

MEETING MINUTES

NEW MEXICO STATE GAME COMMISSION

June 22, 2017

Inn of the Mountain Gods

287 Carrizo Canyon Road

Mescalero, New Mexico 883409

Thursday,
9:00 a.m. – 5:00 p.m.

A P P E A R A N C E S

Chairman Paul Kienzle

Vice Chairman Bill Montoya

Game Commissioner Robert Espinoza

Game Commissioner Ralph Ramos

Game Commissioner Bob Ricklefs

Game Commissioner Elizabeth Ryan

Game Commissioner Thomas Salopek

DIRECTOR SANDOVAL: Good morning, Mr. Chairman, members of the Commission.

DIRECTOR SANDOVAL: Commissioner Espinoza?

COMMISSIONER ESPINOZA: Present.

DIRECTOR SANDOVAL: Commissioner Ramos?

COMMISSIONER RAMOS: Present.

DIRECTOR SANDOVAL: Commissioner Ryan?

COMMISSIONER RYAN: Present.

DIRECTOR SANDOVAL: Commissioner Ricklefs?

COMMISSIONER RICKLEFS: Here.

DIRECTOR SANDOVAL: Commissioner Salopek?

COMMISSIONER SALOPEK: Present.

DIRECTOR SANDOVAL: Vice Chairman Montoya?

VICE CHAIRMAN MONTOYA: Here.

DIRECTOR SANDOVAL: Chairman Kienzle?

CHAIRMAN KIENZLE: Present.

CHAIRMAN KIENZLE: Chairman Kienzle, I believe we have a quorum.

CHAIRMAN KIENZLE: Great. Thanks. I think my son, Michael, is going to lead us in the Pledge of Allegiance. Come up here, Bud. That good?

(Pledge of Allegiance is recited.)

SPEAKER: Thank you, Michael.

CHAIRMAN KIENZLE: Thank you. Can I get a motion to approve the agenda?

COMMISSIONER ESPINOZA: So moved.

COMMISSIONER RAMOS: Second.

CHAIRMAN KIENZLE: All in favor?

COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: Let's go around the room and introduce ourselves. You want to go first?

GUEST SPEAKER: Good morning, Commissioners, Director, (Indiscernible)

CHAIRMAN KIENZLE: Hard time hearing.

GUEST SPEAKER: Good morning, Chairman, Commissioners. My name's Jim Comins and I am the Assistant Director of the Resource Division.

GUEST SPEAKER: Good morning. I am (Indiscernible/Inaudible).

[Laughter].

SPEAKER: Who's he (Indiscernible).

[Laughter]

CHAIRMAN KIENZLE: Not regularly.

GUEST SPEAKER: Good morning. (Inaudible/background noise from open mikes).

GUEST SPEAKER: Mike Sloane, Chief, Fisheries Management.

GUEST SPEAKER: Morning, Commissioners, members of the public. Stewart Liley, Chief of Wildlife, Game and Fish.

GUEST SPEAKER: Morning. Tom Sidwell, President Elect, New Mexico Cattle Growers Association.

GUEST SPEAKER: Hi. Carrie Ludington, private citizen, and I also represent Otero Indivisible.

GUEST SPEAKER: Morning. Kerri Romero, New Mexico Council of Outfitters.

GUEST SPEAKER: Morning. Colleen Payne, New Mexico Regional Director of the Mule Deer Foundation.

GUEST SPEAKER: (Indiscernible) from Roswell, representing Safari Club International.

GUEST SPEAKER: Mr. Chairman, Members of the Commission, my name is Tanner Anderson [Phonetic]. I represent New Mexico (Inaudible).

GUEST SPEAKER: Carl Johnson [Phonetic], (Indiscernible).

SPEAKER: [Cross talk] . . . involved with something, he was talking about . . .

GUEST SPEAKER: (Indiscernible) Spencer, Environmentalist.

GUEST SPEAKER: Sheila Gardner [Phonetic], Wildlife (Inaudible).

GUEST SPEAKER: Susan Torres, New Mexico Wildlife Federation.

GUEST SPEAKER: (Indiscernible).

[Multiple guest speakers inaudible and or indiscernible, background noise from open mikes]

CHAIRMAN KIENZLE: Okay, I think we got everybody. Good morning. Thank you for coming. Agenda item number 6, approval of minutes of May 11, 2017 meeting in Clayton, New Mexico. Can we get a motion to approve the minutes?

COMMISSIONER RYAN: Motion to approve.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: The ayes have it. Agenda item number 7, U.S. Fish and Wildlife Service appeal of the denial of application to release certain Mexican gray wolves. Why don't you tell us what's going on with that one?

DIRECTOR SANDOVAL: Good morning, Mr. Chairman, Commissioners. We, as you all know the, I made a decision to deny in part an application made by U.S. Fish and Wildlife Service for the importation of certain Mexican wolves in the State of New Mexico. They notified us at the time that I issued that denial that they were going to appeal. And so they requested to be on the agenda. We since then recently received notification from the Fish and Wildlife Service that they are not appealing my denial. So they have rescinded their appeal and the denial stands.

CHAIRMAN KIENZLE: So they are not pursuing their appeal?

DIRECTOR SANDOVAL: Mr. Chairman, that is correct. They have fully rescinded.

CHAIRMAN KIENZLE: Can I get a motion to approve the withdrawal of the appeal of the denial of application to release certain Mexican gray wolves to be presented, to have been presented by the U.S. Fish and Wildlife Service or their designee.

COMMISSIONER SALOPEK: So moved.

COMMISSIONER RICKLEFS: Second.

CHAIRMAN KIENZLE: All in favor?

COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: The ayes have it. Agenda item number 8, update on the U.S. Fish and Wildlife Service wolf recovery plan. Stewart, Good morning.

STEWART LILEY: Good morning, Mr. Chairman, members of the commission. I came in front of you, I was going to come in front to present an update today. Unfortunately, the Fish and Wildlife Service has not presented the draft recovery plan in the Federal Register yet. The draft recovery plan was supposed to be presented approximately June 15th. The Fish and Wildlife Service did not get it published on the Federal Register. So at this time there is nothing that I can present to the Commission. I can let you know that over the course of the last year and a half, almost 2 years, we have been working with the Fish and Wildlife Service on drafting the recovery plan but we have not seen a draft recovery plan that has been posted on the Federal Register. So at this time there is really no news.

CHAIRMAN KIENZLE: In terms of what you have seen, can you tell us about that? I mean, is there anything in writing yet or is it . . .

STEWART LILEY: Mr. Chairman, again as we saw through the drafting and the workshops, nothing was drafted up in writing at that time. It goes through the Fish and Wildlife Service and through their channels, it goes to DC. My understanding right now is, it is DC which has the potential to make changes at that time. And so what it may or may not look like from what we've seen, it's hard to speculate what it could be.

CHAIRMAN KIENZLE: Okay. Would you say that progress has been made, though?

STEWART LILEY: Mr. Chairman, I would agree that progress has been made. The states of Arizona, Colorado, New Mexico and Utah were involved in that process as well as many scientists throughout the U.S., both on wolves in Mexico and in the United States. I think the biggest progress we could say to date is really the involvement of the Mexican government and the draft recovery plan in helping out and providing input and expertise on the ground in Mexico and where wolves could potentially be recovered in Mexico as well.

CHAIRMAN KIENZLE: So what, are there further workshops or meetings set?

STEWART LILEY: Mr. Chairman, as it is right now, the process would be, it's supposed to hit the Federal Register, up for public comment. Hopefully it will be, they're hoping that at the end of this month, we're hoping as well. After that happens, it will be out for public comment hopefully. Sixty days is our guess. They'll analyze public comments then make a final rule. They'll probably meet with the states after the public comment process or after to get the draft but there is no workshop set for that, or forming more recovery workshops. The goal, or the agreements that the Service entered into with litigants on the recovery plan was to have a final recovery plan posted on the Federal Register by November 30th of this year.

CHAIRMAN KIENZLE: Okay. Commissioners, questions? Comments? Yes, sir.

COMMISSIONER RICKLEFS: Stewart, you just general sense of where we're headed of, are you optimistic, pessimistic?

STEWART LILEY: Mr. Chairman, Commissioner Ricklefs, I would say that given the progress that was made in Mexico that it shows that there's substantial habitat still available there so I'd say that's very optimistic. Previous drafts or previous attempts at recovery plans I think didn't look as depth in Mexico as this current plan. We actually went to Mexico on two separate

occasions, met with biologists that are currently working within the recovery or wolves on the ground in Mexico in areas where it may be suitable in Mexico. So yes, I would say that from a standpoint is more optimistic than previous drafts of the recovery plan.

COMMISSIONER RICKLEFS: Are they discussing numbers, for instance in the United States or are they coming close to a recovery number?

STEWART LILEY: Mr. Chairman, Commissioner Ricklefs, what they'll have in the recovery plan is, they're going to have to have the number of populations both within the U.S. and Mexico [Cannot discern Mexico vs New Mexico] and numbers that would be sustained in both the U. S. and Mexico to basically have a low risk of extinction. So whether that be a 10 percent risk of extinction or less, what those numbers mean, but yes numbers are going to be discussed both across populations in the U. S. and Mexico.

COMMISSIONER RICKLEFS: Thank you.

CHAIRMAN KIENZLE: Got anything, Dicky [Phonetic]? Anyone else? Yes, sir.

COMMISSIONER ESPINOZA: Stewart, if you might, a little bit of speculation on your part, you feel good about what you think is going to come out of the recovery plan, for New Mexico at least?

STEWART LILEY: Mr. Chairman, Commissioner Espinoza, I think the recovery plan will be defensible from a scientific standpoint that will be, show recovery and low probability of extinction risks. I also think it will show that Mexican wolves can be recovered within historic range and within the habitat of historic range which includes a large portion of Mexico and the Southwest of the U.S.

COMMISSIONER ESPINOZA: Mr. Chairman, Stewart, I'm glad that you mentioned historic range and I hope that the plan does have the extreme borders, you know, noted on that plan because right now we are already outside of that historic range in New Mexico. And I hope that that's definitely, you know, in their equation with that as well as targeted numbers. I know when they presented to us they mentioned 600, 300. What is that threshold that they're kind of targeting and I hope it's closer to the 200, you know, threshold there. Do you know anything on that?

STEWART LILEY: Mr. Chairman, Commissioner Ramos, again what the process in this, unlike the previous plan that was trying to establish a population that didn't have a recovery goal per se, this one will have a recovery goal in numbers both in the populations in Mexico and the United States that will result in an extinction risk less than 10 percent. And what that exact number will be for each population I don't know until it'll be published on the Federal Register. But it's going to be somewhere, probably similar to previous recovery plans for wolves across the country. You know wolves, Mexican wolves from gray wolves to the Great Lakes wolves are not significantly different from the species biology and recovery efforts will be probably pretty similar in that. But the exact numbers at this point, again, until it's published in the Federal Register and we can all comment on it, because it could change while it's in the process of being in DC and looked at that.

COMMISSIONER RYAN: I'd just like to see this item back on the agenda right now pretty much every meeting anticipating, unless we just don't have a draft by the next meeting, but certainly when we have a draft I'd like to see this agenda item.

CHAIRMAN KIENZLE: I think we will. I mean it—

STEWART LILEY: Mr. Chairman, Commissioner Ryan, in all likelihood a draft should be hitting in the next week or two if it gets delayed because of the July Fourth holiday. But by the August meeting for sure public comment should be going on during that time and that would be the time to really discuss as a Commission if there are public comments that need to be made through the Commission level. Also there should be two public meetings hosted by the Fish and Wildlife Service in New Mexico on the draft recovery plan. I think the plan was one in Albuquerque and one in Truth or Consequences. So those should be happening throughout the rest of this summer and we can keep you posted on that and have the updates for you in the future.

CHAIRMAN KIENZLE: Yes, sir.

COMMISSIONER ESPINOZA: What I've been watching for it, and obviously I hadn't seen it for a reason, so if you don't mind, Stewart, if you would, when you see it hit, would you inform the Commission so we could look at it?

STEWART LILEY: Mr. Chairman, Mr. Espinoza, yes, for sure.

COMMISSIONER ESPINOZA: Thank you.

CHAIRMAN KIENZLE: Any other questions or comments? Public comment. Bryan Bird.

GUEST SPEAKER: Thank you Chairman Kienzle, Commissioners, Director Sandoval. My name is Bryan Bird and I am the Southwest Program Director for Defenders of Wildlife. We represent about 7,000 dues-paying members across the State of New Mexico and obviously we are in support of recovery of the Mexican wolf in our state. And I want to encourage the Commission and to encourage the Department to re-engage in the actual recovery of this animal.

I think the state is an important partner in the recovery and right now, not being part of the recovery itself doesn't say much for our ability to really engage in that process. So I really encourage you all to re-engage. I also encourage you all to allow for the release of more wolves in the wild. We've had some puppies have been cross fostered in the wild this year but we haven't had any other packs released and if we are going to get the recovery of this animal in New Mexico we need more genetic diversity and more wolves on the ground. Obviously we're anticipating the recovery plan as well and will be making comment at the public meetings that Mr. Liley referred to and we are in support of the best available science in forming that plan which we believe means wolves, you know, north of I-40 and I know that's controversial but that, we think, is the best available science. We also think, we hope that, you know, this science will settle this and we can all move forward. Defenders of Wildlife runs a program. We call it our co-existence program. We spend quite a bit of resources and time with ranchers in the wolf recovery area working with them. For every dollar we commit to a range rider or other types of co-existence tools, the rancher can match that money and then the state can match it again. So I really encourage you all to look at that program as well. Thank you very much.

CHAIRMAN KIENZLE: Thank you. Carrie Ludington

GUEST SPEAKER: Hi. My name is Carrie Ludington. Thank you for allowing me to speak today. I'm from Alamogordo and I represent Otero Indivisible which I founded in January. It's a political activist group. And I'm proud to say I was born in New Mexico. I cherish the natural resources of this state, the scenery, the plants, the wildlife. I love that New Mexico is home to remarkable animals such a bears, mountain lions and wolves. We have a chance to save the Mexican gray wolf from extinction. Do we want to be the generation that causes an animal to die out, or do we want to be the ones that saved it? Biologists and scientists have found that wolves

have an enormous positive impact on the natural ecosystem. There was a study done in Yellowstone that showed that the wolf population made everything healthier, from all the other animal populations, allowed beavers to come back in. It changed the rivers because the banks became healthier because it was eating—they were preying on the elk and deer that allowed them to go back into the forest and not eat all the vegetation. It can also have a positive effect on the local economy; 150,000 people visit Yellowstone each year specifically for the wolves. If we can get a great population up here in New Mexico, that can add to our tourism industry, create jobs and bring more money into the state. We need to give the recovery program what it needs to be successful based on the best available science. And the biologists say that at least 750 Mexican wolves need to live in the wild to be a healthy, sustainable population. They say that they need to roam north of I-40 into Colorado and Utah and that we need to release a family pack immediately. We need to listen to these scientific recommendations. Thank you for letting me speak today so that I can help save this species so when my children grow up they can also be proud to be from a state where wild wolves live. Thank you.

CHAIRMAN KIENZLE: Thank you. Kayla Garzan. [Phonetic]

GUEST SPEAKER: Hello. Thank you for having me today. I'm a wildlife researcher from Southwest New Mexico. I've been all over Arizona, Texas, New Mexico. I really, really love the wildlife that's out here. I think it's great for the tourism industry for all 3 of the states.

Particularly today I am here to support the wolf recovery plan. I think the plan should be based on the best available science and created by hardworking people who not only want to find a solution for the wolf recovery but also pragmatic solutions for ranchers so they don't get trapped in the cycle of constantly having to defend their cattle from this top predator. Given what we know of their diet, their behavior, and the conservation, there must be a way for scientists and

ranchers to come together. We all know that people aren't going to stop eating meat. We know that the ranchers provide food for tons of people all over this country. But we also know that we need to be responsible stewards of the planet. So I think that we can work hand-in-hand. It doesn't have to be an all-or-nothing solution on either side of this debate. So I'm really looking forward to something developing out of this. We all know wolves were an important part of the food web in their native range before extirpation. In fact, top predators in general keep ecosystems functioning normally but consumers such as elk, deer kept at healthy population levels from year to year. And in truth, producers such as wild grasses and (Indiscernible) thrive. And I believe an abundance of grasses of benefit that we can all agree on. So, with scientists working harder than ever before to make data public and easily accessible and as transparent as possible, anyone can understand the conclusions that the Fish and Wildlife Service and others have come to. So combine that with these great nonprofit organizations working day in and day out to address ranchers' needs and try to figure out what they can do while insuring the Mexican wolf can thrive in the ecosystem, I believe we can all work together to give this recovery plan a chance. So I'd like to thank you for your time. I really appreciate it.

CHAIRMAN KIENZLE: Thank you. Julie Schlicta, Shlict? Which one? Shlictee [Phonetic], all right.

GUEST SPEAKER: Thank you for your time today. I am also here in support of the Mexican wolf recovery plan. Echoing what Ms. Garzan [Phonetic] said, I do believe that ranchers and scientists such as myself can work together. Everyone knows, you know, how a food web works. You see when a top predator, a keystone species, is taken out like the Mexican wolf, that, you know, of course the elk, the deer populations go up and ranchers are very worried about increased predation upon their calves. But working with them to rotate the livestock into

different areas not only benefits the grasses themselves and the rest of the ecosystem, but also leads to Mexican wolves eating less than 10 percent of their diet that is livestock. They prey upon the major herbivores so without the Mexican wolves, grasses go away. Without the grasses, we have no more cattle. So it's a win-win, introducing more Mexican wolves. And the numbers do need to be higher. We can't keep a population at 200 or 300 and have the genetic diversity needed for the Mexican wolves to thrive and not have inbreeding depression. So there are quite a few captive populations that are ready to be released into the wild and if that's allowed to happen, everyone benefits. Thank you very much.

CHAIRMAN KIENZLE: Thank you. Tom Sidwell.

GUEST SPEAKER: Good morning, Mr. Chairman and Commissioners. I'm Tom Sidwell, President Elect of the New Mexico Cattle Growers Association. And I ranch on the east side of the state, south of Tucumcari. We've heard that the ranchers need to this and need to do that, and these comments are coming from folks who really do not know the economics or the operational requirements of a ranch. And when a rancher loses a calf or loses a cow. That's the factory. You're losing a part of your factory. And compensation is something I think would bring a lot of ranchers closer. Now I know that Defenders are doing something. But there's not enough money. There's also a problem with confirmation of kills. I know where, what my cattle, any death that occurs in my herd, and most ranchers are the same way, they know what's causing it. And when all of a sudden you have wolves in the area and your death loss goes up, even though you can't confirm that it was actually a wolf kill, it's got to be from that. Plus, the stress that's placed on these cattle which reduces conception rates, reduces productivity. So there's, there's a lot that needs to be done and I think there's just not enough being done in working with the ranching community. I think most of the ranchers in this room are in Zone 3. And in Zone 3, we don't

have the prey. So what are the wolves going to eat on? Well, they're going to start eating on calves to start with. I was in Mexico about a month ago, bi-national meeting between the cattle growers' organizations, New Mexico, Arizona and in Mexico. One of the issues that came up was Mexican wolves. Some of the ranchers told me, said Well, last week we had 3 wolf kills on our ranch. Now they disappeared. So they didn't say exactly how they disappeared but I think you know how they disappeared. And I'm going to leave it at that. Thank you.

CHAIRMAN KIENZLE: Thank you, Mr. Sidwell. Sterling Spencer.

GUEST SPEAKER: Chairman Kienzle, Commissioners, I come before you because I look to you at making decisions from science, historical reference, and sound decision. I would ask you to go back and look at the history of the Mexican gray wolf. I happen to be involved when the first meetings were at White Sands Missile Range and they were discussing doing a test case before they even hit the level that came after that. The references were made, and if you'll go back and look in the text and the history, one of the great scientists and environmentalists, Aldo Leopold wrote that the Mexican gray wolf was not indigenous to New Mexico and at best was transient mainly because of the availability of prey and the habitat and environment. So I don't know why we're trying to introduce something that is not indigenous or historically of location. So I'd ask this Commission and the Director to go back and read the history and many of the people that are opponents of introducing the wolf reference people like Aldo Leopold as their leadership in science. And it is a total contradiction to what is happening today. Thank you for your work that you are doing in trying to block or manage or whatever other things that you've got in mind for this, and let history and science prevail. Thank you.

CHAIRMAN KIENZLE: Thank you. Karen [Phonetic]. Nice to see you again.

GUEST SPEAKER: Good morning, Mr. Chairman and members of the Commission. I'm here on behalf of the New Mexico Wool Growers Association. And I appreciate the opportunity to speak on this topic. We in the livestock industry support the idea of a recovery plan. If we don't have a recovery plan, this is just shotgun out there, literally. So we totally agree there needs to be a recovery plan. We don't appreciate the fact that we were shut out of it. And to our knowledge, there is no livestock representative in part [Phonetic] of this plan. So we are very fearful of what the plan will be. It is true that we could work together with the scientists if they would work with us. This continual shutting us out of the plan, shutting us out of the conversation, saying that we have no economic benefit, you know, it makes it impossible to work together. You know, the comments about range management, most ranchers are not livestock operators. They are grass farmers. And if they don't manage their livestock to grow the grass they know they're going to be out of business. And it would be really nice if these people that want to tell us what to do would ask what we're doing first. And finally, we had an incident this week that is just real telling of what the whole situation in compensation is. I had a member yesterday send me a picture of a wolf with a calf's head in it, walking through, down the side of the road. Initially they were going to call that a non—not even a probable, because they couldn't find the rest of the carcass. Well, if they would necrop—take that wolf out and necropsy it, I guarantee you where you're going to find the rest of the carcass. They finally decided that it was only probable. Now the wolf has a calf's head in its mouth but because it was a picture and not an actual sighting and they couldn't document exactly when the picture was taken, it's only a probable. These are the kinds of things that drive you insane.

CHAIRMAN KIENZLE: Thank you. That's the end of public comment. Any questions or comments from Commissioners? I think we're all eagerly awaiting the recovery plan. So I think

a lot of the decisions to be made by the Commission and Department hinge on that plan. So whatever we can do to move that process along, because that allows for short and long range planning, allows the Commission to make policy decisions, and allows people to weigh in on it. So until we get a recovery plan, I'm up here twiddling my thumbs, you know, waiting to get a document that I can work with, analyze and figure out will this work for our state or won't. So, and I sympathize with everyone on every side of this debate. And it's, I know it's frustrating across the board. But when we have a recovery plan or whatever the plan is that we've got that, at least I feel, is out of date, I just don't feel we're at a position where we can make any good decisions. And I respect what every side has to say. But until we get more guidance from the Fish and Wildlife Service as to which way they want to go, I think we're just—I know on one side, we would say shooting in the dark but I don't know what you would say on the other sides. So, until we get more and better information we're just not in a position to make hard and fast policy decisions on what really is an important subject for the State of New Mexico. I will say at least personally I don't want to see this animal go extinct on my watch. But there, we are here as a policy making body and that is weighing a lot of different policy interests. And I respect people when they say use the best available science. But even when you have the best available science there are policy implications that flow from that. So I think that when people want to make this a black and white issue, I don't think it's strictly a black and white issue. If it were, you wouldn't need me. Some of you would say, great. But these are not simple issues. There are a lot of different people, and you heard from a lot of different stakeholders today. And so, this is not something where you—I don't think you get to pick favorites. You're really going to have to do a balancing act here. I'm hoping that the Fish and Wildlife Service gives us some of those tools we need to balance a lot of interest that—you know some of them may be irreconcilable. But

I'm hopeful that with the right tools and the right mindset we can, you know, come to a resolution that maybe everybody hate [laughter] but at least it's a resolution that finds some middle ground that we can all live with. So, anyway, that's one man's opinion, not necessarily the opinion of the Commission. But having worked with the people up here for some years now, I do believe that ultimately this will get a fair, if this issue comes in front of us and we have to vote on it from a policy perspective, I am certain it will get a fair hearing and I will make sure that it does. And I will point out for the farming/ranching community, we do have a rule in place that does require the Fish and Wildlife Service or the Federal government to come in front of the Commission and make application to release large predators. Among those animals is the wolf. And so there is a public transparent process for any wolf releases to occur. And that is no guarantee that wolves will or will not be released. But at least it's a public process now where both sides if there's only 2 sides—maybe there's 10 sides—but they can all come in front of us and have their say on this. And that process is currently in place and we've used it like 2 or 3 times, I think, over the last 18 months. So to the extent people in the State of New Mexico want some measure of local control over their own destiny, that rule was designed to do that. It's not designed to have a pre-ordained outcome, but it at least gives all of us a say on what I consider a very important issue for this state. Well, anyway, one man's opinion. Any other questions or comments from Commissioners? Thank you. Alexa, awards of excellence and dedication to wildlife management, agenda item number 9.

ALEXA SANDOVAL: Good morning, Mr. Chairman, members of the Commission, members of the public. At the last commission meeting, we presented a number of awards for staff that have done an amazing job. I think all of our staff does an amazing job. But these were folks that were nominated by their peers throughout the Department. We had one individual who could not

make it to the meeting and so he is here with us today. The award I will be presenting is the Rising Officer Award. This individual received a number of nominations, actually, from a number of his peers throughout the Department. And it is very impressive to read through those letters. The comments that were made is that he's very professional, he's tenacious, he's a hard worker, lots of really wonderful comments about the work ethic and the pride that he takes in being an officer. And he started off his career, he's new with us. He's fairly young, less than 5 years. He started off his career in Cuba which sometimes can be a tough district to start your career in, and then later was promoted to corporal in the Tier C [Phonetic] supervisory district. So without further ado, I would like Officer Jake Baulch to come on up and get the Rising Star Award. [Applause] While he's one of many officers out there doing an outstanding job, but again, congratulations, Jake. Thank you so much for your dedication to being an officer.

SPEAKER: Thank you.

CHAIRMAN KIENZLE: Picture.

ALEXA SANDOVAL: Picture. Late cameras.

SPEAKER: Let's all get in it.

CHAIRMAN KIENZLE: Congratulations.

[Applause]

CHAIRMAN KIENZLE: Anything further?

ALEXA SANDOVAL: No, Mr. Chairman. Thank you.

CHAIRMAN KIENZLE: Congratulations. Agenda item number 10, revocations. Darrell and Ty.

DIRECTOR SANDOVAL: If I may, Mr. Chairman, as a point of personal privilege, please, there's a few folks that need some introduction, if I may.

CHAIRMAN KIENZLE: Sure.

DIRECTOR SANDOVAL: We have a new counsel for the Commission, Mary Lou Pauly [Phonetic] is from the Attorney General's Office and she'll be with us here at commission meetings. Sitting in front of you now is Darrell Cole. He's been with us for a while but recently received a promotion to the Revocation Manager for the Department. Anita [Phonetic] who is standing over there in the doorway, came from our HR Division and is now over in the OHV [Phonetic] program, excuse me, Hunter Education. She just loves OHV that's why it sticks in my brain. Sorry, Anita. And so, you've got a number of changes in the Department and we will be hiring a new round of recruits here fairly soon. But I just wanted to acknowledge a few personnel changes within the Department.

CHAIRMAN KIENZLE: All right.

GUEST SPEAKER: Good morning, Mr. Chairman, members of the Commission, and Director Sandoval. I am here today standing in for Colonel Griego. Agenda item number 10 will be license revocations. Today in front of you there will be two groups. Our first group will be 115 individuals who are subject to the Parental Responsibility Act. Essentially, they haven't paid their child support or are out of compliance. Group number two will be the suspension of 176 individuals who have failed to have paid a penalty assessment citation within a 30-day time frame per statute. Group one, again those 115 individuals have been certified by the HSD as

being out of compliance with the Parental Responsibility Act. The Commission is required to suspend all license privileges of those who are out of compliance until they return into compliance. So they can return as this is a suspension. They can return into compliance at any time when they get caught up and pay a \$25 reinstatement fee.

CHAIRMAN KIENZLE: This is an action item. Can I get a motion on group number one, please?

COMMISSIONER RAMOS: Mr. Chairman, I move to authorize the Department to administer the suspensions on behalf of the Commission including the issuance and service of a notice of contemplated action to each individual listed that is out of compliance with the Parental Responsibility act.

COMMISSIONER MONTOYA: Second.

CHAIRMAN KIENZLE: All in favor?

COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: The ayes have it.

GUEST SPEAKER: Group two, Mr. Chairman, is the failure to pay a penalty assessment citation. We have 176 individuals who we have identified who have not paid their penalty assessment within the 30 days allotted 17.21.02 requires that all PA's must be submitted within 30 days of issuance and 10.3 authorizes the Commission to revoke them if they fail to pay. Again, these are going to be suspensions. If they pay their penalty assessment they come back in.

CHAIRMAN KIENZLE: Question?

COMMISSIONER: Mr. Chairman, Ty, are these suspensions until they pay their penalty assessment?

GUEST SPEAKER: That's correct.

COMMISSIONER SALOPEK: (Indiscernible) I guess when we open the fishing rule, I'm looking at the failure to have a second rod. Wouldn't it make sense to let one fish for two rods? To me, it's padding [Phonetic] to write a ticket for a second rod (Indiscernible/feedback from microphone) Anyway, I'll bring that up during fishing. (Indiscernible) It's not in today's but I have a person I know that got revoked and he was hunting on the (Indiscernible) imaginary line. I'm kind of looking at this hunting in the wrong unit, first offense, is 20 points. And I'm not so sure, you know, we're persecuting people that might not know, for 20 points that—now, if you're blatant and you kill an animal, 10 and 10 would probably get to 20 to where you're losing your license for 3 years. But I would like to be, and I was going to, I talked to Alexa on this and this is going to be somewhat of my push to see if it's feasible for first time hunting in the wrong unit, and I'm not talking about a highway that separates 36 and 37, I mean if it's a questionable area, can we have some leniency but we don't. And the other part that I see that's coming up is these judges are telling the people that got tickets that, well just plead no contest and it's over. Well once they plead no contest, it's the 20 points, so they're being directed with the wrong information. Then they're going before you and it's, it just doesn't seem right. Just seems like it's, there can be some leniency I guess is what I'm saying. And I just wanted to bring it up so we can, you know, hopefully get on the same page thinking something like that.

GUEST SPEAKER: Mr. Chairman, Commissioner Salopek, I understand completely where you're coming from on that. There are a couple of issues I'll just address individually. On the 2-

pole citation, that would require a statutory change. That is a requirement per statute to remove that stamp. And so that's definitely something that could be done. It would require legislative action. As far as the 20 point revocation, I believe Colonel Griego would agree there are several things in the revocation rule that probably should be looked at as far as points assessment. We're working on that right now. At some point, whenever the Commission decides that that's something that you want us to bring to you, we would be happy to do that.

COMMISSIONER SALOPEK: Would that be addressing the legislative correction?

GUEST SPEAKER: I got the right person in here. Candy's in here to get anything done we want.

CHAIRMAN KIENZLE: Correct.

GUEST SPEAKER: So the points assessments are up to the Game Commission.

COMMISSIONER SALOPEK: Points is what I'm looking at. We don't have to go legislate. I'm just thinking there's some things that can, they just, I don't know. There's honest people making mistakes and they're getting persecuted for 3 years.

GUEST SPEAKER: Sure.

COMMISSIONER SALOPEK: And then it also, now one guy that got a hunting, it kicks him out of fishing. So, like you know, it's just, I just think there's things outside the box to give the average hunter, fisherman, woman, a chance that okay, they made a mistake. But we don't have to persecute them for 3 years. That's just my opinion.

GUEST SPEAKER: As to your third point, as far as judges. As you know most of our cases go in front of magistrate judges. Magistrate judges for the most part do not have a law degree in

New Mexico and they are elected officials. So we have a limited amount of influence over what they do and don't do in their courtroom. We do try to have conversations with them to make sure that they're aware of what's up or what's going on. We are, to your point, we are having, Colonel Griego and I are going to have a video conference. I believe it's going to be in the middle or end of August, with all of the magistrate judges statewide that choose to log on. It's part of their annual training to address any issues that they have especially with Chapter 17 or Game Commission regulations as well as addressing any issues or any updates that have happened in the last year or so. Thank you.

COMMISSIONER RYAN: I think you guys are just kind of in the hot seat today on revocations even though we don't have big revocations to consider today. We're dealing with Parental Responsibility and failure to pay penalty assessments. But revocations have been, it's now a target at least for me personally because I'm seeing failures to care about due process at multiple levels, both at the time the officer is writing up the sportsman through the process of the hearing in the magistrate courts, how information being provided to these individuals on the effects of their pleas. Once they go in front of the hearing officer, reading transcripts of those hearings I have grave concerns about the hearing officer and including the testimony given by previous revocation managers. So I'm optimistic to see new personnel there. I'm optimistic to see the house cleaned. There was a Department failure on the backlog of revocations and you can't wait 3 years to bring revocations or come to us a year after a hearing and then expect a revocation to then not start ticking until the Commission approves it when these guys can't hunt for 3 years. They've already put in their time if the revocation is even appropriate in that case. So in my mind there are failures at multiple levels and I really, really want to see the house cleaned and I really, really don't want to see revocations back in front of us that should never have ever gotten

to the point of even going in front of the hearing officer in the first place and probably never even going to magistrate court. I don't like some of the caught [Phonetic] mentality that happens with some conservation officers. It's not across the board but there are bad eggs and in those instances it should never even come up the line when someone just has a second fishing pole or, you know, fills in, a typo wrong on their harvest report. We don't need to be seeing those revocations. It's inappropriate and I would like to see our Commission rule regarding revocation we do have control of. And I would like to see on our agenda a proposal to revise that rule to address the language that says it's not an automatic 3-years but there is discretion on whether before it even comes to that point. So, I would like to see some good discretionary language put into the rule itself and I think that'll help but I just want to see due process followed in these cases because if we are following due process then the bad actors, those guys that are out there, the criminals that we need to be prosecuting, that need to have their licenses revoked, that need to be in jail, we want to make sure due process is followed so that those bad guys are put away and that we're not punishing, you know, mistakes and administrative issues. So that's my soap box on it. And I'd be glad to assist or visit. I know Director Sandoval is very aware of the issues and so I appreciate it. I appreciate seeing a new face in Revocation. Thank you for your leadership, Mr. Jackson, too, and Colonel Griego and I think, I look forward to seeing a lot better division there.

GUEST SPEAKER: Mr. Chairman and Commissioner Ryan, just to address that real quick. We are working as hard as we can, as quickly as we can, to get caught up. That's a problem that I've recognized for 2 years and we've been trying to get caught up. Due to the requirements in the rule, there's certain process that we have to do and it is, unfortunately, very time consuming. It takes a lot of time to get these here, but we are working extremely hard. I know that Officer Cole

here has, since he's taken over, he's just, he's been working literally every day, all day to get caught up on these. So we are trying to do that as soon as we possibly can.

COMMISSIONER RYAN: Thank you so much.

GUEST SPEAKER: I guess one other issue just to address real quick is, I know that you've, we've, you've had some stipulated agreements in front of you in the past. We are working those as well to address those issues where the rule requires that we assess them 20 points. The rule requires a 3-year revocation. However, the officer in most cases, these are initiated by the officer. They recognize that 2 fishing tickets will get you 20 points and until the rule is changed there's not a lot we can do as far as points assessment. The points assessments are what they are. We are trying to address those through stipulated agreements and handle it that way where it, based on the circumstances, it's more proportional to the crime committed.

COMMISSIONER RYAN: Absolutely. And that's a great way to handle it.

CHAIRMAN KIENZLE: So will you loop back with the Director?

COMMISSIONER RYAN: Yes. I will get with the Director and suggest some language to our rule that maybe, for us to consider and discuss.

COMMISSIONER SALOPEK: And I agree. I think that should be used more. Where I'm coming from more, because we have the Gila and this ticket, they come from 16B, so here's your imaginary line. Wow. So maybe missed it by 100 yards or 200 yards if that's the case. Okay, so we have the rules in place but the stipulated agreement, I like that to get by for now. But you can see how we're thinking. At least that's how, it's given me heartburn for a long time. I finally said, I need to say something.

CHAIRMAN KIENZLE: Sure.

COMMISSIONER SALOPEK: So I'm glad you guys are doing it, you know, looking at changes.

GUEST SPEAKER: Mr. Chairman, Commissioner Salopek, again the boundary descriptions are at the discretion of the Commission. Again that's a rule. So if that's something that needs to be addressed in a particular area, that would be at your discretion.

COMMISSIONER SALOPEK: You know, the biggest one, the heart, that gives me heartburn, is the Gila, I mean the wilderness, because it could be, it could not be. Sometimes the road, you know, if it's a highway, you know, maybe a hunter [Phonetic] more than likely between units 36 and 37, and I had a good friend who got a ticket because they killed the deer over here, seeing their GPS is here, and I asked him, I said, well, where's the boundary. And they said, the highway. And I said well why were you 8 tenths of a mile this way, that's a ticket, plus you killed the deer. That's a ticket. You need to be out for 3 years. That was blatant. If it's blatant, I don't question anything. There's some that is just, they're, we can have a little bit of room, a little dib I think.

CHAIRMAN KIENZLE: Sure.

GUEST SPEAKER: Mr. Chairman and Commissioners, as you, as I am sure you are well aware, the story to you is not always the complete story.

COMMISSIONER SALOPEK: Oh, yeah. That's good.

COMMISSIONER ESPINOZA: Mr. Chairman.

CHAIRMAN KIENZLE: Yes.

COMMISSIONER ESPINOZA: While we're kind of on the subject on stipulated agreements and stuff, that one of the things I'd like to see, maybe a recommendation of Commissioner Ryan when she addresses this is we, because we've done this in the past where we've lowered the assessment say from 3 years to a year. The individual is sitting in the audience and I've made a recommendation, you know, to—as part of us doing that, that he would put some of his efforts back to the community as sportsman to help kids or whatever and that. Every one of them said, I'll get back to you. I haven't heard from a one of them. So, you know, I would like to see some language. If we're going to do that, then you know, let's get them back in, get some community service for lack of better words, if that's possible in the language. If we could give them some leniency a little bit and put a stipulated agreement, get them back to working with kids and wildlife and let them know what they did has some benefit to our sportsmen and our kids . . .

GUEST SPEAKER: Mr. Chairman . . .

COMMISSIONER ESPINOZA: . . . would address that issue, I would appreciate it.

GUEST SPEAKER: Mr. Chairman, Commissioner Espinoza, we can look into that. We are a little bit limited and this is not a criminal sentencing process. It's an administrative only. And so we would definitely have to research that before I'd say we can or cannot do that.

COMMISSIONER ESPINOZA: What I'm saying, yeah, research it. You know, if it needs to be part of a rule then let's address it as a Commission. Bring it to us and we can talk about it and make a rule with it if the Commission so desires.

GUEST SPEAKER: Yes, sir.

CHAIRMAN KIENZLE: With that, I think I need a motion on Group number 2.

COMMISSIONER ESPINOZA: Mr. Chairman, this is a motion on the second part. I move to revoke the hunting and fishing and trapping license privileges of 176 individuals who have failed to pay a penalty assessment within 30 days of the violation as presented by the Department.

COMMISSIONER MONTOYA: Second.

CHAIRMAN KIENZLE: All in favor?

CHAIRMAN KIENZLE: The ayes have it.

GUEST SPEAKER: Thank you, Mr. Chairman.

CHAIRMAN KIENZLE: Agenda item number 11, Initiation of manner and method rule amendments 19.31.10 NMAC and associated species rules to allow for the use of magnification/clarification devices on archery equipment.

TY JACKSON: Mr. Chairman, members of the Commission, again, if you recall we began this discussion roughly a year ago. I believe I brought this in front of you. I was asked while Colonel Griego is out to bring this up again. This is a discussion item only. There's not a vote today. It is not an action item. This is just a little bit of review on what we've already discussed. The current rule, as it is written, I believe it is in front of you, but the main portion that we would be addressing is that sights on bows shall not project light nor magnify. This was brought up primarily as a concern of hunters who are having issues with eyesight or aging hunters. Again they're having a hard time when they bow hunt seeing their pins so close to their face and some of those hunters just can't distinguish those pins at that distance without some sort of optic essentially. Just a review. Magnification verifier device is just a single lens that goes in your peep on the string. And I can expand on any of these but this is review so—versus a clarifier. A

clarifier is basically two lenses and this is just a description, again, of what it does. It just clarifies those pins in the foreground for those individuals who have a hard time seeing at that distance without some sort of optic. Another question that has been brought up is the use of scopes on bows. This is a subject that some bow hunters are adamantly against, some are adamantly for. The way we can address this would be a simple change. It would address all three issues of verifier, clarifier, and a bow to simply change or strike the wording that they shall not magnify, the sights on both shall not magnify. So the reading would be, sights on bows shall not project light. It would just remove a little bit of language there. This would require a change in manner and method rule as well as all of our species rules. So you'll see on your briefing there, there's a long list of the rules that apply. But it's all of our species rules because that bow definition is in all of those rules. The use of crossbows during an archery hunt would still be limited. It would not address that. It would not change that, I'm sorry. It would only allow crossbows for those who are mobility impaired. And with that I'll stand for any questions that you have, or go back over anything.

COMMISSIONER RAMOS: Chairman, Captain Jackson, thank you again for bringing this item to the agenda. I know it's been over a year. And I'm just kind of looking at a global view. And looking at fair chase as well as ethical shooting, abilities, you know we have rules where we allow a rifle hunter to hunt with a scope that has a range finder in it, that has an illuminated reticle in it as well. And to me, it a hunter is going to take an animal ethically and make a thousand yard shot versus a hundred yard shot, you know what? That is totally up to their ability levels and I don't want to get into that. To me the main goal is to take an animal ethically and expire them as quickly as possible. And so when I look at archery, and I'm saying archery as a global, I'm talking crossbows and archery bows from recurves, longbows to a compound bow.

And I think they all need to be comingled including the compound bow. Now I'm not saying to allow anybody to use crossbows during an archery season although handicapped or mobility impaired people can use those with permission or whatnot. What I'm looking at is clarifiers. If you go right now and try to purchase a clarifier, you're going to have a hard time figuring that out. It's so hard. So I think what we need to do is just open it up and just allow scopes, illuminated reticles, illuminated pins in archery equipment. Why do we limit archers? You know, if somebody wants to hunt with a longbow, you know what? I really highly respect them. But on the other hand, if somebody wants to use a 4-power scope which is difficult to hold, you know, and their able to do that, let's not limit them. To me, it's about ethical harvest of that animal and placing that arrow, you know, in the goodies [Phonetic] to expire this animal. So to me, I think this rule is horrible the way it currently is. And I was hoping to have it more of an action item today rather than another discussion item. But we need to again, cross bows, archery equipment from long bows to compound bows, because when you stop and you decipher the difference between a compound bow and a crossbow, the energy levels are about the same, they are about equal. One doesn't outweigh the other. About the only difference is one has a trigger that you have pre-cocked versus having to draw a bow in general. So, you know, let's make it simple again. It's a harvest goal. Let's let them harvest them the most ethical way possible for that individual. And I know that the controversy on that is illegal people that are misusing a crossbow at night and using a light on there for example. And it's hard to prove those cases. But to me, we're penalizing that 95 percent of the hunters that are out there doing the right thing for ethical harvest.

TY JACKSON: So, Mr. Chairman, Commissioner Ramos, I think with the language here as it sits there, I think that would address all of your issues I believe. As far as lights on pins,

illuminated pins, where basically they put whether it's a battery powered light or a fiber optic or a, you know, a glow stick essentially in there where it just lights that pin up, that is currently legal. That doesn't project light out. And so that is currently legal. If we allowed scopes, for example, and it had an illuminated reticle, that would also be legal because it is not projecting that light out. The projection of light is not just an issue in here. It would actually, if we allowed that, it would actually provide a conflict with statute for hunting with the aid of artificial light. So I think that this accomplishes, I believe this accomplishes what you're seeking. If there's additional changes, we can sure consider those.

COMMISSIONER RAMOS: So this, it's still going to be illegal to illuminate light out to shine on something, not spotlight but a light which I agree, it doesn't. I'd like to scope. You know, we bow hunt. Shot placement's everything. And if you, even with the scope, you know, maybe 20 years ago I don't know if you would have seen me and Ralph on this side of the fence saying, but we're getting older. But that being said, when you have shot placement and you can see, that's everything. It's fair to the animal, and it's—I like, I very much like, what we're doing here.

CHAIRMAN KIENZLE: Thank you.

TY JACKSON: Mr. Chairman and Commissioners Salopek and Ramos, one other issue is the, essentially the way that this in front of you reads with the definition of bow. It mirrors how crossbow is already written. So it would not require a change to the definition of crossbows. We already allow scopes on crossbows, when you can use them. So . . .

COMMISSIONER #1: And that only works, I mean that works great also because it doesn't change it for the crossbow because if you drive, if you draw a muzzle loader hunt or rifle hunt, you can come hunt with a crossbow . . .

SPEAKER: That's correct.

COMMISSIONER #1. . . or whatever. So that's perfect.

COMMISSIONER RAMOS: Captain Jackson, so currently a hunter can hunt with a crossbow with a scope on it?

TY JACKSON: Mr. Chairman, Commissioner Ramos, that is correct, during a muzzle loader hunt or during a rifle hunt, they would be allowed to use a crossbow with a scope on it.

COMMISSIONER RAMOS: But not during an archery hunt for mobility impaired?

TY JACKSON: That's correct.

COMMISSIONER RAMOS: Okay. And so we'll be able to allow that.

TY JACKSON: Currently that's not allowed, so this would standardize it essentially across the board.

COMMISSIONER RAMOS: Thank you.

COMMISSIONER RYAN: Captain Jackson, thank you very much for presenting this agenda item today. I'm very supportive of these changes. We should be supportive of enabling sportsmen for the better ethical take of animals and this does that and it still is fair chase. So thank you, and I'm supportive and happy to see the Department with, propose these changes.

COMMISSIONER: Mr. Chairman, I, this kind of goes back to, you know, when we started this a year ago with that technology. As we move through technology, every day there is new technology that comes about and putting it into rule to allow sportsmen to use that technology, again echoing Commissioner Ramos's statements, you know it provides that individual with a

better means to ethically take that animal. You know, if a clarifier or verifier, whatever it is, I'm not a bow hunter, so if it helps that individual see those pins better, all of that, just technology's available. We're building it every day. I think it's a wonderful thing that we're addressing it. Thank you for bringing this to us. One of the recommendations I would like to make was, Commissioner Ramos and Commissioner Salopek are kind of archery hunters. You know, you might work with them to—I know he wants to move crossbows up someplace here to get this rule cleaned up. I would trust them and I would ask the Chairman to put this on the August agenda item as an action item so that we can get it in place for the upcoming season.

CHAIRMAN KIENZLE: Anything else? So when do we see this again?

TY JACKSON: Mr. Chairman, that is up to you.

COMMISSIONER: Next meeting.

CHAIRMAN KIENZLE: Well, it will probably be the next meeting. But it sounds like we have some work to do on it? You have [crosstalk] and so what appears simple today will not be simple after the Director's presentation on the new rule making process. So ...

COMMISSIONER: Do we have different rules to play by now?

CHAIRMAN KIENZLE: New rules to play by starting in July. But it does sound like there are things that you're interested in that are not currently in what was proposed today. Or do you like what was proposed today?

SPEAKER: This one right here.

COMMISSIONER RAMOS: I think we could just tweak the crossbow end of it as well as illuminated reticles, pins, and you know, not broadcasting or spotlighting something out there, but all within your equipment.

TY JACKSON: Mr. Chairman, Commissioner Ramos, I believe as it's currently written that the crossbow definition already addresses that. The crossbow definition looks the way this will look if we change this.

COMMISSIONER #1: Back to you, Chairman, my question is, since we've already talked about it a year ago and we're talking about it a second time, couldn't we again expedite it into this next meeting? I know there's a new ruling and whatnot but I wonder if that could be considered as part of the equation?

CHAIRMAN KIENZLE: Are you a gambling man? [Laughter] Which is to say, who knows what a court would do with something that bridges the gap. Typically if the process is formally started, you're on surer footing than maybe where we are now, where I don't think we've got a definitive—it's not as definite as I would like to see it. So my guess is, we may very well fall into the new process instead of the old.

SPEAKER: Okay.

CHAIRMAN KIENZLE: Like I said, if you want to roll the dice . . .

COMMISSIONER #1: No, I'd rather not roll the dice. And I respect the Department and making that determination to guide us where we need to go . . .

COMMISSIONER #2: Can I ask you a question? So even with the new process we have to go through, that's fine. Could we make this retroactive for our hunting season that starts September first?

CHAIRMAN KIENZLE: I don't think that's a problem.

COMMISSIONER #2: If we can get it done by September first, then everything's fine, can we send out something that says, okay rules have changed for this hunting season?

DIRECTOR SANDOVAL: Mr. Chairman, Commissioners, if I may, new statute requires that once it's passed by this body, it has to be published within the New Mexico Register for 15 days before it actually becomes law or rule. So our August meeting is, I believe, the 24th . . .

SPEAKER: Too late.

DIRECTOR SANDOVAL: . . . and so we still have a publication requirement after the rule gets published. So let us work on the details and we can bring that back to you at the earliest time frame that it could be implemented within the legal bounds of the new State rules.

CHAIRMAN KIENZLE: I'll say it now, and I'll say it again on the presentation on the HB58. I totally respect HB58, but it doesn't necessarily work for a commission like this where we are beholden to the change of the seasons and things going on. And I don't know if you can help us carve exceptions representative to this. But it's going to be a problem and this is a classic example of, perhaps the first example, of where we are not necessarily going to be in conflict with HB58 but the amount of planning ahead will be significant. And some things, I suppose, can be done on—that are truly a problem can be done on an emergency basis but this is not something I think that fits within that category. So, you know, at least for what I'll call the next

or first round of rulemaking under HB58, we're caught a little bit flat-footed. But I suppose we will adapt to that. But it won't help us on some things that are truly time sensitive like the birds. Birds always, I think, come down to something that's done pretty on the fly if you will, pretty quickly and not something that we get a lot of advance notice on. Now, we may be able to do that under an emergency type of situation but Alexa will talk about it more directly. But it will require a longer time horizon on many of the rules that we're contemplating. So your mission, should you choose to accept it, Commissioner Ramos, is that there are tweaks to be done to this. I can't say it's the absolute best practice. But the better practice is get—and this goes for the Department as well—get the rule out that you want done the first time. Because my understanding is that if there are amendments to a rule, I think there's a re-publishing requirement, right?

DIRECTOR SANDOVAL: Mr. Chairman, that is correct from our understanding.

CHAIRMAN KIENZLE: And we'll have to eyeball that and analyze it more closely. But floor amendments, if you want to call them that, those may need to be re-published which sets us farther out into the future. So it puts us a little bit more in the way they make rules in the Federal system. And so it is what it is. I respect House Bill 58. I understand why it was signed into law. But perhaps for some agencies and commissions, it's not a good fit. Anyway, I think there's some follow up we need to do to make sure that it's right out of the box. It's got the language that you're comfortable with.

SPEAKER: Absolutely. Thank you.

CHAIRMAN KIENZLE: Okay, anything further on this item? I've got some public comment on this one as well. Candy, you're on the mike. Welcome.

GUEST SPEAKER: Thank you all for allowing me to this opportunity to talk. I'm Candy Ezzell I'm a rancher west of Roswell. And we do take care of your wildlife for you. After 6 years in the executive berth in the National Assembly of Sportsmen's caucuses. And one of the concerns that was brought to our attention, we needed to get more women and youth involved in archery. And crossbows, I think, make sense. If you're looking for direction on being able to tweak this law, I would strongly recommend, and I do have his phone number, Andy Treharne who is the western director of NASC and I think there might be some help available there. The thing that I get the most concern about from our archery hunters is the magnification process. The older they get, it's a little bit harder for them. And I think that really needs to be reviewed. I, too, understand why House Bill 58 was signed into law. And yes, it does not always fit all of the commissions but it's now law. [Laughter] So anyway, that's about all I have to say on that. But the language that Treharne might be able to help you with probably would be beneficial in that aspect. Thank you very much.

CHAIRMAN KIENZLE: Thank you. So, to follow up, is the crossbow question part of something that you were going to deal with or suggest?

COMMISSIONER #1: Can I ask a question?

CHAIRMAN KIENZLE: Sure.

TY JACKSON: Sure.

COMMISSIONER SALOPEK: I mean, I get thrown out a lot of age, when you throw age into bow hunting, would there be any way age, say call it 65, to start being able to use a crossbow in the archery hunt?

[crosstalk]

TY JACKSON: Commissioner Salopek, again, currently no.

[crosstalk]

COMMISSIONER SALOPEK: But I'm just saying, looking in this room, me and Ralph have had this talk, that maybe—drop it to 60, I just turned 60. That'd make me happy. But 60, I think 65 is an all-around number that—because I've had 70, 75 year-old friends that say, Man, if you could get me a crossbow, I can continue. You know, with that age, I kind of got to agree with him.

COMMISSIONER RAMOS: Mr. Chairman, Commissioner Salopek, you know that's a hot item now. Is it being done in other states? Absolutely. You know, it's legal to hunt with a crossbow during archery season. But, you know I would recommend maybe a public survey, some public input on that, you know. But I do see the 65-year threshold, I think that'd be a good way to look at things. I think that's—not only that but may—and of course I know we have to seek permission, you know, to hunt with a crossbow during archery for a mobility impaired, so maybe 65 and throwing that into the equation, maybe even a youth hunter for matter on that. So I do respect that out-of-the-box thinking as well as, you know, what just came up through the public input.

TY JACKSON: Mr. Chairman, Commissioner Salopek and Commissioner Ramos, I would just, anytime that we can make it simpler for both the sportsman and the hunters, the better it is for everyone. If we have to start calculating ages in the field, it is absolutely possible and we can do that if that's your direction. But generally speaking, it's better when a law applies to all of the citizens rather than . . .

SPEAKER: ... an age group.

TY JACKSON: ... a portion of them.

COMMISSIONER #1: That's right.

COMMISSIONER #2: That's a good point. So I guess, while we're having the discussion, where are we as far as letting crossbows into the archery?

CHAIRMAN KIENZLE: Let me ask, so Candy,

COMMISSIONER #1: That's right.

COMMISSIONER #2: That's a good point. So I guess while we're having the discussion, where are we as far as letting crossbows into the archery.

CHAIRMAN KIENZLE: So, Candy, were you saying sort of crossbows, at least for youth and women to bring them into the sport, so cross—you'd be in favor of crossbows during archery season? I think that's what you said, right? Sorry, I'm making it hard for people to hear you.

CANDY EZZELL: One discussion that came up during this particular meeting, it was the concern that it was hard for women and youth to be able to, to be viable hunters as far as archery goes. And a lot of states are doing that. They're limiting them to youth 18 and under and to women. Now, as your elders go, I don't want to admit that I'm there yet, but I am. So I think that needs to be taken into consideration. It's not going to be easy on our officers out in the field but I think that could be addressed maybe during the application process. They may have to designate what they will use as far as hunting during the archery season. But like I said, I think Mr.

Treharne might be able to help you out with language on it.

CHAIRMAN KIENZLE: Thank you. My formerly available bio on the Commission website before I started getting death threats said that I'm interested in putting first time hunters in the field. And if amending the rule, changing the rule, or coming up with a new rule to allow crossbows during archery season will put more people in the field or get more people interested I would be in favor of it. Now that's just one consideration among many. But we, I am just interested in putting people in the field one way or another. I want to do it the right way. But this may be another good way to do it.

COMMISSIONER #1: Chairman, Captain, and Representative Ezzell, I really respect the comments that are being generated and the dialogue that we're building here because I think it's where we really need to go. And I think this rule has been a tradition for a long time and again, technology has changed and whatnot. I think one of the biggest—when we do take this to public input, I think one of the biggest things you're going to find is, there are going to be a lot of archers that are going to be upset. And let me tell you what they're going to be upset about. They're going to be upset that a lot of the rifle and muzzle loader type of hunters are now going to be able to put in for drawing hunts in the archery that never really wanted to explore those options. But I've got to be honest with you. I'm going to have to favor what you just said, Chairman, about getting people into the sport. I've got to be honest. It's hard to draw anyway. So, you know what? Get more people involved in this. To me, we're hunters. We've got to continue supporting on this and the controversy, you know, I hope it's not as—I think it's going to be a good thing for the sport as well as them management tool of hunting.

TY JACKSON: Mr. Chairman and members of the Commission here, just one, I guess point of clarification is not to overlook the fact that this won't increase any tags. There will not necessarily be more opportunity. And in many of these cases, these bow hunters over-subscribed

anyway. If you expand it, you are going to have bow hunters who have potentially a reduced chance of drawing. That's just something to keep in mind.

SPEAKER: Absolutely.

CHAIRMAN KIENZLE: Maybe it just gives more hope.

SPEAKER: That's right.

CHAIRMAN KIENZLE: All right. Any other questions or comments? So you will . . .

COMMISSIONER #1: Yes, one comment. In a kind of, again, I like the way we're going with this because we're exploring new opportunities and stuff. And you know, this Department and this Commission, one of our primary missions is to provide opportunities. So, you know, I would like to see some data on your part and when we do public input as well as data regarding, you know, how many—and I'm sure you can query it out to where how many applicants are above 65 and how many applicants are below 18, etc. I'd like to see that data just to, for comparison purposes when you come to that point. But I like the whole idea about expanding opportunity. You know I think that one thing that will happen is that you'll get some rifle and muzzle loader hunters applying which will obviously decrease the odds in some of the other areas as well, in some of those rifle and muzzle loader hunts. So, I think we're going to spread it out like you mentioned. We're not going to increase tags. But I think we're going to spread the opportunity out and possibly gain some people that aren't applying today to get them out in the field and start applying. So I think it's a good thing.

TY JACKSON: Mr. Chairman, just so you all are aware, the last time we began discussing this, it actually was posted on the web site and we received zero comments from the public on it. As it was previously, obviously this is slightly different.

COMMISSIONER #2: So I guess my question is, today's, what we're discussing is the sights. We brought crossbows into it. But right now we're not (Indiscernible) intermingle the crossbows with the sights, are we?

TY JACKSON: As it stands now, no.

COMMISSIONER #2: And the crossbows will be down the road or whenever we do? Would that be correct?

DIRECTOR SANDOVAL: Mr. Chairman, Commissioners, it's at the pleasure of the Commission how they'd like that particular piece handled. I would request some clarification. If we were to take action on this in August, the new rule would have to be to State Archives by June 30th which is 8 days away. So if it is the desire of the Commission to receive public input, then perhaps we would move that out to the meeting after August or we could incorporate your comments here today in the proposed rule that would happen in August knowing that the Department would not—probably wouldn't receive as many comments. So I look to you, Mr. Chairman and the Commission, as to how you'd like to see this roll out.

COMMISSIONER #1: Mr. Chairman, Director, thank you for bringing that up. I think we need to split it. You know, I think we need to focus on the telescopic sight as one comingled with the crossbow. And I think we discussed that already, versus allowing crossbows and give us a little bit of time to really think that process through and all the variables and look at what other states

doing as well, and again looking at all the key points that Representative Ezzell also brought to the table and really massage that and really I think we need to keep them separate.

COMMISSIONER #2: I agree 100 percent and that puts the crossbow so we have time to set up a meeting late this year and even, so it's in place for next year's hunting season, not this one.

TY JACKSON: Correct.

CHAIRMAN KIENZLE: So you will work on both items then?

COMMISSIONER RAMOS: It will be an honor to do this.

CHAIRMAN KIENZLE: You have volunteered yourself. Thank you. I appreciate that.

COMMISSIONER: Absolutely.

SPEAKER: Agreed.

DIRECTOR SANDOVAL: Mr. Chairman, Commissioners, what I am hearing from you is that we will move forward with the current listing of the rule regarding clarifiers for the August meeting. And then we will work together with you, Commissioner Ramos. Sounds like Commissioner Salopek might have some interest in that. And we will bring that at a later date.

COMMISSIONER: Correct.

DIRECTOR SANDOVAL: Thank you.

CHAIRMAN KIENZLE: That is accurate. Okay. Agenda item number 12. You're not going anywhere.

TY JACKSON: I am not.

CHAIRMAN KIENZLE: You can stay again. Agenda item number 12, initiation of Manner and Method Rule amendments 19.31.10 NMAC to prohibit the use of aircraft for locating protected wildlife for hunting purposes.

TY JACKSON: Again, Mr. Chairman, I was asked by Colonel Griego to stand in for this agenda item. So, just as a point of review—that's a little hard to see up there. Hopefully you can read it a little bit better. But current rule as it addresses aircraft flight requires—basically it says, It shall be unlawful to use aircraft or drone to spot or locate or relay the location of any protected species to anyone on the ground by means of communication or signaling device or other action. And secondarily, it shall be unlawful to hunt for, take, or assist in hunting for or taking of any protected species for the use of information regarding the location of any protected species gained from the use of any aircraft until 48 hours after such flight. So essentially you can fly looking for game at any time so long as you don't use that information, relay that information, or yourself hunt within 48 hours of landing. Currently, this is perhaps one of the most difficult to cases to make for any officer. What we have to prove essentially is the relaying of knowledge which is intangible. And unless we were party to it, it's very difficult to do. The suggested rule, and this is definitely a draft subject to any input that you all have, is to broaden it essentially to using an aircraft to locate game within 48 hours of the start of a big game season would be illegal. So during the hunts, people would not be able to fly to locate game. That's the boiled down version of it. Obviously there's quite a bit of language there, and I won't read it to you. But that is the gist of this law. This, as it is written, is very similar to the way that Arizona operates once their big game season starts, you're not allowed to fly looking for game or use information from a flight looking for game. Currently, if you recall, your drone language essentially is very similar to this. Using information from a drone at any time is already illegal.

So this basically brings aircraft to the same level as you have already made drones. And I guess, with that, again this is just a discussion item only, so I will stand for any questions or comments. And I'd be happy to take those back and discuss those with Colonel Griego.

COMMISSIONER #1: The way it's going to read, 48, let's talk September first for a moment. Forty-eight hours before that anybody can be flying. Once it starts September 1, no body can fly. And then the second hunt starts, there's already a hunt so you still can't fly. Bow hunts in there, there might be a few days the rifle hunters can flow, can fly. So basically there won't be planes. I agree. We hunt in the Gila. It is amazing how many planes, all day long. It's like, that being said, we have outfitters, we have ranchers, outfitter and ranchers. I have yet, of all the people I've talked to the past 5, 10 years, get rid of the planes. Please, if you can, get rid of the planes. It's not fair chase. So that's where I agree with this rule 100 percent.

COMMISSIONER #2: Mr. Chairman.

CHAIRMAN KIENZLE: Yes.

COMMISSIONER ESPINOZA: So am I understanding this correctly. Which, I'm in favor of this, by the way, wholeheartedly. I think it's—planes should not be used. I think it's like Dickie said, it's not fair chase. Scouting prior to, you know, it has some benefit but only to a few. But, so to boil this down even further, because we have seasons in virtually every unit starting September 1 extending in some cases all the way through the end of the year, would it make more sense just to put a date rather than 48 hours prior to a season? That makes it clear. You know September 1, after that you don't fly . . .

[cross talk]

COMMISSIONER ESPINOZA: ...September 31st, that ...

SPEAKER: Mr. Chairman . . .

COMMISSIONER ESPINOZA: ... I think it's clear that way rather than 48 hours. There's no question as to when that time frame starts. Because am I correct in saying that we virtually have a season in every unit in the state for some big game animal starting September first?

TY JACKSON: Mr. Chairman, Commissioner Espinoza, that is correct, in virtually every unit. I would have to look specifically at every one. But most, almost every unit, begin some sort of either deer or elk hunt September first. And we could definitely set a date. The consideration also is that in most cases or antelope hunts occur prior to that. Most of those, especially in the Northeast, are in August, mid to late August. That may be a consideration or you may not . . .

[crosstalk]

COMMISSIONER ESPINOZA: I don't think it, you know, make me carve that antelope, those sections out because there are obviously some deer and elk in those antelope units. So I would be more in favor of a specific date. Make it clear so nobody has any questions and I'm sure it's going to make your guys' jobs a lot easier as well.

TY JACKSON: Mr. Chairman, Commissioner Espinoza, the one other thing we would need to consider. September first is a pretty standard date for those bow hunts regardless what day it falls on. We would have to look as far as antelope hunts when the dates begin to creep because those tend to start on a Saturday. So it's not the same day every year, if that makes sense.

COMMISSIONER RYAN: (Indiscernible) alter seasons based on, you know, biology. You know, you guys come in to us on needing to change seasons, to increase harvest, or decrease, or

based on other factors and so we would truly have to alter seasons. So while I appreciate wanting to make it clear for people understanding a start and end date, I'm kind of a stickler on rule drafting and because we have to change dates so much around here, we need something that would be workable in any situation. And so, I'm more in favor of the current or similar thing. Director Sandoval, right? Because we have to change our seasons too much.

DIRECTOR SANDOVAL: Mr. Chairman, members of the Commission, I appreciate the discussion on when the, we're going to, you're going to flip the switch for the hunting season. There are other considerations. The enhancement packages and other particular hunts that we work within, so I would appreciate being able to develop a proposal in conjunction with Commissioner Espinoza and those who are interested because there are some other considerations here that we have not discussed, that we really do need to look at the time frames so that we don't paint ourselves in the corner potentially on that rule.

COMMISSIONER RYAN: Yes, that was my, that was my concern as far as the draft of the rule. And I appreciate that conservation officers have a very hard time being able to say, this is when you flew and to then know when someone was out 48 hours later, and if any information is used. It's my understanding that a lot of the violators of this rule are some bad egg outfitters, you know, using planes for that purpose. So I'm not sure if Ms. Romero is planning to give public comment on this issue but I am interested to here but I am interested to hear her thoughts on it because we want, you know, we want it to be workable but we certainly need to have fair chase and to have a rule that the conservation officers be able to take violators and be able to prosecute. So, I'm generally supportive but I am interested to hear tweaks.

TY JACKSON: Mr. Chairman and Commissioner Ryan, I recognize that and I believe Colonel Griego recognizes that as well. There are a lot of moving parts essentially with this. And we have provided some exceptions if you look at Part 3 there for legitimate, federal or state agency stuff so essentially our officers or our biologists flying surveys would be exempted. You know, any Federal agency flying for example for the wolf program would be exempted. And then, you know, any licensed or properly permitted individuals through the department who are permitted to fly for wildlife purposes would be exempted as well.

COMMISSIONER ESPINOZA: Mr. Chairman? Ty, again understanding our new rule making process and understanding that I know there's a lot of interested parties in this wanting to get it done prior to the upcoming season. If we, per recommendation to the Chairman to get this on the August meeting, would that give you enough time to do the research, do your due diligence to draft a rule to get it on the August Agenda Meeting as an action item?

TY JACKSON: Mr. Chairman, Commissioner Espinoza I will defer to Director Sandoval on that.

DIRECTOR SANDOVAL: Mr. Chairman, Commissioner Espinoza given the complexity of trying to set the date, I think in order to meet the August deadline or the August meeting for posting, we'd have to come up with that new piece in eight days.

CHAIRMAN KIENZLE: Let me just short circuit this, anything you want done for this hunting season is not going to get done as a practical matter. So let's just stop asking her and I respect what everybody's trying to do but we cannot jam these things through. It's not going to happen. So resign yourself to the fact as I said earlier, we got caught a little flat footed with HB 58 so we're going to have to factor it into our thinking but we are not going to get anything done as a

practical matter unless it is to save lives, save property or something else. It's just not going to happen so and I also think it's unrealistic to try and push a whole bunch of kind of a new process under the department and try and get all of this done in a hurry up fashion and hurry up fashion is a recipe for crappy policy. So I'm not going to rush these things through just because we want to meet a hunting season deadline. It's just not going to happen. We're going to do it the right way.

COMMISSIONER RAMOS: Thank you, Chairman. Captain Jackson, if you could please plot out, you know a visual, you know when you present next time. You know how it's going to impact fly in throughout the September 1 through the December 31, more visual learner [Phonetic] and I think the public would like to see that as well. See how it would impact everyone.

TY JACKSON: Sure.

COMMISSIONER RAMOS: Thank you.

COMMISSIONER: Mr. Chairman?

CHAIRMAN KIENZLE: Yes, sir.

COMMISSIONER: It's my opinion that any use of aircraft or drone in and on a (Indiscernible) unethical at 48-hours or 24-hours or ever. I just, it's my personal opinion that aircraft should not be used for spotting wildlife big game. So, I can agree with the 48-hours but I wish it was never, not just can't be used but I can understand Captain Jackson, it would be very, very difficult to prove that most cases that it was used at any time but that's my opinion.

CHAIRMAN KIENZLE: So let me get a little bit different opinion, I'll take some public comment here because we're going to get a different opinion. Lee Shoals [Phonetic], then we'll circle back for further Commission comment.

LEE SHOALS: Thank you for letting me speak. I stand before you as a New Mexican pilot and I've never held a outfitter's license or a hunting license. I live in Magdalena New Mexico, right aside of Magdalena is my ranch and I'm adjacent to Magdalena Airport and have a runway on my own airport. I own and operate New Mexico Outdoor Properties which is a real estate company and it deals in recreational property-got to change my voice-and hunting properties and ranches and on many occasions, hunting season or not, I'm airborne showing people properties or I'm transporting myself to properties that all over the state that I just wouldn't have the time to drive to. The situation as it is now with the 48-hour Rule is very difficult to verify. A number of times at Magdalena Airport I've found Game Wardens hiding in bushes trying to get visual on people coming out of aircraft. The fact is they don't know where the aircraft came from and many times after a flight we refueled in at Truth or Consequences and we come back and so timing gets to be a real problem. Trying to ban aircraft over Catron County, Western Socorro County, Sierra County, it is problematic because we have businesses that we have to operate. It's even harder for the game Wardens because when they look up, if they see my numbers that are this high and they say it's a red, white and blue aircraft and they write down the number, I'm going to get a citation in the mail and this actually happened to me once. I ended up having to hire an attorney and go to Magistrate Court and basically prove that I wasn't guilty as opposed to the department proving that I was. I think you need to, you know I don't care how you do it but there are all kinds of good honest pilots. New Mexico pilots Association has a fly-in in September. If next September, all of the aircrafts in the Gila and Negrito will be illegal. You

know, I think you're working at cross purposes with other organizations and I appreciate it.

Thank you.

CHAIRMAN KIENZLE: Thank you. Dan Daugherty [Phonetic]?

DAN DAUGHERTY: Mr. Chairman, Members of the Commission, Madam Director and the public. This is an overreach. You don't own the air space. So the Federal Government through the Forest Service can charge you for taking wildlife commercial pictures in the forest but not from an airplane. There are other uses for airplanes then spotting game and what you just said is from September 1st or a date there-about, until about December 31st, there will be no flying over hunting air space which is a good portion of this state. I flew Army helicopters out of Fort Bliss in the early 70s all over the wilderness. I flew (Indiscernible) C-130's all over the state in (Indiscernible) routes [Phonetic]. There are a lot of people, tours you just heard from Mr. Shoals. There are people who take photographs and you are saying that any airplane that's over an area, an officer can write down the tail number and the citation comes and then the burden has just shifted from the innocent until proven guilty, to the guilty to proving their innocence and that goes to one of the things nearest and dearest to my heart and that's the due process. Just exactly how are you treating this in a constitutional manner? How is this due process? I see a plane, they must be breaking the law. This is inappropriate. I understand their concerns about feeling that flying planes is cheating. 48-hours was intended to address that. 48-hours or the game maximum there, I don't know. I don't hunt but I do fly and as Mr. Shoals told you and I'm representing the New Mexico Pilots Association, they go into remote areas, approved and coordinated with the Forest Service and do what they call fly-ins. So every plane that flies into Negrito is in a hunting area after September 1st and every one of those citizens are now guilty until proven innocent. This is just too far. You don't own that air space. You can't restrict flying into that air space.

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What you are inviting is a future of law suits, challenges and expense on a lot of people's part and it's just not right and I thank you very much for the opportunity to speak.

COMMISSIONER RYAN: Mr. Chairman, I don't normally respond to public comment but because of the past two comments, I think there needs to be clarification on what we're discussing here. We're not discussing banning all flying of aircraft during hunting, during those seasons or during air space whatsoever. The issue is banning flying for the purposes of spotting game animals and you know, during the hunting season. So that's really two different, we're not banning fly-ins. We're not banning ranchers using planes to go check their water tanks and cattle or using it for transportation purposes or showing real estate.

CHAIRMAN KIENZLE: I will say the way I read this particular proposal though, if I we're locating a protected species from an aircraft just because I want to take a picture, that's prohibited and so it doesn't, the way the title of this Agenda Item is, for locating protected wildlife for hunting purposes, that's not strictly what this proposal says. So I to the extent your concerned about that—

COMMISSIONER RYAN: Right—

CHAIRMAN KIENZLE: I'm sort of concerned about that too.

COMMISSIONER RYAN: Yeah, I agree.

DAN DAUGHERTY: In that, Commissioner and I appreciate your former stances on due process. The problem is, is always going to get from the grounds tail number and now that pilot and maybe the plane owner and not the pilot. The person who rented the plane. The owner is now going to have to go to court and prove his innocence because he's already assumed guilty.

It's an unworkable law. It's an over reach. You know we do have that 48-hour Rule. We can have a 96-hour Rule but to saying that there's no planes in the sky and I know we're not saying there aren't any planes but every plane is a target to a pair of binoculars in a Game Wardens note, a citation and that is just unacceptable. Again, thank you.

COMMISSIONER RYAN: Thank you.

CHAIRMAN KIENZLE: Well that goes to, and that maybe it's part and parcel, the same discussion but ultimately, how our citations written. You know, are they investigated before the ticket is written? Do you take the tail number down? I don't want to hear all this today. It's probably for a later date but that's as much an enforcement issue as it is what does the text of the rule say? So—

TY JACKSON: Mr. Chairman, I can assure you that the mere gathering of a tail number as they come in to land is not going to meet the elements of this crime. The officer if a citation were ever issued for merely that, the officer's not met the elements of the crime.

CHAIRMAN KIENZLE: I think what this gentleman is saying is regardless of whether a crime was committed, he's concerned that the burden is then flipped around on him which is not strictly speaking accurate but that plane owner, that pilot, then has an obligation to come forward and essentially prove their innocence and I think he's concerned about that. So whether we're checking off the boxes on whether a crime was committed, I think he's concerned that just getting caught up in this process is hustle enough.

TY JACKSON: Mr. Chairman, I can definitely understand his concerns and from the guilty until proven innocent, I can assure you that it is exactly opposite. The officer is going to be required to

prove a number of things. First of all, who was in the aircraft? You can't just cite a plane owner. Nothing in this makes it illegal to be a plane owner that was operated illegally.

CHAIRMAN KIENZLE: Let me ask this question. So these citations though would not fall within the revocations that would come in front of us, right? This is a separate system, if you will?

TY JACKSON: Mr. Chairman, I would have to review the revocation rule. I don't recall that there's anything in the revocation rule specifically that addresses airplane abuse –

CHAIRMAN KIENZLE: I'm just wondering if you've come –

TY JACKSON: Actually, I do. I believe—

COMMISSIONER RYAN: They have come in front of us before for us to revoke outfitter privileges for violator; outfitters that have violated and we've revoked outfitter privileges before.

CHAIRMAN KIENZLE: Any ballpark number on how many citations are written under the current rule in a year?

TY JACKSON: Mr. Chairman, currently, very few. A couple a year, essentially. Without having the numbers right in front of me. Due to basically, the way that the law is written now, we have to prove that they shared that knowledge and it is more difficult than simply getting a GPS from them because the GPS shows locations but it doesn't show altitude. So they, the officer has a monumental pass essentially, without an admission or without being in the plane, it is almost impossible to prove.

COMMISSIONER RYAN: So if that's true—

CHAIRMAN KIENZLE: So the issue is, I'm sharing the information and is the rule that's being processed, the change then to do away with that portion of it?

TY JACKSON: The rule as it sits in front of you is to address that and make it something that is actually useful to enforcement. If we are looking as a Game Commission, to address flying as an issue for trophy elk in particular, but deer as well and antelope and all these other species. It is Field Operations view that this law as it is currently written is almost impossible to address that.

CHAIRMAN KIENZLE: Let me tell you one thing I've always subscribed to is your rights and where my nose begins, right? So you can't punch me in the face and get away with it and so some of the flying that's going on, if I understand what people are saying, is your essentially harassing a hunter. You're making it difficult, probably harassing cattle and a whole bunch of other critters but your either harassing a hunter or, and some of the big game, perhaps to the point where you ruin somebody's hunt and so that's a whole other aspect of this apart from just are you trying to gain an unfair advantage as to where game is at and so we've, I think most of us I've haven't dealt less with airplanes, more with ATV's. So we've all been you know, hunkered down and waiting for a shot and somebody comes along in an ATV and you really just want to pinch the persons head off and so I don't know if that's harassment because a lot of it is unintentional but some of this gets into that area. Hey, you're just wrecking my hunt. You're not necessarily gaining an unfair advantage. I'm not sure if there's a remedy for that problem but that sounds to me like what Commissioner Salopek is talking about is as much as finding game, it's ruining someone else's hunt but if the goal here is to do away with sort of a mental state, you know are you sure in this? Are you trying to gain the system or get an unfair advantage? If we're trying to do away with requirement, I'm less enthusiastic about this because then it's sort of more along the lines of what we would call strict liability. I mean you were just out there, you're

flying a plane and that and my stomach starts to knot up a little bit on that, so. I think whatever rule is finally proposed, you all just need to be clear about what the goal is.

TY JACKSON: Mr. Chairman, there's a couple issues there that flying is addressed in a number of different places. Harassment of a hunter would be a separate issue and flying low enough to alter the course of game would be a separate issue, a statutory issue. That's already covered statutorily. This would be more and our goal with this is that this more of a commercial issue. A commercialization of wildlife. This is not a, flying a plane obviously is an expensive endeavor. This is not, no one is flying for a (Indiscernible). This is a trophy issue.

COMMISSIONER RYAN: So my understanding on the promulgating [Phonetic] the rule and for a Conservation Officer, you can't fly 48 hours prior to hunting and using that information, then it's questionable and hard to prove. Well if they flew at 9:00 am 48 hours prior, then they were out at 6:00 am within that 48 hour window and then the officers trying to show that they were out before 9:00 am or not and was information shown, shared? So your comment was dealing with it, being able to prove that information was shared and I think that's a different level of having to prove then if we're talking on start times you know and an officer being able to narrow in on that 48 hour window which is understandable because it's hard to say before hunting rather than like a game season. So you have me on trying to help close that gap on like a start-stop time. Where you lose me is what Chairman Kienzle was saying on being able to determine the mental state or that if the information was shared and because we can't prove that, we're just going to make, we're going to assume there's this kind of strict liability for anybody flying and that's what's getting into the due process issues that some of this public comment is about. So I am supportive of helping field ops help having a start-stop time period I think is helpful but I

don't think it's helpful to just ground everybody and so I hope you can see the difference and that may be a little more—

CHAIRMAN KIENZLE: You just need to fine tune it.

COMMISSIONER RYAN: Yeah, needs to be fine-tuned.

TY JACKSON: Mr. Chairman, this is a discussion item only. This is the beginning of this process. We'd be happy to work with everyone that wants to work with us.

COMMISSIONER: Mr. Chairman?

CHAIRMAN KIENZLE: Yeah.

COMMISSIONER: Ty, one of the things that you've had the advantage of is to see that we've got something a little bit complicated. Why don't you guys go back and brainstorm this thing before you come back and see if we can massage all these concerns out of it because it's complicated. It was complicated for us and it's bordering on whether we can even enforce it or not, let's consider those things and come back and see what we can smooth out of this thing and come up with something that is usable and fair.

TY JACKSON: Sure.

CHAIRMAN KIENZLE: Kerri Romero.

KERRI ROMERO: Thank you Mr. Chairman, Members of the Commission. I originally wasn't going to speak today. I cannot speak on behalf of the New Mexico Council of Outfitters and Guides because I don't exactly know where we're going to be as an industry on this but I did want to speak just on behalf of myself. My dad's a pilot. I grew up flying around the back

country all over the United States and I kind of wanted to give a perspective that maybe you haven't considered. Outfitters get a bad rap for this. I think it's the perception that every outfitter is a millionaire and everybody's got a plane and they're all scouting around and I would argue that I don't think that is the case and actually, I know that there's a perceived problem in the Gila but I think that one of the reasons that more people are not apprehended for this is because it's not really going on, the abuse at the level that is perceived. There's, excuse me, there's the Negrito fly-in which is in September. There's at least five other recreational air strips in the Gila where people who are non-hunters go and recreate and the Negrito fly-in brings over 20 air crafts and so all of this is happening during hunting season and there's hunters out there and they see all of these low flying air crafts because their all landing ion the Gila and they just assume that they're all out there scouting. Personally, I don't think they are. I think by expanding this, you are really opening up yourselves to a lot of further negative public comment. Especially from the back-country airstrip network and additionally, I really don't think you're going to get all that much enforcement out of it. You already can't enforce the 48-hour Rule and that is you know, basically for issues that are completely absent of the fact that the aircraft is actually in the air. So thank you.

TY JACKSON: I guess—

CHAIRMAN KIENZLE: We need to circle back around on it. You'll do some homework on it but if I were to focus on something, I would focus on the harassment aspect of it because you have legit witnesses on the ground who can say, maybe spitefully and maybe not truthfully but you will have witnesses that probably can say, well you wrecked my hunt. Now will they have tail information and all that, who knows, but I would be more concerned about the man or woman or kid on the ground that has a ruined hunt, perhaps because of this than maybe the, as

Kerri pointed out, the perceived issue of you know, are they gaming the system to unfairly locate animals but you may very well be able to accomplish both goals through the same thing but I guess I sympathize with the hunter that you know, humping it through the woods all day and then may have a hunt ruined you know, at the wrong time. So anyway, we'll circle back around on this one I think. When's the most realistic time to do it?

DIRECTOR SANDOVAL: Mr. Chairman—

CHAIRMAN KIENZLE: All this is not realistic.

DIRECTOR SANDOVAL: Right. So we probably look at October-November timeframe.

CHAIRMAN KIENZLE: So which Commissioner is enthusiastic about following up on this one and make sure that it doesn't. You want to do this one too, anybody?

COMMISSIONER ESPINOZA: I can.

CHAIRMAN KIENZLE: You want to follow up on it, Robert? Okay. I think with that, unless you've got anything else, we'll let this one rest and percolate for a while. Thank you. Good job. I know this, these things always look simple at the beginning but they do sometimes have a number of different issues. So, thank you. Let's take a break. Agenda Item Number 13. Oh wait a minute. Did I get all the 12's? I got all the 12's. Agenda Item Number 13, Final Upland Game Rule development 19.31.5 NMAC 2018 through 2021 Season. Stewart?

STEWART LILEY: Like you said, in front of you is the final proposal for Upland Game Hunting given the 2015, starting the 2015 seasons. Like all of our rules, we're adjusting the season dates given the calendar creep on a Saturday start for some of these seasons and then we adjusted seven given public comments specifically to the pheasant seasons. Two other things in

the rule amendment is removing Brantley WMA and Seven Rivers WMA's from the rule. The department or the Commission doesn't currently own those properties. That was part of that, the Gila transfer where all is consolidated now at the Gila so they're not WMA's anymore and that's all that this rule is doing, is taking those out and clarifying that. The other thing is, given that Eurasian Collared-dove is a protected species, we need to add it to the, a license requirement in order for hunters to take. We're not changing the season dates, it's still year-around. Seasons for Eurasian Collared-dove Pelicans are legal but you just have to have a license in order to take and then also modifying the season dates in which Eurasian Collared-doves can be taken on the Commission on properties so they align with other hunting seasons that are currently occurring on those Commission properties. For example, if the Quail Season is open on that properties, great, have it. Have Eurasian Dove hunting on there. The previous rule allowed for Collared-dove hunting to happen when closures were on the WMA so it was in conflict with previous rules. This aligns it now with the other rules. Though we're not proposing any changes to the opener or the season lengths for Grouse or squirrel and or for quail. Those have been the season dates that have been just kind of standard for quite some time right now. The Pheasant Seasons, these one day, or excuse me, a few day seasons in the Sandia Valley are state-wide and this one is, is the proposal for the 18 through the 21 Seasons. These hunts are always, these time periods and these weekends. Again, this is just adjusting for a Saturday start on the calendar and then these are our proposed Youth Only Hunts in the pheasant hunt that we have on the Huey. These are one-day hunts that where we kind of a special deal for youth hunters and bring birds in and have these kinds of hunts and also in Valencia County and Bernardo WMA and here these are the proposed dates. We received a little bit of public comment on that in favor of the proposed dates. Overall, we had one public meeting in Albuquerque and we actually didn't have any

attendance at that meeting. We did receive 10 I think, public comments through email, most of them in favor of the keeping standard hunt dates for quail and grouse. Some opposed to the grouse season thinking it's too long but biologically we don't see an impact from that longer season. There was some concern that maybe we were but we do not feel that is and then some discussion about bag and possession limits for quail. They want us to make it kind of similar to migratory birds where the possession limit is three times the bag limit where currently it's right now two times the bag limit unlike ducks or water fowl for this example, the bag limit, daily bag limit, it's almost double what ducks is so it really is almost the same number of birds that you could have in possession it's just not triple the daily bag limit. So we didn't think the, we didn't have much support for that change but it was a public comment and that's all the comments we have and those are the proposals we're recommending this year.

COMMISSIONER MONTOYA: You know one of the things I looked at the other night when I was going through this is that bag limits and possession limits are usually double the possession limits but looking at (Indiscernible) falconry seasons when you look at quail, you're looking at three per day or 30 in the aggregate.

STEWART LILEY: Mr. Chairman, Commissioner Montoya you said three per day?

COMMISSIONER MONTOYA: Well what do we got, six per day and 30 in the aggregate –

STEWART LILEY: For the possession?

COMMISSIONER MONTOYA: Possession for quail under falconry.

STEWART LILEY: Mr. Chairman, Commissioner Montoya so the possession limit for falconry is the same for the possession that it is for guns. So it's 30 birds in the aggregate for both the gun

and also for falconry. The reason why the daily bag limit for falconry is less than the gun is because the differentiation in species of Montezuma Quail. Montezuma Quail have a lower daily bag limit than the rest of the species and a falcon cannot determine if it's a Montezuma or a Bob White or one of the other species. That's why the daily bag limit is less in the falconry.

COMMISSIONER MONTOYA: Got it. I had no problems with that. I had problems with the 30 in possession for falconry and quail.

STEWART LILEY: Mr. Chairman, Commissioner Montoya so that matches what the other possession limits are for, so that's the possession limits no matter what for quail. Its 30 in possession, so twice the daily bag limit for a gun hunter which would be 30 birds.

COMMISSIONER MONTOYA: Okay. If that's what you wanted then I thought it was a misprint but that's okay.

COMMISSIONER SALOPEK: So and your raising Collared dove. That's not changing or what changed there?

STEWART LILEY: Mr. Chairman, Commissioner Salopek all that changed is that by statute the Eurasian Collared-doves falls in the family Columbia and so by statute because it's a protected species you have to have a license to hunt Collared Dove. It's just a clerical change in the rule to say because you're going to hunt it you have to have a license in your possession to hunt it.

COMMISSIONER SALOPEK: Is it still going to be year-around?

STEWART LILEY: Mr. Chairman, Commissioner Salopek that is correct.

COMMISSIONER SALOPEK: So now we have to go to the office and get a license for that or no, is it covered in the ball game?

STEWART LILEY: Mr. Chairman, Commissioner Salopek that is correct. It's covered in the small game license.

COMMISSIONER SALOPEK: You're just changing it so it makes us legal?

STEWART LILEY: That is correct.

COMMISSIONER SALOPEK: Thank you.

COMMISSIONER RYAN: Which is why I think this is a good rule change because it's so easy to you know, Morning Dove, Collared Dove, you see what's on the ground and then all of a sudden right, so this is great. This helps the sportsmen and everybody be in compliance and it's a good change. So thank you.

COMMISSIONER SALOPEK: Yeah, thank you.

COMMISSIONER MONTOYA: I'm good.

CHAIRMAN KIENZLE: Any other questions or comments? This is an action item. Can I get a motion please?

COMMISSIONER SALOPEK: I move to repeal and replace 19.31.5 NMAC as presented by the department and allow the department to make minor directions to comply with filing this rule with State Records and Archives.

COMMISSIONER MONTOYA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: Ayes have it. Agenda Item Number 14, Final Aquatic Invasive Species Rule 19.30.14 NMAC. Mr. Sloane.

MICHAEL SLOANE: Mr. Chairman, Commissioners, we've discussed this on two other occasions. As you know we have an active program you know, for the Memorial Day weekend. We've inspected over 2,100 boats. 47 were high risk. We just decontaminated five. Recently this weekend we had one boat come that was in Wisconsin that a person in Farmington bought that actually had mussels on it. We decontaminated that boat also. So it is still an ongoing risk that we face each day. The rule proposal that we have before you is to improve enforceability through some language changes, get rid of or make it more clear that it's unlawful to avoid a check station. We have had that occur on a number of occasions and to comply with the (Indiscernible) Resolution which includes aquatic plants. So I can go into more detail if you'd like but I think that kind of sums it up.

DIRECTOR SANDOVAL: Mr. Chairman and Members of the Commission if I may, this now has become on the radar. A lot of the Community Water Associations because of the impact, potential impact to them providing water to their communities and they're very interested and supportive of the measures that we've taken through our AIS decontamination and education and outreach programs. So I just wanted to pass that along. I've actually had a number of the community water associations reach out and appreciative of what we're doing in order to protect their infrastructure because it's not just lakes that get infected as we all know. This potentially will impact every single water transport system in the State of New Mexico.

CHAIRMAN KIENZLE: Any questions or comments? I think we've heard this one, one or two times. It's in over the years now, right? Over the years. This is an action item. Can I get a motion please?

COMMISSIONER RICKLEFS: Mr. Chairman, I move to repeal and replace the Aquatic Invasive Species Rule 19.30.14 NMAC as presented and to allow for minor clerical changes as made.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: Ayes have it. Don't go anywhere Mr. Sloane. You are Agenda Item Number 15, Initiation and Fisheries Rule Development 19.31.4 NMAC for the 2018-2021 seasons.

MICHAEL SLOANE: Mr. Chairman, thank you. As you know, the fishery rule expires in March of 2018 so it's time for us to start public impute process and develop recommendations to bring before you. The state-wide management plan pointed to specific areas where folks have interest in seeing some changes and so that's sort of been the basis of where we've taken off from and there's a significant interest as (Indiscernible) expressed in simplifying and clarifying our rules to make life easier for everybody involved. So a large focus of the rules is on special trout waters. We've had about-I can't help you there, maybe I can. How's that? Sorry about that.

CHAIRMAN KIENZLE: I like the graphics.

MICHAEL SLOANE: Yeah, so there's the first slide.

COMMISSIONER: Did you get approval from Patch? Just wondering.

MICHAEL SLOANE: So (Indiscernible).

CHAIRMAN KIENZLE: I like the theme. It's awesome.

COMMISSIONER: I do too.

MICHAEL SLOANE: So the special trout waters, we heard a lot in the state-wide management plan development that people were interested in having additional state-wide waters. We also have a variety of regulation types. I think there are about 11 so we're proposing to reduce those to three, a red chilly water which would be catch and release, green chilly water which would be two fish with tackle restrictions and then Christmas [Phonetic] which would be two fish with no tackle restrictions, trying to keep New Mexico true. And so we're also proposing to add about 52 miles of special trout water and remove six waters. Trophy bass was another area of interest we're proposing. Bill Evans, Lake Roberts and Clayton Lake as trophy bass waters where you would not be able to spear fish and we would reduce the bag limit to two fish in order to allow the fish to grow a little larger and try and get to that trophy size that folks are interested in. Bareilly Lake, we made it catch and release when we had some data that indicated high levels of PCB's and DDT. Subsequent testing over the past year has shown that we can't find those same levels again so we'd like to just open that back up to state-wide limits and then again, as always language improvements in terms of getting rid of some leftover language from previous rule changes and clarifications. So the intent is to have six public meetings around the state to seek input. We are currently reaching out to organized fishing groups to get some input, posting it on the web and then we're scheduled to bring you a draft rule in September and hope to have final rule adoption in November. And with that I stand for any questions.

CHAIRMAN KIENZLE: I don't have any questions. Anything?

COMMISSIONER: Mr. Chairman?

CHAIRMAN KIENZLE: Yes?

COMMISSIONER: One real quick question. Mike, on Bentley, how long was we had that restriction?

MICHAEL SLOANE: That restriction went into place when Todd Stevenson was Director so that would have been 2009?

DIRECTOR SANDOVAL: 2010 maybe?

MICHAEL SLOANE: 2009-10, yeah.

COMMISSIONER: So a lot of years. I'm just curious. Thank you.

CHAIRMAN KIENZLE: Okay.

MICHAEL SLOANE: Thank you.

CHAIRMAN KIENZLE: Agenda Item Number 16, Approval of Fiscal year 2019 Capital Outlay Request. Mr. Varela.

PAUL VARELA: Good morning Mr. Chairman, Commissioners. Sitting here with me today is Angelica Louise [Phonetic], our Budget Director. As you said, Agenda Item 16 is Fiscal Year 2019 Capital Project Plan. A few notes about capital projects, Capital Outlay Budget Request is separate from our Operating Budget Request which will come before this Commission in August. Our capital Outlay Request focuses on wildlife habitat restoration and management

projects, dam safety rules compliance, hatchery renovations and shooting ranges. If these projects are approved by this Commission and the legislature, our capital projects are good for four years, four fiscal years. This next slide focuses specifically on our Fiscal Year 19 capital request. There are four projects listed by priority in this slide for a total of 13.95 million dollars with the majority of the funding coming from the Game Protection Fund and from the Habitat Management Fund. The first project is related to riparian water shed forest and range land enhancement to prevent catastrophic wild fires. The second project is for Dam Safety Rules compliance which is approximately two million dollars. The third project is for improvement to hatcheries, necessary renovations and improvements for approximately four million dollars and the fourth project is for two million dollars and that's for construction and improvement of existing shooting ranges. So next steps are to request Commission approval for our FY19 through FY23 Capital Project Plan. This is due to the Department of Finance Administration on July 1st. Once it is submitted on July 1st DFA and LSC will have a hearing. It usually occurs in October. They will make a recommendation based on their knowledge of which projects to approve. They'll then appear in the legislative bill. If that bill makes it through the legislative process, it will be presented to the Governor and she either accepts or vetoes the Capital Outlay Bill and with that I stand for any questions.

DIRECTOR SANDOVAL: Mr. Chairman and Members of the Commission this last session, we did not get a Capital Bill so what you're seeing for the FY19 proposal is taking the priorities out of FY18 and blending those with FY19 in making one capital appropriation.

CHAIRMAN KIENZLE: Okay.

PAUL VALERA: Mr. Chairman, I believe this is an action item.

CHAIRMAN KIENZLE: There's no problem rolling them together?

PAUL VALERA: Mr. Chairman, in your binders there's five years of capital projects of the department forecast for each fiscal year. The Department of finance focuses specifically on FY9.

CHAIRMAN KIENZLE: Do you have comments for this Agenda Item? God, we're spending a fortune on Dam Safety Rules. This drives me crazy and it will drive me crazy until the day I die. Any questions or comments? This is an action item so if somebody wants to make a motion?

COMMISSIONER RAMOS: Mr. Chairman, I move to approve the Fiscal Year 19, Fiscal Year 23 Capital Plan as presented by the Department.

VICE CHAIRMAN MONTROYA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: Ayes have it. Agenda Item Number 17, Commission Rule regarding Trespass. This rule is not yet in final form so to speak. So we will take it up under the New HB 58 Process but we do have some members of the public who wish to speak. So I think it's probably appropriate since the rules still in development if you will, to take some public comment. Candy Ezzell?

CANDY EZZELL: (Indiscernible).

CHAIRMAN KIENZLE: Sure. Carl Johnson?

CARL JOHNSON: (Indiscernible) about the trespass is that (Indiscernible). We have flagrant trespass violations all over the state as you all are aware of it. Lots of it is due to the

(Indiscernible) of the land and another reason is the duration of the hunt and the scouting. Now the (Indiscernible) black will tell you, they told me that there is no way that they can take care of the trespass. They don't have the men, the money or the equipment to do it. So they told me to call the sheriff's department. I talked to the Sheriff's Department and they said they didn't have any men, money and equipment to do the job that the game department is supposed to do, that they had real bad guys they were after. So we're going to get somebody hurt and severally hurt because we're out there patrolling for you all, protecting your game and everybody we see got pistols and rifles and bows and arrows and shotgun and everything. So just, I'm just giving you a heads-up. I've got a handout here I'd like to give to you and I'm going to meet with Miss Sandoval in Roswell Monday at 1:00 and I believe Stewart Liley and maybe one or two more and I've got a lot of problems that I want to discuss at that time and I'm going to try to get you all to answer simple questions with simple answers. Miss Ryan's supposed to be there too? Is that not correct?

COMMISSIONER RYAN: No.

CARL JOHNSON: You can't hear me?

COMMISSIONER RYAN: No, I can hear you. I don't believe that I'm going to be attending that meeting.

CARL JOHNSON: That's fine. I'd like to hand out these, the what's happening in my area. That's all I have to say. Thank you.

CHAIRMAN KIENZLE: I would like to thank you, Mr. Johnson. Todd Leahy? Ah, it's got chilies on there. Don't let it be said I don't have a sense of humor. Go ahead Mr. Leahy.

TODD LEAHY: Mr. Chairman, Commissioners thank you for this time. I would like to direct your attention to an advisory letter from the office of the Attorney General dated August 5th of 2016. That letter states that any interpretation of 17.4-6 that excludes the public from using public waters that are running through or running through private property violates Article XVI Section 2 of the New Mexico Constitution. I have copies here for each Commissioner of that letter if you're not familiar with the Attorney General's opinion. It may be easy to dismiss this opinion as just that of one man but when you couple this with the Gary King opinion of a few years ago and the holdings of New Mexico Supreme Court in the Red River Valley Case, I think it's important that the Commission consider the legality of moving forward with this rule. Thank you.

CHAIRMAN KIENZLE: I'll take a copy of whatever you've got. More paperwork is better than less. Caren?

CAREN COWAN: Mr. Chairman, Members of the Commission, Caren Cowan on behalf the New Mexico Cattle Growers and the New Mexico (Indiscernible) Growers. I'm curious to see what the rule is going to look like and I hope it's something that we can work on together. We just concluded our convention, summer convention here in Ruidoso yesterday. We had a special wildlife meeting on Monday afternoon and a group of about 25 ranchers, most of them the southeastern part of the state was there. Trespass is a huge issue. In fact, we have a resolution that gives us marching orders to begin to meet with you guys as appropriate and as legal to begin that's trespass is one of the elements and this has just gotten to be huge and it's certainly something that we need to deal with and so I look forward to seeing what the new rule will look like and how we can work together. Thank you.

CHAIRMAN KIENZLE: Mike Casa- it just trails off after that.

MIKE CASSABAUM: Mr. Chairman, Members of the Commission, my name is Mike Cassabaum and I ranch in southeastern, Southern Chaves County and we recently went to a road closure vacation process that was granted by the Chaves County Commission but in the process of all of that we had considerable opposition that use and discretion of facts, misrepresentation of the situation and we're really discipulus [Phonetic] in their argument against us and I think that some of that argument was really done more to just inside a motions and to incite the hunting public against us and one of the setting of points was that the portion of road that we wanted to close was access to federal lands and state trust lands, which it was not. This section of road crossed strictly private lands but at any rate, my main point is that in the process of this during the public hearings, department employees in uniform represented themselves as, well they argued against us, went along with the opposition with those arguments and in uniform and the implication was that they were representing the department position and many of us as land owners got the idea that the department is not in support of enforcing trespass regulations and that the department does not support private property rights and more importantly, I think a lot of the hunting public that observed that process got the idea that the department would not be very strict or maybe not even enforce at all trespass rights which I think is a sad thing and I think that leaves a hunting, well I think that takes away one of the most important assets that the department has for enforcement of trespass rules which is the deterrent effect of the expectation that there might be apprehension and penalties for trespass and I just thought I would bring that to the attention of the Commission. And also, I would like to say that I think that you guys as a Commission and as a department, whether you really want us in that role or not but I think your seen as leadership for some of the hunting public and I think that hunters have been told by lots

of other folks that they have the right to access federal and state trust lands which they do have. The statutory and (Indiscernible) for the authorization to access those lands but the right to private property is a constitutional guaranteed right and although I don't want to try to prohibit hunters from access to state trust or federal lands. Still, I don't believe that those authorizations to access those lands has the same statute as the constitutional guaranteed of private property rights and I would hope that the Commission would make it plain that they do support private property rights and that they do intend to influence the trespass laws and trespass regulations and enforce penalties against those who trespass whether they're hunters or whoever. So those would be my comments. Thank you.

CHAIRMAN KIENZLE: Thank you. Sterling Spencer?

STERLING SPENCER: Commission, thank you for your time. My comment on this is, the State of New Mexico through the Commission has created an event. That event being harvesting of wildlife and when an events created, one should be able to care for all aspects that go on in that activity. In that case one should be able to care for trespass problems. I don't know how. I'm not in the business. You all are. I didn't create the event. So it was great frustration and I can tell having been a police officer myself, I do know why your officers carry a weapon with them but I don't want to carry a weapon with me when I'm out on my property doing what you're here, department has already admitted is they don't have the resources to do and that is to fully enforce trespass issues. So there has been in the past, look up in Humphrey's area where a person was killed in the outfield [Phonetic] years past. We don't care if citizens and when private property owners to be put in that position. We don't care to have to be the enforcement officer. It's dangerous. Maybe when I was young and 20 I was a little nuts and would get into that little game. I know that I don't care to be there. I don't think the citizens of New Mexico want to be

there. I have worked hard for my private property. I've paid for it. Nobody gave it to me and I wouldn't have asked that any of that be protected by any other activity that's in the way. I totally understand the checkerboard system or whatever but I am not the one that is going out to take care of the opportunity. They should be responsible of that and you being the governed agency, possibly and I'm not going to tell you how to run your business but maybe renting out new offices in Albuquerque. Maybe in expanding other areas. Those monies should be put toward enforcement and game officers. Thank you.

CHAIRMAN KIENZLE: Thank you. Candy?

CANDY EZZELL: Thank you Mr. Chairman, Members of the Commission. I hope that (Indiscernible) the hunting public, fishing public understands that our private property is our backyard and that's very important to remember. We have worked hard to get to that point yet we're charged with taking care of the state's wildlife and fish. In regard to what Mr. Cassabaum was talking about earlier, you had one of your officers and I don't know the right term, public comment I guess on Facebook is what it was. My husband is a very easy going man but one of our (indiscernible) folks posted on Facebook, I got mad. I visited with the Director and I said I will hit you with a liable suit, a declamation of character suit and a slanderous suit. I was very upset what was portrayed coming from an officer that I helped pay the wages on and I will not stand for that anymore. There was a lot of misrepresentation whenever Mr. Cassabaum asked for a road closure and these special interest groups did not want to hear the rest of the story. Living out far out far out of town as we do, we do have issues with people just showing up in the middle of the night and that puts our lives on the line as well as our livestock and as well as your wildlife. So what you need to make sure of is that the public understands that we have rights too as private land owners and that our rights need to be respected as well because we have been

charged with a lot through each one of you that are sitting up there as far as taking care of providing water from and protecting the state's wildlife. Thank you.

CHAIRMAN KIENZLE: That's the last of the public comments.. Again, this is an issue we'll pick up again this fall and then probably into the winter with the new HP 58 Process. Agenda Item Number 18, this again, the appeal process. We can kick that one over another month so I move to withdraw this Agenda Item.

COMMISSIONER: So moved.

CHAIRMAN KIENZLE: Can I get a second?

COMMISSIONER 2: Second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: All right. Agenda Item Number 19 which everyone is super excited about. New Rule Development Process.

DIRECTOR SANDOVAL: Good afternoon Mr. Chairman, Members of the Commission. It's been awhile since I sat on this other side, so nice to be back. Okay, so this past legislative session there was a bill introduced, House Bill 58 which we've referred to earlier that amends the State Rule Act, specifically Chapter 14, Article 4 and the State Rule Act clearly lines out for all boards and commissions how to enact a rule for a set of rules used for government in the state. The legislative session took this up during the regular 2017 session and specifically talks to how you propose. How you amend and then how appeal and have an emergency rule put in place. It was signed by the governor so it will become effective July 1, 2017. So rather than actually go

through all of the different tenants of the pieces of the rule. I'll be talking in broad strokes but I will use the example that we spoke about earlier today. What it does, how it changes for us is that we actually have to post within the New Mexico Register. There's a public portal website used by the State Record Compilation Commission and you can go there and see all of the rules for the state but now the new effect is that we will post on the register itself and within that, when you propose a rule, there's a whole series of information that will go with it and again, there's a number of the pieces. I have not listed them all here because there's quite a number of them and I didn't want to just read through the list but really, some of the things that you're looking at is looking at a summary of the proposed rule, the explanation of the rule and when it will become effective, what the changes are. Similar to what you all are used to seeing from the department but it now formalizes within statute, how we do that and how we make that happen. Specifically, the rule does state that we need to give the public the opportunity to submit data views or arguments quarterly or in writing and one thing that has been discussed and thought about within the department is in certain cases we may just allow for the Chairman and the rules that you all, excuse me, the process that will propose may allow written testimony only depending on the circumstances of the situation we're dealing with. It also requires that the agency maintain a record of the entire rule making process. So right now all we manage is the rule itself. When we track that both through the minutes that come through each Commission meeting we have a permanent record of that and we also have a permanent record of all our rules but the new statute requires that we keep every piece including all of the background information used to develop a rule as a permanent record. We care actually one of the first agency's that brought this to the attention of the State records and Archives and so we're still working with them to determine if we can do that electronically or on a paper basis. We're hoping that they'll

allow us to do that electronically because when you think about some of our records, how we develop rules for elk for instance, there are literally thousands of pages of survey information that we base our rule off of. So we're hoping that we can get some clarification on the management of the data that goes with record retention. So there is a much, there's a larger burden for record retention than what we have right now and praying that we can do it electronically versus on paper and it also within there, states that we have to provide a concise explanatory statement for the rule when it's adopted. So anybody who has questions can go under, someone who may not be familiar with Game and Fish can go in there and get a quick shot of what you all have done and improved the rule. It does, there are provisions within the act that allow for the adoption of an emergency rule just as you all have proposed and have in place right now. However, an emergency rule cannot be, is not deemed a permanent rule. So if you pass an emergency rule then you'll have to come back, we'll have to come back in front of you and create a permanent rule. So it doesn't replace that process. We have to go back once we have remedied what that emergency is to come back in front of you. So the impacts of the department and the commission, I think we have lived it this morning. We've heard a lot of discussion around timeframes. This Commission is used to being able to move probably within about a two-month timeframe to get rules adopted. We'll open them up during public conversation, then we'll then post within 21 days and then we adopt the rule. Now we will be working within the framework of the New Mexico register which typically posts two times a month on the 1st and the 15th and so that's why your hearing me when I said we have eight days to get any final rule for our August 24th meeting because the new act provides that we have to have it posted in the register for at least 30 days. You all may not take action on a rule that hasn't been posted for 29 days, it has to be so we have to allow that timeframe and they only post twice a month. So it's on

the 1st and the 15th and then in order to post on the 1st and the 15th, we've got to back it up 15 days because our submission is due 15 days prior to the day they will post. So there's timeframes that are involved in this. Once you all actually adopt a rule, then it must be posted out on the register and again, that's another 15 day timeframe. So what I'm sure your hearing from me right now is that the length of time it will take the department to consider a rule will take longer and so often times our constituents may be used to being able to come to one Commission meeting and hear the rule open and then the next meeting it may close, depending on how we structure the timeframe which we're very cognitive of. It may be kind of leap frogged. You may have one commission meeting will open it, we may not discuss it in the next one and then we'll go to the third meeting only because we have the timeframe for consideration that we have to pay attention to. The other piece that is important to keep in mind is that it does not become an official rule until it's actually posted back into the register once you all have adopted. So in some cases we've been able to adopt and it becomes immediately effective. That's no longer the case. We will have to work through those timeframes with Records and Archives. In addition to that, you all currently have a current set of procedures for how to adopt rules for this Commission. That will have to be updated and in place before January of—

CHAIRMAN KIENZLE: Let me ask a question to the Assistant Attorney General and I don't need an answer right now. You might need to go do some homework because I don't want anybody to step in it unnecessarily but in terms of those procedural rules that should be in place by January 1, 2018, do we follow the new rule making process even for those procedural rules and so I don't, that's not clear. I'm looking at and have been reading HB 58 for two months now and that's not entirely clear to me whether those sort of procedural rules on how a Commission operates are subject to the rule itself or the new statute itself, if you follow me?

ASSISTANT ATTORNEY GENERAL: Thank you. Miss Sandoval and I will be meeting hopefully next week to discuss it further. I don't have an answer for you today.

CHAIRMAN KIENZLE: And that's fine. I'm just saying talk it through with the AG and sort it out because my, not to (Indiscernible) of the public under the new process but it seems if it's truly just a procedural rule and it's the first time out of the box maybe it doesn't follow that process because I'm not sure we can get it, any commission can get anything done by January 1st with the publication deadlines and other things that go on. So I'm thinking maybe that particular set of rules is not subject to the new rule statute if you will but visit with the AG and come to a conclusion and let us know. It will make a big difference in how we, you know whatever we need to put the hurry up on it and might, as I said earlier hurrying things along is usually a way to make terrible policy so I'm hopeful that maybe that set of rules because it's not crystal clear under the statute. I'm hopeful but at least that set of may not fall under that particular structure but you know, run it by the AG and sort out how you all want to handle it.

ASSISTANT ATTORNEY GENERAL: Absolutely.

DIRECTOR SANDOVAL: So Mr. Chairman, Members of the Commission that's a very broad overview. There are details in there that we will take care of as the department you know, where we post and how we get that out there to the public. Those are all very well detailed within the act.

CHAIRMAN KIENZLE: Let me also say, whatever the Director's telling you. Whatever is on the website, it is no substitute for reading this yourself because it, while it's not a huge change necessarily in how we do some things, it is a huge change in other things. So you're going to have to read it, internalize it and understand it because it's not as the director pointed out, this is

no longer one meeting, second meeting and we're done. It's much more leap frogging and we may, depending on how things go, we could have fewer meetings or we could have more meetings and so we could have more special meetings. You know, things set on shorter notice, I mean there's a lot of different ways to slice and dice this but I don't think that the nine or ten meetings a year standard may necessarily fit the way this rule structures things. So I strongly encourage you to read it.

COMMISSIONER RYAN: You could send us the link so we can read it. I haven't read it yet.

DIRECTOR SANDOVAL: Mr. Chairman, Commissioner Ryan absolutely. We can do that and I guess I, the other (Indiscernible) I would put in this as the Chairman has stated, he's read the bill and I've read the bill and everything I say is subject to an (Indiscernible) with records and Archives as they have interpret it and provide direction to all state agencies, boards and commissions. So as they review this there may be some additional information that we'll have to bring forward to you. They are working through it just as we are.

CHAIRMAN KIENZLE: And I will say one change that is allowed under the HB 58 which may or may not have been allowed under current practice, we can now I believe on both an Agenda wide and Agenda item basis take public comments solely in writing. So we may very well have a change in how some items and how some things are presented to us for public comment. So there's some new items in here that may not have been clearly impossible under the current structure that we have.

COMMISSIONER RAMOS: Mr. Chairman, Madam Director I wonder if we could work with the attorney's office as well to see if we could do a flow chart to kind of streamline and make some consistency on some of these things.

CHAIRMAN KIENZLE: And so, absent us doing anything like the Attorney General's Office which is also subject to this new set of rules, has to come up with a model set of rules by January 1, 2018. So to the extent we don't do something by that date, then we fall into that set of rules and that's why I'm thinking that the Attorney General will probably say at least on this first set of rules, the agencies and commissions don't necessarily have to follow within this structure because you would be subject to the same thing.

ASSISTANT ATTORNEY GENERAL: That's correct.

CHAIRMAN KIENZLE: And I think you and you may start doing it today but you probably want to solicit information from boards and commissions. You know how does work and so it may very well be difficult for your office to get it done by January 1st using the same structure. So my thinking is the, a reasonable position would be follow maybe your old rules on it and then certainly on anything of substance on a go forward basis would be subject to House Bill 58 but anyway you all will start that (Indiscernible). It's not quite above my pay grade but thank God I don't have to worry about it in the first instance but check in with the Attorney General and I'm sure you all will have meetings on this and then just let us know what, as soon as possible?

ASSISTANT ATTORNEY GENERAL: Absolutely, Mr. Chair.

CHAIRMAN KIENZLE: What the decision is on how to handle that. But if we don't do anything, there will be a model of the rules that we can use until we come up with our own rules.

COMMISSIONER RAMOS: Mr. Chairman, Madam Director again, I'm very visual and if we are going to have to change our structure of commission meetings and whatnot, I wonder if we could possibly put out you know, two or three options on what to look for. You know, I know I'm not a advocate for more meetings but if we could simplify it as far as like a work session to

be able to talk about some of these discussion items versus action items? I don't know how that could be done but if we could kind of look at some options with that.

DIRECTOR SANDOVAL: Mr. Chairman, Commissioner Ramos absolutely. It's all going to dependent on the structure that Records and Archives develops if they stay with the 1st and the 15th we will have one structure that we can put in place if they are flexible which I understand they may be doing in changing when their posting dates are, then yes. So yes, we're going to need it as much as you all will because when you start thinking about baking up timeframes, we have to be very mindful of that. So yes, we'll get that.

CHAIRMAN KIENZLE: I'm not sure you can have a working session though because you're promulgating a rule even at that point in time. So I, the way I read this is you really need to have some sort of rule in front of the public for them. So it's just kind of weird. You can't have a discussion item, to have a discussion item.

COMMISSIONER RAMOS: I think my biggest point is, if we could start with the end in mind and really backwards plan as far as how many days are needed to be able to get something to happen and looking back at that timeframe to see how we're going to get there.

DIRECTOR SANDOVAL: Mr. Chairman, Commissioner Ramos we already have that structure in place only backed up. We have everything lined out.

COMMISSIONER RAMOS: Okay.

DIRECTOR SANDOVAL: It will be a matter for next year to set up the meetings so that we fit within that timeframe.

COMMISSIONER RAMOS: Thank you.

COMMISSIONER ESPINOZA: Mr. Chairman, Director Sandoval understanding that last sentence that you go there, you will be presenting the process to us virtually every meeting that we're going to have because we have to adopt our own rule making process by January 1, 2018. Is that correct?

DIRECTOR SANDOVAL: So Mr. Chairman, Commissioner Espinoza yes. Based on the conversation we will have with Marylou in the Attorney General's Office on what that process truly is and how it's to be defined.

COMMISSIONER ESPINOZA: Okay. So we will have as we go through this process of developing our own rule making process for the law, you'll educate us on timeframes, etc.?

DIRECTOR SANDOVAL: Mr. Chairman, Commissioner Espinoza absolutely.

CHAIRMAN KIENZLE: So there's a definition in here of rulemaking so it's, it first see the process for adoption of a new rule. So read broadly, that would be any discussion about what does the new rule, it's a weird sort of thing. So it, so it's like some of the discussions we've had. You know, do we need a new rule here? I suppose we can still have them but the question then becomes downstream from that if you ever do propose a rule and you haven't noticed it out the right way. We started the process back here so the question is, is the rule that you came up with and voted on any good? We're going to have to puzzle through it. I think the rule is designed not to necessarily ham string us and having those kinds of working sessions but more of that, you know when you get an actual written rule, the public gets it in front of them, you've got 30 days and so on and so forth but it's not crystal clear yet. So sooner or later there will be law suits. There will be other things that go on and we'll know more over time but it will certainly change

the way we do business a little bit. What is your sense of, is it more meetings, fewer meetings? What's your, get your crystal ball out and—

DIRECTOR SANDOVAL: So Mr. Chairman, if I had a crystal ball to be totally honest, it would be less meetings but they probably will be longer which I know is not, or we can do more meetings but we're going to have to leap frog those meetings. So my sense of it is only because of the timeframes that they persist the way they are right now and Records and Archives is only posting twice a month. It'll be fewer meetings but they'll be longer because we have to get within. I mean you're really looking at two months out having to separate Commission meetings by two months which is, we do Commission meetings on a monthly basis, so. I know that's probably not good news for some folks so I apologize but that's unless records and Archives changes how they're posting to the register. If you take, adopt the federal program, they do that on a daily basis which changes this whole conversation completely. So we're really having to, we have opened the dialog with Records and Archives to determine are they going to maintain that 1st and 15th posting or are they going to move to some other timeframe? We would appreciate it if they moved to some other timeframe but I also understand that I am not in a position to, that's a time and effort issue. It's a capacity issue for them as well, so. So Mr. Chairman, Commission as this develops and becomes less muddy, we will certainly bring it to you and my number one goal is to make sure that as we move through a rule making process we are in an alliance and it inherent to the statute.

COMMISSIONER: So be it.

CHAIRMAN KIENZLE: Any other questions or comments? I had a request to move public comment up before Executive session. If any Member of the Commission wishes to make a

motion to carry that through then we can move public comment up, general public comment up because there are a number of public comments. It's not just one or two.

COMMISSIONER RAMOS: So moved.

VICE CHAIRMAN MONTTOYA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: Ayes have it. Then we'll move to public comment. Gloria Bastine [Phonetic]. Hearing no Gloria Bastine we'll move on. Candy?

CANDY EZZELL: Thank you Mr. Chairman, Members of the Committee, I just want you all to realize that the private land owner is not a bad person. We arte boots on the ground all the time and you all need to realize that and what we do to enhance what you all are trying to do up here. I do want to give back (Indiscernible) to your Executive Director. The way she presents herself and the views of the Commission when their (Indiscernible) on the legislative session was outstanding. I serve on the Energy Environment and Natural resources committee and there was an issue that came up regarding Pharaoh Horses and things were explained and certain people didn't want to hear those things explained but I do want to commend her and the staff that she had working with her while we were in session on the excellent job that they had done and I wanted to express that. That was a pretty tough session that we went through. I've served up there for way too long now and it was the strangest legislative session that I had faced so far. As you know, we had to go back into special session twice and we had to make major cuts and I know that you all felt the pain of what we had to do. We don't have a budget crisis. We have the

spending problem in the State of New Mexico and that's what it boils down to. But for the good of all the state, hopefully the good Lord will send us rain soon. We've had lots of fires that broke out overnight. That affects not only that private land owner but our trust lands and it also boils down to affecting the livestock and the wildlife that is out there. So I think the good Lord will bless us real soon I hope with rain. I appreciate the job that you all do. I know that you take a lot of heat from not only the sportsmen but from the private land owner who does take care of you all's wildlife and common sense does go a long way so thank you for what you do.

COMMISSIONER: Thank you.

CHAIRMAN KIENZLE: Thank you. Mike Cassabaum wrote his name legibly this time so I can at least mispronounce his last name. So Mike and I will strictly be holding to the two minutes so have at it.

MIKE CASSABAUM: Great. Mr. Chairman, Commissioners most of the comments I intended to make at this part of the session I made earlier because I didn't realize that the trespass discussions were going to concern the topic that I really wanted to address but since I'm on the list again anyway I thought I would try to get back up and clarify some of what I meant. Also I kind of wanted to second summary what Representative Ezzell just said. I think that the Commission needs the support of the land owners and the land owners need to feel that the commission respects our private property rights and will try to enforce trespass and I think when there are actions by department employees or others that are seen as leadership of hunter groups where they seek to represent hunters that in effect pit hunters against the land owners and try to portray us as enemies, I don't think that's any good. That doesn't do any good for the hunters or for the land owners and I think the idea that hunters get the idea that public land is owned by

them as individual members of the public is really not quite true. Their use of federal and state trust lands is prescribed by several statutes and a lot of regulations and I think they need to recognize that and I think that would help resolve some of these access issues and would help increase hunter courtesy and respect for land owner rights that I think would benefit both segments. So I hope you will keep that in mind. Thank you.

CHAIRMAN KIENZLE: Thank you. Carl Johnson.

CARL JOHNSON: I don't know how to talk on this thing. I'm not used to talking in public but on this meeting deal, I spent \$6,000 out of my pocket. Sternon and Lois Griggs and Sims [Phonetic] helped me just to get a meeting and get answers from you all. We've had the invoked the Freedom of information Act and we still haven't got answers on three simple questions and I don't think I should have to spend \$6,000 to get to talk to you people. I'm the oldest man in the room. I'm 79 years old, live in a 100 year old house that we've had on a ranch for 100 years. I would never been asked by the Game department one question, of one suggestion, one opinion, nothing. My father never was asked. My grandfather was but we're not the enemy. We take care of the game for everybody in the state. We're pushing, pumping, hauling and freighted water right now and it's costing us a fortune for your livestock in our private property. So I think you guys need to figure out a way to listen to the people that are raising the game for you and I've written letters to several of you, no response. Talked to several of you, nothing and that isn't the way it should work and we're having a meeting Monday afternoon after about a year of negotiation trying to get there and maybe we can get some answers to some of these questions. I had to hire an attorney to get to see you people to talk to you. You shouldn't be that away. Thank you.

CHAIRMAN KIENZLE: Thank you, Mr. Johnson. Todd Leahy. Okay, I think you probably said what you wanted to say earlier, right? Understood, thank you. Lynn Sims. Gone? Okay. George Sims. George? Hearing no George, Sterling Spencer. Sure, thank you.

STERLING SPENSER: What you have in your hands in which I'm about to read hurts me a lot because of the 10's of thousand dollars I've invested in my resources and my fellow sportsmen. I'm tired after several decades of trying to address these issues and not having them taken serious. I've requested several times via USBS Mail and email to this Commission along with discussion with the New Mexico game and Fish Department personnel several months prior to this meeting to be on the Agenda for a time during the meeting to discuss issues concerning equitable game harvesting, management, trespass control only to be rejected by this Commission and I've been told by the department you were the ones I have to talk to get things done. Over the past three decades the New Mexico game and Fish Commission department has not allowed the enclosed discussion to be seriously considered or responded to in a constructive reasonable way. Therefore, I'm leaving this document with each of you in order that you may consider the request (Indiscernible) appropriately. For decades the New Mexico Game and Fish Department has recognized the private land owner's involvement and their contributions to the management and welfare of game animals in New Mexico. The land owner provides approximately 95% of the water development. The majority of the net of the Indian [Phonetic] mineral and concept 24-7-365 monitoring for poaching and trespass. The New Mexico game and Fish Department has admitted that it is unable to provide for adequate trespass enforcement monitoring and it has not filed trespass claims when requested by myself after the New Mexico Game and Fish Officer agreed that all signage was in order and elements of the crime were met. In recognition the New Mexico game and fish department of land owners, private land owners contribution as a

management of wildlife, a system of (Indiscernible) hunting permits has been established dividing the hunting opportunities for the (Indiscernible) on the hunting antelope. If the land harvests, it's 50% public and 50% private. The available permits are outfitted 50% public and 50% through the private land owner. The problem with this afore mentioned split is that it only covers the rifle hunts and not the handicap (Indiscernible) or any other permit hunts that affect the same hunt in species and can also precede the rifle hunt therefore deflation of value of the private permits allotted. Thus, one can see the (Indiscernible) would be an allocation. As the private land owner provides services that the New Mexico game and Fish Department cannot, the devaluation of the permits issued to the land owner due to the other impacts on the hunt, that the land owner is not allowed to participate in. the land owners—

CHAIRMAN KIENZLE: Mr. Spencer, let me just interrupt you real quick. So is what you've got there what you provided to us?

STERLING SPENSER: Yes but there's one most important part Mr. Chairman and I'll read the final part.

CHAIRMAN KIENZLE: Okay and then I have a question for you when you're done.

STERLING SPENSER: Until the above reasons are addressed to the satisfaction of Bar W Ranch, for all game animals, I am demanding that all wildlife under the management and jurisdiction of the new Mexico Game and Fish Department including big and small game, fish, fur bearing animals and fowl birds be removed from the Bar W Ranch private property and this is your notice.

CHAIRMAN KIENZLE: So I understand some but not all of your complaints but resolution do you want to see out of whatever process goes on?

STERLING SPENSER: You mean what I'd like to see?

CHAIRMAN KIENZLE: Yes, sir.

STERLING SPENSER: I'd like to be able to come before tis Commission since they—

CHAIRMAN KIENZLE: I understand you want to come visit with us but if you had to pick one, two, three—

STERLING SPENSER: If I picked anything in the world to deal with this issue, I want equality, equity and the allocation of licenses. E+, A+ and I want changes in the deer hunting deal so you have proper management of your deer, not just what you can get over the counter licenses and tongued to death if you want to.

CHAIRMAN KIENZLE: So the change in those different allocations not just for you but for all land owners—

STERLING SPENCER: This is not for me.

CHAIRMAN KIENZLE: But I understand that—

STERLING SPENSER: And the other issue. There's two issues here and you've heard them today, that is the trespass issue. It's very frustrating having been an officer myself, knowing the elements necessary to request upon an officer their duty and they not carry through and my and the rest of the publics –

CHAIRMAN KIENZLE: So of those two issues, the second issue, well perhaps not easy to fix, it's at least more clear cut. So is that one of the issues Director that will be talked about on Monday? Yes?

DIRECTOR SANDOVAL: Yes. I'm sorry, yes.

CHAIRMAN KIENZLE: And because this is not the first time we've heard this issue. It will not be the last time we hear this issue but my, I know that law enforcement you know, they want to do the right thing. They want to do their jobs. I'm wondering if this is a question of personnel resources and other things as you and I think Mr. Johnson mentioned is you know, do we have enough boots on the ground and more importantly, when we do have boots on the ground, how is that being handled and part of what the Agenda Item 17 today was directed at is helping to make enforcement of that, at least a ledge trespass easy to deal with in the field and I can't promise that it will make easier to deal with but at least that's the intent, is to clarify you know, whether there's a trespass or not. It's more properly directed towards stream access but more broadly, I do appreciate that there is an enforcement issue because you're not the first gentleman to come in front of us and say there's a problem and this is certainly something that needs to be worked out by the Director and then go after it in conjunction with law enforcement. Now I'm certain law enforcement will, there's two sides to every story so I don't believe you know that this a dereliction of duty or anything like that. They just may have a different view of how enforcement goes down at the time but Monday should be the beginning of a better dialog on this because it sounds like you're not getting what you need or feel like you're getting what you need right now. So what I would ask the Director is to continue to drive the process. Make sure another meeting date is chosen when you're there on Monday so you can see driving the process forward because I think on an issue this large and with the fifth largest state in the country, a lot of ground to cover. One meeting is not going to get it done. So it's incumbent on you and then the director as well, pick and even if you have to pick two more out into the future because I'm not sure two is going to get it done either but make sure that you set action items and you continue to drive the

process. If that process breaks down, then that's something where you need to let the Commission know that it's broken down and I'll tell everybody again, this organization operates like a pyramid, right? So you got the department of game and Fish and the Commission sits on top of that pyramid sort of at the (Indiscernible). We don't manage the day-to-day affairs of the department except through the director. We hire and fire the director and so if we want something done we visit with the director. So if you're not getting what you feel like you are due out of the director then you need to let us know and then we can properly visit with the director and say, hey what's going on?

STERLING SPENCER: Exactly what I've come forward with.

CHAIRMAN KIENZLE: Pardon me?

STERLING SPENCER: Exactly and having set on Commissions public I know that is exactly what I have done at this point. I was not getting what I thought. That's the reason I try to come before the commission.

CHAIRMAN KIENZLE: You have it now so you have the beginning of that process. So I'm telling you it's incumbent on you. Pick either one more successive meeting so you can continue to drive the process because it's not magically going to happen by itself. It hasn't resolved itself magically to this point in time. So that's on the enforcement side of it. On the allocation side of it, that's a much tougher nut to crack and I don't, unlike every other person that comes in front of the commission to speak, I am not a retired wildlife biologist. So I can't say that this allocation is good or bad without getting information from the department to help me make an informed policy decision on whether those allocations need to be changed. Now I respect private property. I think everyone in this room either loves me or hates me for that reason but I do respect private

property so I get what you're saying but again, there's policy issue here at play and it's not necessarily picking one group of winners and another group of losers and so I just need to—

STERLING SPENSER: If I can Chairman and that's why I wanted to come before the Commission on an Agenda Item maybe like Ted Turner's group does. So please, Mr. Chairman, I'm trying to use what is in place now and understood by the department and I think is understood by the Commission. I'm not here on the allocations side to request more. To change the biology or whatever. I'm requesting allocation on something that's already been an accepted practice by the commission and the department. I'm trying to use, even though I may not agree with all of that, I'm trying to use what is known and explain that if requested how that doesn't affect numbers in biological issues like that. Everything I've requested—

CHAIRMAN KIENZLE: So let me just interrupt you, not to be impolite but when you come at me with allocations and numbers and other things. Remember, we're a policy making body. So you can tell me everything that you're telling me but when it's not in context it doesn't and maybe it doesn't resonate with other commissioners so I'm hearing from you sort of in a vacuum and that's why I'm saying if I don't get context from the department it gets very hard to make an informed decision on that and so that's why I'm saying you've got your meeting with the department. You can work from the bottom up. They don't give me a staff, thank God. They don't give us you know, an independent group of people against which to test the problems you're having. I rely on the department to do that work for the commission so we end up with the best information available in front of it or in front of us and from that we make policy decisions. So if you don't work from the bottom up it's very hard for us to make the best informed decision possible. Now I understand you were having difficulty getting a meeting but you've got your meeting now. I've given instructions on how to drive the process forward. You either follow that

or if you choose to abandon it, then I'm not quite at you know, lost to proceed so you've got to drive the process through the department and I tell everyone and I will tell you again, work through the department first on every Agenda item that comes through here. Now there's some that you may choose to get ahold of the Commission and your free to do that but a lot of these Agenda items are driven through the department and they come up to the Commission ultimately to make what I'm calling policy decisions. So as a citizen Commission if you will, it's very hard to make those decisions from the top down when we don't have good information and you would probably scream bloody murder if I just said well I'm going to put my finger up in the air and wing this. and so as I said before, we rely on the department to do a lot of the hard work so we get the data and information in front of us to make a good decision. So I think you've got your meeting and I've given instructions to continue to drive that process forward. Now if you get to an impasse, your like this isn't working out or you know, feel like you're getting a fair shake, then it's appropriate to visit with any one of the Commissioners and me and say I'm not getting what I need.

STERLING SPENSER: I respect your comments Mr. Chairman. So as I understand from you, I have issue sort of that's not in detail that you don't do. You set policy. Understanding of there's an issue of trespass, allocation. I would ask that if the department doesn't address that, that you at least ask the department is it addressed and I need to go on to something else or is it something we need to know. That's all. I understand your position.

CHAIRMAN KIENZLE: I am 99.9% certain that I will hear from the Director Monday or Tuesday as to the outcome of the first meeting that you have and it may be the case that all the players are not there on Monday. I assume that people will be there but the Director may say well that's a question so at our next meeting we'll make sure we've got that person there where

we're prepared to address it. So again, this is the beginning of the end perhaps but it's the beginning of the process. You know, not just one meeting and think you've got it done. It sounds to me like there's hard work on the land owner's side too to get you know, a better outcome than you've got right now. So please stick with the process and again, if you reach an obstacle or an impasse then let the Commission know and we'll sort it out from there because that's then for better or worse, falls on the Director for not resolving an issue to the satisfaction of everyone involved which is not to cast any fault but the issue may not be resolvable but you know, I need to know that the issue is either resolved or it isn't. You may get 90% of it done and then 10% of it we need to take up somewhere else but let's start on Monday and drive the process and see what happens.

STERLING SPENSER: Thank you for your time. If you all would read the document and we will keep going forward.

CHAIRMAN KIENZLE: Thank you. Caren, you really want to say anything? You have the last word. I'm holding you to two minutes.

CAREN COWAN: Mr. Chairman, Members of the Commission, Director Sandoval, Caren Cowan on behalf of New Mexico Cattle Growers and New Mexico (Indiscernible). I want to echo the comments that Representative Ezzell made about the working relationships and how top gain department and its staff operated during the legislative session. We had a true partnership. Not everything, we didn't agree on everything but we could agree to disagree politely and cordially so that you know, we got along. You know there was some frank (Indiscernible) phone calls. You know as we went trying to figure out how to manage everything that was happening around us and Alexa and her staff did an absolutely excellent job, very appreciative of that. I

guess my last comment is that we need, I'd like to see how we get to that kind of a relationship with people on the ground where we don't have an advocacy relationship from land owners who don't think they're being respected or heard so that we can all go forward and I greatly appreciate the comments that you made just now and we look forward to that. We are not a party to the meeting Monday and I'm not asking to be. I'm exhausted but we would like to stay in touch and be able to work through these things because the genesis of what our problems are, are exemplified by Mr. Johnson and Mr. Spenser. So we appreciate your time and we appreciate the efforts that it's going to take to move forward and fix things. Thank you.

CHAIRMAN KIENZLE: Thank you. Having no more comment cards in my hands, we will end public comment and then we'll go into Executive Session and after that we will have a motion to adjourn. So can I get the blurb?

COMMISSIONER RICKLEFS: I move to adjourn into Executive Session closed to the public pursuant to Section 10-15-1(H)(2) NMSA 1978 to discuss limited personnel matters relating to complaints and discipline Section 10-15-1 (H)(8) NMSA 1978 to discuss property acquisition and issues now where was I? 10-15-1(H)(7) NMSA 1978 on matters subject to the attorney client privilege relating to threatened or pending litigation in which the Commission and our department is or may become a participant as listed in Agenda Item 20 subsections A, B and C.

DIRECTOR SANDOVAL: Commissioner Espinoza?

COMMISSIONER ESPINOZA: Yes.

DIRECTOR SANDOVAL: Commissioner Ramos?

COMMISSIONER RAMOS: Yes.

DIRECTOR SANDOVAL: Commissioner Ryan?

COMMISSIONER RYAN: Yes.

DIRECTOR SANDOVAL: Commissioner Ricklefs?

COMMISSIONER RICKLEFS: Yes.

DIRECTOR SANDOVAL: Commissioner Salopek?

COMMISSIONER SALOPEK: Yes.

DIRECTOR SANDOVAL: Vice Chairman Montoya?

VICE CHAIRMAN MONTOYA: Yes.

DIRECTOR SANDOVAL: Chairman Kienzle?

CHAIRMAN KIENZLE: Yes.

DIRECTOR SANDOVAL: Okay, so we don't have another room so I'm going to have to ask everybody to step out. Thank you.

CHAIRMAN KIENZLE: This Commission adjourned into Executive Session closed to the public. During the Executive session the Commission discussed only those matters specified in its motion to adjourn and it took no action as to any matter. We have taken public comment already. Can I get a motion to adjourn please?

VICE CHAIRMAN MONTOYA: So moved Mr. Chairman.

COMMISSIONER ESPINOZA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: Okay.

In Re:

NEW MEXICO STATE GAME COMMISSION
June 22, 2017
Inn of the Mountain Gods
287 Carrizo Canyon Road
Mescalero, New Mexico 883409

Thursday,
9:00 a.m. – 5:00 p.m.

C E R T I F I C A T E

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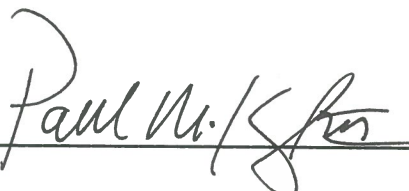
APPROVAL OF MEETING MINUTES
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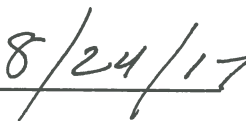
Alexandra Sandoval, Director and Secretary



Date



Paul M. Kienzle III, Chairman



Date

New Mexico State Game Commission

AS/scd