

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 Tucumcari Convention Center
 1500 W. Route 66 – Fort Bascom Room
 Tucumcari, NM 88401
 September 28-29, 2006
 8:00 a.m. – 5:00 p.m. (each day)

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AGENDA ITEM NO. 1. Meeting Called to Order.

Meeting called to Order at 8:00 a.m.

AGENDA ITEM NO. 2. Roll Call.

Chairman Sims – present
 Vice Chairman Arvas – present
 Commissioner Henderson – present
 Commissioner Montoya – present
 Commissioner Pino – present
 Commissioner Riley– present
 Commissioner Salmon – present
 QUORUM: present

AGENDA ITEM NO. 3. Introduction of Guests.

Introductions were made by approximately 50 members of the audience.

AGENDA ITEM NO. 4. Approval of Minutes (August 24, 2006—Santa Fe, NM)

MOTION: Commissioner Pino moved to approve the Minutes of the August 24, 2006 State Game Commission Meeting in Santa Fe as presented. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 5. Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the September 28 and 29, 2006 State Game Commission Meeting. Commissioner Pino seconded the motion.

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

AGENDA ITEM NO. 6: Ethics Training Workshop (8:15 A.M. – NOON).

Presented by Management Assistance Team – Commissioners and upper-level Department managers participated in an Ethics Training Workshop conducted by Management Assistance Team staff from West Virginia. This training was conducted at the request of Chairman Sims.

Director Thompson We have Jacob Faibisch with us today from the Management Assistance Team located in conjunction with the National Conservation Training Center in West Virginia and he'll be conducting and has organized the Ethics Training Session.

Jacob Faibisch Thank you for letting me come to lovely New Mexico and spend a morning with you talking about ethics. As background I'm a consultant/trainer/project leader for the Management Assistance Team. The Management Assistant Team is a program under the Association of Fish and Wildlife Agencies.

Workshop was open for public view but did not involve public participation. The Commission engaged in Ethics Training with Department supervisory/management personnel. Topics covered were Moral, Legal, and Ethical Issues, Ethics as a Leader, and Ethical Dilemmas. The most significant tool designed to assist decision makers facing "right v. right" dilemmas was the Ethical Triangle which breaks the dilemma into 3 components (Consequences, Principle, and Virtue) and the best outcomes of an action.

RECONVENE 1:30 P.M.

AGENDA ITEM NO. 7: Revocations (Consent Agenda).

Prepared by Dan Brooks – The Department presented an individual that the Commission considered for revocation that met established revocation criteria.

MOTION: Commissioner Arvas moved to adopt the Department's recommendation to assess 30 points and revocation of the named individual on the attached list for the period of time specified. Commissioner Salmon seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 8. Bureau of Land Management Briefing on Land Restoration Efforts in New Mexico.

Presented by Ron Dunton – This presentation described federal, state, and private partnerships initiated in 2005 to reclaim and improve habitat at landscape scale. Specific emphasis was on benefits to lesser prairie-chicken, sand dune lizard, and other sensitive species. Questions and reaction were sought from the Commission, including any action judged appropriate.

Commissioner Salmon: How do you get rid of or treat juniper?

Ron Dunton: There are a number of ways—mechanical in some cases, a chainsaw will work, burning, some chemicals will work, depending on the area we're in. Whatever treatment fits the area best. On salt cedar invasion, we've got a major program going, the results are dramatic in getting rid of the salt cedar, clean it up and get a good response on the native grass. Most of the Pecos River on public land is now treated. The Delaware River has been totally treated.

Chairman Sims: Is most of the salt cedar treated mechanically and chemically?

Ron Dunton: Yes.

Chairman Sims: We keep hearing about this parasite.

Ron Dunton: I keep hearing the same stuff. We've not utilized it on public lands.

Chairman Sims: Has it been utilized do you know in New Mexico?

Ron Dunton: I've heard they have some treatment plots on the Rio Grande, but I don't know that for sure. Most of our effort is on the Pecos side—we're doing some spraying on the Rio Grande.

Commissioner Montoya: Can you use EQIP dollars on public lands or in partnership with private properties?

Ron Dunton: It's both. Two years ago the state conservationist for NRCS in New Mexico earmarked dollars out of this program for federal lands. The new state conservationist is continuing that program with a portion of EQIP dollars and we're also working with the private landowners.

Commissioner Montoya: When you told us about the oil fields, what responsibility do the oil and gas interests have in reclamation?

Ron Dunton: They have full responsibility where we haven't identified lessee. Where we're putting in partnership into cleaning up is where no one is responsible for it.

Commissioner Montoya: In the collaborative efforts that you've had in southeast New Mexico, is BLM the 1 that initiates this? I'm wondering what it would take to spread this work into the northwest/northeast parts of the state where there's a lot of oil and gas activity. Is it incumbent upon the field offices in those areas to initiate this?

Ron Dunton: Almost anyone can. The interested public can, it's not agency dependent.

Commissioner Henderson: With Otero Mesa, the Governor afforded the wildlife values over the oil and gas values, what is that relationship between state and federal agencies?

Linda Rundell: In almost all aspects we have a close and cooperative relationship with the state. We hire biologists and they work closely with the Department of Game and Fish. For the most part, BLM manages habitat and the aspects of managing game predominantly are with the Department. Specifically on Otero Mesa, we crafted a restrictive plan that would permit a small amount of oil and gas development to occur. The reason we embarked on this back when I was the District Manager in Las Cruces in the late 1990's was because it came to our attention that about 70,000 acres had been leased for oil and gas development. We took a look at the existing plans that were in place and we did not feel they were adequate to protect the environment, wildlife habitat, sensitive grasslands. With the full cooperation at that time of the sportsmen's groups and several other environmental groups, we embarked on developing a land use plan. That has been a difficult thing to do. We are convinced that the plan that we proposed that has been finalized and Judge Bruce Black upheld yesterday with this decision is a very good plan that allows a very minimal amount of development to take place under a strict regime of environmental mitigation. All of that aside, we're hoping we can get back to a good point working with the Governor's office and continue that spirit of cooperation-collaboration that we had with every other state-federal agency.

Commissioner Arvas: Would you expound on the Sikes Act?

Ron Dunton: We're working closely with the Department on the Sikes Act. I think we're on the same page in terms of looking more at a landscape level approach for our agency and in discussions with the Department. We also recognize that in the citizen review process we're not going to try to ram something down anybody's throat. There are groups out there that like us to focus on site-specific projects. That will continue but we're trying to do the site-specific projects in a larger context. We're now working on a map to show where all our water developments are by game unit and then get an idea of where our water development or where other Sikes Act projects are and how that fits in with the total landscape. We're looking at the Sikes Act being part of the larger landscape restoration and whether or not that's individual waters, prescribed burning, or other vegetative manipulation. We're going to work in close coordination with the Department and the citizen review committees. We're looking at about \$670,000 worth of projects for this coming fiscal year coming out of the Sikes Act. We match these finds in-kind because we're doing the planning/work on the ground. We're also trying to work closely with some of the local conservation and hunting organizations.

AGENDA ITEM NO. 9. Private Land Entry and Sportsmen Enjoyment (PLEASE) Program Conservation Access Fee Exception, 19.34.7.8, NMAC.

Presented by Luke Shelby –The Commission was requested to adopt language to the Conservation and Access Fee portion of the PLEASE rule that clarified that non-resident anglers age 70 and over be required to pay

the Conservation and Access fee. Currently, the Conservation and Access Fee (\$1.00) and the Habitat Management Stamp (\$3.00) are combined into the Habitat Management and Access Validation (\$4.00). Non-resident anglers age 70 and over are required by the Habitat Management Stamp statute (17-4-34, NMSA) to purchase the Habitat Management Stamp, but they are not required by the PLEASE rule to pay the Conservation and Access Fee. The recommended change to the PLEASE rule brought it into compliance with the Habitat Management Stamp statute. Chairman Sims: Under the requirements for the Conservation and Access Fee and the Habitat Management Stamp, we can actually buy these 2 together?

Luke Shelby: When we combine those 2, we call it the Habitat Management and Access Validation. We didn't want to go out there with 2 of those things because it makes it confusing for our licensed vendors to sell licenses. All we're doing is making sure the requirements match up.

MOTION: Commissioner Arvas moved to adopt the recommended change to the Private Land Entry and Sportsmen Enjoyment Program Rule 19.34.7.8, NMAC. The Exceptions portion of the rule will state that no person under the age of 18, no resident angler age 70 and older, and no person designated by the Department as a 100% disabled resident veteran is required to purchase the PLEASE conservation and access fee. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 10: Proposed Change to the Manner and Method Rule, 19.31.10, NMAC, to Allow Use of Live Bluegill as Bait in Reservoirs.

Presented by Mike Sloane – Pursuant to Commission request, the Department proposed changing the Manner and Method Rule, 19.31.10, NMAC, to allow use of bluegill as live bait. The proposal restricted use of live bluegill to reservoirs in which the species is already present.

MOTION: Commissioner Salmon moved to amend the Manner and Method Rule, 19.31.10, NMAC, to allow the use of legally taken bluegill as live bait in the waters from which they were taken only in the following waters: Abiquiu Reservoir, Cochiti Lake, Elephant Butte Reservoir, Caballo Reservoir, Stubblefield Lake, Maxwell Lake, Spring Lake, Conchas Lake, Ute Lake, Santa Rosa Lake, Lake Summer, Brantley Reservoir, and Navajo Reservoir.

Commissioner Riley seconded the motion.

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

AGENDA ITEM NO. 11: Proposed New Regulation - Civil Liability Values, 19.30.11, NMAC, for Trophy Poaching Values.

Presented by Dan Brooks – The Department presented information to establish a new rule (19.30.11, NMAC) that would allow for description and determination of the civil liability value of a trophy animal that is illegally killed or taken. The Commission considered adopting these proposed values, the circumstances that surround the unlawful taking, killing or possession, and what criterion constitutes a trophy game animal or bird.

Chairman Sims: What's the difference between Safari Club and Boone and Crockett scoring?

Dan Brooks: There's not much. What's mentioned in the rules is scoring, and it shall mean "measure adopted and utilized by Safari Club International to determine the size, antlers, heads, and horns of game animals." There are a couple of things to consider as we look at determining what a trophy is: 1 is we want to take out any arbitrary and capriciousness so what that allows us to do is start to get something we can categorize. With Safari Club you don't have deductions or shrinkage. It takes in the whole measurement of the animal and then doesn't provide for deductions. This proposal has the Director's authorization to pursue civil liability for greater than \$10,000 for any bighorn sheep, elk, or mule deer that scores higher than the criteria. Another thing that the Safari Club International has offered is to train our officers on this scoring method, and they've volunteered that their own scorers would score any animal we want scored.

Commissioner Montoya: You don't think our proposal is complicated having so many different categories for each type of deer? Is there any thought of simplifying it? I was thinking the simpler the better.

Dan Brooks: There are various categories. My approach was to keep it as simple as possible, but you're correct in that there are various categories. Hunters and guides/outfitters that make a living doing this and those that are just interested in wildlife are very passionate about protecting our wildlife and there's also a general consensus on the supply/demand. We have greater demand than supply because that's why these hunts are limited. The rarer an

animal is and the longer it's going to take to grow that animal, the more unique that animal is to the state and so we tried to capture that. What you'll see is that most of these have a minimum of \$2,000. It is clearly the Commission's prerogative if you think this is too complicated.

Commissioner Arvas: In reference to Commissioner Montoya's statement, do you think it's too complicated because you're the 1 that's going to have to deal with this?

Dan Brooks: I do not.

Commissioner Arvas: Secondly, we're not saying that an animal poached on private land is going to be any different than an animal on public land in terms of the amount?

Dan Brooks: That's correct. The amounts are the same. There was some discussion earlier about criminal trespass v. the other criteria we had but that has nothing to do with money.

Commissioner Arvas: The same, but there will be an additional fine for trespass?

Dan Brooks: Correct. That fine is actually different than civil liability. The criminal trespass issue is they have to go to court and actually see a judge. If it's a criminal trespass issue they could get a citation for that and they can also get a citation for unlawful hunting. Civil liability is a whole third issue. It's that you have taken this property from the state and you owe us for that value which is different than going before a magistrate and answering for your crimes. When you answer for your crimes there's a minimum usually of \$50-\$500, and a possibility of jail. But civil, which I equate to driving on the road and you get off the road tearing up someone's fence you can get a ticket for reckless driving and you go to court but you've still got to talk and deal with the landowner over tearing up his fence. The state has lost that property because we hold those animals in trust. We give people the option to voluntarily pay first and if they don't then we take them to court. The statute only provides for the unlawful killing or taking of an animal. It does not provide for the criminal trespass so under civil liability that is not the framework so I would say that's outside the statutory allowance at this point.

Commissioner Arvas: You're talking about 3 violations instead of possibly 2?

Chairman Sims: Another question I have is that any bull that is scored 350-399.9 is \$10,000? Those elk cost a lot more?

Dan Brooks: That's part of what I put in earlier because this goes back to the portion of the provision that we've put under 19.30.11.8 which says that the Director is authorized to pursue civil liability for greater than \$10,000 for any bighorn sheep, elk, or mule deer that scores higher than the criteria listed. This is right on point with the public input I received. Most of the public that's knowledgeable and has talked about this issue believes that a 400+ bull is actually worth more than \$10,000. That takes it out of magistrate court and is no longer able to be brought by 1 of our conservation officers and so it kicks it up to a higher court. What we're trying to do is to allow that mechanism into place, but the way I visualize it is that the Director would have to come back to the Commission, the Commission would have to approve the amount, and then we could go file the proper paperwork in District Court. We put that mechanism in place but we didn't put a dollar value to it because it could be determined then on a case-by-case basis by the Commission.

Commissioner Henderson: Do we assess court costs against these and can that boost the amount of penalty assessed against the poacher?

Dan Brooks: Yes and here's how it works. Right now the Department has a policy where we allow people to voluntarily pay this, and we give them the 3-payment option, and it's when they refuse this that the conservation officers have a civil assessment book and if they do pay there are no court fee/costs. If a person refuses to voluntarily pay, then we have to file the charges and there are court costs. That cost is \$69 to the Department and we can recover and ask for that in final judgment.

Chairman Sims: These trophies do get confiscated after the civil charges are filed, they don't get the trophy?

Dan Brooks: Yes, the standard procedure is when a person is found in unlawful possession or has unlawfully killed an animal, the animal or parts are seized on the spot usually by the conservation officer and then the statute dictates that they be sold. Then we have a policy that actually makes an allowance unless we're using them for education and law enforcement purposes, so yes people are not allowed to retain them.

Alvin Garcia: I have some concerns about the process of civil liability. It's a great idea but if your conservation officers are going to be prosecuting a civil action in magistrate court, there's probably going to be a need for some training in how to prosecute a civil complaint. Additionally, if you are at the district court level, you're going to have to hire an attorney who is otherwise able to be commissioned by the attorney general because it's illegal to pay anyone

to represent the state in district court under 8-5-2 of the statutes. It's a logistical process something the Director is going to have to deal with and hire an attorney to be in district court and I'd also recommend trying to put in a reference to an attorney's fees as well as court costs and if that's challenged we'll wait to see what the district court will do with it.

Commissioner Salmon: You were saying that trout/salmon exceeding 20" would receive \$150 fine if it was also in excess of a bag limit?

Dan Brooks: That's correct. That's our criteria because we wanted to set the circumstances and then also bring forward a designation of what a trophy is.

Commissioner Salmon: What if a person only took 1-2 fish and is within the bag limit but took them illegally, could the civil liability kick in there as well?

Dan Brooks: It could if you so choose. That's not the criteria before you today but if that's your desire we could make that so. I did think about that but I didn't receive much public input. The conservation officers have been bringing cases to magistrate court. There are issues with magistrate court but I'm confident we can work those out. My sense is it doesn't need to be embodied in this rule.

Director Thompson: For clarification, this statute does not deal with anything regarding fines. This is basically damage to the state resources. This regulation pertains only to recover damage to the state and is not a fine process. The second is with regard to the most recent discussion. Maybe Jim Karp can define what the statute provides for this regulation because we're getting into a legal area and the statute just pertains to establishing civil liabilities.

Jim Karp: What Mr. Garcia is talking about is with respect to the instance where it's in excess of \$10,000 and it has to go to district court. In 99% of these lawsuits, you would not have to have a special attorney general appointed. That's my understanding.

Alvin Garcia: I'm not sure about that. What is our statutory authority to prosecute by officers within magistrate courts as a criminal matter? Are we limited to enforcement and prosecution of the criminal statute or the specific authorization to pursue civil remedies by law enforcement officers?

Jim Karp: Section 17-2-26 says that the Director or any officer charged with enforcement may bring a civil action in the name of the state against any person acting unlawfully and that's the section that talks about civil penalties.

Commissioner Pino: The minimum amount is based on inches and then after that they're based on points.

Regarding Barbary sheep, are we going by points or by inches?

Dan Brooks: This embodies what Commissioner Montoya talked about. Anywhere I could make it simpler I tried to do that and Barbary sheep really have somewhat of a simple horn in that the longer it gets the thicker it gets and so it was my perception that we can just do them in inches because they proportionately do get bigger and I didn't feel it was necessary to bring a scoring to Barbary sheep so that's why that's different. I would point out that on deer it actually starts out without scoring but talks about a minimum inside spread because part of the things we talked about is once it's a mature buck that should be a trophy but then after that as we add more value to it, it becomes more unique to the state so if there were an arbitrary or capricious component, I tried to take that out. You add the scoring system at that point. That's why quite a few of them have scoring but not all of them.

Commissioner Pino: Then on the points, do you round it out to the tenth place?

Dan Brooks: Yes, I tried to make that as simple as possible also.

Alvin Garcia: One last comment, concerning usefulness for this civil liability provision, i.e., where we don't have an ability to get a criminal conviction, are you envisioning this as contingent on a criminal conviction first and then pursuing with a civil remedy later? If you have a criminal case that's not winnable, but you have evidence of some civil liability and a loss to the state, are you considering this as an available tool to pursue in that circumstance where you don't have the ability to complete prosecution for whatever reason to complete the criminal prosecution? I don't want to see you limiting yourselves using the criminal conviction as a *prima facie* case in the civil liability context because the burdens of proof are different which is requirement 1, but that issue of training for law enforcement officers to pursue a criminal conviction. For a criminal conviction you need the defense to prove reasonable doubt in order to avoid conviction. The burden of proof is much different in civil liability.

Luke Shelby: We understand counsel's concern about this. Just to address civil/criminal under §17-2-26, our civil liability statute under Section C, says "one is not a bar to the other" but we do want to hear counsel's concern about

this and perhaps a better venue to bring those out is after action by the Commission. We can hear all of counsel's concerns about this and possibly bring back amendments for an improved regulation.

Alvin Garcia: I'd like to do it when we're in discussion phase of a regulation but I don't know that that necessarily needs anything to be added so much as the recognition that there are 2 different burdens of proof in this context.

Luke Shelby: I think that's already there although I will defer to counsel's opinion because I'm referring to Section C of the statute that says that 1 is not a bar to the other.

Alvin Garcia: That probably satisfies my concern then.

Ron Shortes: I'm sure that I'm representing our magistrate judge in Catron County, having been a trial lawyer for 33 years in rural areas, I agree with the attorney general's office on all that. You need to bear in mind on civil cases that you can't get blood out of turnip unless you run these things together. In a lot of cases, you sue but you never get any money out of them whether you win or not. You might incur attorney fees which wouldn't do the state any good. I think if you combined or left the criminal case in place or even more of what I see on poaching cases, where you have hunters that are concerned about their future rights to get a hunting/fishing license, that's more of a threat than a \$500 fine or being sued when they know that they're not going to have to pay. I do agree with Mr. Karp that even though you're not required to have a lawyer in district court, in Catron County you'd be ill advised to file a lawsuit without a lawyer. You'd need to keep in mind the standard for criminal cases is beyond a reasonable doubt which is difficult to prove. In civil cases it is who has most of the evidence and that's easier to prove. Something else is that most magistrates are not lawyers and that's probably good because magistrate court is intended to be a people's court. The difference is in district court you're getting into a situation where the judges are going to expect you to send a lawyer to the proceedings.

Bill Ferranti: I'm with Torstenson Family Trust and we definitely support this. The fact that the Governor's permit hunter paid \$93,000 this year gives you a value of what something like that is worth. I'm concerned that on private land someone comes on and poaches an elk, that he's not contingent to these values. My understanding is that if they don't have written permission from the landowner, they're subject to having that elk confiscated.

John Boretzky: I'm with the New Mexico Council of Outfitters/Guides, and we recommended the SCI scoring for 2 reasons. One, it's the simpler of the 2 recognized scoring systems and it actually establishes the trophy as being a trophy. In conjunction with this statute and rule, counsel is working with the local Safari Club and we're also working with members of the Association of Counties in order to put together an educational forum for magistrates. There's an overwhelming attitude that poachers are simply trying to feed their families. This may be the case when you shoot a doe out of season, but this is not the case when you shoot an elk and take only the head. We want to help you with that fight and we're pushing to get training not only for the conservation officers but also for magistrates so they can see what kind of an economic impact this has on the state and what the value of the resource is.

MOTION: Commissioner Arvas moved to adopt the new rule 19.30.11, NMAC, as presented by the Department and including the trophy animal description and associated civil liability for game animals, turkey, and wild salmonids as described. Commissioner Henderson seconded the motion.

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

AGENDA ITEM NO. 12: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Mike Hobbs: I respectfully request your consideration of a moratorium for a trial period of 2 years on the restriction of the use of ATV/off-road vehicles in GMU 48 specifically as it applies to elk. The purpose is the preponderance of these vehicles coming into the White's Peak area has the affect of driving massive numbers of game animals off the state trust lands over on to private land belonging to the Express Ranches, and CS Ranch. We believe that if we could give this a try, the overall experience for sportsmen in general would be better and more animals would be in population in White's Peak if we did not have unrestricted use of ATV's.

Chairman Sims: In the White's Peak area, you can take an ATV and go anywhere you want?

Mike Hobbs: Yes, and it looks to me that that area would rival quality experience that the Valle Vidal area offers if we were to put this into a non-motorized vehicle hunting area, if we had 1 primary access road that took people into the White's Peak area in excess of 35,000 acres. There are 3 access roads that come in: 1 State Road 21, another coming in through Ocate across the Stanley Ocate Ranch, and another road coming in from the west.

Chairman Sims: Are there ample camping facilities to have a number of hunters? Are you going to have enough areas for these people to come camping, etc.?

Mike Hobbs: Yes, there would be ample opportunity and room.

Luke Shelby: In the use of off-road vehicles in Unit 48, like any other part of the state, they cannot be taken willy-nilly across any place, they have to stay on roads. They cannot be taken off road. Clearly there may be a case where a lot of people do that anyway but they are subject to violation so they cannot be taken off road.

Mike Hobbs: That's the issue because given the preponderance of ancient logging roads that exist there, these roads are consistently beat out contrary to the rules that are published in the proclamation relative to what is a designated established road. These side trails are used to pursue and harass the elk to the point that we end up with far greater numbers the first weekend of the hunting season than we sustained the rest of the year. That number stays heavy and as a result it becomes an inducement to the hunters to cross the fence and come over because they have run wildlife out of that White's Peak area.

Lief Ahlm: White's Peak is certainly a complicated issue and there are a lot of roads on White's Peak. The major access or the main way people hunt it is to travel all those established roads that have been around many decades starting with logging and many of those roads have been maintained by hunters, landowners, and by firewood cutting and other things. It's rough, rocky and abusive to vehicles and with the invention of the ATV that became a perfect mode of travel. The idea of trying to close those roads might be very difficult. I'm not saying it's a bad idea, but it might be difficult because we put a lot of time and effort into trying to enforce the law on White's Peak but we have only so many officers we can put on the mountain at a time. An officer can take an entire day just to get across White's Peak and with an ATV it can be done faster but with a truck it takes much longer. To be able to sign those roads and catch people in the act off road would be a monumental task. There might be a way to work with the State Land Office to designate some roads that would be main roads that could be used but I think it's nothing that can be done by a simple regulation. It needs to be put together with the State Land Office and make a plan for a different way of managing the mesa and public involvement will be needed. We've tried other public involvement issues on White's Peak including some unitization and it was hunters that didn't like the way the unitization went. When we deal with those issues those are the people that are using the ATV's. It's going to be very unpopular for the people that hunt up there because that's the easiest way to get around. They don't use horses or vehicles, they can drive around especially with the price of gas now.

Luke Shelby: Regarding Mr. Hobb's specific request, that's nothing action can be taken on today. Under the Habitat Protection Act under Chapter 17 there is a way through a public sunshine process to declare an area a habitat protection area. It involves working with the private landowners as well as the land management agency. In this case it would be the State Land Office. Some of the things the Commission would have the ability to do is to designate certain camping areas, add restrictions on vehicles, prohibit certain vehicles and types of vehicles in those areas, but again that's a public process that we have to go through.

Commissioner Henderson: Dan Brooks and I are on a committee dealing with this particular issue based upon some legislation by the state that's dealing more with safety issues than with road closures, but the timing for this is perfect. The Forest Service is now evaluating their travel management program and I think they're leaning toward changing the historical nature of their decision making from roads that are open unless designated closures. Based on my experience on this committee, it is our officers out in the field, it's not State Police, city police, nor county officers so we have to do what's right for our officers because they're the ones writing citations. We are allowing too much ATV use and harassing wildlife and we aren't doing our part. It's a unique opportunity for us to come together since a lot of people are talking about it now and a point for discussion in the near future.

Chairman Sims: Mike, what I think we'll do is have Luke, you, and Lief get together to see what options we have and the best way we can solve those problems.

Alvin Garcia: I have experience in Unit 48 with history of the road, difficulty of travel, which roads are established because of various communities that existed there, logging communities that were built within White's Peak, and some of those roads are designated public roads. Some of those roads were established pursuant to State Land Office logging permits in the 1920's/1930's.

Lief Ahlm: It's going to take much planning and it's nothing we can do overnight. It's mixed-use status with different landowners.

Commissioner Henderson: I'd ask that you expand that because it's more than White's Peak, and the Department needs to address it.

Paula White: I'm concerned about what I feel is a lack of information that we've been able to pass down to the young people. I know there are good programs and I want to make contact with some individual so we can get more information through libraries about wildlife and environment. If there's anyone who can help me with this or guide me in a way to do this, I would appreciate it.

Dr. Robert Collard: Before you is a composite of letters I received from the Department and letters I've sent to 1,400 hunters. I would ask that you treat us like customers not numbers and whatever it takes, get in touch with people and let us know there is a problem with an application.

Robert Benavidez: I found out 4 days before the hunt that I didn't get a tag. The Department doesn't bother to notify people about problems and I felt I was treated like a number.

Commissioner Salmon: What would be the feasibility of responding to the requests made by Dr. Collard or what we might be able to do to clarify or simplify the proclamation so that fewer errors take place?

Pat Block: Let me start with what we currently do. When an applicant sends in their special hunt application, and we discover there's not enough money and if it's prior to the deadline, we do send that back. If an erroneous application is not received until the deadline, which about 80% of the applications are, then there is no opportunity to re-submit. On the credit card issue, we attempted over 10 days to run each of those credit cards 5 times. In the middle of that process, we inform the public via website and e-mailed each applicant that had issues with credit cards and they had a week to rectify. About 80% were able to get that done. If Mr. Benavidez says he didn't receive the e-mail I have no reason to dispute that. We're discovering that potentially a lot of the applicants' e-mail servers could have blocked that message as spam but through no fault of ours. Next year at the time of application providing them with the e-mail address that those messages come from and then instructing them to allow that address on their safe list so our messages aren't blocked as spam. We try every year to make the process better. I think they both hit on an important point during this discussion when they were telling you their experience and that was that the Department made a mistake in the past and we took the responsibility for that and attempted to make that fix. What I'm not sure about is taking 1,000 applications and waiting for 1,000 different payments from 1,000 different sources and 1,000 different times and still keep the draw within the same timeframe. One of the folks who got Dr. Collard's letter sent us a letter that said that it was due to the problem in the proclamation. That's been in about the same layout for the past 9-10 years. We looked back at this gentleman's application and he'd applied for elk 7 years in a row. The last 6 up to this year using the exact same format in the book he'd sent the right license fee. This year he didn't but it wasn't the book that had changed so I don't think that can be directly attributed to the problem. We don't have 2 fees for antelope. There's 1 fee for antelope. If you use a private land license there's an additional \$9 fee and that's printed on the authorization, but it doesn't have anything to do with the special hunt public license process. During lunch I gave Dr. Collard and Mr. Benavidez a little history and it doesn't have anything to do with how I feel about it, but how we got to the point where we have, a lower fee for antlerless elk and that has to do with the fact that a segment of the public came to the legislature and said we hunt cow elk just to put meat on the table and we don't feel we should have as high a fee as the person who is hunting purely for the trophy. The same with the junior/senior fee that is lower for elk—that's more of a societal concern. These things are all set out in law and I would encourage Dr. Collard and Mr. Benavidez to work through the legislative process and if the majority of the people feel there ought to be 1 fee for elk, then we can have 1 fee for elk. It was working through that process that got us to this point. People felt that other factors were more important than simplicity and if simplicity is that bigger/greater factor, then let's fix the law to make that apparent.

Brett Sterling: I'm concerned with the way antelope archery hunts are divided in the state. Currently, anyone who is successful in drawing an archery license in my unit--200 individuals could come in October on my state land. My ranch is 80% deeded/20% state land and I get 4 landowner tags and 1 state draw hunter which is fair and equitable. However, any of the archery hunters can come in, potentially be an additional 200 hunters on my state land--that's no longer equitable. I'd appreciate it if you'd find some way to change this and assure me that I have as many rights as hunters eligible to buy archery tags as there are state hunters that come on to my land. In the past 10-15 years, the antelope unit was pretty wide open and the southeast region has done an excellent job of getting the antelope season under control and we've seen a significant increase in the number and quality of the antelope. This year with my private landowner tags, 3 hunters chose to go and hunt archery. All 3 initial scored and qualified to get in the

Pope and Young book. My fourth hunter hunted with a rifle and his antelope green scored high enough to be in Boone and Crockett. My concern is that as the archery guys are successful in the draw and they know they can go on any state land and get a trophy animal, I'm going to have more archery hunters than I've had in the past. I want to protect the antelope and wildlife that are there. We've taken a lot of pride and effort in growing the herd and there's 2 times a year when I've seen the most depredation from coyotes on the ranch that are killing antelope and 1 was soon after giving birth. One thing I've done to address that issue is we hire people to bring their plane in and they fly all the private land and they try to kill as many coyotes as possible so we enhance the survivability.

Luke Shelby: He makes a good point especially about the possibility of 200 archery hunters being able to show up on his 20% state land, and we have struggled with how to address in an equitable fashion that very problem. We have an agreement with the State Land Office that we lease hunting rights on those places, 200 hunters could show up there although I doubt that many would because there are so many other units that are open at that time. All I can ask is give us time to think more about that and we can return to the Commission with a way to deal with that more equitably.

AGENDA ITEM NO. 13: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H) (1), NMSA, 1978, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated their professional Code of Conduct as per 19.30.8, and 19.31.2, NMAC. If in the Commission's determination an individual shall be served notice, he or she will be afforded an administrative hearing following 19.31.2, NMAC.

MOTION: Chairman Pino moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H)(1) and (8) of the Open Meetings Act in order to discuss several land interests at the recommendation of our Director as per 10-15-1, NMSA. Commissioner Arvas seconded the motion.

Roll Call Vote:

Chairman Sims – yes

Commissioner Arvas – yes

Commissioner Henderson – yes

Commissioner Montoya – yes

Commissioner Pino – yes

Commissioner Riley – yes

Commissioner Salmon – yes

Motion carried unanimously.

Chairman Sims entered into Open Session and stated that the record reflect that no action was taken during the Closed Executive Session, but discussion was limited to license revocation issues and property acquisition.

AGENDA ITEM NO. 14: Notice of Commission Contemplated Action.

Presented by Dan Brooks – The State Game Commission, after meeting in Executive Session, considered directing the Department to send a Notice of Commission Contemplated Action to any outfitter or guide that evidence and information indicated had violated their professional Code of Conduct or other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978.

MOTION: Commissioner Arvas moved to accept the Department's recommendation and send a Notice of Contemplated Commission Action to the registered outfitter discussed in Executive Session. Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 15: Land Conservation Appropriation Update and Action as Needed.

Presented by Lisa Kirkpatrick – The Department presented an update of the status of projects proposed for funding under the Land Conservation Appropriation. Projects that were discussed include the Rhodes Property, the Mesilla Valley Property, and agricultural conservation easements in the Middle Rio Grande Valley.

MOTION: Commissioner Arvas moved to transfer \$800,000 of the appropriation from the Legislature for acquisition of conservation easements and properties to an interest-bearing escrow account at a title company in Valencia County designated for the purchase from The Trust for Public Land of approximately 190 acres known as the Rio Abajo Project, subject to the approval by the Department of Finance and Administration. The transfer and delivery of funds to escrow shall be subject to concurrent execution and delivery to escrow of a purchase agreement between the Commission and The Trust for Public Land and signed escrow instructions containing such conditions as shall be designated by counsel to the Commission and to the Department, including acquisition of permanent legal access to the property prior to closing acceptable to the Commission. Escrow shall open by delivery of the above document not later than November 1, 2006. Commissioner Riley seconded the motion.

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

Charlie O'Leary: Do we need to wait until the improvements are actually done to the railroad crossing before we can close on the property?

Director Thompson: The motion provided for the delivery of a purchase document and that can provide a contingency on some of these other specific actions.

Chairman Sims: Actually the motion included acquisition prior to closing except to the Commission.

Charlie O'Leary: That access will not be perfected until 8-10 months from now when the work is actually done on the crossing itself?

Director Thompson: We're aware of that and the motion I believe is prepared such that there's no difficulty with that but I'm sure Mr. O'Leary can get together with Jim Karp and clarify the question.

Chairman Sims: He does not have legal access to the property for 8 months?

Charlie O'Leary: That's correct. There is access now and the district has access to the property but the catch has been this railroad crossing after crossing over to the property. That won't have public legal access until these improvements are made and it's going to take time for DOT to actually have those improvements in place.

Commissioner Henderson: My interpretation is that as a Commission we don't have the problem waiting for the legal public access until we get the appropriate crossing.

Director Thompson: What Mr. O'Leary is referring to is the actual physical completion time of the railroad upgrade. The way the motion was worded provides for the purchase agreement to be prepared in conjunction with an escrow process that isn't in and of itself contingent on those physical actions being completed, but it's contingent upon the components of the purchase agreement being completed by November 1.

Jim Karp: The motion provides that escrow in effect will be open not later than November 1 and that will be accomplished by basically 4 factors: delivery of money to escrow and delivery itself is subject to approval by the Department of Finance and Administration; delivery to escrow of escrow instructions that will be jointly prepared by the parties and delivery to escrow of a signed purchase agreement and 1 of the conditions of both the purchase agreement and the escrow instructions will be that escrow will not close until such time as the Commission is in the position to know that it will have at closing permanent legal access to the property.

Alvin Garcia: Put the money in an interest-bearing account and that will take the issue that we have regarding the appropriation being used and it will sit there until we get to closing with everything that is necessary.

Chairman Sims: Is that acceptable?

Charlie O'Leary: Yes, I would actually prefer it if we could close prior to the upgrades being completed because we'd like to close on the property and have the opportunity to work on those. The proposal that we made was that we would actually have these letters in place that would essentially say that this is going to occur in 8-10 months once the improvements are done. I would prefer not to wait until the improvements are done. The access question is 1 that the district already has the access to the property and what we're working on is public access. We wouldn't want to bring the public on to that property until the improvements began.

Chairman Sims: The access is limited to timeframe—15 years?

Jim Karp: 25.

Charlie O'Leary: It's not. This is going to be perpetual. At the time the crossing is complete, the New Mexico Department of Transportation will have a crossing agreement with BNSF and that is a permanent access agreement.

Jim Karp: Charlie, you're saying it's permanent access at this point?

Charlie O'Leary: No, I'm saying that once the crossing is complete there will be.

Jim Karp: That's what the motion provides.

Charlie O'Leary: That's all we're waiting for.

Commissioner Henderson: The motion is there and I'm comfortable with it. The money is in escrow and everything will be settled when all the considerations are accepted.

Jim McCord: I'm a volunteer board member of Rio Grande Agricultural Land and Trust. Wayne/Penny Golliehair are the owners of the 110-acre farm in Corrales in the Rio Grande Valley. We provided a package of information that answered questions asked after the last meeting including the survey and appraisal. To get a survey and appraisal taken care of surveyors and appraisers are backed up 8-10 weeks out so as soon as we receive this request we've scheduled a survey and appraisal for this transaction. When we first received the \$670,000 from the federal government a year ago, the Golliehair's were chomping at the bit ready to go with an appraisal. We advised them against doing that until we had some assurance that we did have the required non-federal match. The Golliehair's have agreed to donate up to 50% of the value of the federal contribution and we have to have a cash match for at least the 25% of the easement value. Until the appraisal is done we aren't sure how much money we'll be asking for but I did provide some estimates based on our interviews with realtors and based on our recent experience with conservation easement appraisals. We have our proposal on the purchase agreement that was submitted to the Federal Farm and Ranchland Protection Program including the Commitment Agreement signed with the Golliehair's. The Golliehair's are farmers/people of the land and we don't want them to be spending \$6,000-\$7,000 for an appraisal/survey until they have assurances that this transaction is going to go forward. The \$670,000 federal money will go away if we don't get the cash match. The project involves preserving up 110 acres of the Middle Rio Grande Valley near the Belen State Game Refuge and Casa Colorado Refuge. The Golliehair's provided a letter of their commitment to preserving the wildlife habitat characteristics and values of the land. I want to emphasize that the money the state would be committing to this will be leveraging private landowner donation and the federal contribution on the order of 2-3 to 1 for every state dollar spent. I highly encourage you to consider this and also recognize that obtaining this money is a time-critical issue for Rio Grande Agricultural Land and Trust and for the Golliehair's. Also included in the package is a letter from Seth Fiedler who's the state administrator for the Farm and Ranchland Protection Program that describes and underlines the time-critical nature of this and in addition I wanted to point out because it's not mentioned in Mr. Fiedler's letter, but we have been urging the federal government to put more money into this program for New Mexico. However, New Mexico has been receiving on the order of \$600,000+ for the Golliehair's, last year \$295,000 from this federal program and the answer we get from Senator Bingaman's office and from program people at the national level is that New Mexico does not have the required matching funds. Permanent funds would automatically be available to match those federal funds. For the appropriation and funding formula for future years they look at New Mexico's ability to match funds, past contributions or grants to the state, and do it in a timely fashion.

Ron Shortes: What we're offering doesn't involve a federal match but it is about a 3½:1 leverage situation. I feel that our ranch is worth more than \$4.2M and we're offering it for \$1.2M, a deal which would certainly preserve all of the acreage for wildlife and for the Continental Divide which are 2 of the issues. Right now our part of Catron County is slated for subdivisions and in fact we're already surrounded on the northwest and the southeast sides by subdivisions. We cover the east side of the Allegres Mountain which is a free-standing volcanic-origin mountain that is about 10-15 miles separated from any other mountain. Most of the subsurface water on the east of the Continental Divide originates primarily from the Allegres according to the hydrologist and the water and watershed issues are significant for wildlife. It's negotiable but the money that we receive from an easement like this we fully intend to plow back into the ranch and we don't mind putting that in writing and making it part of the deal. We have 10½ sections of deeded land, 4 sections of state trust land that is checker boarded, and the deeded land. The state trust land without our deeded land is usually for the public but the most part because it's all land locked we're offering 1,920 acres. Four sections is part of this easement but the way we're willing to do it would keep the whole almost 10,000 acres available for wildlife and Continental Divide. On that issue, Congressman Pearce is very interested in the trail. We've already offered the easement for the Continental Divide trail to go through our ranch to allow the trail to be on

the Continental Divide rather than 20-30 miles away. Congressman Pearce and his program has always been to not spend government money unnecessarily and he's not opposed to spending federal money on the Continental Divide trail and BLM is in control of establishing the trail but he is saying he wants the trail and wants private landowners to contribute to the trail. We're already involved with the Department in the game management plan that has involved piñon/juniper/brush thinning that we've voluntarily done. We have many years left since this is a mechanical thinning. Commissioner Riley: The easement would be for public access?

Ron Shortes: Public access for the purpose of wildlife enjoyment and Continental Divide Trail that Congressman Pearce wants and what we've agreed to do is a 30-foot easement for the Continental Divide Trail 6 miles through our ranch and for the wildlife consideration certainly for public access. Not public access in terms of giving up what we already have in terms of money from the private elk landowners authorizations, but again this is going to become an oasis in an area where, except for the Double H, there may not be much wildlife habitat left in the east side of Catron County.

Chairman Sims: Do you have any endangered species on your property?

Ron Shortes: Not that I'm aware of. There are several species or subspecies of eagles that are sighted regularly around the lake but I'm not aware of any endangered species.

Lisa Kirkpatrick: I can discuss that with the biologists in my division. I'm not aware of anything off hand in that area. There may be some invertebrates, reptiles, and amphibians. We identified those potentially on the Horse Springs Ranch.

Ron Shortes: The north side of the easement the Department did on the Horse Springs Ranch is about 12 miles from the south side of the easement we're offering, but a lot of that area is subdivided and is no longer available for wildlife.

Commissioner Henderson: I'd like to ask Lisa to do some investigation. For the public we have 2 distinct appropriations—1 for endangered species and 1 for wildlife. It's important for us to be able to distinguish between the 2 when making our considerations.

Lisa Kirkpatrick: I believe Mr. Shortes and the Golliehair's are also looking for direction from the Commission about the next steps on this. During the Executive Session you mentioned the need for the appraisals/surveys prior to consideration. Is that what you desire them to do?

Chairman Henderson: Yes and to be consistent, we can't make an evaluation about how to spend the money without having the appraisal. We need to have the criteria to base and evaluate each recommendation and the appraisal is the best information we have.

Ron Shortes: What we're interested in is maintaining our ranch as a working cattle ranch that provides wildlife habitat. In terms of survey, the perimeter of our ranch has been surveyed recently because of all of the subdivisions around it, so in terms of locating the 4 sections or so that are negotiable for the easement, that partially depends on Mr. Pearce and where the Continental Divide Trail aligns and where they and BLM want their easement.

Commissioner Henderson: Mr. Shortes I appreciate that and hopefully you can appreciate we're spending taxpayer dollars and we need to do that in the most responsible and equitable way possible.

Ron Shortes: I can get an acreage appraisal for the area of the ranch where we're proposing this and add so much per acre both for the development rights as well as the full value per acre and then propose that amount, but in terms of designating that acreage or without jeopardizing Mr. Pearce's interests.

Jim McCord: If I may respond to the issue of the appraisal, this is very close to both the Belen and Casa Colorado Refuges. There's also an MRGC drain along the side of the property that provides significant wildlife habitat. The closest Willow Flycatcher habitat is the Bosque in Isleta and further south of Socorro. In response to the appraisal and your role spending taxpayers' money and needing to do it in a deliberate and careful way, I totally understand your position and I'd like to point out that we are just closing on an easement on a farm in Tome and we did receive a state match from that. The state match was committed before the appraisal was done. Once the appraisal was completed, we were able to perform the survey and define to within a tenth of an acre the amount of land that would go under easement based on the available federal funds from the FRPP and the state funds that were committed. So, I think there's a precedent there for committing a certain amount of funds having the appraisal occur subsequently and at that time, once the appraisal numbers are in, ranches in Catron County due to the development pressure. We would be happy to take the amount of money from that estimate if it turns out that the appraisal comes in less in the November timeframe if the Game Commission could commit a certain amount of money and if it turned

out to be less, then at that time the Game Commission could pull back some of those monies. I hate to ask Wayne/Penny who eek out an existence growing hay on the 1,000-acre farm in Socorro and on their farm in Jarales to go spend that kind of money without some kind of assurance that at the end of the day they will be able to make their large donation and at the same time realize the state and federation contributions.

Jeremy Vesbach: I'm with the New Mexico Wildlife Federation. These 2 projects are interesting in particular there may be some federal match worth looking into for the conservation of these 2 projects.

Phil Bidegain: After your motion my comments became moot since it passed. I'd like to compliment you for spending that \$800,000 on 193 acres. I think you've set the bar high where your money won't go too far and no-net loss policy that New Mexico Cattle Growers has will be closer to that because you won't be able to buy much.

Joel Alderete: I'm with the New Mexico Farm Bureau and as cattle growers we have a no-net loss policy too but in the spirit of participation and the money being given by the legislation, we have been participating in this process. Like Mr. Bidegain I had comments on Rio Abajo but that's moot now since the decision has been made. Concerns about the way that some of these properties are being handled as acquisitions, of course my concerns are maintenance down the road. I don't know if there's a way to funnel some of this money to set aside land that is acquired to do maintenance. I don't know if that's something that we can set up after you start looking at the property to determine certain monies that could be set aside for that. Now with the property that you already own, maintenance problems always come up. I'd like to see if some of this money can be funneled for maintenance.

Ron Shortes: Joel's idea is good but again we're offering a perpetual but the obligation of our family to preserve land which I don't understand the preference on this but I understand the common sense for acquisition over easements because in our situation if it's left in easement, it remains a working cattle ranch that doesn't deprive the county of tax income or tax agriculture. We'd be willing if there was a concern for the preservation of what we're offering. It'd seem that on ours or any of the others that the Commission does require that it be granted a certain percentage of the money be held in escrow to guarantee effectively what was being offered be there forever.

MEETING CONTINUED NEXT DAY

29 SEPTEMBER 2006 – 8:00 A.M. RECONVENE

AGENDA ITEM NO. 16: Adoption of Final Big Game and Associated Rules for the 2007-2008 and 2008-2009 Hunting Seasons.

Presented by R. J. Kirkpatrick – The Department presented the Commission with a final draft of all Big Game and associated rules for adoption. Presentation included a comparison of current and proposed information about key regulatory changes.

Big Game and Turkey, Quality Hunt Criteria and Areas, Predator Management, and Big Game Enhancement Rules:

MOTION: Commissioner Riley moved to repeal Big Game and Turkey Rule, 19.31.8, NMAC; Quality Hunt Criteria and Areas Rule, 19.30.7, NMAC; Predator Management Rule, 19.30.6, NMAC; and Big Game Enhancement Rule, 19.13.7, NMAC, to allow for reorganization of big game and associated regulations to be adopted in following actions and effective concurrently. Commissioner Henderson seconded the motion.

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

Manner and Method, Hunting and Fishing License Application Rules:

MOTION: Commissioner Riley moved to amend the Manner and Method Rule, 19.31.10, NMAC; and Hunting and Fishing License Application Rule, 19.31.3, NMAC, as presented by the Department with any revisions identified by the Commission in public session and effective concurrent with previous repeals. Commissioner Arvas seconded the motion.

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

Bear and Cougar Rule:

Ben Natharius: I was looking on the Department's website and it said that 14% of the total bears killed this season had been depredation.

Jan Hayes: We support the Department and the Commission.

Commissioner Arvas: R.J., until you get the harvest figures which will be next year that will be your validation for all you've done to date?

R.J. Kirkpatrick: Yes. We recognize cougar harvest as it occurs. Individuals that harvest cougars via sport harvest must report that cougar harvest to us within 5 days so we can tag it.

Commissioner Arvas: What I'm saying though is will the harvest figures change your theory about where the cougars are dense?

R.J. Kirkpatrick: Sure, it could have impact. Things like how easy is it to harvest cougar, is it easy in a specific zone? We may want to go look at hunter effort per unit and decide whether we need to take a closer look at that population to see if we've underestimated the number of lions or some other factors have made cougar harvest easy for that particular year.

Commissioner Arvas: Is it a possibility even though this is a 2-year effort on our part that you might want to change things next year depending on the harvest?

R.J. Kirkpatrick: That's correct. One thing I'd like to emphasize at this point is there may have been a lot of worry about this cougar population assessment and harvest management matrix and the work we've done to get to the point to give the proposal to you. It's a work in progress and subject to evaluation and adjustment as appropriate over time. There's no restriction to when we reconsider population estimates or management goals or removal subsequent to that. We're trying to make this as functional as possible. I hope everyone understands that this is a document that will be looked at and evaluated and monitored over time when changes to be considered.

Director Thompson: This is a perspective on cougars that is subject to refinement, adjustment, and improvement primarily on the biological side as more information is needed but also on the removal side whether it's through the sport harvest or any other type of mortality factors. I can't stress enough to everyone that whatever they can provide to us that improves this, the better job we can do.

Commissioner Salmon: R.J., would you explain again the difference between the rules governing the public lands and the private lands? Cougar hunts are limited to 4 on private lands?

R.J. Kirkpatrick: Under current rule, private land harvest is unlimited. Cougars harvested on private property do not count against any harvest limits, they occur year round which they will still be able to do but that caused some concern in that if you're going to look at biological evaluation of cougar populations and reasonable and appropriate harvest, you cannot set in place a process that allows for unlimited harvest to occur somewhere in New Mexico that isn't accounted for. What we're trying to do is not reduce private lands' ability to harvest cougars, but make it transparent in that we've accounted for it, at least estimated accounted for, so that it's right up front. Currently, it's unlimited. What the matrix and the subsequent rule do is it's not necessarily so unlimited anymore. It's not that it's just that private land harvest is recognized in that difference between the sport harvest limit and the total sustainable. You could have scenarios that occur where the sport harvest end up only harvesting 8-10 cougars out of this zone, private landowners could harvest more than 4, and we wouldn't have violated that total sustainable mortality, but we're going to pay close attention to that total sustainable mortality. There may be circumstances where we've reached the total sustainable mortality but additional cougars may need to be removed for human safety or depredation concerns. There's a provision in the rule that allows the Director and the Chairman or his designee to discuss that and make a decision whether to exceed that total sustainable.

Commissioner Salmon: So the cougar harvest does need to be reported?

R.J. Kirkpatrick: Every single cougar that's harvested pursuant to sport harvest, depredation, and private land has the same reporting requirements within 5 days must be presented for pelt tagging, we notify our hotlines, Rick keeps track of those as they occur, so, yes, none of those are slipping through the cracks. Of course, we won't be able to get reports on natural mortalities that we can't find or illegal kills that we're never made aware of, but we're sure improved from where we've been with this proposal in that we know every lion that's harvested via human action quickly.

George Hobbs: It's at least a step toward management. A lot depends on how much hunting pressure is in the area. Depredation on our private lands is how much natural food source is there, how many deer are there. Our state deer population is so low and it needs some relief. It needs a few more cougars taken out.

Jon Schwedler: It's a good effort, it's not perfect but definitely a step in the right direction eliminating some of the guesswork.

R.J. Kirkpatrick: Rick, have we moved it down to 20% female harvest over 2 years we'll adjust?

Rick Winslow: If the adult female percentage of the harvest is greater than 25% in this current 1, then we can adjust at that point for greater than 1 year in a row.

Jon Schwedler: I suggest we change what's a loophole right now on private lands and we continue the sport harvest but it doesn't count toward the public sport harvest. So far we've had 11 cougars killed in the state but that hasn't affected the sport harvest results.

R.J. Kirkpatrick: Jon, can you explain to me that it's not affecting the sport harvest limit in the current rule?

Jon Schwedler: I suggest having sport hunting on private lands.

Bert Ancell: My major concern is depredation. This gentleman did not give any support to the ranchers that lose livestock, a value base to their income. Some days we're losing livestock to mountain lion.

MOTION: Commissioner Riley moved to adopt the Bear and Cougar Rule, 19.31.11, NMAC, as presented by the Department. Commissioner Arvas seconded the motion.

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

Barbary Sheep, Oryx, and Persian Ibex Rule:

Commissioner Arvas: Would you give us an update as to the Ibex population numbers?

Pat Mathis: It's 400-500 right now. We saw in excess of 300 animals during the survey.

Commissioner Arvas: Is that why you want to reduce the population even more?

Pat Mathis: Not to reduce it to maintain it. Our agreement with BLM is to try to cull it to about 375-450 in that range.

Commissioner Arvas: Are they giving us a problem then?

Pat Mathis: No, they've been very supportive.

Commissioner Arvas: The deer population starting to come back?

Pat Mathis: It's been low for a long time and I have not seen it increase.

Commissioner Arvas: How about the cougar population?

Pat Mathis: We have lots of cougars in there. I see cougar every time I fly the Ibex survey.

Chairman Sims: Do you see the Ibex expanding their range?

Pat Mathis: We have had reports in just the last couple of years of Ibex sighted on Big Hatchet. This Ibex population has been showing an increase the last 4-5 years that they are going to want to start expanding off the range.

MOTION: Commissioner Arvas moved to adopt the Barbary Sheep, Oryx and Persian Ibex Rule, 19.31.12, NMAC, as presented by the Department. Commissioner Henderson seconded the motion.

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

Deer Rule:

Commissioner Salmon: In relation to habitat or any other possible reasons why deer populations remain in trouble?

R.J. Kirkpatrick: I'd be happy to give you a generalized statement. Disease issues that we may or may not be aware of, increased access to more remote areas via more roads, 4-wheel drive vehicles become more economically feasible for people to purchase, effectiveness of weapons over that timeframe, and modern firearms. Habitat regression as far as being beneficial to deer, fire prevention has probably been a big component in changing or preventing the reinstatement of early successional stages, i.e., forbs and browse species that rely on fire or topsoil disturbance, thinning of forests, that was pretty much stopped over the course of the last 30-50 years which caused deer habitat like browse and forbs to become less and less. Much more advantageous to other species and not deer, there is some conversation that deer may actually be somewhat of a cyclic species. Precipitation has had a huge impact on whether deer populations flourish or not. So, there are a variety of things that probably have gone on and have led to the decline in deer populations over the last 20-40 years in New Mexico and the west in general. A lot of people feel that expanding elk populations are 1 of the biggest reasons for that, and in addition to that, backing off on predator management another thing that may have led to declining deer populations. There has been

research done on whether or not deer and elk are in direct competition. I would put forth the idea that where deer and elk may compete for forage and nutritional resources and the timing of that would be spring, summer, and early fall. The real question is whether there is any substantial nutritional benefit to deer on winter ranges. Currently research leads us to believe winter ranges aren't as critical in a deer putting on nutritional resources as there are quiet areas where deer don't have to run off the fat reserves that they put on in the spring/summer/fall. So winter range is not as critical as far as lots of groceries but rather quiet areas they don't have to run around. It's been frustrating to the Department that we've been unable to date to turn our deer populations around. We're trying to tie population information—buck/doe and fawn/doe—ratios with precipitation and harvest so you'll have a clear picture about whether an adjustment up/down is warranted in subsequent years.

Commissioner Salmon: Habitat is 1 area where we can have an affect and I'm sure we're moving in that direction.

Commissioner Pino: You said that there's a total reduction of 4,600 licenses for deer and you indicated that youth hunts have been added, white tail deer, the deductions and additions you've already worked out?

R.J. Kirkpatrick: That's correct. Most of those reductions are in GMU's because there's no accessible public land anymore. Other places like the Gila country no hunters are asking for those opportunities via the regular draw or the fire sale draws, so we're taking them off.

Commissioner Pino: Have there been any adjustments for rifle/muzzleloader?

R.J. Kirkpatrick: We had a variety of public input meetings and the proposal reflects the adjustments in 2A, 2B, and 2C are thus we did increase bow hunting opportunity in 2A, and 2B pursuant to public demand, we did reduce rifle hunting opportunity in 2B in the earliest hunt and then to a lesser degree in the second rifle hunt, and in addition to that we increased rifle hunting opportunity in 2C and muzzleloader hunting opportunity in 2C. The reasons for the reduction in rifle hunting opportunity in 2B was we are currently hunting our resident deer extremely hard in those early seasons, the buck/doe ratios are declining measurably, the public would like to see us try to increase those buck/doe ratios a little and focus where we have fairly high pressure that later hunt, focus that pressure on migratory animals moving out of Colorado into that area, so those are the adjustments based on the public input. In 2C we adjusted the boundary between 2B and 2C not to change it significantly biologically but to clarify so that hunters on the ground aren't confused about what unit they're in. We addressed the frustration with little hunting opportunity in 2C by increasing rifle/muzzleloader to equal levels with archery so there's no disparity. We agreed and got concurrence from the public that in February we will look at the harvest information because of the mandatory harvest reporting requirement that's in place and if adjustments need to be made at that time, we'll inform the Commission Chairman and the Director of proposed reductions to insure we don't overharvest deer in 2C.

Commissioner Pino: How many licenses are going to be issued for those hunts?

R.J. Kirkpatrick: The rule establishes public draw hunting opportunities and they're low mostly because the GMU's where we have white tail populations are primarily private properties. There is some accessible public land but we didn't want to establish draw hunt where hunters were running over each other and it wasn't a very enjoyable hunt. The timeframe that's established in the proposal will allow private land but we also want our public sportsmen to be able to take advantage of that opportunity where they can access public land.

Commissioner Pino: I will caution against using dogs to track wounded game. We need to make sure we monitor that. Hunting with dogs puts a regular hunter at a disadvantage.

Commissioner Arvas: Will you make a comment about lifting the 3-point antler restriction and what happened and how it all came about, and what you feel the result of that was?

R.J. Kirkpatrick: The Commission chose to implement an antler-point restriction for mule deer in the middle of the regulation cycle that was the 2003-2004 big game rules. The reasons for that were legitimate reasons in that the Commission wanted everyone in New Mexico to understand that they were very interested in doing everything they could to increase and improve New Mexico's obviously declined deer population. That was 1 thing we could implement via regulation as an attempt to try and reduce harvest but not unduly affect hunting opportunity. As to whether or not it was successful in keeping bucks alive here are things that field personnel reported to me did occur. They didn't occur to the levels that were dangerous. There was discovery in a variety of units deer that were killed did not meet the antler point restriction requirement only had 2 on the side and left hidden in the brush, thrown in a culvert, so we did have additional harvest pursuant to illegal kills. The other impact we were concerned about when the implementation of that was focusing hunters on more mature bucks in a population and in effect reducing the number of mature bucks, not increasing it by saving the lives of the younger. Based on input most hunters are

comfortable that the right decision is to go back to the forked antler deer bag limit. There was interest in going to an any buck bag limit and saving bigger bucks by allowing hunting of younger spiked deer. We didn't go there because when you go to a bag limit that includes the harvest of spikes, it leads as historically demonstrated in New Mexico to an increased illegal harvest of doe.

MOTION: Commissioner Pino moved to adopt the Deer Rule, 19.31.13, NMAC, as presented by the Department. Commissioner Riley seconded the motion.

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

Pronghorn, Antelope and Javelina Rule:

Commissioner Salmon: Do you find that the javelina continues to expand its range in the state?

R.J. Kirkpatrick: My cursory knowledge is that yes they are expanding. In the southwest area we're seeing javelina in Magdalena, Quemado Lake, and in GMU north of Quemado. Those previously scattered low-density numbers of javelina in the Sacramento Mountains, and in the Guadalupe, those populations are increasing. Whether that's increasing their range or not I think they've been there awhile.

MOTION: Commissioner Salmon moved to adopt the Pronghorn, Antelope, and Javelina Rule, 19.31.15, NMAC, as presented by the Department. Commissioner Pino seconded the motion.

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

Turkey Rule:

MOTION: Commissioner Pino moved to adopt the Turkey Rule, 19.31.16, NMAC, as presented by the Department. Commissioner Salmon seconded the motion.

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

Bighorn Sheep Rule:

MOTION: Commissioner Henderson moved to adopt the Bighorn Sheep Rule, 19.31.17, NMAC, as presented by the Department with any revisions identified by the Commission in public session and effective current with previous related repeals and amendments adopted today. Commissioner Pino seconded the motion.

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

Elk Rule:

Commissioner Arvas: In either sex hunts what's been our experience in terms of bull/cow?

R.J. Kirkpatrick: With regard to archery hunting which the either sex bag limit applies to the estimates we're building on is that 80% of the harvest is bull while 20% is antlerless, it's about 80/20. The youth only hunting I don't know that we've got enough good harvest information to decide what proportion of our youth either sex harvest will be bull/cow, but we'll know this spring.

John Boretsky: I'm addressing the proposed boundary change from 3 different directions. First as Executive Director of the Council of Outfitters/Guides is opposed to the proposed boundaries and would like to see the boundaries remain the same. Second, it is expressed opinion of the Seeking Common Ground group that the boundary be retained as is which includes both the Jemez Ranger District and the Los Alamos Labs, both groups are opposed to this boundary change. Thirdly, I've been authorized by the Santa Fe National Forest Service to present their opinion, this letter dated 26 September, 2006 and signed by Michael Frazier, Acting Deputy Supervisor, which states, "the general consensus among the affected district rangers in Game Management Unit 6 and our forest biologist is that they oppose any changes to the GMU 6A, 6C boundary." I agree because the rationale for maintaining the current boundaries relates to the following factors: the decision to split GMU 6 into 3 sub-units and the objectives to find for the respective units were established from broad consensus from the affected interests. In general, the key objectives were to reduce elk populations within 6C while increasing populations in 6A. Based on current anecdotal evidence and disclaimers within the Department of Game and Fish became rules and regulations. The objective for GMU 6 is being achieved while 6A populations have remained static or slightly increased when there's a desire to further increase populations. The boundary change proposal only appears to address the desire to increase the hunt area for 6C in order to provide more opportunity to find elk and increase hunter success. This would run contrary to increasing the population in 6A. We support the concepts put forward by seeking common

ground effort which focuses on consensus-based recommendations and relatively stable management parameters to determine if management objectives are being met in the long run changing boundaries without broadening consensus defeats that purpose. I'd also like to add that on an economic basis, a unit-wide landowner tag in 6A for a bull is running between a low of \$1,800 and a high of \$2,500. By moving the boundary even slightly we are taking the people in 6C who have demanded that the elk be removed from that area and we're rewarding them for that stance by putting them into better elk hunting country at the same time we're going to take the people from 6A who over the last 6-8 years have put up with an elk presence and we're going to punish them by taking away elk hunting opportunity from them and from their permits.

Paul Abbott: I'm with the Council of Outfitters/Guides. I feel we need to leave the boundary as it is.

Commissioner Pino: We're looking over all the elk issue which has to do with boundary change and there's a separate issue that we might take action on that boundary change at that point in the discussion and put it off for now.

R.J. Kirkpatrick: We are opposed to including the wilderness but whether we change the boundary or not, we're not worried which way that goes.

Commissioner Riley: How much input did you get?

R.J. Kirkpatrick: All the comments and requests to consider changing the boundary came from 2 individuals—Art Martinez an outfitting interest in that country and his head guide. They assured me they would be here today and they would bring either letters or folks from 6C that were supportive of that. That's the only formal input that I got.

Commissioner Pino: You also identify weapon types.

R.J. Kirkpatrick: The weapon types are established in the upper end of the rule in that the hunt code dictates the weapon type.

Commissioner Riley: In Unit 38, is there much more population?

R.J. Kirkpatrick: As you know, Unit 38 is basically the Corona country. There are small and scattered bands of elk there. Some tremendous bulls have been seen. The establishment in rule of some limited public draw hunting opportunity made sense to the southeast area and Wildlife Management Division. If you will note it's very limited, there are only 15 public draw hunting opportunities. It won't be the best elk hunt but it's opportunity that we can afford the public. As far as public lands, those that are interested in hunting will work with the Southeast Area on that. Because it doesn't have a definition of a core occupied elk range, the Department and the local community are not concerned at this point about managing that population.

Ken Swaim: I'm an outfitter in the Gila. They've taken Units 15 and 16 including the subunits and gone into the archery season to 3-hunt structure instead of 2. That's something that deserves some discussion and it's only happening in those units. If there are still 3 seasons I'd like to see the same number of days. The part I have a problem with is if you look at the numbers the first hunt has a significant amount of hunters in it, the middle had a moderate amount, and the third season we have a very small amount of hunters. Unit 16D or 16E have lots of elk and I don't understand why it has the least amount of hunting pressure. The third hunt in 16D there are 25 tags. Statistically there is no way a non-resident group of 4 can draw that hunt. You've eliminated the non-residents from having a hunting opportunity by having as few as 25 tags and that's happened in 16D and 16E.

R.J. Kirkpatrick: A couple of the reasons that we weight are that the earlier hunts are heavier and less weight on that later approach in the rut hunt are that that late hunt typically is when our elk are most vulnerable to harvest, and the second component when we weight those later hunts with fewer authorizations or public draw licenses is in most units especially those you're talking about, the private land archery authorizations are typically used during the most desirable of the bow hunts. Those are the 2 reasons that we've proposed that weighting differential.

Ken Swaim: Again, I'd tell everyone that 41 in 16D for that last 6 days is a drop in the bucket. I don't know what the current level is, I think it was 50 tags in 16D this year for that late hunt.

R.J. Kirkpatrick: Current levels in 16D are 2 bow seasons, the first has 100 bull permits concurrent with that 50 antlerless and the second season is 50 bulls and that's it. The proposal will move to 3 different bow seasons, the first being 75 public draw licenses, the second 150 and the third 125.

Commissioner Arvas: We're actually increasing the number?

R.J. Kirkpatrick: The overall number of archery bull hunting opportunities publicly is exactly the same.

Ken Swaim: You've eliminated non-residents from the third week having an opportunity.

R.J. Kirkpatrick: There are a variety of ways we could do it. We can consider that the majority of the private land archery authorizations will go to non-residents, or you could shift some of the 75 currently in the first season to the later season, you could make them all 50, but our suspicion is that would weight the later hunt. You could make them all 50 public draw licenses a piece. Our expectation is that that last archery hunt would in fact have 71 hunters in it, not 50 because of the private land authorizations coming to it.

Commissioner Arvas: Ken are you taking that into consideration—the private landowner authorizations?

Ken Swaim: Yes, I am. I don't control any of those private land authorizations and all the hunters I get would have to draw a tag. I disagree that the third hunt is the better time to kill elk. The Department grows them and I kill them and they're not easier to kill than they are early. I do agree that the public demand for those tags is higher later. I agree with the perception that people want to hunt later but I think the Commission needs to be aware that any time you start taking tag numbers down below a certain level, you eliminate the non-residents from having a shot at drawing those tags. The non-residents don't have much of a voice here. I may be biased because that's the way I make my living but when you have 22% of 25 that's 5½ tags so there are only 5½ tags that are going to non-residents so you can't have an application with 4 on it to even be considered to be drawn.

Chairman Sims: In that respect, if we did do a rotation, cut each of those 3 hunts into 50 and each hunt that would solve the problem?

Ken Swaim: I think it would and it would also create a concern that the third hunt would be overloaded with the landowner tags.

Chairman Sims: Is the area not that big?

Ken Swaim: It would handle it no problem and there are not that many landowner tags out there. I'm taking it that you're asking what I think we should do, so here's what I think. Let's have 3 hunt periods the same amount of days and you can stagger the numbers a little if you needed to early towards late, but I wouldn't think you need a big change in the number of hunters from 1 hunt to the next. There's no reason to have 3 times more draw hunters in the unit the first week than the last week. If you look at 16C you go from 125 hunters the first timeframe to 50 the last hunt so that's a huge disparity from 1 timeframe to the next. Although the way they've got it set up, you're looking from a 10-day hunt to a 6-day hunt and from the landowner tag it would seem like a lot of the guys that buy the landowner tags would rather hunt a longer period of time. If they go that last day they're going only 6 days rather than 8-10 and that might actually shift some of the landowner tag pressure a little bit, just the number of days.

Chairman Sims: If we left this in place except the first hunt, we'd just shift the numbers to 65, 50 and 35.

Ken Swaim: We were working with Kevin before these numbers came out and then I got busy with hunters and this is the first time I've had a chance to talk since the actual numbers came out.

Kevin Rodden: Those figures you just pointed out would be fine. Like we were saying all along, typically we'd like to have less license numbers in that later hunt but I'm not going to quibble over 10 licenses.

Chairman Sims: That opens it up for out-of-state guys for the draw.

Commissioner Arvas: Ken, if the last hunt isn't the best hunt, which hunt is the best?

Ken Swaim: I would say the middle season. The elk are most vulnerable by the 4th-5th, or 12th-15th.

Chairman Sims: We could re-arrange those numbers to 65 the first hunt, 50 second hunt, and 35 the third hunt.

R.J. Kirkpatrick: Adjustments to the weighting of these bow hunts need to be looked at for a variety of those 15-16.

Jess Rankin: In some areas I hunt Lincoln County later out of the rut. That's fine because we kill too many bulls in there. The only way to kill less bulls is either give less tags out or make the hunts more difficult. In Unit 2, 2 years ago the Department put the word out that they wanted input from outfitters and individuals about what we'd like to see done differently. We had a meeting and told the Department that we wanted a December elk hunt in Unit 2 for bull elk because in the winter there are a lot more elk there. The Department said if we wanted to hunt elk there in December we'll give it to you. That was a sound decision because it's good conservation. We did good on that hunt but our indigenous friends to the east thought we were killing their elk so we don't have a December elk hunt. Other than that, 3 years ago in Unit 9 they were giving about 500 bow tags and nearly 800 muzzleloader elk tags in that unit. You realized you had a problem so you cut it back to 450 and now we're down to half. You're treating the symptoms and I have no problem with cutting the bull tags if we don't have elk like we used to, but you're not treating the problem. The problem is we kill too many cow elk out of there for too long. Five-six years ago 1,000 rifle cow tags in that unit were given out. I don't see why we're giving 450 cow tags in a place that doesn't have any cows left.

Chairman Sims: What's your success rate there?

Jess Rankin: It's gone from about 65% to about 20%.

Commissioner Arvas: Jess, he's asking about your hunter success in winter/December hunt in 2002?

Jess Rankin: I had 7 hunters and shot 6 bulls last year--1 I hunted for 2 days. By noon on the fourth day we killed. The elk we're hunting in Unit 2 in December I think were coming out of the San Juan's.

Susan Swaim: I appreciate increasing more hunter opportunity to get the mobility impaired, and youth hunters into the woods.

Jeremy Vesbach: I'm with the New Mexico Wildlife Federation. At the August meeting when the draft proposals were rolled out there was a reporter who was newly covering the Commission and wrote a story that everyone is mad at the Department but I think the Department has really listened to the public this time. One specific comment on elk is that we haven't heard from our members about Unit 6A, and 6C, and I believe it would be difficult on the ground to determine that boundary between non-wilderness areas.

Bob Atwood: In adjusting the numbers in 5B to the previous levels from the biology in that unit, I've got this that says that the numbers are way too high and need to be reduced and now I'm told they're back to where they were.

R.J. Kirkpatrick: In that north central region as we talked about earlier that we made some late decisions not to change license levels very significantly and most of the GMU's in that region. What we did in 5B is there's a total of 1,358 elk hunting opportunities. The proposal that's before the Commission slightly increased the number of elk hunting opportunities in 5B pursuant to that late request, but 1 thing I tend to look at are those web cow licenses are of course a tool that we can utilize so there's the ability for us to withhold 118 antlerless harvest potential. I do agree that all signs point to too many elk hunting opportunities in 5B but if you're willing Bob to work with us and be sure to get back to us in February as we look at what kind of harvest we saw this year, and then talk about what adjustments need to be made we're completely ensuring you that we will make the appropriate adjustments based on what we see harvested this year. If it exceeds 20%, we'll come back to the Commission.

Ron Shortes: On this issue I'm not representing Catron County because I don't think there is consensus on elk. Another thing we asked the Department to do is that the Forest Service has a bad history in southwestern New Mexico managing livestock but not doing anything about managing their trees or working with the Department on managing wildlife. Until the national forests are managed in terms of managing the elk and wildlife, their trees and livestock are not going to be in good shape.

Commissioner Riley: The portion on chronic wasting disease doesn't seem to mesh with the rest of the section from A to H. I don't know about that sentence if you need more words.

R.J. Kirkpatrick: It should read and as follows except as identified by the director.

Commissioner Riley: It's probably something very similar.

R.J. Kirkpatrick: This is current language so it's historical stuff we didn't pay attention to. It should say something to the effect that the following portions of the carcass shall be allowed to be removed from the areas described above. I'll get with Dan Brooks and we'll put some language in there that makes sense and make sure that language applies to deer.

Lt. Col. Sean Lewis: I just wanted to say thank you for working with us at Ft. Bliss on 1.1 million acres and giving us all the events this year.

Bill Ferranti: I'm with the Double H Ranch. In Unit 13 it's a primitive weapon unit but in looking through this we have an E-1 which is a rifle season and we are a primitive weapon unit and I do have concerns about opening up rifles in that unit. I do know we had a public meeting 2 years ago in Datil where all the landowners and private industry raised their hands against rifles within that unit, plus there are not dates which are to be determined. There are a lot of questions.

R.J. Kirkpatrick: You're right. That should be elk 2 on the web cows in Unit 13, they're elk 3, muzzleloader cows as you can see 2007-2008 there are none going to be established by the Commission so they won't occur in 13. If we did institute the allowance of those late season web cows in 13 it would be in consultation with folks on the ground and Department staff.

MOTION: Commissioner Arvas moved to adopt the Elk Rule, 19.31.14, NMAC, as presented by the Department with the following exceptions: leave the current boundary between GMU 6A and 6C as is, adjust the level of public draw archery license in GMU's 16C, 16D and 16E for more balance; 3 will be clarification of language reference CWD restrictions pursuant to the removal of parts for further reduced total number of mature bull licenses available in

GMU 6C by 5% and the total number of cow licenses by 10%. In addition, the Commission grants the Department the authority to correct clerical and inadvertent mistakes. Commissioner Riley seconded the motion.

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

Boundary Descriptions Rule:

R.J. Kirkpatrick: The last rule that we'd like to discuss briefly is the rule that we held to the end in case adjustments were made and that is the Boundary Descriptions Rule, 19.30.4, NMAC. This is a rule that currently exists in the proposal before you and reflects changing the boundary between GMU 6A and 6C. There needs to be some specific language not to make the amendments pursuant to that boundary change in this rule. The other change to this particular rule has to do with the boundary description between GMU 2B and 2C reference deer. We've clarified that boundary and currently the language under 2B, the last sentence is, "along a central wash of Carrizo Canyon to a point 2 miles north of the northwest corner of the Jicarilla Apache Indian Reservation and then south along the eastern side of Sections 25 and 36, Township 17 North, Range 6 West." Real late public comment, concurrence with public staff recognized that is a bit confusing. We wanted to clarify what that boundary is. We could do it by simply stating instead of that "east along the central wash of Carrizo Canyon to the Jicarilla Apache Indian Reservation boundary."

MOTION: Commissioner Pino moved to amend the Boundary Description Rule, 19.30.4, NMAC, as presented by the Department, except the boundary change that was adjusted for 6A and 6C. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 17: Department Interaction with National Forest/National Grassland Transportation Planning.

Presented by Luke Shelby – The Department provided a brief summary of activities to date and anticipated future interaction with the National Forests and National Grasslands in New Mexico on transportation planning. These efforts related to the Forest Service process for preparing transportation atlases and a transportation plan for each forest and grassland. Information was provided about the public comment process that is already underway. Commission direction was sought regarding how the Department should be involved in these processes and ways to engage the hunting and fishing community and non-governmental organizations.

Commissioner Riley: You didn't mention riparian areas or waterways and there are some areas where they attract 4-wheelers.

Luke Shelby: In our comments back to Forest Service, depending on whether it's a forest level travel management plan or a district level travel management plan, we do highlight those areas we are most concerned about and those comments do relate to many of our riparian and meadow areas.

Ron Shortes: I'm representing Catron County. Catron County works with Forest Service on issues like this. I ask that Luke or Lisa give someone with the County an opportunity to provide input to the Department about these issues. There's 1 issue in the County that has a large number of 2477 roads including these people that live in Beaverhead on 2477 roads. Under the old Mining Act from the Nineteenth Century that was created to encourage transportation on public lands, any private citizen or company that created roads in the County that was involved. Some of the other roads were turned into state highways and then the state abandoned but didn't abandon the use of them. The Court case where the New Mexico Attorney General came in on behalf of public hunters and sportsmen to enforce use of the public road that the state had not legally abandoned, they just ceased maintenance on it for use by hunters and recreation. All those roads in our opinion cannot be circumvented by the Forest Service or the BLM. For 1 thing, the 2477 roads all by designation pre-date the creation of any U.S. Forest so they were in existence through law passed by the U.S. Congress prior to the existence of any forest road or U.S. Forest. Specifically and an example of that is that the old highway from Reserve to Glenwood went down the river. That's still a 2477 road that in our opinion the Forest Service can't close even if they wanted to. It's the County's position that we are not asking to have new roads opened on federal land but we are asking that existing roads not be closed. We'd appreciate the opportunity for input or interaction with the Department to explain some of those issues we've seen. This is in line with the Department's mandate for outdoor recreation and sports hunters and fishermen to have access that they should legally have. I think the issues of damage to riparian areas certainly could be addressed. We're not

proposing to destroy the San Francisco River for the sake of a road that is more than 100 years old but we are very much against road closures of existing roads. We're not asking to open new roads on the forest or the grasslands. This is especially important in Catron County because hunting and fishing and other outdoor recreation is an important economic factor to our county and if a lot of roads are closed to hunters they're going to quit hunting. Chairman Sims: Luke would you interact with Ron on Catron County and make sure they're on board with all these procedures.

Luke Shelby: Since this is a U.S. Forest Service initiative, it would be appropriate and we're commenting on a proposal of the Forest Service, there may be important issues related to Catron County that are not on the Commission's or the Department's radar and because of that it's imperative that the County provide their comments directly to the Forest Service as many other entities and other counties have done.

Ron Shortes: I just wanted to make the Department aware that we have provided comments and they should be attached to this plan.

Discussion item only.

AGENDA ITEM NO. 18. Adjourn.

MOTION: Commissioner Arvas moved to adjourn. Commissioner Riley seconded the motion.

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

Meeting adjourned at 1:30 p.m.

 s/Bruce C. Thompson
Bruce C. Thompson, Secretary to the
New Mexico State Game Commission

 November 16, 2006
Date

 s/Leo V. Sims
Leo V. Sims, II, Chairman
New Mexico State Game Commission

 November 16, 2006
Date

Minutes Transcribed by: Katie Gonzales
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