concerned with the spread of these weeds.

**Dale Hall:** Yes, salt cedar is associated with riparian areas that provide good habitat for different species. We target that invasive species especially when they get too overgrown. There are willow flycatcher issues so we manage around those. We've done some on Jackson Lake WMA and the Bernardo area and those are good treatments.

**Commissioner Salazar:** How do we maintain balance in that landscape program, large landscape projects with limited funds?

**Dale Hall:** Volunteers are the backbone to the program and we're going to do everything we can to involve them and seek their advice. Currently, we have five regional committees that are looking after the southwest/northwest/central regions. In other words, getting representation at a local level but then let's bring it up to a statewide level to look at things on a statewide perspective/needs. Second, we still have 2,000-odd projects throughout the state so we're going to need monies going to those areas to maintain those facilities and we want to get into an aggressive maintenance schedule that'll involve volunteers helping us maintain those things. That's got to be the future—getting those volunteers to adopt these projects and maintain them for us, us providing supplies. We want them to get involved, they're the ones that rank proposals/projects for funding and bring those recommendations before the Commission.

**Commissioner Salazar:** Do we use comprehensive strategic conservation plan as part of this process so we identify those areas?

**Dale Hall:** Yes. As you know the conservation strategy is a broad document that lays out problems in the key habitats. One key problem is encroachment whether it's salt cedar/juniper/piñon on that habitat type. We identify those areas and start treating it either with mechanical treatments or with fire or in the case of salt cedar and a lot of the time that's cutting it and applying herbicide to the stump.

**Commissioner Salazar:** The re-institution of that federal land and clean water fund, would that have any funds coming to aid in this program?

**Dale Hall:** Not at this time we haven't seen those funds, but that's one of those leveraging partners that identify a landscape, we'll start bringing those funding sources together because it's not just the money. You've got to have manpower to do the work. If we can line up manpower, attract the money, we can accomplish a lot.

**Commissioner Salmon:** For those who don't know it, these regional committees are made up of sportsmen, and at least one permittee and one person representing the environmental community, so we have a broad range of influence coming into the various projects. We need to spend more resource on aquatic/riparian/angling opportunities which have been neglected in the past and give them a better percentage of available funds once we renew the program.

**Public Comment:**

**Oscar Simpson:** I represent NM Wildlife Federation. I support renewal of the Habitat Stamp Program.

**Cristino Griego:** I'm on the Habitat Stamp Committee representing the northeast region. I'm here to request your continued endorsement of the Habitat Stamp Program. The stamp is \$5, a minimal amount, but considerable when cumulative over the year. My observations are that there's trust/goodwill amongst the agencies regarding recommendations of the committee, and final approval by the Commission. The money is being used timely and monitored well.

**Jeremy Vesbach:** I support this program. This program is where NM leads other states. It's also a program where we see it put NM Game and Fish in a leadership role with wildlife habitat on public lands.

**Bob Nordstrum:** I'm a member of the Central Regional Habitat Stamp Council also a volunteer State Chair for the Rocky Mountain Elk Foundation and we partner with the Habitat Stamp Program. I support this program.

**Larry Cosper:** I represent the U.S. Forest Service-Southwest Region. The Forest Service supports the Sykes Program and without it a lot of the habitat work that goes on would not occur.

**Gail Cramer:** I'm a former Game Commissioner. In 1999 when we re-authorized the Habitat Stamp Program, my only regret is we didn't get it for a longer period of time. I ask you to actively support the re-authorization.

**Roberta Salazar-Henry:** I'm the Chair for the Southwest Citizens Advisory Committee. We support re-authorization for the committee. We request the Commission/Executive Committee actively pursue revision of the formula and we'd like to see the public lands managed portion of the formula emphasize more than the license buyers.

**Discussion item only.**

**AGENDA ITEM NO. 11: Adoption of Final Proposed Amendments to the Use of Department of Game and Fish Lands Rule (19.34.3, NMAC).**

**Presented by Matt Wunder** – The Department presented final amendments to the Use of Department of Game and Fish Lands Rule (19.34.3, NMAC) for consideration and adoption by the Commission. Amendments included clarification of license/permit requirements for hunting or fishing license holders/visitors/activities on State Parks on lands that are owned by the Game Commission, and individuals conducting commercial activities on Commissioned-owned or leased lands.

**Commissioner Sims:** Year to year do you see the number of people accessing Commission-owned lands growing or remaining about the same?

**Matt Wunder:** I'd say what I've heard/discussed with managers on the ground, and officers working on these areas that there have been increases in the number of people using WMA's. The best example is the La Joya Complex at Bernardo where we've established an educational trail that's becoming increasingly popular. Also the elk interpretative trail that's been completed on the Sargent Wildlife Area and there are plans for other interpretive trails on other areas. I believe there has been a reasonably steady increase, and we'll see a substantial increase as people become aware of wildlife viewing opportunities.

**Commissioner Sims:** Are we seeing number of permits increase?

**Pat Block:** They've been going up because it's a new program so the first year not very many sold. We've only had it in place a couple of years. The second year was higher than the first year. The number of public visiting the areas is going up. Some of those areas like the elk interpretive trail on the Sargent are going to be areas that the fee does not apply, so even if you had an increase, it doesn't necessarily relate or turn into more permit sales.

**Commissioner Sims:** Money spent on G.A.I.N v. money coming in, where are we financially on the program costs and what the program brings in, in revenues?

**Matt Wunder:** Part of the administrative fee of that covers administrative costs. There is re-cooping of those costs but I don't believe that given the time/energy/manpower we've dedicated to the program at this point that our costs have been covered by sale of permits. I'd say we're not in the black at this point.

**Chairman McClintic:** How much is budgeted to this program?

**Pat Block:** There have been fairly minimal expenses on the public information/outreach side. Instead of printing a rule book, we chose to do a poster form that had graphical images on one side and information about the program on the other, so that was a couple of thousand dollars. We were able to use non-recurring federal grant funds that covered the majority of the development of the elk viewing trail and the rest of it would be in people time, but there isn't a set amount that is the G.A.I.N project but it's probably in the low \$10,000 range on the state's side.

**Commissioner Arvas:** Could you go back to the historical beginnings/birth of G.A.I.N? There were initial monies put into that fund.

**Tod Stevenson:** I think you're talking about two different programs. There was some money that provided habitat incentive work/Bernardo Complex/Ladd S. Gordon for us to establish roads/trails/signage. It wasn't a component of the actual G.A.I.N Program although it's associated because we're providing opportunity and trying to improve viewing opportunity for waterfowl.

**Commissioner Arvas:** Do we have a line item for G.A.I.N?

**Pat Block:** No, we don't. There was the federal grant that we used on the viewing trail that was a specific piece of the overall budget in Conservation Services but there's no distinct G.A.I.N budget. It's not big enough to have it's own dedicated budget.

**Commissioner Arvas:** So, as an example of an analogy, what other program do we have in place that compares to G.A.I.N in terms of budgetary concerns?

**Pat Block:** I don't know. There are a lot of things we do that don't have their own budgets, maybe for example the other posters we print for educational/informational/enjoyment purposes that are probably in a similar scale of costs, but they don't have their own budget. They're within the overall budget in information/outreach and they're components of that budget.

**Commissioner Arvas:** Would it be fair to ask that if we vote in the affirmative on this motion, then we activate G.A.I.N for another year.

**Pat Block:** Yes, but how we do that I think is certainly up to the opinion of the Department, and guidance of the Commission. If what we're looking for is a program where we go out and try and drag as many people to the wildlife areas, that's one end of the spectrum, and the other is where we keep the requirements in place. We continue to run the program and those people currently recreating on Commission-owned properties continue to start to pay a share of it but the actual amount of promotion is toward the lower end, would probably be the other boundary of flexibility we have and how we do this. I think you'd be able to operate at either end or in between with the rule change contemplated with this motion.

**Commissioner Arvas:** The concern I have is the cost effectiveness of this plan in relationship to other plans we have in place. It doesn't sound like we're getting the participation that'd denote a lot of dollars being spent administratively. Matt, how much of your time is spent on G.A.I.N?

**Matt Wunder:** Of the total time at the Department, I'd say less than 5% and it ebbs/flows over the course of the year when we were going through with the initial setup of the program and doing area by area examination of which activities would be appropriate. That demanded more time and when issues come up that demand a modification of the regulation, there's a peak there as well. I'd say it's a reasonably small portion of my time.

**Commissioner Arvas:** At sometime in the future I'd like to see a cost breakdown on G.A.I.N in terms of the administrative costs and fixed costs inherent in the program. That way we'll see if this is going to work or not because we can always develop another program that might be more effective than G.A.I.N.

**Commissioner Sims:** Am I right in thinking that we can't charge an amount where we make a profit, correct?



**Matt Wunder:** Not with the numbers of people we have and probably would like to have on our WMA's. I'm not sure that with higher-impact activities, we probably wouldn't want to have that many people out there with a low value permit.

**Commissioner Sims:** Without a budget or without us actually knowing what the G.A.I.N brings in and what the expenses are, we don't know where we are. I think we need to know the breakdown of expenses/income.

**Pat Block:** In Chapter 17 of the statutes there are things the Department does that have fees set by law. In a section of the law it says that for any other fees the Department collects that are not set by statute, the Commission may adopt that fee but the amount of that fee cannot exceed the costs of administering that program, so even if we had the exact dollars/cents we wouldn't be able to say we want to make 10% profit on each transaction because that's not covered within what the law allows.

**Public Comment:**

**Oscar Simpson:** It's my understanding in the rule you're going to exclude equestrian trail riding on G.A.I.N properties, correct?

**Matt Wunder:** No, in the original rule there's an option to charge people if they're going on a bear trapping operation that the Department is holding and somebody wants to ride horses out to that specific opportunity that was proposed in the original rule. That would be something we'd take out so that there are still WMA's where equestrian activities are permitted, but in terms of going to a specific G.A.I.N Department-sponsored activity that would be the section that's being removed.

**Oscar Simpson:** I support the Commission's concerns about profit.

**Greg McReynolds:** At the inception G.A.I.N was looked at getting additional revenue but it seems in it's current form it's actually costing more hunters/anglers more money.

**Commissioner Salmon:** The rule as it's written doesn't itemize activities on particular properties, how/when will that be worked out as to which properties are in/out and what particulars are permitted on each one?

**Matt Wunder:** When we started developing this program, we spent a fair amount of time with Department staff looking at different WMA's and trying to identify what activities seemed appropriate/compatible with WMA's. As part of the outgrowth of the rule is that the Director has the authority to develop activity authorizations which are specific documents that address what activities are permitted in which portions of any specific WMA. When the initial rule was passed, those activity authorizations were developed/summarized in the rule book. Under the existing proposed rule, the Director would still have the ability on an ongoing basis to review activities that are permitted on any given WMA, so with/without a revision of the rule, the Director would have the authority to review what activities are being permitted on any given area, and develop new activity authorizations which could either add new areas with activities, could remove areas so that there were no activities on those, or change activities permitted on any specific WMA.

**Commissioner Salmon:** That would include the ability to exempt certain areas owned by the Commission but don't appear to fit in with G.A.I.N?

**Matt Wunder:** Definitely.

**Chairman McClintic:** Of all the Commission-owned properties, what percentage were sportsmen's dollars, what percentage were general fund allocations to buy the properties?

**Pat Block:** I don't have those exact numbers but you're going to find that overall the general fund will be the smaller share. There were general fund monies involved with Eagle Nest Lake and that's the only one that comes to mind readily, some of the recent acquisitions for the \$5,000,000 about years ago—the Lewis Ranch, but if you go back historically you'll find about none.

**Commissioner Salazar:** A complaint I've had from sportsmen is that children/spouses accompanying them when they have a license while angling/hunting on Commission-owned properties, they'd be required to have a G.A.I.N permit, is that correct?

**Matt Wunder:** Under the rule as it's written, an adult individual is required to have either a hunting/fishing/trapping license or park permit to go on the property. Children under 18 do not require a permit but all adults as the rule is formulated at this point would. This rule contains a provision for the vehicle pass which is essentially a block permit. I wouldn't say at this point that that would necessarily be the way the Department would go, but that does show that we do have some flexibility at least with a vehicle based approach that we could look at a vehicle and say this vehicle in order to go on this tour route we charge one fee. I don't know that if in the future we may make a determination that we could look at having family permits, maybe a more expensive family permit that'd encompass an individual and members of a family within some specification/degree of relatedness.

**Commissioner Salazar:** Generally the idea is to get another stream of dollars besides the sportsmen involved in the Department's activities and it's good in that aspect, but the way it's set up now unless we can develop more revenue it's not going to work. I'd like to see the Department develop some other streams along with this.

**Matt Wunder:** The concerns about the sportsmen being double charged is why we specifically looked at allowing the current hunting/fishing/trapping license to serve as a permit. Part of the G.A.I.N Program is that I'd like to see a legitimization of some uses. People have been using our WMA's previously because in essence they've been doing that whether we want to admit it or not, it's been illegal. So this does provide that opportunity and there's also a large component of New Mexican's out there that this would provide an opportunity to better serve them. If they're not hunters/fishermen/trappers, this would provide an opportunity for the Department to try to bring in more constituents and serve an underserved group of the population. The

concerns about the cost I agree are important, but when I look at G.A.I.N I'm trying to look down the road and who can this bring to our Department.

**Chairman McClintic:** What you're asking for are some adaptations to rules. It's not going to affect the G.A.I.N Program as it is now, correct?

**Matt Wunder:** Correct.

**Chairman McClintic:** So I'm not sure a deferral would be in place.

**MOTION: Commissioner Sims** moved to accept the Use of Department of Game and Fish Lands Rule 19.34.3, NMAC, to specify the conditions under which the public may access State Game Commission-owned or controlled properties for wildlife-associated recreation other than hunting, fishing, or trapping. **Commissioner Salazar** seconded the motion.

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

**AGENDA ITEM NO. 12: Adoption of Amendments to the Deer (19.31.13, NMAC) and Hunting and Fishing License Application (19.31.3, NMAC) Rules.**

**Presented by Barry Hale** – The Department presented final amendments to the Deer and Hunting and Fishing License Application Rules for consideration and adoption by the Commission. Amendments will eliminate the deer permit, provide applicants various licensing options, modify deer hunts designated as quality, and exempt holders of private land licenses and certain public draw deer or elk licenses from the 'Quality/High Demand' application restriction.

**Barry Hale:** The purpose of this particular agenda item is to try to finally wrap up some of the matters we began back in July at Heron Lake State Park, specifically to (1) finalize the application deadline for the special hunts for deer; (2) to amend the Deer Rule for two reasons--to take look at re-designating some of the quality deer hunt designations as well as go ahead and accommodate a change made by the Commission earlier on about full fee up front, and that means getting rid of the permits and substituting the term "permit" with "license"; and (3) to look at amendments to hunting/fishing license application rule and examine changes or allow for some exceptions to the application restriction.

**Public Comment:**

**Michelle Briscoe:** I'm with the NM Wildlife Federation. One sportsmen concern is about exceptions being made to the application rule. In general a lot of it was discussion that it wasn't necessarily when the initial QHD every other year, and then every other year for antelope was implemented there wasn't a lot of time for public comment. There wasn't a lot of time for Department review/analysis and implementing more exceptions to this is not necessarily making matters better. Another concern is that the definition of quality has nothing to do with demand.

**Oscar Simpson:** I'm representing myself. We ask you to re-evaluate the whole rule, start over and evaluate what we're doing/not doing and if it's a justifiable rule to allow more public hunting or creating a loophole where people buy a landowner permit then get a unit-wide tag and go hunt on public land and get to hunt there every year.

**Garth Simms:** I'm with the NM Council of Outfitters. At the July meeting, the Department proposed moving the deer application deadline to February. The outfitters are very concerned about that because many of them are traveling the trade show circuit at that time. I was able to talk with some Department staff subsequent to that presentation and expressed those concerns and they have accommodated those.

**Jeremy Vesbach:** Even though there's great intent, I'd recommend the Commission take action to defer implementation of this QHD restriction and for a year work out comments.

**Greg McReynolds:** I'm concerned about QHD creating extra loopholes. I think when Chairman McClintic originally looked at this program, the idea was to help hunters who put in for the public draw and work for non-profits.

**Chairman McClintic:** There's a lot of misconception. I wanted the license fees up front. It wasn't my idea on the QHD every other year.

**Greg McReynolds:** Who ever had the idea, I think the intent was good. I'm concerned about the loopholes affecting people who depend on the draw. I think when we add in loopholes and create a more complex system, we're slowly getting away from that. I'd ask the Commission to re-evaluate this decision and think how it's going to affect the public hunters who depend on the draw and don't make a lot of money.

**Chairman McClintic:** R.J., were not voting on the QHD, we're voting on the exemptions, correct?

**R.J. Kirkpatrick:** That's correct. Before you today are not amendments that reflect the requirement that applicants who drew QHD hunt be ineligible to apply next year. That's not open for consideration today.

**Chairman McClintic:** I'd like to direct the Department for the December meeting to put it on the agenda and if they want to keep it, they'll recommend it, and then we'll bring up public comment on it, vote on it, and if the consensus with the public is that they don't like it, we'll vote it and we'll change it. Today I don't see any way being transparent that we can change a rule that's already in place in our proclamation.

**MOTION: Commissioner Montoya** moved to amend Deer Rule 19.31.13, NMAC, to eliminate deer "permits" and replace them with "licenses", and to adhere to the April deadline the same as elk in the Big Game Rule. **Commissioner Buffett** seconded the motion.

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

**Commissioner Arvas:** The comments you made in terms of asking the Department to come up with justification for the QHD rule, I don't think it'd be appropriate to vote on this at this time if we're going to change it next month.

**Chairman McClintic:** It's in December but we'll bring it up for a re-vote because a lot of people seem to dislike it and don't believe it's beneficial. So you want to defer it?

**Commissioner Arvas:** Yes, I'd like to move that we go ahead and defer Section 2 until the next meeting because that's when we're going to air out the QHD, and I'd encourage the Department and R.J. that basically is your area of purview. There's some concern on most of the Commission's part as to where this QHD came from to start with. I think you'll have ample opportunity to think about how you want to make your presentation and I encourage you to give it some thought in terms of the merits, pluses, and minuses of this because as you can see the public doesn't like it at all.

**Barry Hale:** I want to clarify. You'd indicated to me that Motion #1 passed. You indicated that you'd read it only as far as the license so it's not the same as Motion #1.

**Commissioner Montoya:** Not Motion #1. I didn't follow the script. I made my own motion so I didn't mix it.

**Chairman McClintic:** We broke them into three different motions and we'll vote on all three separately.

**Barry Hale:** The second part of Motion #1, is it just the determination of what a quality deer hunt is? It has nothing to do with the QHD issue, it's just that we've gone back and wanted to look at are these hunts indeed quality so that's independent from the QHD restriction so that's why I'd hope we could keep that all in the same motion. That doesn't affect the QHD at all.

**Commissioner Montoya:** I've made a motion, it's been seconded and voted on, and if we want to continue this discussion then I think it merits a second motion to address Mr. Hale's concern on the second part of that.

**Chairman McClintic:** So, in other words, Mr. Hale, separating this motion and dropping the part about special hunts is of a concern to you?

**Barry Hale:** Well, the only reason is because at some point we're going to have to recognize that those are not quality hunts down there and since we've got the deer rule open now, this would probably be the best time to do it. If we come back in December to address the QHD, we won't have to open up the deer rule and then maybe look at that again. We'll restrict all the discussion/voting.

**Chairman McClintic:** So, in other words what Mr. Hale is saying is that if we vote on this with the exemptions to the special, it'll have no bearing if we eliminate the QHD in December, it won't have any bearing on us doing this.

**Commissioner Salazar:** That's my concern. Currently under the restrictions the deer rule and also you have some listed in elk, it says as amended September, 2009. Would we have to make a change to that so that doesn't occur?

**Barry Hale:** I believe at this point if this is going to be revisited in December, that we don't have to worry about Motion 2 at all, if that's going to be the situation so Motion #1 and #3 are probably at least what we want to get through today.

**Commissioner Salazar:** My other question is the amendment we voted on cover all these items under modified #2 that create more efficiency?

**Barry Hale:** That's not necessary. That was for your information. We're going to go ahead and implement those as part of the process anyway. We need you to formally state the application deadline which is in #3.

**Commissioner Sims:** I understand about the quality hunt demand is we were talking about is some of the high demand and quality hunts that we have left over tags we could move them back into quality and high demand. If we have left over tags apparently they're not quality high-demand. That's what we're dealing with. It's not going to change anything but have exactly more hunter access to those still left and that's what I've been hearing from the public. Why do you have quality high demand and have these tags left over and then sell those, then they don't apply for the next year so basically it takes that quality high demand out of the system when they have left over tags which apparently makes them not a quality high demand.

**Pat Block:** That first part of the change if we keep the holdout would subject quite a few less people to being held out because they ended up with a license that not a lot of folks wanted.

**Commissioner Sims:** It's more hunter opportunity for the people that want to hunt that area. That's what I keep hearing from the public is people that live in one area of the state they draw that, there's leftover tags and next year they're ineligible and they have to go to the far corner of the other state to hunt deer again with their family. It makes no sense.

**Pat Block:** Even though not enough people wanted those licenses--that's what the amendment is trying to get at exactly.

**Commissioner Sims:** It's not going to change what we've done next year, it's just going to give us more hunter opportunity especially with the people that live in that area to do that.

**Director Stevenson:** We've had a motion and passed the first portion that dealt with simply changing from permits to licenses. The second component of that I'd recommend we put off and not deal with today. What that essentially does is just have non-residents paying for part of those quality licenses that may not be that right now, but let us assess that and we can bring that back to you in December. I don't think you have to take any action on #2. It doesn't take a motion. If we don't move it, we don't move it. I do need clarification that we were going to move forward with #3 that that was not part of the motion on #1.

**Commissioner Sims:** I don't understand Motion #2, the part of the out of state hunter equates to that as part of the problem. That's what everyone in the state is trying to get at that the QHD were developed for that manner if everybody will recall. In essence, it has backfired. In most units we're having leftover tags. The people that live in those units aren't being able to go out and do that. There's no smoke and mirror to the whole equation. It's basically what every sportsmen/hunter in each area has been asking for, for about eight months. If we want to help the sportsmen in those areas we can vote on it, and if we want to put it off and not ever do it we can tell them that.

**MOTION: Commissioner Salazar** moved to establish the special hunts application deadlines of February 3, 2010 for oryx, bear, WMA permits, turkey WMA permits and all population management hunts, and April 7, 2010 for deer, elk, pronghorn antelope, Ibex, Barbary sheep, Javelina, and bighorn sheep because this is a need for the Department. **Commissioner Salmon** seconded the motion.

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

**Director Stevenson:** I'm not trying to push you one way or another, but since that deals with a component and I agree completely with Commissioner Sims that there are components of the QHD that are holdouts that don't make sense that folks should be restricted. I suggest that since we're going to deal with that issue in December that you allow us time to put that information together. As a component of that we'd bring it as two different components and that way if you choose in December to move forward with a holdout on QHD as it currently is, then we could move to this component to deal individually with these separate components of what should be part of that or should we exempt some components of that. We could put it together I think a little cleaner for you where you and the public have a better/clearer understanding. Clearly it's going to have some affect on what we do with our regulations and our rule book development but since we're going to make that decision in December I think if we can come to you with a cleaner understanding of what we're trying to accomplish.

**Commissioner Montoya:** I appreciate the Director's comments on that. I think December is a good time to do this but I appreciate the fact that we can keep them separate because I think most of us could agree that those should be exempt from QHD's. I don't think any of us think those are quality hunts. This is a separate issue that there's been more opinions offered which is the every other year QHD issue and I think this is not as difficult to address even today, but I agree that December is a good time but I don't think this is in the same discussion as the other issue on QHD hunts, so in keeping them separate I think will be easier to digest and for the public as well.

**Commissioner Salazar:** Is this going to create a problem, Alexa/Barry with the timing on getting these things out because I know that's an issue in December so I want to make sure with staff that we're ok with the timing on that?

**Pat Block:** It's not an insurmountable one. By taking action on #1 and #3, you've helped us with what the big logistical issues would have been. We want to make sure that we're doing and allowing the Commission to reflect in their actions what the public wants so what we'll probably do have a couple of different versions of those pages that are in question, then after the December meeting send to print the version that ends up passing. The Proclamation printer's ability to turn the whole order around in weeks rather than a month to two months, so I think we'll be ok.

**Commissioner Arvas:** There's an inference I'd like to be sure isn't there and that is that under public draw youth only hunts, the Department has made great strides in the last couple of cycles to have some great hunts for youth.

**MOTION: Commissioner Arvas** moved under Agenda Item No. 12 the Commission defer #2 until the December meeting.

**Commissioner Montoya** seconded the motion.

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

### **AGENDA ITEM NO. 13: Adoption of Amendments to the Barbary Sheep, Oryx, and Persian Ibex Rule (19.31.12, NMAC) to Clarify Certain Provisions.**

**Presented by Darrel Weybright** – The Department presented final amendments to add Barbary Sheep entry permits or licenses to 19.31.12.9, Sec. B, which establishes what constitutes a valid license or permit, and language that enables public draw Barbary Sheep, Oryx, and Ibex entry permits or licenses to be valid on private lands where there is a valid agreement for unitizing state leased and privately owned or leased lands. An additional amendment will change the hunt area for all "Small Missile Range" Oryx hunts to "Red Canyon Hunt Area" and reduce the number of 2010-2011 public licenses for ORX 1-110 and ORX 1-112 from 40 to 25.

**Commissioner Salazar:** On those unitized units, do we have some sort of mapping available so people know where those areas are and how they've combined?

**Darrel Weybright:** They do exist but are not on the website, but that wouldn't be too much trouble because most of them are mapped out on a GIS Program of one type or another.

**MOTION: Commissioner Salmon** moved to adopt amendments to the Barbary Sheep, Oryx, and Persian Ibex Rule, 19.31.12, NMAC, as presented by the Department. **Commissioner Salazar** seconded the motion.

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

**AGENDA ITEM NO. 14: Adoption of Amendments to the Pronghorn Antelope and Javelina Rule (19.31.15, NMAC) to Establish the 2010-2011 Pronghorn Hunting Season.**

**Presented by Jim Lane** – The Department asked the Commission to adopt amendments to the Pronghorn Antelope and Javelina Rule that will establish the 2010-2011 Pronghorn Antelope hunting season. The amendments also included closure of the AMU 19 (Stallion Range of WSMR) hunts due to extremely low pronghorn numbers in these areas. We want to close AMU-19 for 2010, White Sands Missile Range stallion range, due to low pronghorn numbers. The herd has been reduced over time and it wouldn't support a hunt for the next year.

**Commissioner Arvas:** The Department is in the process of re-evaluating the antelope rule, so how do these numbers affect any possible changes that you might come up with?

**Jim Lane:** These dates wouldn't affect that. The proposed changes to A-PLUS would take effect for the 2011 season, so there shouldn't be any affect at all.

**MOTION: Commissioner Salazar** moved to adopt amendments to the Pronghorn Antelope and Javelina Rule 19.31.15, NMAC, as presented by the Department. **Commissioner Arvas** seconded the motion.

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

**AGENDA ITEM NO. 15: Corrections to Big Game Rules for the 2010-2011 Hunting Seasons.**

**Presented by Jim Lane** – The Department asked the Commission to adopt amendments to 19.31.12, NMAC, to correct Oryx hunt dates; 19.31.14, NMAC, to correct elk hunt dates; and 19.31.16, NMAC, to correct turkey hunt dates and areas. The corrections addressed errors and omissions in the draft rule adopted through previous Commission action and ensured consistency.

**MOTION: Commissioner Arvas** moved to adopt amendments to the Barbary Sheep, Oryx, and Persian Ibex Rule 19.31.12, NMAC, Elk Rule 19.31.14, NMAC, and Turkey Rule 19.31.16, NMAC, as presented by the Department. **Commissioner Buffett** seconded the motion.

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

**AGENDA ITEM NO. 16: Final Department Recommendation on Prospective Changes to Game Management Units 6A and 6C.**

**Presented by Jim Lane** – The Department presented a final recommendation to make no changes to the current status of GMU's 6A and 6C for the 2010-2011 license year. The Department offered suggestions to continue working with interested publics on resolving elk management and landowner issues in GMU's 6A and 6C and to incorporate any prospective rule changes into the Big Game Rule development process that will be initiated in 2010. The Department's recommendation and one of the options is no change to the current boundary between 6-A and 6-C and to emphasize increased quality/quantity of elk in 6-C. Two other options are to combine the units and maintain the quality in elk 6-A and to change 6-A and 6-C boundaries with various options and most of those options would re-distribute the public/private hunting opportunity and allow folks to take advantage of the 6-A herd quality in the current 6-C. The Department's recommendation is no change to the boundary.

**Public Comment:**

**Garth Simms:** I'm with the NM Council of Outfitters. The Council supports maintaining the units in exactly the configuration they're in now with one *caveat*. If the Commission would make a decision to rebuild the elk herd in Unit 6-C to where it's at some parity in terms of quality/quantity of elk we could support combining the units. Until that's done, we support Option 1—maintaining the boundaries as they currently are.

**Oscar Simpson:** I agree with NM Council of Outfitters recommendation and hopefully we can combine the two units to make it quality for both areas.

**Art Martinez:** A good solution is re-aligning the boundary. Another suggestion is to change the boundary to the Cuba/Coyote districts. Another good boundary change is from the Resumadero Trail to the Rio de Las Vacas Trail to the San Jose Trail. All we want is equality. People in this area like/want the elk, but they can't feed the elk.

**Commissioner Salazar:** What would it take to bring 6-C up to a better unit? Unit 6-A is a high quality elk unit now. We split this up to deal with complaints on depredation. I'd like to know how to work with the other agencies, i.e., Caldera/Bandelier/Forest Service to increase the quality of the herd there, and how could we deal with depredation?

**Jim Lane:** To improve the quality in 6-C, we reduced the number of permits given out by 20%, we have another 20% reduction coming. It'd take more of that sort of a move to improve the quality over time, it'd take 5-6 years of not killing as many animals and letting that age class of bulls move up. Now, you could also obtain that same change potentially by looking at some changes in weapon types going from reducing the number of modern gun authorizations and maybe changing those over to archery/primitive weapons. In-line muzzle loaders wouldn't work because the success rate is about the same as rifle. We've mentioned tweaking E-PLUS and that's something that the Department is going to look at, how we allocate authorizations with small landowners. That will also encompass depredation issues we're looking at. We're trying new techniques and we're also looking at trying to come up with some landscape-level changes around the state in these areas with high depredation.

**Commissioner Salazar:** I noticed in 6-C there was an enormous amount of roads and activity, while 6-A has that core unit of wilderness that seems to benefit elk in that unit.

**Darrel Weybright:** That's right. The crystal ball would include part reduction in permit numbers with high hunters which we intentionally put in there it pushes the elk out. Now, at what level does 20% reduction leave more elk in there and not get pushed out as fast, another 20% will leave more elk so the elk are in there now. It's a combination of a big herd and there are several sub-populations, so we'll have to learn that. One thing is to reduce those hunter numbers, lower the kill, and stop the business of that, but there are woodcutters/ATV's. The Forest Service has proposed closing some of those roads but we have a lot of hunters telling us there are a lot of hunters chasing through the calving/rutting seasons.

**Jim Lane:** Before a motion is made, for the Department's sake, I'd like to be clear about what season we're talking about for a boundary change, would it be 2010 season, and if you're directing the Department to improve quality in Unit 6-C also.

**MOTION: Commissioner Montoya** moved to approve boundary change that splits Units 6-A and 6-C to move it from the current Forest Road 103 to the boundary line that separates the Coyote Ranger District from the Cuba Ranger District and that it be effective for the next hunt season which would be 2010.

**Commissioner Montoya:** I'll stop there because the issue of improving 6-C is too complex to put in this motion because one of the other ideas—ok, that's my motion and that's registered but I want to comment why I can't include the improvement of quality hunting in 6-C because if you ask individuals that graze cattle on 6-C, they'll tell you there's too many elk, and I believe them, but they're not there during hunting season. They're there in the spring then they're there through July maybe. Come the bow hunt, they're not there anymore, and so the migration of those elk have a lot to do—I'm kind of embarrassed myself that we have to qualify in our Proclamation how bad the hunting is in 6-C by putting a qualifier on the bottom "please call the Department before applying", I don't remember what the verbiage is but basically what it's saying is hunt at your own risk, or spend your money at your own risk because hunting is horrible in 6-C, and I believe there was a harvest rate of about 5%-8%, do you remember what that harvest rate is—it was below 10% that I recall on one chart that was provided by staff, but I wouldn't want to make that in my motion. I would certainly encourage Department staff to start work immediately on that. All of that can be done administratively. If you'd like a directive from the Commission I certainly would be one Commissioner out of seven that would direct you to do that, but you have to include the individuals that are on that land that are grazing cattle now that were part of the mix in leading us to where we are now, and there has to be some balance—adjustments to when 6-A and 6-B are hunting so that there's hunting pressure—it's very complex. You all know more than what we do, but it's very involved, but certainly we all want to improve the quality there but we need to involve all the players, so as part of my—not part of my motion but as part of an opinion, please move forward with all of your ideas and try to acquire more on how we can improve hunting in 6-C.

**Commissioner Buffett** seconded the motion.

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

**Chairman McClintic:** Jim, with the change in the boundary, splitting the San Pedro Wilderness, we can't fence the wilderness, is that correct?

**Jim Lane:** That is correct.

**Chairman McClintic:** I wanted to make sure that the audience and everybody understood we can't run a fence through the middle to separate the boundaries in the wilderness.

**Jim Lane:** I have a map of the proposed change for the public to see.

#### **AGENDA ITEM NO. 17: Presentation Regarding Elk Management in Game Management Unit 4.**

**Presented by R.J Kirkpatrick - Associated Landowners Against Resource Mismanagement (ALARM)** is a group representing some landowners and Tribes in the Chama area concerned about elk population trends and the number of elk hunting opportunities available in Game Management Unit (GMU) 4. The Department provided an overview of elk management in GMU 4 and discussions to date with representatives of ALARM. Views and recommendations regarding license allocation and harvest management strategies originating from ALARM were presented. The Commission made a decision to increase the level of bull authorizations that go to private land in GMU 4, as well as some of the neighboring GMU's in that north central region. Subsequent to that, a group of landowners/Tribal interests/outfitters in Unit 4 have steadily increased concerns about the overharvest of bulls and the degradation of the elk resource in that Chama area, and have made some serious requests to the Commission/Department that we do something to alleviate that overharvest.

**Aaron Jones:** I'm President of ALARM. I'd like to focus on measures imposed to improve the population structure, i.e., sex/age/ratios/bulls in Unit 4. NM has discontinued the traditional method of surveying big game populations during the winter months in favor of counting animals, namely elk during September. The intent is actually to count the animals available to hunters rather than counting the animals in winter range that may/may not be available to hunters the following fall. We have another letter from the NM Council of Outfitters/Guides refers to Unit 6 and they urge the Commission to refocus it's efforts in the greater Unit 4 area and work with the Colorado Division of Wildlife to increase the elk herd quality/quantity. ALARM is going to

provide better information by voluntarily taking the incisor teeth out of elk and trying to collect as many as we can not only in Unit 4, but the general area/north central region where elk herd spends most of their time. Outfitters have envelopes that have the elk teeth collection instructions.

**Commissioner Arvas:** Can you simplify your concerns to basically what areas of disagreement you're at with the Department?

**Aaron Jones:** I feel the Department has worked with GMU 4 as an opportunity unit. Now, as far as an opportunity unit, they may be doing a great job in providing opportunity for elk hunters in that area. What we're seeing and what ALARM and the people I'm here representing today would like to say is they're not happy with it as an opportunity unit, they're not happy with what they're seeing on the ground and on their private property or Tribal properties they represent. What they'd like to see, however, is a better quality resource providing a greater economic benefit to not only the end users/ranchers/hunters but the businessmen and anybody involved who might benefit from this resource. ALARM is looking for a quality resource. Do they feel the Department is doing a bad job, no—we commend the Commission/Department for what they've done, but we feel we could do better. There's always room for improvement/evolution and where do we need to go from here.

**Commissioner Arvas:** So you're saying is that you're in agreement with the Department's management practices, but you're not in agreement with the hunt strategy?

**Aaron Jones:** We believe that there are great biologists in the Department. If the Department is given information or asked to provide information or manage an area a certain way, they're very capable of doing so. What we've seen on the ground is that maybe what the Department is moving forward with is not what we're seeing. That may be where the conflict comes--data doesn't match up with what the landowners/public/public users/Tribal entities are seeing.

**Commissioner Arvas:** Back up a bit because I think that's where I'm getting confused. You're saying there's a decline economically as a result of the fact that we're allowing too many people to hunt are you saying or assuming that the price of the licenses are going down as a result or the landowner permits are going down in terms of value, is that where the economy declines?

**Aaron Jones:** The Department discussed some of these issues in the population dynamics that being the mature bull segment but the mature bull segment has been on a downward trend for a few years now. There may not be as many mature bulls out there as there used to be. As the end user of the resource of the people benefitting whether the rancher/outfitter would have a greater return if that mature bull was a greater quality animal rather than a young animal.

**Commissioner Arvas:** So once again you're saying you can get more money for a bigger animal than you can for a smaller animal?

**Aaron Jones:** You can definitely get more money for a larger animal, yes. Another thing I've heard from outfitters/guides/ranchers is that hunters booking hunts in this area are dissatisfied with the last 2-3 years that they've been out and they're not willing to re-book. They're moving to other areas to hunt because of the quality of the hunts being provided, that quality directly related to the quality of the animal.

**Commissioner Sims:** You manage quite a bit of property up there correct?

**Aaron Jones:** Yes.

**Commissioner Sims:** Am I right that you have already taken some of these avenues even on your own properties about bull reductions but elk are coming through a lot of different areas and you'd like to have management implemented throughout to benefit the whole area, is that what I'm hearing?

**Aaron Jones:** That's exactly what you're hearing. We have taken it upon ourselves for years to reduce the harvest and try to provide a better hunt.

**Commissioner Sims:** Can you tell the Commission/audience some of the management practices you've implemented on properties you're managing currently and what reductions you're taking?

**Aaron Jones:** I manage private ranches in northern NM, those being somewhat adjacent to the Sargent Wildlife Area. Some of our practices was reduce the harvest to the point that last year on an 18,000-acre ranch we harvested three bulls. We're consistently putting regulations on our hunter as far as the size/age animal as we feel they're directly related. We try to harvest animals that are at least five years old/older and hope we can get our bull segment up to average—seven years old/older. We've seen in the past 20 years that by reducing the harvest even though the herd is migratory, we may be getting somewhat in the range of 30% return on these bulls on an annual basis. Over the past 20 years we've collected analysis and directly found a relationship and put a trend line and we see that as these bulls have a chance to grow older as we reduce our harvest and as we continue these management practices, our quality has increased. We've done various habitat improvements to benefit wildlife. We manage primarily for wildlife, we don't do any cattle grazing, everything we do is basically structured to help/improve habitat and wildlife.

**Commissioner Montoya:** I'd like to acknowledge ALARM's work in recognition that their proposals will only be as successful as they are inclusive of small/mid-range landowners. Once you start putting in proposals such as these that allow for those small/mid-range ranches to not be severely negatively impacted, I think you'll be more successful recognizing that they're a player in the equation and if you incorporate proposals that accommodate or take care of them because proportionately they lose more than a ranch that's 18,000 acres so recognizing that will go a long way in having your proposal become successful. R.J.,

we seem to be at odds. Jicarilla's/Ute's are critical of the fact that we're doing counts in September vs. January. Can you tell us why we're doing counts in September and whether they've been beneficial to our management ability or assisting us in our management of wildlife, specifically elk, and what you've learned by counting in September vs. January?

**R.J. Kirkpatrick:** The Department has over time engaged in a variety of survey techniques with the underlying desire from the public and the Commission that the Department tried to establish some credible level of population assessment—how many do we have? Managing wildlife is how many you've got/how many are growing/how many are you killing, so we've gone through a lot of iterations to figure out how many do we have? Sight-ability surveys you'll remember were extremely expensive/time consuming flown in the wintertime across NM and particularly GMU 4. The problem with flying post-hunt winter surveys is the bull segment of the elk population has broken off typically from the cows and so the odds that you're seeing bulls at the same proportion you're seeing cows/calves is low; therefore, you're underestimating bull/cow ratios. Second problem with flying wintertime surveys is elk have moved in massive migrations whether it's from Unit 4 into lower country, or from CO into the Jicarilla, so if the assertion that elk that move through Unit 4 come from Colorado, which I'm not a proponent of, we'd be counting Colorado's elk and building data for Colorado to substantiate their hunt recommendations, not the Department's recommendations. Third point, the advantage to flying surveys in September where we've gone now vs. the winter is elk calves especially in good precipitation years grow pretty good and so being able to distinguish what's a calf vs. what's a yearling is much easier to do in September than it is in December/January thereby getting a more accurate assessment of the recruitment/how many calves do you have p/100 cows? Another piece is the mix of elk in September is the best you're going to get throughout a 12-month period of elk. It's during the peak of the rut when we fly so bulls/spikes/brush heads/cows/calves are at the maximum mix, so every group of elk you see potentially is the best mix you're going to see. We don't try to count every elk in the unit, we try to take a representative sample out of the region and we reconstruct what we think that population size is based on what we see in our surveys and what our harvest was the year before. It's not complicated math, but it's more complicated than I can explain today. We use three different models to substantiate what the population estimates/recruitment are and, therefore, what our sustainable harvest is given whatever the management goal is. We use two reconstruction models. Dr. Bender at NMSU has helped us with reconstruction models. We'll assert that fall surveys provide more meaningful/valuable information about the recruitment/structure/total size of elk population than winter surveys do especially in populations that move through the seasons.

**Commissioner Montoya:** The other thing alluded to I noticed is that in September, are we counting Colorado elk, or are we counting resident NM elk?

**R.J. Kirkpatrick:** I apologize to ALARM, but I've been involved in this for a while but some of the assertions made by Jicarilla/Southern Ute/ALARM are somewhat unsubstantiated. We need to keep working together with the SSJWG and those entities to decide whether assertions made are accurate or not. As far as the movement of elk, I've spent a lot of time in Chama and I guess I find it difficult in the years I spent there to see a lot of elk moving out of CO until you get into the Navajo Basin, the far western edge of Unit 4, a lot of movement out of CO into NM/Jicarilla, but I guess as we implemented mandatory harvest information it became clear that I find it difficult to believe that hunters are harvesting elk in Unit 4 with the high point of the harvest, the most significant number of bulls being taken are taken in the first week of October, I find it hard to believe those are CO elk when they're standing in NM during the peak of the rut and being harvested by our hunters, so the assertions that those elk are CO elk and we're killing them but we're killing them right at the peak of the rut in NM makes it difficult to believe those are truly CO elk. There are little differences east/west, but the distribution/movement of elk in that entire north central elk herd is well substantiated by the San Antonio Mountain elk study. We've got a CD of it if Commissioners want a copy. It's telling that there are relatively small movements of elk out of CO into NM. The bulk of elk that winter on San Antonio Mountain are coming out of Tierra Amarilla Land Grant Unit 4/Cruces Basin in Unit 52—10%-12% of those elk are coming out of CO. As you move west from the Cruces Basin in the upper ends of the Tierra Amarilla Land Grant, you see increasing movement of elk out of CO into NM, but the degree to which that happens and the degree to which NM's harvest in Unit 4 is impacting the quality of that set of elk is yet to be determined. I think there could be some telemetry work, a variety of things we could do jointly to figure out whether some of those assertions are correct or not.

**Commissioner Montoya:** One of ALARM's goals is opportunity vs. quality. What are the ideal conditions for growing 350+ bull and do those conditions exist in the upper edges of that region, primarily Unit 4?

**R.J. Kirkpatrick:** I'm not good enough biologist to give you exactly what the parameters are that dictate antler size but nutrition/dealing with winter stress/harassment/overall abundance of elk as compared with habitat throughout the course of a year, those are all components/genetics that dictate antler growth. During the 4-5 years I was a District Officer in the Jemez Mountains and worked closely with the then Baca Ranch which is recognized worldwide as one of the finest elk hunting destinations in the world, the average Boone-Crockett score of bulls harvested on that ranch over the course of four years I was there was 333 under ideal conditions with a little winter stress on them. The north central elk herd has to move greater distances, they probably have less quality habitat although it depends on where they are, and they have more disturbance applied to them so I don't know you could say what the maximum potential of bulls is in Unit 4, but I don't think there's going to be a significantly large number of bulls coming out of Unit 4 that go 400 Boone-Crockett points like we have in the Gila. It's



probably capable genetically/habitat-wise of producing that kind of elk, but is capable of producing 320-340 bulls and occasionally bigger bulls than that. A lot of this issue boils down to personal preferences/divergent interests. There are a lot of people tickled to death with shooting a 4x4 and happy for the rest of their lives, there are others that aren't happy unless it's a 380 bull—can you have both in an elk population, sure you can. Should you manage to one end of that or the other? We wrestle with that every day. I don't know the answer. One of the assertions of ALARM that has bugged us/Department is that the biological unsoundness, that we're biologically destroying this elk population. Elk populations throughout the west with bull/cow ratios as low as 8 and 10/100 are biologically sound, they're a viable population that reproduce at maximum capacity. The issue of bull/cow ratio dictating biological viability of an elk population is probably more semantics than anything. It reverts rather to diverging of interests. Do you want bigger bulls or few smaller bulls. That's the quandary.

**Commissioner Montoya:** If you go to 1998 and develop a chart starting with 1998 before any of us were here, what would those charts look like?

**R.J. Kirkpatrick:** I think the Department was allocating in the neighborhood of 1,800 antlerless authorizations, 1,400 bull authorizations, I don't recall archery authorizations, as we moved into 2002-2003, another group much like ALARM petitioned the Commission and successfully got the Commission to move total bull licenses down to 875 and cow licenses to 600 and that happened for a couple of years. Subsequent to that timeframe, the Department has made recommendations and the Commission has agreed to increase bull hunting opportunities to around 1,100-1,200. There are two ways to make bigger bulls—kill fewer or grow more. The kill fewer always resulted in fewer authorizations issued to landowners which creates frustration for landowners. We tried unsuccessfully to reduce bull authorizations. It always meets with political conundrum/frustration/dissatisfaction with the level of opportunity. The other way to do that is grow more, so the Department made recommendations to the Commission some years back to reduce the level of cow harvest significantly. There have only been 400 cow authorizations in the unit for private lands for the past four years, the past two rule cycles. We feel that's successfully increased the productivity of that elk herd as far as more bull calves are being born and surviving which substantiates the harvest of 600-800 bulls a year when you're issuing 1,000-1,200 bull licenses.

**Commissioner Montoya:** Commissioner Arvas, Sims, and I were on the Commission in 2003 when we reduced by more than half the number of authorizations for bulls and reduced by about 4/5 the number of cow authorizations, and they've remained somewhat at that level from 400-600 so we've done due diligence in trying to grow more so that there would be more opportunity. It's difficult to swallow comments that we've been irresponsible/mismanaged/biologically devastating the herd. We've done as much as we could to lower those numbers.

#### **Public Comment:**

**Dick Ray:** I bring a different perspective. As a recently retired CO WL Commissioner, the area of concern immediately north of Unit 4 in CO the upper San Juan Basin/San Luis Valley on the west side, elk live in that geographical area. They don't stop at the state line. All evidence indicates that there is a low number of elk and it's been declining for years to the point where there's cause for alarm, and the quality of elk, that's most of the bulls being 2-3 year old bulls. The solution we think is to kill fewer cows/elk on both sides of the state line. Err on the side of caution of all managing entities—Jicarilla/Southern Utes/NM/CO would logically pursue the same management goals and efforts. These concerns have been and continue to be delivered to the CO Wildlife Commission as well as the NM Game Commission. Together we can do better by this interstate herd and it's time for a change in management direction.

**Commissioner Salazar:** What's the status of the elk herd in CO? Aren't over the counter elk permits allowed there?

**Dick Ray:** There are in the second/third rifle season, bow/muzzleloader and the first/fourth rifle seasons are all on draw. CO did respond to these concerns to a small degree and cut their cow license allocation north of the state line from Wolf Creek to Durango this season by about 20%. There are still 2,300 cow licenses from the state line north. There's great concern that we're looking at the tail end of an elk herd in the high country, so this concern goes way beyond Unit 4 but we're all in this thing together and the solution isn't just Unit 4 nor just Colorado, but I'm speaking from much input from constituents mostly in CO, but some in NM.

**Commissioner Salazar:** I was wondering why we didn't have CO data. If this is affecting CO herds, why didn't you put CO data down.

**Dick Ray:** That's available and has been discussed at an ALARM meeting and it's eye opening.

**Jack Brittingham:** I'm closely allied with ALARM and I also represent a couple of ranches in northern NM—Rancho del Oso Pardo/Ranch Lobo together totaling about 28,000 acres. We've gathered much data and we emphasize collecting data on every animal that's killed—age/score and we've accumulated it for many years. Our data definitely shows that the bull segment of the herd is declining in both quality/age. This is just what we're seeing on 28,000 acres. I don't want you to think we're only concerned about what's going on in Unit 4 in NM. I want you to understand that we're equally concerned with what CO is doing and we're working to get them to be a partner in this reduction on the bull segment of the herd and as well the cow segment. The biggest thing is this is an economic issue for the area of Chama. Issuing more bull tags for the unit and having them sell at \$1,800 p/tag is not helpful to the small landowner, when the price he used to get was \$3,000-\$3,200. Reducing these tags in Unit 4 does not necessarily negatively impact the small landowner and our group does not in any way want to call for the small

landowner to have reduction in the number of tags. Larger landowners have agreed not to authorize in the neighborhood of 40 mature bull tags this year. We understand the small landowners' position and we want you to know we're as concerned about him as we are about overall elk herd and quality. Please consider a reduction in bull harvest and consider turning Unit 4 into a quality management unit.

**Garth Simms:** I'm with NM Council of Outfitters/Guides. We support ALARM and the efforts they're trying to make to improve the quality of that herd. We encourage the Commission to work with the CO Commission of Wildlife/Jicarilla's/Southern Ute's to try to build that herd in any way it can.

**Mike Rivera:** I'm here in support of ALARM/SSJWG and the initiatives going on, and also in support of HJM 4 and the emphasis on citizen data/scientists collection. I feel ALARM/we as a group are trying to do that in terms of data collection. I also support the Western Governors Association MOU on wildlife/habitat/corridors. I'd like to see an ALARM representative as part of the SSJWG.

**R.J. Kirkpatrick:** In encouraging the Commission/Department to reduce the levels of cow/bull harvests in Unit 4, there are two ways to do that. Either amend rule, make fewer hunting opportunities available or the concept we've discussed with ALARM the last couple of meetings as a voluntary, non-use of authorizations they get. The landowners kill fewer bulls which they have the ability to do through not selling authorizations. Either way, the Department is probably going to need some direction from the Commission to work toward developing prospective amendments to the elk rule and the landowner system rule to accommodate either a voluntary reduction that stabilizes the situation or prospective amendments to actually reduce the total number of hunting opportunities. We need direction from the Commission about what you want us to do. The timing will be somewhat crucial in that based on the new policy and desire for transparency we'll have to have some prospective amendments for people to consider within the next week or so, then formulate final drafts, and have the Commission act on prospective amendments in December to make this work for next year.

**Chairman McClintic:** In my meetings with ALARM, they were voluntarily going to give up a certain amount of opportunities that we furnish them with the understanding that they were not going to change the small landowner/public hunts and what they wanted from us was that the opportunities that they didn't use, that we didn't re-issue those to other people. You've changed that.

**R.J. Kirkpatrick:** That's an accurate assessment of what you've heard. The trouble with that is that in order for the Department not to change the allocation the small contributing ranches currently get, we have to figure out a way to stabilize what they're currently getting because some of the proportion of what those small landowners are currently getting is available because larger landowners haven't used their authorizations under current rule.

**Chairman McClintic:** So we need to work with this group if they're voluntarily going to do that, we're going to have to work out a number that the smaller landowners are going to be happy and accept so that we'll do this together?

**Discussion item only.**

#### **AGENDA ITEM NO. 20: General Public Comments (Comments Limited to 3 Minutes).**

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

**Oscar Simpson:** We're going to have to sacrifice if we're going to keep the numbers of elk and quality up and that includes the grazing permittees. We know that we've got reduced precipitation.

**Daniel James:** After my 2008 private landowner land-only carcass tag deer hunt, I tried to make an online harvest report and the Department's website kept telling me "we have no record of your elk license or deer permit". I have the documents from the website that say that right there in the file, thus I was unable to make a report.

**Pat Block:** To add information to what Mr. James just told you is that they indeed did hunt last year. They hunted under a private land only hunt and the page he's referring to the next text that appears below the quote that he read I believe says if you had a private land hunting licenses click here, and there's a button to click for private land deer hunts. I don't agree that there was a glitch in the system and it did perform for most hunters. He was indeed rejected for those hunts. The section of rule he read to you was not to do with rejections, but has to do with revocations. He has not been revoked, he was just not eligible to participate in the draw because of the rule that the Commission/Department made that says that if you don't report, you don't get to apply the next year.

**Jim Karp:** There is no provision for a hearing with respect to a rejection for failure to meet the requirements of the system. It is not a revocation. There's only a right to a hearing in the instance of a revocation of a license or a privilege.

**Chairman McClintic:** Were all these tags they applied for private landowner?

**Pat Block:** No, none of them, they were all public draw hunts in this year. Mr. James applied for a public land draw last year, did not draw, but then found a piece of private land to hunt on?

**Commissioner Sims:** We have safeguards set up on our phone that ask for this. Are we pretty assured that we're asking him was it private land or public hunt? Do we have a procedure we go through with the telephone operators?

**Jim Karp:** My information is yes to the extent that there's no record of a public hunt. They're asked to provide additional information if they participated in a private land hunt.

**Commissioner Arvas:** Mr. James, did you agree to everything Mr. Karp just said?

**Daniel James:** I believe that he said that the regulation I referred to dealt with revocations, and the regulation concerning the number of licenses or permits available, the language of the regulation does not limit it to a revocation of a license. I believe that Mr. Karp did take the position that the hearing provisions in the regulations apply only to revocations. I was not allowed to make a harvest report despite my good faith efforts to do so, and Mr. Pompeo's, and I don't even get a hearing? I'm asking the Commission to right this wrong. I respectfully request relief from the Commission.

**Chairman McClintic:** What they said to you was that there was a box to be marked that you did not mark.

**Daniel James:** When you pressed it it said we have no record. It would not let me go further and it was that way up 'til several months ago. It has since now allowed us in.

**Chairman McClintic:** Is that correct?

**Pat Block:** The configuration of that screen hasn't changed. We know of no other instance where an individual had this problem, so not widespread.

**Commissioner Salazar:** Sir, are you aware of this? Have you seen this the way it's configured now? Are you aware?

**Daniel James:** Yes, sir, I've seen it.

**Commissioner Salazar:** You did not notice that before?

**Daniel James:** No, it would not allow me to go forward. When I made my telephonic attempt they kept saying, I'm sorry, sir, we have no record. In good faith I tried the Department's website and telephone operators wouldn't allow us to do it.

**Commissioner Arvas:** Why didn't you call the Department?

**Daniel James:** In retrospect I probably should have, but at the time you have a busy schedule, you have so much time in a day to do things. I'm self-employed, I have responsibilities to other people, to clients, and you set out time to do it, you try to do it, you try to do it in good faith, you try to do it twice, and it's the same thing.

**Commissioner Arvas:** Pat, if he would have called you, could you have solved the problem for him then?

**Pat Block:** I assume he would have gone to the Wildlife Management Division, Stewart Liley works with folks who have reporting problems, and we're usually able to help people report. We're explaining how we understand the process to work with the telephone operators' scripts, and with the functionality of the system. It's not to say what he did/did not experience, but we can tell you what the process is and how it's configured.

**Commissioner Arvas:** Well, that would have been the solution in my mind. Call the Department, one phone call.

**Daniel James:** I respectfully suggest that if the Commission/Department wants people to make reports, it has to be set up in a way that is self-evident and that works without extraordinary effort by the person reporting. We were unjustly deprived of an opportunity to hunt this year. I'd also like to point out that when we applied online this year, there's a button that said did you comply with your harvest report and we said yes, and it allowed us to keep going, leading us to think that we have fulfilled whatever obligation we had, plus it took our money. It seems to me that if there was a problem, the application website if you answer yes to the question did you do your 2008 harvest report, that it should block the application. Mr. Pompeo for sure would've gotten picked for elk/antelope since his co-applicants did.

**Chairman McClintic:** You don't know if it was a public draw he would've gotten picked.

**Pat Block:** They do, because he was on an application with others and the application was successful, so they did draw.

**Chairman McClintic:** Are any of the areas they applied for not filled, or any of the surplus tags or anything, were they all quality areas, or--?

**Pat Block:** No, those were all fully subscribed hunts. Where you check off I did comply is to remind people that they do have that obligation. It is not to invoke some process, and the reason we don't do that is precisely because of the public land deer tags. We don't—we want to make sure that we don't reject anyone until we're absolutely sure that they did not report, and oftentimes since those are entered off of hand-written documents, you'll see a difference, you know. We don't reject people up front for precisely the reason that we don't want to unfairly take anyone out of the draw when they truly did file a report. That wasn't the case here.

**Chairman McClintic:** How many people filed their harvest report electronically?

**Pat Block:** Somewhere in the 40,000 or so I guess between all the elk/deer hunters with the 98%-99% compliance rate.

**Chairman McClintic:** I can't speak for all the Commission, I can just speak for me. We've all had issues at times. We continue to try to make the system as user friendly as we can. I think there's a little issue here if it's something we caused, but also by you not pursuing further and by being misled that you fill out your harvest report when in reality it wouldn't take your harvest report, you have a little complicity in this.

**Daniel James:** Well, and so does the Department.

**Chairman McClintic:** I'm not saying we don't. What I'm saying is that I don't know how to issue tags that we don't have. I don't think this Commission would ever overrule the Department on a situation like this. We understand the problem. I don't know what the Department can do to try to make it right, but, but I don't think this Commission is in a position to say you were wronged totally by the Department and we're going to give you those tags.

**Daniel James:** I do submit that this regulation does authorize the Department to issue extra tags where there was some fault on the part of the Department.

**Chairman McClintic:** There was some fault on the part of the Department?

**Daniel James:** I think the Commission/Department can do the right thing especially for Mr. Pompeo because he'd be hunting elk/hunting antelope. I'll just leave it in the Commissioners' hands and ask you to do what you think is fair and right.

**Chairman McClintic:** We'll get back to you.

**Jean Ossorio:** I'm speaking for myself. I believe a committee/working group is looking at trapping issues in the regulations and I'd like to draw their attention to the following Mexican wolves that have one way or another fallen afoul of traps in NM. Female 562, Male 1039, and Female 1106 apparently had some encounters with traps. I think it would be instructive if the committee looked at the question in the records of these animals as to whether the traps were probably legally/illegally set, whether the incidents were reported, the timeliness of that report, the details of the trap and the technique it was set, and the extent of injury to the animals.

**Peter Ossorio:** It appeared to me that elk and cows eat the same thing. Now the concept of an animal unit month cow/calf forage for a month is well established. What is an elk unit month? In other words, in the event that climate change/local conditions/fire causes a degradation of forage suitable for cows/elk, what's the tradeoff? How many elk do we lose, do we have to find additional forage to support a AUM? There are going to be times when forage unfortunately is not unlimited and there actually becomes a direct competition. If we're going to have a healthy, large elk herd, we've got to give them something to eat. I'm simply asking is there a metric/standard that says how much an elk eats?

**Jim Lane:** We have that figure, but I don't have it with me. Going from recollection, an elk eats about 10 pounds of dry matter a day, so we do have an elk unit month or something close to it.

**Mark Rozman:** Who owns the wildlife in NM? Think about it, you don't have to answer any of my questions, food for thought. Who controls the majority of the licenses? Would you consider that commercial or market hunting?--things to think about.

**Vice-Chairwoman Buffett:** A quick update that furbearer trapping subcommittee did meet this week, and we're awaiting the minutes. One thing that did come out is that Jim/Darrel will be meeting with the Mexican wolf folks to look at options and potential recommendations for trapping issues in the wolf recovery area. I was interested to know that there are already some voluntary recommendations that maybe we can look at. Also, I asked Pat Block to prepare for Commissioners a one pager reminding us where all the sources of funds come from for the Department as we go into a special session related to the budget. We need to be armed with understanding how the Department is funded because there have already been some misconceptions at legislative interim committees. I'd like an update for potentially webcasting Commission meetings.

**Pat Block:** We've talked to several peer agencies about what they're doing and how they're doing it. We've found that the solutions range from we're not doing that at all at one end, to the AZ Game Commission which has just finished constructing a new headquarters building in Pheonix. They built the room with webcasting in mind. They will not be traveling anymore, they'll be holding all Commission meetings in Pheonix and they're webcasting a video/audio stream out over the internet. As a matter of fact, a meeting where they talked about wolves previous to your last meeting we watched from the Santa Fe office. Commissioner Salmon was able to watch it from his house so that seems to be about the state of the art now. That does require quite a bit of infrastructure and a fairly fixed location. That's become essentially their Commission meeting room and t.v. studio. As a more achievable first step is closer to what they're doing in Montana, and what that is. An audio webcast of the Commission meeting live as it happens and then it's archived on the website as well, so we're looking into doing that. An initial piece we've done is the recordings software now does save all of the Commission meetings digitally. We've been able to provide CD's of Commission meetings to those who wanted to hear those. We can begin to post those on the web. Marty has been working with Information Services Division to figure out how to get that done. We will try to get this Commission the files from this meeting posted, and right now all the state cellular phone services come through Verizon. They've just come out with a new product called a mobile hot spot and that allows WiFi connectivity to the internet through the cell phone network, so maybe by the December meeting we might be able to have that in place and try something with the December meeting from Hobbs. If not, probably early next year, but our plan is to get that up and running in time to do the audio portion of the meeting from Hobbs so people can log in and listen to it in real time.

**AGENDA ITEM NO. 21: Adjourn.**

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

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

Meeting adjourned at 4:52 p.m.

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

December 3, 2009  
Date

s/Jim McClintic

Jim McClintic, Chairman

New Mexico State Game Commission

Minutes Transcribed by: Katie Gonzales

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December 3, 2009

Date