

MINUTES
NEW MEXICO STATE GAME COMMISSION
Santa Fe Community College – Jemez Rooms 2-3
6401 Richards Avenue
Santa Fe, New Mexico 87508
February 25, 2010
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 Fonay – present
Commissioner Salazar – present
Commissioner Salmon – present
Commissioner Salopek – present
QUORUM: present

Chairman McClintic: We have two new Commissioners: Gary Fonay is from Hobbs, NM. He owns a farm/ranch. He was a prior County Commissioner in Hobbs and brings a lot to the table. He's a sportsman, likes to hunt/fish.

Commissioner Fonay: Tickled to be here and look forward to working with you. Thank you much.

Chairman McClintic: Our next newest member is Dickie Salopek from Doña Ana/Las Cruces and he's on the Planning and Zoning Board of Doña Ana, and he's also heavily involved with a lot of farm/ranch issues there.

Commissioner Salopek: Glad to be here, too. Appreciate the Governor appointing me.

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the February 25, 2010 State Game Commission Meeting. Commissioner Salazar seconded the motion.

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

AGENDA ITEM NO. 4: Introduction of Guests.

Introductions were made by approximately 70 members of the audience.

Chairman McClintic: We had a successful capture and re-location of antelope in the Roswell area. We hope to enhance a herd in an area that we haven't had before and I'm positive this is going to create more opportunity for public hunters.

AGENDA ITEM NO. 5: Approval of Minutes (December 3, 2009 – Hobbs, NM).

MOTION: Commissioner Buffett moved to approve the Minutes of the December 3, 2009 State Game Commission Meeting in Hobbs as presented. Commissioner Arvas seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: (NOT CONSIDERED) Updates and Miscellaneous.

AGENDA ITEM NO. 6-a: White Peak Land Exchanges.

Presented by State Land Commissioner Patrick Lyons – State Land Commissioner Patrick Lyons provided a presentation about the SLO and briefed the State Game Commission regarding the status and prospective future actions associated with land exchanges in the White Peak area of Colfax and Mora Counties.

Chairman McClintic: Do you have a copy of that letter supposedly sent July 28, 2008?

State Land Commissioner Pat Lyons: Yes, it has been distributed. I advised the Department of a meeting on December 15, 2009. I invited the Department to attend that State Land Trust Advisory Board meeting. That's where we decided to do the exchanges. I left two messages with Tod's secretary and was advised that Tod couldn't be there and wasn't able to send anybody.

Chairman McClintic: Director Stevenson, there's a statement that says that the [Land] Commissioner was advised by Stevenson's secretary that Stevenson would not attend the meeting, discuss this matter, or send anybody to the meeting.

Director Stevenson: The Commissioner of Public Lands had left a couple of messages for me. We did talk about that after that meeting occurred, but I'm not aware at all that it was to invite me to a meeting. I'm not aware that Katie, on my behalf, would have said that I was not going to attend that meeting. Messages had come to me during that time and without question Commissioner Lyons had left a couple of messages for me. We played phone tag a couple of times, but I was not aware that it was an invitation to a meeting during that timeframe. Please don't take that as a comment against what Mr. Lyons is saying here. I did talk to Pat shortly after that, he called me while he was on the road to talk about these issues.

Chairman McClintic: Mr. Lyons, is that correct? What I'm getting from our Director and what I'm getting from you, there's quite a gap. Since I've been on the Commission, if there's an important meeting or an agenda our Department would not say we're not going to send anybody nor tell anybody. I'm trying to get to the bottom of it.

State Land Commissioner Pat Lyons: Well nobody from Game and Fish showed up and they were invited.

Commissioner Buffett: I wish you'd have come a year ago and we could have avoided a lot of the issues here. You had a slide on criminal trespass and violations, and it's different from what I have so maybe someone from the Department can clarify. I have a summary of GMU 48 law enforcement efforts from 2008-2009 which list a total of 26 citations which include two criminal trespass.

Lief Ahlm: I don't have the report with me but the report is quite detailed. Many of those violations were for things such as off-road vehicle registration. There were a couple of trespass issues, and they were prosecuted. Without looking at the details of the violation, our officers write a wide variety of citations from failure to tag/driving off the road. Recently, we got OHV authority so we're writing more of those kinds of tickets, but you really need to look at the details of those citations to actually see what's going on.

Commissioner Buffett: The slide show was using loosely the term criminal trespass v. citations. It says criminal occurrences.

State Land Commissioner Pat Lyons: They do say trespass.

Commissioner Buffett: Summary of GMU 48 Trespass is the title of your slide. The report I have says it was prepared by Curtis Coburn/Rey Sanchez. It has 26 citations with two criminal trespass. Which is correct?

Lief Ahlm: He has criminal occurrences and his summary does have the 19 criminal occurrences, 35 and 26, but in certain years it's different. If we look at 2008-2009, there were two criminal trespass: one driving off-road/one hunting elk in the wrong

unit/one failure to tag an elk/one waste of game/two spot lighting/one furbearer without a license/12 OHV registration/one littering/four warnings issued, so they're for assorted violations.

Commissioner Buffett: Is two criminal trespass in a unit rampant compared to other units?

Lief Ahlm: In my experience it's not unsimilar to any other unit that we have in the state.

Commissioner Buffett: Commissioner Lyons, is it the purview of the SLO to deal with law enforcement and criminal trespass issues?

State Land Commissioner Pat Lyons: On the criminal trespass, private landowners were told that they're not going to try to issue criminal trespass anymore because it's too hard. I think that's what we're overlooking. No, it's not our job to do that, it's the job of the Department to handle that.

Commissioner Buffett: Can you explain how the SLO investing resources and time into dealing with trespass issues is a benefit to NM school children?

State Land Commissioner Pat Lyons: We're not trying to catch trespass issues, we're working on exchange issues.

Commissioner Buffett: Can you tell us three people who have publicly supported the land swaps who are neither connected to the SLO, nor have a financial connection to the ranches?

State Land Commissioner Pat Lyons: Yes, several hunters have. I've got several e-mails/letters in the office. We'll put all that together and bring it to you.

Commissioner Buffett: After that fall LFC meeting when you and I spoke in the hallway, at that time you and your staff said that you have fully consulted with the Game Commission on the swaps and that you'd be happy to get that information, and then when I didn't receive it, I conducted a freedom of information request to SLO for all e-mails/written correspondence going back 12 months, and the General Counsel from your office replied that they could not fulfill the request because there were no documents. Can you explain to us what you meant by that we were fully consulted?

State Land Commissioner Pat Lyons: That was pointed out in my presentation when we notified several people at the Department and the letters that were sent out.

Commissioner Buffett: But the letters had nothing related to land swaps/exchanges/trades.

State Land Commissioner Pat Lyons: I think it does take care of that. It says Unit 48 first thing—White Peak management areas/quality hunting/facilitated classification quality areas, so Unit 48 does address that. The letter does.

Commissioner Buffett: I guess I have to improve my reading between the lines skills on that letter.

Chairman McClintic: There are two divided sides on this issue, and I don't want to get into a contentious discussion. If we can come up with better opportunity for sportsmen, and less opportunity taken away by this land swap, that's our interest and what I'd like to do is strictly for discussion. As Commissioner Buffett mentioned, if we would have gotten more involved in this in the beginning, if you wanted us involved in it, we probably could have gotten better organized.

Commissioner Buffett: Commissioner Lyons, you mentioned increased grazing per head, so can you tell us how increased grazing density will impact wildlife habitat and hunting opportunities?

State Land Commissioner Pat Lyons: Yes, as a hunter I know that a lot of times when livestock is taken off the grazing lease, no one takes care of the water/puts out salt or mineral that enhances wildlife in that area. I believe increasing water resources that we're going to get control of the roads for better wildlife habitat. That's been pointed out by about every person we've talked to that's in wildlife management saying that there would be better hunting with more control up there.

Commissioner Buffett: Lief, is there biological data supporting that?

Lief Ahlm: No, we don't have any biological data. I'm not sure how to answer that.

Chairman McClintic: Does the ranching community benefit wildlife or doesn't it?

Lief Ahlm: They do, but it all depends on the location. When you talk about putting out salt/mineral, if there's natural water, keeping water there doesn't occur. It's already there and mineral does help animals and it concentrates and moves animals around, both livestock and wildlife, but there was wildlife in abundance before we put out mineral. Sometimes it's the amount of people that go through an area/amount of disturbances is more important whether it's more or less. There's a lot more to the picture, and it all depends on the geography of the area/type of habitat that you have, so you can't make a simple statement.

Commissioner Buffett: But there are actual numbers on the side of financial gain from grazing, but what was that based on in terms of whether the land has the carrying capacity to do that?

State Land Commissioner Pat Lyons: That was based on animal units per section. We picked up the better resources/water areas. We can graze more cattle so it'll bring in about +\$1,700 immediately to the trust, because whether they graze more cattle or not, that's up to the rancher. They probably won't in this instance, but their grazing capacity will be rated higher so, therefore, we charge them more for their grazing lease.

Commissioner Buffett: How are the proposed exchanges going to impact the fate of the State Road 199 issue which the state has already invested tremendous resources into re-opening and protecting for the public?

State Land Commissioner Pat Lyons: Well, at SLO we do not recognize State Highway 199. There was no right of way purchased/no description of where the road should be/layout/section/township/range/quarter section. We went through all our archives that showed where it was purchased or where the road is supposed to be designated, so there is no right of way. We in

SLO don't recognize 199 because we don't know where it is supposed to go. We've been up there several times/people, that say 199 goes here and the next guy says no, it's over here a quarter of a mile, the next guy says somewhere else, so I don't think there's any designation of a two-tract road there where it's supposed to be.

Chairman McClintic: Mr. Karp, would you respond to our position on the road?

Jim Karp: It's the position of the Game Commission/NM Attorney General that the 199 road does in fact exist and has existed historically. A portion of that was validated recently in the UU Bar decision which will be negatively impacted by this exchange by virtue of the line between SLO/UU Bar moving, therefore leaving a gap from where the Court acknowledged 199 existed, so it may involve additional litigation.

Commissioner Arvas: Lief, there was a meeting in September, 2009, with SLO employees and yourself and a couple of other Department folks in Las Vegas, could you tell us what happened at that meeting?

Lief Ahlm: I did meet with members of SLO/Commission Lyons in September, 2009, and they provided me with copies of the maps of the proposal and advised me that in coming weeks they would be advertising the exchange/disposal of those lands. It was a fairly brief meeting, half hour-45 minutes I believe, and mostly went over the maps and what they meant, and how they came up with that. We talked about their appraisals, of course, I'm not an appraiser, but they told me how they appraised the land and how the land was going, and how each part of the exchange would occur. I immediately had those maps sent to Santa Fe to Administration, but that was about the extent of it, basically a very general view of the land swap.

Commissioner Arvas: Did you ever give SLO employees the feeling you were in complete agreement with the proposed exchange?

Lief Ahlm: What I told them was that I could see pluses/minuses in this. I can see some real advantages/disadvantages, but it's not for me to judge.

Commissioner Arvas: So, then from September, 2009, until the meeting in December, there wasn't any interaction between you and SLO then?

Lief Ahlm: I had no interaction on this issue with the SLO?

Commissioner Arvas: The question is did Commissioner Lyons have the feeling that the Department was on board with this exchange?

State Land Commissioner Pat Lyons: I have a feeling that the fourth floor in the State Capitol doesn't really support it because of political reasons and because the Department didn't support it.

Commissioner Arvas: So then you never had the feeling that the Department/Commission were supporting this effort?

State Land Commissioner Pat Lyons: On September 17 we left it in your ball court to contact us with everything and we did not hear back from you.

Commissioner Arvas: The other concern is this concept of creating a quality game/wildlife area. I would have thought, Commissioner, that it would have been to your advantage to have gotten the Department to come on board. There's a difference of opinion in terms of how you create a quality game/wildlife area, but if you would have gotten the Department's support, that would have been a real plus for you.

State Land Commissioner Pat Lyons: I do too. I'd love to have the Department's support to create better quality habitat up there for game animals. There are a lot of old logging roads there that run everywhere and we'd like to see your support.

Commissioner Salazar: This has been a controversial issue between ranchers/hunters. Department staff have paid particular attention to these complaints, and reports we have are different from yours, that we have a significant reduction in trespass issues and those types of things. I think the Department has been working hard with landowners trying to reduce that problem, and our figures show that. I have the same issue with the development of a quality game management issue. These are difficult things to address and we have primacy in that area under state law. When you say we were consulted on this, we had a lot of feedback from our constituents. It looks like the areas that were exchanged we'd have a net loss in the number of elk tags.

Also, if we had another road coming in as you've proposed to develop, there'd be clear access, further fragments and creates more problems, and that's why we were looking to get that exchange around State Road 199. The Attorney General won that case so that we could have better hunter access. We've been taking Game Protection Fund monies to buy access for our constituents/hunters so they could have access to these lands. This is historic hunting property and I'm sure we're going to hear from the public. They want access, it's historical grounds, we've had problems with the ranchers, we want to maintain control of their land so they're not damaged either, so this has been a big issue. When it came up that we supported this exchange, we took a lot of heat. You talked about \$12.9M, but I don't see the net value to make this exchange. This includes the lands in Arroyo Seco near Espanola and Mesa del Sol. I see a problem when you're pointing to unifying this area and getting more money. We'd like to see a quality game management area. We'd like to see historic hunting rights preserved. This exchange damages some of those things and it puts in danger state road and our ability to get hunters access in there. It's put us in a difficult situation managing this unit. If we'd been consulted earlier we could have worked together.

State Land Commissioner Pat Lyons: Your last statement that it would be more difficult to manage, so the more checker boarded it is, the easier it is to manage, is what you're saying? We're consolidating this. It's easier to manage any type of land.

Commissioner Salazar: No, that's not what I was saying, and if we had worked on this together we could have come up with a better plan. As a Commission, I don't think we ever sat with you to do this exchange. If we could have come up with a plan that would address everybody's issues, I think it would have come to a better plan.

State Land Commissioner Pat Lyons: I think 199 access is in danger now regardless. There's about 300 feet that can be closed at any time. There were poles put up, cemented into the ground, 2 7/8" pipe that was bent over, so I think you're in danger now. We want to make sure we get permanent access. Court cases can go on forever.

Commissioner Salazar: Well certainly if you make that exchange that you set up with the UU Bar unless you clearly stated that you want that road as part of that deal and maintain open, then it would be in danger because it would be turning over to them a bigger portion.

State Land Commissioner Pat Lyons: We won't do an exchange without an easement through there like we do an easement on one point on the bottom. We got that easement through there, we'll get an easement through the top so we'll have it. Right now it's in danger. When the exchange is done we'll have permanent access.

Commissioner Arvas: Could you give us an update as to where we stand with the exchange?

State Land Commissioner Pat Lyons: Right now the Attorney General filed a Supreme Court case to stop the exchange until the Supreme Court rules on it.

Commissioner Arvas: For all practical purposes, the exchange as presented by SLO is exactly the way it's going to stand?

State Land Commissioner Pat Lyons: No, not necessarily. With the CS exchange we didn't even advertise, so we're still working on it.

Commissioner Arvas: So there's a possibility in the near future depending on what the Supreme Court says that we could have a better interchange of any information between the Department and SLO to try to make this thing go?

State Land Commissioner Pat Lyons: We'd love to have the interchange where we can.

Commissioner Arvas: That's what I'd recommend—that we make every attempt for the Department/SLO to become more involved in this so that our views can at least be expressed. Once again, as the Chairman said, we don't have any authority to tell you anything, but at least an opinion would help if you wanted this to be accepted by the public.

State Land Commissioner Pat Lyons: I agree. I hope it'll be an opinion from you Commissioners and not from the fourth floor of the Capitol.

Public Comment:

Larry Caudill: The issue is the fact that the Land Commissioner is unanswerable to anybody. There is no mandatory/statutory public involvement in SLO affairs. All resources should be developed. There's no consideration of conservation to wildlife habitat. What we need is a Constitutional amendment that provides for public involvement/oversight.

State Land Commissioner Pat Lyons: To have a Constitutional amendment I believe the SLO set up would be an independent agency that would be influenced by the Executive Session, the Legislative Session, the Legislative/Executive/Judicial Branches of government. That's why it's independent. The public hasn't been shut out of any of the board meetings. We invite everybody to our board meetings and nobody shows up. Our Advisory Board is picked by the Commissioner/Deputies/Senate/House and confirmed by the Senate Rules Committee.

Ralph Laumbach: 100-150 people showed up at the Legislature to discuss our issues with Patrick Lyons. He closed his doors for the day on account of snow although he'd already been open, and ran away from us and he's done that several times. It's not easy to talk to Patrick Lyons. I'd like to read a short statement which was a platform of the people from the northern part of the state that Mr. Lyons is in contention with. Not wishing to be misunderstood we hereby make this our declaration. Our purpose is to protect the rights and interests of the people in general and especially those of the helpless classes. We want the Las Vegas Grant settled to the benefit of all concerned and we hold the entire community within that grant. We want no land grabbers or obstructionists of any sort to interfere. We will watch them. We are not down on lawyers as a class but the usual neighborly and unfair treatment of people must be stopped, and our judiciary hereafter must understand that we will sustain it only when justice is a watchword. The practice of double dealing must cease. There is a wide difference between NM's law in justice, and justice is God's law and that we must have at all hazards. We are down on race issues and we will watch race agitators. We are all human brethren under the same glorious flag. We favor irrigation enterprises, but will fight any scheme that tends to monopolize the supply of water courses to the detriment of residents living on lands watered by the same streams. We favor all enterprises but object to corrupt methods to further the same. We do not care how right you get so long as you do it fairly and honestly. The people are suffering from the effects of particism, bossism and these bosses had better quietly hold their peace. The people have been persecuted, hacked about in every which way to satisfy their caprice. If they persist in their usual methods, retribution will be their reward. We are watching political informers. We have no grudge against any person in particular but we are the enemies of bulldozers and tyrants. We must have a free ballot and a fair account. The wills of the majority will be respected. Intimidation and indictment plan have no fear for us. If the old system should continue, death would be a relief to our sufferings and for our rights, our lives are the least that we can pledge. If the fact that we are law abiding citizens is questioned, come out to our homes and see the hunger and desolation that some of us suffer and this is a result of the deceitful and corrupt methods of bossism. Be fair and just and we are with you. Do otherwise and take the consequences. You

have put a bad taste in the mouth of people in Velarde/White Peak/up and down our areas through the valley in Las Vegas. You've irritated people in Las Cruces/Ruidoso. This is not a single issue and you are responsible regardless of what your paperwork says. You are responsible to the people of this state and we will hold you responsible personally if necessary.

State Land Commissioner Pat Lyons: What's he mean by personally, is that a threat?

Ralph Laumbach: No, sir, you can be prosecuted for violation of your code of office.

Rock Ulibarri: I'm from El Porvenir, NM, a teacher/concerned citizen. As an educator with an emphasis and passion for NM history, I believe strongly in the preservation and validation of culture through maintaining our ancestral heritage. A large part of our ancestral heritage in the north is the land. We are/have been for generations a land-based people. Many see this space as an opportunity to develop/exploit/enrich themselves. Place, however, is where our culture/heritage/ancestry come into play. White Peak is a place where my ancestors have hunted/collected firewood/camped/compiled memories for generations. This matter before us is much more than a sportsman's issue. There is a common cause between concerned citizens in NM. As a historian, I'm compelled to point out the same similarities between you and Thomas Catron. Catron was another individual in NM history who abused his power/authority and did not care about our land-based culture. There was a grassroots resistance in Santa Fe called Las Gorras Blancas. Las Gorras Blancas brought land grabbing to a stalemate back at the turn of the last century. I know the story well for I am a direct descendant of brothers who led the resistance. They fought to preserve the land for the descendants that they would never get to meet and it was not in vain. Me/mine will carry the torch and fight for descendants that we will never get to meet. They underestimated our ancestors then. They thought we were of the ignorant class. You have conspired with your cronies to ensure that only the Stanley/UU Bar Ranches fit the criteria for your so-called open-bid process. So go ahead and dig your heels in, keep attempting to justify this move, tell the public and yourself whatever helps you sleep better at night, but know this, we are watching you. We are watching the courts. Viva Las Gorras Blancas.

Larry Hill: My grandmother was an Apache Indian, hence the war paint/tears on my cheeks. The Native American had open land. We were defeated/colonized/occupied. The government came in and set up standards/criteria/processes for public lands to be exchanged/sold for whatever beneficiaries that were. He has violated this. The public action was a provision from the Enabling Act. The Enabling Act is what enables people like Mr. Lyons to exploit the land. In the Enabling Act even the process has a process by which bids are submitted for public land exchange or purchase, and part of that is to allow the public to provide bids or money/offers for public lands so that he can make some money. In one of the exchanges he made with the UU Bar Ranch, the net profit was \$2 for the State of NM. The Petition for *Writ of Mandamus* that was filed by the Attorney General and the public auction does not exist in these exchanges Mr. Lyons is conducting. So the process doesn't work. We submitted ourselves to the government so that our public land would be protected and he violates the process, and the Attorney General has filed a 54-page petition for *Writ of Mandamus* against his exchanges, and the Attorney General is correct in his analysis of the law that enables him to do what he is supposed to do, but he's not doing what he's supposed to do, he's doing whatever his cronies want him to do. These decisions do not make money for the public institutions that are the beneficiaries of the Act. He's violating the Act. The process was created to prevent what he's doing. Those lands are public lands and they've been used for hunting.

Chairman McClintic: Mr. Lyons is trying to explain his position. We have many opposing views. As a Commission/Department we're trying to get into a position if this is going to happen we want to maintain openness with Commissioner Lyons. As for the Court case, we have no involvement. We're here for the sportsmen/hunting public.

Ralph Laumbach: I forgot to mention that some of the land that Mr. Lyons wants to trade is by Ocate, and that's on the Mora Land Grant. He's trying to trade land less than half of what he's taking back and part of that belongs to a land grant.

Miguel Angel: I'm Director of Casa de Cultura in Las Vegas, NM, a retired professor of Chicano Studies/Latin American Studies/a student of NM history. Commissioner Lyons' presentation was loaded with unsubstantiated assertions/misrepresentations using semantics like crime/community benefits/better management. How does privatization benefit us better than better planning and strategies by the state? This is not only an issue for the hunters. This is an issue of saving a valuable asset for the State of NM. I ask the Game Commission how vigilant have you been in safeguarding the patrimony of NM? As a result of the Mexican-American War in 1846-1848, in those 50 years after that war, we have a plaque in Las Vegas that General Kearny from the U.S. invading army says to the people of NM, you are no longer Mexico, and if you try and get your land back, we'll hang you. This attitude has persisted and the subsequent loss of lands that came with that kind of attitude in 50 years we've lost 95% of our lands including almost all of our patrimony which is the land grants. We lost 95% of our land grants by decree, which is essentially what I'm hearing here today. Since then they have commodified/privatized water so that there's a continuing hemorrhaging by loss of lands especially the patrimony which should be used by the State of NM for the sake of the citizens of NM. Privatization/commodification of resources is the mantra of the current right-wing conservatives and it is the strategy to divest the citizens of NM of their patrimony. Citizens of the Spanish communities of northern NM are absolutely against any land swap or any land sales because this will be another maneuver to privatize and give away our patrimony to the rich. We're especially concerned that as this process continues there will be oil drilling and fracturing of those lands that will be privatized.

State Land Commissioner Pat Lyons: Oil and gas exploration in that area—I've had a request to lease 30,000 acres of state trust lands in that area. It's being opposed even though we've got a billion dollar deficit, we have not leased that area for oil/gas because we want to save that area as a pristine area. We should be leasing it but I think it's area like Valle Vidal. We need to preserve it for better quality habitat so we did not lease it yet.

Ed Olona: We'd like to address this on behalf of the NM Wildlife Federation/sportsmen. This land swap is not in the best interest of the people of the State of NM, especially sportsmen/hunters. We were fighting the road closure of State Highway 199 by the UU Bar Ranch. It took nine years to fight and we lost at the District Court level, we won in the State Supreme Court/Appellate Court. In the State Supreme Court the decision was upheld that that road was there. Mr. Lyons indicated that this road never existed, that nobody knows where it's at.

Chairman McClintic: What I would like to hear is there anything that Mr. Lyons, as State Land Commissioner, could do with a trade/swap/no trade/no swap to benefit sportsmen/people? As an elected public official—everybody had a chance if they didn't like Mr. Lyons or didn't want him in office, do not vote for him. He won. I'd like to get as much out of this as we can to see if there's common ground so we could move forward.

Ed Olona: Mr. Lyons has said there's no road. Director Bruce Thompson/myself/Lief Ahlm went up there and we were there on State Highway 199. I believe Commissioner Buffett has a picture depicting the road.

Commissioner Buffett: State Grazing Lease/Private Fence/No Vehicular Access.

Ed Olona: It says State Trust Land, is that right? This road was surveyed by the State Highway Department. U.S.G.S maps were identical to the survey that was made. That road has not veered in any way/shape/form, has always been there per the Legislature in 1929. As a result, there is a road, Mr. Lyons and we know where it is.

Chairman McClintic: How could we improve the situation/benefit sportsmen/hunters?

Ed Olona: If Mr. Lyons would have contacted sportsmen, and he says his office is open all the time to attend all these meetings, NM Wildlife Federation under the Open Records Act, we would never have gotten the information that these land swaps would be conducted. We would've worked with Mr. Lyons. We would've helped him out. We have to negotiate with sportsmen/public/NM Department of Game and Fish. How are we going to improve quality of hunting? Quality of hunting in White Peak is there.

State Land Commissioner Pat Lyons: I've never received a letter from NMWF Board of Directors saying they're opposed/for, and to my knowledge they have not voted on what's been done.

Oscar Simpson: Speaking for myself and not representing NMWF, as a former Game Commissioner, I received a generic letter from SLO but nothing indicating the trades, only generically trying to improve the quality, or make it a game management/quality game management area. How do we improve the situation? The whole process is flawed, the Attorney General said it's flawed. I attended one of the State Advisory Board meetings and if you look at the agendas, the agendas are so generic you can't tell what's going on at the meetings. If we want to improve things, let's be open/transparent and describe what they're going to discuss/advise the board/public.

State Land Commissioner Pat Lyons: That's the second time I've been accused of this letter not saying what's supposed to be said. I'll read one paragraph: The SLO is currently working on a program to help consolidate the state land, ultimately provide clear land ownership, and facilitate access issues. That's clearly stated in there--consolidate state lands.

Chairman McClintic: The problem, Mr. Lyons, when you talk about consolidating, the angst is that they don't see where that says trading/selling lands to consolidate is the issue. I understand how people didn't understand that that had anything to do with land swaps.

State Land Commissioner Pat Lyons: SLO cannot buy land. It's constitutionally against our Constitution to buy lands, so the Legislature has introduced 3-4 bills to buy that land. We never had the money to do that, so consolidation from the SLO means you're either going to sell/exchange.

Caren Cowan: I'm here on behalf of the NM Cattle Growers Association. We have members in all 33 counties of the state and have great interest in what goes on, on our ranchlands in the state. Our association has policy to support land exchanges/private property rights of people who have state land intermingled within their ranches. If we can't manage our ranches in a sustainable way and not have trespass/poaching issues, you're not leaving us a lot of choices. I'll grant communication could have been better, but we've got to work together to protect the land. It's about creating an environment where wildlife/livestock/hunters/ranchers can co-exist.

Commissioner Arvas: Were you apprised as early as September, 2009, about these land exchanges?

Caren Cowan: Honestly, I can't remember. We didn't participate in any meetings. We may have been invited and just didn't get there, but I don't have any recollection one way or another.

Commissioner Arvas: There are some lessees that are cattlemen, and they never called you?

Caren Cowan: Yes there are cattlemen on those state trust lands, but no, they didn't call me, and Cattle Growers don't usually get involved in an issue until somebody calls for help.

Flavio Larranaga: I'm a hunter/concerned citizen from the Anton Chico area. I have an article from Sunday's *New Mexican* by Solomon Maes, Jr., entitled Faulty System Led to Land Swap Controversy. He states that the power the Land Commissioner

holds needs to be addressed. The power to wheel/deal/trade away our precious land at will shouldn't be the sole position of one individual. Mr. Maes states legislators need to address land swaps so a board of qualified individuals could deal with land swaps. Citizens will picket during the next session to stop goofy land swaps to get a law passed to get a board to take care of land swaps. I'm against the White Peak land swap Mr. Lyons wants to shove down our throats. Mr. Lyons has no right to sell/swap our trust lands.

Albert Goke: I've got documents from Mr. Lyons' office regarding the exchange of 14,633 acres of trust land. Our school systems are only going to get annual revenue of \$1,100 in exchange for 14,000 acres of hunting property. One hundred permits will generate \$1.2M in trespass fees, and the state will only get \$287 from Mr. Stanley on the swap. If Mr. Lyons can get together with the Department because you people have the personnel/resources to control the White Peak area and generate money for hospitals instead of giving that property to Mr. Stanley to make a profit. You're in charge of the trust lands and generate hunts/lotteries to give monies for schools/hospitals and that'll be of benefit to the state instead of for private ranchers.

Chairman McClintic: I'm not necessarily agreeing that we had all the information to attend these meeting and we were advised of what was going on. I encourage the Department/SLO to see if there's any way we can get this thing to a better place with everybody to where we can benefit and make this thing work better. I realize we have no authority over you. I want to thank you for coming and talking/explaining your side of the deal and taking questions from Commission/public.

Commissioner Fonay: Look at the eastern side of the state, lots of checkerboard, not always in the best interest of the trust/private land/sportsmen, and exchanges can be a good thing. I recognize the problems here but I would, as a Commissioner, I realize these are your calls, not ours, but hopefully as we work together in the future to create opportunities for sportsmen there can be positive issues to exchange.

State Land Commissioner Pat Lyons: Thank you for having us here. We purchased Eagle Nest Lake. We've made lands available. We dealt with locked gates recently—cut locks on gates for the Barbary sheep season. We've opened up quail areas down south and that's what we want to do here—continue to make sure we have access there. We'll happily work with you or anybody else. A lot of people spoke today but no one came with an idea about what to do. It seems there's a do nothing attitude and we want to try to consolidate the lands and make it win/win for everybody.

AGENDA ITEM NO. 7: Revocations.

Presented by Dan Brooks – The Department presented a list of 26 individuals for revocation for failure to pay penalty assessments that met established revocation timeframes and criteria. Included were Hearing Officer recommendations for the assessment of points against registered outfitters.

Commissioner Salmon: Looking at some of these violations and most of them seem to be serious—hunting with an artificial light/illegal killing out of season/wanton waste of game, but then one says exceeding bag limit of fish, two counts, and yet he also got 20 points, three year recommendation, and license revoked. How is a violation of having two extra fish put him in the same category as a spotlihter as far as the penalty goes?

Dan Brooks: The Commission's criteria is going to be different point values when you look at the rule, and in the statute there are three things we look at—did a person knowingly/persistently/flagrantly and when you start looking at two different counts especially of the same thing equates to a persistent violation—not only did they do it once but twice and then when we match that with the point criteria, if it's ten points and you do it once, you get ten points. We don't move for revocation in this instance. When you do it twice, you accumulate the 20 points—it's now persistent and it's consistent with the Commission's criteria. At any time, of course, the Commission can go back and look at that point value and see if you want to change it, but currently when we look at that that's what we've got. So, when we catch him once you'd think the individual would learn not to do that again.

Commissioner Salmon: So in the case of Mr. Benton there may be some additional history that we don't see?

Dan Brooks: No, we're showing you the history that you need for this individual because it can go over a three-year period. That's the other part of the Commission's criteria. The Commission gives a person three years not to do it again.

Commissioner Salazar: In this case you could have caught him one day and next week he could come by and you could catch him again. The individual got a ticket and he's right back doing it, but in the case he did it now and then maybe on the third year he did something minor, is there a time limit like that or it's within the three-year period, is that it?

Dan Brooks: That's exactly what's in the rule—a three-year time period. You have three years not to violate again to the point of accumulating 20 points. Now, if you only had a five-point violation which is a very minor infraction, i.e., you didn't have a habitat stamp, you could actually do that three times within a three-year period and not be subject to revocation because it's such a minor violation. Some of these other ones when they start to deal with a resource and the taking of a resource, the Commission has placed a high value, all the way up to spotlighting and things that usually affect our bigger game and is usually an out-and-out poaching situation. Those carry the highest 20-point violations.

Commissioner Salazar: Looking at the number of people that did not contest this, I would say they think this is fairly reasonable as well. They didn't request hearings.

Chairman McClintic: Is it the Department's position that whatever contract licensed guides/outfitters enter into with clients, if there is a monetary dispute, does it involve us to the point where they have certain fiduciary responsibilities that we oversee? Is that what I'm reading regarding Mr. Ralston?

Dan Brooks: Yes, that's correct, but to clarify, the Commission has established a Code of Conduct for outfitters/guides to ensure that they deliver a professional service because recognizing that people want to come from out of state usually to use outfitters/guides and they pay thousands of dollars, so what the Commission has established is a Code of Conduct and specifically when it comes to the Ralston issue, this happens somewhat infrequently, but we deal with it and that's when a person doesn't get what they pay for. The first thing we look at is does that fall within a Code of Conduct violation. If a person doesn't receive what they paid for, then we start the process of investigation and try and determine what the person's expectations were/did they follow the rules, and if they didn't you might have a Code of Conduct violation. Then we hold the outfitters accountable because the one thing we want is them to deliver what they promised because there's a lot of money involved and we want people to come back year after year. Our registered outfitters are very good, but we do occasionally deal with one and that's what the Commission has to consider.

Chairman McClintic: Mr. Atwood, is that your interpretation of our Code of Conduct?

Bob Atwood: Yeah, basically it is. I know the contract does set guidelines and we have to meet those guidelines. There can be some gray areas in the Code of Conduct that need to be looked into, but yes, that's what the contract is for—to protect the client and making sure we provide what we say we're going to provide.

Commissioner Arvas: Do you know about this case?

Bob Atwood: Are we talking about the guy that didn't have a signed contract?

Commissioner Arvas: Right.

Bob Atwood: No, sir, I don't. He didn't have it signed before the hunt or before the draw?

Chairman McClintic: According to what it says, they submitted the client's application/client sent his money/he didn't draw, and then he wanted his money back and couldn't get it back.

Bob Atwood: Ok, and at that point Adair didn't have a signed contract, right?

Dan Brooks: John Doc Ralston, Case# 20091217.004. I will note a change to the date of birth which is 8/22/60 and that's one of the things Doc Ralston points out. He was sent notice, had hearing before Joseph Canepa who has been doing our hearings for many years. The outfitter, Mr. Ralston, appeared/presented evidence/examined witnesses. The Department presented our evidence/findings, those both before Mr. Canepa and Mr. Canepa's findings were an assessment of 20 points against John Doc Ralston, Outfitter Registration No. 0128 d/b/a Higher Ground Outfitters and Guide Service, revocation and suspension of Mr. Ralston's outfitter registration privileges for a period of one year, effective upon the final decision of the Commission, at which time Mr. Ralston may apply to the Department for reinstatement of his outfitter registration. License will be evaluated by the Department at that time for compliance with all outfitter registration requirements including providing evidence of payment of \$5,500 in full refund to Joshua Baker before being reinstated by the Department.

Chairman McClintic: The question Mr. Atwood had was did Mr. Ralston have a signed contract with the complainant?

Dan Brooks: He did not have a signed contract that I'm aware of, he basically said he couldn't get his hands on the contract because he's going through a divorce. The hearing officer took all that into account. It's important you know that John Ralston did take an exception to the hearing officer's report, but it's important to know that he did make some issues about the findings. At the end Mr. Ralston offers a solution to this problem, says he can pay 25% of booking to Josh Baker and will have him paid back by August, 2010, because if his license is taken away, he'll have no income and paying off Mr. Baker becomes a problem. He's asking not to be revoked and being allowed to make payments. Just so you're clear, there are different positions.

Chairman McClintic: I wanted to clarify our responsibility on basically a civil matter with somebody running their business to collect money where it starts/ends, and what the gray areas are. As Mr. Atwood mentioned, if the gentleman gave him his check, never signed a contract/nothing was ever spelled out, I'm trying to figure out how we got into this kind of a situation with an unsigned contract.

Commissioner Arvas: In the second paragraph of his response it says booking a hunt at a show it is my policy for a client to fill out a contract on the spot. Well obviously that didn't happen, is that right?

Dan Brooks: Yes, there was no contract produced. That is the recommendation of the Department and, of course, for clarity, to go back to John Ralston, we bring forth the hearing officer's recommendation. He weighed the evidence and we believe that's the best unbiased information you can have before you. The Commission now has the ability to accept/not accept/pull out/discuss as you see fit.

Commissioner Salazar: Mr. Ralston had the opportunity to get a loan and return the money to the client and make payments on the loan. He did not do that?

Dan Brooks: Yes, like any of us would have the ability to pay a debt, he has all the options the world/banks allow.

Commissioner Salazar: He's basically asking for hardship, but he has other opportunities he did not pursue, correct?

Commissioner Fonay: I see the logic of the revocation and support the hearing officer's position. Having read Mr. Ralston's/hearing officer's position I could see Mr. Ralston not giving the money back was wrong. I could make a case that I

could see well maybe in this case that might have some merit, but I would go with the wisdom of the hearing officer and support revocation of Mr. Ralston. **[Action Item]**

MOTION: Commissioner Salazar moved to adopt the Department's recommendations on suspension, revocation, and point assessment for the attached list of 26 individuals for the period of time specified. **Commissioner Salopek** seconded the motion.

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

AGENDA ITEM NO. 8: Designate Reasonable Notice to the Public for Commission Meetings Held During the 2010 Calendar Year (19.30.3, NMAC).

Presented by Jim Karp – Section 19.30.3.8 (A)(1), NMAC, requires the Commission to take action at its first annual meeting to continue or amend its existing practice to determine what is reasonable notice of Commission meetings under Section 10-15-1D, NMSA, 1978, of the Open Meetings Act. The Department recommended continuing the present practice as contained in Section 19.30.3.8, NMAC. Section 19.30.3.8, NMAC, and the Open Meetings Act, require that annually the Commission establish what they deem to be reasonable notice for their meetings. Presently, and for the past seven years, Section 19.30.3.8, NMAC, has provided that for regular meetings notice be ten days, for special meetings three days, and for emergency meetings not less than 24 hours. The Department recommended that the Commission adopt these notice provisions and the provisions as they're set forth in Section 19.30.3.8, NMAC. **[Action Item]**

MOTION: Commissioner Arvas moved to adopt the notice requirements currently contained in Section 19.30.3.8, NMAC, as reasonable notice to the public as applied to public meetings held by the State Game Commission for the year 2010.

Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 9: Fiscal Year 2010 2nd Quarter Depredation Report.

Presented by Tim Frybarger – The Department reported the total number of depredation complaints filed and resolved in accordance with 19.30.2.11, NMAC, for the 2nd Quarter of Fiscal Year 2010; and for complaints that had reached one year. This is Depredation Report from October to December, 2009. There were a total of 109 complaints, all but 30 are resolved, for a 72% resolution rate this year. The top critters for problems were beavers/bears/raccoons, and cougars/deer close after that.

Commissioner Arvas: What's a dove complaint amount to?

Tim Frybarger: A large group of collared dove took up residence in someone's barn and were making a huge mess and wouldn't leave.

Commissioner Fonay: Does the Department have a policy, if an individual calls with a complaint on elk, on timeframe before the Department gets back with that individual?

Tim Frybarger: Yes, by law the Department must meet or at least set up a meeting within 24 hours.

Commissioner Fonay: On these have you had good success getting back with them?

Tim Frybarger: We have good success with that. It's more coming to a resolution that both sides agree to.

Commissioner Fonay: You feel good about the initial contact/meeting? There may be disagreement on what is done from there?

Tim Frybarger: Yes.

Commissioner Buffett: Of the predator complaints resolved any result in killing the animals? How many of the bear/cougar species?

Tim Frybarger: Yes, there was one bobcat/one bear/four lions killed.

Commissioner Buffett: In future matrixes, could you include a column of how many resulted in kills?

Tim Frybarger: Yes.

MOTION: Commissioner Salopek moved to accept the Fiscal Year 2010 1st Quarter Depredation Report as submitted by the Department. **Commissioner Fonay** seconded the motion.

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

AGENDA ITEM NO. 10: Presentation of the Fiscal Year 2009 Financial Statements and Audit Report.

Presented by – Alexa Sandoval. The State Audit rule requires that agencies governed by a board or commission present the annual financial statements and audit report to their governing body in a public meeting. According to Section 2.2.2.10J (3)(d) of the New Mexico Administrative Code, "Once the finalized version of the audit report is officially released to the agency by the State Auditor (by an authorizing letter) and the required 10-day waiting period has passed, the audit report shall be presented to a quorum of the governing authority of the agency for approval at a public meeting." This agenda item fulfills this requirement.

Commissioner Salazar: As far as the capital assets, is it an issue/problem because there are different offices around the state?

Alexa Sandoval: We have assets spread throughout every corner of the state and it's somewhat difficult to keep track of those. We do have a new policy in place regarding fixed assets and as we've learned more about how to capitalize assets, what constitutes a capital asset, because if you look through our database, you'll see a lot of items that originally never should have

been there and so we have to clean those items up. All staff is cognizant of the importance of maintaining a fixed asset and understanding they just can't throw it away/trade in.

Commissioner Salazar: Do area managers have a reporting system to keep that up so this doesn't get out of hand?

Alexa Sandoval: That's correct. We have a policy in place and every division has a fixed asset liaison whose responsibility it is to oversee the assets within that particular division, they report back to Accounts Payable Section.

Pat Block: We're also running into the expectation of the level of sophistication that state agencies have with accounting has gone up within the last 5-10 years. You'll see that fixed assets are the most common finding in both public sector/private audits. There are upwards of 5,000 items in that inventory and also the number/level of things that have to be tracked. We met with the external auditors who will be conducting the audit for this year and they were pleased with the approach we've taken.

Commissioner Arvas: Please go through the process of how the budget is developed for the benefit of the two new Game Commissioners?

Alexa Sandoval: In state government we forecast out about 1 ½ years before the budget goes into place. Internally before we present the budget to the Commission we work within with the division chiefs/establish needs, they look at current budgets/levels of expenditures, and what their requirements are based on the performance based budget requirements, but we've also got to look at what our requirements are to meet those performance based budgeting items. We look at state law and make sure we're in compliance with those requirements, and what our requirements are as an agency with our mission and the mission within each of those divisions. The division chief will then work up their appropriate budget. That gets submitted to the budget officer and then he puts that together around July/August of every year for the following fiscal year, so we're out 1 ½ years. We then present that to Directorate and they review that making sure that we're within the guidelines of governor's office/legislature, and lately that's been flat budgets and taking into account our current economic condition. Once we put those budgets together we summarize all the divisions into four programs. We're governed by four program budgeting requirements: sport fish and wildlife/depredation/administration/conservation services. Once we get that assimilated/approved by Directorate, we submit it to the Commission for approval and then move on to financial control and state agencies and present to them for approval, and then on to the legislature.

Commissioner Arvas: I wanted you to emphasize how you visit individually with each Commissioner and go over that budget prior to the final step. That's important because it brings you up to speed in terms of the inner financial workings of the Department.

Alexa Sandoval: It gives us the ability to point out individually to the Commissioners and if you have any questions, we'll give you that budget ahead of time.

Commissioner Salopek: Is the income basically from the hunting licenses that are sold or is there outside income?

Alexa Sandoval: Two-thirds of our budget comes from hunting/licensing revenue, and one-third comes from federal revenue based on our hunting/fishing license sales. In FY'09 we did receive general funds. We no longer receive any general fund monies. That was removed from our FY'10 budget and will not be in our FY'11 budget, so we are an enterprise agency—we make our own revenue.

Commissioner Salopek: The habitat/habitat management and access validation stamps are two we have to pay for?

Alexa Sandoval: Yes, we have a habitat stamp, we have a HMAV Stamp which is a habitat management and validation stamp. Those are collected within our agency and we disburse those into those individual funds.

Commissioner Salopek: That stays in the State?

Alexa Sandoval: Yes, it stays within our Department.

Commissioner Salmon: We get our funding from hunting/fishing sales and taxes related to those. Is there any threat that although we're not getting any state money, that the state might get some of our money based on recent legislation?

Director Stevenson: As we moved through the regular session this year, there was not an attempt to sweep part of our cash balances as has happened to other state agencies. There were two things in the appropriations bill that went somewhat that direction that we'd been working on with DFA/Legislative Council. One was a \$750,000 appropriation that would have authorized the Department to provide money to State Parks specifically Pecos Canyon which during the last legislative session potentially moving to State Parks. They have run into financial issues at the legislature as well. That issue was still in that Appropriations Act as far as HB 2 that you're aware did not pass last week. We had lots of discussions with DFA/Governor's Office around that issue and believe that we had a resolution to that if that had moved forward. This year we've been lucky in that there has not been an attempt to look at game protection money. We'd had discussions earlier in the year that that might come up but it did not.

Commissioner Salmon: I do think that during these difficult financial times the Department/Commission/sportsmen should all be aware that some of our funding generated from hunting/fishing may look tempting to other entities and we need to be watchful to retain what's in my view ours.

Commissioner Arvas: As far as the new Commissioners, they will hear this great amount of money we have saved up so it might be worthwhile to explain our cash balance.

Pat Block: I also offer putting that on a future agenda. We have a presentation we've put together that explains how revenue is spent and the cash balance all relate to each other, but in a nutshell the Department is on a fixed income because license fees are set by law. Revenue stays flat from one year to the next due to inflation expenses--gas/health insurance/costs that go up every year so when fees are set you're making more money than you spend for the first few years, but afterwards inflation catches up to it and you go through a few years where you're spending more than you're taking in, spending that money you had banked in the past years. Once you get to the point where you don't have any more banked money, you either have to get more money by raising fees/find money elsewhere/start spending less. At the beginning of the presentation, management/analysis, this is a document that's supposed to be accessible to the reader that's not a CPA, so if anyone wants to start from page 5-14, they try and do in those ten pages what's presented in the other 80 pages to get a flavor for it and if it grabs you, you've got the other 80 uncondensed pages as well.

MOTION: Commissioner Salmon moved to approve the Department Audit Report for Fiscal Year 2009. **Commissioner Salopek** seconded the motion.

Commissioner Fonay: I'd like to say that as a member of aboard there's probably no place you can get in more trouble than on financial issues. It's a pleasure to see a clean audit.

Director Stevenson: We do take this extremely seriously. This is the public's/sportsmen's money that is providing that.

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

AGENDA ITEM NO. 11: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Larry Caudill: Regarding finances, I'd like to point out that NMWF called/e-mailed the Governor's office when we heard talk about the 3% reduction in state budgets and pointed out that is sportsmen's money and not general appropriation, and therefore, it ought to be sacrosanct. I wanted to state for the record that that did happen. Also, I'd like a look at the meeting locations for the last three years, 80%-85% of the meetings have been held other than the central core counties.

Chairman McClintic: Last year we had one meeting in Santa Fe, two in Albuquerque out of seven meetings.

Larry Caudill: We're getting better but I'd imagine that probably 2/3 of the licenses sold in this state are sold where the population is which is the central core counties, and I'd like consideration be given to holding at least half the Commission meetings somewhere in that central core area.

Jeremy Vesbach: I thought the schedule for meetings was going to be set so I had a question.

Chairman McClintic: No, it's not going to be set. We've got some conflicts that have to be worked out and by mid-next week we'll have it posted.

Michelle Briscoe: Regarding the White Peak issue, sportsmen don't think all exchanges are bad. This one though is of particular concern to sportsmen because not the least being I have a fairly intimate knowledge of the elk private land use system and I ran the numbers based on everything that has come out from SLO. The big game draw would lose about 50 elk tags and that is a huge concern to sportsmen. That's a lot of opportunity, but we'd lose about 6,000 acres of quality habitat. It's not that we're opposed to every single exchange. There are better ways to do this.

Erica Perras: I'd request that my appeal for denial of an importation permit be put on the next agenda. In January, 2010, I was denied an importation permit of a member of the species *Leptailurus serval*. Based on his status is a *CITES II Appendix Species*. I'd like to appeal this decision based on the Department's previous interpretation of the law. If they deny all *CITES Species* then why have they approved over 30 permits in the past ten years since that law went into effect. Permits issued were for neutered animals that were not useful for science or recovery programs and they've only allowed one importation permit of *CITES I* listed species. I can see how the one *CITES I* listed species permit was possibly an accident, but when you have over 30 *CITES II* neutered animals that were granted importation permits, then that's a pattern of enforcement of the law. I'd propose the law be altered to reflect the banning of either only *CITES I Appendix* species or to reflect banning of IUC and red-listed species and not *CITES* listed species.

Dan Brooks: This matter will be coming before you because the rule does allow for Ms. Perras to have a hearing/appeal. At this point we are working with Directorate and we have a timeline by summer to make modifications to the importation rule.

Erica Perras: Federal regulations make no distinction between my Class C Exhibitors License and the Class C Exhibitors License of a zoo, so I'm held to the same standards that zoos are.

Oscar Simpson: Before the Commission finalizes the schedule for next year's meetings, I hope you consider having Commission meetings on weekends.

Philip Zwiefelhofer: I'm here to talk about boundary changes in 6-A and 6-C. I have a handout and if we look at 2002, we had three times as many tags in 6-C so everybody says they have no elk. This goes on for about five years and then they have less tags this year, they have 1,457 but they upped the 6-A tags to about 800, so what's happening is they moved this line over and all 1,300 new hunters from 6-C are going to hunt in San Pedro Parks and that northern part of the area because that's where the elk are and they're going to wipe the elk out of all these areas. 6-A and 6-C will be the same. The Department has been taking

about 120 landowner licenses a year from 6-A to Unit 9 saying that there aren't enough elk to supply those 6-A tags so we've got to divert them to Unit 9. Now they're going to put 1,350 more licenses in 6-A.

R.J. Kirkpatrick: Unit 6 was one big unit for a long time. Pursuant to real aggressive harvest strategies where we killed a lot of cow elk in the mid-'90's people in the 6-A portion of Unit 6 felt there weren't enough elk and wanted to bring them back while those in 6-C both landowners/public Forest Service allotment grazers wanted to continue to reduce elk numbers in that piece of Unit 6, hence we split the unit into 6-A and 6-C. Real different management objectives for both of those—in 6-A we're trying to grow more/bigger elk, 6-C we're trying to keep minimal numbers. As the years progressed, a lot of public hunters expressed more concern about the validity of the licenses we issued in 6-C basically asserting the licenses weren't worth anything. There are no elk in 6-C but we continued to have landowner community and a variety of folks say there are still too many elk in 6-C, restrictive in 6-A. Over the last six years based on Commissioners'/sportsmen's concerns we have slowly reduced the number of licenses available in 6-C because there's a tide turn in saying we want a few more elk back in 6-C. As you'll recall, over the past six years a group of concerned landowners for the most part have expressed interest in changing the boundary between 6-A and 6-C, or eliminating it and putting the unit back together. That came to a head last year when the Commission made a decision to redraw that boundary based on requests/assertions of that group of people in those interests. We recognized at the time that that was going to result in significant dissatisfaction from those that liked it the way it was, especially in 6-A. As far as license numbers changing, basically what the redraw of the boundary did is reduce the total acreage in 6-A. Most of that reduction was public land so there are fewer 6-A licenses. Most of the increase in 6-C was also public land so there was an increase in public licenses in 6-C. In the end, landowners are going to have fewer licenses to share/spread between them in 6-A. Landowners in 6-C won't have significantly more to benefit from. The issue having to do with landowners in 6-A getting to hunt in Unit 9, the reality of that lies in the elk landowner system rule. If we have private land authorizations that have gone unconverted in other places in NM, and we don't need those authorizations to fulfill recognition of contributions of landowners in that unit, we make them available to landowners in other units where we don't have extra authorizations, so we don't force a landowner in 6-A who may receive a Unit 9 authorization to use/sell. It does afford him an opportunity to sell/use if he so chooses.

Chairman McClintic: Obviously, even the people that thought we did a great job doing this have come back and said we didn't do enough. Do you think this is something we should re-visit sometime this year and try to make it more equitable?

R.J. Kirkpatrick: I think it's our obligation to re-visit things where we recognize that there are difficulties/inconsistencies/problems with decisions that have been made. We are going to open all the big game rules especially the elk rule. We've already had discussions within the Department that we need to re-think Unit 6. We need to look at population/harvest/hunter satisfaction information and the current split is wrong. We may put the unit back together and be conservative on harvest of bulls. Don't know what the end result will be but we'll work through the next 6-8 months to solve it.

Philip Zwiefelhofer: I'm concerned about this year because if you're going to put 1,300 more licenses in the northern part of 6 and if you get 15% kill, that's going to be 150-200 elk taken out this year.

Chairman McClintic: Do you agree with that, R.J.?

R.J. Kirkpatrick: His assertions/concerns that there will be a disproportionate level of harvest on what used to be 6-A that's now 6-C, the north end of San Pedro Parks/Resumadero, that kind of country, the possibility exists for disproportionate harvest. As with all hunting, it depends on the elk and the accuracy of the shooters, so I don't know that you can definitively say we'll kill a lot more elk, but it's possible.

Commissioner Salazar: Mr. Zwiefelhofer points out that there's an increase in private land tags in 6-A, is that correct?

R.J. Kirkpatrick: I don't believe so. I think there are fewer private land authorizations in 6-A.

Philip Zwiefelhofer: The Department added 200 more tags also in 6-A this year. They added 100 youth tags. They're going to shoot the cows.

R.J. Kirkpatrick: Those youth hunting opportunities are youth encouragement licenses. I don't know how many of those were sought and utilized this year, but those are additional licenses in 6-A.

Chairman McClintic: Yes, but what they're saying is our reporting shows that the resource can bear more.

R.J. Kirkpatrick: We can afford to harvest 30-40 cows in 6-A to encourage kids to hunt.

Commissioner Salopek: I'm assuming 6-A and 6-C are inside your elk core, correct?

R.J. Kirkpatrick: Correct, what we consider 6-A/6-C is part of the Jemez elk herd and it's all in the core for the most part. Some of 6-C, a large chunk basically Espanola, north along that sand dune isn't in the core, but for the most part the whole Jemez is in it.

Chairman McClintic: We're not done with this issue. We will open it up and we will try to make it better. It's difficult since it's in our Proclamation to make any major change for this season. We're going to be stuck with what was done but that doesn't mean that in the future we can't try to make it more palatable.

Philip Zwiefelhofer: I don't think it can go on for five years and have a herd left in 6-A.

Bob Ricklefs: I'd like to start a series of comments on bear management in NM. I believe if we continue down the road we're on, Philmont where I work/live, we're up against a future wreck. The next time we have a dry fall/acorn crop failure/dry spring, they're going to get us. Ten years ago or so we had a bear study in NM. Philmont cooperated and we spent time/resources on

that study. We voluntarily closed the northern part of the ranch to bear hunting to add to the knowledge of bears. Toward the end of that study, they appointed an advisory group and the mandate came down to that group that there will be a quota in NM. The advisory group did not have an option even though probably half of us did not agree with that strategy. Also out of that study we learned that perhaps the population of bears in NM was twice what had previously been estimated—it went from 3,200-5,500 and after all that, we had no power, we were just to advise. We came up with the most restrictive/conservative bear hunting strategy. There is no reason for seven percent of the population. Montana kills 10% and is very successful, and that's just to sustain the population. I don't believe the bear population is as fragile as bear biologists say. At Philmont during the early part of this last decade we had some bad falls/acorn failures and yet the next summer we still identified eight females with cubs. The bear biologists tell us that shouldn't happen, but it did. Our place is small, just 200 sections, and if you look at Zone 2, it's pretty small compared to Zone 2. We kill over 10% of the harvest quota for Zone 2 and they're still increasing. This summer 60% of the crews saw bear as opposed to 40% the last several years.

Bob Atwood: On 6-A/6-C, the Council of Outfitters would also like to ask you to re-visit the issue.

AGENDA ITEM NO. 12: Proposed Changes to the Fisheries Rule, 19.31.4, NMAC.

Presented by Mike Sloane – The Department presented for Commission adoption proposed changes to the Fisheries Rule 19.31.4, NMAC, for April 1, 2006 through March 31, 2010. The current rule expires at the end of March. There have been public meetings/two press releases/e-mail contacts/summary of comments, and posted to the web pursuant to Commission policy with 60-days advance so potential adoption asking for public comment, and then 30 days with the final version. We've got support with the request we put up signs to make sure people understand which species are which and what they can/can not do. There were some concerns regarding terminal tackle. We've addressed those and terminal tackle has not really changed on any of the waters.

Commissioner Fonay: When you say concerns regarding terminal tackle, what's the concern?

Michael Sloane: The concern is that for example in the Vermejo river system we'd be allowing any kind of terminal tackle that's allowable in any trout water as opposed to barbless flies/lures, and Vermejo is particularly interested in maintaining the ability to use any kind of terminal tackle. The science suggests that there isn't a difference, it's mostly in the way people handle things and in the social sense that people feel when they're fishing.

Commissioner Salmon: On Black Canyon does the Brown trout regulation change occur just above the barrier, or all of Black Canyon?

Michael Sloane: Just above the barrier--North Star Road.

Commissioner Salazar: Do we include signage on those special waters for what we talked about before, the spread of some of these diseases and have those educational points at some of these major fishing areas?

Michael Sloane: Yes, that's our intent. Another proposal is to decrease the length of special trout water on the Pecos by approximately ½ mile. Currently, that special trout water goes a quarter mile above the bridge in Cowles. We're proposing reducing it ½ mile so it'll be ¼ mile below that bridge and that's so the area around the kids' pond/Windsor Creek/adult pond that are regular trout waters. The Truchas Chapter of TU has stated opposition and we've had one individual oppose it. Youth fishing—the City of Red River has requested we switch a small pond with a large pond because of the use patterns. The City of Grants requested we increase the age restriction at Grants Riverwalk Pond in order to allow more kids in the community to utilize that resource. We do have to make a change to the manner and method rule to accept certain special trout waters from terminal tackle restrictions. The rule as it's written requires all special trout waters to have no artificial flies/lures and there's a desire particularly on the Vermejo river system not to have those restrictions. Gilita/Willow Creeks were passed previously by the Commission with no tackle restrictions but they were inadvertently left out of this part of the rule so that's a cleanup measure. We've heard the ranch's preference is to go ahead and leave that terminal tackle restriction off. **[Action Item]**

Public Comment:

Toner Mitchell: I represent the Truchas Chapter of Trout Unlimited, but I'm here as the Manager for the Reel Life Fly Shop in Santa Fe. I'd like to address the ban on felt soled waders discussed at a previous meeting. The ban is that the science isn't behind ANS being transferrable in felt soles. It's an argument supported by the contention that ANS can be transported in boot laces/seams/landing nets/birds/swimmers which is a position that supports the science. Felt soles would simply reduce the surface area for vectors for whirling disease and the like to be transported from waterway/waterway. Vaccination as a method vector control has been proven to work. Any ban on felt should be accompanied by an extensive education program to encourage people to clean their gear. I'd also like the word felt to be replaced by porous in any written regulation to not pose an impediment to gear companies to research felt-like alternatives.

Greg McReynolds: We're supportive of opening Capulin Creek. I also like the non-native removal *caveats* in some of these streams. Regarding the felt-soled ban on waders, maybe we can take a broader look and consider a felt-sole ban that doesn't go into effect for a few years so people have time to replace their boots and there would be more general public awareness.

MOTION: Commissioner Arvas moved to adopt the Fisheries Rule, 19.31.4, NMAC, and required changes to the Manner and Method Rule, 19.31.10, NMAC. **Commissioner Salazar** seconded the motion.

Commissioner Salazar: The Department wanted the felt-sole ban in there but the Commission felt we should move with education first. We'll not drop this issue but continue to protect the habitat and as a Commission we felt there needs to be time for education. We will be re-visiting this issue.

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

AGENDA ITEM NO. 13: Proposed Big Game, Turkey, Migratory Bird, Upland Game and Associated Rules Development Strategy.

Presented by Jim Lane – The Department presented a strategy and chronology for the development of rules for the 2011 and 2012 hunting seasons and requested the Commission open the following rules: Boundary Descriptions 19.30.4, NMAC; Upland Game 19.31.5, NMAC; Migratory Game Bird 19.31.6, NMAC; Hunting and Fishing License Application 19.31.3, NMAC; Hunting and Fishing Manner and Method of Taking 19.31.10, NMAC; Bear and Cougar 19.31.11, NMAC; Barbary Sheep, Oryx and Persian Ibex 19.31.12, NMAC; Deer 19.31.13, NMAC; Elk 19.31.14, NMAC; Pronghorn Antelope and Javelina 19.31.15, NMAC; Turkey 19.31.16, NMAC; and Bighorn Sheep 19.31.17, NMAC. Public input, testimony and participation in the development of these draft recommendations was encouraged in a variety of ways including but not limited to Department-sanctioned meetings, public meetings, meetings with Public Land Management Agencies, Department attendance at various special interest group meetings, mailings, telephone and the Department's web page. **[Action Item]**

R.J. Kirkpatrick: The boundary description rule is associated with the motion in this presentation so we're covered. I'm not sure whether or not the shooting hours being proposed would apply to migratory birds subject to federal guidelines.

Jim Lane: Shooting hours rules would apply only to all species outside of migratory birds. We would not be able to change the shooting hours for migratory birds.

Commissioner Salmon: I don't know much about crossbows—how is their range effectiveness compared to a muzzleloader or as to whether they might affect take or not?

Jim Lane: Crossbow range is about as affective as a compound bow—40-50 yards pretty accurate for somebody that practices a lot. The draw weights are tremendous because the axle-baxle length is very short. They are really no more effective than a compound bow.

Commissioner Fonay: The idea you had staggering the rules seems to make sense to me from a Department's/sportsman's point. The four year instead of two year is an excellent change. If some small change were missed, the Commission could still go back and address that. The half hour time after sunset instead of sunset would avoid a lot of confusion. I like the two turkey rule for spring apparently you did not feel is a negative impact on the resource.

Commissioner Salopek: NM is one of the only states that doesn't have it after hours. As far as crossbows, I agree with that because anytime you draw a license you can hunt down, be it rifle/muzzleloader/bow—crossbow fits in there. People have been asking why don't they have something for crossbows. Instead of setting up a season for crossbows, how can we fit in more hunts anyway? On turkey in the fall, is that only because of Thanksgiving plus we're getting more days so I commend you for that, but why move it from September? Were there bow hunters complaining of a shotgun going off?

Jim Lane: No, sir. The resource can sustain the harvest and also to give folks an opportunity to harvest a fall bird and a much higher success rate because birds are going to be flocked better than early September—real hard to find in September--you've got smaller groups, and they're going to start gathering in the winter flocks during November. It'd give folks better hunting opportunity to bust up a flock and enjoy a fall hunt.

Commissioner Arvas: Would you go over prohibiting upland game over bait?

Jim Lane: It was more of a clean up. If we were to make it illegal and if you/public agreed with us that we should not hunt turkey over bait to make that consistent with deer/elk, this would make game hunting over bait illegal in the state to make it consistent statewide.

Commissioner Arvas: I don't remember how far back we allowed quail feeders, does that include quail feeders too?

Jim Lane: It would not include feeds placed solely for feeding wildlife. Putting out a bait pileant with the intent to kill over it would be normal agricultural practices would be exempt. It'd be for putting out a pile of corn to kill turkey/quail.

Commissioner Arvas: Would that be a hard thing to control for our officers to keep track of as far as a feeder being in an area where there might be good turkey hunting?

Jim Lane: It's similar to what other states do and our law enforcement could probably answer better than I.

Dan Brooks: Here's a general rule of thumb—we allow/encourage feeding wildlife and we make a distinction between baiting/feeding. Baiting is to entice the animal in, and attempting to take or taking it—it would be capturing/killing. That's been illegal under manner and method. This is clean up that has to do with private land and feeders with turkey/quail.

Chairman McClintic: This doesn't have to do with quail.

Dan Brooks: Our officers are used to understanding that feeding is allowed, baiting is not allowed, and they look for an individual because it goes back to did that individual place that substance feed/grain there to entice and take animals? That's what they have to prove on individual cases and they can do that so it's enforceable.

Chairman McClintic: Mr. Lane, at the Armendaris, Mr. Turner has 217 feeders and they're specifically for his quail and he hunts quail off those feeders, so would this change make that illegal?

Jim Lane: No, sir.

Commissioner Salazar: I like the four-year cycle. After going to that first WAFWA meeting and seeing we're one of the few agencies that doesn't take a long-range look at how we manage our populations, so that's a good move. I like separation of different species. As to the baiting issue, this deals with fair chase/ethical hunting practices. We do this with ungulates hunting over water. If you want to hunt these, let's give them a fair chase/taking. It's part of hunting ethics. Crossbow I'm torn over because I see a lot of lost animals with different types of hunting and it's usually poor hunting. This is an effective weapon. I see that would work and less wounding/loss of animals. The consistency with other departments as far as hunting hours is good. We won't run into violations.

Commissioner Salmon: We haven't had anything to say about the furbearer rule since 2006—we skipped it in 2008 and I don't see it in 2010, and if we go to a four-year cycle it'll be quite a while before we get to it. What's the Department's thinking on when we'd open the furbearer rule? I don't necessarily have any changes in mind but it occurred to me that on an issue like that people want to voice their opinion and bring forth what information they have.

Director Stevenson: At some point we need to open that rule so the public can comment. I'd suggest that you consider we do that later in the year or the first part of next year. The reason being that having only one biologist that oversees furbearer--bear/cougar issues is going to be significant with what we're hearing as far as us dealing with part of them. I don't want to put it off too long but at the same time I'm trying to figure out how to balance that with staff. As a Commission/Department to make sure we've got a fair hearing on that issue but I'd like you to at least consider doing that as an offset. I know there are going to be comments and there have been some strong opinions wanting us to do that sooner/later. That's one of the things that you as a Commission are going to have to consider. That's why we did not put it on this agenda.

Chairman McClintic: There's no question it has to be opened up. We're relying on you to tell us when it would be best for the Department to open it up.

Director Stevenson: That would be my preference. If I could come with a schedule at the April meeting as far as when we could do that, but we're open to the guidance of the Commission.

Commissioner Buffett: Yes, by the next meeting have furbearer on the agenda but at least we're all on the same page as to when it's going to be open especially if we're going from two to four years.

Director Stevenson: Remember the furbearer rule doesn't have actual dates in it. It's more of a permanent rule and that's why last cycle it didn't get talked about, but we've had a lot of concern and the public come in and asked us to consider things. I'll come to the April meeting with a full schedule of when that's going to be done including when we'd open it/how we'd deal with public comment/the timeframe that we'd go into to lock the rule down/when we'd come back and ask the Commission to make a decision.

Commissioner Salopek: That's a great idea and I'd like to see it done no later than next year. It gives us a chance to make sure it's right.

Public Comment:

Greg McReynolds: Grouse season over the last couple of years has had a special for GSE 1-E which is basically the Pecos area, it's an early hunt started August 22 last year and in my opinion that season is too early.

Chairman McClintic: More than trying to get early birds, I think the biggest concern is why it was moved back a week instead of September 1-August 27, because there's tremendous conflict between grouse/bow hunters. It gives us at least eight days to go hunting and I'd say 80% of the people that hunted the first eight days or first week, didn't come back and hunt. If the biology/science show birds are immature, I don't think you're going to have any problem with us looking at that more seriously. We're going to rely on the Department for the biology.

Jim Lane: We'll take a look at that and we've discussed internally.

Greg McReynolds: According to the existing survey the Department did the first year, 142 individuals were surveyed and 35% didn't hunt during that first eight days, so basically 65% people are hunting the first week in September or whenever.

Larry Caudill: I support what Greg McReynolds said about grouse season. Let's not overlook the fact that this was put in at the request of one political entity.

Chairman McClintic: We don't work that way, Larry.

Larry Caudill: I'm not personalizing it, but I believe firmly that was the case. You may disagree, but I reserve the right to disagree also, so that's one consideration.

Chairman McClintic: But, Larry, that's impugning our integrity.

Larry Caudill: No, it's not, it just means that this was put in at the request of a particular individual. It's no attack on anybody's integrity. Crossbows—it's easy to hit with a crossbow at a greater distance because they're aimed like a firearm so my concern is they are equipped with scopes—so it's easier to hit an animal but harder to kill because there's no weight to the projectile.

We've got to think about crippling loss. As far as the hours go, the darker it gets the harder it is to follow an animal and if you hit

something late, your chances of recovering it before it gets too dark to find it go up so again we have the risk of additional crippling loss.

Bob Atwood: I support this proposal.

Oscar Simpson: I'd like to know what the survey data is health of the grouse population is. I'd like the Commission to deal with decisions/comments on a species by species basis, and not group them together as in the past.

Mary Katherine Ray: I'm the Wildlife Chair for the Rio Grande Chapter of the Sierra Club. I'm concerned with furbearers because what we have now is this one-page document that constitutes a plan. It's actually an estimation of populations and from that an estimated allowable/sustainable kill limit, but it says the document was adopted in 2006 and all these values are subject to further verification.

Chairman McClintic: Jim/R.J., there are a couple of things we said we'd do and we haven't, did you want to respond?

R.J. Kirkpatrick: Explicitly, I suppose we've engaged into that further review lately.

Mary Katherine Ray: Not review but further verification that these values would actually be correct. I don't know if there need to be field studies we can get scientific information in a different way that could be demonstrably accurate than what the values are on this paper as far as populations go and what we could kill as far as being sustainable.

R.J. Kirkpatrick: That'll be the value in moving forward.

Director Stevenson: Regarding furbearers, at the last Commission meeting the Commission adopted a rule requiring mandatory harvest for all furbearers for them to be able to purchase another furbearer license, or to get any big game licenses. Mary Katherine Ray and other groups met with me/staff back in January with a proposal. We're doing that and over this next month we'll meet to look at what they're suggesting because they do have suggestions that are probably things that we can move forward on and implement.

Commissioner Salopek: Jim, on your migratory birds was there something different than what we're talking about or is it the same? When we were talking about ½ hour before sunset to ½ hour after sunset, I believe you said except for migratory bird, is there a rule?

Jim Lane: It's a federal law, a CFR, that sets migratory bird hunting hours for the U.S.

Commissioner Salopek: Is that sunset?

Jim Lane: Yes.

Caren Cowan: I'm speaking on behalf of NM Cattle Growers/NM Wool Growers. I'm concerned about the conversation where you've accepted proposals and you're getting ready to look at proposals when all of us haven't been brought to the table.

Director Stevenson: These are simply ideas at this point. What we wanted to do is put a few ideas out to the Commission before we start promulgating rules so they're not going to adopt anything today. All it was, was to start stimulating thought with some ideas that our staff had come forward with that we'd either heard from the public, or that our staff had come forward with to say we need modifications/here are things we're suggesting to think about.

Caren Cowan: I thought I heard you say that you met with a group of the public in January that gave you a proposal and you're fixing to go back and meet with them again.

Director Stevenson: I'm sorry, what it was is there were a group of folks that did come in and talked to me about furbearer issues. They had given my agency a letter that they wanted responded to. We're going to go back and answer those things they put in that letter. They will not be in a form of any kind of solutions/decisions. What I said was there are some things in there that they were suggesting about how we go out and do population evaluations for furbearers that we need to evaluate and may be worth us taking into account on what several other states do. There are no decisions and we will not make any decisions with that group by themselves. Mary Katherine Ray will substantiate that at that meeting I made it explicitly clear that there had to be other people with furbearer issues at the table and how we move forward. It was simply that we were being responsive to a question that they had asked. I'm more than glad to expand that. That's what we discussed and this is not an issue that we can discuss only with one side, but if anybody makes a request from me I'm going to have a discussion around those. This furbearer issue is one of the reasons that we're suggesting putting it off a little while trying to do part of these other ones so that we can have a discussion with everybody involved because this is a significant issue. We're not going to do that independently. We're not going to make an isolated decision because that's not good business.

MOTION: Commissioner Buffett moved to open the following rules: Boundary Descriptions, 19.30.4, NMAC; Hunting and Fishing License Application, 19.31.3, NMAC; Upland Game, 19.31.5, NMAC; Migratory Game Bird, 19.31.6, NMAC; Hunting and Fishing Manner and Method of Taking, 19.31.10, NMAC; Bear and Cougar, 19.31.11, NMAC; Barbary Sheep, Oryx and Persian Ibex, 19.31.12, NMAC; Deer, 19.31.13, NMAC; Elk, 19.31.14, NMAC; Pronghorn Antelope and Javelina, 19.31.15, NMAC; Turkey, 19.31.16, NMAC; Bighorn Sheep, 19.31.17, NMAC; and Open Gate, 19.34.7, NMAC; and to direct the Department to place on the agenda for the April, 2010, Game Commission meeting the notice to initiate opening the furbearer rules and bring forth a rulemaking timeline. **Commissioner Salopek** seconded the motion.

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

AGENDA ITEM NO. 14: Development of a New Rule Titled the Antelope Private Land Use System Rule.

Presented by Jim Lane – The Department updated the Commission regarding the development of a proposed new Antelope Private Land Use System Rule (A-PLUS) for adoption. This rule establishes procedures by which pronghorn antelope harvest is determined and how hunting opportunities are allocated to private land and public hunters. The Commission gave the Department directive to develop an antelope private land use system based on the following parameters: put pronghorn management on a sustainable foundation to provide equity between public/private hunters/provide transparency and professionalism/increase hunting opportunity if at all possible to provide longer hunter opportunities and distribute hunting pressure/provide landowners with clear hunt options and incentives for public access to give folks access to public/private lands. The proposal brought forward, and the statutory mandate of one free license to enrolled landowners per statute with the balance of licenses going through the draw to public hunters.

Commissioner Arvas: Are we within our statutory authority when we give one free license to enroll a landowner?

Jim Lane: Yes, that's in statute.

Commissioner Arvas: Do we give a lot of free licenses out now?

Jim Lane: Through the current process, landowners that are enrolled do get one free license and then they have other licenses that are issued, authorizations that have to be vended into a license.

Commissioner Arvas: Free basically means you're giving them a piece of paper that says that a person has the landowner's permission to hunt, can buy a license, so it's not really free?

Jim Lane: That license per statute is free of charge.

Commissioner Arvas: They don't have to buy a license/tag?

Jim Lane: Correct. With that tag they can go kill an antelope free.

Director Stevenson: What that is, is they're agreeing to allow a public hunter to hunt on that ranch by statute, and that's been in statute for a long time, that allows for them to get one free license. What it went back to originally is that they were providing that habitat and other things so that that landowner could actually go and they would get a free license and then the rest of those are authorizations. If it is a ranch that has public/private property and they allow a public hunter, they do get a free license by statute. They'll get authorizations, they can come in and convert one of those for a free license.

Commissioner Arvas: How many of those licenses do we give out?

Jim Lane: I do not know—1,200-1,500.

R.J. Kirkpatrick: It's ranches that are enrolled in the system and sign agreements that allow public hunters to come on them, so if ranches with both private/public land use status, any of those people participating get one free license authorization. I'd guess that's around 1,000-1,200.

Chairman McClintic: It doesn't matter whether it's resident/non-resident?

R.J. Kirkpatrick: No, sir.

Commissioner Arvas: We were given a handout by NMWF—would that skew this graph we were given by NMWF?

Jim Lane: I've not seen that graph so I can't address that.

Chairman McClintic: I don't know how you go to private landowners and tell them we want more. We do want more public land hunters on their property, but they've got their private property rights, and that's been the biggest problem with the ranching community—I don't know how we can force public hunters on private land. We need to have several meetings in several areas and figure out something. The toughest tag in this state to draw on a public hunt is an antelope tag. It's going to be up to the communities rather than wait and have it here where it's contentious, to have the actual meeting to say here's what we want to do. I'd rather get in a position where we can get people involved enough that we can come to something that makes sense and we can get done.

Commissioner Arvas: In your presentation there's a statement I think we're really going to have to look at carefully and I can assure I'm at least going to ask questions about that the Department will continue to ask for public input until we're satisfied the majority of stakeholders are aware. There's substantial support from the Department. That hasn't happened the last two times we went through this process, so I'm glad you put that in there because at least you're trying to live up to what I think the Commission wants not only because of it's constituency factor but because it's the right thing to do and it won't fly if they aren't in support of it.

Commissioner Salazar: I would not force a landowner to open his property to hunting, but in other states they get an access fee so if you have good habitat/running a good ranch/have wildlife you can get some good money from these open gate processes. That's how it's been successful in other states. The rancher has to have the ability to say who's going to hunt on his property. If he's maintaining his ranch/grazing lands in an effective manner and has good resources for both wildlife/habitat, he should benefit and get some money from an access fee. It's critical that folks are in on this because it's not going to work for us if it doesn't work for folks. We need to get some equity for the hunter because you cannot draw an antelope tag if you're a public hunter. I think we can meet half way on this and work things out. It's going to be landowners/ranchers have significant input on this and we work with a system that's beneficial to you as well.

Commissioner Salopek: I agree with Commissioner Salazar. Is there any way to pro-rate—is it only one free license per ranch per state statute?

Jim Lane: Yes.

Commissioner Salopek: You couldn't pro-rate it for a bigger ranch that has private property where they get 2-3 but also 2-4 public hunters?

Jim Lane: The free license itself is limited to one. Now that's not to say that a system couldn't be developed that the allocation of pronghorn opportunity is based on land status each ranch is comprised of. I think we can get to that end point just not free.

Commissioner Salopek: This is a voluntary ranch by ranch system, right? If we'd look at allocating more tags for the landowner, as this is voluntary year by year, is there any way we could sign up a rancher for a four-year period? It's got to be a headache for the Department year by year go to each ranch and saying well you want in this year or not?

Jim Lane: That's something we've discussed in the current proposal that we'll roll out to the stakeholders.

Commissioner Fonay: Conceptually your idea of putting a group of stakeholders together to take a look at this I'm in support of. As I talk to people whether rancher/sportsman there's not 100% but there is consensus that the current system could be improved. I think there's also a diverse idea of how that can be improved. We don't want to leave it open-ended but to take adequate time and think out of the box. I've heard some good ideas potentially out of the box that would benefit sportsmen/be

supported by the ranch community. There will also be some on both sides that will be dissatisfied. I think this state's is blessed with a great resource and a lot of public/private land and we've got to have the private landowners at the table. I do like the idea.

Commissioner Arvas: How many total antelope permits do we give out? How many licenses do we sell? I talked to R.J. before you got your numbers and there's some confusion as to the total number of antelope licenses that are sold in relationship to the approximate 1,000-1,200 that are given out free.

Chairman McClintic: Split it up between public and landowner.

Pat Block: I don't believe so. I think where you'd run into a potential difference is the number of licenses sold v. the number authorized. Each landowner has the opportunity when they allow public access onto their land to get that free license. They don't all necessarily use it. Same with authorizations, a ranch will get five and they'll use two, so differences are between number authorized and number actually converted. The number we have here takes into account free licenses but it's based off the part of the system that prints the license, so whether it's paid/free it's a printed license so we're probably okay. On the whole, there are a little under 5,500 antelope hunting licenses issued in 2008-2009, about 2,100 of those through the 2,085 drawn through the public draw system and about 3,500 issued pursuant to private land authorizations.

Commissioner Arvas: So then of the 3,500, 1,000 would be included in that bunch, and that's statutory?

Pat Block: Yes.

Commissioner Arvas: So we're not going to be able to fool with those unless we go back to the legislature?

Pat Block: Right, only by amending the law.

Commissioner Arvas: So then what we're talking about is almost an even 50-50 split between the public draw and the private landowner at this point in time?

Chairman McClintic: No, it's about 2/3 to the private.

Pat Block: If you exclude the free license it's 2,100/2,300/2,500. They're approaching similar size.

Commissioner Arvas: Would it be fair to say that it's not as unfair as it might seem because of the 1,000 free licenses there?

Pat Block: Or that the law makes it inherently unfair. I guess there are a bunch of different ways to say that. It all depends on what your definition of fair is as well.

Commissioner Arvas: What I'm using to make that statement is there are 2,200 through the draw, 3,500 in addition, so you subtract 1,000 from that it's almost even.

Pat Block: Yes, if it's the 1,200 then you're within a couple of hundred.

Commissioner Arvas: So it's not as unfair as it might seem?

Pat Block: That's really for each person to evaluate.

Commissioner Salazar: I don't think it says we shall issue them that permit. I think the language allows us discretion in that. The Commission has gone ahead and done that. Does it say shall?

Jim Lane: No, it does not say shall. It says that the Department is authorized to issue an antelope license free of charge to owner/lessee of property.

Commissioner Salazar: That was the Commission's decision so it's not in law that we shall.

Chairman McClintic: Correct.

Commissioner Salazar: In other states where this has worked effectively, they do give every family that has the resource a family tag and then landowners with big properties that have abundance of wildlife and manage it properly, they do well with some of the tags. At some point I've love to see it get there, but it behooves us to try and move to something that benefits the responsible ranchers/wildlife people.

Commissioner Salopek: Keeping in mind private property ownership is huge. Where are these antelope more than likely eating/drinking? If they're not compensated we have a big issue. I'm liking what I'm hearing and I don't like the word free—to me whoever is feeding the animals it's not free anyway even if it's public, but I look at this bill as not that out of whack.

Chairman McClintic: Pat, would you say that out of the 2,085 public draw licenses, on an average year the past three years we had 100,000 apply for those antelope permits?

Pat Block: It's not quite that but the best odds are 10 to 1 against drawing and longer than that depending on the hunt.

Chairman McClintic: There's got to be more than 20,000 people.

Pat Block: It's probably more than 20,000 less than 100,000. I'll get you the figures.

Director Stevenson: This wasn't a decision-making item for the Commission. Our next step is to go to the public. I think the Commission has appropriately raised some of the things we have in this proposal and different than where we were two years ago. It's still going to need work and I want the Commissioners/public to understand this is a work in progress. The Commission continues to give us direction, and we're going to make this workable for the landowners/sportsmen. I'm not sure we're going to get a full resolution without further discussion even when we put that out to the public. [Discussion Item.]

Public Comment:

Michelle Briscoe: To reiterate the point the Department made about what you're looking for from the A-PLUS system, we're in support.

Oscar Simpson: We need to make sure the public is thoroughly engaged and the best way to do that is in the quarterly newsletter that goes out. How many copies go to newspapers?

Director Stevenson: 350,000.

Larry Caudill: This system definitely needs an overhaul. I've advocated for many years increasing opportunity for quality hunting by extending antelope seasons. Part of the mix here is several three-day minimum seasons, even three of them back to back with a day in between, but certainly extending the pressure over a greater period of time.

Caren Cowan: Speaking on behalf of NM Wool Growers. The property rights issue is the key issue and sometimes you just don't find equity, but you've got to respect private property.

Bob Atwood: President of NM Council of Outfitters. We also support this.

AGENDA ITEM NO. 15: Initiation of the Biennial Review.

Presented by Matt Wunder – The Department proposed opening the initial 90-day comment period on the First Draft of the 2010 Biennial Review in accordance with 17-2-37 through 17-2-46, NMSA, 1978, and 19.33.6.8, NMAC. [Action Item]

Commissioner Salazar: I encourage you to also have it bilingually listed in a regional paper because we have landowners in the northwest area that do not read fluently in English.

Commissioner Arvas: Did we receive a national award for our biennial review the last time around?

Dave Holdermann: We received an award for our state wildlife grant action plan.

Commissioner Salmon: When one of these species/sub-species becomes threatened/angered at the state level, what additional protection or management do they receive that they didn't have before.

Dave Holdermann: Basically it protects the species from any form of take. It does not grant protection to the habitat of that species unlike the Federal Endangered Species Act, so basically it provides protection against illegal take and it encourages voluntary actions that might protect or enhance the species either through habitat or other means.

Commissioner Salmon: Most of these species would not be subject to take in any event, would they?

Dave Holdermann: Some of them would—Peregrine falcon/Desert bighorn sheep. Some of the desert fishes that might be considered viable bait material by fishermen, so the take process does protect/help in a lot of cases.

Commissioner Salmon: Is it possible to protect a species from take other than through the listing in the state endangered species process? In other words, could you—like Roundtail chub—could you take them off the game list or say there can be no take of Roundtail chub even though they're not listed?

Dave Holdermann: The Commission or Director has the prerogative—I'm not sure—to allow take of state-listed species.

Director Stevenson: If they're not covered as a threatened/angered species there is no provision in NM state law for us to do that. They would have to go back on to either a protected list by statute. That's the only other mechanism that we could regulate for the Commission to regulate take, and as the Commission is aware, we do not have that for a lot of non-game and a lot of these species, so if they do not become listed as threatened/angered under the WCA, or if they're not specifically listed under statutory authority we would not be able to regulate. As you know, we tried to get that accomplished two years ago at the legislature.

Matt Wunder: I'm not sure in terms of law enforcement, but manner and method provide some level of protection for species that may not necessarily be listed but then to a certain extent specifically with reptiles/amphibians/commercial take, the Department does have some discretion in limiting the amount of take but there still is take permitted but there is some regulation of that through commercial collection.

Director Stevenson: Once again, that's under statutory authority.

Commissioner Salmon: I noted that the white sided jackrabbit is listed here as threatened and the white tailed jackrabbit is not although it has a very limited range in the state. What's the status of that mammal? Is it unprotected?

Dave Holdermann: It's probably lumped in with other jackrabbits. It does have limited range, has been assessed by Department surveys in the past when Greg Schmitt was here, I'm not familiar with those data.

Commissioner Salazar: What's the plan to protect some of these species, is it that award winning conservation plan you have, or is there any other plan, and what would the economic impact be on the state if we got to a federally listed species so the public knows why it's so important for your program/surveys?

Matt Wunder: Clearly when we have things on the list, there's a process for developing recovery plans. We provide some guidance to state/federal/private landowners for activities to help protect some of these species. They are not regulatory in any sense, but they do provide some guidance and some of the things that could be done to help prevent them from becoming threatened/endorsed. You are correct that when it does get listed at the federal level, that ramps it up to a whole other level of regulatory authority that does have more stringent protections than are offered at the state level.

Commissioner Salazar: Those protections are onerous sometimes to landowners/economy of NM.

Matt Wunder: Yes, they can be that's why we work to prevent them from getting into a position where they might be listed.

MOTION: Commissioner Salazar moved to open the 90-day public comment period on March 18, 2010 for the first draft of the Biennial Review of New Mexico State-listed Wildlife and to begin the 2010 Biennial Review process. **Commissioner Buffett** seconded the motion.

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

AGENDA ITEM NO. 16: Disposal of Forfeited and No Longer Utilized Weapons.

Presented by Dan Brooks – The Department presented a list of weapons forfeited to the Department by individuals involved in illegal hunting or that were removed from law enforcement service for various reasons. The Department proposed taking these to public auction. **[Action Item]**

MOTION: Commissioner Salmon moved to approve the Department's request to dispose of the weapons listed in this agenda item to be sold at a future date to be determined. **Commissioner Salopek** seconded the motion.

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

AGENDA ITEM NO. 17: Disposal of Department Aircraft.

Presented by Alexa Sandoval – The Department requested approval to dispose of the Department's replaced Cessna Skymaster aircraft. **[Action Item]**

Commissioner Arvas: What do you think the airplane is worth?

Alexa Sandoval: In talking with our pilot, Tom Sansom, State Police has tried twice to sell theirs which is apparently in better condition than ours and they've only received an \$8,000 offer, but the mechanism they used for selling will be different than what we're using. We're looking at going out to different airplane auction houses/exploring different routes to see if we can get a better price.

Commissioner Fonay: You mentioned the Department recently purchased a new aircraft. Is that the only plane the Department owns?

Alexa Sandoval: Yes, that's correct, we have only one airplane in our fleet.

MOTION: Commissioner Salazar moved to approve the Department's request to dispose of the Department's 1976 Cessna P337 Riley Super Skyrocket airplane having reached the end of its service life, either by sale at public auction, or otherwise disposed of in accordance with state law. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 18: Legislative Update.

Presented by Department Staff – The Department provided a recap of the 2010 Regular Session of the Legislature.

Commissioner Arvas: Who is the Chairman of House Business and Industry Committee?

Pat Block: Rep. Debbie Rodella from Rio Arriba County.

Commissioner Fonay: I'd love to do whatever I could to see the current depredation law repealed. We've got several situations where landowners have killed wildlife and I absolutely do not support that.

Pat Block: One of the things we have pledged to do is make an earnest effort in the interim to bring everyone to the table and hopefully get to a better place well in advance of the session so that by the time we get there a lot of cussing/discussing that goes on is taken care of and we can move forward.

Director Stevenson: I'd like to qualify the wolf memorial. Where that debate was heading was to something that both the Governor/Commission/Department have agreed that we need to have for that program and that's making sure we've got: (1) a balanced program; (2) we take into account livestock losses especially those suffered by owners of livestock whether on private/public lands. That's one of the biggest impediments we see with that program. USFWS currently has a bill that was

attached to Sen. Bingaman's bill that would provide \$1M across the U.S. for all states that have that. It looks like we've got \$60,000 that will come back from that. That has not been worked out by the feds at this time. The debate was starting to go in a lot of strange ways but the Department did not suggest moving that into a different committee. That happened and that was not by our action. We've got to continue and figure out how to get a better handle on that issue.

AGENDA ITEM NO. 19: (NOT CONSIDERED) Closed Executive Session.

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

Public Comment:

Larry Caudill: I'd like to put in a plug for the NMWF. Four-five years ago it was comprised primarily of what we might call a good old boys club. They essentially went along to get along and were in effect a rubber stamp for almost anything that the Commission/Department wanted to do, but that didn't serve the issue/didn't necessarily serve the interests of the public land sportsmen. In recent years, they've become activists and I think they're doing a good job of representing their constituency. Sometimes that means they're critical, sometimes the things they say are controversial, but recently there's been some sensitivity to NMWF that's based on the old days. I think criticism and dissidence play an important role because it forces institutions/bureaucracies to take a look at themselves.

Caren Cowan: There was a comment made this morning that the White Peak land trade would cause the loss of 55 elk permits. Where did that data come from?

Commissioner Arvas: That comment came from the NMWF [Michelle Briscoe].

Caren Cowan: That was a number we hadn't heard before and we'd like to know it's genesis.

AGENDA ITEM NO. 21: Adjourn.

MOTION: Commissioner Salopek moved to adjourn. Commissioner Salazar 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

April 8, 2010
Date

/s/ Jim McClintic
Jim McClintic, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
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April 8, 2010
Date