

GOVERNOR
Susana Martinez



DIRECTOR AND SECRETARY
TO THE COMMISSION
James S. Lane, Jr.

Daniel E. Brooks, Deputy Director

STATE OF NEW MEXICO DEPARTMENT OF GAME & FISH

One Wildlife Way
Santa Fe, NM 87507
Post Office Box 25112
Santa Fe, NM 87504
Phone: (505) 476-8008
Fax: (505) 476-8123

Visit our website at www.wildlife.state.nm.us
For information call: (888) 248-6866

STATE GAME COMMISSION

SCOTT BIDEKAIN
Chairman
Tucumcari, NM

THOMAS "DICK" SALOPEK
Vice-Chairman
Las Cruces, NM

DR. TOM ARVAS
Albuquerque, NM

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Farmington, NM

PAUL M. KIENZLE III
Albuquerque, NM

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Alto, NM

RALPH RAMOS
Las Cruces, NM

MINUTES REGULAR MEETING NEW MEXICO STATE GAME COMMISSION

New Mexico Museum of Natural History and Science, 1801 Mountain Road NW, Albuquerque, NM 87104
Thursday, March 21, 2013, 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 8:59 a.m. by Vice Chairman Salopek.

AGENDA ITEM NO. 2: Roll Call.

Secretary Director Lane called the roll:

Present: Commissioner Tom Arvas
Commissioner Scott Bidegain
Vice Chairman Thomas Salopek
Commissioner Bill Montoya
Commissioner Paul Kienzle
Commissioner Robert Espinoza
Absent: Game Commission Chairman Jim McClintic
Quorum: Yes

AGENDA ITEM NO. 3: Approval of Agenda.

Vice Chairman Salopek asked the Commission to approve the agenda.

MOTION: Commissioner Arvas so moved.

SECOND: Commissioner Montoya.

Vote: 5-0
Yes: Commissioner Tom Arvas, Commissioner Scott Bidegain, Commissioner Bill Montoya, Commissioner Paul Kienzle, and Commissioner Robert Espinoza
No: None
Abstained: None
Absent: Game Commission Chairman Jim McClintic
Result: Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 4: Introduction of Guests.

Vice Chairman Salopek welcomed attendees and the audience introduced themselves and the organizations they represent. Secretary Director Lane paused introductions with Steward Liley and Kristin Madsen to congratulate them both on their recent promotions and thanked them for "stepping up."

AGENDA ITEM NO. 5: Approval of Minutes (December 13, 2012, Lordsburg, NM).

MOTION: Commissioner Arvas so moved.

SECOND: Commissioner Bidegain.

Vote: 5-0
Yes: Commissioner Tom Arvas, Commissioner Scott Bidegain, Commissioner Bill Montoya, Commissioner Paul Kienzle and Commissioner Robert Espinoza
No: None
Abstained: None
Absent: Game Commission Chairman Jim McClintic
Result: Motion UNANIMOUS. PASSED.

Vice Chairman Salopek led a moment of silence in memory of Jim McClintic was observed and the pledge of allegiance was recited.

NEW BUSINESS:

AGENDA ITEM NO. 6: Annual Renewal of Open Meetings Procedures.

Presented by Rick Wellborn – Under the Open Meetings Act, public bodies such as the Game Commission "shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body." The Department asked the Commission to determine its notice requirements for Game Commission Meetings.

Discussion:

Commissioner Kienzle: I recall that there were changes under the open meetings act.

Counsel Wellborn: Yes, there were. That was a notice requirement with regards to how soon the agenda has to be available to the public before the meeting. The bill is pending for signature by the Governor. Currently the law states you must have the agenda available no later than 24 hours before a public meeting. If the Governor signs the bill, it will become 72 hours before

any public meeting. The determination before the Commission now, does not have to do with the availability of the agenda it is just notice to the public of when public meetings will be held.

MOTION: Commissioner Paul Kienzle moved to adopt the March 2013 through March 2014 Open Meetings Resolution as provided by the Department.

SECOND: Commissioner Scott Bidegain.

Vote: 5-0

Yes: Commissioner Tom Arvas, Commissioner Scott Bidegain, Commissioner Bill Montoya, Commissioner Paul Kienzle and Commissioner Robert Espinoza

No: None

Abstained: None

Absent: Game Commission Chairman Jim McClintic

Result: Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 7: Election of Chairman and Vice Chairman of the Game Commission.

Presided over by Jim Lane and Dick Salopek – The Commission will elect a chair and vice chair. Vice Chairman Salopek called for nominations for Chair. Commissioner Bidegain was so nominated by Commissioner Arvas, no further nominations were made, and nominations were closed. Director Secretary Lane called the roll call vote.

ROLL CALL VOTE for Chair:

Vote: 5-0-1

Yes: Commissioner Tom Arvas, Vice Chairman Thomas Salopek, Commissioner Scott Bidegain, Commissioner Bill Montoya and Commissioner Paul Kienzle

No: None

Abstained: Commissioner Robert Espinoza

Absent: Game Commission Chairman Jim McClintic

Result: Motion UNANIMOUS. PASSED.

Chairman Bidegain called for nominations for Vice Chairman. Vice Chairman Salopek was so nominated by the Commissioner Montoya as no further nominations were made, nominations were closed. Director Secretary Lane called the roll call vote.

ROLL CALL VOTE for Vice Chair:

Vote: 6-0

Yes: Commissioner Tom Arvas, Chairman Scott Bidegain, Vice Chairman Thomas Salopek, Commissioner Bill Montoya, Commissioner Paul Kienzle, and Commissioner Robert Espinoza

No: None

Abstained: None

Absent: None

Result: Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 8: Pronghorn and Mule Deer Trap and Transplant Update.

Presented by Wildlife Management Division Chief Cal Baca and Big Game Program Manager Stewart Liley. The Department presented the results of this winter's successful pronghorn and deer captures, transplants and subsequent monitoring efforts. This update included additional planned capture efforts to achieve the Department's management objectives for these species.

Discussion:

Commissioner Montoya: how many of those are radio collared or otherwise?

Mr. Liley: we try to collar every adult female pronghorn. On the transplants going to Fort Stanton (37 total), I believe we collared seven adult males, those going to the Sand Ranch were eight adult males and all of the females so roughly 34 collars. Mule deer, every animal approaching a year and a half and older were collared, 105 radio collars. The two transplants going to the Peloncos and the others to the San Francisco were deployed with GPS collars to collect post-release movement.

Commissioner Espinoza: I have heard over the years that mule deer are difficult to keep alive after transplant, what are you doing other than putting them in areas with cougar and habitat management? What are you doing that is different? What contributes to your success rate?

Mr. Liley: We are fresh into the project at about month two on the Peloncillo and only about three weeks into the San Francisco River transplant monitoring. This is not our finish year but the first year to learn information to build success. I think

what has happened with previous transplants across the west is the monitoring/post-release was lacking; someone would fly a survey and say they did not see the response or numbers grow through time. But there was never the causal reason why it wasn't successful. Our hope was to radio collar enough adults to get at what makes success, what does not make success, what might be the limiting factors. I think one thing that we are doing here is that our mule deer are being transplanted to three different locations: San Francisco River is fairly high quality habitat, a medium to medium-low predator density. The Peloncillos are on the lower tier of habitat quality but our most predator-controlled area through time because of the desert sheep there. Chupadera Mesa is our highest quality deer habitat but lowest predator control area. So we are testing those limiting factors and how we can guide where those animals are transplanted to in the future.

Commissioner Espinoza: how long is your study period, three years?

Mr. Liley: It will depend. Most of the mortalities will occur within the first year, with the first month being the highest possible mortality: animals being new to the area do not know the predators, are unfamiliar with the habitat. After that first month, we should see mortality rates start to stabilize. The graduate student will be on the project for at least two years. If successful to work to restore mule deer throughout the southwest and southeast of New Mexico, I see this going on as long as we have source herds, continuing this until populations are built up. I do not have a clear termination date.

Commissioner Arvas: some of us remember the transplant from Governor Bolack's ranch, which was a real horror story. Are our techniques better now?

Mr. Liley: The drugs used to quiet the animals have improved over the years. Our capture methodology is drop-netting. The biggest thing was to administer a sedative: the animals are alert but quiet, stress levels are much less helping to keep the animals in the post-release area longer thereby reducing their post-release mortality.

Commissioner Arvas: what other surrounding states are doing transplanting?

Mr. Liley: Utah is preparing a mule deer restoration program. No other states are doing this believing that transplants can be successful with mule deer because of the high level of stress and high sight affinity. Mexico has a record of successful mule deer translocation.

Vice Chairman Salopek: In Silver City, what is our goal to lower the deer population there and are we doing a bow hunt. Will there be a survey after that to come back to netting?

Mr. Liley: In order to reduce the Silver City deer population we are having to trap/translocation as well as hunting. Next year bow hunters will be assisting as well.

Commissioner Espinoza: Is this solely a Department effort or are you creating any other partners?

Mr. Liley: It is Department lead, but other partners are joining. Example Texas Tech University has put master candidate graduate students on the project at no cost to New Mexico's Game and Fish. The private ranches (Arabella and UU BAR) where the source herds are definitely partners. This first year of the program will be used to write proposals for funding opportunities to potential partners.

Commissioner Espinoza: so next year you would be looking for funding.

Mr. Liley: Yes, this year we're writing the proposals.

Chairman Bidegain: Good job on the low mortality rate, thank you.

Public Comment:

None.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 9: Ibex Management Update.

Presented by Wildlife Management Division Chief Cal Baca and Big Game Program Manager Stewart Liley. The Department presented the results of the recent successful OTC ibex hunt and planned efforts to achieve the Department's management objectives for ibex in the future. There were 948 licenses sold. The Department estimated there were between 400 and 600 hunters in the field. Day one of the hunt rendered a harvest of 158 females and 32 males. The hunt was extended to close on day two at the end of shooting hours. Harvest numbers at hunt's end rendered 284 ibex: 227 females and 57 males. Both hunters and conservation officers stated there were too many hunters on the mountain; 18 citations were issued: 5 waste of game, 4 bag limit violations, 1 failure to tag, 4 hunting after hunt was closed, and 4 OHV. The proposed amendment includes the preferred option for 2013-2014 hunting season is to eliminate the over-the-counter hunt and employ a population management hunt structure, keeping the special billy drawing for hunters allowed to hunt through the population management structure. An alternate option included web sales of licenses, a set number of licenses and hunts, and keeping the special billy drawing.

Discussion:

Vice Chairman Salopek: On the length of the horn – if we are hunting nannies, would it be sensible to not write citation for 15 inches when it is a nanny.

Mr. Liley: I agree, I think we would want to stay with the 15-inch, but those inches to get immature billies. Nannies should not have that length of horn. It will be the 1 ½ to 2-year-old billies that will have horn approaching 15 inches in length. As we reduce the population, we thereby reduce the male segment too. Keeping the 15-inch guideline maintains the trophy male segment but the younger, immature male segment is the segment that is reduced.

Commissioner Arvas: Again, how many hunters qualified?

Mr. Liley: 104 hunters.

Commissioner Arvas: And are there still 10 permits available additionally?

Chief Baca: Because of the high number of qualified hunters, we did ask for and received a 20 percent increase for ability to have better drawing odds, to a similar rate.

Commissioner Arvas: Are the timeframes the same for that additional hunt?

Mr. Liley: That is correct, that incentive billy hunt would occur at the same timeframe as what is proposed and to what is in rule at this time.

Public Comment:

Mr. Cecil Haas, Kauffman Outfitters, Las Cruces, NM: We had nine hunters, seven of them qualified. Firstly, what the Department is recommending is 100 percent supportable. We like it. We commend the Department for its handling of a sticky situation. I don't think anyone anticipated 900 plus licenses being sold. Check stations went up, more officers were directed to this location, the hunt was extended by a second day, and even with a little bit of a hiccup there the Department did a very good job. I would encourage more communication with the qualifying hunters that has been done so far, to confirm that they indeed are in a drawing and qualified for the hunt, number of qualified hunters, how payment is being handled, and increase in number of billy tags, and this presentation summary, in an email to these 100 hunters.

Larry Caudill, Albuquerque: I was not on that so-called hunt but have first-hand accounts of people who were. I don't know if you want to call it a circus, a can of worms, or a cluster you-know-what, but that is exactly what it was. The Department should have known better. I have tales of wild shooting, animals wounded and lost, animals killed and unrecovered, fights over who killed what, and then the final insult was the use of chronic wasting disease so some of the carcasses were actually thrown away. I do not know how this could have been any worse unless someone had been shot or killed. Frankly I think the people who perpetrated this ought to be reprimanded or demoted for incompetency or just plain stupidity. That was a cesspool, the Department should have known better and the Commission failed in its responsibilities for not exercising proper oversight. When they come in with a bad recommendation or a questionable recommendation, I think it is the obligation of the Commission to question those things and to exercise proper oversight. Unfortunately, I think there is too much tendency to rubber-stamp what the Department comes in with, and I have long held the opinion that many of the Department's recommendations are based on what is economically, politically, or administratively convenient with what is best for the resource and the resident sportsmen put fourth and fifth. Sorry about the harsh words, but I came here to express my feelings and if people take this criticism too hard, I'm sorry but that is how I feel. Thank you.

Discussion:

Vice Chairman Salopek: This is not a rebuttal to Larry, I was going to make this comment before he spoke, but that being said. When we sold 300 tags, I was present at the SW Office with Ray, Kevin, and it became 400 – there was always the question of safety. What it shows is that hunters want opportunity. When I've had more sportsmen who've said thank you for giving us the opportunity, we've not been able to draw and recognize that we've got to have some limits. Cecil, I don't think any of us, from here to our biologists, thought that there would be 200 or 300 licenses sold, much less 900. If we had thought that, we would have said, no. It is what it is, nobody did get hurt, and I was excited about it.

Commissioner Arvas: I compliment the Department on once the final number of licenses had been sold, of doing a tremendous job on their part to keep the safety factor at the highest level possible, plus the commitment on the part of the SW Area staffs. I talked to Ray everyday – they were really on top of things. Once again this was something, that, and I think maybe Cal it would help if you went back to why we even had the hunt to start with. Because I think there is some question as to why that took place.

Mr. Liley: The reason why the hunt took place is that the ibex population reached the agreement level between the Bureau of Land Management and the Department that states ibex population shall be kept at a level where 1) at or below carrying capacity and 2) that the animals do not leave the mountain. In 1985, I believe, a study paid for by the BLM that said the ibex carrying capacity is between 350 to 500 animals. Our previous survey in 2012 yielded 700 observed animals probably yielding close to 1,000 animals on the mountain because it is not possible to observe and count everything. We needed to go into a

reduction plan. That was proposed, and we still need to go through a reduction of that population with a goal to that is closer to the 500 carrying capacity.

Commissioner Arvas: That is what I think the public needs to be aware of. We just didn't do that (the hunt) to eradicate the ibex, it was something that was necessary from a game management standpoint.

Secretary Director Lane: Stewart would you give us an update on the recent aerial survey of the ibex herd?

Mr. Liley: Yes, I flew the ibex herd on Tuesday, two days ago. We flew and actually counted more animals than last year, so we didn't even kill last year's recruitment. We counted 759 ibex in this week's survey, 705 last year. I think we are lowering the female segment of that population so we are closer to parity on male/female segments of the population however; we still need to reduce the population to the carrying capacity of 500. Our best guess, doing modeling yesterday, is that we need to kill approximately 290 animals on a population management hunt. Of that number we would like to see about 35 percent of those be young billies to reduce the male segment so that we don't get a skewed sex ratio and also we need to kill about 180 females on that hunt. Under the population management hunt we can have about 100 hunters per hunt, watch as the hunts go out, see what success rates are to determine what the next hunts should be and gauge that and bring the population to the 500 level over three years, not one, because we don't want to crash the population but bring it down slowly to get to our goal.

Vice Chairman Salopek: The hunters would still want an over-the-counter chance, with limits they understand, but they were really excited about that.

Chief Baca: The over-the-counter option is still something we can structure to see if it is a viable option to bring before you for review.

Commissioner Espinoza: Again, I want to commend you guys the way you handled it. Going off of some of the earlier comments, I don't think anyone foresaw selling 900 tags. And I think lessons learned are very important and adjust what we are doing or just exactly what the Department is doing then we shouldn't be here. But I think we are going in the right direction, so thank you.

Vice Chairman Salopek: So are we still going with two or with one nanny?

Chief Baca: The recommendation is not to change the bag limit unless you all decide to change it, so we are not recommending it be changed from two to one.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 10: Proposed Amendment to Upland Game 19.31.5 NMAC.

Presented by Wildlife Management Division Chief Cal Baca and Bird Program Manager Kristin Madden. The Department presented a proposed amendment to the Upland Game Rule (19.31.5 NMAC) for the 2014 through 2017 hunting seasons. Included in the rule is a proposed single hunt period statewide (September and October) for both grouse and squirrel hunting seasons.

Discussion:

Commissioner Montoya: I think it is important that you stated it is to simplify the process. We did take some hits on the sandhill cranes in both zones, did we not?

Chief Baca: A discussion of that is in our next presentation, in the migratory rule. This one focuses on grouse, squirrels...

Vice Chairman Salopek: Thank you for making it a simpler opportunity.

Commissioner Arvas: Is the quail study still in place?

Manager Madden: This being the fourth day on the job, I am still trying to get a handle on what we are doing. From what I can tell we don't have any real data for the last five to six years, but it may be that I just have not found it yet. I can't really say.

Public Comment:

No public comment.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 11: Proposed Amendment to Migratory Game Birds 19.31.6 NMAC.

Presented by Wildlife Management Division Chief Cal Baca and Bird Program Manager Kristin Madden. The Department will present a proposed Migratory Game Bird Rule (19.31.6 NMAC) with draft hunting season dates for 2013-14 and will discuss anticipated changes in the federal migratory framework. Central Flyway committee meetings and analysis of survey data begins March and is not completed until May, these recommendations will be included in the final proposal. Numbers of sandhill cranes allowed to be taken in New Mexico is being reduced. There is potential for an increase in the

numbers of blue winged teal bag limits, changes in possession and bag limits for band tailed pigeon, but more restrictive duck frameworks.

Discussion:

Commissioner Montoya: I recall dealings with the Central Flyway (federal council) is to continue to take a hit (reductions) on the most popular hunts, yet snow geese we can't kill enough of them and we can't get the bag limit and possession high enough – I don't guess that has changed any.

Chief Baca: Correct. Last year we spent the whole year trying to get one more redhead in the bag limit. It frustrates all of the states in the Central Flyway to try to do this. What we are seeing with the sandhill crane population is that it is a drought related issue changing the migratory pattern eastward and thereby not seeing as many to count in New Mexico this year as in previous years. These possession limits will not affect any of the eastern side hunts – those are unlimited over-the-counter licenses. We are not proposing changes to those.

Commissioner Montoya: The Central Flyway is going to continue to back us on a liberal recommendation and then of course, no direction from there.

Chief Baca: Correct.

Public Comment:

Joel Gay, NM Wildlife Federation, Albuquerque: I want to bring a letter to your attention from a member who lives in the east mountains regarding the lack of water is a consistent problem effecting bird hunts all through the Middle Rio Grande and particularly the youth hunts that start early. The Department does get an amount of water through an agreement, that floods the Bernardo/La Jolla Ponds, but that water is not officially available until November 1st. These recommendations should include changing the youth hunt dates to almost be guaranteed that there will be water and birds in those ponds.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 12: Proposed Amendment to the Hunting and Fishing License Application Rule 19.31.3 NMAC.

Presented by Wildlife Management Division Chief Cal Baca. The Department updated the Commission regarding prospective amendments to the rule to add language to Section B regarding restrictions, allow licenses to be valid within unitized areas and simplify the process and remove language pertaining to unitization in license validity sections in the exotics and deer rules. Outcomes are expected to be enabling the Department to further develop unitization agreements and not limit unitizations agreements to just deer or Barbary sheep.

Discussion:

Commissioner Montoya: I think the unitization is a fine thing, to simplify it by removing checkerboarding of private/public by swapping land out is good, especially if you are using all the species. Much in favor of this, it's a good situation.

Commissioner Espinoza: I have received a lot of good response and I think too it is a great way to go. One misconception people seem to have is that now that you have incorporated, working with those private land owners, that eliminates the need for a sportsman to have written permission, right?

Chief Baca: That is correct. If a sportsman is hunting within the unitized boundaries that private property is open to them to hunt. That unitization agreement is what is giving them permission to be there. The landowner signs the agreement, they agree to the boundaries and lines. We use identifiable boundaries like fence lines and roadways to easily see where you are on the land and on the map, eliminating the hunter on that parcel within the unitized agreement to seek permission.

Technically it goes into a publicly operated hunting agreement to where access is no longer an issue.

Commissioner Espinoza: That in itself I think is huge.

General Counsel Wellborn: Cal please explain the difference between or how that relates to the open gate agreements as well?

Chief Baca: Commissioners, it doesn't. They are two different programs. Open gate is designed to take a portion of habitat access validation funds and apply them to a leasing-type program where we pay for access on or through private property. For example, the Mitchell Ranch in northeastern New Mexico. We have entered into an agreement with them to provide access to bird and youth deer hunters that has been extremely successful. Because of our leasing that property, we have seen an increase in interest in hunting dove and quail from the local population near Cannon Airforce Base. The youth deer component there has been highly successful. Almost all of those youth hunters have been successful in access and many successful in harvesting a deer. Open gate is strictly a lease for access program. Unitization is a trade of public for private parcels to be placed within a boundary for land access within the Game Management Unit.

Commissioner Kienzle: What is the duration of these agreements, year-over-year or do you renew them five years, one year?

Chief Baca: One year.

Commissioner Kienzle: So, we're at hunting season, can the landowner pull the plug on us, so to speak?

Chief Baca: No, it is a signed contract for that year.

Commissioner Kienzle: State once more how the landowner is compensated?

Chief Baca: There is not direct compensation. It is a swap for access. Parcels of private property are swapped for public parcels adjacent.

Public Comment:

Jess Rankin, Outfitter, Roswell: The unitization agreement really worked out well last year. In the past you had to carry your gps with you and worry that you were on private land. Now, you don't have to worry about that. The sportsmen were well served with that agreement.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 13: Department Reorganization Summary and Vacancy Status.

Presented by Assistant Directors R.J. Kirkpatrick and Pat Block. The Department presented an update on reorganization of divisions and staff including an overview regarding vacancies and hiring efforts. Objectives of the reorganization, previous and new structures of the four active programs were compared and vacancies stated.

Discussion:

Commissioner Montoya: My concern continues to be in Field Operations where it appears we have gone from four area supervisors to two. I know that is not totally right, but, the area supervisor position is one that was highly sought after by the field people. You had the sergeant situation on up and up. It looks now like we have gone from four highly sought after positions to two. Maybe I'm not looking at it right, but that's what it appears like.

Assistant Director Kirkpatrick: You are pretty right. We still have four staff in that classification position but through attrition and our efforts put a south major in place, the north major and south major will be what the old area supervisors were and those four area offices and the associated supervisory districts and support staff will be managed and supervised by what will not be a captain. Feedback to-date where we have the major position in place and captains running the areas, that that structure has proven to provide positive dividends: Communication has improved, issues are dealt with at the appropriate levels, most of our staff are pleased with the changes, the clarity of information and direction. I think in the north where the change is nearly fully implemented, it has proven to be effective and we are pressing to get the south area equally positioned.

Vice Chairman Salopek: You know, you see a difference in the field. Before I was a Commissioner, I always loved the Game Wardens out there. You see the attitudes having changed in the field, I'm really excited about where we are going with this.

Assistant Director Kirkpatrick: To follow up to Commissioner Montoya's concern, one of the things that will happen as we finalize the north and the south is that those two area supervisor positions will turn into two more district staff in the field and that is a positive, having two more district officers getting work done on the ground.

Commissioner Espinoza: I commend you for going forward. I make it a point to stop the Wardens when I see them just to visit and I am getting a real positive response from those guys, they are the face of the Department so to speak and they like the changes, the communications have improved 200 percent. Good job, keep going.

Public Comment:

No public comment.

AGENDA ITEM NO. 14: 2013 Legislative Update.

Presented by Assistant Director Pat Block. The Department updated the Commission regarding legislative actions pertinent to the agency during this past session including operating budget request (HB5/2), capital projects requests, legislation specific to the house and specific to the senate. Regards the budget, HB 5 rolls into HB 2, the amounts in the bill reflect the Executive recommendation, plus a \$150,000 increase for OHV, it was amended to reflect executive recommendation, and there was no support from the state general fund for FY 2014. FY 2008 was the last year of GF appropriations (around \$330,000). Regards capital outlay, the Department requested \$19 million for 9 projects, and 10 projects were funded and all funding switched to DGF sources.

Discussion:

Commissioner Kienzle: (regards operating budget) Are you telling me that basically the legislature told us to go spend our own money?

Assistant Director Block: Yes.

Commissioner Kienzle: Did you get any support from the Administration on our original plan? What is your sense of that?

Assistant Director Block: No. Not in a malicious way, but in that they were trying to stretch dollars as far as they could. We have money in the bank right now. I do not think that they have a quarrel with the argument that those do provide wider benefits, but that they were trying to spread that money out as far and wide as they could.

Commissioner Kienzle: Let's just remember when they come looking to raid our piggy bank for something else that we should try to hold onto our money as much as we can.

Secretary Director Lane: This is the "diversion" into allowable costs for the Department but taking money out of the Game Protection Fund has now set us on a course of requesting for license fee increase a year earlier than planned. We can show that we have been fiscally responsible and made those dollars stretch as far as possible. When you divert it out of STD and General Fund for things that are beneficial for the entirety of the state of New Mexico and you take from the Game Protection Fund, those funds only go so far before we have to ask again. And this will be the argument when we prepare our request. So this did bring us one year closer to requesting license fee increase.

Assistant Director Block: It will make a strong case (for the license increase) because we can show that we have done as much as we can with that money.

Commissioner Montoya: (regards HB 569, Game and Fish License Time Period) Tell me again what the fiscal impact will be, especially the dual purchasing business. What is it going to cost us?

Assistant Director Block: The best we can tell \$500,000 to \$700,000. About a half million of that direct in that we would certify fewer hunters and not be eligible for that money on the wildlife and sport fish restoration side and the other side being money that would the Department would have to expend in labor and outreach to get it issued in the timeframe it was contemplated in the bill.

Secretary Director Lane: Regards SB 338, (add 2 bighorn sheep enhancement licenses) last year you all gave permission to run that, and it passed, and the result of those two, Stewart how much money did we make for sheep habitat and conservation from those two additional permits?

Mr. Liley: Each one of those sold for \$180,000.

Secretary Director Lane: So you're looking at three hundred and sixty *thousand* dollars that was generated from those two permits being created this year. That is significant.

Secretary Director Lane and Assistant Director Block: Thanked all of the partners, staff, and legislators who were instrumental in the success the agency had during this session.

Commissioner Kienzle: Thank you Pat for that recap, it is not easy to do. On HB 569, that seemed to be a huge change and real problem for us, has there been dialog with the Administration on vetoing that?

Assistant Director Block: There has been, yes. It is not that we are opposed to the bill in concept, it is done in other states and seems to work well, it is that it is such a massive change to implement and it needs to be done thoughtfully.

Vice Chairman Salopek: Looking at HB 569, I guess for the people who are buying in December saying they want to pay less, what about people who are buying in March and April but don't fish the rest of the year? I don't want to go that route but it is something to think about and where it will create confusion.

Assistant Director Block: Yes, and another thing we have heard is that has there been any thought to a pro-rated cost? And, no, that is even more difficult than making the license valid for a year.

Public Comment:

Brenda McKenna, Nambe Tribal Member, Albuquerque: My question has to do with HB 316 and in the form that it was changed to only coyote-killing contests. We do know that Director Lane did not support the bill. However, we were wondering about the Commissioners, do all of you support the bill or not? And why?

Secretary Director Lane: In speaking for myself and on behalf of the Department and State Game Commission on this issue, I did not support it. That bill lied in in statute chapter 34 or 36 regarding domestic animal cruelty and has over-arching reach into chapter 17 that is State Game Commission and wildlife purview. Mixing these chapters is contrary to the intent of the legislature when they formed the State Game Commission and Department of Game and Fish. Given that overlap in the Chapter 17 within a domestic animal chapter, I thought was over-reaching for the legislature or the representative to pursue. We discussed this with the representatives that in fact there is NM Supreme Court case law that gives very clear direction that wildlife stays in Chapter 17, not in the domestic animal chapter(s).

Chairman Bidegain: Ms. McKenna, because this is not an agenda item, the Commission will not discuss this.

Ms. McKenna: I thought that the public is welcome to comment on...

Chairman Bidegain: You can discuss it with the Commissioners,
Ms. McKenna: So I can follow up with the Commissioners after the meeting.
Chairman Bidegain: Yes.

Elisabeth Dicharry, Los Lunas: A licensed angler. My question is about 316 and also 55. My concern about poaching in that it did not pass the Senate and Representative Baldonado is my representative. I want to know what effect to unlicensed, unregulated predator hunters specifically coyote hunters have on poaching. Has anyone studied this? Also, how are you keeping unregulated predator hunters from interfering with managed game hunts? This came up specifically for Los Lunas when we had our gunhawk contest because it could have happened anywhere. And it did happen in managed game units. Luckily we had some of our public lands offices step in and take care of some of that, but it was a public safety issue and I also think it was probably a poaching issue as well. I am also concerned that I heard you say that you will be raising license fees and the fact that no license is required at all for coyotes and yet in most states it is required that at least an in-state license. Do you have any plans on making license requirements on coyotes and doing anything else that might help with public safety and making some money from coyotes given that they are furbearers. I would like an answer to that please.

Chairman Bidegain: I will defer to Director Lane.

Secretary Director Lane: I welcome your comments in the form of an email or letter to the agency. I will have the appropriate staff respond with an answer from the Department. We still maintain that coyotes are not statutorily protected by the State Game Commission. Details can be addressed in the agency's reply to you, be happy to do that.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 15: Presentation of Fiscal Year 2012 Financial Statements and Audit Report.

Presented by Chief Financial Officer Alexa Sandoval. Chief Sandoval commended all staff that assisted in the record application process, "job well done." Director Lane too added that 150,000 applications have been logged – an increase of more than 12,000 over last year, "terrific job – thank you." Discussion revealed comments from Commissioners, and sportsmen and women's comments to Commissioners of their support of the web-based system and much appreciation for the shopping cart methodology.

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 2.2.2.10.J (3)(d) NMAC. Before the presentation of the report, the final step of audit approval. Albeit two audit findings, the agency received an unqualified opinion from the auditors, which is the best opinion that auditors can bestow.

Discussion:

None.

Public Comment:

None.

MOTION: Commissioner Bill Montoya moved to approve the Department audit report for fiscal year 2012.

SECOND: Commissioner Robert Espinoza.

Vote: 5-0

Yes: Commissioner Tom Arvas, Vice Chairman Thomas Salopek, Commissioner Bill Montoya, Commissioner Paul Kienzle and Commissioner Robert Espinoza

No: None

Abstained: None

Absent: None

Result: Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 16: Commission Approval for Disposal Items.

Presented by Chief Financial Officer Alexa Sandoval. The Department requested Commission approval to dispose of capital assets that are worn out, obsolete, or have reached the end of their service life. State statute, § 13-6-1 and 13-6-2, NMSA, 1978, Sale of Public Property requires that an agency's governing body approve the disposal of state property prior to disposing of the items.

Discussion:

None.

Public Comment:

None.

MOTION: Vice Chairman Thomas Salopek moved to approve Department's request to dispose the list of capital assets for fiscal year 2013 that were presented to the Commission today by sale at public auction or otherwise disposed of in accordance with state law.

SECOND: Commissioner Tom Arvas.

Vote:	5-0
Yes:	Commissioner Tom Arvas, Vice Chairman Thomas Salopek, Commissioner Bill Montoya, Commissioner Paul Kienzle and Commissioner Robert Espinoza
No:	None
Abstained:	None
Absent:	None
Result:	Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 17: State Land Easement Agreement.

Presented by Assistant Director R.J. Kirkpatrick. The Department presented an update on the status of the current easement that expires June 30, 2013 and development of a new easement to provide continued sportsmen access to State Trust Lands next season.

Discussion:

Commissioner Arvas: What would it take to get more than a 12 or 18-month lease?

Assistant Deputy Kirkpatrick: That is the initial discussion with the land office each time we meet; a longer term, and the easement agreement term to track with big game rule development 4-year cycles. Commissioner Powell adamantly maintained he was not willing to entertain term period longer than 1 year at a time.

Commissioner Arvas: Now, every state has this kind of agreement I would think, right?

Assistant Deputy Kirkpatrick: I don't know the answer to that as to whether other state's pay their state land office.

Commissioner Arvas: It might be of interest, at least the surrounding states, to find out to shore up our argument with Commissioner Powell.

Public Comment:

None.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 18: Proposed Amendment to Hunting and Fishing Manner and Method of Taking Rule 19.31.10 NMAC.

Presented by Field Operations Colonel Robert Griego. The Department presented prospective amendments to the rule to require the use of Hunter Orange for certain big game firearms hunts. Discussion centered on safety and evidentiary benefits versus additional requirements of sportsmen and women. What other states require was reviewed and what New Mexico currently maintains. Proposed changes include requiring licensed hunters during most big game seasons open to firearms to wear hunter orange, and to require a minimum of a vest and a hat, to ensure 360° visibility.

Discussion:

Commissioner Montoya: Bobby, you have opened up a can of worms. I have got the majority of muzzleloader hunters in the southeast and they are all calling me. Is this an instance where we are "jumping the gun" and may truly not need it until we determine how much effect it has? I know the hunter safety people are saying this is a sure way not to have problems, but I don't believe we have had a problem so far. Let's listen to the constituency and review the public comment. I personally have a hard time with this.

Colonel Griego: I agree, and the proposal will be open to public comment for at least the next 30 days. With muzzleloaders today, and we are dealing with a different kind of muzzleloader than we were 20 years ago, a 200 or even 300-yard shot is not out of the question. We do know that it does make it safer; do we have an absolute need? That remains to be seen, but as recently as last year a hunter was shot from his ATV that was mistaken as a cow elk. Was it or was it not that is the defense

given and it is at a time when we have the ability to regulate, if it was the case, we can fix that. The public does need to let us know.

Vice Chairman Salopek: I am at a dilemma, we do a lot of oryx hunting, we hunt elk in Colorado and see other hunters in orange and believe we should move to another area. I am torn, I think it is only a safety issue – but it's huge. I have had just two public comments. I think we ought to (require more orange). I'm having a hard time. I don't know how I will vote when it is presented to us. I'll be real honest with you.

Commissioner Arvas: Could you comment from liability standpoint, what the introduction of hunter orange would do for us in terms of the liability the Department and the State in any suit.

General Counsel Rick Wellbom: There is liability protection for government entities and agents under the tort claims act. Each case would have to be analyzed on a case-by-case basis as to what that effect would be but just as a general principle of course, the result is a negligence lawsuit and wrongful death issues where hunters have not been required to wear orange.

General negligence law only imposes liability only if you have a duty and you fail to meet that duty. I can foresee that there is an argument to be made whereas we are selling hunting licenses, then we are creating a situation where there is risk involved and if we have the ability to, or don't require hunter orange that there could be a negligence case made. Assuming of course the lawsuit is permitted. So as a general principle you're going to be off making things safe, how that plays out on individual case-by-case basis, whether someone does have the ability to sue by virtue of the tort claims act, those things have to be analyzed, but just as a general matter, liability is greater if there is a risk.

Secretary Director Lane: This proposal came from me as Director. Last year when that person was shot off the back of his ATV only God and the guy who pulled the trigger know the truth, and that being said, he claims that he thought that hunter was a cow elk. If in fact his claim is true, that he did in fact mistake someone on an ATV as a cow elk, that was an avoidable death were that person wearing hunter orange. This is something we have the control over and could have possibly avoided that person's death. Now it is open to debate as to whether it is needed and open to debate as to whether that hunter pulled the trigger knowing it was a person or an elk, but reality is I wanted the Department to bring this forward for you Commissioners, to weigh the pros and cons.

Commissioner Arvas: I would assume that we are all aware of the fact that the species you mentioned are color blind, so really if we look at it from that standpoint, what are we losing by not doing it and what are we gaining by doing it.

Colonel Griego: I think that is just it. Is it going to affect hunter ability to hunt this animal by wearing hunter orange and they are in fact color blind and we have proven across the east and majority of the west that it does not reduce your harvest by making hunter orange a requirement. It does make you more visible to the other people out in the field.

Commissioner Arvas: That is what I needed you to say.

Vice Chairman Salopek: When I came to the Commission, the Director then asked me why and I stated then that I think New Mexico hunters should be able to hunt 30 minutes after sunset like all the other states around us. That was a (unintelligible) unanimous vote, now looking at it, especially that extra 30 minutes now it is a little bit lighter/darker, that is when you need hunter orange because most of us are going to be out either early or be out late.

Commissioner Espinoza: I too am torn. On one side we can't ever be too safe. If we as a Commission and Department have that ability or need, then we should. On the other side, I don't like that we are putting one more regulation out on our sportsmen. And we're putting another burden on your officers to write a citation. Have you considered, rather than a hard line, phasing it in over one or two years?

Colonel Griego: There would not be a hard line, and I can assure you the directive to officers, and I have already discussed this with them, is although a law without enforcement is just a suggestion, it is still an individual who is not wearing an orange vest or hat – not a criminal. There would be leeway as to how it is imposed but eventually there would have to be a line where we are assuring we are getting the benefit of the safety measure. Without a doubt, officers would not be issuing citations just for individuals who forgot to put their orange vest on. It would be enforced as reasonably as possible.

Commissioner Espinoza: Along with that, and you've heard me many times, educating our sportsmen. I hope in the plan is an education campaign to show hunters the benefits, colorblindness of species, chances of harvesting animals because of hunter orange. I hope this is in your long-term plan to implementation.

Colonel Griego: Yes sir, I'm certain it would be.

Commissioner Espinoza: Some states require solid orange, some allow the camouflage orange, are you considering both or either or?

Colonel Griego: As by definition now in the proposed definition, it would be allowable for camouflage orange. It would not have to be only hunter orange, or 244 square inches, so many nanometers, etc. The point is they are visible.

Commissioner Espinoza: And you would like to present this to the Commission for a vote at what time?

Colonel Griego: It will be available for public comment for 30 days so the earliest possible time would be the May meeting of the Commission, but depending upon public comment, it could be the August meeting.

Commissioner Espinoza: And implementation, the season or license year?

Colonel Griego: It would be the next license year.

Commissioner Espinoza: So it would give you sufficient time to educate...

Colonel Griego: Yes.

Vice Chairman: Looking at your example vest here, we would be able to wear a camouflage hunter orange with the green, that would be legal?

Colonel Griego: In the way it is proposed in the definition, yes, that is correct.

Vice Chairman: I think that might change a lot of people's minds in favor or it.

Commissioner Espinoza: Camouflage is intended to break up the solid that was the reason I questioned that.

Vice Chairman Salopek: We still think we're hiding them.

Public Comment:

Guy Dicharry, Los Lunas: I think this is a great idea, and I think you should extend it to all hunters. It is based on your action plan strategy 3.2.2, which talks about hunting regulations that promote hunter and public safety. It should be required for everybody. I've been out horse riding and encountered coyote hunters. You can't see where they are. I think members of the public who may not be hunting at that point, also need to be protected. So I would ask the Commission to consider extending it not just to those species but to non-protected species where there is a risk of people getting shot.

Jess Rankin: I think this is a bad idea all the way around. First off, I don't care what they say – wearing blaze orange makes it easier for animals to see you. I know they are color blind, but if you look at a black and white picture of someone wearing hunter orange, they still stand out. I've hunted oryx a lot on white sand and I have personally guided hunters to more than 60 oryx. I have hunted a lot on white sand and a lot off of white sand and I can assure you hunting off range those oryx are a lot easier to stalk when you are not wearing that blaze orange. Oryx probably have better eyesight than some of the animals do. Another thing, in talking about how other states do it, first off New Mexico was not founded by followers, we were founded by conquerors, we lead we don't copy other states. I'm also going to have to argue about Texas requiring it, I grew up in Texas and a lifetime Texas hunting license since having moved to New Mexico and Texas does not require hunter orange except on some special draw hunts. I just don't feel the government ought to be telling us how to dress. If I want to take the risk of getting shot by not wearing it, being a more effective hunter, well it's my life I'm putting at risk. It should be up to me. I'm no lawyer but I think as far as a liability standpoint if the Game Department just had something in their regulation that said we strongly recommend wearing blaze orange or hunter orange for safety purposes, I think that would get us off the hook just as much as requiring it by law would.

Elisabeth Dicharry, Los Lunas: I am an emergency room nurse and yes, we have seen accidents with non-hunters who have been very close to the Albuquerque area specifically in the west near the El Hito Wilderness and there are people who do get harmed that get nothing to do with hunting, and I think that having some way of warning people about who is out there, and yes I have been out there too, and it really is quite frightening, so I do hope that you will for the safety of our public, start the wearing of hunter orange, and for all species that are hunted both protected and unprotected.

Cecil Haas, Kauffman Outfitters, Las Cruces: We have guided over 400 hunters and every one that we ever asked say that they are glad that we do not have a hunter orange law here. It might be a good idea in some places, they have the option to wear it but they want it to remain their option. I think that should be the way it stays. New Mexico has an excellent safety rating. I think that what you are trying to do is solve a non-existent problem. This appears to be a lot more about control than it is about safety. I think we are stepping right in the same footsteps the federal government has already.

Bob Atwood, NM Council of Outfitters, Belen: First, I would like to thank the Department and the Director for having our safety in their mind, that is commendable. I would like to see more so than what this is, is a stepped-up awareness campaign. I know you do that already through Hunter's Safety, etc. But maybe broaden that and promote the use of hunter orange, offer these nice vests here and increase to the public the benefits of wearing hunter orange. Because it is a safety benefit, obviously. However, the council feels that every individual should have the freedom to make that decision for themselves. The council does oppose mandatory hunter orange.

Commissioner Espinoza: Bobby, hearing these public comments, have you and the Department considered a public awareness campaign just like that and see how that would work versus a mandatory regulation?

Colonel Griego: I am not aware of any campaign to specifically address hunter orange other than what we are doing already through our hunter education programs, but nothing specific to address solely hunter orange.

Commissioner Espinoza: But would that be an option?

Colonel Griego: I think that would definitely be a good tool to use to get public awareness just for the safety of our hunters regardless of whether it becomes a regulation or not, I believe that would be a smart move.

Commissioner Espinoza: I would ask that when you come back to us, address that to see what benefit or downfall versus a hardline regulation.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 19: Proposed Amendment to Taking and Possession of Protected Wildlife for Scientific and Educational Purposes 19.35.6 and 19.36.2 NMAC.

Presented by Field Operations Colonel Robert Griego. The Department presented prospective amendments to the rules to establish consistent benefits to the state and appropriate conservation considerations. These two rules partially overlap, generating confusion. The outdated permit process is not in line with the other Special Use of Wildlife Permits that the Department issues, and places an undue burden on permittees and on the Department. Proposal is to repeal both rules and replace them with a single rule: A new version of 19.35.6 NMAC. Benefit is expected to be establishment of a more efficient process for applying for a permit, establishment of a more efficient process for issuing for a permit, and to ensure that rules and procedures are in line with current statutes and equal right to data generated.

Discussion:

Commissioner Arvas: How many of these permits have we issued in the past per year?

Secretary Director Lane: I know that I sign a lot of these and I question the nature of some of these and if the need to collect wildlife for some of these folks is a valid need. The way the rule is written, there is not much mechanism for these permits to be denied. I want to tighten how and why we let folks collect wildlife for scientific or educational needs. Kristin, how many of these to we issue a year?

Ms. Madden: We average about 175 scientific collecting permits and about 20 to 25 educational permits per year. Most of them are renewals, with a long term.

Secretary Director Lane: I think that data collection need is one that we have been remiss as a Department in getting usable data back from these folks. I think that we can do a lot to bolster our own collection database using those folk's data in the future – a two-prong process we're looking at.

Public Comment:

None.

This being a discussion item, no motion was heard.

AGENDA ITEM NO. 20: Consideration of Application for a Shooting Preserve in Curry County.

Presented by Southeast Area Chief Leon Redman. The Department presented an application from David Stalker of Clovis, NM for a shooting preserve permit for the Stalker Shooting Preserve in accordance to 17-3-35 through 17-3-42, NMSA, 1978 Compilation (Regulated Shooting Preserve Act) and 19.35.3 NMAC, Shooting Preserves.

Discussion:

Commissioner Kienzle: So the license year is through March 31, do they reapply every year?

Chief Redman: Yes, every year they reapply.

Commissioner Kienzle: So do you come before us each year?

Chief Redman: No, once you approve it we ensure they reapply through our office.

Commissioner Kienzle: Can neighboring landowners object when the renewal comes up or when they make license application again?

Chief Redman: They can object. That is something we would bring to the Commission if there is an issue raised on the preserve.

Public Comment:

None.

MOTION: Commissioner Tom Arvas moved to approve a shooting preserve on 330 acres of the Stalker farm in Curry County, as presented by the Department.

SECOND: Vice Chairman Thomas Salopek.

Vote: 5-0

Yes: Commissioner Tom Arvas, Vice Chairman Thomas Salopek, Commissioner Bill Montoya, Commissioner Paul Kienzle and Commissioner Robert Espinoza

No: None

Abstained: None
Absent: None
Result: Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 21: Consideration of Application for a Shooting Preserve in Torrance County.

Presented by Southeast Area Chief Leon Redman. The Department presented an application from Jimmy Corliss of Estancia, NM for a shooting preserve permit for the Corliss Shooting Preserve in accordance to 17-3-35 through 17-3-42, NMSA, 1978 Compilation (Regulated Shooting Preserve Act) and 19.35.3 NMAC, Shooting Preserves.

Discussion:

None.

Public Comment:

None.

MOTION: Vice Chairman Thomas Salopek moved to approve a shooting preserve on 960 acres of the Corliss farm in Torrance County, as presented by the Department.

SECOND: Commissioner Tom Arvas.

Vote: 5-0
Yes: Commissioner Tom Arvas, Vice Chairman Thomas Salopek, Commissioner Bill Montoya, Commissioner Paul Kienzle and Commissioner Robert Espinoza
No: None
Abstained: None
Absent: None
Result: Motion UNANIMOUS. PASSED.

AGENDA ITEM NO. 22: Closed Executive Session.

Chairman Bidegain announced there would not be need for Executive Session during this meeting of the Commission and opened the next agenda item.

AGENDA ITEM NO. 23: General Public Comments (Comments Limited to 3 Minutes).

Bob Nordstrum, Albuquerque: I volunteer where we strongly recommend to people going out into the field during hunting season who are not hunters to put on hunter orange. I am curious the color of the ATV and if that person who was shot off of it had been wearing any hunter orange. I am not as concerned about hunters getting shot as I am about people who are out recreating on public lands. The other question to look at is, do you require this one private ranches on hunting big game?
Diego Serrano, Abiquiu: As a 20-year veteran, the state of New Mexico does not have any type of opportunities for vets that spent a lifetime in the service. Suggest having something for vets that have served 20 years.

Elisabeth Disharry: Pass

Mark Pickering, Sandia Park: Is a lifetime resident, avid sheep hunter. Is the Department still planning to challenge the Terk decision that seems to be the impediment to establishing a non-resident quota for our premiere tags in New Mexico: big horn sheep, oryx and Ibex. Every state that I apply in, other than New Mexico, has a quota and as we just heard, these permits are worth a hundred thousand bucks when auctioned off. I would like to state, as a resident, I would like to be treated in my state better than I am treated in the adjoining states that limit me as a non-resident to 10 percent of the tags. I understand there is a challenge brewing in the legal department but I would like to know if that is true and if so, what is going on with it.

Secretary Director Lane: I can answer that. We certainly are. The Department is actively pursuing a challenge to overturn Terk vs. New Mexico. It is something we are engaged in and I hope by this time next year we have a ruling.

AGENDA ITEM NO. 24: Adjourn.

The Commission unanimously moved to adjourn at 12:16 p.m.



James S. Lane, Jr., Secretary
New Mexico State Game Commission

May 23, 2013

Date



Scott Bidegain, Chairman
New Mexico State Game Commission

May 23, 2013

Date

JSL/kaa