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MEETING MINUTES
NEW MEXICO STATE GAME COMMISSION
Inn of the Mountain Gods
287 Carrizo Canyon Road
Mescalero, NM 88340
Thursday, June 26, 2014
9:00 AM

A P P E A R A N C E S

- Chairman Paul Kienzle
- Game Commissioner Tom Arvas
- Game Commissioner Thomas Salopek
- Vice Chairman Bill Montoya
- Game Commissioner Robert Espinoza
- Game Commissioner Ralph Ramos
- Game Commissioner Bob Ricklefs
- Madame Director Sandoval

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1 CHAIRMAN KIENZLE: Is everybody ready to
2 go.

3 CHAIRMAN: Yes, sir.

4 CHAIRMAN KIENZLE: You guys good to go?

5 UNIDENTIFIED FEMALE: Uh-huh.

6 CHAIRMAN KIENZLE: All right.

7 CHAIRMAN: Yes, sir.

8 CHAIRMAN KIENZLE: Call the meeting to
9 order. Good morning everybody. Director, can we
10 get a roll call, please?

11 DIRECTOR SANDOVAL: Good morning everyone.
12 Chairman Kienzle.

13 CHAIRMAN KIENZLE: Here.

14 DIRECTOR SANDOVAL: Vice Chairman Montoya.

15 VICE CHAIRMAN MONTOYA: Here.

16 DIRECTOR SANDOVAL: Commissioner Arvas.

17 COMMISSIONER ARVAS: Here.

18 DIRECTOR SANDOVAL: Commissioner Espinoza.

19 COMMISSIONER ESPINOZA: Here.

20 DIRECTOR SANDOVAL: Commissioner Ramos.

21 COMMISSIONER RAMOS: Here.

22 DIRECTOR SANDOVAL: Commissioner Ricklefs.

23 COMMISSIONER RICKLEFS: Here.

24 DIRECTOR SANDOVAL: Commissioner Salopek.

25 COMMISSIONER SALOPEK: Here.

1 DIRECTOR SANDOVAL: Chairman Kienzle, I
2 believe we have a quorum.

3 CHAIRMAN KIENZLE: All right. Can we get
4 approval of the agenda, please? So moved.

5 VICE CHAIRMAN MONTOYA: Second.

6 CHAIRMAN KIENZLE: All in favor?

7 ALL MEMBERS: Aye.

8 CHAIRMAN KIENZLE: The ayes have it.

9 [Vote 7-0. Motion passes.]

10 Why don't we go around the room and see who
11 is here. If you'd stand up and introduce yourself
12 that would be helpful to put everything in context.
13 Who wants to go first?

14 MS. GONZALES: Good morning everybody. My
15 name is Star Gonzales. I work for the Department of
16 Game and Fish, and I'm here marketing management.
17 Very pleased to be here today.

18 MR. BACA: Commissioners, ladies and
19 gentlemen, Hal Baca. I'm the (inaudible) manager,
20 New Mexico Department Game and Fish.

21 MR. EDGAR: Good morning. RJ Edgar, I'm
22 assistant director with Department Game and Fish.

23 MS. HOBBS: Elizabeth Hobbs, (inaudible).

24 MR. WALSH: George Walsh, (inaudible).

25 MR. OVERTON: Jim Overton, Strictly Ranch

1 Partners in (inaudible), New Mexico.

2 MR. GAY: Good morning. I'm Joel Gay with
3 New Mexico Wildlife Federation.

4 MR. VENEKLASEN: Good morning. I'm Garrett
5 VeneKlasen. I'm the executive director of the New
6 Mexico Wildlife Federation.

7 MR. GONZALES: Good morning, Commissioners.
8 My name is Marco Gonzales. I'm (inaudible).

9 UNIDENTIFIED FEMALE: Commissioners, I'm
10 (inaudible).

11 PAUL: Good morning. Paul (inaudible).

12 MR. TRUJILLO: Good morning all. James
13 Trujillo with (inaudible).

14 LANCE: Lance (inaudible).

15 MR. DIAZ: Gilbert Diaz (inaudible).

16 MR. MORROW: Patrick Morrow, (inaudible).

17 MR. PETEY: Si Petey.

18 MR. GRIEGO: Robert Griego, (inaudible).

19 MS. NICHOLS: Good morning, commissioners.
20 Ann Nichols, director.

21 MR. ELLIS: Good morning, Commissioners.
22 (Inaudible) Ellis, chief of information and
23 education.

24 MR. DOMINGUEZ: Larry Dominguez with
25 New Mexico Department of Agriculture.

1 LES: Les (inaudible), New Mexico
2 Department of Agriculture.

3 MR. SPUN: Good morning, everyone. Mike
4 Spun, chief of (inaudible).

5 MS. CHAVEZ: Good morning. Rachel Chavez
6 (inaudible).

7 CHAIRMAN KIENZLE: Good morning,
8 Commissioners. (Inaudible) for Wildlife Management.

9 MR. PERRY: Good morning. I'm Michael
10 Perry. (Inaudible).

11 MR. WINGABAY: Good morning. Jason
12 Wingabay, co-owner of Wildcat Environmental
13 Services.

14 CHAIRMAN KIENZLE: And I think that's
15 everybody. Oh, sorry.

16 MR. PEREA: Good morning, Commissioners.
17 I'm Mark Perea, the video specialist for the Gaming
18 Commission.

19 MR. WILLIAMS: Good morning. I'm Dan
20 Williams, editor of New Mexico Wildlife for the
21 Department of (inaudible).

22 MR. CHERRY: Good morning. I'm Lance
23 Cherry. I'm the assistant chief of information for
24 New Mexico Game and Fish.

25 CHAIRMAN KIENZLE: All right. I think we

1 got everybody.

2 Can we get a motion to approve the minutes?

3 COMMISSIONER ARVAS: So move, Mr. Chairman.

4 COMMISSIONER SALOPEK: Second.

5 CHAIRMAN KIENZLE: All in favor?

6 ALL MEMBERS: Aye.

7 CHAIRMAN KIENZLE: The ayes have it.

8 [Vote 7-0. Motion passes.]

9 Moving on to -- I always forget that.

10 Thank you. We're going to do the Pledge of

11 Allegiance.

12 Thank you, Commissioner Salopek, for
13 reminding me.

14 [Whereupon the Pledge of Allegiance was conducted.]

15 COMMISSIONER SALOPEK: Thank you,
16 Mr. Chairman.

17 CHAIRMAN KIENZLE: Thank you for reminding
18 me.

19 Moving on to -- well, actually I want to do
20 something real quick here before we get to new
21 business. So I woke up one morning and got the
22 newspaper and I hopefully it -- Game and Fish you've
23 been giving Rick Winslow, I don't know if you want
24 to make fun of him or what, but he -- he was very
25 prominently featured on the front page of the

1 Albuquerque Journal. And it's a great article. So
2 I -- I don't think that Rick is here today, but pass
3 on to him a job well done. And I think it made the
4 department look great. So thank you.

5 Moving on to agenda item number 6,
6 revocations. Colonel Griego.

7 MR. GRIEGO: Good morning, Mr. Chairman,
8 Commissioners.

9 CHAIRMAN KIENZLE: Good morning.

10 COMMISSIONER ARVAS: Good morning.

11 MR. GRIEGO: Mr. Chairman, Commissioners,
12 I'm here this morning to bring you the revocation
13 portion. The department will present a list of
14 individuals that have met the established criteria
15 for the initiation of the suspension process for the
16 hunting and fishing and trapping license privileges.
17 Human Services sent the department a list of 130
18 individuals that are out of compliance with their
19 court ordered child support for March through April.

20 We also have 55 individuals who have failed
21 to pay their penalty assessment within the allotted
22 30 days of the -- from the violation. And 17-210.3
23 authorizes you to revoke the hunting and/or fishing
24 privileges of those persons who fail to pay.

25 At that, any questions regarding the

1 revocation of these individuals?

2 CHAIRMAN KIENZLE: None for me. Any -- any
3 commissioners have any questions?

4 Can I get a motion on this, please?

5 COMMISSIONER ARVAS: Chair, I move to
6 authorize the department to administer these
7 suspensions on behalf of the commission, including
8 the issuance and service of a notice of contemplated
9 action to each individual listed that is out of
10 compliance with the parental responsibility act and
11 to each individual that has failed to pay a penalty
12 assessment within the 30-day timeframe.

13 COMMISSIONER SALOPEK: Second.

14 CHAIRMAN KIENZLE: All in favor?

15 ALL MEMBERS: Aye.

16 CHAIRMAN KIENZLE: Ayes have it.

17 [Vote 7-0. Motion passes.]

18 Agenda item number 7, perspective
19 modifications to tagging requirements for big game
20 and turkey. Thank you.

21 Colonel Griego. This is a discussion item.

22 MR. GRIEGO: Yeah, Mr. Chairman,
23 Commissioners, this is a discussion item.
24 Department will present a review of the current
25 tagging requirements for big game and turkey to

1 include limitations and concerns that it presents at
2 a future -- or at a future meeting will discuss more
3 in depth. This is just to kind of put it on your
4 radar some of the concerns of the sportsmen. With
5 the advent of the online licensing concerns have
6 been raised by the sportsmen and -- and our law
7 enforcement about the lack of a carcass tag and the
8 about -- and about the potential for violators to
9 potentially exceed the legal bag limit because of
10 it.

11 Currently with our system those
12 individuals, we can purchase our licenses online.
13 You can print your license online. When you take a
14 big game species basically you black the bubble and
15 when you get to a vehicle you put the -- the date
16 and time of your kill, which it's been -- it's easy
17 for our sportsmen, but it is creating an opportunity
18 that we would potentially like to address.

19 Historically, as you remember, the hunter
20 would affix a carcass tag to a big game species or
21 turkey immediately after harvest. Under the present
22 system they simply invalidate the license when
23 they've taken the animal but there is no carcass
24 tag. We were hoping to have the technology
25 available to invalidate that license within X-amount

1 of time, whether it be immediately or within 48
2 hours. But because of limitations on personnel, it
3 just -- it does not seem to be occurring so there
4 may be the potential that we may need to address
5 that issue with some sort of tagging system.

6 The department is studying a number of
7 possible options to address these concerns. We've
8 had numerous comments and concerns that have been
9 received over the past several months. And as
10 potential solutions are developed we will post them
11 for the public and discuss them with you all.

12 So at this point I will take some
13 questions.

14 CHAIRMAN KIENZLE: Yes, sir.

15 COMMISSIONER SALOPEK: You know, Bobby, me
16 and you have talked about this a couple times. And
17 I -- I think me and you talked about going back to
18 the tagging system. You know, I've looked at it,
19 how far away are we from getting the smart phone?
20 Say we're in the Gila -- I guess what I'm saying is
21 I'd like to see progressive instead of regressive.
22 And I think going back to the tagging, I don't
23 disagree with it. I just think with these smart
24 phones we could get it to where you can -- where you
25 put it in the phone, and maybe I'm wrong, but I --

1 that's just kind of what I'm looking at.

2 I've kind of changed my tunes in the way I
3 look at it. We're already here. How much is going
4 on that does elevate (inaudible). And so I -- I
5 don't know. I'm on the fence. I don't know which
6 way to go, so --

7 MR. GRIEGO: Mr. Chairman,
8 Commissioner Salopek, yes, I'm in full agreeance.
9 And our whole division, all our officers would be in
10 agreeance with we're just wanting some system that
11 is a little more fail safe when it comes to the
12 potential violation, whether that's with technology
13 or however it is. Yeah, we're open to any
14 suggestion. It's just -- just to bring it to your
15 attention that we need to probably address it one
16 way or the other.

17 COMMISSIONER SALOPEK: And I guess with
18 the -- with the officers, would they be more
19 inclined to wanting the tag like the old system so
20 it's on that animal wherever it goes?

21 MR. GRIEGO: Mr. Chairman, Commissioner
22 Salopek, potentially just because that's -- that's
23 what they know.

24 COMMISSIONER SALOPEK: Right.

25 MR. GRIEGO: But without a doubt they're

1 open to -- to any of the technology that's out there
2 as long as we have it on hand and available. It
3 just -- that -- that was the plan, and it just
4 seemed that we don't -- we don't see that end in
5 sight. So this was just a way, again, just to bring
6 it to your attention that we may need to go a
7 different route to -- to address that issue. Until
8 that technology comes along is all this was. So --
9 so that's --

10 COMMISSIONER SALOPEK: Because I was in
11 Florida in October of last year and I was going with
12 my wife's cousins. And I said, "We going fishing?"

13 They said, "Yeah."

14 I said, "Give me a license."

15 They said, "Only if we get caught."

16 And I said, "Whoa, whoa, whoa. I'm on a
17 commission. I have to have a license and I want a
18 license."

19 So I called it in and the -- the
20 800-number, they -- and he said, here's your number
21 and I'll send it to your phone but if a game warden
22 shows up just show him this number and he'll have
23 it. That was pretty interesting. It was all smart
24 phone and all I needed was a number. So I thought,
25 wow, that's pretty simple.

1 MR. GRIEGO: Yeah, Mr. Chairman,
2 Commissioner Salopek, and I think we would -- we
3 would continue to go down that road with -- with
4 everything we have, online purchases and fishing
5 licenses where you would be able to do that. That
6 would not be an issue. It's solely those species
7 that typically -- or that we even currently have
8 some sort of invalidation. We just don't have the
9 technology to validate that license would be where
10 we would go to some sort of, if not tagging, but
11 invalidation.

12 COMMISSIONER SALOPEK: Right. And you have
13 to invalidate it. That's what we're after.

14 MR. GRIEGO: That's the key --

15 COMMISSIONER SALOPEK: The tag is some sort
16 of --

17 MR. GRIEGO: -- is some sort of --

18 COMMISSIONER SALOPEK: Right.

19 MR. GRIEGO: Whether it's a document that
20 says it or technology that provides information to
21 the officers in the field realtime that says, yeah,
22 this -- this individual is done.

23 COMMISSIONER ARVAS: Mr. Chair?

24 CHAIRMAN KIENZLE: Yes.

25 COMMISSIONER ARVAS: Bobby, have you looked

1 around at the adjoining states, what they're doing?
2 They haven't got rid of the tags yet, have they?

3 MR. GRIEGO: Mr. Chairman, Commissioner
4 Arvas, no, the majority of the western states have
5 not gotten away from a tagging system. Nebraska has
6 on some of their species, you see it. I think
7 Oklahoma has also. But the vast majority of that is
8 typically in the east. The west has some sort of
9 tag. But technology is -- just changes by the day,
10 so is it -- is it coming? Without a doubt. Or it
11 may even be but we're just not seeing it. But --

12 COMMISSIONER ARVAS: Well, the main concern
13 that I have is the obvious one, is that I certainly
14 don't want to let the department do anything that
15 would give that, let's say, unscientific hunter an
16 opportunity to break the law because he doesn't have
17 a smart phone or anything along those lines. So
18 there's got to be something that's compatible to all
19 the people that we have that are hunting. And I'm
20 sure that's what you're taking into consideration.

21 MR. GRIEGO: Mr. Chairman, Commissioner
22 Arvas, yes, that's correct. You know, the issues
23 with just connectivity. Out in the Gila are you
24 going to have cell phone coverage. Even if that
25 technology is there are they going to be able to --

1 to invalidate that license if they wanted to or are
2 they going to have to drive two or three hours to
3 get it done. Then it comes into reasonableness. So
4 those are all issues we're taking into
5 consideration.

6 COMMISSIONER ARVAS: So for this year we're
7 going to have the old -- have you made up your mind
8 what's going to happen with this year yet?

9 MR. GRIEGO: Mr. Chairman, Commissioner
10 Arvas, with this year we would be with the same
11 system we had last year, just the invalidation on
12 the document. It would -- nothing would change for
13 this year.

14 COMMISSIONER ARVAS: Nothing -- nothing
15 will change.

16 MR. GRIEGO: Yeah, anything that would
17 be -- would be perspective for the 2015 season.

18 VICE CHAIRMAN MONTOYA: Mr. Chairman?

19 CHAIRMAN KIENZLE: Yes.

20 VICE CHAIRMAN MONTOYA: Bobby, it seems
21 like the concern is that there's no tag that you rip
22 off, throw on the deer's horns, leg, or whatever.
23 Just a thought, when you print this license out and
24 you're at home, for example, you can print a tag.
25 And I don't know if we can set it up where that it's

1 going to print one time and if it has to print two
2 times then you can't do it unless you go through a
3 different route.

4 The concern that I see is that the public
5 is -- some of the public is concerned about not
6 having something to look at. The law enforcement
7 people in the field not having something to look at
8 saying that tag is on the critter or it's been
9 notched or whatever it is. And if you don't have
10 the facilities to print it you can still buy that
11 sort of a thing at one of the vendors. So there's
12 ways to get around this if in fact it is a problem.
13 If it's not a problem then -- then let her go.

14 MR. GRIEGO: Mr. Chairman, Commissioner
15 Montoya, yes, that -- that is true. I think it's
16 more of not necessarily just needing that document
17 or wanting to see a document on -- on that big game.
18 It's controlling that -- that piece of paper. And
19 the problem with -- with printing, even if you can
20 only print one via your printer, you just put it on
21 the copy machine and -- and Xerox copy 10 more.
22 And -- and that's -- that's the perceived issue out
23 there.

24 We did not make any cases this year in
25 regards to this, but we did get several bits of

1 information that individuals were doing just that,
2 that they were going out filling their tag, getting
3 home without being checked, and simply taking
4 another license that they had printed and going out
5 and doing the same thing. And if you were checked
6 there's no indication on that document that it was
7 ever on anything because it's a brand new piece of
8 paper.

9 With the old system, without a doubt, did
10 we have individuals exceeding the bag limit? Sure.
11 But they had to play the system of do I choose not
12 to tag this or do I tag it and then I can continue
13 to hunt today but you had a document. It -- it led
14 to questions, whether that carcass tag looked like
15 it had been on an antler or had blood on it. It
16 just led to questions. And -- and without a doubt
17 technology is coming to where it's going to be more
18 full proof than that system.

19 But just like anything if -- sometimes our
20 laws or our ability as you're coaching to the middle
21 ground, the true sportsmen, this system is not going
22 to make poachers out of honest people. But does it
23 provide an opportunity for illegal activity? Yes.
24 And we're just trying to fix that. It's -- we're
25 not seeing -- I don't think we're going to see an

1 increase in the amount of poaching activity. But
2 it's -- we're just trying to reduce this -- this
3 loophole.

4 VICE CHAIRMAN MONTOYA: Yeah. Well, it
5 hasn't changed, Bobby. You know, in years past
6 momma's tag came on to the deer or -- or junior's
7 tag came on to the deer and they were nowhere
8 around. And if you wanted to violate you were going
9 to find a way to do it. We can't catch them all.
10 But anyway, thank you.

11 MR. GRIEGO: Yeah, Mr. Chairman,
12 Commissioner Montoya, just the main thing is right
13 now we don't even have an indication of a violation
14 when you take that individual, whether it's --
15 unless you saw him before. That's -- that's the
16 flaw with this system as it is.

17 COMMISSIONER ESPINOZA: Mr. Chairman?

18 CHAIRMAN KIENZLE: Yes.

19 COMMISSIONER ESPINOZA: Bobby, give us a
20 timeline. What are you -- you know, I'm with
21 Commissioner Salopek. I don't want to be regressive
22 and start going back to paper. Then it makes us
23 look bad that we're going to flip-flop and flip-flop
24 type thing. But, you know, what do you see in two,
25 three years, next year before we -- for that

1 technology is perceived to be available and that we
2 can implement it?

3 MR. GRIEGO: Mr. Chairman, Commissioner
4 Espinoza, as far as the timeline on that technology,
5 I couldn't give you an exact timeline. I know that
6 this is a high priority with the agency, definitely
7 field ops and the administration. And we're
8 discussing it weekly to work on this. So with that
9 technology, yeah, I would say it seems like it's a
10 couple years out. But last year it seemed like we
11 were just a couple years out and it was going to be
12 acceptable to try and ease into this trans -- have
13 this transition period to get it done.

14 But it doesn't -- we don't seem to be
15 getting any closer to it, and that's why I wanted to
16 bring this forward to -- at the risk of our wildlife
17 if it's five years down the road I would like to
18 have something in place, a fail safe in place and
19 still continue working towards that ultimate goal of
20 that technology. But, yeah, I would say at least a
21 couple years out it seems -- it seems like. But the
22 technology aspect of it is -- is a little bit out of
23 my purview.

24 COMMISSIONER ESPINOZA: We're not computer
25 geeks, right.

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1 MR. GRIEGO: Right.

2 COMMISSIONER ESPINOZA: So when you bring
3 this forward, are you saying from your standpoint,
4 law enforcement, if we don't -- if you don't see
5 something on the horizon by the end of the year
6 you're going to make a recommendation that maybe go
7 back to paper for at least the interim at that
8 point?

9 MR. GRIEGO: Mr. Chairman, Commissioner
10 Espinoza, I don't know if it's going to be at the
11 end of the year. I'm going -- I'm in discussions
12 right now with the -- with the director to kind of
13 get some direction on how we want to go. This was
14 simply to put it -- just to plant the seed that I
15 may be coming to commission meetings from now
16 saying, you know, I think we need to go this route
17 at least for the next five years in protection of
18 those resources.

19 Again, everything we've got is just
20 anecdotal on those reports. But I'm hearing a lot
21 of concerns that I think some of it -- some of those
22 individuals out there have a belief that surely it
23 can't be this easy. There's more to it than this
24 that I'm not seeing. But as time goes on, yeah, are
25 those individuals going to get bolder and bolder

1 about it? And that's the risk, is -- is we've got,
2 again, some fantastic sportsmen in New Mexico. But
3 if you've got 50 of those individuals who are
4 willing to take full advantage of this, we've seen
5 what one individual can do with just a trout
6 population. If -- a determined individual could
7 definitely do some damage. And -- and that's all it
8 was, was just a heads up that it may be coming.

9 COMMISSIONER ESPINOZA: Well, thank you for
10 bringing it forward and staying on top of it.

11 MR. GRIEGO: Okay.

12 COMMISSIONER RAMOS: Mr. Chairman?

13 CHAIRMAN KIENZLE: Yes.

14 COMMISSIONER RAMOS: Colonel Griego,
15 Arizona, you do have a carcass tag and then you have
16 to call in within five days, I believe, to report
17 your harvest and whatnot. There is, you know, a
18 limit on that. So I kind of would like to see that.
19 If we don't have the technology, gosh, what about a
20 phone call within five to eight days. You know, I
21 would still love to see where you take a photo in
22 the field and within three days or something -- you
23 know, I know in the Gila you don't have service.
24 You -- you text that into the department. It
25 gathers that data.

1 It would be sure nice for a game warden to
2 scan their scanner daily and they know who has
3 harvested. You go out into the field and, you know,
4 you check a license and you can scan it and see if
5 they've harvested or not. And I'm sure you've seen
6 all the logistics and all of that. But even that
7 telephone call in Arizona seems to, you know, kind
8 of hold you there.

9 MR. GRIEGO: Mr. Chairman, Commissioner
10 Ramos, yeah, you're right. It would at least cut
11 that down to a five-day window or a two-day window,
12 whatever -- whatever we chose to create that
13 timeline for that phone call. And that would be
14 better than nothing for sure. The -- I guess the
15 flaw in that is that most of our sentence are five
16 days. So if you have five days to call in, well --

17 COMMISSIONER RAMOS: Right.

18 MR. GRIEGO: And so -- but, yes, we need to
19 go towards some sort of invalidation, whether it's
20 as simple as a phone call or it's controlling the
21 amount of documents that we give you, but -- or
22 having the technology to you scan it and it
23 automatically goes to a database and all our law
24 enforcement can -- can view. So --

25 COMMISSIONER RAMOS: On the other hand, I

1 mean, currently with what we have you print out
2 your -- I mean, that could almost be a requirement
3 now where you harvest a deer, elk, whatever, and it
4 goes with the edibles anyway. That's how it used to
5 be. So why not be able to put it in there and --
6 and have it even if you have the second copy. I
7 don't know, it's -- it's a good discussion anyway.

8 MR. GRIEGO: Mr. Chairman, Commissioner
9 Ramos, that's exactly where we're hoping to go with
10 the technology is regardless of how many pieces of
11 paper are out there that that number would be
12 invalidated somehow, whether scanning or phone call
13 or both and that we would be able to recognize it
14 immediately upon inspection that this license number
15 was reported to have harvested two days ago or
16 today, whatever the case may be. And that's
17 ultimately we hope to go.

18 COMMISSIONER RAMOS: And I know you all are
19 working hard on hiring people and whatnot. And I'm
20 just thinking possibly maybe contracting someone to
21 do the legwork on the technology and -- and giving
22 some support to the agency, you know, technicians or
23 whatever, but --

24 MR. GRIEGO: Yeah, Mr. Chairman,
25 Commissioner Ramos, yes, I -- that would be a

1 possibility for sure.

2 COMMISSIONER RAMOS: Okay. Thank you, sir.

3 MR. GRIEGO: Uh-huh.

4 COMMISSIONER SALOPEK: I just have one
5 other comment.

6 CHAIRMAN KIENZLE: Yes, sir.

7 COMMISSIONER SALOPEK: And -- and I want to
8 thank you, Bobby, because this is something that I
9 think all of us commissioners, sportsmen people
10 talking to us, what about this, what about that, and
11 I'm glad you brought it up for discussion. However
12 we go we have to discuss and be open, and this is a
13 way to start it. So I just want to thank you for
14 that.

15 MR. GRIEGO: Yeah, Mr. Chairman,
16 Commissioner Salopek. I -- without a doubt we're in
17 a good spot where we've created some fantastic
18 convenience for our sportsmen. I don't think we
19 want to go away from that at all. We just want to
20 add some protection to wildlife at the same time.

21 COMMISSIONER SALOPEK: Yeah. And that's
22 what they want too.

23 MR. GRIEGO: Sure.

24 COMMISSIONER SALOPEK: Thank you.

25 CHAIRMAN KIENZLE: Any other questions,

1 Commissioners? Comments?

2 Thank you. Garrett?

3 MR. VENEKLASEN: Good morning,
4 Mr. Chairman, Commissioners.

5 CHAIRMAN KIENZLE: Well, I'm sorry to
6 interrupt you, but we're down an employee. Angelica
7 is not with us. So when you step up to address us
8 in the microphone, if you would say your name. Do
9 you want him to spell it?

10 THE CLERK: No, I think --

11 CHAIRMAN KIENZLE: Not necessarily. Okay.
12 Because ultimately there will probably be
13 transcription of what's going on. So that's helpful
14 if you would state your name at the beginning of
15 your presentation. Thanks.

16 MR. VENEKLASEN: Good morning. I'm Garrett
17 Veneklasen. I'm the executive director of the New
18 Mexico Wildlife Federation. I just want to
19 reiterate some of the things that you've been
20 hearing. We've been hearing a lot from our members
21 and just spending a lot of time personally out in
22 the field. We are hearing -- and, again, it's
23 anecdotal like Bobby said -- of some -- some
24 violations happening. And I think especially during
25 turkey season it's so easy to kill a turkey, take it

1 home, cut it up, process it, print another tag, go
2 kill another turkey. And I think especially most of
3 the hunting I did this spring was in the north but I
4 think we are seeing considerable violations
5 happening. And I think some way of mandatory
6 reporting in a short period of time some of the
7 stuff that Ralph had discussed I think do make
8 sense.

9 I just wanted to reiterate that I think the
10 resource needs to be protected and we need to just
11 think about how we do that. Thank you very much.

12 CHAIRMAN KIENZLE: Thank you. Any other
13 public comment on number 7? Okay. This is just the
14 discussion item. I look forward to taking it up
15 again.

16 Thank you, Colonel.

17 MR. GRIEGO: Yes, sir.

18 CHAIRMAN KIENZLE: Agenda item number 8,
19 final proposal prohibiting the use of drones for
20 hunting.

21 MR. GRIEGO: Mr. Chairman, Commissioners,
22 this is the final proposal prohibiting the use of
23 drones for hunting. Drones or unmanned area
24 vehicles have become more available in recent years.
25 The use of the drones to locate, (inaudible)

1 protective wildlife is not addressed in our current
2 commission and rules. The department proposes to
3 amend 31-10, which is the manner and method of
4 taking to address the use of drones.

5 Basically under 31-10 our manner and
6 method, we've added a definition of drone and then
7 added drone to our current rules that address
8 harassing wildlife or utilizing that information.
9 Under definition of drone we are proposing the
10 definition to be defined as any device used or
11 designed for navigation of flight in the air that is
12 unmanned and un -- and guided remotely or by an on
13 board computer. Drones may also be referred to as
14 unmanned aerial vehicles or unmanned aerial vehicle
15 systems.

16 Be careful under 31-10-13 we added under
17 current rule, which is harassing of protected
18 wildlife, we added drone to be included in that.
19 This is a rule that we currently have and utilize
20 that just says it's unlawful at any time to pursue,
21 harass, (inaudible), drive or rally any protected
22 species by the use of or from a motor driven
23 vehicle, power boat, sailboat, drone or aircraft.
24 We just added that -- or that word in there.

25 Same thing under 10-13, the use of aircraft

1 for spotting game, we just added drone in there to
2 be included with that -- with that aircraft.

3 Under 31-10-13, the use of vehicles.
4 Currently we have under F, F-1 is the current rule
5 we have. We added F-2 that basically states that
6 you cannot use a drone at all to aid in hunting.
7 There's no 48-hour rule. It would be simply you
8 cannot use them at all, whether it was 48 hours or
9 72 hours. You couldn't use that drone via that --
10 that regulation.

11 We did add an exception in there under J
12 that aircraft drone and vehicle exemptions to this
13 rule, the director may exempt a person from the
14 prohibition of utilizing an aircraft drone or
15 vehicle for management purposes. We do recognize
16 that with all of those systems there may be a
17 management application, whether it was surveys or --
18 or even utilized on -- for take of feral hogs. You
19 know, for example that the director could issue a
20 permit to -- to allow that.

21 The commission first raised this issue May
22 15th. Since that time the department has received
23 36 public comments all in favor of prohibiting the
24 use of drones to take or assist in the hunting of
25 protected species. We did receive a public comment

1 that may assist with legal argument on the
2 definition that makes a lot of sense. This
3 individual is obviously a lot more savvy on this
4 type of stuff than I, and he recommended that -- he
5 said that we may want to consider changing the
6 phrase from on board computer to an on board control
7 system to more generically describe that control
8 system. And reading that, I do agree with that. I
9 would hate to get this passed into rule and have to
10 argue in court of whether this machine had an on
11 board computer.

12 So this little more generic language may
13 cover and just eliminate that one loophole that may
14 get utilized just once in the next five years. But
15 it was a pretty good comment. I think that's a
16 pretty good suggestion.

17 MR. BROOKS: Mr. Chairman, if I might just
18 add with that last comment that Bobby made I just
19 brought that to him yesterday. You know, we get
20 blasts of e-mails. And so we were precluded because
21 of the Commission's policy. We couldn't print
22 anything new within 72 hours, but we did want to
23 bring that to your attention because we think it's a
24 good idea. Unfortunately for us our recommendation
25 was already posted on the website so we couldn't

1 change it.

2 CHAIRMAN KIENZLE: We -- if it's the wish
3 of the Commission we can always amend. So we --
4 we're covered. Thank you.

5 Well, seeing no comment. Just kidding.
6 Robert?

7 COMMISSIONER ESPINOZA: Bobby, Dan, you
8 know, we've had some discussion about this. From a
9 law enforcement standpoint, Bobby, I'm curious to
10 see, you know, how many of these people do you think
11 you're going to actually pursue? Is it -- is it a
12 large percentage out there or -- you know, I know
13 they're getting more inexpensive to more people tend
14 to use them. But in your years or reports from --
15 from the field, have you ever had a report of
16 somebody using a drone to scout or to --

17 MR. GRIEGO: Mr. Chairman, Commissioner
18 Espinoza, no, I have never had personal experience.
19 They -- they are becoming more prevalent. So are we
20 going to see them in a future? Without a doubt I
21 see them coming. I saw my first one here about a
22 week ago, was this one, and it was at a rodeo. And
23 they were -- they were flying it around, kind of a
24 halftime event. So they are out there. This one,
25 the guy said is about 1200 bucks and it will fly up

1 to 1,000 feet. But by rule he's got to keep it at
2 400. And, I mean, people are -- people are getting
3 them. So we're going to see them. But as to how
4 much, I don't know.

5 As this -- these rules are very difficult
6 as it is doing 16 years in the Gila where we had a
7 lot of aircraft use. We did make a few of the
8 harassment cases where we had individuals witness,
9 get us a tail number and had it on number where they
10 were scattering elk and we could make a case. It's
11 very difficult to make a case regarding the use of
12 information. I've got to prove that you're
13 utilizing that information one way or the other.

14 So, yeah, that -- that's a tough one to
15 answer to give you with any specificity. It just --
16 but it's going to happen.

17 COMMISSIONER ESPINOZA: You know, and I
18 guess I'm kind of concerned. I'm never one on
19 adding more laws or regulations. You know, putting
20 more of a burden on you guys. You know, you guys
21 got a lot to do. I'd more have you go out there and
22 chase the real criminals, you know, that really hurt
23 our resources.

24 So I'm a little concerned about that last
25 paragraph. You know, and thinking that that -- the

1 previous -- the existing one in F-1, just adding
2 the -- just adding drone to it, you know, kind of
3 says the same thing and covers the same thing. I
4 think that -- you know, I guess I just don't want to
5 add more to you and also I don't want to open the
6 door to adding more regulations. You know, and kind
7 of where do we end?

8 You know, is it -- you know, I've heard
9 rumor about trail cams. You know, does that mean if
10 somebody is out there with a 3,000 pair -- \$3,000
11 pair of Swarskis and I'm out there with a \$200 pair
12 of Bushnells, does that make him -- is -- does that
13 make him more apt to see game than I am. And, you
14 know, is it fair to me? You know, I just don't know
15 if I want to open that door to keep going and where
16 do we stop and add more stuff to it.

17 So I'd be more inclined to say that just
18 add aircraft to that existing law or existing
19 regulation and delete the other half. I just want
20 to get your thoughts and see if it -- if it makes a
21 difference in law enforcement.

22 MR. GRIEGO: If I might, Commissioner
23 Espinoza, to go back to your comment. You mentioned
24 the last paragraph. I think you mean the last
25 paragraph in F, which is F-2, not last paragraph J.

1 COMMISSIONER ESPINOZA: F-2, yes.

2 MR. GRIEGO: Because that's the director's
3 ability.

4 COMMISSIONER ESPINOZA: Right, right. Not
5 J. Yes, that would be -- I guess to clarify that,
6 in F-1 add drone to that -- that existing regulation
7 and delete F-2 in its entirety. You know, and I --
8 I absolutely applauded and respect the public
9 comments. You know, we -- we absolutely have to
10 listen to them. But this is just one that I think
11 that we're adding -- I'm not so sure that we're not
12 adding a regulation that's kind of going to end up
13 meaningless at some point in time.

14 MR. GRIEGO: Mr. Chairman, Commissioner
15 Espinoza, ultimately it's going to be you all's
16 decision to vote on this rule. I will say that if
17 under F-1 they would be allowed -- if -- if you put
18 drone under F-1 they would be allowed to utilize and
19 fly drones. That would be out there to scout with
20 them. You could see them whenever they're available
21 to do so. They just couldn't utilize that
22 information for four -- or for two days. So it's
23 all in what you're wanting.

24 As far as -- as ease in black and white, if
25 under F-2 you just -- you can't do it. So in a

1 sense, law enforcement-wise, it does make it easier
2 that route. But -- but, again, F-2 is saying you
3 can't -- you can't use it to hunt or scout at all.
4 F-1 says you're more than welcome to utilize it, you
5 just can't use the information for -- for two days.
6 So that would be, again, up to you all.

7 COMMISSIONER ESPINOZA: Yeah. Yeah.

8 CHAIRMAN KIENZLE: Robert, anything else
9 right now?

10 COMMISSIONER ESPINOZA: Not right now.
11 I'll reserve my right though.

12 CHAIRMAN KIENZLE: Okay. Commissioner
13 Salopek.

14 COMMISSIONER SALOPEK: You know, I was
15 agreeing with what Robert was saying. But then what
16 you just stated that I guess with the game cameras
17 if you have to walk through it and you can check it
18 and you walk back to your vehicle, in my mind that's
19 okay. Now, we've been hearing that since I got on
20 this commission now they have game cameras that you
21 might be able to, from your vehicle, from your house
22 see what the game are doing. That's not a fair
23 chase.

24 And I think you answered my question,
25 Bobby, because I'm -- I'm on Robert's side or I was.

1 But now, to me, drones if they're \$1200, are they
2 going to be \$100 at Cabela's in three years where
3 everybody can buy it. And if you're using it to
4 scout, if you can't go to a point and drive and
5 glance, if you're using that for a scout that's not
6 fair chase in my opinion. It's kind of like the
7 game camera. So I'm kind of back to leaving this
8 the way it is is how I feel.

9 MR. GRIEGO: Mr. Chairman, Commissioner
10 Salopek, yeah, I'm just giving you the facts.

11 COMMISSIONER SALOPEK: It's our decision.

12 CHAIRMAN KIENZLE: But let me ask you a
13 question: So let's say it's not hunting season.
14 It's the middle of the summer. You know you don't
15 have an elk tag for the upcoming season in November
16 or in the winter. But let's say you're hopeful,
17 like everyone is, that the next draw that you'll get
18 a tag. So I go out to the sergeant, got a drone,
19 fly it around in the summer and where elk are at in
20 the summer may be different from where they're at in
21 the -- in the fall.

22 But what if I take that information and
23 then in a following hunting season I take from I
24 learn from that, would I be in violation of this
25 rule as proposed?

1 MR. GRIEGO: Mr. Chairman, that's going to
2 be -- that's going to fall under that
3 reasonableness -- reasonableness standard as if an
4 officer chose to try and push this forward in the
5 court of law. That's what it's going to -- what is
6 that articulation going to be? If -- it's going to
7 be highly unlikely that anyone is going to be able
8 to articulate the information you gathered three
9 months ago aided you in this hunt.

10 Flip it around though, do it flying for
11 bulls in their winter ground in January. And I
12 utilize that information and I don't really go
13 hunting for two weeks. I can articulate that
14 because I can show you that bulls on their winter
15 ground, where you find them today --

16 CHAIRMAN KIENZLE: Stay close.

17 MR. GRIEGO: -- he's going to be there two
18 weeks from now just because of the biology of it.
19 So it's going to be in that articulation of it. I
20 wouldn't by no means want someone pushing something
21 like that. But -- but technically it would be a
22 discretion deal at that point.

23 CHAIRMAN KIENZLE: So let me ask the
24 assistant attorney general on this reasonableness
25 standard or discretion in the officer, does that

1 effect at all -- I mean does that create a pretty
2 good defense when you get into a criminal case? I
3 mean, or is it -- are we just arguing the facts?

4 ASSISTANT ATTORNEY GENERAL: I cannot speak
5 as to what a judge would do, but usually it might be
6 a valid defense, yeah. It is -- it is founded on
7 the rules, on the board rules.

8 CHAIRMAN KIENZLE: Right. Which just
9 means, I guess, you've got to prove your case.

10 ASSISTANT ATTORNEY GENERAL: No, you don't.
11 You can never say that.

12 CHAIRMAN KIENZLE: I meant not you, but I'm
13 saying we -- as -- as a department you just have to
14 prove your case so I understand -- I understand what
15 you're saying. All right. That answers one of my
16 questions. I'm sure I'll have more as we move on
17 here.

18 Commissioner Ricklefs.

19 COMMISSIONER RICKLEFS: Clarification on J,
20 the exemption clause. The permission from the
21 director would be for management use of a drone that
22 had something to do with wildlife, wildlife related
23 issues, not for a rancher counting livestock or
24 looking at his fence; is that correct?

25 MR. GRIEGO: Mr. Chairman, Commissioner

1 Ricklefs, that is correct to a point. As long as
2 they weren't -- if any shooting from -- from that
3 aircraft would have to be permitted. But just
4 getting up in the air to -- to check waters, that
5 would be at the discretion of the landowner, not us.

6 COMMISSIONER RICKLEFS: Thank you.

7 CHAIRMAN KIENZLE: Let me bring up more one
8 more point, having been forced to follow this issue
9 in the media, I've seen now where I guess the
10 national parks have outlawed drones in all of their
11 parks or they're fixing to do it or something like
12 that. This is a rule of broad application that
13 wouldn't just apply to commission owned properties.
14 So we -- we may someday take up the issue, you know,
15 do we ban drones altogether in our wildlife
16 management areas because we control that property.
17 We can -- we can do what we want basically in there.

18 But this is a rule of broad application.
19 So while this is one size fits all for the whole
20 state we may very well pick up later on what happens
21 in our own wildlife management areas. Just a
22 comment.

23 MR. GRIEGO: Yes, Mr. Chairman. Yeah, this
24 rule would be specific to, A, protected species and,
25 B, we would have to prove that they're hunting in

1 one way or the other.

2 CHAIRMAN KIENZLE: Okay. Who is next?

3 COMMISSIONER RAMOS: Mr. Chairman, I like
4 that public input comment. I think that's the only
5 thing I'd like to see tweaked on this.

6 CHAIRMAN KIENZLE: Yeah.

7 COMMISSIONER RAMOS: With Wi-Fi and remote
8 and an on board computer that's going to be pretty
9 difficult to justify for a warden or --

10 CHAIRMAN KIENZLE: And what I'm going to
11 suggest is we just keep both on board computer and
12 the new language as well because we might as well
13 cover everything. But I think we would -- I would
14 eventually ask for a motion to include that more
15 broad definition.

16 COMMISSIONER RAMOS: So, Mr. Chairman, I
17 know we have a motion here that we can move on it
18 today. Can we add that both now --

19 CHAIRMAN KIENZLE: Yeah, we can do that at
20 any time. Yeah, that's not a problem.

21 MR. GRIEGO: Mr. Chairman, Commissioner
22 Ramos, the motion would have to be something similar
23 to that you would move to accept the department's
24 recommendation on drones with the exception of
25 changing a portion of the definition of drones to

1 include an on board control system or -- and/or
2 computer to that definition.

3 CHAIRMAN KIENZLE: Okay. That's easy.

4 MR. GRIEGO: And I think that can be set
5 for that portion.

6 CHAIRMAN KIENZLE: Right. That's easy.
7 The substance is more difficult. But who is next?

8 COMMISSIONER SALOPEK: I agree with what
9 we're talking about right now. Public comment?

10 CHAIRMAN KIENZLE: Well, we're going to get
11 there. I'm just trying to make sure commissioners
12 have had their initial say.

13 COMMISSIONER ESPINOZA: I might have
14 something else after I hear --

15 CHAIRMAN KIENZLE: Okay. That's okay.

16 Garrett. And I'll give you a few more
17 minutes than two minutes.

18 MR. VENEKLASEN: Mr. Chairman,
19 Commissioners, Garrett Veneklasen from the
20 New Mexico Wildlife Federation. First and foremost
21 we wanted to applaud the commission and the
22 department for making this a public process. And,
23 again, I think this is a really good example of how
24 taking an issue and giving it ample time to be
25 discussed has brought us to a place where we have --

1 where you all have made a really good decision on
2 this thing, and we just wanted to applaud the
3 commission for the process and -- and the
4 transparency of the process. So thank you all very
5 much.

6 We very much think that F-2 should be part
7 of this -- of this rule that we're going to make.
8 And we don't see drones being any part of ethical
9 hunting in any way possible, and we appreciate your
10 comments, Commissioner Salopek. Drones should not
11 be any -- any part of our hunting process. But,
12 again, thank you for the process and we very much
13 support this as proposed. Thank you very much.

14 CHAIRMAN KIENZLE: Any other public comment
15 on this?

16 MR. JENSEN: Jarrod Jensen out of Ruidoso
17 here. I guess my only question is regarding the
18 drone issue would be we allow aircraft to -- people
19 in aircraft to survey animals 48 hours prior to
20 their hunt and use that information. So I guess as
21 Commissioner Espinoza pointed out say I do have the
22 money to hire an aircraft and go see those animals
23 and the person that has a drone for \$400, let's just
24 say, has a drone but is no longer allowed to use
25 that, is that a discrepancy within the law as far as

1 that gives the person with more money to hire a
2 plane in an aircraft an advantage over the drone.
3 So I guess my question, I feel like they would be
4 useful for scouting but there should definitely a
5 time limit. And that's my comment.

6 CHAIRMAN KIENZLE: I sympathize with you.
7 I mean, some of this is -- this is the first time --
8 these issues will come up the first time someone is
9 charged with this. I mean, and it's going to be up
10 to a judge or a jury to decide how this all shakes
11 out. And, you know, drones are treated differently
12 than aircraft. And so ultimately a court is going
13 to sort out what that means. I don't see anything
14 on the face of this that would prohibit us from
15 doing what we're doing here.

16 But as applied or on the facts of a
17 particular case a judge may say I don't like this.
18 So we won't know that though unless and until
19 someone is charged with this and it goes through
20 that criminal process. So I get that.

21 So before we start chopping this thing up
22 into pieces, Robert, do you got one more?

23 COMMISSIONER ESPINOZA: Again, for the
24 public and the Commission, you know, again I
25 absolutely understand and want to explain my

1 reasoning and why I would make a motion and/or vote
2 against the way it's currently written, is I just
3 don't see it as necessary. And I think as the
4 gentleman says, you know, our -- we discriminated
5 against the individual that can only afford a \$1200
6 drone and not a \$12,000 an hour aircraft.

7 And I kind of go back to my grandson. He
8 has remote controlled everything. He's just one of
9 those geek kind of guys. But he asked me, you know,
10 if I'm out there flying and I have an elk tag for
11 the season am I guilty? You know, in theory he
12 could be if he's flying out there in the summer.
13 You know, is he going to be -- you know, I guess for
14 one of your officers, Bobby, it's going to take time
15 away from him to at minimum investigate it because
16 that's what he does. He's a law enforcement
17 officer. If he sees something that could be a
18 violation it's his duty to investigate.

19 That subparagraph 2 gives him that -- it
20 allows him or makes it kind of almost mandatory for
21 him to do that. So I -- I just don't want to open
22 the door for it to keep going. And I just think it
23 would be something that adds on to you guys. But,
24 again, I absolutely respect the public's comments
25 right now. So that would be my explanation of my --

1 my vote and how I would go. And when we're ready to
2 entertain a motion I would entertain one,
3 Mr. Chairman.

4 COMMISSIONER SALOPEK: I guess Bobby went
5 off what Robert just said and that last gentleman.
6 What -- do all drones have cameras? I mean, if you
7 have a drone up there that doesn't have a camera,
8 could we be flying it in camp or flying it whatever,
9 but if it has a camera, now do we have to go prove
10 it has a camera or not. I mean, does that -- does
11 that divide it to where we can say if it has a
12 camera it's illegal, if it doesn't it might be okay?

13 MR. GRIEGO: Mr. Chairman, Commissioner
14 Salopek, the main thing is we're going to have to --
15 regardless of whether you have a license or not and
16 you're flying we have to prove that you're using
17 that drone to gain information for your hunt.
18 Simply flying a drone out on the forest would not be
19 a violation.

20 Would it in fact create an investigation if
21 reported? I mean, yeah, our officers would look
22 into it. But, again, we -- I always provide
23 guiding -- guidance and training to our officers and
24 they have their discretion. They're -- they're
25 solid investigators. But, yes, that -- it would

1 have to have some implement capable of assisting
2 them. And that would often be a camera, I assume.
3 Otherwise it would just be a model airplane.

4 COMMISSIONER SALOPEK: Right.

5 MR. GRIEGO: But -- but, yeah, we would
6 have to prove the elements of that crime in showing
7 that they're gaining that information and they're
8 utilizing it on their hunt. So that -- that would
9 not change regardless.

10 CHAIRMAN KIENZLE: And let me say that I
11 see two issues with drones. One is fair chase and
12 the other one is harassing legal hunters there in
13 the field. So we've already got, what is it,
14 17-2-7.1 that would make any sort of interference
15 with someone who is legally in the field hunting.
16 And that would be illegal as well. So if you're
17 getting buzzed, camera drone or non-camera drone, at
18 4:55 when you're lining up to take that shot that
19 you've frozen your butt off all day to get, you
20 know, that's where the hunter in the field is going
21 to rat out that person that's flying around.
22 They're going to be pretty hacked off and they're
23 going to track them down.

24 And, you know, they may report it to a game
25 warden and then go from there. So, you know, I see

1 fair chase in interference with people that are
2 legally in the field. And that's why I brought up
3 earlier the issue of (inaudible) wildlife management
4 areas. I'm just not sure I want drones in there at
5 all, whether it's to take pretty pictures or -- or
6 something else. But that's not on the table today.
7 It's something we'll -- we may take up later on.
8 But I think there's other ways to take care of
9 non-camera drones if we have an interference issue.

10 And this is -- the chances of one of your
11 officers being able to catch somebody sort of in the
12 act, it's like a needle in the haystack. So really
13 this is where the hunting community would be, you
14 know, your eyes and ears policing this saying, look,
15 there's a guy doing this, that, or the other thing.
16 And, you know, that's how you probably become aware
17 of -- of the issue. So keep -- keep your own eyes
18 and ears open when you're in the field for these
19 things.

20 COMMISSIONER RAMOS: Mr. Chairman?

21 CHAIRMAN KIENZLE: Yes.

22 COMMISSIONER RAMOS: And on the other hand
23 I'm kind of totally opposite. Rather than closing
24 the doors, I'd like to open them up especially even
25 with trail cams with satellite, you know,

1 technologies. To me fair chase is fair chase, and I
2 think, you know, we've got to rely on our skills to
3 go out there and -- and hunt these animals.

4 But I do support exactly, and I think
5 adding that on board control again is the way it's
6 stated from the department, I really want to support
7 that. I think it's a great first step. And we'll
8 monitor it and reflect and see how it goes and
9 adjust to the future. We'll see what it brings.

10 CHAIRMAN KIENZLE: Colonel, can you flash
11 up that slide that had the suggested change to that
12 language? So let's -- I think the first thing to do
13 is get a motion to amend the 19.31.10.7 definition
14 letter Z to include on board control system as part
15 of the definition of drone.

16 COMMISSIONER SALOPEK: So moved.

17 COMMISSIONER ARVAS: Second.

18 CHAIRMAN KIENZLE: All in favor?

19 ALL MEMBERS: Aye.

20 COMMISSIONER SALOPEK: So that's what Bobby
21 wants. That's what -- that's what we want, right?

22 CHAIRMAN KIENZLE: Right.

23 MR. GRIEGO: Mr. Chairman, Commissioner
24 Salopek, yes.

25 CHAIRMAN KIENZLE: So having amended that

1 definition it would say by an on board computer or
2 on board control system. I believe that's
3 sufficient for your purposes. Okay.

4 COMMISSIONER SALOPEK: Yes, sir.

5 COMMISSIONER RAMOS: Mr. Chairman, are you
6 ready for the rest of it?

7 CHAIRMAN KIENZLE: The motion. Is there
8 any other public comment on this? Any comment from
9 anyone else? Okay. I think we're -- I think we're
10 ready.

11 COMMISSIONER RAMOS: Okay. Mr. Chairman, I
12 move to accept the department's recommendation on
13 drones and amend 19.31.10 NMAC as presented.

14 CHAIRMAN KIENZLE: And amended.

15 COMMISSIONER RAMOS: As amended.

16 CHAIRMAN KIENZLE: As presented and
17 amended.

18 COMMISSIONER RAMOS: As presented and
19 amended.

20 COMMISSIONER SALOPEK: Second.

21 CHAIRMAN KIENZLE: All in favor? Aye.

22 VICE CHAIRMAN MONTOYA: Aye.

23 COMMISSIONER ARVAS: Aye.

24 COMMISSIONER RAMOS: Aye.

25 COMMISSIONER RICKLEFS: Aye.

1 COMMISSIONER SALOPEK: Aye.

2 COMMISSIONER ESPINOZA: No.

3 CHAIRMAN KIENZLE: Any -- any opposed?

4 COMMISSIONER ESPINOZA: Nay.

5 CHAIRMAN KIENZLE: One nay. So noted.

6 [Vote 6-1. Motion passes.]

7 All right. Let's take a quick break,
8 10 minutes.

9 [Break taken.]

10 Moving on to agenda number 9, department
11 review of attorney general's opinion 14-04 on
12 anglers accessing public waters. There's been a
13 slight change to this agenda item. Peter Robinson,
14 who is the general counsel for the department, he is
15 not present today. He's -- what's his military
16 service?

17 DIRECTOR SANDOVAL: He's on active duty
18 right now, Mr. Chairman.

19 CHAIRMAN KIENZLE: He's on active duty
20 right now. So without my presenter there will not
21 be a department presentation on this today nor
22 commission presentation. But we are going to take
23 public comment on this. I know a number of people
24 have come a long way to speak their peace on this.
25 And I will relax to some extent the two-minute rule

1 because there is quite a bit sometimes to get out
2 there on this issue.

3 So with that I'm going to take public
4 comment. And if I say your name wrong, my
5 apologies. I'll do my best.

6 John --

7 MR. DIAMOND: Diamond.

8 CHAIRMAN KIENZLE: -- Diamond. I agree
9 it's Diamond.

10 MR. DIAMOND: Mr. Chairman, Members of the
11 Commission, I just want to voice my concern about
12 this issue. What we have here from the attorney
13 general's office is an opinion. It's an opinion on
14 something that could be very detrimental to private
15 property owners in the state of New Mexico. What we
16 need to understand is it's an opinion based on
17 navigable waters. And when you're standing in a
18 stream the dirt below belongs to private property
19 owners and they should have a right to control that
20 access. And it's something that you really need to
21 take a look at.

22 I feel if the Game and Fish Department were
23 to make their opinion or something into law that it
24 would really help in getting this resolved because
25 this is going to turn into a mess. Thank you.

1 CHAIRMAN KIENZLE: Mr. Diamond, refresh my
2 memory. I've seen you at a commission meeting or
3 two. Where are you from?

4 MR. DIAMOND: I'm from Sierra County and
5 Beaverhead Ketchum County too as well.

6 CHAIRMAN KIENZLE: Okay. Thank you.
7 Van Beachum.

8 MR. VANBEACHUM: I don't know how long you
9 guys are allowing. I've got about five minutes or
10 so worth here.

11 CHAIRMAN KIENZLE: Take your time.

12 MR. VANBEACHUM: My name is VanBeachum.
13 I'm a solitary angler. These are my comments
14 regarding agenda item number 9. I'm a commercial
15 fly fishing outfitter and guide that specializes in
16 fly fishing without the crowds and have done so on
17 public and private waters for over 30 years.

18 I lease and own property that has quality
19 fisheries to ensure solitude, quality and
20 (inaudible) pressure to my clientele. I'm extremely
21 concerned about the above referenced opinion offered
22 by attorney general. To me I view this opinion as
23 more of a political argument and I urge the
24 commission not to consider it as a basis or reason
25 or even consider changing more than 100 years of law

1 and practice that the Game and Fish has handled
2 trespassing for fishing.

3 First of all a single case from another
4 state is relied upon to support the AG's desired
5 conclusion. He doesn't mention conflicting law in
6 other states, and completely dismisses that the
7 New Mexico landowners in most cases do in fact own
8 the river bottom of any creek, stream, river, lake,
9 or wash.

10 Secondly, comparing a 1945 case of the
11 State Game Commission vs. Red River Valley to
12 accessing a private section of a stream for the
13 bottom of a stream is private and both sides are
14 private is erroneous at best. Allowing a boat to
15 float on a manmade reservoir owned by the state for
16 recreation by public and on land that has been
17 condemned in order to flood it for recreational and
18 other uses of the water impounded is hardly the same
19 as saying someone can walk up a tiny little creek to
20 fish on your private property.

21 Also that 1945 ruling was the AG's ruling,
22 and the AG's ruling on it are based on territorial
23 pre-state good law, not New Mexico state law.

24 As one of many commercial outfitters and
25 guides, landowners and leaseholders that have a huge

1 stake in making sure that private sections of
2 streams and lakes in New Mexico remain private as
3 they have since 1914, I am ardently opposed to the
4 commission supporting this opinion for the following
5 reasons:

6 First of all, legal precedent. For over
7 100 years the Game and Fish has enforced the law as
8 follows: A fishing license does not entitle a
9 licensee to handle -- I mean to fish or take fish
10 with -- within or upon a park or enclosure, licensed
11 as posted is provided by law or (inaudible) or upon
12 privately owned enclosure without consent of the
13 landowner.

14 More recently it was updated making it
15 unlawful to hunt and fish on posted private property
16 without written permission from the landowner. This
17 is the precedent that has been established and the
18 way the law has been implemented for over four
19 generations. It has always been known by landowners
20 and public that this is the law and we have followed
21 it and have been asked to leave, be removed, and in
22 some cases prosecuted for it whether we stayed in
23 the river or not.

24 Changing this precedent now would open up a
25 can of worms, no pun intended, that would result in

1 a total chaos from law enforcement to economic ruin
2 and ecological devastation not to mention trampling
3 on private property rights resulting in massive
4 lawsuits, litigation, and individual class and
5 action and -- and class action lawsuits from
6 landowners.

7 Number two, the economic reasons. And this
8 is pretty important to me. Because a precedent has
9 been established for 100 years landowners rely on
10 private property rights, have used their property in
11 diverse ways to survive. One of the ways they make
12 money is through providing recreational
13 opportunities including hunting and fishing,
14 accommodations, camping and other activities.

15 In recent years fishing has become a main
16 source of income for them and the outfitters,
17 guides, and leaseholders that work with them.
18 Thousands of properties in New Mexico, both small
19 and large parcels, have trout streams running
20 through them. Many of them have commercial
21 (inaudible) operations where that charge the public
22 for exclusive private fishing opportunities. Many
23 are restrict -- strictly managed for quality,
24 privacy and great trout habitat.

25 If the AG's ruling is held up all these

1 businesses will -- will be lost along with millions
2 in revenues from customers, significant decrease in
3 gross receipts in logger's taxes, thousands of jobs
4 in taxes they pay, not to mention the reduction in
5 license sales when all the customers swoon to
6 Colorado where they can find an abundance of private
7 waters to fish.

8 No one wants to pay good money for private
9 catch and release fly fishing and then find out that
10 the general public can come in and bait fish and
11 keep fish and pay not a penny. The businesses will
12 also stop managing and spending money on their
13 private fisheries, including stocking, if they have
14 no control over it. Potentially millions or even
15 billions of dollars could be lost every year lost in
16 the economy. As a result property values would also
17 likely go down. And just selling said properties
18 could be difficult.

19 Number three, security and enforcement.
20 This ruling, if implemented, would be a security
21 nightmare for law enforcement particularly the Game
22 and Fish and the landowners. The Game and Fish is
23 already spread thin and now having to enforce and
24 check people on all the private properties on a
25 regular basis would just further their -- stretch

1 their resources. There would also likely be more
2 conflicts as a result of this between landowners and
3 the public and Game and Fish caught in the middle.

4 Also the landowner and the Game and Fish
5 would likely have conflicts regarding rules,
6 restrictions, and how the public can fish. Private
7 landowners would also be less likely to work with
8 the Game and Fish and other agencies to open up
9 private hunting and fishing areas if they're forced
10 to do so to let the general public effectively
11 trespass in order to fish.

12 Number four, the environmental impact.
13 This is most important. When private waters that
14 have been carefully managed for quality and limited
15 use for years are opened up to the general public
16 the negative impact on the fish would be
17 devastating. We already, by the way, have trouble
18 with trespassing as it is.

19 It would be difficult, if not impossible,
20 to maintain the quality once pressure increases,
21 especially from people who are keeping fish. The
22 landowner can't enforce regulations on the general
23 public and the Game and Fish's general regulations
24 will apply until they make special regulations on
25 the different, and that could be potentially

1 thousands of properties if they ever do so at all.

2 So the landowners and lease owners will
3 have to watch their fisheries -- watch as their
4 fisheries are degraded with little or no say in the
5 matter. Many anglers will litter, trample,
6 trespass, remove habitat, keep fish, some over their
7 limit, and all will have an impact on the fish
8 beyond the normal pressure that takes place before
9 this ruling.

10 Number five and final, the law and private
11 property rights. The private property rights have
12 always been strongly upheld in the state of
13 New Mexico particularly by the Game and Fish and the
14 commission. That close relationship is why the Game
15 and Fish populations on private lands are healthy.
16 The AG's conclusion that the right to fish on public
17 waters creates an additional right to access and
18 utilize the private land around and under the water
19 is baseless.

20 The opinion does not cite any authority for
21 this outlandish contention. It simply states a
22 person using public waters to fish, including
23 incidental activities such as walking, wading, or
24 standing in a stream bed is not trespassing. Now,
25 if that was actually the law there wouldn't be any

1 reason for writing this opinion in the first place.
2 There would have been no reason to. The fact is
3 that is not the law. The claim that one is not
4 trespassing just because they happen to be fishing
5 or hunting while trespassing is not supported by
6 New Mexico law when it is perfectly clear that the
7 landowner owns the land under the water and around
8 the water.

9 While the general public does have the
10 right to use public waters for recreation they do
11 not have a right to trespass onto private property
12 without permission to fish, wade, or hike up streams
13 or any other activity. As New Mexico statute
14 states, a fishing license does not entitle the
15 licensee to fish or take fish within or upon a park
16 or enclosure licensed or posted as provided by law
17 or within or upon a privately owned enclosure
18 without consent.

19 More recently of course it was updated
20 making it unlawful to hunt or fish on posted private
21 property without written permission from the owner.
22 It doesn't make exceptions for enclosures which have
23 water running through them. It's a fairly
24 straightforward clear language.

25 When a person enters private property

1 without permission it's trespassing. Unless the law
2 is changed, this opinion would generate an onslaught
3 of litigation, lawsuits, and expenses. The way the
4 law regarding trespass and water access has been
5 implemented for years has worked well for lifetimes.
6 To change it now would create tremendous controversy
7 and gain the state nothing.

8 It would generate conflict and expense,
9 lead to tremendous losses by private sector and the
10 state, degrade private fisheries while trampling all
11 over private property rights throughout New Mexico
12 (inaudible) law that has been practiced for
13 generations. Therefore I urge the commission not to
14 adopt the conclusion run by the AG's opinion. Thank
15 you.

16 CHAIRMAN KIENZLE: Thank you,
17 Mr. VanBeachum.

18 Garrett.

19 MR. VENEKLASEN: Mr. Chairman, Members of
20 the Commission. Garrett VeneKlasen with the
21 New Mexico Wildlife Federation. I am a landowner
22 and I do have stream running through my small parcel
23 land. I have been a fishing guide and an outfitter,
24 and I understand this is a very prickly issue and we
25 respect everybody else's opinion. So -- but I just

1 wanted to read a letter that we have submitted to
2 you all on behalf of our president John Crenshaw.

3 New Mexico Wildlife Federation appreciates
4 the scope and complexity of this issue and
5 acknowledges the challenges it presents particularly
6 the Department of Game and Fish. There may also be
7 legislative initiatives from those who would like to
8 see things remain as they are. Although we respect
9 legally sound private property rights it appears
10 that landowners in New Mexico for nearly 70 years
11 have enjoyed exclusive access to waters that should
12 have been shared with all.

13 Absent further legal clarification the New
14 Mexico Wildlife Federation will oppose any
15 legislation suggesting that streams running through
16 private lands are not public domain. Ultimately the
17 state's courts may decide the issue. Rather than
18 initiate or wait for litigation or legislation we
19 would like to see the commission, department, and
20 public embark on a preemptive proactive path towards
21 responsible implementation of public access to
22 public -- to the public's waters.

23 We greatly appreciate the commission's
24 consideration on this issue. Thank you very much.

25 CHAIRMAN KIENZLE: Doc Thompson.

1 MR. THOMPSON: Mr. Chairman,
2 Commissioners, and Madame Director, I'm Doc
3 Thompson, fly fishing guide, landowner, and
4 definitely concerned citizen in this agenda 9 issue.
5 I encourage the commission and the department to
6 continue supporting and enforcing the current
7 fishing regulations as they pertain to fishing on
8 private land and private waters.

9 I also applaud the commission and the
10 department for recognizing that navigable aspects do
11 apply and go into consideration when it comes to
12 fishing on private land and private waters also.

13 And the attorney general's opinion, he
14 referenced appropriated and unappropriated water and
15 suggests that public fishing access on private water
16 applies to unappropriated water. Hopefully the Game
17 Commission and the department have kind of factored
18 in those issues as well. Most of our water
19 throughout these small streams in New Mexico tend to
20 be currently appropriated, often being over
21 appropriated, can't even meet the current demands
22 for water.

23 So at this point I think there's some
24 conflict right there as well. There's also a number
25 of key factors that could be effected here. You

1 have the New Mexico fish economy. You have the
2 environment and then also liability and safety
3 issues.

4 On the economy, New Mexico residents and
5 non-residents tend to hire, not across the board,
6 but a large number tend to hire fishing guides. One
7 of those options is to fish on private factor. In
8 fact in 2013, 83 percent of my guide trips were all
9 on privately managed waters. Obviously that's a
10 large part of my business, a large part of other
11 fishing guide businesses, plus a large part of guest
12 ranches and fly fishing and fishing lodge businesses
13 throughout the state.

14 This privately managed water would suddenly
15 disappear because of this opinion. There would be a
16 lot of individuals that would lose a -- or have a
17 decrease in income. You would also have a decrease
18 in gross receipts taxes and lodger's taxes which
19 would affect the state across the board.

20 A solid fishing economy survey, I think
21 would be really important for this. A survey would
22 be available for anybody that purchases a fishing
23 license in New Mexico. That way everybody has kind
24 of an idea of what the economy base is for the
25 fishing industry here in the state.

1 Environmental factors include trashed out
2 and degraded repairing zones which already exist on
3 some of our private water. That's only going to
4 spread onto these privately managed fisheries and
5 streams, whether it's a pond or a lake or river.

6 As a landowner and a guide and a fisherman,
7 I don't want to have to walk out of my house and
8 walk 30 feet down to the Cimarron River and find
9 empty beer cans, empty soda cans, bait containers,
10 used diapers, used toilet paper, all of that kind of
11 stuff, which already exists on some of our
12 private -- I'm sorry, on some of our public waters
13 in some of our state parks and forest service and
14 BLM lands.

15 The other big factor with the environment a
16 lot of times, as a private landowner and then also
17 someone that guides on private land, you know, we're
18 the ones that manage and fund the management
19 projects that go into these private lands through
20 Riparian Habitat projects, stocking programs, that
21 kind of thing.

22 Once the general public is then allowed to
23 just come in and fish on those a lot of landowners,
24 guide services are then going to lose interest in
25 maintaining managing those private land programs

1 that we -- we currently do.

2 The other big issue is going to be
3 liability and safety concerns. Right now, you know,
4 somebody is trespassing and they get hurt and
5 injured, they can already take it out on the
6 landowner. This is just going to open up the door
7 for a bigger mess when they can legally be there if
8 they get hurt or even worse, pass away, die from
9 some type of an injury, who then becomes liable at
10 that point. There's already cases out there where
11 there has been trespassing issues and somebody has
12 been injured and sure enough the landowner is often
13 found at fault for whatever legal reasons.

14 I also have just general safety concerns
15 and then you have personal privacy concerns. Some
16 places people live, you know, 20, 30 feet from the
17 stream. You know, they're going to be looking out
18 their window. And then you have people of the
19 public that are there fishing. What's to actually
20 keep them from, you know, peeking through windows
21 and things like that.

22 So those are kind of my initial big
23 concerns, and I hope the Gaming Commission and the
24 department factor all those issues into what kind
25 of -- whatever opinion they decide to reach

1 regarding public access on private fisheries. Thank
2 you.

3 CHAIRMAN KIENZLE: Thank you, Mr. Thompson.
4 Reniere Hartnagle.

5 MR. HARTNAGLE: Good morning, Mr. Chairman,
6 Madame Director, Members of the Commission. I'm a
7 concerned citizen and business owner and speak for
8 many in the state as I again express my concern
9 about Gary King's opinion regarding public access to
10 fish private land and the damaging impact it could
11 have where it's become law or become enforced.

12 I've been flooded with letters and e-mails
13 since early April as a result of this opinion from
14 fishermen in and out of the state, private
15 landowners, fishing guides, and others in fishing
16 and New Mexico tourism industry. I'd like to share
17 a few of those comments with you today. I'll do it
18 as quickly as possible.

19 This first one is from Anita and George
20 Rau, lifelong fishermen. This could potentially be
21 devastating to the private lodge, guiding, and
22 related industries. It could have an irreversible
23 impact on the streams and fish and their fragile
24 habitats. The lodgers, private landowners and
25 guides maintain, manage, and protect these habitats

1 on a day-to-day, year in year out basis. What a
2 huge mistake this would be for the state to take
3 that kind of protection away from those fragile
4 ecosystems and at the same time take away or greatly
5 reduce a source of revenue that supports the
6 management of all public waters. This is a
7 lose-lose situation for everyone concerned.

8 Next I've got Orin and Tilly of
9 Albuquerque, New Mexico. The attorney general's
10 opinion is an outright assault on private property
11 ownership rights. I hope you will consider keeping
12 our privately managed fisheries safe and successful.

13 Next Paul Winkler, landowner, San Miguel
14 County. The vast amount of New Mexico is public
15 land. Federal, state, and local entities provide
16 extraordinary access to these lands for many
17 interests including hunting and fishing. This comes
18 with a responsibility that includes personal safety,
19 conservation, and preservation. While one may
20 theoretically embrace the attorney general's opinion
21 for its egalitarian stance, in practice it is not
22 realistic.

23 Private landowners play an important role
24 in the preservation and maintenance of New Mexico's
25 streams. They also have well defined water rights

1 that hark back to the 19th century. The majority of
2 Cal Creek, the stream that runs through our property
3 in San Miguel County is on public land. The forest
4 service provides more than ample access for the
5 public to fish the stream. It is a small and
6 fragile riparian environment and the three miles
7 that are privately owned in our valley are critical
8 to the wellbeing of the creek.

9 On our property, which constitutes one mile
10 of creek frontage, it is impossible to remain in the
11 actual waters owing to the physical composition of
12 the creek bed, rock slides, and overgrowth of
13 vegetation. Therefore any proposed open access to
14 anglers will require trespassing at numerous points.
15 Who is going to enforce our property rights when
16 this occurs?

17 In practice, over the years, those using
18 the creek unlawfully have proven to be belligerent
19 trespassers, verbally abusive, at one point
20 banishing a pistol, polluting the creek with garbage
21 and human feces and totally oblivious to the fragile
22 environment surrounding the creek. This
23 environment, even more sensitive since the
24 devastating fire in 2000, it is inconceivable when
25 considering New Mexico's economic woes that adequate

1 protection for these concerns can be provided to
2 enforce the attorney general's opinion.

3 Lastly I've got James Bustamante, landowner
4 of San Miguel County. This opinion could have a
5 detrimental impact to the environment, local economy
6 as well as a potential of creating dangerous
7 situations for property owners. Speaking from
8 personal experience and dealing with individuals who
9 feel they have the right to trespass, hunt, fish,
10 and damage private property, this opinion opens the
11 door not to true sportsmen and anglers or to those
12 who already have little to no respect for nature,
13 private or public land.

14 On many occasions I've had to deal with
15 drunk and belligerent individuals on our property
16 who have already used this opinion or similar
17 excuses to trespass and litter and have gone so far
18 as to physically threaten me or a family member.
19 This property is no different than our property in
20 Albuquerque where we spend most of the year and
21 where this type of behavior is grounds for police
22 intervention. Not a week goes by that we do not
23 have to pick up litter, beer cans, dirty diapers,
24 discarded bait cans, et cetera usually along the
25 stream banks not to mention repairing fences that

1 have been intentionally cut to gain access to our
2 property and stream.

3 Over the past several years we've suffered
4 from fires, tornados, and flooding. Throughout this
5 time trespassers are a constant issue and my fear is
6 that this opinion will create more harm than good in
7 critical aspects that have not been thought through
8 during the formation of this opinion.

9 I'm greatly concerned that this opinion
10 would create an environment that is
11 counterproductive for the overall wellbeing of one
12 of the state's most precious resources, our
13 waterways and streams. It also would have a
14 detrimental effect to those who pay property tax,
15 the property owners, and who are key contributors to
16 the necessary protection of these resources.

17 Lastly of all this can have a direct
18 negative impact to the local, state, national
19 economy which should be exactly what the state of
20 New Mexico should avoid.

21 I hope that these issues are taken
22 seriously and all aspects and considers are weighed
23 and well thought out before any final actions are
24 taken as I feel these consequences could be
25 detrimental to the state of New Mexico.

1 I am flooded with letters like this. It's
2 just -- it's unreal. I wish I could read them all
3 to you but I won't waste your time with all of that.
4 Thank you for giving me a moment to speak today and
5 for your consideration on this issue.

6 CHAIRMAN KIENZLE: Thank you. Zane Kiene.

7 MR. KIENE: Hi. I'm Zane Kiene. I was
8 raised in Southwestern New Mexico and I recently
9 purchased a ranch on the Rio Penasco. And I've
10 dealt with trespassers firsthand since the opinion
11 came out by the attorney general. And there's
12 probably, oh, four and a half, a little over four
13 and a half miles of river there that's on the
14 property there. And this opinion by the attorney
15 general is kind of given the misconception that they
16 can come in and do what they want. And they'll come
17 in there and they're pretty obnoxious.

18 They talk about it being the public water,
19 yet my water rights go back to the 1870s and so do
20 everyone else's. It's not public (inaudible) on my
21 river either. The fish are stocked by the
22 landowners not by the Game and Fish. And it -- it
23 needs to be defined. The -- if I have to go up
24 there and see people fishing on the river without my
25 permission it ruins my enjoyment of the property. I

1 have no incentive then to help maintain the stream
2 bed or even have fish in my river. If the fish are
3 gone then I won't have to worry about people walking
4 up and down my creek. And that's the way a lot of
5 other people are going to feel.

6 The private landowners that own those
7 riverbeds and streams and the land adjacent to it,
8 they're the ones that are taking care of it. And
9 what helps the fish out, the -- there's a safety
10 issue. Those creeks flash flood. If someone is up
11 there and gets caught in a flash flood, the last
12 fellows I caught up there were three miles up from
13 the -- from the bridge to Duncan. They're not going
14 to be able to run three miles and stay in the river
15 without getting washed away from a flood.

16 The -- and regardless of whether or not --
17 you know, this is going to get defined by the courts
18 probably. Whether or not it's defined by the courts
19 that it's legal to fish and walk up the river, I
20 think the Game Department needs to take into -- into
21 account the safety issues that are involved with it,
22 the conflicts that are going to occur between the
23 anglers and the landowners. And if habitat
24 detriment -- and go ahead and adopt its rules and
25 regulations or further define them so that it

1 doesn't allow for the fish and walking up a stream
2 without the landowner's written permission in their
3 pocket.

4 So regardless of what his opinion is I
5 think the Game Commission sets its own rules. You
6 decide when you can hunt, when you can't hunt. You
7 ought to be able to decide where you can fish and
8 how you can fish. I appreciate your time. Thank
9 you.

10 CHAIRMAN KIENZLE: Thank you.

11 Jason Wingabay. Did I get that right?

12 MR. WINGABAY: (Inaudible).

13 CHAIRMAN KIENZLE: I didn't think so.

14 MR. WINGABAY: My name is Jason Wingabay.
15 I'm co-owner of Wildcat Environmental Services. My
16 company represents people who are going to be harmed
17 by this opinion. Some of them have already been
18 harmed by the reckless reporting and interpretation
19 of this opinion.

20 We've conducted dozens of projects from
21 river restorations to wildlife management, fisheries
22 management, even assisting with control of
23 trespassing and poaching on private land in this
24 state and other states. We've worked with some of
25 the best the Game and Fish has to offer for

1 permitting fisheries to enforcement. And we've
2 always been really proud of our relationship with
3 the department and we've been proud of our ability
4 to work with the department and landowners to get
5 our job done to help everybody.

6 As you can probably imagine most of our
7 clients are very concerned about this opinion. One
8 example a landowner in Roswell are already having
9 trouble keeping people off. They floated in the
10 stream, which is legal. But they don't stay in the
11 stream. They defecate on both docks. They
12 vandalize feeders and equipment. They vandalize
13 farm equipment. They vandalize heavy equipment.
14 They vandalize anything they can vandalize. That's
15 the nature of people. Not all people, but
16 unfortunately some people.

17 We've been able to curtail that with the
18 help of the Game and Fish Department down there and
19 we're grateful for that. But it is my feeling that
20 this is not about private land access. There's so
21 much public land in New Mexico. We're very
22 fortunate. It's very well managed for the most
23 part, very accessible. I don't believe that's what
24 this is about.

25 It's my feeling that this is merely a

1 political ploy to garner popularity by our attorney
2 general. The law as it stands should be enforced as
3 it stands. And I ask that the commission take a
4 very strong public response to this so that the
5 public is not misinformed. Because it seems to me
6 based on what we're seeing on the ground on these
7 ranches and farms that we work is that people read
8 in the newspapers, they think they have an open
9 ticket now and they don't.

10 It's my understanding that the law hasn't
11 changed. And I ask that it be publicly announced by
12 the Game Commission by the department that we stand
13 with private landowners. We will enforce the law as
14 it is written not as it is conducted, you know, in
15 some opinion. And I also think that with that
16 strong public response will become that awareness
17 that other people have asked for. And I ask that
18 you please consider the impacts to these people that
19 have built businesses and strategically purchased
20 land holdings based on this law that's been in
21 effect for decades.

22 It can't simply be changed with one
23 informed stroke of a pen to garner popularity and
24 votes by an ambitious politician. Thank you.

25 CHAIRMAN KIENZLE: Thank you.

1 Leslie Allison.

2 MS. ALLISON: Hi Commissioners. Thank you
3 for the opportunity to speak today. My name Leslie
4 Allison. I'm the executive director of the Western
5 Landowner's Alliance and I'm here to read a letter
6 from the Chama Peak Land Alliance to you today.

7 Dear New Mexico State Game Commission,
8 please consider our opinions regarding the issue of
9 trespass and private New Mexico lands. We are
10 members of the Chama Peak Land Alliance, a group of
11 conservation minded landowners working
12 collaboratively to practice and promote sound land
13 management in the Northern New Mexico region.

14 Attorney General King's April 1st, 2014
15 legal opinion is flawed both factually and legally
16 with respect to non-navigable New Mexico streams.
17 While there is no question that the public owns the
18 water in streams in New Mexico a private landowner
19 owning the banks of both sides of a non-navigable
20 stream owns the title to the stream bed. New Mexico
21 statutory laws regarding fish licensing and trespass
22 require that members of the public with fishing
23 licenses have permission from the landowner in order
24 to access private land for fishing.

25 New Mexico courts have recognized the

1 public's right to use the waters of a stream for
2 fishing and recreational purposes but have no
3 recognized an easement on private property in order
4 to use the waters for such purposes. New Mexico's
5 fish licensing and trespass statutes legislatively
6 recognize that the right to use the waters for
7 recreational purposes does not include an easement
8 over private property. Moreover, neither New Mexico
9 courts nor the legislature have ever recognized such
10 an easement.

11 New Mexico courts have more narrowly
12 interpreted the scope of an easement to access water
13 rights than the New Mexico attorney general
14 anticipated in his April 1st, 2014 opinion. The
15 easement allowing unfettered access to private
16 stream beds running through private property would
17 be contrary to New Mexico statutory law and would
18 have disastrous results. The attorney general's
19 opinion is contrary to the concept of ownership of
20 private property rights.

21 If private landowners are required by law
22 to surrender their private property to members of
23 the public what incentive would there be for them to
24 improve and maintain their land? The attorney
25 general's novel and ill-conceived theorys if

1 implemented would discourage good stewardship and
2 conservation of private New Mexico land. Private
3 landowners who have invested millions of dollars
4 into stream and riparian improvements would receive
5 nothing for their investment under the attorney
6 general's tortured opinion.

7 The New Mexico Game and Fish Department
8 administers a huge inventory of public lands
9 available for fishing and New Mexico is well known
10 nationally for its fishing opportunities. There is
11 no need to take private lands from their lawful
12 owners and deliver them to the public when there are
13 already ample fishing venues available to everyone.

14 The Chama Peak Land Alliance encourages the
15 New Mexico Game and Fish Department to continue to
16 administer fishing and trespass laws as they always
17 have and to disregard the attorney general's
18 incorrect legal opinion.

19 And I would like to simply add to that that
20 what's at stake here is not merely private property
21 rights, but we have landowners who have worked long
22 and hard on Rio Grande cutthroat trout restoration
23 to restore riparian areas to protect the habitat for
24 Southwest wool fly catchers and all of our different
25 species. If you want to find remaining habitats for

1 these trout populations and bird populations you
2 will find them on private streams because they've
3 been well protected and well tended. And the
4 unfortunate consequence here is the unintended sort
5 of no good deed goes unpunished which is that the
6 landowner who has taken the best care of that
7 riparian habitat invested the most into making sure
8 those fish populations and spawning beds are
9 healthy, that the wildlife have access to water.
10 Guess why? That's the first place the public is
11 going want to go and -- and trample and undermine
12 all of that good work.

13 So I think that I'd like to suggest to you
14 that your first priority is protection of the
15 resource. And in New Mexico our riparian resources
16 are extremely fragile. So protecting the resource
17 in the face of this opinion, I would encourage you,
18 is your first task. Thank you very much.

19 CHAIRMAN KIENZLE: Thank you.

20 Caren Cowan.

21 MS. COWAN: Good morning, Mr. Chairman,
22 Members of the Commission, Alexis. I'm Caren Cowan
23 speaking on behalf of the New Mexico Cattle Growers
24 and the New Mexico (inaudible) Growers today. We
25 strongly urge for all the reasons that have been

1 mentioned, and I'll try not to reiterate all of
2 those.

3 For the reasons that have been mentioned
4 the opinion is simply that, an opinion. You were
5 told earlier that it was a change in law. You all
6 know that's not true and hopefully everybody in the
7 room will now know it's not true. We all have
8 opinions. The attorney general is certainly allowed
9 to his. I agree with the gentleman that thinks this
10 is politically based. We have New Mexico law in
11 place. The attorney general has cited on New Mexico
12 law. He cited on case law in New Mexico, and it's a
13 very weak opinion.

14 It's been suggested to you that perhaps you
15 need to do a task force to look up new rules and
16 new -- create new policies. We have rules and
17 policies in place. They're called laws. And if
18 we're going to have one man's opinion cause us to
19 create a new task force to relook at everything how
20 long is that going to hold water? What's going to
21 be the next thing that some -- you know, some small
22 group doesn't like and asks you as a commission or
23 other commissions to change.

24 The -- the Game Department and the
25 commission have worked really hard over the last few

1 years to work on landowner and sportsmen cooperation
2 and cooperation between the department and the
3 commission and landowners. And should this opinion
4 be upheld by the department it's going to put us
5 back on a rocky road. I don't mean that as a
6 threat, but it's just a reality. If -- if we
7 can't -- if landowners cannot be appreciated for the
8 work they do and allowed to continue to do that work
9 there's little incentive to cooperate with anybody
10 for anything.

11 Lastly, I guess if you -- and I think
12 wildlife is a whole lot like the rest of us. We've
13 talked about the fouling of the water, if you will,
14 the fouling of the -- of the big beaches and areas
15 stream beds. When you have a choice do you go to a
16 public restroom or a private restroom? When
17 wildlife has a choice they make that same choice and
18 we need to allow them to have that choice.

19 Thank you.

20 CHAIRMAN KIENZLE: Thank you.

21 Marco Gonzales.

22 MR. GONZALES: Good morning, Mr. Chairman
23 and Members of the Commission. My name is Marco
24 Gonzales, and I represent the Trout Stocker's Ranch,
25 which is in Chama, New Mexico and owned by Dan Perry

1 and Ashland Perry. And I won't take much time to
2 say -- but to say also that, you know, we'd like to
3 associate ourselves with all of the remarks that
4 have been made by all of the private landowner's
5 interests which have been excellent and I don't want
6 to be repetitive.

7 I will briefly just kind of go over a
8 couple of the legal issues that have been raised. I
9 thought I had heard, you know, somebody from the
10 New Mexico Wildlife Federation say that it was the
11 land and water which is in the public domain in the
12 letter. And, you know, that certainly is not
13 correct. You know, in New Mexico the ownership of
14 the land underneath the stream, as you've already
15 heard, river or lake, is determined by whether or
16 not the body of water was navigable at the time of
17 the statehood. And so that's an important concept.
18 We've heard a lot about the Red River case.

19 But, you know, the Red River case is really
20 not dispositive of some of the issues involved in
21 non-navigable rivers because, you know, the Red
22 River case really involved access to waters in
23 question where the entry was available at points on
24 the lake area not owned or controlled by a private
25 property landowner. And of course the Red River

1 case didn't involve what were -- much of what many
2 people have been talking about here today, wading or
3 walking on a non-navigable stream or river.

4 Another important point, you know, when you
5 eventually hear your legal opinion from your staff
6 and they talk about many of these cases, you know,
7 there -- there is no New Mexico case law that
8 addressed the issue of whether the public has an
9 easement to walk in the bed of a non-navigable
10 stream. And in New Mexico what we do have, however,
11 are New Mexico statutes, both, you know, Game and
12 Fish related and the rules and regulations which
13 really enforce the private property owner's rights.

14 And so -- but one of the things that the
15 attorney general's opinion does, and we ask you to
16 take note of it when you're doing that is that it --
17 and somebody else had already mentioned it, but it
18 totally skips over some of, you know, New Mexico
19 supreme court law that talks about what the scope of
20 an easement is. And -- and what he says in his
21 opinion is that, you know, well this is just
22 incidental to the use of recreation in the waters.

23 And he takes -- does not take into
24 consideration what the New Mexico supreme court has
25 already said in other case law about what the scope

1 of the easement is. And it's much more narrowly
2 defined and really has to do with -- measured by the
3 nature and purpose of the easement. And so we think
4 that that's a very important question that really
5 wasn't even addressed.

6 Not -- I don't want to get too much into
7 the case law, but you have before you what I do want
8 to talk about a little bit is, you know, some of the
9 unique situations that can come up. And I've
10 provided to you a copy of the, you know, Chama Trout
11 Stocker's Ranch map. And -- and I guess what I'd
12 like for you to take from this is, you know, the --
13 the yellow encased area of the total ranch is about
14 1500 acres. And then you'll see along in the middle
15 of the map there is a red portion that goes all the
16 way up on one side and then it's completely blank
17 and then it's red along another side.

18 Well, those red areas are actually
19 easements that were negotiated by the property owner
20 with the New Mexico Department of Game and Fish long
21 prior to when the Perry's came into ownership. But
22 the easement agreement that was reached with the
23 New Mexico Game and Fish Department and the State of
24 New Mexico, which was, you know, basically in an
25 arm's length bargain for exchange for consideration,

1 money consideration, basically gave the Game and
2 Fish Department the right to allow public access to
3 this area.

4 So what that says is that, you know, you as
5 a department and the State of New Mexico has
6 recognized these private property rights not only in
7 the statutes and trespassing rules and regulations
8 but here and I'm sure in many other cases have
9 actually worked with landowners to get access to
10 them through this means. And so we believe that
11 this is, you know, a really kind of pressing
12 question important in terms of consideration.

13 Because if we just say that none of this
14 counts anymore when you've relied upon it and there
15 was a good faith exchange and consideration paid,
16 you know, it starts sounding quite a bit much more
17 like a taking when you change the -- the rules
18 around like that. This area right here obviously
19 is, you know, the private property area where the
20 landowners have done many of the improvements like
21 some of the others who have talked already due their
22 land.

23 And many of the same concerns they have we
24 have. And I guess what we're really wanting is --
25 and I don't know how it's been played in the media

1 and other areas of the state, but I know that in
2 Northern New Mexico in the Santa Fe, New Mexican,
3 and it's why I think we're very concerned about
4 safety, but some of the reports have been such that
5 the Game and Fish Department has been interpreted to
6 say that they're agreeing with this in some form or
7 fashion because in the quote out of the Santa Fe
8 New Mexican from some Game Department official was
9 that this is a red banner or red letter day for
10 fishermen.

11 And it was, you know, immediately after the
12 department's -- I mean the attorney general's
13 opinion came out. And we're aware of people
14 carrying that article with them when they're up
15 there as well as, you know, the attorney general's
16 opinion saying that now they have this right. Well,
17 so not only the private property rights are
18 important and are at stake but also to clear up this
19 confusion that's out there because nobody wants to
20 see any conflicts on the water, you know, at all.
21 We don't want that. Private landowners don't want
22 that. We want safety, security, and all the other
23 things that come, you know, with the private
24 property rights that -- that private property owners
25 have.

Draft Copy

1 But what we would really like to see is a
2 very, you know, strong statement immediately out of
3 the Game and Fish Department that says, you know,
4 the law is what the law is on the books and what
5 rules and regulations apply because we think it's
6 necessary given some of this confusion. And with
7 that we hope that in whatever else you do that when
8 the time comes after due consideration that you will
9 send that clear message out. And I think many have
10 already talked about that this is going to be
11 decided in the courts. And maybe it will. But for
12 purposes of this summer right now today while we're
13 here, you know, it would be helpful to everybody
14 concerned, not just the private property owners but
15 those who think they have a right that, you know,
16 the other side doesn't think they have. And that
17 the private property owners believe theirs is rested
18 in, you know, statutes and current regulations but
19 it's been confused by both, you know, the attorney
20 general's opinion, which we all know is only an
21 opinion, but some of the comments that have been put
22 in some of the papers. It would be useful and
23 helpful.

24 And so we thank you for hearing from us
25 today and look forward to hearing whatever may come

1 once the staff come back with their legal opinion
2 for you. So thanks for your time today.

3 CHAIRMAN KIENZLE: Thank you, Mr. Gonzales.

4 And that -- that's all the public comment.

5 Oh, one more.

6 MS. ROMERO: Thank you, Mr. Chairman,
7 Members of the Commission. Sorry to jump right in
8 and not fill out a card. I wasn't originally going
9 to say anything, but I'm Kerry Romero with the
10 New Mexico Council of Outfitters and Guides. We
11 represent a large portion of the outfitters and
12 guides in the state of New Mexico, a great number of
13 which are fishing outfitters. And so I just wanted
14 to echo the comments that a lot of people have
15 already made, and I'll keep it short.

16 But just to kind of go along with what
17 other people are concerned about. The consensus
18 from our membership is that there's large, large
19 concerns with this attorney general's opinion. And
20 so the first and foremost being just the legalities
21 surrounding it. And second would be does the
22 department really have the manpower to enforce the
23 law enforcement that's going to be required on the
24 private land.

25 And then -- and then probably the most

1 important to our organization would be the liability
2 surrounding accidents that are potentially going to
3 take place on public property with just individuals
4 coming on to private property without permission
5 interest the landowner. So that's kind of our --
6 our stance, and we will anxiously await the
7 department's opinion.

8 Thank you.

9 CHAIRMAN KIENZLE: Thank you.

10 All right. We'll move on to agenda item
11 number 10, Oklahoma, et al. vs. Department of the
12 Interior, et al., district court case. Dynamic duo.

13 MR. RODRIGUEZ: You're actually getting
14 third string here. The -- obviously the attorney is
15 not here so we're going to try to make this
16 presentation.

17 CHAIRMAN KIENZLE: Thank you.

18 MR. RODRIGUEZ: All right. Mr. Chairman,
19 Commissioners, I'm just going to go over this agenda
20 item briefly. You may have some questions. I've
21 asked RJ to come sit beside me to help. Once again,
22 I'm not a lawyer. So we may not be able to answer
23 all the legal questions, but this was prepared by
24 the department's legal staff. Unfortunately they
25 couldn't be here today.

1 So what's in front of you here today, I
2 just want to summarize this Oklahoma case. State of
3 Oklahoma et al. vs. Department of Interior. And
4 really it originated from two settlement agreements
5 that actually occurred previously where they
6 basically removed the consideration of warranted but
7 not precluded and then it also forced a listing of
8 251 species and then another 39 that could happen in
9 2017. And so that's actually brought us some
10 concern and to pause and examine this a little more
11 closely because one of the things when you
12 actually -- when we had the attorneys look at the
13 lawsuit that's been filed it actually mentions the
14 Fish and Wildlife Service and there's some
15 allegations that there is violations of the
16 endangered species act and then the administrative
17 procedures act, which is actually a public
18 participation process.

19 And of course the department, along with
20 the other four states, we actually were involved in
21 a five-state range-wide plan for the lesser prairie
22 chicken. And so some of that was frustrated. And
23 so when we look at that, one of the issues that we
24 have that's really of concern to us is we believe
25 that it increases the burden on the states,

1 including New Mexico, and so it frustrates our
2 efforts when it goes for habitat and species
3 management. And it doesn't allow us to actually, we
4 believe, participate and contribute scientifically
5 in this endeavor. And then of course one of the
6 other complaints within that is commercial data as
7 well.

8 So currently who is involved in this suit
9 right now is Oklahoma, of course North Dakota,
10 Kansas, Nebraska, and then some other partners as
11 well. And of course the defendant is the United
12 States Fish and Wildlife Service.

13 When we look at the --

14 CHAIRMAN KIENZLE: Hey, Dan, can we just
15 back up one slide?

16 MR. RODRIGUEZ: Yes.

17 CHAIRMAN KIENZLE: So we did get a special
18 commission for the department lawyers to represent
19 both the commission and the department?

20 MR. RODRIGUEZ: I don't think we have that
21 yet.

22 CHAIRMAN KIENZLE: Okay.

23 MR. RODRIGUEZ: I think we have it
24 available to get. I don't know that we've actually
25 filed the paperwork.

1 UNIDENTIFIED FEMALE: We have.

2 Mr. Chairman, we have filed that paperwork.

3 CHAIRMAN KIENZLE: Okay. Did we get
4 approval?

5 UNIDENTIFIED FEMALE: Mr. Chairman, I would
6 have to verify that with general counsel. But my
7 understanding is that we have.

8 CHAIRMAN KIENZLE: Okay. That's all.
9 Sorry to interrupt.

10 MR. RODRIGUEZ: Okay. Yes, very good.

11 Anyways, and of course what has happened
12 when we look back at that agreement that the Fish
13 and Wildlife entered into is basically it binds the
14 State of New Mexico under their agreement and that
15 brings us great concern. I'll talk just a minute
16 about the species there, but right now as we look at
17 the litigation of that it's already moving forward
18 so we would just be a party to that. There's the
19 ability for us to actually file a fee under that
20 pro hac vice for entry and then a \$400 complaint.

21 So the cost entering it right now is going
22 to be minimal although there could be additional
23 costs as well as we move forward. And I guess, you
24 know, one of the things at least RJ and I have
25 talked about and the attorneys is what's happened is

1 we believe we need to participate because if we can
2 participate it allows us to contribute our
3 knowledge, our science, our information to this
4 endeavor and we think that's going to be actually
5 really important as it moves forward.

6 Some of the species that have been involved
7 in this, obviously lesser prairie chicken, meadow
8 jumping mouse. One of the things is, as I read some
9 of this stuff and you look at the lists, there's
10 actually a lot more. There's a lot of fish on the
11 list that are potentially coming up that could
12 effect us. And so one of the things that we foresee
13 is there's going to be more litigation in this
14 matter. We already know of two other suits that
15 have come on board and we actually fully expect
16 more.

17 And so at this point we think that it's in
18 the best interest of the Department of Game of Fish
19 and the state to enter this, protect our right. At
20 this point the monetary investment in this is
21 minimal. But it does allow us to participate in
22 that.

23 I'm sorry for the acronyms. The acronyms
24 down below, Center for Biological Diversity, Earth
25 Guardians, Defenders of Wildlife. That's what those

1 acronyms refer to for the June 17th suit. And so I
2 guess we think -- if I cut to the chase we think the
3 suit is going to continue, the potential damage and
4 litigation is going to continue. And so that would
5 be our recommendation is that we go ahead and get
6 involved. And so that's what we're looking for the
7 commission to do.

8 And I guess with that I'm going to look to
9 RJ in case I left out any points.

10 MR. KIRKPATRICK: You're good, Dan.

11 CHAIRMAN KIENZLE: I wouldn't step in it,
12 RJ. Sometimes less is more.

13 MR. KIRKPATRICK: I guess I could add just
14 a quick summary for potentially the audience. The
15 two things that the suit really is challenging is
16 Fish and Wildlife Service entered into negotiations
17 with these groups pursuant to litigation. And there
18 was no public vetting in that process, which is
19 required pursuant to the administrative procedures
20 act and the endangered species act.

21 So there was no need for process. There
22 was no opportunity to comment on what the
23 negotiations entailed or where they went. That's
24 contrary to federal law. The other piece of it is
25 the outcome of it, the Fish and Wildlife Service

1 conceded to eliminating one of the potential
2 outcomes of their investigations into whether a
3 critter ought to be listed or not, and that's the
4 warranted but precluded.

5 That's contrary to the endangered species
6 act. So they kind of broke a couple of federal laws
7 as they entered into these negotiations and settled
8 them. We feel like that's probably not right, not
9 just for the species and the impact of the State of
10 New Mexico but for the citizenry of our country in
11 general. That's just not the right for a federal
12 agency to go do business based on some litigation.
13 It's crazy.

14 CHAIRMAN KIENZLE: So can someone refresh
15 my memory? Had we voted on this to formally
16 participate on this yet?

17 COMMISSIONER SALOPEK: No.

18 DIRECTOR SANDOVAL: Mr. Chairman, no, we
19 have not had a vote.

20 CHAIRMAN KIENZLE: Can the assistant
21 attorney general tell me, can we take action on
22 this? It's on the agenda, but --

23 ASSISTANT ATTORNEY GENERAL: If it's on the
24 agenda you may act on it.

25 CHAIRMAN KIENZLE: Okay. I would -- I'd

1 ask for a motion that we formally participate in
2 this lawsuit both as a commission on a department
3 level. I don't know what else you'd need for us
4 other than that kind of go ahead. Is there anything
5 else you want in terms of a motion? Is that
6 sufficient for your purposes?

7 MR. RODRIGUEZ: That would be sufficient,
8 Mr. Chairman.

9 CHAIRMAN KIENZLE: All right.

10 COMMISSIONER SALOPEK: So moved.

11 COMMISSIONER ESPINOZA: Second.

12 CHAIRMAN KIENZLE: All in favor.

13 ALL MEMBERS: Aye.

14 CHAIRMAN KIENZLE: And let me -- on agenda
15 item number 10 I know we're going to have some
16 public comment as well.

17 Garrett, is there anything you want to add?

18 MR. VENEKLASEN: Garrett Veneklasen from
19 the New Mexico Wildlife Federation. Mr. Chairman
20 and Commissioners, I just want to get a little bit
21 more clarification on how this restricts and impacts
22 the department's ability to have a say in listings
23 and things like that, especially, you know, one of
24 the things that we're interested in is the future of
25 Rio Grande cutthroat trout and Gila trout and how

1 that's going to go.

2 And so there's still a little bit of --
3 we're just a little bit unsure exactly how this is
4 going to restrict the department in the future of --

5 CHAIRMAN KIENZLE: Well, in terms of --
6 anything you want to add on that, RJ?

7 MR. KIRKPATRICK: Yeah, Mr. Chairman,
8 Members of the Commission, probably the biggest
9 impact that's referenced actually in the Oklahoma
10 suit has to do with one of the things the Fish and
11 Wildlife Service is obligated to do as they consider
12 whether or not a species should be warranted for
13 listed as threatened or not is consider what kind of
14 conservation actions have been going on that would
15 result in them making a decision of precluded.

16 Let's see whether these conservation
17 actions, these efforts by private industry state
18 wildlife agencies have an effect or not. Garrett
19 mentioned Rio Grande cutthroat trout. Rio Grande
20 cutthroat trout are a species that are subject to
21 this settlement agreement.

22 The state of New Mexico and the state of
23 Colorado, in cooperation with private landowners and
24 the Forest Service primarily in New Mexico have
25 expended huge amounts of dollars, time, and effort

1 to put in place conservation and increased
2 populations of Rio Grande cutthroat trout.

3 Because of this settlement agreement the
4 Fish and Wildlife Service is not going to be able to
5 consider warranted but precluded let's watch the
6 conservation efforts work or not. They're going to
7 be forced into we've got to list them or we're not
8 going to list them. They're not warranted. And so
9 the impacts to the state are huge. In the
10 investments that we've made prairie chickens, very
11 similar, although prairie chickens were a more
12 recent thing, the five states invested huge amounts
13 of time, money, effort, not to mention industry, the
14 BLM participation, private landowners.

15 Fish and Wildlife Service was not able to
16 take the time to find the listing of the prairie
17 chickens to be warranted but precluded, because in
18 the settlement agreement that wasn't an option
19 anymore, to watch the five states range-wide plan
20 work for a couple of years. Detrimental to the
21 state, detrimental, I think, to the species and the
22 people involved in trying to make them better. So
23 those are two big classic examples of why it's not a
24 great idea.

25 CHAIRMAN KIENZLE: Does that answer your

1 question, Garrett?

2 MR. VENEKLASEN: Yes.

3 CHAIRMAN KIENZLE: May I -- I'd ask more
4 generally, does your organization have an opinion on
5 this litigation, just more generally? And you don't
6 have to answer that, but I'm -- I'd like to get a
7 sense of what your organization thinks.

8 MR. KIRKPATRICK: I think it's important to
9 state that the complexity of the issue is -- I'm not
10 going to say it's on the same scale as stream
11 access, but there's a lot of different wheels and
12 cogs in this whole thing. And, again, I think
13 generally speaking we want to be able to see the
14 department work as efficiently as it can and not
15 have restrictions on how it manages our wildlife.

16 At the same time I think that there are
17 some things that the U.S. Fish and Wildlife can
18 bring to the table. And so it's a very complicated
19 issue, and I think there is no one answer.

20 CHAIRMAN KIENZLE: Well, and --

21 MR. KIRKPATRICK: We just don't want to see
22 the department restricted. That's it.

23 CHAIRMAN KIENZLE: Right. Understood. And
24 I think -- as we formally participate I think we're
25 a long way from ultimately what our position will be

1 in litigation. But this will at least get the ball
2 rolling so we can start to figure out where we're
3 going with it.

4 Caren Cowan, anything you want to say?

5 MS. COWAN: Yes, sir.

6 Mr. Chairman, Members of the Commission,
7 Caren Cowan on behalf of the New Mexico Cattle
8 Growers and the New Mexico (inaudible) Growers. I
9 just wanted to take a minute to say thank you. The
10 arena for wildlife management today is in the court.
11 And if the Game Department and the Game Commission
12 don't participate in that arena you don't have any
13 ax to grind. And it's an unfortunate situation but
14 that's where we are. And we're very proud and
15 applaud the actions the department has taken thus
16 far, the vote you just took.

17 But RJ mentioned the lesser (inaudible)
18 taken in the five-state plan. There was ground
19 breaking precedent setting work done in that case.
20 And the Fish and Wildlife Service completely blew it
21 off, but they had to. And so somehow we've got to
22 get back in the arena and jerk things back to the
23 right place. I don't know if you saw it in the
24 media last week but the Center for Biological
25 Diversity has filed a petition to reintroduce

1 grizzly bears. And if you looked at the map it's
2 right over the same place where wolves are -- where
3 wolves currently are.

4 So, you know, this isn't going to stop. We
5 thank you. We're proud of you, and let's charge
6 forward.

7 CHAIRMAN KIENZLE: Director, if you'd just
8 confirm that we have the commission from the
9 attorney general's office for the department lawyer
10 to represent both the commission and the department.

11 DIRECTOR SANDOVAL: Mr. Chairman, will do.

12 CHAIRMAN KIENZLE: And just let me know
13 when you're able to confirm that.

14 Okay. I think we can move on to the next
15 one. Agenda item number 11, bear education efforts.

16 MR. CHAVEZ: Good morning, Mr. Chairman,
17 Members of the Commission, Madame Director.

18 My name is Anthony Chavez. I'm the chief
19 of information education, and I'm here presenting
20 today, just as an informational presentation on our
21 bear awareness campaign. In the March commission
22 meeting the commission instructed us to increase
23 some of our bear awareness, and this is a background
24 of what we have done.

25 In working with our field operations and

1 our wildlife management division and also our
2 marketing specialist we've kind of come together to
3 put together what our bear awareness campaign has
4 been up to this year. Prior to this year in 2013 we
5 actually were very reactive in our bear awareness.
6 We had brochures. We had press releases, social
7 media videos, things that we actually conducted.
8 But most of those were in a reactionary mode. After
9 we had a bear/human conflict or some type of
10 interaction with bears then we actually started
11 producing those brochures and actually handing that
12 out.

13 So this year as we started to increase in
14 trying to establish our campaign and our bear
15 awareness campaign we continued those efforts that
16 we already had all those brochures and put together,
17 but added a lot more. We continued our effort. We
18 added, starting in this next -- or starting in May,
19 we developed our website. We actually put that
20 front and center. You see on the left side of the
21 screen we started our new bear aware campaign, If
22 You Care or If You Really Care, Don't Feed Bears.
23 That takes you to our brochures. And we kind of
24 tried to drive everybody to our website and to that
25 informational area.

1 We continued our media relationships. We
2 started to get proactive. We started to send out
3 news releases on an earlier basis trying to get out
4 ahead of the game. We got several news releases.
5 Most of those were picked up by the media. We also
6 were on some of the news broadcasting stations, KOAT
7 and some of those -- before we were starting to get
8 bear/human conflicts.

9 We started our billboard campaign. So we
10 came up -- working with our working specialist Star
11 Gonzales came up with what we wanted to do. Most of
12 this is in the Northeast Heights and in the
13 foothills areas in the Sandia area of Albuquerque.
14 We came up with what we were going to put on our
15 billboard. So we actually came up with two
16 different billboard campaigns or two different tag
17 lines. If You Really Care, Don't Feed Bears,
18 Keeping Wildlife Wild. That included two large
19 billboards on I -25 and the I-40 corridors.

20 We also had eight junior panels throughout
21 the Northeast foothills areas, which are the smaller
22 inner city-type billboards. And we also had some
23 three larger billboards throughout that area to get
24 that information out. The junior billboards are the
25 ones in the top left. The main ones on the highways

1 are the ones that you're seeing on the right.

2 We also introduced our radio campaign. We
3 came up with a campaign on our radio. We actually
4 purchased 400 radio spots. They were 15 seconds and
5 they were produced during drive time radio, early in
6 the morning, late in the evenings when people were
7 in their cars driving to work or coming home from
8 work. Those were produced over eight different
9 radio stations.

10 CHAIRMAN KIENZLE: Do we get those free or
11 were they --

12 MR. CHAVEZ: No. We actually purchased.

13 CHAIRMAN KIENZLE: Okay.

14 MR. CHAVEZ: But we do have those. So this
15 is what they -- we have two different types of radio
16 spots.

17 [Plays radio ad.]

18 So we started with that one, and that
19 was -- and then our second one:

20 [Plays radio ad.]

21 So we really tried to get on to the radio
22 especially in those drive times when people are in
23 their cars.

24 In working with our field ops, our staff
25 and our district officers, they actually conducted a

1 really heavy extensive outreach effort. So with
2 that they actually were able to get out to -- they
3 did over 42 presentations to over 1585 individuals,
4 which included 10 HOAs, which are homeowners
5 associations within New Mexico and a lot in the
6 Northeast Heights.

7 We also conducted electronic mailers of
8 bear awareness information. We got that to 38
9 official Bernalillo County neighborhood associations
10 and some other additional associations and
11 organizations that are unofficial but are organized.
12 So that was approximately to about 3500 mailers.

13 We also started to conduct our mailers and
14 our electronic mailers in Torrance County. So we
15 got that out to about 3,000. And that was all done
16 through our field ops staff and our staff actually
17 going out and doing those presentations.

18 In addition to that, our officers also made
19 sure they got out and did an early effort of getting
20 out our signage, mostly on most of the trailheads.
21 Again, these are -- our emphasis was in that Sandia
22 preserve area and so looking at, again, that
23 foothills area.

24 We also in June got our insert in the
25 newspapers, was -- had a direct article in bear

1 awareness. And that went out to about 350,000
2 inserts and publications statewide.

3 So with that, that is how we've started to
4 step up our efforts. We're looking at coming into
5 the new fiscal year where we'll start buying an
6 additional campaign and continue our additional
7 campaigns not only in bear aware but in all the
8 other areas within the departments.

9 CHAIRMAN KIENZLE: That's great. That's a
10 lot of work. Good job.

11 I'm sure somebody is going to ask the
12 question, so I'll ask it first. Has it been
13 effective? How can we tell? Any idea?

14 MR. CHAVEZ: As far as I know right now, I
15 mean, I've -- and it's more anecdotal. I've heard
16 some feedback from some of the residents up in the
17 Sandia area. They see the billboards. They've
18 heard the radio stations. We've been monitoring
19 some of the blogs where, whether it's the
20 associations say that they're glad to see that the
21 department is getting out in front and that they are
22 finally getting out -- they still take a few digs at
23 us that we need to do more. But they are
24 acknowledging --

25 CHAIRMAN KIENZLE: We can always do more.

1 It just depends on -- we don't have unlimited
2 resources. But you made a great effort. That's
3 really awesome.

4 Any questions or comments?

5 DIRECTOR SANDOVAL: Mr. Chairman, if I may
6 make a comment.

7 CHAIRMAN KIENZLE: Yes.

8 DIRECTOR SANDOVAL: I just want to tell
9 everybody the amount of effort that has gone into
10 this has been tremendous, especially it was done so
11 quickly and -- and they've reached out to so many
12 different groups. So I wanted to express my thanks
13 to all the staff, everybody out in the field and
14 everybody within our information and education
15 division. They've really worked very hard to get
16 the campaign out on the ground. So thank you very
17 much.

18 COMMISSIONER ESPINOZA: Mr. Chairman?

19 CHAIRMAN KIENZLE: Yes?

20 COMMISSIONER ESPINOZA: I want to applaud
21 the department as well. You know, I've -- I've
22 gotten several comments. I don't live in
23 Albuquerque, but I've had people from Farmington who
24 have heard the ads or seen the billboards and said,
25 man, that's pretty cool. So thanks for the effort

1 and keep it up because it's -- you know, we're
2 getting people seeing it at least. So it's got to
3 be doing something. So thank you.

4 MR. CHAVEZ: Mr. Chairman, Members of the
5 Commission, thank you. I do really want to -- Star
6 Gonzales is the main person that actually pulled it
7 all together as being our marketing specialist and
8 actually pulling the billboards and the radio spots.
9 So I really want to make sure that we acknowledge
10 she's kind of the one that kind of pulled everything
11 together for us.

12 COMMISSIONER ESPINOZA: Thank you, Star.
13 Right on. Well done.

14 COMMISSIONER ARVAS: Mr. Chairman?

15 CHAIRMAN KIENZLE: Yes, sir?

16 COMMISSIONER ARVAS: Anthony, did we
17 coordinate any activities with Sandia Bear Watch at
18 all or did we tell them what we were doing or --

19 MR. CHAVEZ: Mr. Chairman, Dr. Arvas, no,
20 I -- I did not personally work with Sandia Bear
21 Watch. Cale Baca -- I don't -- I'm not sure if our
22 WMD actually coordinated with them as far as what
23 type of message that we're getting out. But we knew
24 that we need to get out in front of it. And so
25 that's -- we need to get out our bear aware message

1 and that's what we're trying to get out.

2 CHAIRMAN KIENZLE: Did you hear anything
3 from Sandia Bear Watch?

4 COMMISSIONER ARVAS: Any comments?

5 CHAIRMAN KIENZLE: You did? Which -- which
6 was good or bad? Indifferent?

7 MR. CHAVEZ: Their comment, I'm just going
8 to paraphrase. It was on her newsletter out to her
9 members said that they had noticed that the Game
10 Department had put out the billboards. They were
11 out. The mailer -- they had seen some of the
12 mailers, some of the electronic media, and they did
13 applaud our effort, but it was a little bit too late
14 is what she said.

15 CHAIRMAN KIENZLE: Well, you got to start
16 somewhere.

17 MR. CHAVEZ: Yeah, so --

18 CHAIRMAN KIENZLE: So okay. Thank you.
19 Yes, sir?

20 VICE CHAIRMAN MONTOYA: Anthony, try
21 something in -- try giving some effort to Cloudcroft
22 and Ruidoso too. We've got a lot of bear problems
23 there.

24 MR. CHAVEZ: Mr. Chairman, Commissioner
25 Montoya, we are. We are looking at expanding our

1 campaigns, how we're actually putting together our
2 campaigns. As the new chief we're trying to -- I'm
3 working with field ops and with WMD to try to
4 establish what our message is going to be
5 strategically throughout the year as we come into
6 bears, as we come into fishing sentence, OHB, AIS,
7 aquatic evasive species, when we get into poaching
8 what are those campaigns going to look like.

9 So this was kind of our first attempt at
10 how we're starting to put together those campaigns
11 so we can start doing it on a yearly basis and get
12 out in front of these things.

13 VICE CHAIRMAN MONTOYA: And, Anthony,
14 understanding that the clientele in Ruidoso and in
15 Cloudcroft this time of year is not the residents
16 which are aware of some of this stuff, but people
17 coming in from Texas and Oklahoma and et cetera. It
18 would help.

19 MR. CHAVEZ: Mr. Chairman, Commissioner
20 Montoya, thank you.

21 COMMISSIONER SALOPEK: You know, Anthony,
22 you know what, the whole department thanks you. You
23 know, this past year was pretty testy as far as how
24 we were getting slammed in the Albuquerque Journal.
25 And to be proactive that -- you know, that's what

1 we've been talking about.

2 But what Paula alluded to earlier, if you
3 looked at the -- on the headlines of the Albuquerque
4 Journal, it's Rick Winslow and he's looking at a
5 barbed wire and it's about the (inaudible) for
6 bears. I mean, finally we have some positive
7 instead all the negative. So I just wanted to bring
8 that out. Again, thank you guys and women. I mean,
9 it's exciting. It's the only way we can help stay
10 afloat and try to stay in front of them.

11 MR. CHAVEZ: Thank you.

12 CHAIRMAN KIENZLE: It's good work. It's a
13 great start. Thank you.

14 MR. CHAVEZ: Thank you.

15 CHAIRMAN KIENZLE: I do believe we are on
16 director's draft of the biennial review, agenda item
17 number 12.

18 MR. SLOANE: Mr. Chairman, Commissioners,
19 as you've heard me say at least two other times
20 before you we have a draft of the biennial review.
21 We've put it out for 90-day comment. There are no
22 recommended changes to the status of any of the
23 species and nor have we received any public comment
24 to date. They have one more process to go through,
25 and that's a 14-day comment period, which will begin

1 on or about July 7th, run for the 14 days, and then
2 I'll be back before you in August with a final
3 recommendation for your adoption or consideration,
4 at least.

5 And so this is the formal announcement of
6 the start of that 14-day period and an opportunity
7 for you to make any comment if you'd like.

8 CHAIRMAN KIENZLE: Questions or comments?
9 Apparently there's no public comment on this hot
10 topic right now, so we'll move on.

11 MR. SLOANE: Thank you.

12 CHAIRMAN KIENZLE: Thank you.

13 Agenda item number 13, habitat restoration
14 in New Mexico. Cal Baca.

15 MR. BACA: Mr. Chairman, Members of the
16 Commission, unfortunately you didn't get through a
17 commission meeting without having to hear my voice.

18 Today Donald Auer and I will be presenting
19 to you Donald's projects and the habitat sections
20 projects, kind of give you a brief explanation of
21 how we spend the money across New Mexico that we
22 generate from both the habitat stamp program -- or
23 from our habitat funding programs and habitat stamp
24 program or habitat management and access validation
25 program and also the money that we receive from our

1 enhancement licenses, which are the special big game
2 hunting opportunities that we have raffle and
3 auction for special hunting opportunities in
4 New Mexico.

5 So with that I'll hand it over to Donald.

6 MR. AUER: All right. Our overarching goal
7 for our habitat restoration program is to partner
8 with land management agencies, NGO, sportsmen and
9 women, (inaudible) and others to prioritize, plan,
10 and implement landscape skill restoration across the
11 state of New Mexico. In doing this we strive to
12 improve wildlife habitat of large spatial scales,
13 enhance watershed health, and in many cases reduce
14 the threats associated with catastrophic wildfires.

15 In the wildlife management division we have
16 three main funds that we expend to support habitat
17 restoration. The first is the habitat management
18 and access validation fund. In New Mexico the
19 sportsmen anglers or hunters, anglers, and trappers
20 must purchase a \$4 HMAV stamp. \$3 of each stamp is
21 used to support management and restoration
22 activities on commission-owned property statewide.
23 Currently the annual budget for this fund is
24 approximately \$800,000.

25 Next is the habitat stamp program fund,

1 which many of your are familiar with. Again in
2 New Mexico hunters, anglers and trappers who plan to
3 use U.S. Forest Service or Bureau of Land Management
4 properties must purchase a \$5 habitat stamp.
5 Revenue from the sale of these stamps is used to
6 support restoration, habitat restoration on Forest
7 Service and BLM properties statewide. Currently the
8 annual budget for this program is \$750,000.

9 Now finally we have our big game habitat
10 enhancement fund, and revenue from the auction and
11 raffle, special big game hunt authorizations is used
12 to support habitat restoration statewide and across
13 land ownership boundaries. Currently our budget for
14 habitat restoration from this fund is approximately
15 \$600,000. In addition we have a \$1.5 million
16 capital outlay to support long-term restoration over
17 the next five years.

18 I'm going to give an example of a project
19 or a project area supported by each of these funds.
20 We'll start with HMAV funds. The Rio Chama wildlife
21 management area is a 13,000 acre commission owned
22 property in Northern New Mexico. It's important --
23 provides important habitat for mule deer and elk and
24 it's popular with hunters and anglers. Currently
25 the woodlands and range lands on the property are

1 decadent and in need of restoration and
2 rejuvenation.

3 Using HMAV funds we are thinning thousands
4 of acres of woodlands to promote forest health,
5 reduce the threat of catastrophic wildfire, and
6 increase the shrub and grass component that's
7 important to mule deer, elk, and other species
8 during winter months.

9 Another photo of forest thinning on the
10 WMA. In addition to using HMAV funds, we are
11 restoring thousands of acres of range land on the
12 property. And our goal here is to take decadent
13 sagebrush shrub lands with little to no understory
14 and increase grass for young shrub and sagebrush
15 component in mosaic patterns across the entirety of
16 the WMA.

17 Move on to the habitat stamp program. In
18 the Northwest San Mateo mountains, the habitat stamp
19 program is supporting 10s of thousands of acres of
20 habitat restoration on Forest Service and BLM lands.
21 Treatments and thinning to promote meadow
22 restoration, Ponderosa Pine restoration across
23 thousands of acres. In addition prescribed burns
24 are being used to promote habitat diversity and
25 reduce the future threats of catastrophic wildfires.

1 In addition, the habitat stamp program has
2 supported numerous wildlife water developments all
3 across this probably 80,000 acre landscape.

4 This photo is actually a dedication of
5 wildlife water in the landscape to Dale Hall, our
6 previous HSB manager who retired in May. I put this
7 photo in because in this photo representatives from
8 the department, the Forest Service, the BLM, the
9 National Wild Turkey Federation, the Rocky Mountain
10 Elk Foundation with materials donated by sportsmen
11 for fish and wildlife. So you can see the truly
12 collaborative nature of restoration on the
13 landscape.

14 Move to big game enhancement funds. The
15 department and the Forest Service are collaborating
16 on a 30,000 acre project area on the Gila National
17 Forest in the Commado Ranger District called
18 Slaughter Mesa landscape. This area provides an
19 important habitat for mule deer, elk, pronghorn,
20 turkey and many other species of game and non-game
21 wildlife. Big game enhancement funds importantly
22 have funded the archaeological environmental
23 clearances that were necessary to bring this project
24 to fruition. Many times those clearances are
25 limiting factors, and these projects don't happen

1 because the Forest Service and other partners do not
2 have money to support those clearances. In
3 addition, enhancement funds have been used for
4 watershed work, thinning and burning activities.

5 We'll just take -- this is a photo of an
6 existing condition on Slaughter Mesa, and you can
7 see how it's crowded. A little habitat diversity,
8 no herbaceous understory. Prime for catastrophic
9 wildfire. And these are results from thinning, and
10 you can see how we've opened up thousands of acres
11 like this. This is before prescribed burn. This
12 landscape now is fire resilient and it has those
13 grasses and shrubs that are important to big game.
14 And to do this we're using prescribed fire and
15 thinning of both forest and rangeland.

16 Now, this is a sign -- an example of a sign
17 that was put up all over that area that just informs
18 the public that the Forest Service and the
19 department have collaborated to produce the results
20 that they're seeing in the field.

21 Now I want to take a 400-mile view of
22 New Mexico. These areas here in brown, those are
23 landscapes where the department has been involved
24 financially with restoration over the last 25 to 30
25 years. And these areas in red here are where we are

1 actively engaging in working with our partners,
2 including public land agencies, NGOs to promote re
3 ration efforts over the next 5 to 10 years.

4 So with that we'll take questions.

5 CHAIRMAN KIENZLE: That's cool. I like
6 that picture.

7 So do you have -- do you have private -- I
8 mean, private folks contribute to this heavy
9 equipment and other things to do any of this work?
10 What's -- what's the involvement of private
11 individuals?

12 MR. AUER: On some of the public land
13 landscapes we do have permittee involvement. And
14 some of the permittees, such as on the Slaughter
15 Mesa landscape, the southern part of that landscape,
16 the southern 5,000 acres permittees is actually
17 going after NRCS funds to bring funds, you know, to
18 further the efforts there.

19 On private lands we do have other programs,
20 like the private land year incentive program where
21 we work with private landowners to further efforts.

22 CHAIRMAN KIENZLE: Because I hear from lots
23 of private landowner types and organizations we're
24 more than willing to help out.

25 MR. AUER: Yeah.

1 CHAIRMAN KIENZLE: So I'm curious to see if
2 they put their time and money where their mouth is.

3 MR. AUER: Yeah.

4 CHAIRMAN KIENZLE: But it sounds like some
5 of them may be.

6 How do you prioritize where you're going to
7 go next?

8 MR. AUER: Chairman, the -- I guess I'll
9 give a twofold answer to that. The first is that we
10 work with our species specialist, our area habitat
11 biologists, law enforcement, to prioritize where we
12 want restoration to happen where we feel like
13 there's some limiting factor with the habitat
14 condition and we feel like we can improve that
15 working with partners.

16 The second, to be honest, is just where the
17 Forest Service, say, and the BLM and the state land
18 office, where we have willing partners within each
19 of those district offices to do work.

20 CHAIRMAN KIENZLE: That was my next
21 question. Did you ever get pushed back? I mean, if
22 we've identified a spot that needs fixing, do you
23 ever get pushed back and they say can't, won't,
24 shouldn't, probably won't happen. I mean, do you
25 ever get that?

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1 MR. AUER: They do. And so that's -- you
2 know, our strategy, especially with the enhancement
3 funds is to dangle the money in front of them and
4 make the higher ups, say it's the Forest Service,
5 the rangers, the forest supervisors say, no, we do
6 not want your money to do restoration on this
7 landscape. And so we -- the strategy that I found
8 to work the best is to find willing partners and the
9 biologists, the civil culturists, the field people
10 within each area office, work with them because
11 they're the ones that are going to have to put in
12 the effort to make this happen no matter what. Work
13 with them to convince the higher ups to push
14 projects and to make them happen.

15 CHAIRMAN KIENZLE: Well, that's hard work
16 and a lot of work, but it's important work, so
17 keep -- keep at it.

18 Anyway, I monopolized everybody's time. So
19 who else has questions, comments?

20 Commissioner?

21 COMMISSIONER RICKLEFS: I'm just curious,
22 do any of these projects require full leap of
23 processes?

24 MR. AUER: Chairman and Commissioner
25 Ricklefs, yes, any project on U.S. Forest Service or

1 Bureau of Land Management property would require a
2 full leap of process, which includes environmental
3 clearances, archaeological clearances, any projects
4 on, say, state land office property or our
5 properties would require a similar process through
6 section 7 and NEPA archaeological clearances.

7 COMMISSIONER RICKLEFS: What is the
8 timeframe for (inaudible)?

9 MR. AUER: Chairman, Commissioner Ricklefs,
10 the timeframe would depend on the willingness of the
11 partner to put effort into work and our willingness
12 to fund some of that NEPA and archaeological work.
13 And that's -- with the enhancement funds I really do
14 feel like that we are pushing some of these agencies
15 to do work that they otherwise wouldn't do because
16 we are coming to the table and saying we understand
17 that these are limiting factors, you know, keeping
18 you from restoring this landscape. And so we're
19 willing to pony up now. We're willing to pony up
20 when all the archaeological and environmental
21 clearances are done and fund restoration.

22 CHAIRMAN KIENZLE: Well, this is important
23 work just driving in, of course, the fire from, was
24 it two years ago, you know, where you've got that
25 wild urban interface. If you can focus any of your

1 efforts there that would be great too. I know
2 that's important to actual people in communities as
3 much as it is to wildlife, but if you -- are you
4 able to focus your efforts there or is that more
5 difficult?

6 MR. AUER: Chairman, yes, many of these
7 landscapes include a wildland urban interface. Many
8 times Forest Service or the BLM, these agencies have
9 funding to specifically focus on the wildland urban
10 interface. A lot of times what they're lacking is
11 the funding to get the NEPA or the archaeological
12 clearances done.

13 CHAIRMAN KIENZLE: So do we help out on
14 that then?

15 MR. AUER: Yeah, and/or projects on the
16 back 40. Say many of the wildfires that have
17 started -- the catastrophic wildfires that have
18 started in recent years didn't actually start in the
19 woey. And so, you know, I think if we're
20 addressing both the woey and, you know, the 100,000
21 acres behind the woey then we're keeping some of
22 those fires or we're letting firefighters stop the
23 fires in that 100,000 acres before they transition
24 to the woey.

25 CHAIRMAN KIENZLE: All right. Keep at it.

1 It's important work.

2 COMMISSIONER ESPINOZA: Mr. Chairman?

3 CHAIRMAN KIENZLE: Yes, sir.

4 COMMISSIONER ESPINOZA: Donald, yeah, you
5 know where I'm at on habitat. But what's -- which
6 of the agencies are working best with you, the BLM,
7 Forest Service or are they both kind of stepping up
8 after you dangle that money? Are they getting more
9 aggressive in doing stuff now?

10 MR. AUER: Chairman, Commissioner Espinoza,
11 I would say that we have a good working relationship
12 with the Forest Service, the Bureau of Land
13 Management and the New Mexico State Land Office in
14 terms of restoration. It's hard to answer that
15 question because we work incredibly well with
16 certain forest service districts and certain BLM
17 districts and others that just aren't willing
18 partners in certain offices. But I do believe we
19 have a good relationship with all the agencies at
20 this point in terms of restoration.

21 COMMISSIONER ESPINOZA: What's your
22 limiting factor for doing more?

23 MR. AUER: Chairman, Commissioner Espinoza,
24 I would probably say that it's personnel on the
25 federal land management agency side in terms of

1 having the ranger that's in charge of a certain
2 specific forest service office willing to lend his
3 personnel's time to a certain project. I would say
4 that would be the limiting factor at this point.

5 COMMISSIONER ESPINOZA: What about at the
6 department level?

7 MR. AUER: Chairman, Commissioner Espinoza,
8 I think we're running pretty smoothly right now so I
9 don't believe we have any limiting factors. I think
10 that we are using our non-federal money and I think
11 we're matching it and leveraging it well to federal
12 and Robertson dollars where and how we can to
13 maximum the number of dollars and number of acres we
14 treat on the ground.

15 COMMISSIONER ESPINOZA: Would more of the
16 non-federal match, does the department have the
17 ability to do more if we had more of the non-federal
18 match?

19 MR. AUER: Chairman, Commissioner Espinoza,
20 I'm sure we could find a way to increase the number
21 of acres treated if there was more non-federal
22 match.

23 COMMISSIONER ESPINOZA: Thank you.

24 CHAIRMAN KIENZLE: Any further questions or
25 comments?

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1 All right. This is a discussion item. We
2 move on to agenda item number 14, lease of state
3 game commission property located at 1085 Richards
4 Avenue, Santa Fe, New Mexico.

5 MR. BACA: Chairman, Commissioners, we
6 brought this forward to you at the last commission
7 meeting. We wanted to further the discussion and
8 ask for some more ability to move forward with this
9 lease.

10 We have been approached by the Energy,
11 Minerals, and Natural Resources Department and
12 specifically the State Forestry Division to
13 entertain a lease of our warehouse property in the
14 middle of Santa Fe located at -- on Richards Avenue.
15 From the map that you can see, the red outline is
16 the property that we own at that location. The
17 small facility on the lower right portion is the
18 current state forestry warehouse facility. So it's
19 directly adjacent to the property that they're
20 proposing to lease from us.

21 The reason for their request to lease this
22 property for us is twofold. One, they have been
23 successful in acquiring funding to start a returning
24 veteran's firefighting training program where they
25 employ returning military veteran into a wildland

1 firefighting program to support wildland
2 firefighting projects in New Mexico and other places
3 in the West.

4 And then also because of the proximity to a
5 lot of population in New Mexico they also want to
6 consider developing an urban forestry training site
7 where they develop urban forestry techniques and can
8 open that up to the public so that they can have a
9 basic understanding of what forestry and private
10 forestry in New Mexico as well as urban forestry
11 techniques can be employed in and around communities
12 within the state.

13 So this is a win-win for us and state
14 forestry for the simple fact that we are
15 transitioning away from this property. This
16 property, this warehouse facility and our
17 warehousing facility will be moved to our
18 headquarters partial soon. We're hoping to start
19 breaking ground the beginning of the calendar year
20 2015 on that facility once we get all our final
21 approvals and designs and engineering. So we will
22 be vacating this area anyway.

23 They already have an existing warehouse
24 facility that is not meeting their size demand
25 regarding the new veteran's firefighting program.

1 So they would wish to expand their warehousing
2 facility across the arroyo here into ours to be able
3 to expand their about to increase their capacity to
4 have this program.

5 And then the other benefit is the -- is
6 this area here, which is adjacent to the Hannah
7 Chavez Center, which is located right around in here
8 somewhere. The state -- the county fairgrounds
9 facility, which is right around in here. There's a
10 walking path that you kind of see parks, housing of
11 subdivisions. So it's an ideal situation for the
12 state forestry division in cooperation with
13 Department of Game and Fish to put into an urban
14 forestry training site so that people have the
15 ability to understand what forestry is and what we
16 do as an agency and what they do as an agency.

17 So there's multiple benefits to the lease
18 of this property to our sister agency state forestry
19 division. They have presented us with the lease.
20 It has been reviewed by our legal counsel. They
21 have made some minor corrections. What we ask today
22 is the commission allow for the chairman and the
23 director to -- with input from myself and legal
24 counsel move forward with finalizing the
25 negotiations of this lease and be able to get this

1 in place soon so that the state forestry division
2 can move forward with their mission to start
3 building their facilities and us vacating the
4 facilities for their veteran firefighter program.

5 And with that, I'm here for any questions.

6 CHAIRMAN KIENZLE: I have a few comments on
7 the actual forum of lease -- and, Commissioners, I
8 did get a chance to take a look at the lease, and
9 it's fairly standard, but I've got a few issues.

10 There's no provision in here for insurance.
11 So their firefighters, I don't know if they're going
12 to have fire or not, but if something burns to the
13 ground, you know, what provision is there to ensure
14 the improvements that are there. So I think it's
15 typical to have insurance. So that's number one. I
16 think we need to have that in there.

17 The term and termination, number two, talks
18 about their ability to extend for an additional
19 three-year period. And they need to give notice of
20 that by March 30, 2017. I'd like to move that date
21 back one month to the end of February. But I'd also
22 like to add that it require -- any extension
23 requires commission approval at that point in time
24 so we get to come back for another meeting in three
25 years and talk about it.

1 I also had a problem with paragraph number
2 14, first right to purchase. I would recommend that
3 that be stricken from the lease. That's a
4 deterrent. It actually decrease -- in my opinion
5 decreases the value of the property or makes it
6 harder to sell if we choose to sell it to someone
7 else. So I think 14 should come out of there first
8 right to purchase.

9 And then was there -- did you mention the
10 amount or lease payment amount?

11 MR. BACA: No, we have not determined
12 any --

13 CHAIRMAN KIENZLE: Okay.

14 MR. BACA: -- we have not negotiated any
15 lease term -- the lease amount for a three-year
16 term. That has not been negotiated.

17 CHAIRMAN KIENZLE: My understanding is that
18 basically it's \$1 a year. Is that the opening
19 pitch?

20 DIRECTOR SANDOVAL: Mr. Chairman, that is
21 correct.

22 CHAIRMAN KIENZLE: Well, I think with the
23 things that I just mentioned I can live with a buck
24 a year, particularly with an early termination
25 clause in here that allows us -- I think it's 90

1 days for us to get out for any reason. So we're not
2 wedded to this forever if circumstances change and
3 somebody wants to give us \$10 million for the
4 property or whatever. So with the changes that I
5 mentioned and subject to being able to review the
6 final form of the lease, I can live with those
7 things with a buck a year.

8 VICE CHAIRMAN MONTOYA: Mr. Chairman?

9 CHAIRMAN KIENZLE: Yes?

10 VICE CHAIRMAN MONTOYA: Cal, what's the
11 total (inaudible)? What's enclosed in the red line
12 there?

13 MR. BACA: Right around 30 acres.

14 VICE CHAIRMAN MONTOYA: And the lease part
15 of it or the leased portion?

16 MR. BACA: They'll lease the entirety of
17 that.

18 VICE CHAIRMAN MONTOYA: The entire piece,
19 okay.

20 MR. BACA: Yes.

21 CHAIRMAN KIENZLE: And one other item on
22 insurance, this lease does contemplate that the
23 public will be using or will be invited to the
24 premises. My feeling is there ought to be some sort
25 of general liability insurance if they're going to

1 have the public, because I think at the -- the way I
2 conceived of it originally was it's just for their
3 purposes. But if we're going to have the general
4 public in there insurances is always a smart play.

5 They may say we don't need it because we've
6 got risk management and other things, but my
7 preference is to have a general liability policy to
8 cover the general public.

9 MR. BACA: I made those notes,
10 Mr. Chairman.

11 CHAIRMAN KIENZLE: Any other questions? I
12 mean, it is a standard form lease. I've got it here
13 if anyone wants to look at it. But we're going to
14 get -- I'll at least get another chance to eyeball
15 it and if there's a problem then we'll find a way to
16 take care of that. But -- and if you need further
17 input from me as you visit with the forestry folks
18 let me know.

19 MR. BACA: We will.

20 CHAIRMAN KIENZLE: Is that sufficient for
21 the director's purpose and your purpose to move
22 forward?

23 DIRECTOR SANDOVAL: Mr. Chairman,
24 absolutely. We can work with (inaudible) and get
25 those changes in there.

1 CHAIRMAN KIENZLE: Okay. And I think this
2 requires a vote. And just to be clear with --
3 anybody have any comment on the dollar a year part
4 from -- we've already talked about?

5 Okay. Can I get a motion on this, please?

6 VICE CHAIRMAN MONTOYA: Move to accept the
7 portions as accepted minus the parts of it that you
8 asked be deleted.

9 CHAIRMAN KIENZLE: And as amended.

10 VICE CHAIRMAN MONTOYA: And as amended,
11 yes.

12 CHAIRMAN KIENZLE: Subject to final review
13 and approval.

14 VICE CHAIRMAN MONTOYA: Sounds like a good
15 motion.

16 COMMISSIONER SALOPEK: Second.

17 CHAIRMAN KIENZLE: All in favor?

18 ALL MEMBERS: Aye.

19 CHAIRMAN KIENZLE: The ayes have it.

20 [Vote 7-0. Motion passes.]

21 What's your timeframe for getting that?

22 MR. BACA: Timeframe, we will -- I probably
23 call Donald Griego, my counterpart. That's
24 (inaudible) division tomorrow morning.

25 CHAIRMAN KIENZLE: Okay.

1 MR. BACA: If not this evening to let him
2 know that we're going to be forwarding changes to
3 the lease based on your direction --

4 CHAIRMAN KIENZLE: Okay.

5 MR. BACA: -- for their review. Hopefully
6 we can have something next week back from them and
7 then we can get it to you for review and approval.

8 CHAIRMAN KIENZLE: I'll be around.

9 MR. BACA: Perfect.

10 CHAIRMAN KIENZLE: And I think with that
11 I'm going to call for a motion to recess for lunch.
12 I'm not going to be a tough guy and bowl this one
13 through on the remainder of the agenda.

14 So can I get a motion to recess?

15 VICE CHAIRMAN MONTOYA: Mr. Chairman, I
16 move to recess for lunch.

17 COMMISSIONER RAMOS: Second.

18 CHAIRMAN KIENZLE: All in favor?

19 ALL MEMBERS: Aye.

20 [Vote 7-0. Motion passes.]

21 CHAIRMAN KIENZLE: All right. We'll be
22 back here at 1:00 o'clock promptly to finish this
23 off. Thank you.

24 [Lunch recess.]

25 All right. Agenda item number 15, Ibex

1 license applicant numbers for special drawings.

2 MR. BACA: Chairman, Commissioners, I'm
3 here this afternoon to present to you proposed
4 changes to the hunting and fishing application rule
5 19.31.3 as requested by the state game commission
6 the last time we met in regards to the Ibex
7 application numbers or the number of applicants for
8 Ibex special drawings. Currently it's one applicant
9 per application for Ibex.

10 What we're proposing to you today is to
11 allow for us to amend this rule, to change it from
12 one application per -- one applicant per application
13 for Ibex to add it to two applicants per
14 application, similar to what we do for turkey and
15 oryx for the turkey special draws and the oryx
16 draws.

17 With that I will answer any questions.

18 CHAIRMAN KIENZLE: Any questions?

19 COMMISSIONER SALOPEK: Yeah, Cal, I just
20 want to thank you. To me this is common sense. You
21 know, we can deal with oryx and we can deal with
22 turkey. And it just makes it real easy. My sons
23 want to put together with their friends. And it's
24 not just about me and my family, but it just is
25 common sense. I just want to thank you.

1 MR. BACA: And, Commissioners, just for
2 your information as well, since we put this out on
3 the website we have had one public comment in
4 regards to this that was in favor of this. So I
5 foresee that once we get it out after this meeting
6 we'll hopefully get a few more people to comment on
7 it.

8 CHAIRMAN KIENZLE: Anyone else?

9 Okay. Agenda item number 16, special
10 drawing protocol to determine license allocation.
11 Rhonda?

12 MS. HOLDERMAN: Okay. Chairman and
13 Commissioners, today I'm here to discuss the special
14 drawing protocol for how we allocate licenses.

15 What do I do here?

16 UNIDENTIFIED MALE: Yeah, just push the
17 button.

18 MS. HOLDERMAN: Okay. Statute establishes
19 how the draw is conducted. It provides some
20 guidance on that stating that 10 percent shall be
21 allocated to residents and non residents using
22 New Mexico outfitters, 6 percent allocated to non
23 residents and 84 to residents. We will fulfill the
24 algorithm because it's mathematical. There is
25 rounding issues. So we will fulfill -- thank you,

1 Dan -- to 84 percent, a maximum of 84 percent for
2 the resident pool. This means that we will almost
3 always round up for that. So we will always achieve
4 84 percent.

5 And then the two remaining pools, 10
6 percent and 6 percent, we will fulfill per
7 subsection D, which is what states that if there is
8 a five-tenths or greater we will round up. If there
9 is less than five-tenths we will round down.

10 Now when we do this we may end up with one
11 extra license that needs to be allocated per hunt
12 code. We will never end up with more than one per
13 hunt code. But if we do we are proposing some
14 language in the rule that will allow us to fill to
15 an extra one maximum licenses available for that
16 hunt code.

17 Thank you. Our proposal is to accommodate
18 the fractional remainder adjustment. We propose
19 that 19.31.3(a) of NMAC be revised such that the
20 number of licenses per hunt code may be adjusted by
21 the director by no more than one license per hunt
22 code to meet the statutory obligation. And then
23 there are some examples of licenses to draw.
24 Obviously there's a lot of different scenarios
25 there. But those are ones that we would round up.

1 4, 12, and 16 all show one extra -- or I guess 12
2 and 16 show one extra license.

3 There was some comments just in general
4 about the drawing algorithm and drawing in general.
5 And really it was more residents should draw, more
6 non residents should draw. And there were three
7 that said just please stop making changes. So --
8 so --

9 CHAIRMAN KIENZLE: So this is just a
10 discussion item today, right? Ultimately it turns
11 into an action item down the road.

12 MS. HOLDERMAN: Yes, this is just a
13 discussion.

14 CHAIRMAN KIENZLE: So for any of the
15 general public listening if you have a different
16 proposal for us to consider get to the department
17 today, tomorrow, as soon as possible so everyone who
18 wants to be heard on this can be heard on it and we
19 can factor in any different or tweaking to whatever
20 is going to finally be suggested. This is, in my
21 opinion, very complicated and it would be almost
22 impossible to amend things on the fly.

23 So if the general public is interested in,
24 you know, whatever algorithm ultimately comes out of
25 this please get to the department early, make

1 yourself heard so everybody can sit down and run the
2 numbers because I can see where an action comes on
3 this final rule. People's eyes are going to glaze
4 over if we try and do things on the fly at a public
5 meeting. So I think a lot of the spade work has to
6 be done before we ever set any -- or set foot in a
7 meeting for final action on a rule like this.

8 MS. HOLDERMAN: Any questions?

9 CHAIRMAN KIENZLE: Is there any public
10 comment?

11 MR. GAY: Thank you. Joel Gay with the New
12 Mexico Wildlife Federation. And at the last meeting
13 we were among those who urged the department to
14 revise the distraught protocol in order to adhere to
15 at least that part of the law that said there shall
16 be a minimum of 84 percent. And so thank you to the
17 department for jumping right on this and doing that
18 exact same thing.

19 This seems so make a lot of sense to us.
20 The only -- there is one additional comment I'd like
21 to put in for a guy who contacted us who was not
22 able to make today's meeting. And his suggestion
23 was that in these cases where one extra license is
24 added that that doesn't then change the overall
25 percentage of licenses. So for instance if you add,

1 you know, one additional license in this example of
2 16, there's one additional license goes to non
3 residents I think or whatever it was, that it
4 doesn't change -- it doesn't drop the resident
5 percentage below 84 percent.

6 So it's easy enough to make the -- to do
7 the algorithm before you allocate the licenses.
8 Just make sure that you run it again afterwards and
9 make sure it still works. That was his comment.
10 But for the Wildlife Federation, once again, thanks
11 to the department for responding to this issue.

12 CHAIRMAN KIENZLE: So subject to -- before
13 you sneak away. I'm not going to hold you to it,
14 but at least the proposal that's on the table today,
15 is it sufficient from the Federation's --

16 MR. GAY: Absolutely. Yeah. Yeah,
17 that's -- yeah, it looks very good to us.

18 CHAIRMAN KIENZLE: Okay. Any other public
19 comment? Okay. Well, we'll see you -- we look to
20 see the final rule on this one. And thank you for
21 making this comprehensible. The last time we did it
22 my head was spinning around. So thank you.

23 Agenda item number 71, prospective
24 initiatives for the 2015 legislative session. Dan
25 Brooks.

Draft Copy

1 MR. BROOKS: All right. Thank you,
2 Mr. Chairman, Commissioners.

3 Here is our proposal. It's fairly
4 ambitious. It is going to be a 60-day session
5 coming up, so we've got several things on here and
6 I'll talk a little bit more in detail about each one
7 of them. The penalty assessments we've ran before.
8 We've also been working with our conservation
9 officers and some of the other staff for hard to
10 fill positions. And then the commission may recall
11 that there's a whole lot of different veteran
12 license discounts out there and we're looking to
13 consolidate that because we think it would be easier
14 and we could still give some pretty good discounts.

15 And then we'd like to seek commission
16 authority for tilapia. Talk a little bit more about
17 that. And you will hear in two agenda items about
18 budgeting capital outlay. But that -- I did want to
19 let you all know that's going to be on our requests
20 too because that's just part of the session, and
21 then a volunteer program.

22 So let me just jump right in here. The
23 last two years we've actually been trying to seek
24 stiffer penalties at least for those trophy
25 poachings where they cut off the head of the elk and

1 the deer. That's pretty rampid in some parts of the
2 state during certain times of the year. And so
3 we're still seeking that authority. And they have
4 pretty broad support. Same with our penalty
5 assessments.

6 There's a whole lot of minor infractions
7 that the -- they're a violation in commission rule,
8 and we want to make sure that we offer much like a
9 traffic citation. If you don't have a habitat
10 stamp, things like that. Right now it's a mandatory
11 appearance in court except for fishing without a
12 license and small game. And then one of the things
13 the obstacle during this last legislative session,
14 there was some hang up over the misdemeanor
15 language.

16 We were actually trying to clarify that our
17 wildlife violations were misdemeanors. There's been
18 some issue in the court if they're misdemeanor
19 versus petty misdemeanor because of the way the
20 sentencing, the punishment is. But we're looking to
21 remove that. That became a real obstacle for us in
22 the last session. So, you know, this be our third
23 one. We think there's still merit because in the
24 end we want to protect those deer and elk especially
25 when they're in rut or on wintering grounds from

1 being taken and just wasted.

2 So this one we think we've still got the
3 support and traction and we'd like to have one more
4 run at it. And so we'll be seeking that from you
5 all.

6 The veteran's license discounts, the
7 consolidation here, there's -- and I didn't bring a
8 ribs. If you look in the ribs there's a whole bunch
9 of variety of discounts that veteran can get. You
10 get this much off for this thing. You can get this
11 much for another thing. Well, what we're proposing
12 is that we just give veterans 50 percent license
13 reduction on all licenses. We think that that would
14 be a good thing. It isn't really about money for
15 us. It's more about consolidating that. And we'd
16 also like to recognize the contributions that
17 veteran have made.

18 And they have been recognized in the
19 statutes already. So that's one of the things we
20 don't want to get away from the free 100 percent
21 disabled license that actually they're entitled to
22 right now which allows for free fishing, small game
23 and deer. And then of course there's also this
24 military rehabilitation fishing program now. If
25 you're in a program like down in Fort Bliss. It's

1 pretty popular to be in a program and you can go
2 hunting -- or, excuse me, fishing on the Rio
3 Penasco, things like that.

4 We've met with the Department of Veteran
5 Services. Preliminarily they support this idea
6 quite a bit. They haven't seen it of course. We
7 don't have anything in writing now, but they like
8 the idea so I think they're going to be real
9 supportive. And for us it's just very -- it's a
10 simplification. It's simpler for us. It's simpler
11 for the public to understand that, hey, if I'm a
12 veteran or I'm currently -- and I should add
13 currently serving then you get this 50 percent
14 reduction. We think it'll be good and it won't harm
15 the department at all budgetarily anyways.

16 Moving on, this one is a little more
17 complicated. But I'm going to hit the high points
18 on this. We've really been working behind the
19 scenes with our conservation officers on recruitment
20 and retention. You know, I looked at the
21 statistics. It's probably been a year or two ago.
22 But when I start looking at the people we hire and
23 then who is no longer with the agency, I took about
24 a 10-year snapshot. And about 40 percent of those
25 people are no longer with the agency. And, you

1 know, that concerns us because we spend a lot of
2 time and money getting a person to be a self
3 functioning responsible conservation officer out in
4 the field. You know, by the time we send them to
5 the academy, we get them a truck, you know, we get
6 them all their law enforcement equipment, we get
7 them all their training, we've got over 80 grand in
8 them.

9 And then of course they leave us within two
10 years, because that's usually what happens. They
11 leave us more in the beginning of their career, not
12 midway or the end. And so the director and I and RJ
13 have all looked at some of this and we'd like to
14 create a series of incentives. We'd like to start
15 them higher in the range. We'd like to move them
16 faster in the range to where they start to get
17 closer to their max pay. And so we've got a pretty
18 aggressive plan to move them from once their hired
19 to about year six where they won't be maxed out but
20 they'll have a couple steps at year one, year three,
21 and year six where we'd like to get them close to
22 being maxed out.

23 Now, when I say that, that will actually
24 take a lot of work behind the scenes. So although
25 I'm telling you this here today recognize that

1 there's a lot of work behind the scenes that must
2 happen to make an idea like this work. We've got to
3 get, of course, the executive support. Then we've
4 got to also work through the legislative finance
5 committee when that all happens. And we've also got
6 to work with the sister agency, our state personnel
7 office.

8 And so that's the work in front of us, but
9 we think it would be worth it because one of the
10 things we'd like to do is we'd like to keep those
11 conservation officers working, working in the field.
12 That's what they want to do. That's what we want
13 them to do. And of course I think when we start
14 looking at pay overall, you know, we've fallen a
15 little behind, and we'd sure like to become at least
16 one of the best paid agencies there is in the West.
17 And this plan would get us there, I believe. It
18 would get us a lot more competition.

19 And, you know, while I'm talking about
20 that, I guess just a plug for the Game and Fish
21 employees. You know, they work real hard. They've
22 got lots of stuff on their plate. And one of the
23 things that we want to do is we want to bring the
24 most qualified people to work for us because they
25 serve the citizens of the state. You know, whether

1 you're a biologist or an officer or a hatchery
2 employee or working at the farms, you know, you're
3 providing a service. You're growing wildlife
4 habitat. The officers are protecting the resource.

5 And we want to get the best and the
6 brightest out there. And how we're going to do
7 that, I think, is we're going to attract them with a
8 decent living wage. And they're also going to know
9 what the pay plan is and what they can expect later.
10 So if you want to buy a car in a year or two or if
11 you want to have a kid in a year or two it will
12 be -- you'll understand where you're heading in your
13 career. So we think this makes a lot of sense for
14 us.

15 So to segue into that the hatchery and the
16 wildlife management area employees and the
17 biologists are another area that we believe that we
18 need to also be a little more progressive in pay.
19 And when we start looking at the hatchery series and
20 the wildlife management area employees right now
21 they're actually categorized as farm and ranch
22 workers. But they really do more than that. And we
23 would like to pursue a new series where we have
24 wildlife technicians because that's really what they
25 are. They're actually out there growing habitat.

1 They're producing food for wildlife or they're
2 rearing fish. So they're actually doing wildlife
3 habitat and conservation work. And we believe that
4 a little more recognition and a little better pay
5 would help them stay in that career field as well
6 because it's an integral part of what we do.

7 You know, those hatcheries, you know,
8 they're growing, you know, hundreds of thousands of
9 fish. They're in charge of a multi-million dollar
10 facility depending on where you're at. And when you
11 look at the pay, as you start to move up in the
12 hatchery ranks, it just doesn't seem to make sense
13 where we should be able to pay just a little more
14 for the level of responsibility and the job they're
15 doing for the citizens. And so that's really where
16 we're going.

17 Now, we don't -- I don't have a matrix for
18 you right now because we're still in the process of
19 working out some of this and the figures. And so
20 we'll have to -- this will be somewhat fluid because
21 recognize, as I mentioned before, we still got to
22 meet with the state personnel office. We'll
23 eventually have to meet with LFC. And of course our
24 next stop really is the executive as well to make
25 sure they're all right with these ideas as well.

1 But that's kind of the general premise in a
2 nutshell. We think it's worthy. We have the budget
3 to pay a higher salary. And so we're willing to
4 pursue that because we think that's going to just
5 help position us for the future and bring us good
6 employees and better services.

7 Just real quick, I don't know if as
8 commissioners you may or may not be thinking of
9 tilapia. Unfortunately I get it every now and then,
10 it seems like about once a month. We have people
11 that are seeking to have some kind of agriculture
12 product involving tilapia. And so I think in the
13 end when I start looking at this. One of the
14 drawbacks that we have right now -- and we've got a
15 lot of game fish that are protected. And if you
16 really look at some of our fish they're not native,
17 whether it's rainbows and even the catfish we order.
18 They're coming out of Arkansas and stuff like that.

19 But we have this demand, and it's fun to go
20 out and fish. Well, there's this opposite thing
21 that's happening now with tilapia. Tilapia, when
22 you look at them, it's -- last time I looked it was
23 like the number two fish that's being bought in
24 stores overall. People like tilapia. It's moving
25 ahead of things like salmon and stuff like that.

1 And it's real popular. It grows really fast.
2 People think it's very tasty. Well, what we did
3 here at the department is can I grow tilapia. I
4 want a permit for tilapia.

5 And right now we have them on the
6 importation. They're a category number four which
7 means only for scientific research or you have to be
8 a qualified expert. You have to have some education
9 and training. But the reality is there's people out
10 there that want to produce these aquaponics. They
11 want to have where they're growing plants and at the
12 same time they're growing the fish. They're using
13 the fish's waste to fertilize the plants. And then
14 they have this kind of cycle going and it's a market
15 now.

16 And of course when I looked up the market I
17 was really surprised. You know, just in 2010 you
18 got, you know, over \$750 million worth of U.S. sales
19 and that's because it's become really popular.
20 Well, I guess what I would like to do is position
21 us, the department and the commission, to at least
22 be in control of -- and have full authority over
23 tilapia. Because if the commission had full
24 authority then the commission could control the
25 possession. And that means whether you grew them or

1 you didn't grow them there could be prohibitions.
2 But it could also be fully enforced then by
3 conservation officers. Because one of the issues
4 with tilapia that in talking with our fisheries
5 folks is, you know, we don't really want them out in
6 our public waterways.

7 But there's a lot of things we don't want
8 out there, and that's the same with aquatic invasive
9 species. But the reality is, you know, some of
10 these fronts may come to us sooner or later. So I
11 believe at least positioning the commission with the
12 right authority to make them protected would allow
13 us then to entertain if we want to permit them or
14 not and in what capacity, whether it's in a totally
15 enclosed aquarium system. Then that would be fine.
16 That would be the commission's prerogative.

17 So that's just my plug for kind of
18 positioning us for the future when it comes to this
19 particular species because it's coming and it's
20 coming on hard right now.

21 As mentioned the budgets and capital outlay
22 will be on agenda item 19, so you'll hear that
23 pretty quick.

24 Our last initiative is about volunteers.
25 Right now we actually utilize a variety of

1 volunteers. There's some statutory allowance for
2 hunter education instructors and things like that.
3 But we're using volunteers more and more as we get
4 into more public education. We've got the expo
5 going now. And we utilize a whole bunch of
6 different people from our hunter ed instructors but
7 there's also other volunteers as well.

8 And so when we look at those programs and
9 we look at growing those programs, because we really
10 want to do more outreach because the more outreach
11 we do the more public we reach and then the more
12 support we get for the agency and for the commission
13 and just for wildlife in general. And what we'd
14 like to do, and Anthony Chavez brought this up to
15 me, our INE chief, is there's a state park statute
16 that actually allows them to utilize volunteers.
17 And it's a lot different than the hunter ed statute
18 than we got.

19 But it allows them to basically use
20 volunteers and to get them in a work agreement. And
21 they actually get to receive per diem and they get
22 to actually drive state vehicles and operate state
23 equipment. That's really important because
24 especially as we start talking about some of the
25 expansions. If we're going to expand our shooting

1 range program and especially shooting ranges we're
2 going to need volunteers out there managing them.
3 And it's probably not realistic to have them use
4 their own golf cart or their own ATV as they buzz
5 around there. So what's more realistic is that we
6 allow them to use our own equipment legally by
7 statute.

8 And the state parks does it. And we think
9 that's a good idea. And of course there's some tort
10 claim protection as well. And then lastly, as we
11 utilize volunteers, the commission probably has
12 heard this and remembers those are -- those are a
13 match for us when it comes to federal grants because
14 we can use that in-kind match and so that helps us
15 bring in the federal money. And we're using their
16 labor as the match.

17 So that makes a lot of sense to us so we
18 would really like to pursue that as well. We think
19 that's worthwhile as we grow. So that's really the
20 ambitious legislative proposal that we have in front
21 of you. Make no mistake, that will take a lot of
22 work even starting now. And that's why we've come
23 here today, especially when it comes to the salary
24 increases for the employees because there's going to
25 be a lot of steps along the way.

1 So just kind of a heads up on what's next.
2 If the commission approves this then obviously we've
3 got to vet this through the executive branch as
4 well. We also have to start working on some draft
5 language. And then of course we also have to seek
6 sponsors. So just real quickly you can see here.
7 Here's where we're headed. In December we'd like to
8 be positioned to prefile some of that legislation.
9 And so we're ready to start tackling that.

10 And so with that I guess I would turn it
11 over to you all and stand for any questions.

12 CHAIRMAN KIENZLE: Does the volunteer
13 program require a legislative change or can it be
14 done by rule?

15 MR. BROOKS: No. That particular volunteer
16 program that we're seeking is a statutory -- it
17 would actually be a statutory addition to chapter 17
18 is what we're seeking. Right now there's some
19 prohibitions out there that are by rule that don't
20 allow volunteers to operate vehicles and equipment.

21 CHAIRMAN KIENZLE: Our rules?

22 MR. BROOKS: No, not our rules. They're
23 actually transportation services division rules.

24 CHAIRMAN KIENZLE: Okay.

25 MR. BROOKS: But they oversee the state

1 fleet. So the statute would trump the rule, and we
2 know that because it does for state parks.

3 CHAIRMAN KIENZLE: All right. And then
4 tilapia, is that -- would that require a legislation
5 or is that a rule?

6 MR. BROOKS: No. That would require
7 legislation. Under 17.2.3, protected species are
8 listed so that would have to be added as a statute.

9 CHAIRMAN KIENZLE: Okay.

10 MR. BROOKS: Which would then give the
11 commission full authority for that species to
12 determine how to manage it or prohibit it.

13 CHAIRMAN KIENZLE: And what I'd ask when
14 you get a final proposal to us is I'd like a
15 separate motion on each proposal rather than putting
16 them all in one legislative package.

17 MR. BROOKS: Sure.

18 CHAIRMAN KIENZLE: Any questions, comments?

19 VICE CHAIRMAN MONTOYA: Dan, I got -- I
20 feel good about everything you said with one
21 exception. I think the pay raises and the officers
22 and all that -- and all the employees deserve a heck
23 of retention and all that considered. My only
24 concern is tilapia. I wonder if we're not stepping
25 out in the Department of Agriculture's business.

1 And I'm not really convinced that that's our bag,
2 but you hit on it a little bit. So I have a
3 concern.

4 CHAIRMAN KIENZLE: That's why I want you to
5 break them out so if there is a problem we can
6 consider each one on their own merits.

7 MR. BROOKS: Sure.

8 CHAIRMAN KIENZLE: Yes, sir?

9 COMMISSIONER ARVAS: Dan, would you go over
10 that veteran's exemption or that 50 percent off of
11 the licenses?

12 MR. BROOKS: Right. Let me just get there.

13 COMMISSIONER ARVAS: Is that all -- all the
14 licenses?

15 MR. BROOKS: Let me find that here. No,
16 here. Yes, we are proposing all licenses. So
17 whether it was an oryx license, Mr. Chairman,
18 Commissioner Arvas, or it was a deer license or a
19 fishing license.

20 COMMISSIONER ARVAS: So how do you plan to
21 enforce that?

22 MR. BROOKS: Mr. Chairman, Commissioner
23 Arvas, actually we think it will be easier because
24 I've met with the Department of Veteran's Services.
25 And as we've talked they actually have a definition

1 of what a veteran is and so there's pretty easy ways
2 to tell. Because when you're on active duty you
3 have this CAD card. It's a C-A-D card, and you can
4 present that really easy. And then they also --
5 when they're discharged they have this DD 214 form.

6 So I think it actually will be pretty easy
7 to see if a person is entitled to that license.

8 COMMISSIONER ARVAS: So they're going to
9 have to use that form when they've applied for a
10 license then?

11 MR. BROOKS: Yeah, we haven't worked out
12 the details of that yet. But I would think there
13 would be some way to either submit that number or
14 something online.

15 COMMISSIONER ARVAS: The reason I asked,
16 I've noticed in surrounding states they have
17 Afghanistan veterans or rocky veteran but they don't
18 go back to World War I.

19 MR. BROOKS: Yes. And just for clarify
20 we're not proposing any stop in there. We're just
21 active -- we're saying if you were a veteran, you
22 served your country or you were actively in the
23 military, you're entitled to this discount. We're
24 actually trying to make it simple now. We do have
25 some of that. We have some of that on the books and

1 it makes it very complicated when you start dealing
2 with people who want to apply, can I apply for the
3 oryx hunt? Am I the right person. And it just is
4 extremely complicated on some of those things.

5 COMMISSIONER ARVAS: Okay, thank you.

6 COMMISSIONER ESPINOZA: Mr. Chairman?

7 CHAIRMAN KIENZLE: Robert.

8 COMMISSIONER ESPINOZA: Dan, back to the
9 pay raises, just clarify for us if you would that
10 you're increasing them. Is that going to put our
11 officers kind of on the same level as a sheriff's
12 deputy? Because I know we lose a lot of our
13 officers to sheriff's departments or municipalities.
14 Is that going to put us back in that level?

15 MR. BROOKS: Yes. Mr. Chairman,
16 Commissioner Espinoza, I believe it will. What
17 we're pursuing right now is a pretty aggressive pay
18 schedule. So we're looking at starting the officers
19 at around 17 when they're hired, bringing them to
20 19.51, which is actually just a smidg e higher than
21 state police, I think, at the first year. At the
22 end of the range, though, state police has a little
23 wider paid band and so our officers don't have the
24 ability to quite achieve that. But, yes, I believe
25 it will add parity to that. And I guess in the end

1 those people that we have, they really got into this
2 job because they love being outdoors and they want
3 to be an officer with the Game and Fish.

4 So I believe that type of pay incentive
5 that we're offering will most likely be competitive
6 and encourage them to stay.

7 COMMISSIONER ESPINOZA: Good. Thank you.

8 CHAIRMAN KIENZLE: Yes, Commissioner
9 Ricklefs?

10 COMMISSIONER RICKLEFS: I do have
11 difficulties with tilapia and stepping on Department
12 of Agriculture. But I do understand the need for
13 the department to regulate introduction into the
14 wild for sure. Just maybe a question, the
15 department regulates movement of elk, domestic elk,
16 that's correct?

17 MR. BROOKS: Yes, Mr. Chairman. Yes.

18 COMMISSIONER RICKLEFS: Within the state
19 and the importation? And even if the domestic elk
20 is used as a commercial food source the department
21 has regulatory authority over movement of those elk;
22 is that correct, Dan?

23 MR. BROOKS: That's correct, Mr. Chairman,
24 Commissioner Ricklefs.

25 COMMISSIONER RICKLEFS: Okay, thank you.

1 CHAIRMAN KIENZLE: Anything further?

2 Garrett? Nothing?

3 MR. VENEKLASEN: (Inaudible).

4 CHAIRMAN KIENZLE: Okay. Watch out for
5 those tilapia loins. I've heard that phrase before,
6 but yeah. Okay.

7 MR. BROOKS: I guess, Mr. Chairman, if I
8 might. So our -- we were seeking your approval to
9 move forward. And if I heard you all, I've got most
10 of your support other than for tilapia. So I was
11 wondering, we would just like to keep moving on this
12 if we could.

13 CHAIRMAN KIENZLE: I don't think we'll make
14 it an action -- I don't think we'll take action on
15 it, but I'm not going to stop you from, you know,
16 plowing ahead. I mean, I think your instincts are
17 good on tilapia but, you know, we may ultimately
18 back off on it.

19 MR. BROOKS: Okay, very good. Sure.

20 CHAIRMAN KIENZLE: But certainly on pay
21 raises and everything else you suggested I think
22 they're great ideas, so I'd say full steam ahead.

23 MR. BROOKS: Thank you.

24 CHAIRMAN KIENZLE: Thank you.

25 Okay. We are coming up on the end here

1 almost. Agenda item number 18, final recommendation
2 on fees for special drawings.

3 Rhonda?

4 MS. HOLDERMAN: Okay. So this is reviewing
5 the fees for special hunts applications. You all
6 have the authority to charge and collect reasonable
7 fees provided that they do not exceed administrative
8 costs. We have reviewed the last three years' worth
9 of administrative costs and are now making a final
10 recommendation regarding the -- there we go. Yeah,
11 got it -- regarding the recommendation of those
12 fees.

13 And so here we go. We are actually
14 recommending that the New Mexico resident fee be \$7,
15 and that is down from 8. And the non resident
16 application fee be 13, down from 20. And then
17 there's a breakdown of the fixed costs and the
18 merchant services. That takes us to the -- that
19 takes us to the -- down here, the average costs that
20 we rounded. And here's a breakdown of all of those
21 administrative costs we were talking about.

22 COMMISSIONER SALOPEK: Question.

23 CHAIRMAN KIENZLE: Yes, sir?

24 COMMISSIONER SALOPEK: So, Rhonda, if we're
25 going down 7 to 13, are we going to be in two years

1 saying, oh, boy, we need to go back up to 8 and 20?

2 MS. HOLDERMAN: Well, you know, in two or
3 three years we'll review what we are spending and
4 then we'll go from there. So every three years is
5 when we evaluate and average what we're doing. This
6 is probably most likely impacted by really having no
7 more paper over the last three years and so we're
8 able to do this. We do have some costs in here for
9 potential printing. You know, if we go back to
10 mailing tags that will impact us. And so those
11 things are all things that we will take into
12 consideration and have to make adjustments for.

13 But if we move along as we are now then we
14 should be in pretty good shape.

15 COMMISSIONER SALOPEK: Thank you. And that
16 was going to be my next question, is this related to
17 going paperless. Which does this relate to going
18 paperless, being able to give our hunters and
19 fishermen, fisher women, everybody where it doesn't
20 cost as much.

21 MS. HOLDERMAN: Right. Yeah, Chairman and
22 Commissioner Salopek, yes, this does relate to going
23 paperless and it actually reduces the cost somewhat,
24 so --

25 COMMISSIONER ESPINOZA: Chairman, real

1 quick?

2 CHAIRMAN KIENZLE: Yeah.

3 COMMISSIONER ESPINOZA: Rhonda, is this
4 also a result of having more applicants apply?

5 MS. HOLDERMAN: Chairman and Commissioner
6 Espinoza, this year we had more applicants apply.
7 The previous two years there were fewer.

8 COMMISSIONER ESPINOZA: So it kind of
9 balanced out?

10 MS. HOLDERMAN: Right. It did balance out.
11 It's an average. It's an average of the last three
12 years.

13 COMMISSIONER ESPINOZA: Thank you.

14 CHAIRMAN KIENZLE: I'm surprised everyone
15 is not super excited that the fees are going down.
16 I mean, quite frankly this happens so rarely in
17 anything that this is a pleasant surprise. So when
18 you put your head on the pillow at night you're cool
19 with these numbers that, you know, we're not going
20 to end up with a problem?

21 MS. HOLDERMAN: Chairman, yes, I am.

22 CHAIRMAN KIENZLE: Okay.

23 MS. HOLDERMAN: I am confident that these
24 are good numbers. And, you know --

25 CHAIRMAN KIENZLE: Okay.

1 MS. HOLDERMAN: -- we'll reevaluate after
2 three years and go from there.

3 CHAIRMAN KIENZLE: Are we able to
4 reevaluate sooner if we had to?

5 MS. HOLDERMAN: Uh-huh.

6 CHAIRMAN KIENZLE: Okay.

7 MS. HOLDERMAN: Chairman, yes.

8 CHAIRMAN KIENZLE: I can live with that
9 then.

10 And any further comments or discussion?
11 Joel?

12 MR. GAY: Thank you. Joel Gay, New Mexico
13 Wildlife Federation. I guess the one question comes
14 up, why are resident fees getting cut \$1 and non
15 residents \$13. I know that we're trying to get to
16 reach a certain dollar figure here, so it would seem
17 like you could do it by reducing residents, say, \$2
18 and non residents to -- you know, instead of cutting
19 them \$7 cut them -- I don't know. Anyhow, it seems
20 like residents are taking the -- you know, we -- you
21 know, you're absolutely right, Chairman Kienzle, you
22 know, any fee reduction is great but this -- you
23 know, our members are going to wonder why we're
24 getting \$1 off and they're getting -- non residents
25 are getting \$7 off.

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1 CHAIRMAN KIENZLE: Director?

2 DIRECTOR SANDOVAL: Mr. Chairman, Mr. Gay,
3 the reason for that is because when we pay our
4 merchant services fees it's based on a percentage of
5 what's being charged on the credit card. So non
6 residents have a much higher average merchant fee
7 that we pay out. We pay about, I would say, a
8 little over 800 -- or, excuse me, \$650,000 in
9 merchant fees. A majority of that is being
10 associated with non residents. And so when we go in
11 and look at the percentage, 25 to 75 of revenue
12 being gained by residents versus non residents by
13 the department then you have to go in and factor in
14 the percentage of the licenses that are actually
15 being issued and the revenue being retained by
16 residents versus non residents.

17 And you come out with the fact that we're
18 giving a majority of that larger fee, license fees
19 back to non residents and so it goes into the
20 merchant services part of it. So that's why.
21 There's -- it has to do with the amount of money we
22 receive from the residents and the non residents and
23 that tying to the merchant fees and then what we
24 give back. Because we actually get a refund on
25 those merchant service fees.

1 That's why you see a net there of 240,000.
2 We pay over 600,000 in merchant fees but then we get
3 money back from the bank, and it's all dependent on
4 the revenue received based on residents versus non
5 residents. And I'm happy to sit down with you.
6 It's a fairly complicated formula.

7 COMMISSIONER ESPINOZA: That's pretty
8 complicated. That's -- okay, I just --

9 CHAIRMAN KIENZLE: There's an algorithm
10 that goes with that.

11 DIRECTOR SANDOVAL: That's how that works.

12 COMMISSIONER ESPINOZA: Thanks. We'll
13 probably pursue this further.

14 DIRECTOR SANDOVAL: You bet.

15 COMMISSIONER ESPINOZA: But, yeah, that
16 would be a question that we would have is this
17 split. Thank you.

18 CHAIRMAN KIENZLE: Thank you.

19 Any further public comment? And this is an
20 action item, I believe, right?

21 DIRECTOR SANDOVAL: Yes.

22 CHAIRMAN KIENZLE: Can I get --

23 VICE CHAIRMAN MONTOYA: Mr. Chairman.

24 CHAIRMAN KIENZLE: I'm sorry. Can I get a
25 motion on this one?

1 VICE CHAIRMAN MONTTOYA: Sure.

2 Mr. Chairman, I'd move to approve the department's
3 recommendations for the special hunt application fee
4 referred to as the certificate of application under
5 19.30.9 NMAC.

6 COMMISSIONER RAMOS: Second.

7 CHAIRMAN KIENZLE: All in favor?

8 ALL MEMBERS: Aye.

9 CHAIRMAN KIENZLE: Ayes have it. Thank
10 you.

11 [Vote 7-0. Motion passes.]

12 Agenda item number 19, fiscal year 2016
13 budget development. A man with a very strong first
14 name, Paul Varela.

15 MR. VARELA: Good afternoon, Mr. Chairman,
16 Members of the Commission. My name is Paul Varela.
17 No relation to Representative Varela, by the way.
18 That's the number one question I get asked.

19 I'm here today to present the FY-16
20 operating and capital requests to you. So jumping
21 right in, I'd just like to start off by saying that
22 the goal of the fiscal year 2016 budget will be to
23 provide the most service -- the services in the most
24 efficient manner possible.

25 The requested budget expansions for FY-16

1 will meet the needs of the department's proposal to
2 provide enhanced pay plans for certain department
3 employees, which Dan had discussed earlier.

4 Just an overview of FY-15 operating budget
5 because the FY-16 requests will be based on the
6 FY-15 operating budget. The current operating
7 budget is about \$39.1 million. The department is
8 split into four programs. As you know, we recently
9 went to the reorganization of the department. And
10 in the next coming slides I'll give you a slight
11 overview of the four programs.

12 All these programs are defined in the
13 account billing and government act. And as of June
14 15th I received a letter from the governor's office
15 directing all agencies to maintain a flat budget
16 request for FY-16. However, like I mentioned
17 earlier we will be presenting an expansion item
18 based on the compensation plans for the employees
19 that Dan had mentioned earlier.

20 The first program that I will go over is
21 the field operations program. The purpose of the
22 field operations program is to promote and assist in
23 the implementation of department supported law
24 enforcement, resource management, habitat, and
25 public outreach programs throughout the state. So

1 it's basically all the law enforcement and operation
2 enforcement people.

3 The next program, which is our biggest
4 program that represents about 55 percent of the
5 department budget is a conservation services
6 program. The purpose of this program is to manage
7 and conserve the state's public wildlife resources
8 associated habitats and benefit of the wildlife for
9 hunters, anglers, and other wildlife users. Actions
10 include the procurement and aggressive management of
11 wildlife habitat providing technical assistant
12 services and consultation to both public and private
13 landowners and other affected interests regarding
14 wildlife management. So this is basically WMD, the
15 fisheries division ecological environment planning
16 and the information education division.

17 The third program in our department is the
18 wildlife deprivation and uses abatement program.
19 This is one of our smaller programs, but it's no
20 less important. The purpose of the wildlife
21 deprivation program and nuisance abatement program
22 is to provide complaint administration and
23 intervention processes to private landowners,
24 leaseholders, and other New Mexicans so that they
25 may be relieved and precluded from property damage,

1 annoyances, or risks to public safety caused by
2 protective wildlife.

3 And the last program is program support.
4 The purpose of program support is to provide an
5 adequate and flexible system of direction,
6 oversight, accountability, and customer support to
7 all divisions so that they can successfully attain
8 planned outcomes for all department programs. So
9 this includes administration, human resources,
10 administrative services, and information services.

11 The next slide is a breakdown of our FY-15
12 operating budget. As you can see the majority of it
13 lies in conservation services, which I said earlier
14 which is about 55 percent of the overall budget.

15 The next slide breaks down each of the four
16 programs and the total amount of dollars associated
17 with each program for FY-15. If you'll notice, a
18 majority of our costs are in personnel services and
19 employee benefits, which is about 20.7 million.
20 That is also about 55 percent of the budget. Other
21 costs makes up about 35 percent of our budget, which
22 is about 13.8 million.

23 The next slide shows the breakdown of our
24 operating budget by fund. Most of our funding comes
25 from the game protection fund, which is the sale of

1 licenses and other revenue. Each color represents a
2 different fund as you can see on the right-hand
3 side, which are a lot smaller.

4 The next slide will be -- I think you'll be
5 taking an action on this this afternoon, is the
6 capital project budget. And keep in mind that
7 capital budget is separate from our operating budget
8 request. In FY-16, and I believe you have a
9 spreadsheet in front of you which shows the
10 breakdown of our requests for FY-16 to FY-20. So
11 you'll be taking action on the top four items of
12 that spreadsheet.

13 The first item in that spreadsheet is the
14 dam safety compliance. The second is the design and
15 construction of the northwest area office. The
16 third is the wildlife fisheries repair and habitat
17 restoration and management projects, which I believe
18 Donald spoke to earlier.

19 And the last item on that list is the OHB
20 and recreation parks. And as you can see, the next
21 slide shows the amount of funding associated with
22 each project. Our total request for FY-16 in
23 capital is 13.2 million. The columns to the right
24 indicate the funding for each capital project.
25 There's about 4 million in federal funding total

1 associated with these capital projects that we're
2 requesting for FY-16.

3 And with that I turn it over to you for any
4 questions?

5 CHAIRMAN KIENZLE: Commissioners? Give me
6 a minute to puzzle over this.

7 VICE CHAIRMAN MONTOYA: Mr. Chairman?

8 CHAIRMAN KIENZLE: Yes, sir?

9 VICE CHAIRMAN MONTOYA: We got \$2 million
10 that we're going to spend on dam compliance. Is
11 that an annual thing that we go through? It seems
12 like it is.

13 MR. VARELA: Mr. Chairman, Commissioner
14 Montoya, depending on the condition of the dams, we
15 used to list the dams specifically. But we've gone
16 to listing dam safety rules compliance as a general
17 capital project. In case there is a situation where
18 a dam is -- needs repair we have the funding
19 available in our capital budget to make those
20 repairs as necessary.

21 VICE CHAIRMAN MONTOYA: Are we kind of
22 rotating these from time to time or do we just
23 allocate \$2 million a year to see what comes up? Or
24 I don't understand where this need the coming from.

25 UNIDENTIFIED MALE: If I might,

1 Mr. Chairman, Commissioner Montoya, there are
2 actually -- we work closely with the dam safety and
3 the state engineers, and so we actually have
4 projects. What Paul is mentioning, though, is we
5 just actually took that language out to give us a
6 little more flexibility. So as we work on Bear
7 Canyon that's -- or not Bear Canyon, sorry -- Lake
8 Roberts that's been a huge project. We also have
9 Clayton Lake on the list.

10 And so we have a variety of dams that are
11 actually on our projects list. But what's in front
12 of you is a more generic language to give us
13 flexibility in case the need arises.

14 VICE CHAIRMAN MONTOYA: Okay.

15 DIRECTOR SANDOVAL: Mr. Chairman, I might
16 add to that. We have some statutory requirements
17 under the state engineer's office to respond to
18 repairing and putting in place management plans for
19 the dams that the State Game Commission owns. And
20 so that's why it is a recurring project that we have
21 in capital and it's to meet those requirements that
22 we have.

23 CHAIRMAN KIENZLE: Does anybody want to buy
24 a dam? Half a dozen of them? Six? Yeah, because I
25 agree with Commissioner Montoya. It seems like

1 every year I'm giving away a bundle of money on a
2 dam.

3 I have a question about the northwest
4 office and then an office in Roswell or Las Cruces.
5 Any thought given to renting space versus buying and
6 constructing? I know it's an internal question
7 that's asked but tell me what the current thinking
8 is on that.

9 MR. VARELA: Yes. Mr. Chairman, the actual
10 current thinking is in the long run we would be
11 better off buying instead of renting. We've been
12 renting and we're spending a lot of money and then
13 we walk away and we don't own anything. We actually
14 also, along those same lines, there's a couple other
15 issues in the works that you might recall. We've
16 been talking about disposing of property. And along
17 those same lines is we believe that what's going to
18 come up and available to us soon is a place in
19 Las Cruces.

20 So right now I think our lease expires, I
21 want to say, in 2016. It's pretty expensive. We
22 think there will be an opportunity to trade with
23 state parks, use part of that office, and then build
24 onto it. So in the end I guess I think it's more
25 responsible for us to pay for a building and then

1 we've paid for it and then after that all we have is
2 maintenance costs.

3 So I think it's better to own because we
4 get exactly what we want and then it's owned by the
5 State Game Commission and then we'll just have
6 maintenance costs after that. Because in the long
7 run we're going to be in these places for a long,
8 long time.

9 CHAIRMAN KIENZLE: And thank you. And
10 refresh my memory on these capital plans. Do we
11 have to get them blessed by anyone other than us?
12 Does the executive have to --

13 UNIDENTIFIED MALE: Mr. Chairman, yes, we
14 have to get them approved by the Department of
15 Finance and also by the capital outlay committee to
16 the (inaudible) finance.

17 CHAIRMAN KIENZLE: All right. How did we
18 do on our last request? I know we had some similar
19 items on there last year.

20 UNIDENTIFIED MALE: Yes.

21 CHAIRMAN KIENZLE: How did we do on those?
22 Did we get everything through?

23 MR. VARELA: Mr. Chairman, we did really
24 good. They approved everything. They did caution
25 us on how many projects we got. And so we've been

1 talking, Director Sandoval and RJ and I about
2 getting project managers for all of our projects
3 just because we have quite a few on the (inaudible).

4 CHAIRMAN KIENZLE: They were concerned we
5 bit off more than we could chew? And so when they
6 want project managers, is that a third party that we
7 hire or is that an internal position?

8 MR. VARELA: Yeah, Mr. Chairman, that would
9 be a third party. And that's not them. That's us
10 saying we can probably get better at completing
11 these faster and stay on schedule.

12 CHAIRMAN KIENZLE: Yeah, because, you know,
13 what does Game and Fish know about the construction?
14 So we might be better off finding somebody who is
15 better suited to do that.

16 So this is a discussion item. Do you need
17 any vote from us?

18 COMMISSIONER ESPINOZA: I had one question
19 real quick, Mr. Chairman.

20 CHAIRMAN KIENZLE: I don't think we need a
21 vote on this today.

22 COMMISSIONER ESPINOZA: Paul, if I may, on
23 your 4 million for wildlife and fishery, is that
24 just to mirror projected around the state that have
25 somewhat been identified but you haven't been able

1 to get them on the books?

2 MR. VARELA: Mr. Chairman, Commissioner
3 Espinoza, yes, as Dan stated earlier this is also
4 more of a broad topic but it includes several
5 fisheries projects and repair and habitat
6 restoration projects that Donald had spoken to
7 earlier. And also I believe Mike Sloane could also
8 speak to you. They're a lot more specific. And I
9 could tell you what they are. I could provide a
10 list. I just don't know them off the top of my
11 head.

12 COMMISSIONER ESPINOZA: If you would e-mail
13 me a list that would be great. But this is just so
14 that we don't have to keep going back to -- and ask
15 for a budget increase every time we want to do a
16 project. This --

17 DIRECTOR SANDOVAL: Mr. Chairman, if I may,
18 on that part the reason why we kept it at that
19 higher 50,000 foot view is if we go in and put
20 specific language in for habitat projects in certain
21 areas and we identify that and say if a catastrophic
22 fire rolls through that area or something else
23 happens where we're not able to go out and do a
24 habitat project that we had identified, we can no
25 longer shift the ability to go spend that money

1 somewhere else because this is put into statute.
2 And so if we say we want to go work on Luera Peak
3 and we don't have that opportunity then this funding
4 opportunity for us to take advantage goes away.

5 So we wanted to have that flexibility to be
6 able to say if a fire goes through or there's a
7 flood or there's something that prevents us from
8 doing that habitat project in one particular area we
9 can move and go elsewhere in places that we have
10 already identified.

11 COMMISSIONER ESPINOZA: It gives us more
12 flexibility then?

13 DIRECTOR SANDOVAL: Yes.

14 COMMISSIONER ESPINOZA: Okay. Thank you.

15 COMMISSIONER RAMOS: Mr. Chairman?

16 CHAIRMAN KIENZLE: Yes, sir.

17 COMMISSIONER RAMOS: I had a question back
18 with Roswell and Las Cruces. And being familiar
19 with Las Cruces a little bit more there, isn't that
20 lease coming up here pretty quick? And also have we
21 found some possible other sites for purchase or just
22 reconstruction of -- you know, of new building. And
23 if so, what are also the -- I mean I think we've
24 already outgrown the building we're in right now.
25 And I would like to really see some nice educational

1 facilities with the high traffic that's going
2 through these offices as well with all the different
3 groups and community and whatnot.

4 MR. VARELA: Yes, Mr. Chairman,
5 Commissioner Ramos, that's our feeling as well. We
6 actually -- as we've advanced and licenses are now
7 being sold online, we're actually looking at our
8 offices as being more of a destination for education
9 and things like that. So that's exactly what our
10 thoughts are as well. My recollection is the
11 Las Cruces office may be up in 2016. I don't know
12 if I'm quite right. I know I'm close.

13 So it is coming up. But like I mentioned,
14 we're already in discussions with Energy Minerals
15 and Natural Resources about Pecos and some other
16 stuff. And some of the properties that they're
17 offering are down there in Las Cruces, which is
18 their administrative building, which is there off
19 the road that's, I can't remember what it's called,
20 Mesilla, Mesilla-something State Park, Bosque State
21 Park, I think it is.

22 And so we could actually take that over.
23 There's a building there we would have to expand.
24 But that, our thinking, is right in line with yours.
25 We'd like to make it a destination for education and

1 outdoor fun.

2 COMMISSIONER RAMOS: Good. Thank you?

3 CHAIRMAN KIENZLE: Any public comment? Any
4 more commissioner comment or questions?

5 COMMISSIONER SALOPEK: You want a motion?

6 CHAIRMAN KIENZLE: I think we need a motion
7 on this one.

8 COMMISSIONER SALOPEK: I move to approve
9 the FY-16/FY-20 capital plan as presented by the
10 department.

11 COMMISSIONER RAMOS: Second.

12 CHAIRMAN KIENZLE: All in favor?

13 ALL MEMBERS: Aye.

14 CHAIRMAN KIENZLE: Thank you.

15 [Vote 7-0. Motion passes.]

16 On that last item, on these dams, I know I
17 asked this question last year. Any way we can get
18 rid of these things? No one has ever told me I can,
19 but I'm going to keep asking.

20 COMMISSIONER SALOPEK: Dynamite.

21 CHAIRMAN KIENZLE: Is there any way to get
22 rid of them?

23 MR. VARELA: Mr. Chairman, Commissioners,
24 yeah, that's a fascinating thing. When the dam
25 safety bureau of the state engineer's office changed

1 its rules it put significantly higher restrictions
2 and requirements around maintenance, et cetera. A
3 variety of our dams got classified as high hazard,
4 et cetera. So that kicked in all of this expense.

5 There have been discussions with various
6 directors over the last few years since this has
7 happened about how much game protection fund money
8 we're pouring into this dam safety requirement work.
9 There were discussions more tongue and cheek than
10 not about drain, breach and drain. At the end of
11 the day the commission always has the purview to
12 consider making some of these dams available for
13 disposal sale, transfer.

14 In our day and age most folks that now have
15 to deal with dam safety requirements probably aren't
16 interested in owning any of our dams or any other
17 dams for that matter. So it's a difficult thing.
18 We've also had discussions over the last several
19 years about the potential of the Department of Game
20 and Fish submitting application to the water trust
21 board. We sit -- Lex sits on the water trust board.
22 The water trust board typically has somewhere
23 between 25 and \$35 million a year to allocate to
24 various approved, legislatively approved water
25 projects. One of those is dam safety compliance,

1 flood control, et cetera, et cetera.

2 However with the economy being as it is for
3 the last few years we felt a bit uncomfortable
4 seeking those funding opportunities. Should the
5 economy get significantly better I think in the
6 future the department probably ought to consider
7 submitting an application to the water trust board.
8 But we haven't done that.

9 CHAIRMAN KIENZLE: So give me an example of
10 one of these dams, dams up what river or what body
11 of water. I mean --

12 MR. VARELA: The one that's been the most
13 expensive over time, I think Lex can help me out
14 here, is Lake Roberts. We've worked on Lake Roberts
15 over the course of many different careers. But most
16 recently we had to go in and deal with Lake Roberts.
17 The spillway had to be reengineered. That resulted
18 in big gaps in the cement at the bottom of it that
19 we had to address in the increase and how much money
20 we spent. We've got an issue with the drainpipe
21 now.

22 My sense is Lake Roberts, we've probably
23 spent upwards of \$6 million, more than that.

24 DIRECTOR SANDOVAL: Mr. Chairman, it's
25 actually 7 million at this point?

1 CHAIRMAN KIENZLE: Is there -- dismantle is
2 the wrong word, but is there any way to dismantle
3 these and be done with them or are they permanent
4 there forever?

5 MR. VARELA: Well, as I said I think that
6 we have entertained the discussion. I said tongue
7 and cheek about potentially breach and drain. Local
8 communities, of course, have a great affinity to
9 those small little dams. There's -- you know, and
10 there's some significant fishing opportunity that
11 occurs and wildlife value from those dams being in
12 place. But should the commission direct us we can
13 go and evaluate the dams that are in front of us as
14 to whether or not --

15 CHAIRMAN KIENZLE: How much -- how much per
16 fish am I spending?

17 MR. VARELA: It's fairly expensive at Lake
18 Roberts.

19 CHAIRMAN KIENZLE: It's expensive fish.

20 MR. VARELA: \$1 million per fish. They're
21 seven of them.

22 CHAIRMAN KIENZLE: Why don't you pick --
23 why don't you pick one of these and let's put it on
24 an agenda sometime between now and the end of the
25 year just -- because I would like to see what it

1 would take decommission, whatever the phrase is
2 because I'm curious about it. It keeps coming up
3 and it just seems like a ton of money for little pay
4 off.

5 But anyway, someone please put it -- get it
6 up to me so it gets signed off on for an agenda
7 because I'd like to vet the issue a little bit more.
8 And then people in the affected community, I hope
9 they would show up so I can get some sense of what
10 problems it would cause them. All right. Sorry to
11 digress on that but it grates on me.

12 Okay. Moving on to our next item. Oh,
13 this is a good one, agenda item number 20, draft
14 amendments to the Upland game rule and migratory
15 game bird rule to allow the use of pellet guns for
16 the take of grouse, squirrels, and Eurasian collared
17 doves.

18 MR. GRIEGO: Yes, Mr. Chairman,
19 Commissioners, department is proposing amendments to
20 the Upland game and migratory game bird rule to
21 allow the use of pellet guns for the take of grouse,
22 squirrels, and Eurasian collared doves. Department
23 has received several requests to amend commission
24 rule to allow the take of small game with modern
25 pellet guns.

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1 We feel that with the rising costs and
2 limited availability of 22 caliber rim fire
3 ammunition allowing the use of pellet guns will
4 provide more hunting opportunity for grouse and
5 squirrels especially allowing more youth to
6 participate in the hunting of small game.

7 We also got Eurasian collared dove, which
8 is an exotic species. It's increasing in New Mexico
9 and is competing the native species such as morning
10 dove and white wing dove. Department is proposing
11 amending two commission rules to address these
12 concerns, the first of which would be removing
13 Eurasian collared dove from our migratory game bird
14 rule. It is not recognized as a migratory game bird
15 on the federal list, so we can just remove it out of
16 that section.

17 And the second would be adding Eurasian
18 collared dove to the Upland game rule. The season
19 would be open year round with no bag limit or
20 possession limits. We would continue to have to
21 have an identifiable wing that would remain with the
22 bird until it got to a residence or processing, and
23 that's really for law enforcement purposes and the
24 protection of those other species to ensure that
25 they're not being taken.

1 There would be one issue on our wildlife
2 management areas. Those pellets would have to be
3 non-toxic but everywhere else they could use the
4 lead pellets. So if you can afford Tungsten
5 pellets.

6 UNIDENTIFIED MALE: They make them in
7 plastic too.

8 MR. GRIEGO: So we have under 31.5 in the
9 Upland game, we would define pellet gun shall mean a
10 handgun or rifle that propels a single 177 caliber
11 or larger pellet by means of compressed or other
12 gases. As I was researching it, the reason I went
13 with 177 or larger, there's 20 caliber, 22 caliber,
14 24 caliber, so it just made a little sense to
15 simplify it that way.

16 Under manner and method for Upland game,
17 again adding Eurasian collared dove to the list was
18 squirrels and grouse. The sporting arms would be
19 shotguns firing shot, rim firearms, muzzle loading
20 firearms, bows and arrows, crossbows, and pellet
21 guns.

22 These proposals have been posted on the
23 department website. To date 14 public comments have
24 been received. All have been supportive of pellet
25 guns being allowed and maximizing the opportunity to

1 take Eurasian collared dove. We have had a few
2 comments as far as wanting a minimum velocity on
3 those pellet guns. The issue with that is our
4 officers really don't have a way to measure it. So
5 I think it would be easier just to keep it simple
6 recognizing that the vast majority of pellet guns
7 anymore are more than capable of effectively killing
8 small game or collared dove.

9 COMMISSIONER SALOPEK: Question.

10 CHAIRMAN KIENZLE: Yes, sir.

11 COMMISSIONER SALOPEK: You know, Bobby and
12 Cal, I want to thank you for this and also for the
13 dove because my granddaughter is six. We drive
14 around the farm and we'll, you know, end up shooting
15 at rocks but now it just antis it up what she can
16 shoot at a live animal. Now I just believe it's
17 going to make her a better hunter down the road. So
18 I think it's great.

19 MR. GRIEGO: Mr. Chairman, Commissioner
20 Salopek, I agree. I could have showed you lots of
21 pictures, I think, with kids and collared doves, but
22 statute of limitations has not gone away yet.

23 CHAIRMAN KIENZLE: I'm in favor of this
24 just as an aside. I don't have any questions or
25 comments other than that. I think it's a great

1 idea.

2 Robert, do you have anything?

3 COMMISSIONER ESPINOZA: Yeah, I had one
4 quick question. We had -- you had talked about also
5 with including the 17 HMR at one time. Is that --
6 is that still on the table or just the pellet guns
7 right now?

8 MR. GRIEGO: Mr. Chairman, Commissioner
9 Espinoza, I mean, yeah, we could add that. The HMR
10 is a room fire, isn't it?

11 COMMISSIONER ESPINOZA: It is.

12 MR. GRIEGO: Yeah, so it would be under any
13 of that rim fire.

14 COMMISSIONER ESPINOZA: I thought the
15 current rule just said 22 rim fire or does it say
16 rim fire? Because if it says rim fire the 17 would
17 be allowed. Or 17 HMR just is hard to get off 22 --

18 MR. GRIEGO: I was thinking for squirrels
19 it is just rim fire.

20 COMMISSIONER ESPINOZA: Right there.

21 MR. GRIEGO: Well, that's -- but I think
22 under the rule it is just rim fire firearms, so your
23 17s would be.

24 COMMISSIONER ESPINOZA: Oh, there you go.

25 MR. GRIEGO: 17 Remington would not because

1 it's a center fire.

2 COMMISSIONER ESPINOZA: Thank you for
3 clarifying. And I'm full support of this as well.

4 CHAIRMAN KIENZLE: Anybody else?

5 COMMISSIONER SALOPEK: So the 17 is
6 covered, is that what we decided?

7 COMMISSIONER ESPINOZA: The HMR rim fire.

8 CHAIRMAN KIENZLE: Any public comment on
9 this one? This is just a discussion item for today,
10 but we'll take it up again in August. Any public
11 comment?

12 All right. Thank you.

13 Somebody give me the magic language on --

14 COMMISSIONER RAMOS: Mr. Chairman.

15 CHAIRMAN KIENZLE: Yes, sir?

16 COMMISSIONER RAMOS: I move to adjourn into
17 executive session closed to the public pursuant to
18 section 10-15-1(H)(2) to discuss limited personnel
19 matters of key department personnel, section
20 10-15-1(H)(8) NMSA 1978 to does the acquisition of
21 real property and pursuant to section 10-15-1(H)(7)
22 on matters subject to the attorney/client privilege
23 pertaining to threatened or pending litigation in
24 which the commission and/or department is or may
25 become a participant.

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1 COMMISSIONER ESPINOZA: Second.

2 DIRECTOR SANDOVAL: Roll call vote.

3 Chairman Kienzle?

4 CHAIRMAN KIENZLE: Yes.

5 DIRECTOR SANDOVAL: Vice Chair Montoya?

6 VICE CHAIRMAN MONTOYA: Yes.

7 DIRECTOR SANDOVAL: Commissioner Arvas?

8 COMMISSIONER ARVAS: Yes.

9 DIRECTOR SANDOVAL: Commissioner Ramos?

10 COMMISSIONER RAMOS: Yes.

11 DIRECTOR SANDOVAL: Commissioner Salopek?

12 COMMISSIONER SALOPEK: Yes.

13 DIRECTOR SANDOVAL: Commissioner Espinoza?

14 COMMISSIONER ESPINOZA: Yes.

15 DIRECTOR SANDOVAL: Commissioner Ricklefs?

16 COMMISSIONER RICKLEFS: Yes.

17 DIRECTOR SANDOVAL: We can now adjourn

18 to --

19 CHAIRMAN KIENZLE: I think we're good.

20 DIRECTOR SANDOVAL: And unfortunately we
21 don't have another room, so we're going to have to
22 ask everybody to please exit and then --

23 CHAIRMAN KIENZLE: Do you want to just --

24 DIRECTOR SANDOVAL: -- out in the lobby.

25 CHAIRMAN KIENZLE: There's tables there

1 that appear to be --

2 [Executive session.]

3 All right. This commission has adjourned
4 into executive session closed to the public. During
5 the executive session the commission discussed only
6 those matters specified in its motion to adjourn and
7 it took no action as to any matter.

8 General public comment.

9 A few brave souls hung on until the end.
10 Okay. Let's see, Joel and Garrett, do you both have
11 something to say or do you want to --

12 UNIDENTIFIED MALE: Just Joel.

13 CHAIRMAN KIENZLE: Just Joel, okay.

14 MR. GAY: Thank you. Joel Gay, New Mexico
15 Wildlife Federation.

16 Actually two issues. We held a sportsmen
17 summit last weekend in Socorro and there was quite a
18 bit discussion about the E-plus rule. And our
19 organization, along with, I think, several others
20 would like to encourage the commission to embark --
21 to open up the E-plus rule and have a statewide
22 discussion about possible changes in that rule and
23 the whole E-plus program. And we submitted a letter
24 to that effect to you a little earlier.

25 The second issue is something that I

1 brought up at the last meeting, which was about the
2 sale of the -- what's commonly called the governor's
3 tags, big game and (inaudible) fun tags. And every
4 year Game and Fish donate a number of these licenses
5 to organizations, sportsmen's organizations to
6 raffle or auction off to raise funds for habitat and
7 management. And we appreciate those programs and
8 strongly support their continuation.

9 What we don't support is the fact that the
10 people who win those raffled or auctioned tags can
11 then turn around and sell them at a profit. We're
12 the only state in the west, I've checked with
13 Arizona, Colorado, Utah, Wyoming, all the way up to
14 Alaska. We're the only state where governor's tags
15 can be sold. If I get a big game tag. If I draw a
16 vivadoll bull tag I can't turn around and sell it.

17 I think generally we all agree that big
18 game tags should not be sold or hunting
19 opportunities should not be sold. And so therefore
20 we just think that New Mexico should join all the
21 rest of the Western states and not allow the
22 transfer of these raffled or auctioned tags.

23 There are -- you're going to bring up
24 several rules in the next three months where
25 these -- that transfer is allowed. So for instance

1 in the elk rule, the deer rule, and the big horn
2 sheep rule there's a separate pair of raffle for
3 each one that says the -- or the winner -- excuse
4 me, the authorization may be transferred through
5 sale, barter, donation, or gift. We're just asking
6 that we either strike all of that or if the
7 commission chooses to allow a limited transfer such
8 as father, you know, to his daughter or to your
9 grandmother or whoever within the family.

10 Or perhaps think about another possibility
11 that would actually raise more money for the
12 department, which would be for the department itself
13 to conduct these raffles or auctions. Just some
14 ideas.

15 So in any event we've also submitted
16 letters on the big horn rule, the elk rule, the deer
17 rule and then we'll ask you separately to open the
18 big game enhancement fund rule, which is 19.31.18.
19 And that's the one that's sort of the grand slam
20 package 5 licenses. All of those are transferable.
21 And then separately there's a ghouls package. Once
22 again the tag is transferable. The big picture is,
23 you know, we just don't think tags should be
24 transferable and appreciate you doing something
25 about it.

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1 CHAIRMAN KIENZLE: Thank you.

2 MR. GAY: Thanks.

3 CHAIRMAN KIENZLE: Mr. Jensen.

4 MR. JENSEN: Which one?

5 CHAIRMAN KIENZLE: Oh, there's two of them.
6 They're both Js too. Which one of you would prefer
7 to go first, Jarrod or Josh? Your choice.

8 JARROD JENSEN: Can I hand you guys a
9 report?

10 CHAIRMAN KIENZLE: Sure.

11 JARROD JENSEN: Okay. I hope there's
12 enough copies for everybody.

13 CHAIRMAN KIENZLE: You are which one?

14 JARROD JENSEN: Jarrod Jensen.

15 CHAIRMAN KIENZLE: Jarrod, okay.

16 JARROD JENSEN: Yes, sir.

17 CHAIRMAN KIENZLE: Thank you.

18 JARROD JENSEN: I appreciate it.

19 My comments today -- well, I'll go ahead
20 and let the handout be given to you before I start.
21 I want to comment on our elk herd in the Sacramento
22 Mountains and some developments that I've seen over
23 the last few years by the data collected from the
24 harvest reporting via the department's website.
25 I've got a few numbers here that I would like to get

1 out and some suggestions, what I believe would be
2 better to serve the needs of the sportsmen as well
3 as more importantly just the elk herd health in
4 general.

5 I appreciate the opportunity that we are
6 given to comment during these meetings. And if
7 you'll look at the handout so that I can move
8 through this fairly quickly. There are some errors
9 on behalf of the Game Department managing the elk
10 herd. The reports that I looked through were from
11 2010 and 2012. And the department, in these
12 reports, has continually allowed an overharvest of
13 the sustainable mortality rate within our elk within
14 GME 36 and 34. There are others, but for the time
15 I've listed these two.

16 The bulls have been overharvested in the
17 last three -- in those three years by 741, the cows
18 overharvested by 341 totalling 1,082
19 overharvested -- over sport harvested elk, not
20 including road kills, poaching, incidental -- you
21 know, animals that got away, things like that. So
22 we are dramatically overharvesting in these two
23 units, I feel.

24 These numbers reflect sport harvest on
25 public and private land, and I think this is

1 inexcusable and needs to be reviewed. Reporting
2 harvest data is also failing of the department -- is
3 also a failing of the department and the percentages
4 show that.

5 Draw hunters, those that receive the draw
6 licenses in the state, 91 percent of those hunters
7 report annually. 71 percent of the private land --
8 of the tags that go to private land, ranch only, are
9 reported. And then the unit-wide ranch tags are
10 designated under a private land harvest when those
11 tags are typically -- those elk are typically
12 harvested on public lands but they're designated in
13 the private category, which they should not be.
14 That's also an inexcusable thing that we need to
15 look at.

16 During the season of 2013 and 2014 the
17 department authorized a population reduction hunt
18 for (inaudible) in both GMUs 36 and 34. When the
19 department elk biologist, Ms. Nicole Quintana, was
20 questioned about the validity of these hunts she
21 responded to me by saying: When our last survey was
22 flown we saw that the herd had increased and there
23 was a need to reduce numbers. She also stated there
24 is a middle ground that we fill but do not know,
25 hunt conservatively, that being the Mescalero Apache

1 Reservation.

2 Commissioners, how can it be that we have
3 exceeded our sport harvest mortality rates and still
4 have growth in elk populations as described? We are
5 managing -- and why are we managing GMUs 36 and 34
6 based on feeling and not actual results?

7 I have since asked for the harvest results
8 for these hunts, which occurred mostly if not wholly
9 on public land. Response is that these results were
10 linked to the 2013 private land harvest data. And I
11 believe that for those deprivation hunts, which were
12 on public land to be lumped into the private land
13 harvest reporting is inexcusable. Those are public
14 land elk.

15 The department is currently, through the
16 proposal I've seen on the website, looking at
17 license increases in both GMUs. And I think that
18 is -- there's no grounds to permit that action.

19 Would you like me to keep going or would
20 you like to through the -- I have suggestions here.

21 CHAIRMAN KIENZLE: Why don't you just cut
22 to the chase.

23 JARROD JENSEN: Okay. Basically no
24 increase in the -- in the licenses available in
25 these units. Unit-wide tags, private land and

1 public land harvest results should be separated out
2 and there should be a provision in the reporting
3 where it's asked the hunter if that elk was
4 harvested on private or public land.

5 I also believe that as sportsmen we cannot
6 receive a license the following year if we don't
7 harvest our reports. Landowners who are not
8 ensuring that their tags are being reported on are
9 continuing to receive the same amount of licenses
10 each year. And I think that needs to be changed.
11 If they don't ensure that their hunters report that
12 and take a part in conservation I feel the ranchers
13 should have those tags revoked and either put to the
14 public draw or give it to another rancher and not
15 hunt it altogether.

16 There are other issues within the unit-wise
17 system, the E-plus system that there are lands that
18 are three acres sometimes, five acres, 10 acres
19 where we have problem elk. And those tags are
20 given -- those areas are given a unit-wide tag which
21 has gone and killed on public land typically and the
22 problem elk is never actually taken care of. And
23 the department, I believe, has a very good
24 degradation system implementation. And if we would
25 use it we can take care of the problem elk not our

1 sport harvest public elk.

2 And lastly, please cooperate with the
3 Mescalero Reservation so that -- get the biologists
4 talking to each other so that we know what's coming
5 off the reservation and not just assume how the
6 reservation is going to continue to fulfill our game
7 management units.

8 CHAIRMAN KIENZLE: I think you're going to
9 find we've tried to have that visited.

10 COMMISSIONER SALOPEK: More than once.

11 CHAIRMAN KIENZLE: And I don't think we're
12 getting the very information that you want.

13 JARROD JENSEN: Okay. And I'm more than
14 happy to work on that as well. I worked with the
15 Mescalero's many, many years and know them pretty
16 well, so I'll help with whatever I can there. But,
17 you know, I think that there needs to be a working
18 relationship being that we're basing our elk sport
19 harvest off of the elk filtering off the reservation
20 when we don't know what they are doing there in
21 their own management.

22 CHAIRMAN KIENZLE: And I'm not going to say
23 this is a problem. I recognize it's an issue, but
24 without that big spot in the middle, without good
25 information from there, I don't know that we can

1 solve that issue, solve that problem, whatever you
2 want to call it.

3 JARROD JENSEN: Thank you. And I
4 appreciate your concern in recognizing that. I just
5 would like to see that we are managing our units
6 based on their population not on what somebody else
7 is doing. That we are looking at our local herds of
8 animals and taking care of them accordingly.

9 And so if anybody would like to visit about
10 this with me I've got more information. But on the
11 fourth page there you could go down and look through
12 the actual sustainable mortality. There is a
13 discrepancy within the population that has arisen.
14 And I think somebody else is going to cover that
15 hopefully today. I appreciate your time.

16 CHAIRMAN KIENZLE: Thank you.

17 Madame Director, it's fair to say that
18 we're aware of this issue, right?

19 DIRECTOR SANDOVAL: Mr. Chairman, that is
20 correct. We have reached out to Mescalero. We
21 actually had a meeting with them, so we'll see where
22 that goes and we are aware of your perspective, so
23 thank you.

24 JARROD JENSEN: Excellent. Thank you very
25 much. I appreciate it.

1 CHAIRMAN KIENZLE: Thank you. Thank you
2 for your thoughtful presentation. It's well done.

3 The other Mr. Jensen. Are you guys
4 brothers?

5 JARROD JENSEN: Yes, sir.

6 JOSH JENSEN: We are.

7 All right. I just want to kind of -- well,
8 my name is Josh Jensen. I'm here from Ruidoso. I
9 just want to kind of add to what he had to talk
10 about. I own the local taxidermy and meat
11 processing plant here in Ruidoso, Wild Game Meat
12 Processing, and so I kind of feel like that we have
13 a pretty good idea of what the pulse is like for our
14 elk populations.

15 And our concern was brought up when we
16 looked at what the plan is for this next five years
17 for our elk herds in units 36 and 34. Under the
18 last five years' plans we have seen a significant
19 decrease in the elk age class, the bull age class in
20 our units where our quality of elk has dropped
21 drastically. We went from averaging harvesting of
22 four to six year old bulls to now I feel like we're
23 just barely teetering on that step down to a two
24 year old bull. And once we get into that position
25 we're never going to get at the current management

1 program that we're at. We'll never get out of that.
2 We'll be harvesting (inaudible) two year olds
3 forever. And so I believe that because of the
4 overharvesting that we've had this is a position
5 that we've got ourselves into.

6 Just some thoughts that we've had to maybe
7 do something different that would help change that
8 and raise our age class of our bulls, which overall
9 would help our populations. It's going to help the
10 success rates. It's going to help the quality of
11 our hunts. If we raise the age class of those that
12 takes care of all three of those things.

13 One idea that we've had was to slightly
14 increase the public draw elk tags but restrict all
15 the unit-wide landowner tags to private ranches
16 only. That's one idea that I believe would help
17 increase the age class of our bulls.

18 The second thing is to -- or we could
19 slightly increase our public draw tags but sell over
20 the counter private land tags but restrict those
21 hunts to the regular hunt dates. Instead of getting
22 those private land tags from October 1st to
23 January 31st, they would be restricted to hunt the
24 same time that the public does. And the problem
25 with that is it gives those guys an unfair advantage

1 to -- versus what the public land hunter has to deal
2 with.

3 And then also a point restriction on those.
4 I believe that we can formulate a point restriction
5 that is beneficial for everybody. And that point
6 restriction would be if you're a youth or a senior,
7 kill any legal sporting -- or any legal bull, mature
8 bull, (inaudible) elk, you're more than welcome to
9 harvest that animal. But any adult that's in
10 between that range needs to be part of the
11 conservation part of it and kill a six-by, have at
12 least six points to one side to help effectively
13 manage our elk herds.

14 So that's my biggest thing. One other
15 comments that I had on our deer, for this area as
16 well, I looked at the public comment on the Game and
17 Fish website. And the public comment is that they
18 want to have doe hunts. They want to have point
19 restrictions. They want to have -- reduce the
20 number of tags. I do not believe that doe hunts to
21 help to compensate the buck -- buck to doe ratio is
22 going to help our deer populations at all. I do
23 believe a point restriction will help. And why I
24 believe that is because since I've been in business,
25 I've been in business about 11 years. The first --

1 by the first three years or by the third year that
2 we had the point restriction in the past I took in
3 more deer on that year than I have before or since
4 that point restriction was implemented.

5 And so to me that would just prove that
6 that did have an effect on how our deer herds or how
7 our bucks -- how it helped our buck population. The
8 other thing on the point restriction, you could do
9 something similar like what I suggested with the elk
10 hunts. You know, let the youth and senior, if they
11 want to kill four (inaudible), that's fine. But as
12 adults they need to be part of the conservation to
13 kill a three-by or whatever it would be to help our
14 bucks out.

15 And then the third thing that I would have
16 is -- and this would be to help reduce the number of
17 tags that are given out in the unit but also not
18 lose revenue for the Game and Fish, and that would
19 be to create a trophy hunt. And in this trophy hunt
20 you would say, for example, unit 36, we're going to
21 give out 10 tags that's going to be from
22 December 10th to December 31st, your choice of
23 weapon. We're going to charge \$250 for this tag.
24 And by doing that you create a quality trophy hunt
25 but you're also able to reduce your public draw tags

1 by 60 tags and not -- not hurt your revenue as well.

2 So that's my public comments for today.

3 Did anybody have any questions for that?

4 CHAIRMAN KIENZLE: No. I think I'm good.

5 JOSH JENSEN: Okay.

6 CHAIRMAN KIENZLE: But thank you. I
7 appreciate comments from both brothers. You clearly
8 have intimate knowledge of 34 and 36, which helps
9 all of us.

10 We got one left unless there's someone
11 beyond that. Daniel Cornelius.

12 MR. CORNELIUS: My name the Daniel
13 Cornelius. I'm a guide up here on the mountain. I
14 work for multiple outfitters. And I'm not here --
15 I'm here to touch on the same stuff that they are
16 but moreso to request a revision of the management
17 plan in 34, 36, and 37. Things I believe I need
18 revision are public versus our private tag system,
19 everything from tag numbers to season dates, weapon
20 use.

21 Like they said in the proper season, not
22 being able to start using rifles until October 1st
23 before public land can even use black powder.
24 Better harvest reporting off the private land and
25 giving more accurate population counts and pay

1 closer attention to the migration of these elk,
2 which brings me to my next point is the core area,
3 what we consider the core area, and maybe reevaluate
4 that as our elk herd is expanding from the
5 Sacramento moving out past the Capitans. And what
6 may not have been considered the core area 10 years
7 ago there is resident elk there and maybe ought to
8 be managed as so.

9 We have a lot of things, you know, cause
10 and effect on our elk population here. And we do
11 effect the Mescalero Apache Reservation with our
12 hunts. The biggest thing I want to hit on is
13 wintertime hunts and harassing these elk in the
14 winter range, which takes place only on private
15 land. We don't have any public land hunts during
16 the winter. But elk are very vulnerable at this
17 time and they're also bachelored back up. So we're
18 basically giving these property owners the
19 opportunity to cherry pick the best bull out of the
20 herd, and those are elk that have migrated from
21 public land on to the private land. And they get to
22 take the best ones and send us the lesser bulls to
23 breed our cows for the future years to come.

24 I believe elk should just be left alone in
25 their wintering grounds. If you start running them

1 it starts running off their fat reserves which
2 effects their health in the following years.

3 Other than that I just think I'd like to
4 request a revision for units 34, 36, and 37, maybe
5 get more locals involved. Maybe Larry Cordova from
6 the local forest service and some other biologists
7 from around here because I think you guys are spread
8 thin and don't have time to be down here year round
9 to monitor these elk and see what's actually going
10 on with them.

11 So I guess that's all I have to say.

12 CHAIRMAN KIENZLE: Thank you. Again,
13 that's helpful to hear. You definitely have good
14 knowledge of the area.

15 Any further public comment from anyone?
16 Anything else? Anything from commissioners?

17 Can I get a motion to adjourn?

18 VICE CHAIRMAN MONTOYA: So moved.

19 CHAIRMAN KIENZLE: All in favor?

20 ALL MEMBERS: Aye.

21 CHAIRMAN KIENZLE: Done deal.

22 [Vote 7-0. Motion passes.]

23 [The hearing was adjourned.]

24

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1 In Re:
2 Game Commission Hearing

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4
5 C E R T I F I C A T E
6
7

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