

MINUTES
 NEW MEXICO STATE GAME COMMISSION
 Raton Convention Center
 901 S. Third
 Raton, NM 87740
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CONTENTS:

AGENDA ITEM NO. 1:	Meeting Called to Order	1
AGENDA ITEM NO. 2:	Roll Call	2
AGENDA ITEM NO. 3:	Introduction of Guests	2
AGENDA ITEM NO. 4:	Approval of Minutes (August 23, 2007--Albuquerque, NM)	2
AGENDA ITEM NO. 5:	Approval of Agenda	2
AGENDA ITEM NO. 6:	Revocations	2
AGENDA ITEM NO. 7:	Presentation of the FY'08 1st Quarter Depredation Report for Approval	3
AGENDA ITEM NO. 8:	Partners for Fish and Wildlife Program, U.S. Fish and Wildlife Service	4
AGENDA ITEM NO. 9:	Update on USDA Forest Service Travel Management Planning and Sportsmen's Interests in New Mexico	5
AGENDA ITEM NO. 10:	Pueblo of Santa Ana Pronghorn Restoration Project	7
AGENDA ITEM NO. 11:	Proposed Changes to the Fisheries Rule, 19.31.4, NMAC	8
AGENDA ITEM NO. 12:	Review of Rio Costilla RGCT Restoration Project: Comprehensive Background and Accomplishments in 2007	9
AGENDA ITEM NO. 13:	Reaffirmation of Commission Policy Relative to Stocking of Whirling Disease Positive Fish ..	11
AGENDA ITEM NO. 14:	General Public Comments (Comments Limited to 3 Minutes)	12
AGENDA ITEM NO. 15:	Rule Amendment for Oryx Hunting Prohibitions on White Sands Missile Range (19.31.12, NMAC)	13
AGENDA ITEM NO. 16:	Establishing Rules for Exemption to Hunting by Spotlight or Artificial Light Prohibited (Section 17-2-31, NMSA, 1978)	14
AGENDA ITEM NO. 17:	Opening Rule for Hunting and Fishing License Revocation (19.31.2, NMAC)	15
AGENDA ITEM NO. 19:	Adoption of Amendments to Portions of the Cougar Rule, 19.31.11, NMAC, to Conduct Preventative Cougar Control in Desert Bighorn Sheep Ranges and Select Rocky Mountain Bighorn Sheep Ranges	15
AGENDA ITEM NO. 20:	Adoption of Final Draft Rule 19.31.20, NMAC, titled Gould's Turkey Enhancement Permits	16
AGENDA ITEM NO. 21:	Update on Department Modeling Efforts to Evaluate Elk-Wolf Interactions in the Blue Range Wolf Recovery Area	17
AGENDA ITEM NO. 22:	Update on the Development of a New Antelope-Private Land-Use System (A-PLUS) Program and Associated Rule	19
AGENDA ITEM NO. 23:	Wildlife Associated Recreation Planning Efforts on Wildlife Management Areas	19
AGENDA ITEM NO. 24:	Presentation of Department Information Regarding Harvest Success and Competition for Drawing Special Entry Hunts	20
AGENDA ITEM NO. 25:	General Public Comments (Comments Limited to 3 Minutes)	21
AGENDA ITEM NO. 26:	Closed Executive Session	22
AGENDA ITEM NO. 27:	Land Conservation Appropriation Update and Action as Needed	22
AGENDA ITEM NO. 28:	Status of Access and Survey of Game Commission Road in Colfax County	22
AGENDA ITEM NO. 29:	Adjourn.	23

AGENDA ITEM NO. 1: Meeting Called to Order.

Meeting called to Order at 9:00 a.m.

AGENDA ITEM NO. 2: Roll Call.

Chairman Montoya– present
Vice Chairman Arvas – present
Commissioner Buffett – present
Commissioner McClintic – present
Commissioner Riley– present
Commissioner Salmon – present
Commissioner Sims – present
QUORUM: present

AGENDA ITEM NO. 3: Introduction of Guests.

Introductions were made by approximately 60 members of the audience.

AGENDA ITEM NO. 4: Approval of Minutes (August 23, 2007--Albuquerque, NM)

MOTION: Commissioner Arvas moved to approve the Minutes of the August 23, 2007 State Game Commission Meeting in Albuquerque as presented. Commissioner Sims 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 November 1, 2007 State Game Commission Meeting, and that Item No. 18 on today's agenda be removed to the December 12 agenda. Commissioner Buffett seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: Revocations.

Presented by Dan Brooks – The Department presented a list of 407 candidates for revocation or point assessment for consideration by the Commission. Any revocation candidate that received a hearing had the results of the hearing attached. When you read the word stipulated in any of these agreements that means that we're recognizing there are some mitigating circumstances and we're okay with that. We've met with them, we do that on a case-by-case basis because I don't want to be unfair, but at the same time we've got rules to follow and we've got to apply them equitably. In this instance, when you read the word stipulated, that means we agree that there's probably enough evidence and information for 2 years. The following is a revocation on Aaron Black and the Hearing Officer found that we had enough evidence and information to support the revocation.

Commissioner Arvas: Does Mr. Black have any claims?

Chairman Montoya: Did we violate his constitutional rights?

Dan Brooks: No, I don't think so. He's not being charged twice for a crime. This is an administrative action. There is no fine or incarceration that's associated with this.

Jim Karp: This is an administrative hearing and the only thing that's being considered is a privilege, not a right. We still don't have hunting as a constitutional right in New Mexico, so he was tried once criminally, he's now basically being charged for another infraction for which he's accumulated 20 points.

Commissioner Riley: When does the revocation end?

Dan Brooks: March 2010 which is concurrent with what the Santa Fe Magistrate Court imposed on no application. I've put that in, recognized that, and the Hearing Officer is recommending the same timeframes. Commissioner Riley, I have more information on Kenny Woods and he does not have a set oryx hunt because he has 1 of the depredation hunts December 1.

Commissioner Arvas: Tell me what the process is for proof of commercial liability insurance because it seems that unless you catch me I'm not going to get it type of thing. In other words, are there dates that they have to subscribe as having this to the Department in terms of proof?

Dan Brooks: Yes, statutorily, that's required of an outfitter—that they carry and maintain \$500,000 worth of liability insurance. What happens is that as business people their insurance policy may expire at different times, but they give us a copy of that so our outfitter/guide registrar, Matt Seidel, keeps track of that and when we see it expiring, we send them a notice. If they don't respond or give us a renewed policy, then they're out of compliance, so at that point we send them a notice.

Commissioner Arvas: It seems they still do the normal amount of business even if they don't have insurance. What I'm saying is the date they're doing business maybe doing hunting without the insurance and us being unaware of it.

Dan Brooks: That's possible, but remember that we're taking pro-active steps to see that they're in compliance. A majority of the time you're just booking clients through the year because the hunting season is really only for 4-6 months and so is actually

when they're taking people out to the field. They can be out of compliance but we've taken steps to see that they're always in compliance and it's only when we know that they are no longer in compliance after we've given them notice. In other words, they've already sent in their application and they've already booked clients. Remember some of these people will book clients 1-2 years in advance, there's a lot of money tied up, so our approach is that when we think we're doing the reasonable thing, we're sending them a notice, the Commission has the authority to revoke, but it's only until compliance.

Commissioner Arvas: I'm looking at it from a client's standpoint—it seems we ought to be able to assure that client that as a result of the regulation we have concerning commercial liability insurance, we should be more aware of those that aren't in compliance so that that client isn't going to have a problem.

Dan Brooks: The rule doesn't quite say that. What we have to do is make a rule, and we can explore that and come back before the Commission at a later date, that a person have proof of insurance for the entire registration year. We haven't actually put a rule forward because knowing that a person may have a policy from June to June and our registration period is from April through March 31. We could if that's the Commission's desire, make that stronger and more stringent if you're concerned about out-of-state clients, but we've got to make that into rule and we probably ought to go back to meet with the industry.

Commissioner Arvas: Why don't you go back and meet with them and see what they say. I'm looking at it from the client's standpoint in terms of if he hires "x" outfitter and if he's under the assumption that that outfitter already has insurance and he doesn't and something happens he's really vulnerable.

MOTION: Commissioner Riley moved to adopt the Department's and Hearing Officer's recommendations on reinstatement, revocation, and point assessment for the attached list of 407 individuals for the period of time specified except that I'd like to recommend that the date for Mr. Woods' commencement of revocation be December 6, 2007.

Chairman Montoya: If he's convicted?

Commissioner Riley: I just want him to use the license he bought this year.

Commissioner McClintic: Did he buy it prior to his having this problem?

Chairman Montoya: The problem was in 2005.

Commissioner McClintic: So he knew he had a problem and still went ahead and still took the chance of buying it.

Chairman Montoya: There not being a second, the motion dies for lack of a second. Now, let's go back and entertain another motion.

MOTION: Commissioner Salmon moved to adopt the Department's and Hearing Officer's recommendations on reinstatement, revocation, and point assessment for the attached list of 407 individuals for the period of time specified. **Commissioner Arvas** seconded the motion.

Commissioner Riley: The main reason I think we ought to consider at least making that date change to December 6 is that 1 of the problems we have with adjudicating these and you getting to the point that the individual actually gets a revocation of their licenses is that oftentimes it's up to 2 years or longer from the time the incident actually occurred until the revocation begins, so in they still buy a license until the revocation begins and they don't actually know when that's actually to occur. As a result we either basically have them under this influence of they don't know when the suspension is going to occur and there's really no reason to have an additional 2 years on suspension with the idea that they may not be able to use the licenses if they apply. So I think it takes 2 years to finally give them the beginning of their revocation instead of a 3-year revocation, they have a 5-year revocation basically in effect. That's the main reason I think we ought to let him use the license that he applied for this year.

VOTE: Voice vote taken. All present voted in the Affirmative, Commissioner Riley dissenting and Commissioner Sims recused himself. **Motion carried.**

AGENDA ITEM NO. 7: Presentation of the FY'08 1st Quarter Depredation Report for Approval.

Presented by Cal Baca – The Department presented the FY'08 1st Quarter Depredation Report for approval. The report described depredation complaints filed and resolved with the Department in accordance with 19.30.2.11, NMAC. For the 1st Quarter of Fiscal Year 2008 (July 1, 2007 through September 30, 2007) 141 complaints were filed; 28 were resolved, the remaining 113 complaints are currently unresolved, with intervention methods to resolve currently in-progress. Of the total 141 complaints filed, the top 5 species are: bear (33%); raccoon (22%); elk (13%); deer (6%); and squirrel (6%). Of the total 167 complaints filed during the 1st Quarter of Fiscal Year 2007 that have reached 1 year, 154 were resolved, yielding a 92% resolution rate. Unresolved complaints within 1 year primarily involved elk, mountain lion, beaver, and bear. Resolution efforts continue with all complaints.

Commissioner McClintic: How come you don't list squirrels and wolves?

R.J. Kirkpatrick: They're not protected under the Chapter 17 NM Statutes and our regulatory language.

Director Thompson: Wolf complaints are handled in an entirely separate and different manner and they aren't reportable or manageable through this particular system.

Commissioner Sims: Regarding bear, what was the largest number of complaints?

R.J. Kirkpatrick: The 2 areas with the largest number of consistent complaints are the Albuquerque metro and Raton has become a second. Ruidoso comes in around third.

Commissioner Sims: If we kill such bear do we relocate these bears prior to the kill?

R.J. Kirkpatrick: We euthanize. Typically they aren't euthanized on site of the problem occurrence. We haul those bears off. District officers and depredation specialists that are dealing with the complaint evaluate the past history of the bear if he has 1, the nature of the offense the bear committed, i.e., showing serious aggressiveness, entering houses, no fear of humans is an obvious safety concern. Under those cases and regardless of the history we have the flexibility to euthanize those bears. Those bears that are captured and not euthanized are released in other areas of the state where they are hopefully allowed to be bears and behave.

Commissioner Buffett: What kind of depredation damage do squirrels cause?

R.J. Kirkpatrick: Squirrels cause a lot of damage. They'll get up into house sidings and chew stuff up, chew insulation, trash bird feeders, fairly destructive on plants and gardens, and electrical wiring. Pecan orchards in the Roswell area are a big issue with squirrels.

MOTION: Commissioner Arvas moved to accept the Fiscal Year 2008 1st Quarter Depredation Report as submitted by the Department. **Commissioner Sims** seconded the motion.

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

AGENDA ITEM NO. 8: Partners for Fish and Wildlife Program, U.S. Fish and Wildlife Service.

Presented by Nancy D. Riley – I'm the U.S. Fish and Wildlife Service's Wildlife Coordinator for the Partners for Fish and Wildlife Program and is the main Private Lands Habitat Improvement Program within the Fish and Wildlife Service. The program sought partners and focused efforts on federal trust fish and wildlife species. The Department of Game and Fish can be a main partner in this program. Examples were described for the types of projects in which the Partners Program is working and where in New Mexico the program is focusing many of its efforts. The Partners for Fish and Wildlife Program has been in existence for 20 years. In New Mexico it's been in existence since 1990. It is a cost-share/reimbursement program. We've restored about 230 projects and it's now well over 75,000 acres in the state. Since it's U.S. Fish and Wildlife and not the Department of Game and Fish, our focus is federal trust species which are migratory birds, federally listed, threatened, endangered, and candidate species and we also look at declining species and state and Tribal species of concern. People who are eligible private landowners, tribes, schools, and counties, and we're also able to work with the lessees on State Land Office trust properties. We generally get our funding by early spring. We try and make our decisions as early in January as we possibly can and projects compete at a state level. There is some paperwork involved. Despite all that, we get to work with willing landowners who want to do good things for fish and wildlife on their land. We work on all types of habitats. In 2005 we targeted our funding. In New Mexico our funding for on-the-ground project work has ranged from \$100,000-\$200,000 statewide. That's very little money which is why Partners is such an important part of our title as we look to lots of different partners, not only landowners, Department of Game and Fish, Environment Department, Tribal entities, Rocky Mountain Elk Foundation, and others to help add money. We picked 3 focus areas: southwest with the Gila and Mimbres watersheds; the upper Rio Grande, and the high plains for lesser prairie chickens. We recognize that private lands in New Mexico are working lands. Some of the things we are doing are a restoration in Big Burro-Cienega which is on the southeast side of the Big Burro Mountains in southwestern New Mexico; arroyo channel work in La Cienega south of Santa Fe; we've done herbicide application to control cholla in Chaves County, and the landowner in that case deferred habitat on some of his prairie chicken areas, deferred grazing for 10 months out of the year to bolster prairie chicken populations on his lands. We do a lot of work controlling brush and mesquite in prairie chicken country; we provide fencing, livestock, and wildlife water; we remove fences where they're not necessary, we work with playa restoration to help improve populations of longbill curlews in Harding County near Mosquero. In the last year we have implemented a monitoring program to try to accomplish some of the things we're trying to do for wildlife. Our main people are the private landowners, we've done work with 5 different tribes in New Mexico, and we're happy to add to this list any other partners we can find to help us get this work done. Even though you see an at-risk candidate and a highly endangered bird, the work that we do on private lands also benefits landowners. It's a willing landowner program so they come to us because they want to do good things for fish and wildlife on their land and we find a way to make that fit and work with them. If we don't have the resources or it doesn't quite fit with what we do, we try to find other funding sources that would help them get that work done. At least 50% of my job is technical assistance to try and get a good fit for landowners.

Commissioner Arvas: How well funded are you?

Nancy Riley: Poorly. Last year for on-the-ground work we got a little over \$100,000, but that's because Congress did not pass a budget and we stayed in continuing resolution until almost June. Right now it's low. Last year they passed the Partners for Fish and Wildlife Act which is organic legislation like the refuge system is funded. If Congress funds that at the full amount it would double our budget nationally. Instead of \$100,000 or \$200,000, we'd be looking at half a million in New Mexico and what we try and do is leverage that with other people's money and our partners/landowners provide 25% and up of the cost-share contribution that can be in kind or hard dollars.

Commissioner Salmon: What about on public lands? Do you do anything on public lands, i.e., working with the Forest Service on prescriptive fires?

Nancy Riley: We don't but we're trying to work with inholdings and the private lands that are adjacent to them. We can provide technical assistance. We can't provide other federal funding because it's considered double-dipping. We can't work on state lands because we got an exemption from our Washington office since it's leased out and the lessees are the ones that make the improvements on those leased lands, we consider them cooperators.

Commissioner Salmon: That could be well used on state land. A number of landowners with state land are working on eliminating the creosote bush and mesquite brush, so I'll pass the word along that there might be some additional opportunities that they're not aware of.

Nancy Riley: We also try to work in conjunction with other programs. The Bureau of Land Management with their Restore New Mexico Program has gotten some federal EQIP dollars from the Farm Bill/NRCS. They've been doing a lot of mesquite/brush control in the southeastern part of the state and they also cover state lands and private lands because it's such a checkerboard of ownership down there, so we work in conjunction with them. We don't provide any money but the technical assistance to identify those people. We want to keep expanding.

AGENDA ITEM NO. 9: Update on USDA Forest Service Travel Management Planning and Sportsmen's Interests in New Mexico.

Presented by Tom Dwyer – I'm with the Regional Office in Albuquerque of the Forest Service. I'm familiar with Travel Management Planning and want to update the Game Commission regarding activities and schedule associated with background information considered, proposal development, and public comment. Specific focus was given to wildlife and habitat resource protection aspects of this planning effort and how sportsmen's interests are being addressed. In December, 2005, the U.S. Forest Service published the final rule modifying existing federal regulations dealing with motorized use on the national forest. The rule entitled Travel Management Designated Routes in Areas for Motor Vehicle Use. When the draft regulation was published in 2004, there was a lot of interest and over 80,000 public comments were received, the vast majority of which supported the need for a designated system for motorized vehicles and the elimination of cross-country motorized travel. This rule affects all motorized use on the national forest not just recreational use. Anyone who drives a motor vehicle on the national forest will be affected in some way. The Forest Service believes OHV use is a legitimate use of the national forest lands when conducted in the right places and when managed appropriately. The impacts from unmanaged OHV use are growing and are significant. In many places the impacts have grown to be unacceptable and in some places in the arid lands of the southwest they are long lasting or irreversible. The numbers of OHV use has grown tremendously and every year there are newer and more powerful machines which can now access almost anywhere. For example, recently there were OHV's reported on the top of Jicarita Peak in the Pecos wilderness. The impacts from unmanaged OHV use are many and are clearly evident to anyone who spends time in the forest. Vegetative losses, soil erosion, damage to cultural resources and social conflicts are all some of the negative impacts from unmanaged motorized uses. Negative impacts to wildlife both game and non-game, wildlife habitat, and to sportsmen's experiences are also common be it big game disturbance affecting re-production and survival, or loss of habitat or fisheries habitat destruction through sedimentation of waterways. Unmanaged motorized uses on the national forest have serious undesirable and unacceptable impacts. These impacts combined with tremendous growth in the number of OHV's being used on the national forest resulted in the Forest Service Travel Management Rule. The rule requires each forest or district shall designate roads, trails, and areas open to motor vehicle use by vehicle class and if appropriate by time of year. Designated roads, trails, and areas shall be identified on a motor vehicle use map. Once the map is published, motor vehicle use inconsistent with the designations, i.e., cross-country travel is prohibited and until the designation is complete, current rules generally remain in place. As stated, the rule addresses all motorized travel not just recreational travel. These activities are exempt from the prohibitions of the rule. This is the travel management rule planning process. Most national forests in New Mexico are still engaged in the first step—travel analysis. This is where the forests look at the existing system of roads and motorized trails and ask the question what, if any, changes are needed to the existing system. The national forests have held many public meetings and have been collaborating with federal/state/local agencies including the Department during travel analysis to get their input in answering the question and developing a proposed action for change. The proposed actions will soon be released for public comment. Each national forest in the country is involved in the travel management rule planning. Some decisions have already been made. The Gila/Lincoln/Sandia ranger district of the Cibola National Forest will make their decision by September 30, 2008. The Carson/Santa Fe and remaining ranger districts on the Cibola National Forest will make their decisions in FY '09. The federal fiscal year is October 1 through September 30. The chief of the Forest Service has given the regional foresters until October 1, 2009 to complete the designations and print the motor vehicle use maps. Sportsmen should have a large interest in helping with the effective implementation of the travel management rule. Obviously the previously mentioned negative impacts from unmanaged OHV use on wildlife directly as well as wildlife habitat is of interest to sportsmen. Better management of motor vehicle should have positive results for all wildlife. Additionally, we have heard from many sportsmen that they are looking forward to having fewer conflicts with OHV's during their hunts. Access to the places sportsmen like to hunt and fish is another fundamental interest of sportsmen. We are asking people and the Department which roads/trails should be included in the designated system so that access is provided. Some of these designated roads and trails will only be

open during hunting seasons to accommodate sportsmen's interests. We are going to use a variety of tools to manage camping. The sportsmen will still be able to access good campsites. The best campsites have been used for many years and are easily identifiable and will likely remain open for use. What generally will no longer be available is the opportunity to drive cross-country and pioneer a new campsite in a previously undisturbed area. We are willing to consider provisions for motorized big game retrieval where the Department sees that need as essential to fulfilling their authority for management of wildlife. For example, to ensure adequate harvest to manage big game populations in concert with available habitat, to avoid spoilage of legally harvested big game, and to facilitate state mobility impaired hunting programs. Discussions with Department personnel suggest there is little need for such provisions where an adequate system of open roads and trails is identified. Each national forest will be making the decision about how much if any motorized big game retrieval will be allowed. The Forest Service promotes and encourages motorized uses of the national forest including OHV use when the use is conducted in the right places and is managed and balanced with resource protection responsibilities. Unmanaged motorized uses will no longer be allowed. Your public lands are too valuable to allow continued abuse through effective implementation of the travel management rule. We will hopefully help retain resource integrity of the national forest we all value and retain the quality of opportunities to enjoy the national forests. More information about the travel management rule can be found on these websites. The travel management rule is being implemented and the decisions to be made are very site specific. Decision making is taking place locally on each national forest and that's where interested people should engage the process.

Chairman Montoya: I'd like to start by asking the Director what the Department is doing in terms of working with the Forest Service in identifying roads and the issue of big game retrieval and how that plays into our way of doing business?

Director Thompson: In short, the Department has been working with the Forest Service for about 18 months on this and have basically conveyed several view points, the primary 1 being that it is essential that it be first and foremost in having the Forest Service designate an effective road system that is open and will allow sportsmen to get within reasonable proximity of their interest areas. With respect to big game retrieval we have essentially asked the Forest Service that they bear in mind, as Mr. Dwyer has indicated, that there be no more and no less provision for the use of off-road vehicles for that purpose than any other purpose that Forest Service might allow. We believe that is consistent and is for all the reasons that Mr. Dwyer indicated. Specifically we have made assignments throughout the agency particularly with all of our area chiefs to ensure that they work with the 5 forests in New Mexico and those specific forest-by-forest staff to ensure that each of those over-arching interests have been met. We are currently in that process.

Commissioner Arvas: I'm hearing rumors that there are going to be inconsistencies from forest to forest in terms of these travel management rules.

Tom Dwyer: The decision making is being done at the forest level. The Regional Office is not making the decisions; however, the regional forester did provide guidelines to put some sideboards or some parameters on the decision making space for the forest supervisors or district rangers to try and bring some consistency. There is a belief that there are enough differences between national forests and the existing situation in terms of how recreational uses and how motorized uses are taking place on those national forests as well as how big of a problem there is on different national forests that there needs to be some latitude relative to the decision making space. But it is our intent to try to provide as much consistency as possible because that will make it much more understandable to the user public.

Commissioner Arvas: Do we need to deal with the regional forester in terms of what Director Thompson just spoke about or do we need to go to each of the foresters separately?

Tom Dwyer: As Director Thompson mentioned, each national forest is working with the regional chief to help identify which roads/trails/areas will be designated for motorized use as well as what if any off-road or cross-country motorized big game retrieval needs there might be. That will be addressed and dealt with at the forest level.

Commissioner Arvas: There are some areas where you have a cross-hatching of Forest Service/BLM, are you working with BLM along the same lines?

Tom Dwyer: Yes. Each national forest is required by the rule to collaborate with other governmental entities as well as with the public so each national forest has been working with other state and federal agencies in the travel analysis and for the designation of the routes.

Commissioner Buffett: I agree that reducing wildlife disturbances with motorized vehicles is the goal so I'm wondering why snowmobiles are exempted and is that part of the rule?

Tom Dwyer: Over-snow vehicles, snowmobiles or other over-snow vehicles, can be managed under other existing federal regulations. They were not included in this particular regulation, but we do have provisions in other federal regulations to manage those.

Commissioner Salmon: As far as retrieval of game and using vehicles off-road has been prohibited in the recent state land lease by the State Land Office and also at least most of the individual national forests with the possible exception of the Gila, is there a difference between the Gila's approach and the other 4?

Tom Dwyer: Each national forest has existing travel management restrictions in place. Some of the national forests have greater existing restrictions. Most of those restrictions are in terms of portions of the national forest. Right now I believe the Gila

National Forest in general is open to cross-country travel. So the existing travel situation on the Gila is slightly different relative to what the decision is going to be in terms of what the Gila is going to allow for motorized big game retrieval. I don't know what that decision is going to be. They haven't come out with a proposal. Once they come out with a proposal for the designated system which will include whatever provisions might be for motorized big game retrieval that goes through a public involvement process and public comment and then a decision is made, so I can't tell you what's going to happen on the Gila National Forest.

Commissioner Salmon: I would like to see the rules as they pertain to hunters similar to those of other outdoor recreation users and if its going to be prohibited for woodcutters or piñon gatherers or bird watchers or whatever to go off-road to do what they want to do, I would think hunters would want to abide by the same sort of regulations and I would put Forest Service and the Department of Game and Fish in that direction.

Tom Dwyer: We feel the same way in that there's a lot of public comment that we've already received from the public relative to uses in general and why would a hunter have any additional privileges than anyone else. That's feedback we're getting from the public so we'll see in the decision making process how it plays out.

Commissioner Salmon: I would add the possible exemption for the genuinely handicapped. There might be some exception there. Also, we need to be very careful about vehicular use in riparian areas. These are our richest areas as to wildlife habitat and diversity of species. I know in the Gila we've got some areas where threatened and endangered species are being subjected to ORV travel on a regular basis and we've been pushing for additional restrictions there with not much luck so far.

Tom Dwyer: Yes, federal requirements relative to the National Environmental Policy Act (NEPA) require that environmental impacts be addressed relative to any decisions, so those sorts of things will be considered during the designation process. An issue in the southwest is that there's a road down practically every canyon. It's problematic in some ways relative to riparian areas but yes, all those environmental considerations have to be considered in the designation of the system.

Commissioner Arvas: Dan, how will enforcement enter into this travel management plan?

Dan Brooks: There is a rule in place where you can retrieve game legally, i.e., the Carson are already accommodated because you can't go off-road and get your elk. The Commission has a rule in place but it's a matter of as this rule develops and what the Commission wants to do.

Oscar Simpson: As stated before Forest Service/BLM lands are probably only going to get worse and I'd like to see the Game Commission set a policy that affects the whole state and make the Department take a stand and make a rule that actually says no game retrieval off-road on designated properties. If there's an existing road system and that density tremendously affects habitat, I'd like to see the Department make sure that the public understands that habitat is critical. If you're going to have more wildlife to hunt/fish/view, then those road densities increased to make sure there's plenty of habitat and have a quality experience and that also goes back that if you allow game retrieval off of these roads you're going to increase the problem and make it worse so we need to set the example if we're going to protect and have a quality hunting experience, we need to solve the problem. I'm asking the Game Commission to give direction to the Department that says no game retrieval on designated roads.

Chairman Montoya: Director Thompson, you're going to continue to keep us informed on how the Department is progressing with work with the Forest Service and BLM?

Director Thompson: Yes, we will definitely do that.

AGENDA ITEM NO. 10: Pueblo of Santa Ana Pronghorn Restoration Project.

Presented by Glenn Harper – A representative from the Pueblo of Santa Ana described a project to restore pronghorn on Pueblo lands and sought approval from the State Game Commission for the Department to work toward capture and transfer of up to 60 pronghorn from the State of New Mexico to the Pueblo of Santa Ana, pending available animals.

Director Thompson: There is a demonstrated working relationship that we have with Santa Ana Pueblo and we've chosen to place this on the agenda to insure that there was awareness on the part of the Commission for these efforts. This work can continue with respect to our Wildlife Management Division as well as fitting in with our Comprehensive Wildlife Conservation Strategy for New Mexico.

Commissioner Arvas: From a management standpoint, are you going to allow hunting of these animals on the Pueblo properties?

Glenn Harper: Similar to the turkey restoration project. Once we get them to a sustainable level where we feel we can start taking, we will be harvesting. Our monitoring data is going to tell us that but whenever the population could be sustainably harvested we would. That's what the Tribal Council would support.

Commissioner Arvas: Didn't we have a similar effort a few years back with another Pueblo on the opposite side of the road?

Director Thompson: I'm not aware that we've had anything like that.

Luke Shelby: Yes, in Mexico—Coahuila.

Commissioner Arvas: Was that successful?

Luke Shelby: We captured most of the animals from around Willard and as far as we know it was successful. They've actually approached us again for more so we may be coming back to the Commission for consideration of that.

Commissioner Sims: You say we're planning on releasing these antelope on viable antelope range, how long ago was that?

Glenn Harper: Over 50 years as far as we can tell from the historical communications with some of the Tribal elders. Highway 550 is a good barrier for any movement. We had 3 antelope in June, 2005 that were on our south and they resided there for a few weeks.

Commissioner Sims: Can the Director answer this?

Director Thompson: A specific location has not been identified but we would weigh that with respect to where there may be animals available because of conflict with other human uses.

Chairman Montoya: How would you contain the antelope within the Pueblo's boundaries?

Glenn Harper: The fence line is the border of San Felipe. Although we don't have jurisdiction, there is hogwire which serves as a good barrier for antelope. The highway along the southern edge of the lowlands plains release site we believe will also be a barrier and what we're going to do is extend in places where antelope could get off the reservation into unregulated areas that doesn't practice any type of wildlife conservation then we could add more strands of barbed wire to keep them in but put up hogwire as well.

Chairman Montoya: Couldn't you work with San Felipe Pueblo and assist with management beyond those boundaries?

Glenn Harper: Like I said we don't have jurisdiction. We have approached San Felipe about turkeys in the past and they choose to implement their own type of management. We always communicate with the neighboring tribes and at some point I imagine the neighboring tribes see some of the benefits of restoring animals on the landscape and managing them and might opt to do the same thing.

Commissioner Salmon: I'd like to see the Department work with the Pueblo and facilitate this translocation of antelope and spread out more and provide a hunting opportunity eventually for the Tribe.

Chairman Montoya: Director Thompson, is this a request for action or are you asking the Commission for direction?

Director Thompson: There is no specific action recommended but it's certainly within the purview of the Commission to give the Department direction based on the presentation.

Commissioner McClintic: The only concern that I have is it's a very good deal provided that the antelope that we're capturing and helping transplant and we're not taking opportunities away from our sportsmen. It's important to me that we have a clear understanding that the antelope we're going to transplant are problem animals for our private landowners. Is that what your intention is?

Director Thompson: I neglected to mention that before, but we would always evaluate this with those sideboards and this would be done in context with the antelope management review that we currently have underway for next year.

Glenn Harper: We were actually seeking approval from the Commission to enter into agreement. When we've done this with turkey in the past we had to enter into a transfer agreement between the Pueblo and the State and that's 1 of the things we are seeking approval for.

Chairman Montoya: Director Thompson that could be done administratively?

Director Thompson: Given the testimony today, the best thing would be for the Commission to take simple action and direct the Department to accomplish that.

Chairman Montoya: I'm in favor of this project. I'd like to see more restoring of wildlife and now that you have the capacity to manage the more places where we have wildlife the better off this state is. We hope that you have so many that they go over your boundaries and into the other pueblos.

MOTION: **Commissioner Riley** moved to direct the Department to enter into agreement with the Santa Ana Pueblo to transplant 60 antelope from problem areas within the state and move toward completion of this project. **Commissioner Buffett** seconded the motion.

Commissioner Sims: I'd like to see the transplant, as Commissioner McClintic mentioned, our first option would be to move those from private land areas to state trust lands.

Steve Padilla: In the past, anytime we've entered into these types of agreements it has been required that we receive something in return. Will the public be allowed to hunt on those federal lands?

Glenn Harper: At this point the public won't be allowed to hunt. Any future hunting would be Tribal Council decision but I imagine there will be enough demand within the Pueblo to satisfy all the tags that might be available. In return we learned from our last transfer agreement with the turkeys we actually budgeted money in our grant to refurbish the existing Department of Game and Fish antelope traps, specifically purchasing new traps for the entire trap and other materials that are needed, so there is a return in the fact that we're going to facilitate the Department's ability to utilize their own equipment by entering into a transfer agreement.

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

AGENDA ITEM NO. 11: Proposed Changes to the Fisheries Rule, 19.31.4, NMAC.

Presented by Yvette Paroz – The Department proposed changing the bag and possession limits for Gila trout to allow for stocking of Gila trout that are in excess to recovery needs for recreational angling. These fish are annually available from Mora National Fish Hatchery and Technology Center. Numbers and sizes of available fish vary but normally 2,000-3,000 Gila

trout are available annually in combinations of fingerling (2"-3") catchable (8"-12"), and broodstock (more than 12"). The Department also proposed additional regulation changes related to angling for Gila trout.

Commissioner Salmon: You mentioned that the stocking of Gila trout in the forks area and Sapello Creek but they're not mentioned in the motion.

Yvette Paroz: The Gila trout that would be stocked in the forks area in Sapello Creek would be a replacement for the Rainbow trout. Sapello Creek hasn't been stocked but Rainbow trout are stocked seasonally in the forks area so we'd replace Rainbow trout stocking with Gila trout and the regulations would remain 5 trout per day, regardless of species.

Commissioner Salmon: You are proposing to do that even though that's not mentioned in the motion?

Yvette Paroz: Yes, it was our impression that where the stocking took place didn't need to be covered under the regulation change.

Luke Shelby: The motion is simply to pass the regulation. The stocking is done administratively.

Commissioner Salmon: This is an excellent process that you're beginning with the Gila trout and I would hope that eventually the stocking of Gila trout would entirely replace the stocking of Rainbow trout in the Gila drainage and that's what we're eventually working for. I don't want to add this to the motion but I'd like to see the eventual Glenwood Fish Hatchery conversion from Rainbow trout breeding and stocking to Gila trout breeding and stocking and the folks in Sapello Creek are excellent stream areas to begin this process.

Yvette Paroz: That's our intention also to work with Fisheries Division and try to expand our angling program for these fish. The more that people have the opportunity to angle for these fish they'll enjoy that experience. As an update, with that opening of angling, we asked that people register. Everyone that was interested to fish for Gila trout were required to register online or at the vendor so that we can track how many people were interested. Over 160 people went in to register to fish these 2 small streams. We didn't receive a lot of feedback but the feedback we did receive was all positive.

MOTION: **Commissioner Salmon** moved to adopt changes to regulations to remove prohibition on possession of Gila trout, and provide a special bag limit of 2 Gila trout and unlimited bag limit on brown trout, with no gear restrictions in Gilita, Willow, and Little Turkey Creeks above the confluence of Gilita and Show Creek. **Commissioner Sims** seconded the motion.

Oscar Simpson: New Mexico Wildlife Federation fully supports this. I support Commissioner Salmon's request to evaluate the ability of the Glenwood Springs to the sole source to rearing of Gila trout.

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

AGENDA ITEM NO. 12: Review of Rio Costilla RGCT Restoration Project: Comprehensive Background and Accomplishments in 2007.

Presented by Mike Sloane – The Department presented a comprehensive overview of the Rio Costilla Restoration Project for Rio Grande Cutthroat trout, including a detailed rationale discussion for selection of the Rio Costilla, partners, baseline conditions of the project background, and accomplishments as of this field season. The Department also presented proposed future actions related to the project, as well as increased opportunity for anglers to pursue native game fish.

Commissioner Buffett: Can you describe more the location of your water quality tests? You also said there was no trace of CFT but what about the other?

Mike Sloane: I don't have a specific answer for the potassium, but I talked to our biologist yesterday who had just received the information via e-mail. The locations were immediately below the detox and then down at the irrigation outtake for the bulk of the irrigation that occurs off of Costilla Creek which is below Amalia but above Costilla. The detox samples were taken during and after treatment and below Amalia at a location where there's a turnout. Those they tested for volatile organics as well as Rotenone products and were unable to detect any.

Commissioner Buffett: Did you do any post application survey for recovery of vertebrates?

Mike Sloane: Dr. Jerry Jacobi, as part of the Trout Unlimited grant, did do pre and post collections as well as he is planning to go back in a year and collect. He doesn't have any of those results available yet but based on anecdotal information that we saw while they were out there both during and after the treatment appears that the bugs are coming right back. In fact they actually saw some hatches during the treatment which was a surprise.

Commissioner Buffett: Where are things in terms of the Costilla Cooperative for the Latir, their potential partners?

Mike Sloane: They previously signed a memorandum of understanding, the terms of which are that they have to pay for application on their own property or seek funds to do so, and that they would be locked into the entire project 60 days prior to any application of the piscicide on their property. They continue to express interest in it. They continue to be a little hesitant about how much it might cost them so we're continuing to work with them. Trout Unlimited met with their board last month to discuss some options. They seemed interested but as with any organization they're trying to look at what their business plan would be, how they would proceed, how they would have to manage what kinds of changes they might need to make, so I wouldn't characterize them as completely locked into the project. I think they will come around as the project progresses and they see the success.

Commissioner Buffett: Between now and spring, what sort of timeline do we have to observe if the electro shocking works on

that?

Mike Sloane: If we have a dry winter like we did a couple of years ago, it's anticipated that we'll be able to get in there in March or April and do some intensive shocking and look at the whole system as well as a dry cold winter could lead to those fish not surviving. The worst case scenario would be that we wouldn't get back in there until the end of June and start looking around. The good thing about that is that these fish are small enough that they won't reproduce this year. We could come back in August if we had to do another treatment and not have to worry about the issues of a spawn that hadn't come off the bed yet.

Commissioner McClintic: Whatever we were going to do to treat this, we wouldn't have to go back in and do it again and that's been a concern that in the past when we do these types of things that we continue to treat. I think before I would be able to accept that again Commissioner Buffett has some concerns that really given those results we would be very adamant about giving those results, having proper people examine this because this is a very touchy issue with a lot of people.

Mike Sloane: By no means did I mean to say that our plan is to go forth and do that. Given that we've just received this information, Kirk Patten, our biologist, will be providing a detailed report to the Commissioners that were appointed for oversight and we have every intention that prior to going back in and doing another application certainly, and if you prefer before we do anything, coming back before the Commission and defining what that plan will be and how we propose to proceed. This Commission has asked for me to come every 6 months and give you an update so this constitutes a 6-month update and another 1 would be due in spring 2008. At that time I would come forward with a detailed proposal on how we plan to proceed on the next segment. I recognize that the Las Cruces meeting was approval for just the segment that we did on a 1-time treatment so we have to have further discussion on that topic.

Commissioner Salmon: What was the genetic makeup of these surprise trout that showed up when you thought they were gone?

Mike Sloane: Unfortunately we don't know yet. What we do know is that we have seen hybrid trout in the vicinity of where those fish were found.

Commissioner Salmon: There was a biologist that said there was diversity of genetic makeup of different types of cutthroat trout and acceptability was variable and he said specifically that currently the west slope cutthroat trout that is 80% or more pure was considered acceptable as a recovery mark or as in other cases only cutthroat trout that are a subspecies are 99+ acceptable and I was wondering what you have to say.

Mike Sloane: The west slope cutthroat trout was originally St. Patrick or co-existed with Rainbow trout. There is some expectation that there was potential overlap and mixing so that 80% is an allowance for that expectation. The 99% standard that we use came from a meeting of a large number of state biologists in Utah where it was accepted by the U.S. Fish and Wildlife Service after the last status review. They're currently undergoing a new status review, so it's possible that that standard will get changed, but at the moment the standard is to count toward not listing the species, so that's the management paradigm that we've been using. It may change with this latest status review because I think there have been some changes in the U.S. Fish and Wildlife Service's view of whether genetics or morphometrics (what the fish looks like) are the appropriate standard. It will be interesting to see how all that plays out but at the moment we're living with the 99% standard.

Commissioner Salmon: I'll go along with Commissioner McClintic in saying that piscicides *per se*, I think we all want to minimize their use and in particular try to avoid the re-treatment of areas. We may have to eventually learn to live with something less than a perfect genetic standard to avoid the constant retreatment. I can't predict how this will come out but the stepwise approach you're taking is correct. If you continue to check in with us every 6 months and also I think people can check with the U.S. Fish and Wildlife Service and offer commentary at least on what's acceptable and what we want in recovery of the Rio Grande cutthroat within a reasonable/achievable/feasible standard.

Mike Sloane: The only reason we would consider retreatment is if we saw the potential for 5-10 years down the road to get back to the situation where we are now where we're overpopulated with white suckers or we have a hybridized group of fish that wouldn't count toward not having the fish listed. Those are the considerations when we're thinking about whether we need to retreat or not and certainly we have no interest in retreating. We would prefer to find an alternative approach and that's what we're exploring now.

Jim Baker: I'm from Vermejo Park and just to update now from casual observation it appears that that whole project area is compromised just on what fishermen have been catching, it looks as though there are hybrids in there. The biologist from Montana came down a couple of times this summer and took samples for DNA the results of which we should know in the next few weeks. At this point we're hesitant about expanding the project until we get this section resolved—is going to be a retreatment or shocking what appears to be a hybrid.

Commissioner Arvas: How did that happen?

Jim Baker: The original restocking was contaminated.

Commissioner Arvas: Whose fault was that?

Mike Sloane: The Department's. I can explain that if you'd like. I don't remember the year but as we worked with the State of Colorado to treat the portion in Colorado of Upper Costilla as well as a lower portion which totaled to about 18 miles of stream. New Mexico stocked the New Mexico side and Colorado stocked largely the Colorado side but some of the New Mexico side.

We brought fish from Seven Springs Fish Hatchery and 2 things happened: (1) when we initially started up the hatchery we put in Rainbow trout eggs to hatch out and make sure that the system was running properly before we brought in Rio Grande cutthroat trout. Some of those fish it appears ended up staying in the system and we stocked out as part of the fish that went on to Vermejo; and (2) the other issue we had with our brood stock was that we were only testing whether they were Rainbow or were they cutthroats. We weren't testing for different kinds of cutthroat. In discovering the problem on Vermejo at about the same time we discovered that we also had some Yellowstone mixed into our brood stock. We got rid of the brood stock at Seven Springs and we went into Vermejo and did intensive electro shocking and I think we removed 75 Rainbow trout or Rainbow trout-looking fish and 1 brook trout that must have survived the treatment. In consultation with the biologist from Turner Enterprises and with Vermejo Park, it was determined that we would continue to monitor the population, monitor genetics and determine if there were any effects to the fish that had been put in there. I've seen pictures this year from Vermejo and it appears there are some hybridized fish in there. As Mr. Baker said those fish have been collected and samples sent to 2 different genetic labs for testing. The Department upon discovery of this whole issue agreed that we would pay to make it right and in consultation with Turner Enterprises and Vermejo Park, it appears to be just the section below the barrier down to the lowest barrier and I'm not sure how many miles--8-10--so it's not the entire project but it's a good portion of it. At this point, we need the genetic information and then we need to get our biologist and talk through the impacts of that, how wide spread it's believed to be, and do we need to do anything? Is that just going to get swamped out, can we electro shock, would we need to retreat that segment when we're treating further down assuming we get to that point on the project? As with the Comanche section, we're awaiting more information to see what our options are and what we need to do. I'm getting different messages from Vermejo Park and Turner Enterprises in terms of their commitment to the project so I clearly need to have more discussions with them.

Commissioner Arvas: What kind of messages?

Mike Sloane: I've heard that they're still very committed to the project and that to them this is a bump in the road. I think Mr. Baker's description made me think that there's perhaps something else below the surface that they need to investigate.

Jim Baker: Most recently Carter, the fish biologist from Montana, was out and he expressed that until we get this resolved, he assures us that there are hybridized fish in there. He's not very committed to expanding to another drainage system until this drainage system gets fixed.

Mike Sloane: We're committed to doing that.

Commissioner Buffett: It is my intention to convey that if we don't have the way to the Comanche Creek situation out and as further treatment is necessary, I fully expect the Department to come back to the Commission for our determination.

Mike Sloane: I think that no matter what we plan to do next spring, we will be back with a plan for Commission approval.

Commissioner Salmon: You sent us a report that there were some programs in the upper West Fork of the Gila trout being compromised by Brown trout invasion that we hadn't expected, could you briefly update us on where we are there?

David Propst: The problem that we found is the Antimycin produced basically since 2000 is not up to label strength. It should be about 23% active ingredients per unit of Antimycin. Arizona was doing some applications and it seemed that it wasn't full strength last summer. The USGS lab in Wisconsin tested different vintages and lots produced in different years. Poor quality control of the lots that were available were 20% or less of strength, so the problem we had in West Fork was this past June applying antimycin at the recommended dosage of 10 parts per billion when in reality we weren't getting nearly the strength needed. We went back in September using what we knew was less than full strength, but it was based on what Wisconsin had told us at 20% and see if we had fish that survived and the fish did survive. They reproduced last fall with no competition and with lots of food those Brown trout survived quite well and spread through a fair amount of the system.

Commissioner Salmon: I don't think we can abandon this Upper West Fork project at this point. I hope we could knock those offending fish out in short order and get those Gila trout in and be done with it. This first approved in 2005 at the Reserve meeting and so as soon you can go forward. If Brown trout have invaded above the falls get those Gila trout in there and we can call that 20 miles of stream recovered.

Discussion item only.

AGENDA ITEM NO. 13: Reaffirmation of Commission Policy Relative to Stocking of Whirling Disease Positive Fish.

Presented by Mike Sloane – Previous Commissions have adopted a policy directing that the Department will not knowingly stock whirling disease-positive fish. The Department presented the basis for this policy directive, alternative to the policy, and sought reaffirmation of the policy or other direction from the Commission. The Department presented information concerning effects of stocking whirling-disease positive fish, distribution of whirling disease in New Mexico, policies of other states, and alternative policy approaches. The existing policy was developed to acknowledge research that indicates stocking of whirling-disease positive fish can lead to enhanced likelihood of trout exposure to whirling disease. The objective is to minimize losses of fish populations and hatchery stocks due to whirling disease and other maladies. Whirling disease is present in all major drainages of the state except the Gila drainage. Disease presence in each drainage is limited to small segments of streams and is not widespread.

Commissioner Arvas: Do we coordinate all activities with adjoining states in terms of control?

Mike Sloane: The short answer is no. Each state has their own approach and philosophy. As you can see Colorado is the outlier amongst the western states in terms of how they deal with whirling diseased positive fish.

Commissioner Arvas: That's what I mean—aren't our policies the same as their policies?

Mike Sloane: Not as Colorado but we are the same currently as Arizona/Nevada/Utah/Wyoming/Montana.

Commissioner Arvas: Colorado was the most prominent to show it's face as far as whirling disease?

Mike Sloane: Colorado has a fairly significant commercial industry and fish culture and I think they feel the pressure of that in terms of how they need to manage positive facilities in the stocking of positive fish, so their policy is more lenient than the rest of the western states. They allow the stocking of positive fish, we do not.

Commissioner McClintic: Would you explain to the Commission—the disease does not affect mature trout to where they get the problems, correct?

Mike Sloane: Correct.

Commissioner McClintic: That's why Colorado believes it's okay to stock them?

Mike Sloane: I'm not exactly sure what their logic is but I think they stock positive fish into the eastern plains—their pothole lakes—with the thought that there's not going to be any reproduction in those lakes so there won't be transmission of the disease on their population level impact. What I don't think they're considering is the potential for all those waterfowl to come through there for anglers to move those fish or to take those fish, clean them, and get rid of the carcass somewhere where you could spread the disease.

Commissioner Salmon: Is it not the case that the hatchery work and stocking in the state most of it is done for fishery purposes as opposed to being done to recover some particular rare species or sub-species of trout?

Mike Sloane: Most of the stocking we do in this state is for put/take fisheries. The concern is that if you are stocking positive fish, if the disease is spread, you could impact Rio Grande cutthroat trout, Gila trout, those kinds of fish so the potential to impact existing fisheries that are self-reproducing is the concern.

Commissioner Salmon: I was thinking as a general philosophical policy it occurred to me that it's not just New Mexico but all the western states are inclined to do too much rearing and stocking for put/take purposes instead of spending more time and money on creating self-sustaining wild populations which can take care of themselves and perhaps adjusting angling regulations to foster the natural reproduction of trout as opposed to the put/take approach. It seems to me that if we were to begin a trend in that direction we might have less trouble with the whirling disease because the fuller disease seems to result from the constant infusion of new fish into the streams. My tendency would be to foster more of the natural reproduction of trout and the making of regulations which will allow them to maintain themselves sustainably in our streams. As far as the solution to this disease, I think the recommendations are good and would tend to tighten the screw and we may never be able to totally eradicate the disease from the state, but we can cause it to affect fewer fish and streams over time.

MOTION: **Commissioner Salmon** moved to adopt the following Commission policy relative to whirling disease positive fish:

- 1) New Mexico Department of Game and Fish will not knowingly be a causative agent of the spread of whirling disease in New Mexico or other states. All fish testing positive from state run hatcheries will be destroyed or otherwise put to use in a manner such that spread of the disease is precluded;
- 2) New Mexico Department of Game and Fish will take an aggressive stance to eradicate known sources of whirling disease in it's state-run hatchers; and
- 3) New Mexico Department of Game and Fish will continue to monitor all state-run hatcheries and free-ranging fisheries resources. **Commissioner Arvas** seconded the motion.

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

AGENDA ITEM NO. 14: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Garth Sims: I'm the Executive Director of the NM Council of Outfitters. Regarding the Commission's/Department's approach to the Forest Service's travel management plan I'd like for you to keep in mind that realities out in the field aren't like they're discussed in the conference room. If you think about the hunter during muzzleloader or bow seasons, an elk killed in the Gila wilderness around Labor Day what you're asking him to do if he can't retrieve that with a vehicle is field dress that animal, quarter it, and somehow carry that meat back to a vehicle which may be 2-3 miles away. Remember the temperature may be in the 80's many times during that elk season. What you're asking, and that meat may spoil, if you use just that approach that there aren't going to be off-road vehicles. I'd like to encourage the Commission and the Department to be more aware of the realities. Hunters are not causing problems with off-road game retrieval. Hunters tell me that the people they are seeing are people who are joy riding on ATV's that are running around just for the fun of running around and those are the people that have the least respect for the land and animal habitat.

Ron Shortes: I represent Catron County as well as our family ranches. We concur with Mr. Sims. Where there's a lot of pressure from special interest groups to close most of the access to the U.S. Forest would seriously impact the job that you need

to do for hunters/sportsmen all across the state. You've got to remember that the people on the other side of this issue could care less about hunting or multiple use in the forest areas. The reality is that there is not too much access now and any regulation of people abuse the forest and lands can be done through the Forest Service. Criminal authorities decide people that are off roads or throwing trash around or otherwise damaging U.S. Forest. They don't need to solve any problems by keeping people with motorized vehicles out of the forests. The problem may be a few people abusing the land but you don't need to close forests where we're cooperating with the Forest Service in closing the forests to solve those problems. Your sportsmen/hunters need access to the land. Catron County very much needs the sportsmen/hunters. Most of the hunters that come to our county come for private land hunting and if you made that too hard to do or create a situation where it makes it such an unpleasant experience, the Department will be the 1 to lose the revenues and your mandate says that hunters/sportsmen will impact an already bad situation for the county.

Greg McReynolds: I'm with Trout Unlimited and we fully support the Costilla Project and we see completion of that project and viable self-sustaining population as essential to keeping Rio Grande cutthroat trout off the endangered species list. If a second treatment is required we would be disappointed but we think it's better to do it now as opposed to trying something that's not going to work and then having to come back in 5 years to fix it.

AGENDA ITEM NO. 15: Rule Amendment for Oryx Hunting Prohibitions on White Sands Missile Range (19.31.12, NMAC).

Presented by Dan Brooks – The Department summarized public comments and sought Commission action on a rule change prohibiting hunters from entering prohibited areas while hunting oryx on White Sands Missile Range. The Department is initiating the process to amend the Barbary sheep, Oryx, and Persian Ibex Rule 19.31.12, NMAC, at the request of White Sands Missile Range (WSMR) staff. Growing concerns have arisen over hunters being found in prohibited areas while hunting oryx. WSMR has several areas that prohibit entry by unescorted hunters because of security and safety concerns. Hunters that access these areas unescorted could 1) cause great bodily injury or death to themselves or others by encountering unexploded ordnances; 2) breach the security of defense experiments that are not open for public viewing; or 3) depending on the circumstances, cause WSMR to alter or prohibit oryx hunting. WSMR and Department staffs are discussing possible options on how to deal with hunters that ignore mandatory briefings and/or posted warnings not to enter prohibited areas. Because of the Commission's broad authority over the manner and method of hunting oryx, the Department requests opening this rule to consider further oryx hunting restrictions. The Department proposes initiating this process and will seek input from the public and Commission for rule development.

Commissioner Sims: We regulate on the range or we regulate with the range authorities—we can cite for doing something and they can also?

Dan Brooks: If you enact this, the answer would be yes in that this is our rule. They'll have their own rules that they enforce which are similar.

Commissioner McClintic: About 2 years ago there were 4 people hunting that were on a 2-day badge/lifetime hunt and the minute they were caught they called in a Department official and they revoked their license and kicked them off the range. He said that clearly the road was not marked so I think this will alleviate a tremendous amount of problems provided that they do what they say they're going to do.

MOTION: Commissioner McClintic moved to accept the Department's recommendation and amend 19.31.12.10.0, NMAC, to state: "Restricted Areas on White Sands Missile Range: It shall be unlawful: 1) to drive or ride in a motor vehicle into an area signed no hunting or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel; and 2) for a licensed hunter to enter an area signed no hunting or otherwise restricting hunting except if the hunter is escorted by official personnel.". **Commissioner Arvas** seconded the motion.

Commissioner Riley: With respect to No. 1, does drive or ride in a motor vehicle into an area signed no hunting or otherwise restricting hunting, you're saying that the sign should say no hunting or somehow restrict hunting, but there will be a sign?

Dan Brooks: Yes, there will be a sign.

Luke Shelby: The nuances of the font didn't come through in the motion, the words no hunting in the motion are supposed to be italicized so that it will be set apart so it's up to the Range that if the sign says no hunting or another combination of words that restrict hunting it will be the same thing.

Commissioner Riley: Or if the next "or" in that statement says that if it's somehow restricted on a map so it wouldn't have to be signed.

Luke Shelby: Yes, and the important part of that is that signs do have a tendency to disappear sometimes and we would cover those restricted areas in the briefing with hunters the morning of their hunt.

Commissioner Arvas: Do you think we can do a better job with the maps that we give out to the hunters? They're hard to read sometimes.

Dan Brooks: Yes, we'll look into that. We'll devote some time and energy to that.

Commissioner McClintic: The reason that I read it that way and what I saw is what happens is lifetime will have 10 hunters on skilled or scouting, and when you say or restrict hunters it's restricted to people who should be scouting and people don't realize because they don't say scouting on the sign. I think that's what was meant to be there because that seems to be the biggest problem is people that are restricted to that hunt but it doesn't say this is the scouting section—that's always been a big concern the past several years.

Luke Shelby: We can do that.

Commissioner Salmon: If the hunter walks in is that covered by 1-2 EMS documents or could there possibly be a hole in this restriction if they're on foot?

Dan Brooks: That's covered in 2—that's why 2 is separate.

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

AGENDA ITEM NO. 16: Establishing Rules for Exemption to Hunting by Spotlight or Artificial Light Prohibited (Section 17-2-31, NMSA, 1978).

Presented by Dan Brooks – The Department recommended a new rule allowing permitting under Section 17-2-31, NMSA, 1978. The Department summarized public comments on permitting criteria under the exemptions that a person may receive a permit to be in possession of a firearm or other implement while casting the rays of artificial light in the fields and forests of New Mexico. HB509, effective June 15, 2007, allows individuals to receive a permit from the Department which will allow individuals to be in possession of a firearm or implement capable of taking big game or livestock while casting the rays of artificial light in an area where big game or livestock may be found. The Department's provision of statewide system for hunting activities and self-sustaining and hatchery-supported fisheries satisfied the participation expectations of New Mexico residents and took into consideration hunter safety, quality hunts, high demand areas, guides and outfitters, quotas, and local and financial interests, and that through 2012 no hunting or fishing opportunities be diminished as a result of non-compliance with wildlife laws. Since no protected species can be taken by spotlight, it is expected that this will not have negative consequences to species distribution, abundance, habitat or value. The exemption found under "B" may indirectly benefit some game species in localized areas as APHIS employees are expected to start using spotlighting as a technique to remove non-game animals such as coyotes which are known to prey on juvenile game. The Commission has established proper manner and method for hunting by various rules found in Title 19, Chapter 31, of the NMCA. Permitting a person the use of a spotlight or other artificial light **does not** allow them to hunt or take protected species while hunting. The Commission does allow game to be taken ½ hour before sunrise to sunset and this permitting will not conflict with that rule. Public involvement was opened up on July 18, 2007 and the Department received public comments. The majority of comments did not support allowance of a person the ability to use a spotlight in some way. Supporters of this permitting process saw this as a way to increase opportunity for coyote and/or furbearer hunting.

Commissioner Arvas: I think this is well understood. Concern over any new rule that's established as to effectiveness, so tentatively we'll probably give you permission to do this but be sure and look at it very closely because like any rule there can always be an exception if we're not aware of it at this time, so as long as you'll agree that we can revise and change, I think we can get this thing through.

Dan Brooks: Yes, I agree.

Commissioner Buffett: Do you think this will increase the hunting of non-game species with artificial light?

Dan Brooks: Yes.

Commissioner Buffett: Do you think the presence of artificial light in the dark woods will have any impact on game species?

Dan Brooks: No.

Commissioner Buffett: From a conservation perspective, species are expecting it to be dark?

Dan Brooks: No, I don't because remember this is going to be restricted to private property and basically the landowner is going to have to agree to this particular person being on their property so I don't see it as being detrimental. You know there are no absolutes but I don't see it as detrimental. We try to be pretty restrictive, so I think we've put some sideboards with those kinds of things in mind.

Commissioner Buffett: If this is about checking your horses at night or something, couldn't we have something that provided the permit for non-hunting purposes but not if you're carrying a permit to hunt?

Dan Brooks: The permit doesn't tell a person what they can do. It tells them what they can't do but you'll notice because there is a whole lot of latitude out there on what a person can do, as long as they're doing something legally we don't want to interfere with that. When they're doing something illegally, we've got every right to be involved especially if it affects our game and breaks laws so that was my approach.

Commissioner Buffett: I do have some concerns about what this is going to mean for increased wildlife hunting. That doesn't seem sportsmanlike in my opinion--using artificial light. There was a comment submitted that suggested compromise. You could have artificial light instead of a firearm but that the firearm be unloaded before the spotlight could be used?

Dan Brooks: That's right. That was a person's opinion. The Commission would have the latitude if you so chose to put those further restrictions on the use of the permit because it's the permit and it has some sideboards. If the Commission wants to go in that direction we might have to explore that because I don't know what kind of language would hold up and what needs to be accomplished.

Luke Shelby: One of the concerns about taking the rule in the direction you desire is that it takes out the intent of the language of the statute was to allow employees to work for property owners and take coyotes at night under a legal system. Right now they don't have that opportunity so that's 1 of the reasons that the statute was passed by the legislature. I can assure you that the permit does not allow a person to hunt protected game with a spotlight. That's still going to be illegal. The statute, even before it was amended by the legislature, allowed a landowner or the employee to go out with a firearm in their vehicle or in possession of a firearm while they were looking for horses or checking their cows. This permit doesn't affect that at all—they've had that ability before that. What this permit does is it would allow some outside of the landowner or the employee to take that on. I agree with Dan in that I don't believe this is going to expand hunting non-game species at night. It has to be involved with direct legitimate activity on a person's private property.

Commissioner Buffett: Have we considered limiting the number that would be issued in the first 1-2 years and see how they're being used?

Dan Brooks: You'll note there is no limit because what we don't know is how many times a landowner will need someone to go help them. We also did not put a limit on a person that could get a permit because what if the same person can help 1 landowner can help another. That's often the case in local communities so we were careful not to put those parameters and then it's unknown what kind of demand there is so will we issue 500 or will we issue 20 we don't know, so part of that is when you start limiting it might be negatively affecting someone that could really use that permit.

Luke Shelby: Perhaps a better avenue would be to return to the Commission in December and give you our assessment of this program as well as the quick assessment at the beginning of every Commission meeting for the next 6 months.

Commissioner Salmon: I understand where Commissioner Buffett is coming from with her concerns but I point out that these non-game/unprotected animals that would be hunted are generally because they're so prolific, are immune to hunting pressure, and taking these animals at night would in most cases not be intended as a sporting proposition. Regardless of this permit system the populations of some of these animals are overall secure.

MOTION: Commissioner Sims moved to accept the Department's recommendation and create a permitting rule for the exemption found in Section 17-2-31, NMSA, 1978. This rule will require among other things that:

- Permittee must be 21 years or older;
- Permittee have no history of violation (3 years wildlife/felony)
- Verifiably written landowner permission be received by the Department;
- Permit only be valid on private property (permission was granted);
- Permit only be valid for 14 days (extended additional 30 days – emergency);
- It be unlawful to hunt, take or pursue protected game with this permit; and
- An applicant not be prohibited from receiving more than 1 permit. **Commissioner Arvas** seconded the motion.

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

AGENDA ITEM NO. 17: Opening Rule for Hunting and Fishing License Revocation (19.31.2, NMAC).

Presented by Dan Brooks – The Commission considered opening this rule for future amendment considerations. The Department sought to initiate the process to amend the revocation rule because of changes in other related rules as well as an overall comprehensive review of the revocation rule. The Department requested opening this process to solicit public comments. The Department's provision of a statewide system for hunting activities and self-sustaining and hatchery-supported fisheries satisfies the participation expectations of the state's residents and take into consideration hunter safety, quality hunts, high demand areas, guides and outfitters, quotas, and local and financial interests. It's believed that distribution, abundance and breeding habits for all species will be enhanced as enforcement will assist in compliance with Commission rules and species conservation. Public involvement process is beginning and most likely will focus on working with key individuals, groups, and agencies that have an interest or concern on the revocation process. Public input will be summarized and brought forward in a written rule recommendation to the Commission.

MOTION: Commissioner Riley moved to accept the Department's recommendation to open Rule 19.31.2, NMAC, for public comment and Commission consideration with the expectation that the Department will present a final recommendation to the Commission at a future meeting. **Commissioner McClintic** seconded the motion.

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

AGENDA ITEM NO. 19: Adoption of Amendments to Portions of the Cougar Rule, 19.31.11, NMAC, to Conduct Preventative Cougar Control in Desert Bighorn Sheep Ranges and Select Rocky Mountain Bighorn Sheep Ranges.

Presented by Eric Rominger – The Department presented, for adoption, final draft amendments to 19.31.11.14, NMAC, that adds the Caballo Mountains to the list of areas where year-long cougar hunting may occur and amendments to 19.31.11.17, NMAC, that adds the Caballo Mountains and the Dry Cimarron areas to the list of areas where preventative cougar control work may occur. In addition, the amendment removed a specific termination date for special cougar control while requiring a review of the program with the Game Commission every 2 years.

Commissioner Arvas: Give us a historical sketch of how all this came about and how successful it's been?

Eric Rominger: In 1980 we had the 2 extant populations in New Mexico, been a state listed endangered species since 1980, we're having troubles increasing that population as a state stable, and between 1996-2001, 3 of those statewide desert bighorn populations were extant with mountain lion predation, the principal mortality factor. 85% of the known cause mortality and all those mortality rates were in excess of levels predicted to cause extinction. When we initiated the lion control work 7 years ago, we declined fewer than 170 desert sheep statewide in New Mexico, and as a result of translocations and some very effective lion control in 4 of these desert mountain ranges, we now have a population estimate of about 445. It's the midpoint of our range for the desert bighorn sheep so for over 20 years state stable declined the first 13 years in these last 7 2½ times increased the desert bighorn population to the point where we're now within 50 individuals we feel of potentially downlisting or delisting desert bighorn sheep to make it once again a game animal as it was in 1950.

Commissioner Arvas: Would you make an analogy between what you said about desert bighorn sheep and the Rocky Mountain bighorn sheep and why that is and it's impact?

Eric Rominger: The Rocky Mountain bighorn sheep of which we've had a substantial number of radio collars out on in high-elevation populations we see very little lion predation on high-elevation Rocky Mountain herds. That's contrasted with lower elevation Rocky Mountain herds in the Manzanos and Turkey Creek/San Francisco River where we've seen a substantial amount of lion predation on these smaller low-elevation herds but at high elevation we see very little lion predation. In the Chihuahuan desert which has got very low numbers of native ungulates we've maintained very high densities of lions and predation rates have been such that we've driven small populations to extinction and have virtually had no populations increased in the state until we instituted this lion control program.

Commissioner Salmon: Could you tell us about how many lions you have been killing as far as this program on average per year relative to the number of lions present in the state?

Eric Rominger: Some information on mountain lion harvest is that we've harvested lions in less than 1% of the available lion habitat. Those removals have remained within the cougar matrix guidelines for sustainable mortality rates within those cougar zones and we've averaged 3.4 lions per mountain range annually in those 4 treated ranges, so about 14 mountain lions harvested per year from a statewide population estimate of 2,500 or more adult lions. Once again the habitat that's being treated for desert bighorn sheep recovery is 0.75, or less than 1% of the statewide lion habitat.

Commissioner Salmon: I take it that it's not your goal to extirpate the lion from these ranges but to simply keep the numbers down to a point where they're not totally destructive of the sheep herd, correct?

Eric Rominger: That's correct and we have lion track surveys, reports from hunters, reports from contractors/guides that are working lions in all these ranges we've treated and we've never eliminated lions from these 4 desert bighorn sheep ranges and in fact we've continued to sustain about a 3% annual mortality rate to lion predation in these 4 ranges, it's just that that 3% as compared to 16%-17% annual mortality rate prior to the program.

MOTION: Commissioner Salmon moved to adopt amendments to portions of Rule 19.31.11, NMAC, to allow the Department to conduct preventive cougar control in desert bighorn sheep ranges and select Rocky Mountain bighorn sheep ranges, as presented by the Department. **Commissioner Sims** seconded the motion.

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

AGENDA ITEM NO. 20: Adoption of Final Draft Rule 19.31.20, NMAC, titled Gould's Turkey Enhancement Permits.

Presented by R.J. Kirkpatrick – The Department presented a final draft of a new rule, 19.31.20, NMAC, titled Gould's Turkey Enhancement Permits, for adoption. This rule established procedures and restrictions for the sale, issuance, and use of permits pursuant to Section 17-3-16.4, NMSA, 1978. All appropriate species plans and the Department strategic plan have been considered in development of these rules. The relevant Department strategic plan sections are the Sport Hunting and Fishing Program that provides for 75% of the state's hunting interests expressing understanding and support for the Department's game management strategies and for establishment of broadly supported management objectives for 9 species of big game, 4 species of small game, and 7 species of fish that maximize recreational and economic benefits within the context of relevant biological, ecological, physical, social, economic, political, spatial, and legislative factors. The Conservation Services Program to conserve enhance, or positively affect an additional 500,000 acres of wildlife habitat statewide will be more attainable. The Administration Program will be positively affected by helping to ensure that decisions are being made within the context of relevant biological, ecological, physical, social, economic, political, and legislative factors organized in spatial relationships. Using various survey techniques the Department will attempt to provide a more accurate assessment of the current population size and structure. The draft rule, as well as statute, require that Gould's Turkey enhancement permits be authorized only after the Department

documents that the issuance of the permits will not jeopardize the prospects of survival and recruitment of Gould's Turkey in New Mexico and does not conflict with the Wildlife Conservation Act (Section 17-2-37, NMSA, 1978) or any rules associated with the implementation of the Act.

Commissioner Arvas: Are we entering into an agreement with the Wild Turkey Federation as far as the auction is concerned?

R.J. Kirkpatrick: We've not visited with any non-governmental organizations to date about marketing these opportunities as they currently aren't available until the Commission adopts the rule. Until such time as the Commission adopts the rule, we will work with procurement to determine the appropriate process whether for RFP's, services contract, or cooperative agreement with someone that doesn't expect payment for those costs. I suspect that National Wild Turkey Federation/Mule Deer Foundation/Rocky Mountain Elk Foundation, a variety of conservation interests may be interested in helping us market these.

Commissioner Arvas: Am I correct in making an assumption that now we are eligible for Grand Slam of turkeys in terms of the different types available?

R.J. Kirkpatrick: There is some language in this rule that if an individual successfully was awarded 1 of these via purchasing or won in a lottery, it would not prevent him from hunting turkeys throughout the balance of New Mexico pursuant to existing rule and manner and method requirements. So, theoretically, an individual could harvest 3 birds in New Mexico if he had 1 of these within a license year. Currently, an individual can purchase a license and receive 2 turkey tags during spring hunt. One of those birds could be a Rio Grande in some places in New Mexico, 1 could be a Merriam's, and if that same individual actually held a Gould's enhancement permit he could harvest a Gould as well. It would add to the uniqueness of the opportunity. I believe that in the development of the statutory language, legislation, and this rule, the opportunity to harvest a Gould's is very limited worldwide anyway. Mexico/Arizona/New Mexico are the only places where you can do it. Mexico is expensive, and Arizona I'm not sure about, but I think stand alone it's highly desirable.

Luke Shelby: The turkey rule we're discussing I think says you can take 2 turkeys unless otherwise authorized by rule and this would be the rule that would authorize it.

Commissioner Riley: In answer to Commissioner Arvas' question about the National Wild Turkey Federation, they have talked to me several times from their office in South Carolina, specifically requesting opportunities and they are very anxious to see this and sell those for auction or lottery. I think you'll have a lot of support.

R.J. Kirkpatrick: Their input to us was valuable and those slight amendments would give us the flexibility to maximize the revenues we might get from this.

MOTION: Commissioner Buffett moved to adopt new rule 19.31.20, NMAC, titled Gould's Turkey Enhancement Permits, as presented by the Department and under 19.31.20.9, Section B, that upon fulfillment of the required annual documentation as described in 19.31.20.9(A), the Director shall issue up to 2 Gould's Turkey Enhancement Permits to be sold via auction and to the highest bidder or via lottery, and in 19.31.20.9, Section 3, selection of an organization to administer the auction and/or lottery would be inserted of the Wildlife Enhancement Permit shall be pursuant to the Procurement Code regulations described.

Commissioner Riley seconded the motion.

Oscar Simpson: The New Mexico Wildlife Federation fully supports the Gould's Turkey Enhancement rule.

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

AGENDA ITEM NO. 21: Update on Department Modeling Efforts to Evaluate Elk-Wolf Interactions in the Blue Range Wolf Recovery Area.

Presented by R.J. Kirkpatrick – The Department presented an update on modeling efforts to evaluate population effects of Mexican wolves on elk populations within the Blue Range wolf recovery area, and demonstrate how this information is incorporated into the model. The Department also provided information about recent interactions with Arizona Game and Fish to incorporate their elk and wolf information into a consolidated perspective, and a summary of meetings with interested publics where communication of current information has taken place. The Department has sought assistance from the Cooperative Fish and Wildlife Research Unit at NMSU to re-evaluate elk population size, structure, productivity, and survival rates in the Gila elk region. Results may warrant consideration of adjustments to elk population size and sustainable removal levels currently established in the elk rule. Much of the public interaction has been directed toward contact with sportsmen/outfitters that have stressed need for better understanding of elk resources as a primary prey species for wolves.

Commissioner Buffett: Was reduction of grazing livestock entered into the model? That might also produce a beneficial loop to creating more forage for elk.

R.J. Kirkpatrick: That was discussed and it didn't come to the top of our list as an issue. There was some discussion about the possibility of removing livestock off various components of the greater Gila. Would that lead to better forage production, more attractive to elk populations, more beneficial to recruitment of elk, calves into reproductive component population and subsequently less impact on elk and potentially livestock? I think folks understand that from a variety of perspectives.

Commissioner Buffett: I think it would be interesting to see a scenario, in the absence of wolves, what chronic wasting disease could do to the population and is there a benefit to the presence of wolves in taking out sickly elk and thereby preventing widespread chronic wasting disease?

R.J. Kirkpatrick: Disease issues are worrisome and we will take that into consideration. We currently don't have chronic wasting disease known to be present in the greater Gila. It's only specifically in Otero County and White Sands Missile Range, but as disease issues come to bear we'll look at it.

Commissioner Buffett: Building into the scenario consideration that predators actually benefit from the ecosystem as well as the assumption of them taking away.

R.J. Kirkpatrick: One idea along that line is that as wolves have more interaction with that population, and elk are more widely distributed, it appears distribution has changed noticeably because elk are spending less time along bar ditches that are wet, less time in mountain meadows. Is that beneficial to elk? That depends on how you look at it but to some degree that may be beneficial to elk.

Commissioner Salmon: Do you have any information on how the elk as a prey base relate to deer, Javelina, jack rabbits or whatever else wolves might eat in that area?

R.J. Kirkpatrick: The 5-year review alludes to what the proportion prey basis is. From 1998-2003, 72 confirmed or probable ungulate kills made by wolves which is a small proportion of how many they actually killed but what was documented, 90% were elk, 6% mule deer, 1% white tail deer, 2% bighorn sheep across the entire Blue Range recovery area so that includes Arizona. The composition of elk kills, less than 40% were calves, higher than 40% cows, 14% bulls, but I'm not privy to what the teams engaged with wolves on a daily basis are. We do interact with them more than in the past and I think they're working daily towards determining getting more information about what is it they're eating, the timing of those, so I think these are cursory numbers and may not be as useful. In general they eat more elk than deer.

Commissioner Salmon: The Mexican wolf was described as the smallest of the wolf subspecies and I assumed that was due to the fact that living in Mexico or southern New Mexico and Coues deer had been a primary source of food.

Commissioner Arvas: During the last 6-7 months we've dealt closely with the group in the Gila concerning this issue. I'd like you to give the assurance that this is a continuing effort, not a 1-shot thing where you give us the numbers and don't worry about it again for another year. We're always open to any suggestions concerning possible problems that develop as a result.

R.J. Kirkpatrick: We have anchor points of data that we collect twice a year—harvest, survey, and wolf information—and we're happy to meet with anyone anytime they want to discuss this. To improve communication and along those lines we set up an e-mail address that anyone observing something they'd like for us to know about they can do so.

Robert Espinosa: The elk populations that you have demonstrated, does that follow what the Department wants to keep that herd at?

R.J. Kirkpatrick: Yes. The consensus was that when we wanted to move that population toward quality hunt management where our post-hunt cow/bull ratios were 40/100 or better, hunter satisfaction was great, the area wasn't over burdened with hunters. We've accomplished that and at the same time the population appears to be growing slightly in the presence of wolves. We'll discuss what type of management objective we want the subpopulation and whole population to look like over the next 2 years. This spring we'll open that rule and have that discussion again. I think we'll change our proposal about how we approach measuring whether we're successful or not from post-hunt cow/bull ratios to something different like bull mortality rates. I believe it's going the way everyone involved hoped it would. My understanding is the hunts in the Gila this year were fantastic so far.

Robert Espinosa: The next question has to do with obtaining your spreadsheets and data. Is that going to be available to the general public?

R.J. Kirkpatrick: Yes, the elk survey information will be finalized and we'll make it available to whoever would like it.

Commissioner McClintic: The 1 thing you didn't mention that I've been asked about is that elk population is dictated by climate and it's my understanding that in the past several years we've had a huge drought issue in the Gila and that this year was the best and greenest grass they've ever seen since they've been down there so obviously that's made a huge difference in the elk population. If that's accurate I think it needs to be mentioned.

R.J. Kirkpatrick: Yes, that's correct and precipitation is probably 1 of the largest driving factors in any deer/elk populations in New Mexico. You're right that the cow/calf ratios that we observed during 2006, and productivity that we observed in 2007 surveys because of precipitation and it was better. There is some ambiguity about how much of what appears to be better is due to precipitation, wolves, or a mixture thereof. I wish I could answer that question quickly but it will only be answered better over time.

Garth Simms: I'm with the New Mexico Council of Outfitters. Longer term and more variables in the data you'll be able to do a better job in the management and the public will be able to deal with it. This is a good start in understanding that program and making sure that we make it successful for everyone involved.

Oscar Simpson: The Department of Game and Fish needs to put it on the website so we can reach a consensus on how everything should be managed and everyone is dealing with the same data.

Commissioner Arvas: Under point of personal privilege, I'd like to introduce Ron Schmeitz who is the First Vice President of the National Rifle Association and Chairman of the Board of Trustees.

Ron Schmeitz: I'm Vice President of the National Rifle Association and I expect to take over in 2009 as President of the Association, so I look forward to working closely with the Commission and the State of New Mexico.

Discussion item only.

AGENDA ITEM NO. 22: Update on the Development of a New Antelope-Private Land-Use System (A-PLUS) Program and Associated Rule.

Presented by R.J. Kirkpatrick – The Department presented the Commission with an update on review and public participation accomplished regarding development of a new Antelope-Private Land-Use System (A-PLUS) Program and associated rule. The update included a list of issues and problems with the current process, a schedule for engaging public input and participation, and a proposed timeline for completion. The Department has strived to ensure that there are no duplications or conflicts with existing rules or statutes.

Commissioner Arvas: Are you going to try to appeal to the landowners for enrollment?

R.J. Kirkpatrick: As we engage the public and what opportunities are available we may end up with different parts of a system that make antelope hunting on private lands much simpler, and annually at the request of the landowner with limits that don't involve the bureaucratic process so that the decision by a landowner to enroll his property doesn't prevent the Department from providing public and additional landowner hunting opportunity. We're not letting the decision of the landowner dictate that opportunity so we've delved into this more and I suspect and suggest that I don't know if that will be a driving force.

Commissioner Arvas: What do you expect from the public hunters?

R.J. Kirkpatrick: I think the public hunters would like for the end result to be for the Department to theoretically manage their antelope resource, allow for sustainable harvest, maximize hunting opportunity, and allocate that opportunity equitably between public and private interests. Another component of that is at every opportunity seek access to private lands where that makes sense and has been official to both entities.

Commissioner Riley: Have you run into any opposition from landowners on this?

R.J. Kirkpatrick: No necessarily opposition but a lot of questioning about what we're doing. One realization brought to the table is that in some instances in New Mexico is working just fine. In some places it may be broken and in some places not. A lot of urgency in knowing what the answer is going to be and not realizing that the answer lies in the next 8 months of talking to people.

Commissioner Riley: Do you expect much contention from private landowners?

R.J. Kirkpatrick: I think there are places in southwestern New Mexico based on land status and current practices where the end result may tend away from the level of benefit to landowners that exists today in favor of hunting opportunity because it's skewed in some places.

Commissioner Riley: Mr. Chairman, I'm wondering if we might want to consider appointing a couple of Commissioners to stay in touch with this in case something starts to develop that we can at least monitor?

Chairman Montoya: That's a good idea and toward the end of the meeting we'll appoint a couple of Commissioners to be involved with you R.J.

Bill Ferranti: I'm with the Double H Ranch. My concern is about the resource and we've got 40,000 acres of state leased land on the Double H that has 100% access. Pronghorn antelope is 1 of our target species and we manage that state land just like we manage our private land. We have water on it all the time. I think it's going to work and I hope there is some equity.

Oscar Simpson: New Mexico Wildlife Federation supports the Department for trying to open this up and trying to wrap it up within 1 year. We'll be a full partner in trying to make sure there's some rationale and common sense. I ask the Game Commission to consider getting outside money to open up access to private land. \$500,000 so far to release private land for hunting and fishing to open up the big game leases. That authority needs to be widened because we see lots of opportunity and has a lot of persuasion to open those.

Robert Espinosa: The Department understanding that 1 size does not fit all and working toward that is going to make a big difference. The sportsmen for fish and wildlife support you.

Discussion item only.

AGENDA ITEM NO. 23: Wildlife Associated Recreation Planning Efforts on Wildlife Management Areas.

Presented by Luke Shelby – The Department presented information on planning efforts conducted on Wildlife Management Areas to accommodate additional wildlife-associated recreational opportunities. In April, 2004, the Commission directed the Department to develop a new concept to provide broadly based wildlife-associated recreational opportunities on selected Commission properties. This presentation serves to update the progress made, as well as future plans.

Commissioner Sims: What about the Marquez?

Luke Shelby: This is a draft and we may have inadvertently left that off.

Commissioner Riley: At some point in time as you start establishing various uses, are you going to put together a nice publication that will be available to the public that will outline all of these?

Luke Shelby: That is correct and the heart of that publication will be what you see in that document. That particular format is used by State Parks/Tourism Department/Forest Service as to what facilities are there, what you can do there, and that's basically the same thing that we are going to be providing.

Commissioner Riley: It seems to me it would be nice to have something that would show off the areas that we have and hopefully won't be just a piece of paper.

Luke Shelby: A black and white piece of paper is not the intent.

Commission Salmon: There is considerable confusion among the public as to what they can or cannot do on some of these game management units. I know that in my area many people avoid fishing or hunting because the implication is that it's off limits and they don't realize you can go there. I would say proceed and it's a good idea to codify this information.

Luke Shelby: The concerns you have addressed are exactly what we're trying to address with this effort.

Chairman Montoya: The other important component of this is that we've been chastised for not notifying the general public in a timely manner about closures. I've got a document that went to the media and every elected official in the state indicating that we are irresponsible in that we don't publicize with advance notice of closures. Although we think that we provide sufficient notice and that it's understood that some of these wildlife management areas are specific to certain activities during certain times of the year, I agree with Commissioners Riley and Salmon that some kind of publication that would be widely disseminated. When we as Commissioners get contacted we could simply refer to that and tell them that this is a publication available on the website. Director Thompson, would you address the clarification of a 10-page letter after we attended a meeting.

Director Thompson: I'll stress that there are 2 parts to the outrage--1 is that there is a need for a publication and also we anticipate that the areas-specific information would then be provided more effectively in each of the areas and those 2 processes working in tandem would put us in a much better place. With respect to the letter that you refer to, there have been some interests in northern New Mexico where we have several large management areas and while regrettable, this individual missed our meeting last year and takes some exception to what we've done. I think he has merely pointed out the merits of our taking the approach that Mr. Shelby has just described and within a matter of months we anticipate having more outreach in that area, allaying those concerns, making more sense out of things. In a matter of a few months after that fully informing the entire local citizenry what is appropriate, what is not, the times and so on, so that's where we are at this stage of things. I regret that letter was sent but we missed that gentleman in helping understand the steps that were underway.

Chairman Montoya: I think publications and outreach by each area is important in terms of notifying the public in advance because some of these areas have specific uses that everyone needs to know what those are and the history of each of those properties.

Commissioner Arvas: One point I'd like to make is that 1 size does not fit all and because it's a game management area doesn't necessarily mean we're going to do everything in that area that we do in other areas. Somehow that slips through the cracks as far as the public not understanding.

Chairman Montoya: This information is not only good for the general public but for our own officers out in the field. Most of the communications we receive make reference to the fact that they get conflicting information from officers completely different than what we gather here vs. what officers are saying out in the field.

Discussion item only.

AGENDA ITEM NO. 24: Presentation of Department Information Regarding Harvest Success and Competition for Drawing Special Entry Hunts.

Presented by Patrick Block and R.J. Kirkpatrick – The Department provided the Commission with information about the harvest and drawing statistics available to the public. The Department, via its website, provides information about applications for and results of special hunt drawings. In addition, the Department publishes harvest survey information each season for deer, elk, and furbearers. The Department sought Commission input and direction on the content, timing, and manner in which this information and draw opportunities are made available to the public. Additionally, the Department sought Commission input and direction on the content, timing, and manner in which the information and draw opportunities are made available to the public.

Commissioner Riley: The 1 thing I noticed is that you have previous years' information available on the website also and that's useful but obviously it's hard to tell because either the hunt codes change and then all of a sudden you run into the problem of trying to compare hunt codes and they didn't exist the previous year, is there any solution for that?

Patrick Block: What this 1 does not have is the hunt areas on it and 1 of the things we wanted to do with the presentation was to get feedback from the Commission and public as to how we can make this information more useful. If you think that would help I think we'd be able to add the description of the hunt area and I think that will go at least some of the way towards addressing that concern.

Commissioner Riley: With respect to looking for multiple years so you can avoid the idea that there isn't swinging back and forth because we've been rushing after a spot that looks good from previous years. That would be helpful—looking at multiple years.

Patrick Block: What I also try to balance is the amount of information you can fit on a legal sized piece of paper and still read it without a magnifying glass but I think we can add that. It's been there in previous years. We also do provide a couple of other things that are on the page. One is an explanation of how the draw works—it's just a narrative explanation and also in the last year or 2, the Public Information and Outreach Division has published an article that tells people how to use this report and so we want to not only present the information but hopefully make it more useful through the associated pieces of information.

R.J. Kirkpatrick: This the first set of harvest information that we've been able to provide to our public as a result of mandatory harvest reporting that the Commission approved a couple of years ago. To address some of the concerns that Commissioner Riley expressed, what the weapon type was, the hunt dates because as you have noted, hunt codes flip around, but weapon types typically stay consistent and hunt dates may change. We hope this is informative for people to make a decision. We'd be in a position this year to post harvest information from the prior year in front of application deadlines for those species but it would only be a proportion of total numbers of hunters reporting. It wouldn't be the total number that we're going to get for that year. If the Commission feels that would be advantageous we can adjust those harvest reports. We also tie harvest reports with the elk rule in that we had a population estimate and what we propose was sustainable harvest given the management objective of that elk herd or region and what that sustainable harvest range was and that can be compared to what did we actually kill so they can see if we're actually tracking with what we proposed and decided to do in rule.

Chairman Montoya: Why do you have such a big spread on bulls from 497 to 745—that's a big spread isn't it?

R.J. Kirkpatrick: Yes, because our population estimate has a wide range on it and so we're comfortable given the management objective. Given those assumptions, we can comfortably kill anywhere from 500-750 bulls. The mandatory harvest report program has been extremely successful both from informational, hunter information, and a cost savings point of view. We saved license buyers dollars significantly in moving to this system.

Commissioner Riley: I'm uncomfortable with the fact that you have to jump back and forth between 2 different areas on the website—the harvest and the draw. Is it possible to have all the information by species on the same site?

Oscar Simpson: Look at the overall state, understand what game we're playing and then tie it into the harvest and hunting capabilities.

R.J. Kirkpatrick: The Department's Strategic Plan has a component in it under which we are still working. We're getting close to developing a document that is everything you always wanted to know about elk in New Mexico. Not only would it have what Oscar is asking for, could incorporate harvest information but also 2-3 most troublesome issues with elk in that part of New Mexico, so we're working to develop that. During the big game regulation development 2 springs ago we developed a matrix by herd and game management unit that talked about the things you're mentioning and we did get a lot of positive comments. We will try to improve that and incorporate it into the website.

Discussion item only.

AGENDA ITEM NO. 25: General Public Comments (Comments Limited to 3 Minutes).

Public Comments:

Charlie O'Leary: I work with the Trust for Public Lands. Regarding the Rio Abajo project, our organization is a national non-profit that has about 40 offices around the country. Our mission is to work with landowners and public agencies to bring private land into public ownership and provide opportunities for the public for hiking/hunting/habitat for wildlife. We work on a number of issues from small pocket parks in large cities like Los Angeles and New York to large tracts of land, thousands of acres of wilderness. We've been working in New Mexico for about 20 years and have been involved most recently with Taos Valley Overlook which is about 1,500 acres that we've brought into public ownership working with BLM, worked on the Ute Mountain Project further north from Taos, the Rio Abajo Project south of Belen which is going to provide opportunities for local residents to learn about hunting. We're proposing that there be some youth hunting opportunities and youth safety opportunities, all the way south to the Mesilla Valley Bosque Farms, so we've been very active in New Mexico and I hope that we have an opportunity to work with the Department of Game and Fish on the Rio Abajo project.

Marcel Reynolds: I'm with the Valencia County Soil and Water Conservation District. I'd like to relate a few of our activities that go along with the Rio Abajo and how our experience can enhance and develop to the public. We've gone in and cleared the salt cedar/brush on several hundred acres along the Rio Grande Bosque. After that, we typically go in and do plantings to restore the habitat. We also work with the Bosque School. They have the system which is the ecological monitoring of the Bosque, they have sites set up where we clear to measure what has been accomplished over long periods of time. In addition to those kinds of things, I fortunately was able to secure a piece of property—100 acres north of the land that look like it could have some potential as a wildlife area. It was Dale Jones who was on our board that had the vision this could be restored as a wetland. Since the start 6 years ago, we worked with John Taylor who worked with Ducks Unlimited and agencies like that to develop concepts of what this area could look like to partner with Natural Resource Conservation Service to do the earth work to get this back as it was originally. In addition, we've been able to secure ¾ of a million for visitors and education centers. Keep in mind that this site is 3 miles north of the Rio Abajo area so 1 would complement the other and have the facilities to support the education and provide an area for visitors to hike/view wildlife all the things you want to revive for the schools and for the public.

Currently beyond the contracts that the Natural Resource Conservation Service will be working on in the next few weeks we have the Bosque restoration and habitat restoration in riparian areas.

Oscar Simpson: To expand on the Rio Abajo, there are other sportsmen's organizations involved. The key thing that was presented at the last Commission meeting are hunting/angling are declining, and the Department needs to take a bigger role in getting conservation and recreation areas closer to rural communities and high population centers. This is why it's so important to get hold of the Rio Abajo because it's a large population area and can be tied in with the Wildlife Education Center. There can be a field archery site there. It's a great place for warm water angling, duck hunting on the river for youth hunts, quail, turkey, and dove hunting for youth hunt. It's also a great opportunity to get the other soil and water conservation districts to look at what Valencia County is doing. This is a model and shows how to get people down to nature.

AGENDA ITEM NO. 26: Closed Executive Session.

MOTION: **Commissioner Riley** moved to enter into Closed Executive Session pursuant to Section 10-15-1, NMSA, 1978, of the Open Meetings Act in order to discuss litigation, personnel matters, and acquisition or disposal of real property or water rights, and to discuss matters related to the determination of sending "Notice of 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, 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. **Commissioner Arvas** seconded the motion.

Roll Call Vote:

Chairman Montoya – yes

Commissioner Arvas – yes

Commissioner Buffett – yes

Commissioner McClintic – yes

Commissioner Riley – yes

Commissioner Salmon – yes

Commissioner Sims - yes

Motion carried unanimously.

Chairman Montoya entered into Open Session and stated that the record reflect that no action was taken during the Closed Executive Session, but several items were discussed by Legal Counsel and the Director.

AGENDA ITEM NO. 27: Land Conservation Appropriation Update and Action as Needed.

Presented by Jim Karp – The Department presented an update of the status of projects proposed for funding under the Land Conservation Appropriation, with specific focus on the Silva and Rio Abajo Projects. All projects executed to date and under consideration provide habitat for a variety of game and non-game species that inhabit priority vegetation communities in New Mexico. Focus has been on species and communities identified in the Comprehensive Wildlife Conservation Strategy for New Mexico. Since July, 2005, there have been more than 40 public nominations evaluated. This topic has been reviewed with the Commission at every Commission meeting during the past year, where public comment opportunities were offered.

Chairman Montoya: The Rio Abajo project was discussed and you're aware that this item was postponed at our August meeting and after the discussion in Executive Session I'll entertain any Commissioner making a motion.

MOTION: **Commissioner Buffett** moved to expend up to \$810,000 from the Land Conservation appropriation to acquire approximately 184 acres located in Valencia County known as the Rio Abajo conservation area for not more than the property's appraised value subject to approval by the Department and counsel to the Commission of all due diligence and conditions set forth in a form of Contract of Sale to be signed by the Chairman. The Chairman is authorized to execute all documents necessary to effect the purchase including the Contract for Sale presented today to the Commission for consideration which provides for closing after Valencia County establishes access to the property as a public county road. The closing target date is March 31, 2008, closing must occur no later than June 30, 2008. **Commissioner Riley** seconded the motion.

Charlie O'Leary: I look forward to being partners on what I think is going to be a great project.

Oscar Simpson: I hope you got a copy of the letter from the sportsmen asking for your support in this matter.

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

AGENDA ITEM NO. 28: Status of Access and Survey of Game Commission Road in Colfax County.

Presented by Luke Shelby – The Commission provided a briefing regarding current status of efforts to reconcile access to what is known as State Road 199 in the vicinity of White Peak in Colfax County, a road owned by the State Game Commission. The briefing described questions surrounding the road, illustrated geographic context, and reported on efforts to provide recently determined specific route of the road, so that distinct and refined survey of the road route can be provided.

Commissioner Arvas: So what's our next step?

Luke Shelby: We have to have a meeting with our Director, but the overall picture is to get the road surveyed with the firm legal description. Would you agree, Director?

Director Thompson: Yes.

Ed Olona: On behalf of the Sportsmen of the State of New Mexico, we appreciate the support you have given us.

Oscar Simpson: I've assessed some of the access issues and we support this step to finalize and hope to start resolving the issue of access to open this road up permanently.

Chairman Montoya: On behalf of the Commission, I'm aware of the Commission's interest in ensuring this access and in your dealings with State Land Office and any other entities. I believe that I speak for all the Commissioners as it is their wish to keep this on the front burner. Don't let it take too long so that next hunting season we're not in a position where we're having to scramble. I think that private land easement saved the day for sportsmen this year. We don't want that private land access or easement as a permanent solution. We'd like to have as a permanent solution the road that goes into the property. We have a request for improvements to our property in Chama to the Rabbit's Peak area/Lance Broadcasting.

Jim Karp: Approximately 1 ¼ acres on Rabbit's Peak are currently encumbered by a number of multiple communication towers, several of which were there before the Commission acquired the property. Radio Station KZRM, which is Lance Broadcasting, has requested a lease at the site, it's presently located with a 30-foot tower. They want to dismantle that tower and put up a 110-foot tower in order to increase its coverage in the Chama Valley and elsewhere. While the lease has been substantially negotiated it isn't complete and won't be complete until there's been a new appraisal of that 1 ¼-acre site and the value of that site established. One of the conditions of the lease will be for Lance Broadcasting to fund the purchase of the U.S. Fish and Wildlife Service's interest in the property. That will free the property from federal involvement and also allow the Commission to benefit from all of the income generated from the towers rather than merely 25%, the balance going to the U.S. Fish and Wildlife Service as they have a 75% interest in the property. The new appraisal is in process but it won't be completed in time for Lance Broadcasting to begin construction by pouring the slab on which the tower will sit prior to the time it becomes impossible to get it in the ground because of the weather. As a result, they've requested permission to pour the foundation as soon as possible so as not to lose the period from now until next spring. The interim use agreement, a copy of which you have in your binders, provides for construction of that foundation prior to an executed lease that construction being solely at the risk of the Lance Broadcasting in the event either the appraisal is not approved or the transaction does not go through.

MOTION: Commissioner Sims moved to authorize the Chairman to execute on behalf of the Commission an Interim Property Use Agreement in the form submitted to the Commission, the execution of such Agreement to not serve as a commitment or a representation that the Commission will later agree to the terms of a lease to Lance Broadcasting of tower construction rights on Rabbit Peak. **Commissioner Salmon** seconded the motion.

Commissioner McClintic: I just want to make sure you have the proper liability and workmen's compensation insurance when they go up there to work, and that they do sign that if the lease doesn't go through that everybody is covered.

Jim Karp: Yes, that's correct.

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

AGENDA ITEM NO. 29: Adjourn.

MOTION: Commissioner Riley moved to adjourn. **Commissioner McClintic** seconded the motion.

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

Meeting adjourned at 5:48 p.m.

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

December 12, 2007
Date

s/Alfredo Montoya
Alfredo Montoya, Chairman
New Mexico State Game Commission

December 12, 2007
Date