

MINUTES
NEW MEXICO STATE GAME COMMISSION
 New Mexico Farm & Ranch Heritage Museum – The Theatre
 4100 Dripping Springs Road
 Las Cruces, NM 88011
 June 9, 2011
 9:00 a.m. – 5:00 p.m.

CONTENTS:

AGENDA ITEM NO. 1:	Meeting Called to Order	1
AGENDA ITEM NO. 2:	Roll Call	1
AGENDA ITEM NO. 3:	Approval of Agenda	1
AGENDA ITEM NO. 4:	Introduction of Guests	1
AGENDA ITEM NO. 5:	Approval of Minutes (May 5, 2011 – Albuquerque, NM)	1
AGENDA ITEM NO. 6:	[DID NOT CONSIDER] Revocations	2
AGENDA ITEM NO. 7:	Revision of Commission Policy Regarding Rule Development	2
AGENDA ITEM NO. 8:	Proposed Amendments to the Hunting and Fishing Application Rule, 19.31.3, NMAC.....	4
AGENDA ITEM NO. 9:	Review of Habitat Stamp Program (“Sikes Act”) and Establishment of Guidelines for FY '13 Budget Preparation	6
AGENDA ITEM NO. 10:	Proposed Amendments to the Falconry Rule, 19.35.1, NMAC	10
AGENDA ITEM NO. 11:	State Land Easement for Hunting, Fishing, and Trapping Proposal for July, 2011 through June, 2012.....	11
AGENDA ITEM NO. 12:	Update on Department Involvement in the Mexican Wolf Re-Introduction Program.....	11
AGENDA ITEM NO. 20:	Commission Approval to Dispose of Fixed Assets	13
AGENDA ITEM NO. 21:	Adjourn.....	13

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 Salopek – present
 Commissioner Arvas - present
 Commissioner Bidegain – present
 Commissioner Hoffman – present
 Commissioner Maracchini – present
 Commissioner Montoya – present

ABSENT: None
 QUORUM: Present

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the June 9, 2011 State Game Commission Meeting in Las Cruces.

Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 4: Introduction of Guests.

There were approximately 100 members of the audience in attendance.

Director Stevenson: I'd like to take this opportunity to recognize Pat [Baca] for his service to the Department to the sportsmen of NM for over 21 ½ years. We don't get the job done without district officers, and these are the people the public sees first. How they represent us is critical and Pat has been an exemplary example of how to do that from a professional standpoint. He has always represented the Department well. From me and the Department/New Mexicans, thank you.

Pat Baca: Thank you for the recognition. The reason for my success is due to those who have worked for me. Thank you.

AGENDA ITEM NO. 5: Approval of Minutes (May 5, 2011 – Albuquerque, NM).

MOTION: Commissioner Montoya moved to accept the Minutes for the May 5, 2010 State Game Commission Meeting in Albuquerque, NM. Commissioner Bidegain seconded the motion.

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

NEW BUSINESS:

Director Stevenson: As the public is aware, the Department is responsible for the Aquatic Invasive Species Program. Over the last two years, along with the Corp of Engineers/BOR we did testing for several species we've seen move across the U.S. We've had issues at Sumner Lake and provide the Commission

Mike Sloane: I'm sure you've heard of reported findings to the Department of positives for quagga mussels in Sumner Lake. We've reviewed those findings and have taken an independent sample and it turned up negative. We've followed that up by getting DNA from BOR's original sample, and tested that at an independent lab and have found that to be positive. We've also a tandem sample with BOR at the end of May and another sample in June, we should have the results on June 10. We're not 100% certain that there are quagga mussels in Sumner Lake based on previous findings, and findings being repeat of DNA we got from the lab rather than an independent sample. The sample seems to indicate that we need to be cautious in what we do and how we treat boats coming off that lake, but as of today we can't say we're 100% certain. We've conducted external review and sent it out to other labs, we've gotten photographic evidence that BOR has produced and sent off to Portland State for analysis. We've done tandem as well as our own independent collections. We've set up sampling every week to send off to the lab, we've coordinated with State Parks to cease all boating activity on Sumner Lake until we get a clear picture of what's happening at the lake. As this is occurring before the holiday weekend, State Parks called all boaters off the lake. We have plans to meet with Carlsbad Irrigation District and give them more details and what we can do to coordinate with them. Draining/drying the lake which is the likely scenario given the water in the Pecos drainage this year may help us get rid of them in the short term. There's a question about passage through the dam and will they establish below the dam. Because of dry stretches of river and the way water is delivered through the system, it's unlikely. There's not a lot of previous experience with water systems like these and whether they will/won't establish. If they do establish, we'll have to decontaminate boats coming off the lake, monitor downstream. In terms of outreach, we issued a joint press release with NMEMNRD/State Parks prior to the event. We sent postcards to all registered boat owners asking them to drain/dry and keep their stuff clean. State Parks/Department have conducted inspections at all major lakes over holiday weekend, State Parks has money from BOR to continue inspections at BOR reservoirs, as well as the Department will continue to do at various lakes around the state.

Director Stevenson: We'll keep Commission/public updated on this. This is not a lake although we've been doing inspections at that lake. We'll continue to work with Parks to make sure we're providing whatever assistance to provide recreational opportunities. We're close to a decision on calling this an infested lake. I want it clear that there's no question that we've got the evidence that lake is infested because it'll have longer term impacts. There's no way to step back and say it's not infested, and how we do water management could be impacted by that.

AGENDA ITEM NO. 6: [DID NOT CONSIDER] Revocations.

Presented by Dan Brooks – The Department presented a list of individuals to the Commission that met established criteria for revocation of hunting, fishing and trapping license privileges.

AGENDA ITEM NO. 7: Revision of Commission Policy Regarding Rule Development.

Presented by R.J. Kirkpatrick – The Department provided the Commission with proposed adjustments to the Commission's Rule-Making Policy.

Commissioner Hoffman: Thirty days before the Commission is supposed to act, the final version is posted?

R.J. Kirkpatrick: That's correct. We have to post that 30 days before.

Commissioner Hoffman: So what you're asking is to present potential alternatives to that final version up to two weeks prior to Commission meeting?

R.J. Kirkpatrick: Thirty days out we'll have final draft recommendations that the Commission would act upon. Sometimes there are mathematical errors in the draft rule, new information becomes available, a variety of things can go wrong, but current policy prohibits us from dealing with that until the day of the Commission meeting which sometimes becomes confusing/time consuming.

Commissioner Hoffman: Procedurally, what we're supposed to act on is the final version and you're providing us alternatives that we may consider?

R.J. Kirkpatrick: This policy would allow the Department to post on the website alternatives to our final draft that reflect modifications/public comment, up to two weeks before action is taken. It doesn't mean we'd take the final draft and change it.

Vice-Chairman Salopek: I thought 60 days was too much, 30 days plus two weeks before. We had enough issues last year that the Department couldn't make changes, then we had to wait because we felt we should vote on anything presented that day.

R.J. Kirkpatrick: Scheduling of Commission meetings on an annual basis is significantly impacted by current policy in that if we have a Commission meeting today, we receive guidance from the Commission, and the next Commission meeting is scheduled so that we can't meet the current policy guidelines.

Public Comment:

Joel Gay: I'm with the NM Wildlife Federation. We strongly supported the original policy because we thought we needed more time for the public to absorb and figure out how these rules changes/other actions affected us. If you do change the policy, we'd ask that you change in the first section from "may" post on the website for three weeks to "shall" which reflects current policy. A good idea is to give public three weeks' notice instead of two, because as is written now there are two weeks for proposals that could actually become the final proposal then you knock three extra days of slop time, now we're down to 10-11 days. We urge you to keep the current policy or make the minor changes mentioned.

Charlotte Salazar: I'm with NM Proactive Wildlife Predator Management. The 30-day notification period is sufficient, but when it comes to final proposal we need to stick to those final proposals so that we're not changing things last minute, and we keep things based on science v. arbitrarily reducing numbers.

M.H. "Dutch" Salmon: I agree "should" should be changed to "will" and we need three weeks instead of two weeks' final notice.

Kent Salazar: Regional Director for NMWF. I urge you to continue this rule. Keep it simple, make it mandatory for the Department, keep the flexibility for the Commission, and as far as the time period. I urge you to continue this rule.

Oscar Simpson: I'm with NMWF. Comments go to the Department and there doesn't seem to be any lead time/information on who's supporting what issues and the weight of the public's input. I'd like to see transparency and those comments to be tabulated and put on the website so the public can see what's going on, and the Commission has the ability to see what the public is saying and the public being assured their comments are being received by the Department/Commission.

Caren Cowan: I'm representing NM Cattle/Wool Growers; however, on this topic I'm also speaking for Sportsmen/Landowner Coalition. Sportsmen/Landowner Coalition is made up by Sportsmen for Fish & Wildlife/NM Farm & Livestock Bureau/North American Wild Sheep Foundation/NM Wool Growers/NM Council of Guides & Outfitters/NM Trappers Asso./NM Cattle Growers/Farm Credit of NM/NM Houndsmen/Southern Safari Club/Northern Safari Group and as we support the Department's recommendations because flexibility and being able to be quick/nimble is what's necessary for the Commission.

Lorna Ruelelmann: I represent the Great Old Broads for Wilderness. We thank the Department for rules it currently has allowing 60 days for the public to become familiar with the issues and we're interested in having a level playing field for all input from all factions. We'd like the "shall".

Dr. Hildy Reiser: I encourage the 21-day period to be increased to 30 days. Everything should be "shall" not wishy-washy rules of maybe we'll do this and maybe we won't.

Commissioner Maracchini: The logic is not clear to me about Paragraph C, and if the Commission were to adopt Paragraph C, I think in order to be consistent we should have three weeks' prior notice because we have three weeks' prior notice in the first case for public comment. One complaint is how slow federal/state/local governments are in taking any action. Thirty days is adequate, but when I start looking at what the Commission actually does particularly in rule development, we spend more than 30 days. Usually when we have a proposal there's a Commission meeting to discuss those proposals and subsequent Commission meetings are scheduled before we take final action. I agree that under sub-Paragraph A we change "should" to "shall", recommend we strike sub-Paragraph C, or at least modify it to reflect that all subsequent public comments/Department input should be posted prior to Commission meetings as soon as it's received so that as Commissioners we have an opportunity to get all public comments received.

R.J. Kirkpatrick: Removing "should" and inserting "shall" puts us back in that box where there could be instances where we're going to have to seek authority from the Chairman/Director and notification to the rest of the Commission to take an extra 12/24 hours, two days before we can get our draft posted the way we think it needs to be, so that's the reality of making that a shall/will from what it currently is. Paragraph B requires the Department, to post a final draft of a rule or amendment, 30 days before the Commission is going to take action. Beginning day one of that 30 days, at least currently we continue to take public input, evaluate data, worry about whether our final recommendation is exactly what it should be or not. If we eliminate C, we will not post anything to the website, other than our final recommendation, so the day of the Commission meeting is when the public/Commission will be faced with alternatives that might be considered/deliberated as you consider our final recommendation. Eliminating C will result in more time deliberating whether the Commission wants to adopt our final recommendation as posted 30 days prior to that, or alternatives the public has at least a couple of weeks more to look at before the final meeting to comment. Otherwise the public isn't going to have an opportunity to know what those alternatives may/may not be until the day of the Commission meeting. They may/may not be able to attend the Commission meeting so I offer that C is valuable to the public/Commission/Department in that we're trying to get everything out and we won't take the Commission meeting day to deal with it.

Commissioner Arvas: The change of policy made a couple of years ago to the 60-days instead of 30 days, was made with good intent on the part of the Commission. We wanted to try something different, we've tried something different, it didn't work and that's why we want to change it. There won't be any change in the credibility/transparency by changing the rule back and I encourage my fellow Commissioners to support the Department's recommendation.

R.J. Kirkpatrick: Our rulemaking process is established 4-6 months in advance of any action by the Commission. We're having public meetings/sportsmen's groups/NGO's and a lot of the input is happening well in advance weeks before our final draft is put together. There are those that don't fall within that timeframe and this policy is to address those that need to happen on a faster track, but it's the exception not the rule.

Commissioner Maracchini: I'd like to modify my motion, under sub-Paragraph A, it's my recommendation that we change the three weeks to 30 days. Having been in this agency, I know darn well that we can meet these time estimates, particularly when we're developing something as significant as the big game rule regulation.

Chairman McClintic: When you say you want to change from three weeks to 30 days, you want to eliminate the three weeks or you want to make the three weeks 30 days prior?

Commissioner Maracchini: Make it from three weeks to 30 days prior.

Chairman McClintic: So you want to add a week?

Commissioner Maracchini: To be consistent we have it at 30 days, let's keep it at 30 days.

Chairman McClintic: Is that where we're at, 60 days to begin with?

R.J. Kirkpatrick: Correct. Current policy is 60 days prior to action.

Commissioner Maracchini: No, I want to change it under the proposed policy we had before so in Paragraph A as one of the public comments said that website shall be made available for public review/comment by posting on the Department's website so that interested parties are afforded at least 30 days. Currently it says three weeks, and we go on in Paragraph B and we'll give them 30 days public notice. I'd like to keep the consistency. That extra week isn't going to hurt us.

Commissioner Hoffman: Is there any reason why one couldn't post alternatives? You post a final version 30 days before action is to be taken currently, is there any reason why the Department couldn't say from public comments one alternative that the Commission might consider. Is there any rule to prevent you from doing that? That's information, is there any rule for not doing that now?

R.J. Kirkpatrick: No, I guess there's no rule prohibiting us from doing it but there's backlash when the public's expectation through the involvement process is that they're giving us their comments, we've met/talked, we've developed the final recommendation and now all of a sudden the Department is putting out alternatives that don't reflect their comments or they don't like those alternatives as compared to the final. No, there's no current prohibition of the Department posting alongside final draft recommendation alternatives, but we want to make clear in policy that yes, we'll post those if they're warranted but we won't post them any later than two weeks before the meeting so that everybody gets a couple of weeks to look at alternatives, other than that we can post them the day before and nobody is going to get to look at them.

Commissioner Maracchini: We're going around the corner. I believe we receive public comments even if they come in one day before the Commission meeting they can be posted. For anybody that has attended a state/federal legislative committee hearing and at the time to make a decision, they can still modify those amendments/rules during that committee meeting before they take a final vote. We as a Commission can do the same thing. In other words, if one day before the final meeting we're provided with alternatives that make a lot of sense those can be amended into the proposal they voted upon. It gives plenty of opportunity for both the Department/public to get information in.

MOTION: Commissioner Maracchini moved to accept the Department's recommendation with the exceptions of sub-Paragraph A, change "should" to "shall", and the next to the last sentence change afforded at least to three weeks, change that to 30 days, and that we strike sub-Paragraph C.

Commissioner Hoffman seconded the motion.

VOTE: By show of hands, Commissioners Maracchini/Hoffman voted in the Affirmative. Commissioners Arvas/Bidegain/Montoya/Salopek voted Against. **Motion failed to pass.**

MOTION: Commissioner Arvas moved to modify the current Commission Policy on Promulgation of Rules and Public Notice as presented by the Department. **Commissioner Salopek** seconded the motion.

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

AGENDA ITEM NO. 8: Proposed Amendments to the Hunting and Fishing Application Rule, 19.31.3, NMAC.

Presented by Alexa Sandoval and Patrick Block – The Department provided an overview of proposed amendments to the Hunting and Fishing Application Rule, 19.31.3, NMAC. Changes to the rule were necessary due to statutory changes regarding public hunt draw resident/nonresident quotas that will go into effect on April 1, 2012. The proposed draft included a proposal to refund the game hunting license fee to unsuccessful applicants. The Department sought Commission guidance to develop a final proposal for adoption.

Vice-Chairman Salopek: There was an issue last year where an outfitter brought up that he had a hunter from the year before that signed up with him he used that number to draw and then went to a different outfitter. Is there any way to control that or make sure they stay with that outfitter? Is that what the outfitter association wants?

Pat Block: I don't know that's necessarily reflective of what the outfitters' association wants. They have a general desire but they also want to make it so that's not cumbersome. We're trying to work with outfitters to see if they can come up with something they can support before we recommend it for action to the Commission.

Vice-Chairman Salopek: We used to pay to be able to draw, then you paid afterwards, now that I've looked at it, you pay \$8--\$20 fee, I think if you're doing it on a credit card, you take out the fee you're locked down you can't change your hunts. It'll minimize the headaches of trying to give people the options and creates confusion.

Alexa Sandoval: You're correct. The flexibility we allow in the application system folks can go in and change their hunt codes up until the last day does create somewhat of an accounting/business process nightmare.

Vice-Chairman Salopek: Be consistent with other states. Another thing is mandatory reporting. I didn't do my furbearer so I got kicked out of everything. It was my fault but if we're going to have mandatory for furbearer either it should be at the top of the sheet where deer/elk are, or we ought to make everything mandatory, and figure out if it's over the counter that it doesn't kick you out of everything you've applied for. If it's going to be mandatory why kick you out of everything, or make everything mandatory and make it simple. Last year we went through a lot of changes and it was hectic. If you look at the general deer, and then look at youth/handicapped, in particular Unit 34 in Cloudcroft for example, you're talking 1,200 hunters and then we put 50 youth and 50 mobility impaired, how unfair is that to youth/mobility impaired. Some parts of the state and we have three weekends, Unit 17, 23, I'd like consistency on youth/mobility impaired but there are some people that deserve a fairer chance. When you're throwing them on top of general hunters it's not fair.

Commissioner Hoffman: When that law was passed they lowered the cost of a general hunting license so there will be revenue neutral, that's because of the projected increase in number of general hunting licenses sold you get the same amount of money and by refunding this money what's the revenue impact?

Alexa Sandoval: Pat has done a pencil analysis on that so we'll see a revenue loss of about \$125,000-\$175,000.

Commissioner Hoffman: My point is that AZ/WYO and other states you have to buy a fairly expensive hunting license before you're eligible for the draw for any species. It seems to me the \$20 general hunting license fee is not burdensome for NM. In fact, the original intent of that law is that we should follow the trend in other western states is that people who apply for the draw have to first buy a hunting license and then apply for the draw. If they don't get drawn they get their draw money back, but the hunting license is essentially an application fee for out of staters anyway, most of them won't come here to do something, but basically most other western states require a hunting license in order to get the draw.

Pat Block: That was also reflective of the desires of the bill sponsor as he carried the bill. There was a slight revenue increase as a result of the original bill, and when that bill passed and went to the Governor's office, when the Governor was weighing/deliberating whether to enact it into law,

she had come to the conclusion that it was burdensome and not right. She asked us to work with a proposal to the Commission that would allow for that refund for folks that chose not to keep the license.

Commissioner Arvas: No, if we wanted to make a major change to the fee structure, that'd have to be a legislative effort? So we/Commission don't have the authority to do that at this point in time? What Commissioner Hoffman is referring to is that in other states at least they give you the benefit of a point for that license fee, and in our case we don't have a point system so that wouldn't even be an excuse. It's a great revenue method by other states giving the preferential/bonus point, and then you buy the license.

Pat Block: That's correct, it's very lucrative. They have a scheme/scenario in Wyoming that it's \$3M-\$4M every year just off the purchase of preference points. In the grand scheme of things, it doesn't necessarily help you draw those things that are powerball odds drawing to begin with. It'll help you draw the stuff you were probably going to draw in a few years anyway, and it makes the state a lot of money.

Commissioner Arvas: The figure you came up with of \$125,000 loss, is that something that can't change?

Pat Block: It's an estimate. It's our best guess as to what's going to happen, so it could end up being less/more. The range of \$125,000-\$175,000 is fairly close, but it's doing to depend on a variety of factors including changes to the law, but also what happens with the economy, how those draws work out, so it's our best guess at this time.

Commissioner Maracchini: This is classic example of what we discussed during the last agenda item—we had noticed to discuss this item/public comment, and it'll be well over 60 days by the time the Commission actually takes action on this proposal.

Vice-Chairman Salopek: My understanding of what the Governor wants now is she'd like to see a refund for sportsmen. On the other side, the majority want that \$15 to stay here. If it means being able to pay for another couple of game wardens that maybe stop shooting animals at night or taking too many fish, I'd hope we could talk to her and say please let's leave this \$15 there to put it to good use.

Pat Block: We wholeheartedly agree, that's why we're going to highly encourage as much use of the online application as we can. There are so many fewer ways to mess it up with the paper application because the computer prompts/checks you, and we're pushing electronic applications as well for the cost factor with paper applications.

Public Comment:

Jim Wells: I'm with Farm & Credit but am speaking on behalf of Sportsmen Landowner Coalition. We support rule changes as presented.

John Diamond: If resident hunters wanted this bill, let them foot the bill and raise their licenses, but don't put the burden on non-residents.

Jess Rankin: Most states they've made reference to get preference/bonus point, there'll probably be a budget shortfall anyway because they calculated 10% outfitter pool as all being non-resident licenses. I'm thinking there'll be more resident hunters drawing out of that pool. Let them find another way to fix the budget rather than hold up somebody for \$65.

Joel Gay: I'm with NMWF. We urge the Commission accept what the legislature passed and what the Governor signed and let the Department, which is already overworked, take one more thing off its plate.

Tom Klumker: I'm with NM Council of Outfitters. We support the amendments as proposed.

S.D. Schemnitz: One thing we're concerned about is the potential filuvian federal aid funds running out of money which finances/funds the Department's research activities. We want the Department to maximize its income.

Robert Espinoza: I'm with Sportsmen for Fish & Wildlife. We support the refunds not because of the loss of revenue, be we absolutely support additional revenue, but it's a burden to some NM families.

Oscar Simpson: I'm with NMWF. We support this license, but it'd be nice if the Department had a full-blown analysis to justify everybody's on the same playing field.

Chairman McClintic: I've gotten comments that with the refund and the way it's presented to us, we're going to lose federal funds.

Pat Block: The share of national trust funds for wildlife/sport fish restoration are divided between the 50 states and six qualifying territories every year. It's a two-pronged formula, one is based on land mass of the state/territory, so NM will always do well being the fifth largest state; the other is based on the number of certified paid hunters/anglers. There shouldn't be any loss due to this. Maybe what people are hearing is that there was an opportunity to create new certified paid hunters because unsuccessful draw people who were made to purchase the small game license and did not use it still get counted. Anyone who chooses to keep theirs as a contribution to the Department, whether or not they hunt a whole lot of game birds and small game, is now going to count. We also did try to set those fees. In a way we encourage to buy fishing license too, so we're hoping to see some gain in the number of paid anglers as well. So we'll likely see a gain, it just won't be as much as it potentially could have been had we made all those people keep the license they weren't going to use, so I guess what we're looking at is maybe some people are looking at it as losing something we never had because we're not maximizing game that could have been there, but we will see a gain because you're going to end up with more people holding licenses. It doesn't matter for certification purposes whether the headcount comes from someone with a yellow license plate on their car or license plate from another state, it's just a head. Since the number of licenses doesn't change as a result of changing the quota between residents/non-residents, the number of hunters isn't going to change so there isn't much chance we'll lose anything, we just may not be able to maximize game that could have been with not providing anybody a refund.

Director Stevenson: I want the Commission/public to be clear as possible about my discussions with the Governor's office. Without the Department agreeing we'd move this rule change this law would have been vetoed. Whether you believe/don't believe we spent about six hours with the Governor's office the night before she had to come to a final decision to pass/veto bills. I'd urge Commission to look seriously at passing this. What we see or what we believe this is going to generate, or what we may lose, are estimates. There were a lot of conversations as most people in this room know that participated in the legislative process. Most legislators who were involved felt this was a fee-neutral process. At the end of the day, that was not how this bill would have actually generated because it would have generated \$500,000-\$1M in excess of what the Department was bringing in. You've also got to look at what those hunters who come to the table are going to be looking at every day to recruit/maintain those hunters/fishermen that are buying licenses. The federal funds issue, yes, it may have generated some funds but is that a cost that you do that for one year and you then cause problems on the other part. Those are guesses around part of this bill. I want the Commission to understand that in that

decision to do this with the Governor's office, I made a commitment that we'd move this rule forward. This Commission clearly has the choice to move/not move that at our next meeting, but this was done with a lot of forethought to get this bill done and trying to incorporate the good things of this bill that benefit a lot of our resident hunters. The Governor wanted to do that, but she didn't want to penalize those on the other side. I think it's critical that the Commission/public understand where that is. There will likely be consequences but they're measurable. Currently, if we got a small hit in our budget, it's not going to change the timing we'd have to look for additional license increase. That amount of money in our \$38M budget is not going to change the timing of having to go back to a license increase. The Governor's office has agreed that as long as she's in office she is not going to allow that if we get into a bind, they will look at ways to keep this Department whole because currently they do not want to provide the services in another manner. They want the Department to continue to be a successful enterprise, so they're cognizant of a lot of those things in this decision-making process.

Vice-Chairman Salopek: To get rid of some confusion, where it says you may elect to receive a refund, let's say we're refunding the \$15 and \$65, is there going to be a box that if I want to donate mine, I can? That'd be the way to do it.

Alexa Sandoval: Absolutely. That's why that language is in the way it is. You can elect to have a refund or not.

Commissioner Hoffman: I'm not against giving money back, I'm against the law and fees were set up on one premise—that they would be kept. Now that premise has changed, that they'll be refunded, so we're facing revenue loss. I'd recommend the Department figure out a way to minimize revenue losses in this refund process how ever that may be.

AGENDA ITEM NO. 9: Review of Habitat Stamp Program ("Sikes Act") and Establishment of Guidelines for FY '13 Budget Preparation.

Presented by Dale Hall and Matt Wunder – The Department provided an overview of the Habitat Stamp Program including proposals to use one-third (1/3) of the grants portion of the budget for statewide landscape habitat work and other possible program modifications along with concerns that were identified. The Department requested Commission guidance regarding the program including development of the FY13 budget request.

Chairman McClintic: A lot of people don't think the right thing is being done by the Department. I'm confused and I'm getting different information. I'm under the impression that Habitat Stamp money we're collecting is not Sikes Act money because we've never signed an agreement and I want that clarified. Is it, or is it not, Sikes Act money?

Dale Hall: The Sikes Act is a federal act that gives us the authority to leverage \$5 from every hunter/fisherman/trapper on BLM/Forest Service lands, and we house it in Sikes Fund, then we distribute it by a formula to various Forest Service/BLM individuals. The overreaching agreement has expired, we're working on that agreement to try to get that back up and running. We're waiting for the Commission to approve extension of the program which expired July, 2010, and we're waiting for the landscape approach, and then we'll roll all that into the new agreement. It is Sikes money, it is Habitat Stamp Program.

Tod Stevenson: From a typical standpoint, it's not the Sikes Act Program. We've called it that, but it's really a statewide habitat program that's managed by the Department. It has been done in cooperation with Forest Service/BLM under some other context established in the federal program, but this money has always been managed by the Game Commission through budget authority. The Game Commission has always made decisions on this program, notwithstanding what typically would happen with the Sikes Act Program, or that authority and that money is guaranteed to Forest Service/BLM. We want to continue that partnership because that's where we're doing work on the Forest Service/BLM properties, but as we move forward through that, even though we call that the Sikes Act Program these are state-obtained habitat enhancement dollars.

Dale Hall: We have what's called the Sikes Fund in the state's treasury. The Sikes Fund houses the money that it has collected from stamp sales. We don't really have stamps anymore but they're actually validations/check-off boxes on your licenses as you hunt/fish/trap. In FY 2010, we had \$891,000 worth of revenue. That amounts to about 180,000 sportsmen that are buying that stamp. We did calculations and about 80,000 of that are solely fishermen. With general hunting/fishing licenses, there are quite a few fishermen that buy the Habitat Stamp. That's why the Commission in July directed us to start working more on aquatic/angling resources. In 2010 we expended \$916,000. That's not good because we're spending more than we're taking in, but we have a balance of \$1.3M, so we're trying to spend down that balance to an annual allocation of funds so we can afford to spend more money than we're actually taking in until we get that down to the level that the Game Commission is comfortable with. That balance was up to \$4,000,000 at one period of time.

Through efficiencies/more project work we've spent that balance down. Today we're here representing advisory committees' recommendations for funding. The advisory committees are appointed by the Game Commission. The 35 citizens represent sportsmen/federal land permittees/environmentalists. We get a good exchange of value systems early on in the planning process. July 1, 2011 is when this money will be active. It's a budget of \$739,000 which is flat from last year. Of all the recommendations by the five committees, we've come up with 45 projects that are ready to go, but we do have 55 backup projects in case we can't do one of the 45 projects. The main emphasis of the Habitat Stamp Program the last few years has been to tackle woody encroachment.

Director Stevenson: We're trying to get a decision to move this money forward for this FY '12 budget we're implementing next month, and then we want to move forward to the component where a lot of the controversy is. That's not to say that everybody is satisfied with the allocation of money. There's discussion about whether it's being done fairly. We move through this process with both the CAC and other things that have approved these projects for FY '12 budget cycles. We'd like to move forward and get your approval if that's the consensus. A second component of this process then begins looking at whether there are potential modifications that we can make to this program for a better habitat statewide program.

MOTION: Commissioner Hoffman moved to accept the tiered list of 2012 Habitat Stamp Program proposals as recommended by the Citizen Advisory Committees and presented by Department staff. **Commissioner Bidegain** seconded the motion.

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

Commissioner Arvas: To clear up the confusion, what's the relationship between the Sikes Act to the Habitat Stamp Fund?

Dale Hall: The Habitat Stamp Fund and the Sikes Act are interchangeably, synonymously the same.

Commissioner Arvas: Can you have one without the other?

Dale Hall: We need authority to take money from sportsmen. We can't just draw money from them, so we have to have some type of authoritative mechanism, i.e., state/federal law, that allows us to garnish funds from sportsmen/ We're using the authority of the federal Sikes Act.

Commissioner Arvas: So that's the reason you have in italics in the revised Agenda you have Sikes Act/Habitat Stamp Fund, in parenthesis/italics around it. You have to have the Sikes Act for us to have the Habitat Stamp Fund?

Dale Hall: Not necessarily. We do have the HMAV, \$3 of that is going to a program to improve habitats on Game Commission-owned properties. We also have the Big Game Enhancement Fund. Donald Auer collects that money voluntarily from sportsmen as they buy raffles, big game enhancement, Lt. Governor's tag, Rocky Mountain Elk tags. He has a habitat management program. He works with Forest Service/BLM and complements a lot of projects to improve habitat. That's a state program

Commissioner Arvas: Tell me what the Sikes Act relationship is to the federal agencies/BLM/Forest Service?

Dale Hall: The Sikes Act calls for the partnership, and set of comprehensive plans to be written to implement the ideals of the program between state agency and those two federal entities BLM/Forest Service.

Commissioner Arvas: That doesn't preclude the fact that the Habitat Stamp money could be used for other non-Sikes Act type projects, correct? In other words, you could use that money on state leases if we wanted to?

Dale Hall: At one time, the federal agencies were not using their funds. This was about 2000-2002 timeframe, so we asked for the federal solicitor if we could spend some of the HS pool monies on non-federal state lands, i.e., Game Commission-owned lands? They said yes so long as it in turn benefits that federal land. So, yes, we did for a couple of years have a few projects on Game Commission-owned lands. On the WMA/Lesser prairie chicken areas we installed some water developments on Game Commission-owned Lesser prairie chicken areas, but they all abutted BLM/Forest Service lands.

Commissioner Arvas: Do we need approval from BLM/Forest Service to do that?

Dale Hall: No, we do not. Now we have that HMAV money, so we don't need to do that anymore because there's new money to do that, and also we've improved the efficiency of BLM/Forest Services so there's no such need for that. There are \$4M and we were trying to figure out how can we get this money on the ground and that's what we did.

Commissioner Arvas: That brings us up to date in terms of some problems we're presented with today. One concern I have is that there have been allegations made by a Commission member that you have not responded to hundreds of e-mails/letters on input about the money being spent.

Matt Wunder: I did participate in some of the initial meetings. I can assure you that I was somewhat disappointed with the amount of participation we had in some of the meetings and Dale did get a number of responses.

Commissioner Arvas: Dale did respond to the requests for information, correct?

Matt Wunder: Copies of comments we received on this process that was going along. The folder does not contain anywhere near the hundreds.

Commissioner Arvas: Did you respond to the ones in that folder?

Dale Hall: I did not respond individually. Many of them were form letters and had the same comments on the different proposal alternatives we recommended.

Director Stevenson: Collectively, Forest Service/BLM/Department went out last July with multiple public meetings, trying to get input how to move forward. That input which spurred the letters, many from CAC in Las Cruces were encapsulated, we talked about that at the December, 2010, Commission meeting. Dale presented the results of what were issues raised by the public to the Commission. I don't want the Commission to perceive that we have not at least looked at that input and tried to incorporate that in how we move forward. As we do with different things we receive input, you can't make decisions based on all input received. You do that collectively, make decisions/recommendations based on that, and that's what we're doing. Even the basis of the decision today is the culmination of that input from the public requesting additional input from both public/Commission. Is what we're putting out there a reasonable way to do business, or does public/Commission ultimately want us to choose to go in a different direction? We haven't made final decisions, we're coming back one more time and we're doing this at this meeting because this is the area where we had members of the public that had continuing concerns about what we were proposing, and whether it's realistic or not. From a technical standpoint, this is a rule promulgated by this Game Commission. The rule that allows \$5 to be adopted is a rule that is subject to this Game Commission, and they can change that at will. This is not a mandated program. We continue to use the Sikes Act moniker because of that partnership with BLM/Forest Service that has been strong. We can't go out on BLM/Forest Service lands and do these programs. This has to be a collective program so we've used Sikes Act text all along, but this is an approved program that this Game Commission ultimately controls. It is Game Commission-driven. I know that sounds like a fine line technicality, but we need to stress that. The language we use are not two different things, they're just two different ways you've got to understand it from the Commission's perspective.

Chairman McClintic: What the issue here is that in laymen's terms is simple. We've heard reports that there are advisory committee members that disagreed with the way you were spending money. As the Commission, since it's upon us to vote on this issue and tell you how to spend that money and where to spend it, we need more input from you that if there are groups in this area that believe they're being shortchanged even though we're going to have public comments, I'd like their comments to you. What is happening is that these people believe that you basically blew them off and that you went somewhere else, and having an advisory committee that you're not going to pay any attention to or at least tell us what the recommendation is. It puts us in a difficult position and that's why we have this

confrontation/problems. It would help you immensely in the future if there's disagreement about where we should spend the money, we need to be notified about it rather than acting like no one disagreed because if I read what your presentation is, I don't see where anyone disagreed with what you're doing with your advisory committees. I'm trying to move forward and understand the kind of angst we're dealing with.

Commissioner Maracchini: Your presentation clarified a lot of things that I was concerned about. I was led to believe we had a different problem. The focus of my attention is (1) I do not want to disenfranchise our citizen advisory committees; and (2) I'm concerned about the formula we use in allocation of the regional projects. I understand that there was a representative from each of the regional citizen advisory committees that sat on the 1/3 landscape proposal. That tells me that each of the regional citizen advisory committees has had input into the projects. I understand that the formula for allocation is based on license sale population centers. In other words, half of our citizen population lives in the greater Albuquerque area, which comprises of Albuquerque/Rio Rancho/down to Los Lunas/east mountain area, but it's also obvious to me that all those people that buy fishing/hunting license recreate in all five of the other regions. So, even though they may live in the greater Albuquerque area, they recreate throughout other regions. You take 50% and allocate projects to that particular region doesn't make sense to me. If in fact the citizen advisory committees are involved in this process and agree with it, are these regional citizen advisory committees in support of this type of program since apparently what you've told us is that in fact each did send a representative to this particular discussion/proposal.

Commissioner Salopek: In fairness to the Department, we had a change of administration. I didn't know until March 20 if we were going to have a Game Commission. Then you have to have the 30-day rule for meetings so that wasn't set. We tried April 28 and pulled it off May 5. That's about half a year gone when that should have been our third meeting. I wanted to mention that because of all the confusion that was going on we still have to conduct the business of the Department whether the Commission is meeting or not.

Commissioner Montoya: One thing I'm concerned about is why is it so difficult to get small projects included in the larger projects? Some of my concerns are that if you have a \$40,000 project, it's easier to do a project that's \$400,000. If those drawn up correctly, you do ten projects that are \$40,000 included in a \$400,000 project, and you get all the little things done it's easier to get public participation, you satisfy a lot of people, you get those done that are appropriate. It shouldn't be that difficult. Can we deal with that in the future?

Dale Hall: That's been the success of the Habitat Stamp Program all these years. It works, it's working now. We are doing that in many respects, but there are monies going to things that are not part of the landscape approach, and you're not getting the money's worth that you would be if you are attacking a landscape. Secondly, my encouragement to the citizen advisors, and again it's up to them to decide is to stop installing new structures until we get all the old structures maintained. Those small projects lead to those structures which are popular and easy because they're small in size/money, but it does lead to this maintenance problem and it's increasing the maintenance load down the road.

Matt Wunder: Guidance I've been providing to Dale in terms of these landscape scale projects basically would be to utilize the expertise of the Department Wildlife Management Division, in particular to understand where we need and want to have habitat work done. What does the Department feel are the needs based on environmental conditions, what might be lacking in the environment, identify those landscapes, and then within that landscape over a period of time whether that might be 3-5 years, you'll look at all the different possible opportunities you'd have for landscape improvement. Some of that might include larger-scale burns, trick tanks, water developments. A number of things that you could do if you're starting to look at a landscape on a comprehensive basis so that we have a goal we're working towards and there's a variety of different kinds of projects that can fit in there. That's the guidance I've tried to provide to Dale in terms of where I felt it would be a better opportunity to more effectively utilize sportsmen habitat dollars they're contributing. To the extent that some of that perspective has not been transmitted by me or understood by some of the people that have heard it, that's what I've been telling Dale and touching base with Tod/R.J. and try to express that perspective as well. It's not that we want to burn large areas, but we want to look at landscapes from a scientific comprehensive perspective and see what we can do to maximize benefit to wildlife in those areas.

Commissioner Hoffman: Fundamentally, habitat stamp money can only be spent directly on BLM/Forest Service lands and the exceptions are whether we're next to Forest Service lands, but those exceptions aren't needed anymore, so basically, we're talking about BLM/Forest Services lands as the places where we spend the money? Secondly, dollars we get to spend on habitat to benefit sportsmen, come from sportsmen, is that a fair statement? As sportsmen we buy habitat stamps, that money is what is used to improve habitat for our sport?

Dale Hall: That's correct. It's been for sportsmen. I realize these monies are being brought in by sportsmen, and I do my best to try and improve the lot for the sportsmen. Again, all I'm trying to get some direction to make a good program better.

Commissioner Hoffman: One of the reasons I ask that question is that a problem raised by the Chairman of the Central Region, you said that values are a problem because you don't get projects which are wildlife-habitat related and that's what the money is for. Sportsmen pay for it for us to use. You said values are that they don't have the habitat projects so they have other kinds of projects. The Chairman of the Central Region objection to the whole program is that they couldn't get projects from agencies that were related to good wildlife habitat. They were protecting structures from forest fires. One of the things that has to happen is that if they are sportsmen's dollars, then the committees have to be able to say we're not going to fund anything this year because you didn't give us project which is going to benefit people who are paying the bills. One of his major objections was the way it was distributed in the region. He felt he had to fund projects which were not related to interests of sportsmen/sportswomen. It's our habitat money from fishing/hunting licenses and it's protecting the Sand Dune lizard/Lesser prairie chicken. No one I've talked to has said that we shouldn't do everything we can to mitigate problems faced by those two species. The issues are that we're using sportsmen's dollars to do it and basically when other agencies have a much greater responsibility for doing it. I'm saying that so far the people in my region have not benefitted from a third of the

money that was withdrawn from them to put some place else in the state. I have a strong aversion to taking money away from local regions that need it badly, and placing it somewhere else. In the SW region, BLM has been managing the Jornada as a landscape, they've just done the west Potrillos as a landscape, and all of those included Sikes projects and other funding projects, so it's not that you can't do landscape projects in regions, why don't we let the citizens committee in the region decide what landscape projects to do in their region?

Commissioner Arvas: You said there was one representative from every region that came up with the proposal for 1/3, do you remember whether the vote was a unanimous vote? There was a member of the SW region at that meeting that voted for this 1/3 landscape?

Dale Hall: Yes, sir.

Public Comment:

Mark Spiess: I'm a member of the SW Citizens Advisory Committee for the Habitat Stamp Program. I'd like to address some practical issues. We were instructed to put plans forward and then we had to select a volunteer to go to the Central meeting. That was not something we wanted. In fact, we voiced opposition to it at each of the committee meetings so in my opinion it's a problem, but the previous Game Commission set up those rules and we were only operating within those rules. Commissioner Montoya brought up another issue—the good part of the CAC's is that the Department is there, we did a landscape project in the west Potrillos. Pat Mathis from the Department said there's a water tank so there's networking that goes on either through BLM/Forest Service/CAC and NM Quail, Inc., will pay and do the work to fix that does not apply to Habitat Stamp money, but there's a goal and the networking that goes on does address those smaller project issues. We lost a third of our money to maintenance when we came in on the committee, then a third of our money goes to state centralized, so that leaves us 1/3 of our money and what my personal goal and the rest of the committee's goal was to continue those patchworks of landscape that affects watershed/wildlife and is shovel ready. We don't want to hear about something that's 2-3 years down the road. The system is working except now we're with 1/3 less of our money. Our area goes from Otero Mesa to San Mateos, along the Mexican border all the way to AZ, including Gila/San Mateos/Potrillos/Boot Hell and we're committed to the landscape projects. A lot of times it appears to me that BLM/Forest Service have issues, too. This year we can't do any controlled burns, so they have a patchwork and we're funding those patchworks with the goal to benefit sportsmen.

John T. Moen: I represent SW Consolidated Sportsmen. I was at the meeting in October in Deming. The Department presented 5-6 types of things they'd like to see us to do with the Habitat Stamp Program, but everybody wanted to do something different. With the exception of two things, we decided not to ask for a fee increase. We'd like to get more money, but this is not part of our proposal but it should be in the future--(1) funding should be provided to each region based on the proportional BLM/Forest Service lands in the region compared to statewide total of said lands. This gives regions with the most habitat/resources to deal with improvements. A proportion of the money should go to where the most land is, not where the most population was as stated originally; (2) Citizen Advisory Committees in each region would evaluate/rank proposed projects for funding; (3) maintenance of existing habitat improvements should be the first priority of each region.

Gail Tunerg: I'm representing Corbin Newman, Regional Forester for SW Region/Forest Service. As you deliberate possible program modifications, we encourage you to support the long-term care of the Habitat Stamp Program by addressing constituent concerns and preserving the cornerstone of a cooperative partnership among all agencies.

Roberta Henry: I've served on the SW Citizens Advisory Committee for four years, and am currently Chairman. What the SW-CAC is not in agreement with is the term that the public input process took. When we left we understood the Commission was going to be updated on the results of public meetings at the end of the year. We were not informed that the Commission was going to go ahead and make decisions on turning the program into something different. The license formula does not fairly represent of what's going on in the southwest in land/hunter opportunity/use. We sent Dusty Hunt to the meeting and he said he did not agree with this process, but if he had to vote this is where his vote went.

Commissioner Arvas: Who told him he had to vote that way?

Roberta Henry: Dusty Hunt's statement was that if he's a leader, he would vote this way, but before that he predicated his vote with the fact that he did not support this 1/3 process. We lost 1/3 of our money, and we'd like to see the Commission under that process give the money back to the regions that support our landscape process.

Chairman McClintic: Dale, respond because there are accusations. If they didn't agree at all and it didn't come to us that's not good. Please respond to where the confusion is so that you can give us the decision on where this money is going to be spent and how it's going to be spent and at least we're clear on what's going on?

Dale Hall: Some of you may know Dusty Hunt and Dusty Hunt is not going to be told what to do or told how to vote. He did express concerns about going this way, but when he met with the delegates from the other four committees throughout the state, he voted with the group and he actually said at the delegate meeting, there's no reason for these delegates if we are going to just dole out the \$50,000 to each one of these. If we truly want to go to this landscape approach, we need to send that message. So they voted in that regard and nobody tells Dusty how/what to vote. Dusty speaks for himself.

Roberta Henry: I'd like to clarify and I guess maybe what your question is, did Dale know that SW-CAC supported this turn? He did know, we did not. That was never a question, it was never a question when we met with Commission Salopek/Commissioner Hoffman, so, yes, we expressed that, and Dusty expressed his reservations before he voted, but unlike any other committee that came in before us when we met, Dale informed that everybody picked a representative. We chose not to do that until we talked some more at the end of the meeting to find out how we could approach this. At the meeting we were left with this meeting was going to happen on May 12 regardless. At that point, we sent a representative but we also sent almost every single one of our projects up there hoping that

something would float to the top. I think that's out of defiance because we were pretty upset with the process. We appreciate Dale. He was the messenger that was getting shot at, and that's unfair to him, but we all went back to the Commission/Department website to look at the Commission minutes to find out what happened in Clovis, what was said/not said, and as you know Commission meeting minutes are summarized so there's a lot of information that is not present. Dale is not to blame here, nobody is to blame here, we sent somebody there, the process went the way it did without anybody being aware of it, and the SW-CAC does not support it.

Caren Cowan: I'm speaking on behalf of NM Cattle Growers/Wool Growers. The landscape approach has worked well. If we're going to get the biggest bang out of our buck, the landscape approach needs to be used. Clearly there are internal issues that need to be worked out.

Angel Montoya: I serve as a sportsmen's advisory on CAC. We don't support the landscape approach. I encourage the Commission to take the input from citizens that participate. If we're only using the Sikes Act moniker, then we're misleading the general public.

Robert Espinoza: I support landscape approaches, but clearly it seems that this is not about whether landscapes are good or not, and I encourage the Commission to look beyond what one committee wants and what's fair to one committee, but rather to fulfill part of your mission which is to efficiently/effectively use dollars that sportsmen have entrusted to you in the Habitat Stamp Program to the benefit of all NM and not one or other portion of the state.

Bob Tafanelli: I'm on the CAC for the SW region. One critical thing is the formula. That formula has to be based on the amount of BLM/Forest Service in that region because the more land you have, the more money you need to manage/maintain it. The other item is increasing the fee and since I'm the environmental representative, I'll leave that to sportsmen to decide if/when they want a fee. I'd encourage you to restore that money to the regions and not take that statewide approach. The political reality is we live south of I-40 and if we go to the statewide program, if we distributed it each year evenly, we'd only get the money once every five years. The rest of the time we're going to get 1/3 less of what already isn't enough, so I'd encourage you to change the formula and let us keep our money.

Dr. Hildy Reiser: I'm a professional wildlife biologist. This is probably one of the best programs that could be in the state in the joint partnership between agencies/state. It's not just sportsmen that are providing dollars. There are more and more non-sportsmen that purchase these stamps to provide money into the program. I take exception to only hunters/sportsmen are actually contributing to this program because that's not true. I'm totally supportive of a landscape approach.

Doug Doherty: I represent the Rocky Mountain Elk Foundation. We wanted to bring up the points of landscape issues and how important these projects are. We definitely use them on our end of it across the country, but we also understand how important these smaller projects are. Listening to everyone/CAC's and how they work with the Commission are definitely problems that need to be looked at.

Director Stevenson: There's been discussion that the Department hasn't paid attention to input. We've looked at trying to figure out how to get to a more landscape approach on this issue.

Chairman McClintic: I recommend Dale get together with these people. Let's try to get to where we can agree and we're comfortable with what you want us to do, and that'll require input from CAC's. We want to continue the program, and if we can make it better and benefit the state, that's what we're looking for.

General Comment:

Annie Kraimer: I encourage the Commission to impose a ban on wildlife trapping and to impose a ban on wildlife trapping on public lands.

Scott Lerich: I'm a certified wildlife biologist. I work for the National Wild Turkey Federation. I'm a sportsman from Otero County and on the record, Dale's always been professional/well-organized and we appreciate the job he does. Also, I believe the Open Gate Program has been successful so far, has room to grow/improve, and wanted to let you know we support that program.

Cheryl Price: I'm a rancher, and as a rancher, we shoot every coyote/cat we see. However, we do not torture animals. I'd hope we'd outlaw all trapping/torture of animals.

Dr. Kim McCreery: I'm Silver City's Regional Director of NM Wilderness Alliance. We're here because we'd like to respectfully request the Commission support the re-introduction of Mexican wolves in NM. We also urge the Commission to support more releases of captive wolves into NM, the decrease in genetic diversity and consequences on reproduction have been well documented for this critically endangered critter.

Dr. Hildy Reiser: Professional biologist from Alamogordo, NM. My approach is going to be where can you show me the science? This state historically is quite data poor in making especially controversial decisions when it comes to wildlife management.

AGENDA ITEM NO. 10: Proposed Amendments to the Falconry Rule, 19.35.1, NMAC.

Presented by Dan Brooks and Chris Chadwick – The Department provided an overview of proposed amendments to the Falconry Rule, 19.35.1, NMAC, and sought Commission comments to be included in proposed rule.

Commissioner Arvas: How do you distinguish between a wild raptor, and a captive red raptor?

Dan Brooks: Most of those raptors have records when propagated, so in the record keeping we can determine quickly. Part of the apprentice is to give our wild-caught raptors some protection because a lot of raptors are captive bred, propagated both hybrids/regular birds so they're being traded constantly although it's not as prevalent as the pet industry, but there are a lot of those and with record keeping we can understand and make that determination quickly.

Commissioner Hoffman: Having consulted with USFWS, one of the requirements of establishing a state code, it could not be less restrictive than federal code although it could be more restrictive than federal code, how does this plan you've got compare to the previous federal licensing requirements?

Dan Brooks: We had a few restrictions that are probably tighter. In reference to the falconry season, it can actually be opened wider but we were in consultation with falconers and we biologically we felt we'd choke that down so that's why we were more restrictive, but we've got the support of all involved.

Commissioner Hoffman: If you own a falcon, it's legal to fly that on wild game on any day of the year, true? The season you're talking about is to remove the bird from the wild?

Dan Brooks: That's incorrect. There are two things at play here. There is a falconry season where they can hunt within the season with a license. The other part of this is the taking/capturing of a falcon in the wild and then converting it to their possession. So, yes, there are two different issues and this one doesn't establish the falconry season for hunting, this establishes the ability to take/possess a falcon.

Public Comments:

Matthew Mitchell: I'm representing NM Falconers Association. Falconers unanimously support this regulation. There may be constituents I haven't heard from but I think you can count on the falconry community on this. I urge the Commission to support repeal/adopting of new regulation. In reference to determining captive propagated birds v. wild birds, there's a USFWS band put on their feet when they're small so then the bird grows up and the band never comes off. The numbers on those bands is how you determine a captive bred bird.

Edward F. Schaub: It's amazing the cordial/scientific way falconry communities have been able to deal with the Department primarily with the three individuals have a brutal job to keep track of the paperwork.

AGENDA ITEM NO. 11: State Land Easement for Hunting, Fishing, and Trapping Proposal for July, 2011 through June, 2012.

Presented by R.J. Kirkpatrick - The Department presented a draft State Land Easement that would be effective for a one-year period from July, 2011 through June 30, 2012. The Department will sought comments on potential changes from the Commission in order to develop final easement for approval at the July Commission meeting.

Mike Anaya: Commissioner Powell sends his regrets that he couldn't be here but sent me to possibly answer any questions. He also thanks you for allowing Tod/Department staff to work closely with SLO.

Public Comment:

M.H. Dutch Salmon: It's a significant increase in hunter opportunity and I'd hope the Commission also sees it that way.

Lynn Zimmer: Trapping is a cruel way to control creatures we've chosen to control. I know some people count on this to make a living. There must other ways for people to make a living and we could be a much more humane state by eliminating trapping.

AGENDA ITEM NO. 12: Update on Department Involvement in the Mexican Wolf Re-Introduction Program.

Presented by R.J. Kirkpatrick and Tod Stevenson - The Department provided the Commission an update regarding the Department's involvement in the Mexican Wolf Re-Introduction Program, and sought Commission direction or guidance.

Director Stevenson: I wanted to make sure the Commission didn't have any additional input they wanted to provide Mike/R.J. on the agreement to get it finalized within the next week and get it posted.

Commissioner Montoya: When a district officer is investigating wolf kill, are those dollars reimbursed to the Game Protection Fund or do we just eat those?

R.J. Kirkpatrick: If our district officers are capturing that activity on their monthly reports and charging it to the grant, then that activity is reimbursed--law enforcement, not at all. If they're involved in trapping/transplanting and they capture it on their forms, but when it comes to law enforcement activities, not a dime, it's all Game Protection Fund monies.

Commissioner Montoya: What about administrative?

R.J. Kirkpatrick: Administrative costs for Tod/legal counsel/me none are being reimbursed.

Commissioner Hoffman: Can you tell me if there's any place where the Department is legally mandated to participate in this effort?

R.J. Kirkpatrick: The Wildlife Conservation Act has two mandatory activities in statute and those are that we have put Mexican wolves on the WCA listed as endangered which provides that we have mandatory responsibility to conduct law enforcement. It's illegal to kill them and we're obligated to deal with things that are unlawful and we have jurisdiction over. Secondly, the WCA requires that the Department conduct biennial reviews which means that every two years the Department evaluates what the current status is of a variety of species that are on our list and makes determination about whether they need to be upgraded/downgraded/delisted. Short of that and in discussions with Jim Karp about what our legal obligations are under the WCA, it suggests the Department should build management plans for the recovery of these species. It also suggests that funds it takes to implement the WCA, should be borne by the citizenry of the state, i.e., General Fund so it suggests a lot of things but does not mandate anything other than law enforcement biennial review.

Commissioner Hoffman: Where somebody shoots a wolf or does something illegal relative to the wolf, those are the responsibility of our enforcement division of the Department? Other than that it's a gray area. In other words there's sort of optional work? Could you explain to me, and there are a couple of biologists and there are benefits that accrue for what we do, what the Department for our participation in these activities, other than the enforcement which we must do?

R.J. Kirkpatrick: The Department is looked to and established as the wildlife experts in the state. Us in the Department are driven to do our best to manage wildlife populations within reasonable levels/ecosystems/habitats they rely on. Managing predators alongside ungulates is part of our business. The benefit is to the citizenry of the state that we're trying to bring back an extirpated critter, get them into this ecosystem and offset what mankind did to this particular species over time.

Commissioner Hoffman: If you looked at the functions other than law enforcement that the Department carries out, if tomorrow those functions were not carried out by the Department, would they be carried out, and who would do it?

R.J. Kirkpatrick: The USFWS and other members of the inter-agency field team would have to pick up whatever workload we were conducting. We'd have to notify USFWS that we're terminating all grant obligations.

Commissioner Hoffman: So is it a fair statement to say that exiting participation by the Department the program would continue virtually as it is now because of the needs of the wolf recovery effort?

R.J. Kirkpatrick: That's an accurate statement.

Commissioner Hoffman: One of the statements you made was that one of the reasons for participation is to secure funds from the federal program to the Department?

R.J. Kirkpatrick: Not necessarily. The interest isn't necessarily to secure funds but our participation makes us eligible for those grants and reimbursement whatever that reimbursement rate is.

Commissioner Hoffman: Outeligibility to secure those funds also means we get charged \$50,000 a year to get them?

R.J. Kirkpatrick: There's a price to pay for being eligible and applying for those grants, yes, sir.

Commissioner Maracchini: I was around when the original Mexican wolf re-introduction proposal was presented by USFWS. They did the original assessments and asked AZ/NM several questions one of which was the prey base at the time. AZ/NM stated that we didn't have a prey base that would support Mexican wolf. We also have an obligation to try to produce huntable deer/elk. Prior to re-introduction of Mexican wolf we've had approximately 30% fawn survival rate and that mortality is caused primarily by coyotes and domestic dogs running loose. With 30% fawn survival mule deer have a tough time. They're also subjected to lion depredation throughout their lives and we have sport hunting/road kills. None of your state tax dollars are going to manage/protect/recover state endangered species. There's a large list of state endangered/threatened species and it's the Commission's authority to assess those to pick out those species we feel have the best opportunity of being recovered and spend the limited resources we have on trying to recover some species that are on our list. In my opinion, the Mexican wolf is probably about the lowest on that list.

Public Comment:

Jim Williams: The habitat is not here and we're pouring money down a hole trying to bring something back that can't exist. We talk about cruelty to animals by trapping with leg-hold devices. It's cruel to put wolves in an environment that is not healthy for it.

Michael Robinson: I work for the Center of Biological Diversity. I respectfully disagree with Commissioner Maracchini on that this is a hopeless program. I hope you'll continue the successful work to keep conflicts to a minimum and keep your conservation mandate at the forefront of your responsibilities.

Phil Carter: I'm the Wildlife Campaign Manager for Animal Protection/NM. We've valued collaboration with the Department. This is creative problem solving with the NM public demands of it's state wildlife management agencies. All this time APNM has been testifying to Commission/Department that the majority of NM/public wants wolves on the ground for scientific/ethical/aesthetic reasons.

Mary Katherine Ray: I'm Wildlife Chair for the Rio Grande Chapter of Sierra Club. We have much in common with hunters because we support wildlife, not only huntable species but also those that are native and part of the balance of nature.

Caren Cowan: I'm speaking for NM Cattle Growers/Wool Growers/Sportsmen & Landowner Coalition. NM Cattle Growers/NM Wool Growers support the Department withdrawing from the program.

Kaisa Lappalainen: My background is in socio-cultural anthropology. I'd like the Commission to consider having direct release into NM.

Allison Boyd: I support keeping wolves out in the wilderness. I'm a member of Great Old Broads and we're all predators. By giving us a label we're cutting ourselves short on other opportunities the animal provides us.

Kevin Bixby: I'm Executive Director of SW Environmental Center/Las Cruces. I was disheartened to hear emphasis on people that oppose the program have a negative view of the Department's continued involvement. The fact of the matter is that 69% of New Mexicans support Mexican wolf recovery. Not all hunters are opposed to wolf recovery.

Charlotte Salazar: It'd be easy for me to say I support wolves, but the reality is I don't. My background is environmental. During consideration of this program, do not leave out public safety because that should be our ultimate goal.

Steve Fischmann: State Senate District 37 and I support the Department remaining involved in the wolf recovery program.

Maureen Havey: Let's manage our wild lands to make it possible for future generations to not only observe/hear wolves, but the increasing biodiversity is possible. We do not have to give up. Traps/baits and other forms of harassment to wildlife have no place in a healthy ecosystem.

Gloria Basden: There's been a lot of work/money put into and I think this can be successful. The red/gray wolf program has been successful and I applaud the Commission for having supported the program so far. I ask you maintain your support and work harder.

Jeff Steinborn: I'm a two-term state rep for this area. I don't think fears out there have to be overly consumed as far as the data goes and I think we all want to live in an environment where we have the most complete possible ecodiversity and all the benefits that come from that unless any of us want to outsmart God and start picking/choosing species that are inconvenient for us to manage, then we need to respect that and look at the science behind the wolf.

John Diamond: The wolf program is a failure. The Department needs to get out of this.

Glyn Griffin: I'm a Catron County Commission. I speak for the full Catron County Commission/people of Catron County when I urge you to withdraw your support for the Mexican wolf program.

Borrry Stewart: We ought to withdraw from the wolf program, and we need to delist the wolf.

Lindsay Heim: I hope we support wolves and for those who are unfamiliar with wolves and their personalities, it's not Disney.

Nancy Kaminski: I'm pro-wolf, but not anti-rancher.

Tom Klumker: I'm representing NM Council of Outfitters who'd like to see the Department get out of the wolf program.

Jed Leachman: I like ranchers more than I like wolves. I urge the Commission to listen to the public and to base it's decision on sound science and long-term goals which is for a stable, balanced ecosystem.

Dr. Hildy Reiser: I'm a member of the NM Wildlife Society. You were appointed to this Commission. You tackle controversial issues, find a solution.

Nelson Garber: I represent Farr Cattle Company. I ask that the Department back out of involvement in the program, use all the influence it has with USFWS to show them this program is a crock, and use whatever resources you have to help ranchers protect their interests to eliminate problem wolves.

Howard Hutchinson: I'm Executive Director of the Coalition of AZ/NM Counties. I'm a registered lobbyist for that organization per your requirements. We've been lied to, the Department needs to withdraw its participation in this program, and as far as that goes, the NM Endangered Species Act guarantees NM/Department participation regardless of whether or not they're directly involved.

Lorna Ruebelmann: I'm the Grant County Founder of the Silver City Chapter of Great Old Broads for Wilderness, the Aldo Leopold Broad Band. We're in favor of the re-introduction of the Mexican gray wolf/lobo in NM/AZ and support all efforts to establish a wild, free ranging permanent population.

Laura Schneberger: This program has been managed in a manner completely ineffective. We need to run this program in a way that does not deliberately harm citizens of NM. We're there legally and those lands are federally administered, they're there for economic benefit.

Jess Carey: I'm the Catron County Wolf Intervention Investigator. Catron County requests that the Commission remove NM from Mexican wolf recovery.

S.D. Schemnitz: I represent the Southwest Consolidated Sportsmen. We support the Mexican wolf restoration project.

Doug Baird: I'm with Americans for Preservation of Western Environment. We urge the Commission get out of this program.

Walter Szymanski: I support the wolf re-introduction program. I further support continuation of the ban on the use of leg-hold traps in the Blue Range wolf recovery area. I urge the Commission to continue its current support of public policy on the Mexican gray wolf re-introduction. A clear and strong majority of New Mexican's support the re-introduction of the Mexican gray wolf and the Department's public policy should reflect that public opinion.

Chairman McClintic: The Department is seeking direction from the Commission on whether to continue to participate, modify participation, exactly what we're going to do. They brought this to us and they want us to act on it in some way or another.

MOTION: Commissioner Salopek moved to direct the Department to suspend for now the participation in the federal Mexican Wolf Recovery Program conducted by U.S. Fish and Wildlife Service effective June 30, 2011, except for activities required under the New Mexico Wildlife Conservation Act. **Commissioner Bidegain** seconded the motion.

ROLL CALL VOTE:

Vice-Chairman Salopek – yes

Commissioner Arvas – yes

Commissioner Bidegain – yes

Commissioner Hoffman - yes

Commissioner Maracchini – yes

Commissioner Montoya - yes

Motion carried unanimously.

Chairman McClintic: This Commission has taken the stand unanimously that we're stepping out of this wolf program. We're going to take care of the stuff that we have to take care of. I recommend to the Commission that we table Item Nos. 13, 14, 15, 16, 17, 18, and 19, and bring them back at the July meeting. **Commissioner Hoffman** seconded recommendation.

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

AGENDA ITEM NO. 20: Commission Approval to Dispose of Fixed Assets.

Presented by Alexa Sandoval – The Department requested the Commission approve the disposal of fixed assets that are worn out, obsolete, or have reached the end of their service life. State statutes, §§ 13-6-1 and 13-6-2, NMSA, 1978, *Sale of Public Property*, require that an agency's governing body approve the disposal of state property prior to disposing of the items. This request augments the item presented in May with the addition of motor vehicles slated for disposal during the current auction cycle.

MOTION: Commissioner Arvas moved to approve the Department's request to dispose of the list of fixed assets that were presented to the Commission today that are worn out, obsolete, or have reached the end of their service life, either by sale at public auction, or otherwise disposed of in accordance with state law. **Commissioner Bidegain** seconded the motion.

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

AGENDA ITEM NO. 21: Adjourn.

MOTION: Commissioner Hoffman moved to adjourn. **Commissioner Bidegain** seconded the motion.

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

Meeting adjourned at 5:56 p.m.

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

July 21, 2011
Date

s/

Jim McClintic, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
MyDocs\Minutes\Minutes 2011\Minutes 6/9/11(LasCruces)DETAILED

July 21, 2011

Date