

MINUTES
NEW MEXICO STATE GAME COMMISSION
University of New Mexico – Gallup Campus
Calvin Hall Auditorium – Rm. 248
200 College Rd.
Gallup, NM 87301
June 3, 2010
9:00 a.m. – 5:00 p.m.

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AGENDA ITEM NO. 1: Meeting Called to Order.
Meeting called to Order at 9:00 a.m.

AGENDA ITEM NO. 2: Roll Call.

Chairman McClintic – present
Vice Chairwoman Buffett – absent
Commissioner Arvas – present
Commissioner Fonay – absent
Commissioner Salazar – absent
Commissioner Salmon – present
Commissioner Salopek – present
QUORUM: present

[Commissioner Fonay arrived at 9:50 a.m.]

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the June 3, 2010 State Game Commission Meeting.
Commissioner Salopek seconded the motion.

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

AGENDA ITEM NO. 4: Introduction of Guests.

Introductions were made by approximately 50 members of the audience.

AGENDA ITEM NO. 5: Approval of Minutes (April 8, 2010 – Albuquerque, NM).

MOTION: Commissioner Arvas moved to approve the Minutes of the April 8, 2010 State Game Commission Meeting in Albuquerque as presented. Commissioner Salmon seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: Updates and Miscellaneous.

AGENDA ITEM NO. 7: Revocations.

Presented by Dan Brooks – The Department presented a list of eight individuals that the Commission considered for revocation and met established revocation criteria. The hearing officer's recommendations for assessment of points against registered outfitters were included. Two individuals requested a hearing, had a hearing, and then took exception to the Hearing Officer's findings. The Department made a mistake and placed him under the all revocation--hunting category--so the Department corrected that and requested temporary reinstatement for Michael Gonzalez. Through clerical error he was revoked. He's got a hearing and that information will be forthcoming by the July Commission meeting. **[Action Item]**

MOTION: Commissioner Arvas moved to adopt the Department's and/or the Hearing Officer's recommendations on revocation for the attached list of eight individuals for the time specified, amend the revocation for William Ortiz and reinstate Michael Gonzalez pending future Commission action. Commissioner Salopek seconded the motion.

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

AGENDA ITEM NO. 8: 3rd Quarter FY10 Depredation Report.

Presented by Tim Frybarger – The Department presented the number of depredation complaints filed and resolved in accordance with 19.30.2 .11, NMAC for the 3rd Quarter of Fiscal Year 2010 and for complaints that had reached one year. There were a total of 88 complaints, 57 have been resolved, 31 are in progress. **[Action Item]**

MOTION: Commissioner Salopek moved to accept the Fiscal Year 2010 3rd Quarter Depredation Report as submitted by the Department. Commissioner Arvas seconded the motion.

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

AGENDA ITEM NO. 9: Adoption of Amendments to the Following Rules (Group A) – Turkey (19.31.16, NMAC), Upland Game (19.31.5, NMAC), and Adoption of a New Rule – Javelina (19.31.21, NMAC).

Presented by Jim Lane – The Department provided the Commission with final recommendations for amendments to the Turkey Rule, 19.31.16, NMAC, and the Upland Game Rule, 19.31.5, NMAC. The Department also presented for adoption the final recommendation for a new rule titled, Javelina, 19.31.21, NMAC.

Commissioner Salopek: We've been looking at stopping turkey the 24th instead of the 30th in the southwest area. There are people that want it Nov. 1-30 but they're also thinking during deer season there might be ramifications if deer hunters start buying turkey tags. Their thinking was maybe October 15-30. What they all want is move out of September so the birds have a better chance of getting bigger because in September the pullets are still too small. They'd have their own times in the mountains between the elk hunt and the start of the deer hunts in the southwest, but they'd like Nov. 1-30. I also got an e-mail from northern NM that said that there's usually snow and they can't hunt birds in November.

Jim Lane: We have public comment in full support of the proposals for turkey with the exception of two folks. I have heard concerns about snow in the north. In early November I'd hope folks will be able to find and get on the birds. It gives them expanded hunter opportunity and I think the flocks can sustain that harvest.

Chairman McClintic: E-mails/phone calls I received were die-hard bow hunters that didn't want anybody when it was the last week of their bow hunt. At the same time, I talked to bow hunters that said they'd like the opportunity in the last week of their elk hunt to also hunt turkey.

Jim Lane: There are about 1,000 fall licenses sold each year so that's an insignificant number of licenses and a significant increase in opportunity. What we hope that will result in would be increased license sales and let folks enjoy the resource.

Chairman McClintic: Have you noticed an increase of the resource during the 3-4 years?

Jim Lane: Yes, sir, in many areas.

Commissioner Salopek: If we're going to mandatory harvest reports, and I realize turkey is over the counter, would it be advisable for us to have that so we can see what's happening with turkey populations knowing that some people that buy over

the counter will not be reporting and they get to hunt but we don't get 100% like elk/deer. I think it'd be huge to know what's happening with numbers year by year.

Jim Lane: We've had a request from the State Chapter of the National Wild Turkey Federation for the Department to go to mandatory harvest reporting for wild turkey. The Department in theory supports that request. It's tough to do when you've got over-the-counter license sales as we do now, but it's something the Department is interested in. That's data we can use with this increase in opportunity we're proposing. One critical component is for the Department to check harvest and see how it's impacting populations. We're also looking at expanding what we're doing with turkey program to get a better handle on how the flocks are doing with bird surveys/other techniques. Mandatory harvest reporting is something we'd be interested in. It's a matter of timing and how the Department could implement.

Commissioner Salmon: Are birds perhaps too young for the September 1-30 archery hunt?

Jim Lane: I do not have any great concerns over birds being too young for harvest at that time. Younger than a year birds makes a smaller target for archers/very good eating. They're not breeding yet and it's something I don't have a biological concern about in September.

Commissioner Salopek: Bow hunters aren't going to kill many turkeys, but if we're looking at creating more opportunities for the public hunter, this is a step in the right direction. Moving it to November was a big deal because everyone wanted bigger turkeys and it's around Thanksgiving.

Chairman McClintic: We're voting on adopting this four-year rule with the understanding that we're going to be monitoring our resource closely. If we see something that isn't going the right way for sportsmen/resource, we have the power to bring it up again. I don't want people to think that because we're going to adopt this that you're stuck for four years.

Public Comment:

Joel Gay: I'm with NM Wildlife Federation. We support the half hour after sunset provision.

Harold Tidenberg: I object to the extension of the fall turkey.

Robert Espinosa: I support everything on turkeys. I'm asking the Commission/Department to look into alternatives to open it up other than unlimited.

Jim Lane: Those species are not native to that area. NM is unique and this is where Merriam wild turkey evolved. We have small flocks of Rio Grande's in parts of NM because they do well along those waterways. Folks who don't necessarily have turkeys can buy Rio's legally/illegally at these stores now, and then release those birds into the landscape. It's not something we promote, it's something that has long-term potential to harm the genetics of the turkey resource in NM. Given that concern from the Department, we decided it'd be a wise idea to try and control that population because we have Merriam's in close proximity and we'd like to see those populations stay distinct and not mess up the genetics of that subspecies.

Brian Gleadle: The past 1-2 years we've been getting depredation complaints in cultivated fields that the birds have not been hunted since we started hunting birds in Unit 2 because when we started the draw, most folks focus on the Merriam birds in the forest so they don't hunt in the valley. I'm interested in having sport harvest managing that population as opposed to ongoing depredation complaints and systematically handling one complaint after another. Sportsmen control and some of the landowners we've been talking to like the opportunity to allow people to go in to help control those birds on their property. Waterfowl hunting along the valley is still unlimited so the sportsmen in the communities of Farmington/Bloomfield have a good understanding/knowledge of private land ownership.

Robert Espinoza: I'm aware about that. Some landowners that have a lot of turkey are for it, but the neighbor approached them and asked if their hunters were going to come on to their properties. Most people along the river don't allow waterfowl.

Brian Gleadle: A lot of landowners in that area are not going to allow turkey hunting on their properties. With the recent law changes where you have to have written permission from the landowner or you're in violation, there are a lot of laws already. Landowners aren't going to allow waterfowl hunting, but there are landowners who will and I think we need to start managing turkeys in those areas or we're going to get into a situation where we have too many birds, more depredation complaints, and the genetics getting messed up.

Commissioner Fonay arrived at 9:50 a.m.

Commissioner Arvas: Would you give us an update on Lesser prairie chicken in terms of why we're not hunting them?

Tim Frybarger: Two years ago we tried to have that first hunt and with various interests going against us it got shut down. Unfortunately, now the population is about half of what it was at that time.

Commissioner Arvas: Why?

Tim Frybarger: Bad hail storms mostly killed our birds and we estimate there are probably 4,000-5,000 now. There were about 10,000 when we wanted to hunt them. We haven't pushed it since then.

Director Stevenson: On that issue I want both the Commission/public to understand we're doing everything we can. We're looking at doing habitat improvements. BLM has been doing a significant amount of work in that country as well. It is unfortunate that that population has dropped this year and we're hoping that because of the amount of winter/spring moisture that we had in that area this year that we're going to be able to increase that population and we're definitely going to continue to try to pursue opening that season. This year we did not bring that for this spring but it is one of those things I anticipate that if

that population increases some that hopefully in the next year we'll come before you to look at a potential hunt on that population because that's clearly the goal of the agency. I want everybody to understand that's our intent. We're looking at expanding the shooting hours and that's potentially going to increase the number of animals we're harvesting. That's a potential we see with that expansion of the shooting hours. It's one of the things we will continue to evaluate as far as impacting populations or does that mean we need to modify the number of permits in the future. I wanted to reiterate that's a potential. It's one of the reasons people want to have that additional hour shooting period. We believe that's sustainable and done across many other states as an accepted practice but it does have potential consequences that we as an agency are going to continue to be evaluating. We will come back before the Commission if we do see negative impacts.

Chairman McClintic: I've struggled with the half hour before/after and there's no question people want it because it gives them a better opportunity to harvest an animal. The last thing we want to do is increase harvest to where we're knocking opportunity down for our sportsmen. I want to reiterate Director Stevenson's position that it's something that we haven't done and if we adopt it we're going to look at it because everyone is in favor of it.

Commissioner Salopek: The grouse season is moving forward in this proposal also?

Chairman McClintic: Yes.

Commissioner Salmon: The AZ gray squirrel is a native squirrel to the southwest part of the state, and the fox/eastern gray are interlopers? The population of all three is increasing?

Jim Lane: That's correct. The eastern gray/fox squirrels were introduced into urban areas. They've become a problem for some. The AZ gray squirrel has a substantial population in the southwestern portion of our state. They're hunted in AZ and it's an increase in opportunity that we can afford to sportsmen.

Commissioner Fonay: Are we were going to request harvest data like we do with big game?

Jim Lane: That's a request from the NM Chapter of the National Wild Turkey Federation. Anytime we can get good/more complete harvest data, it allows us to make better decisions on the tail end of each season for the following season, so it's something we're interested in. We're going to have to look at the mandatory harvest reporting rule which is not open currently, and it will take some contracting work to implement the current harvest reporting system so we plan on looking/addressing that.

Commissioner Fonay: I'd add that feedback from hunters has been very positive.

Director Stevenson: The problem with going to mandatory harvest is the ability to enforce mandatory harvest. We don't have a mechanism to get to those vendors effectively to prevent them from selling a subsequent license to that individual. We could do it with our limited draw permits and implement it that way but the majority of turkey hunters buy those across a counter. We're looking at mechanisms with point of sales licenses as with furbearers from a turkey standpoint, but we do see the value and urge voluntary compliance. That's the reason the Commission chose to go with mandatory harvest, but understanding that there are some significant issues about enforcement on the ground by somebody who has not complied.

Chairman McClintic: When somebody walks up to a counter to buy an over-the-counter turkey license, the vendors are not in a position to check and see whether they've filled out their mandatory harvest report. We also have draw in turkey areas.

Commissioner Salopek: What about those that buy on the internet? Could they report mandatory harvest?

Jim Lane: As with trappers/furbearer hunters, that's how we made those license sales exclusive to area offices or over the internet and that way we can track who bought those. That would be a step back for turkey license sales.

Commissioner Arvas: I talked to R.J. about the quail projects in the making. Could you go over those for the record/public so the public is aware that we're doing something for upland game?

Jim Lane: We're looking at several partners in the eastern part of the state to implement demonstration projects/habitat work/subsequent measures of success on how that habitat work ends up. We're looking at working with the National Wild Turkey Federation/federal partners to see if we can come up with demonstration areas on how to manage better for quail.

Commissioner Arvas: Have we had any problems/incidents at illegal crossings with javelina/quail hunting on the border?

Luis Rios: Not that I'm aware of. We have had some encounters over the years and to that extent, officers have contacted Border Patrol, but actually problems we have not had any.

Commissioner Arvas: So you don't feel a need to issue a public news item or anything along these lines?

Luis Rios: Not that I would initiate from a hunter's standpoint.

Director Stevenson: Would you anticipate that hunters may have more checks by Border Patrol or other officials if they are hunting in that area?

Luis Rios: Absolutely. Border Patrol is very active in all that border area and their presence is heavier now.

Commissioner Arvas: Where does that line of activity start at?

Luis Rios: It's all across the Boot Heel except for those extreme mountainous areas--Rodeo/Animas/south of Lordsburg.

Commissioner Arvas: Have our people found anything in terms of any problems in the field?

Luis Rios: No, we have not encountered any actual problems. We have on occasion detected some stashed drugs and again we've contacted Border Patrol, but no problems. **[Action Item]**

MOTION: Commissioner Salmon moved to adopt amendments to the Turkey Rule (19.31.16, NMAC), and the Upland Game Rule (19.31.5, NMAC), and adoption of the Javelina Rule (19.31.21, NMAC) as presented by the Department. **Commissioner Salopek** seconded the motion.

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

AGENDA ITEM NO. 10: Update on Group B Rules Elk (19.31.14, NMAC), Barbary Sheep, Oryx and Persian Ibex (19.31.12, NMAC), Bighorn Sheep (19.31.17, NMAC), Migratory Game Bird (19.31.6, NMAC), and Open Gate (19.34.7, NMAC).

Presented by Jim Lane – The Department presented a summary of proposed changes and public comment received to date for the following rules – Elk (19.31.14, NMAC), Barbary Sheep, Oryx and Persian Ibex (19.31.12, NMAC), Bighorn Sheep (19.31.17, NMAC), Migratory Game Bird (19.31.6, NMAC), and Open Gate (19.34.7, NMAC).

Commissioner Fonay: On GMU 34, when will that youth hunt be?

Tim Frybarger: It's still at about the same time—that first hunt.

Commissioner Fonay: The one that's changing is the mobility impaired, is that accurate?

Jim Lane: That's correct, the first week of October.

Commissioner Salopek: I like what you did with elk. Some areas have one hunt, some two, some have three--one and three hunt areas are easy—some of the two get confusing. I'd think it'd be confusing for a conservation officer. Two hunt areas run the 1st through the 10th; 13th to the 22nd—I'd like all bow hunts to go to the 24th whether it's one/two/three hunt, and make the two hunt the 1st through 14th, and 15th through 24th so it's simple. We'd know when we start/stop.

Jim Lane: That's something we've heard and folks have expressed an interest. A few folks said they'd like an expanded bow season. Archers are adamant that they'd like an expansion. That's something the Department has heard and it'd be the Commission's prerogative to make that adjustment.

Commissioner Salopek: Under mandatory harvest, is there any way to make it mandatory to report within a week when your hunt is done so the Department gets the information sooner than February. My thinking is you have a week to turn it in, after that it's an \$8 fine up to the draw instead of waiting until February 1 so the Department can be on top of it earlier. If we have to make a change on any species it'd be nice to know it in October/November instead of January/February before we go to draw.

Jim Lane: The Director and I have talked about that. We're going to be re-evaluating mandatory harvest reporting. Our contract is running out next year and we feel we're poised to effect some changes if necessary. More timely reporting has been discussed because the timeliness of that data would enable us to analyze those earlier.

Commissioner Fonay: Where we've had that cow hunt available through internet where you thought sustainable, you've added that in the draw, correct? Looking at Unit 34 where we've had three antlerless hunts you talked about potential for the fifth option where you could mark where an individual didn't draw and he/she would know it's antlerless hunt that might come up? In the past, GMU 34, has been one where there's been a number of those. Do you perceive that happening again?

Jim Lane: Yes, sir. I'd anticipate with the herd growth/quality/private land issues we've seen in 34 we will continue to have depredation complaints and potential harvest objectives toward end of seasons to address specific problems, so it will be possible and probably likely.

Commissioner Fonay: When will that decision be made?

Jim Lane: That decision will be based on area input and based on the area chief working with individual landowners.

Commissioner Fonay: I got several calls on 34 that this might be too much, so you're saying this could be monitored? We do the three for sure and that fourth would be dependent on population so we'd hopefully address that concern?

Jim Lane: With the fifth option, that'd be similar. The same premise as our current population management hunt structures where we target a specific area of a unit, not unit wide, and specific boundaries placed on a hunting area to target problem animals/depredation complaint, but it would not be a unit wide hunt.

Commissioner Fonay: On open gate as I understand it, this would allow if somebody was providing open access to a stream and wanted to be catch-'n-release only vs. bag limit? This would allow the Department to set rules unique to that area, is that accurate?

Tim Frybarger: No, that's not accurate. Now you're changing bag limits and this is just for access.

Commissioner Fonay: What would happen if that scenario were to come up?

Tim Frybarger: He'd have to get the Commission to change regulation.

Commissioner Fonay: What if there's a stretch of stream on the Peñasco where the landowner was interested in open access but wanted catch-'n-release on Brown trout? Does this rule allow that?

Tim Frybarger: No.

Commissioner Fonay: If we wanted to allow that, what would we have to do?

Tim Frybarger: The Commission would have to change rule. That part of the Peñasco River has a bag limit change, or whatever catch-'n-release or whatever you want, and then we could enter into the access agreement as far as getting fishermen out to the river.

Commissioner Fonay: There's so little public access on that Peñasco. General statewide rules would apply, is that accurate?

Tim Frybarger: Right. The general rules apply everywhere unless the rules get changed.

Commissioner Fonay: So change through the fishing rules is how we'd have to address that?

Tim Frybarger: That's correct.

Chairman McClintic: We're not taking a vote/action on this today. We've gone out of our way this year to open this up to give everybody opportunities. We're trying to get as much input as we can.

Commissioner Salopek: On open gate, signs we're going to post, have we looked at cost?

Jim Lane: We've currently signed these areas. I don't have those figures, but we do know approximately what it would cost for each sign. They're going to be quality signs, not cheap and fall down. They're stapled to a post. They do come with some cost, but the enforcement capabilities will be worth it for the public to get access.

Commissioner Salopek: Unit wide ranches, is there any way we could come up with a system that says green ranch you can hunt unit wide, red maybe at the gate that says it's ranch only and you can't hunt that one. Is there any way to do that? I'm trying to simplify for the public hunter and make it easier on everybody.

Jim Lane: We can look into a system that might clarify that. That would come at a cost, but may be one that is worth it.

Chairman McClintic: The issue you get into is that you can make ranch only tags unit wide, but if you make a ranch only tag unit wide, then you're treading on public space. I don't think we can get that done.

Director Stevenson: The issue with physically going to put something on each one of those ranches where you'd potentially have hunters being able to observe is insurmountable. We're aware of the issue that folks have a hard time understanding/knowing which ranches they can go on to that are unit wide vs. those ranch only. To do it physically on the ground would be a significant chore that we'd have to explore and come before the Commission if that's something you'd like us to pursue.

Commissioner Arvas: GMU 4, you say reduce private land mature bull license to 900 from what? What about antlerless?

Tim Frybarger: It's a little over 1,100 now. For antlerless it's around 400, so it'd be increasing by 200 permits.

Commissioner Salmon: Do we plan to continue with cougar control for bighorn sheep, particularly Desert bighorn?

Jim Lane: Yes, sir, we do. That's a critical component to what's gotten those sheep to the population levels. We've seen a significant change in mortality, quite measurable and statistically significant.

Commissioner Arvas: Under oryx hunts, if we eliminate the small missile range and the Red Canyon hunts, that still leaves the Rhodes Canyon hunt, and are you going to increase the Rhodes Canyon hunt or the number of permits?

Pat Morrow: For clarification, we're not eliminating the Red Canyon hunt area, we're recombining it with the Rhodes Canyon area.

Commissioner Arvas: So you're still going there then, and are you cutting numbers?

Pat Morrow: The Red Canyon area is not going to be eliminated from hunting. It's traditionally been part of the Rhodes Canyon hunting. When we determined populations in the small missile range were so low that we couldn't support the hunters, we moved that to the Red Canyon area which we've had some history with, and then we reduced that out of the Rhodes Canyon hunt area. Successes were low so we decided to make it simple to get rid of the Red Canyon hunt and put that area back into the Rhodes Canyon hunt area so it expands.

Public Comment:

Garth Simms: I'm with the NM Council of Outfitters and we're comfortable with the proposals as they now stand.

Jess Rankin: I'd like to see increased hunting opportunity in Unit 12. I'd like to see Units 36, 37 and 15-A and B combined.

Chairman McClintic: What's the percentage public/private land in Unit 12?

Luis Rios: I don't have percentages in my head. I've been talking with Brian [Gleadle] and we agree that most public land is in the southwest part of Unit 12 while most private land is farther north.

Chairman McClintic: Is the population of elk with our surveys slanted towards private as opposed to public area?

Luis Rios: Unit 12 is one of these units we don't survey because it's outside the CORE.

Chairman McClintic: Mr. Rankin, now that you've voiced your concern as a matter of record, we'll certainly look into that.

Jess Rankin: I've counted all the blue/yellow squares on the BLM map and came up with approximately 630,000 acres of public land. I looked on the website for the Unit 12 landowners, and there are about 640,000 acres, almost the same number of acres.

Brad Latham: I own Latham Cattle Company and have three ranches, two in McKinley County and one in Cibola County. I was here a couple of years ago and voiced my concern about elk my problem and it's still there. I get tags but those tags are worthless. I don't want to mess with them because you can't market them and also because of the liability issue. I don't want to lose the ranch over some hunter getting shot/hurt on my ranch. I want my ranch left alone, I don't want elk on me, I just want things the way they were 50 years ago. We've been told to shoot the elk. We've shot them, but hunters have gotten mad and retaliate and shot our saddle horses/cattle. My neighbor lost \$40,000 worth of horses because of this. We're going to have to come up with some kind of plan. It's gotten so bad that a conservation officer and I went to fisticuffs over this, and it cost me a lot of money to get out of it. We're going to have to do something because I'm sick of fixing fences/feuding with my neighbors.

Chairman McClintic: R.J., are you familiar with this and were you our lead on this?

Brian Gleadle: I did receive a letter from Mr. Latham last week wherein he's requesting some attention to his fence. He does regularly have fence damage. It's a fairly old/tall fence. Previously the Department had provided several options/offers to resolve the issue. It evolved around providing 50/50 cost share to rebuild that fence, get it to where it was more structurally sound, and a height to control the cattle but allow the help to cross without knocking it over. We also discussed putting in elk crossing areas. If we're not going to re-do the entire fence, go into those segments where elk herds continually knock the fence down, modify that fence to lower the bar so elk can get across. Unfortunately, we haven't been able to agree to what it would take between the Department/Mr. Latham to get that resolved.

Chairman McClintic: Mr. Latham, I was on the Commission the last time you appeared at our Commission meeting here in Gallup. Was your proposal to us at that time that you wanted 10 bull tags in a different area?

Mr. Latham: It was so long ago, I don't remember.

Commissioner Arvas: It was.

Chairman McClintic: I don't understand how that would have helped with your elk problem. Give me a solution that's acceptable to the public of this state/you that we can live with to mitigate your circumstances.

Mr. Latham: The State of Colorado has a compensation program to reimburse landowners for what they lose in grass/water/labor. This state needs something like that. For the record, when they introduced the elk in Unit 10, they caused the same problem and that's why they killed them off. Unit 10 is 70%-80% deeded land. All the better water/feed is on that deeded land. Elk are not going to stay in that rough country where there's no water. Last summer was so dry we were infested with elk. We fixed fence every day. I put 10,000 miles on a four-wheeler fixing fence. That's ridiculous. Now my health is bad and I can't work like I used to so I have to hire a laborer. That's \$100-\$150 a day that comes out of my pocket and I've exhausted all my funds.

Chairman McClintic: I'll make sure that Brian/Department try and figure out a way we can get some satisfaction.

Mr. Latham: As far as the fencing, find somebody to fence. That 50-50 deal I'll tell you I'm not going to go for. They tried that. I had so many days to get that fence up. My health is bad and I can't find nobody to work.

Chairman McClintic: This has been an ongoing issue. I'll make sure that we sit down with you and get this resolved.

Mr. Latham: It causes confrontation with my neighbors. They get mad because my cattle are over there which they shouldn't be, but that fence is good enough to keep my cattle in. He says it's old, which it is, but it's good enough to keep my cattle in and keep the neighbor's cattle out. That's what it's designed to do. Where my cabin is we can't use that part of the ranch because the elk tear that fence down, the horses get out, and they're going to get hit and I'm going to get sued, so therefore, we never get to use my horse pasture.

Representative Ezell: It doesn't matter whether it's an old fence or not, that fence is doing it's job by keeping his cattle contained. I had the same problem at my ranch. My cattle stay in until the antelope literally tear it down whenever they run through it. There's a problem that's been going on for two years and that problem needs to be addressed. Director Stevenson, has the problem been resolved that we heard in our House Natural Resources Committee last summer/previous four summers, has that problem been resolved?

Director Stevenson: Not completely. The Department has worked with those individuals that were complaining about elk depredation/fencing issues in the 6-A/6-C area. We've resolved several of those complaints to the satisfaction of those landowners. Part of those small landowners that are still concerned about how they're dealt with as far as small contributing ranches in the landowner system we have not been able to get that completely resolved, but we have continued to work with those folks. We're moving forward with previous agreements as far as fencing issues are concerned and we've also looked at options within the elk formula. If those ranches are providing additional habitat for elk because of their actions on the ground we're making sure to look at the number of permits available as per our elk formula. Brian Gleadle/staff have been working significantly on that. R.J./Jim Lane/staff have been actively dealing with that since that issue came about.

Representative Ezell: Mr. Latham said this has been an ongoing problem for close to two years. We have an ongoing problem for over a year with the deer herds in the Hagerman area. We can go in there and fence all we want to it's up to the landowners to put this fence up. The Department may pay for the materials, but it's still up to us ranchers to put that fence up. What we're effectively doing is moving that problem off to somebody else and we're going to have deal with it. It's not solving the problem so when I get calls from some of my constituents on herds of deer that are moving on to their dairy operations and literally tearing up their ag bags, the threat of spreading disease to the dairy herds, shutting down their dairy herds, literally tearing down sinapivot sprinklers, how do we go about justifying that to the private landowner? When we're talking about depredation that's one thing. We have to get our herds managed because it's private landowners more often than not that feed/water the state's wildlife. We have to do something to insure a person's private property rights. Whenever we're talking about a depredation hunt people are concerned that if they participate are they then excluded from the regular hunt?

Tim Frybarger: Yes. If you're in the landowner system and you file a depredation complaint, you don't have a depredation hunt then you're out of the landowner system.

Representative Ezell: That is totally uncalled for. So we stand the chance of losing our entire crop if we chose not to participate in the depredation hunt. If we participate in a depredation hunt, am I hearing correctly, that we will not be able to have the

regular hunting season on our property? Director Stevenson, let's not just hold it to antelope in my area, let's do it with elk/deer/pronghorns.

Director Stevenson: It's different and we do those on a case-by-case basis. When we separated depredation from elk landowner system tags, which we did consciously with almost two years of public input around the state that included all ranchers that were in our landowner system, all were contacted directly around. What we had prior to that is when you mix depredation and management of elk on the ground is we got into a situation where we got complaints from landowners just to increase those tags available. In previous Commissions/Administrations we had gone to a system where a lot more tags were being put out on the ground and it was not adequately or any way based on the science of the number of animals that we had what we were trying to accomplish on management. I'd not urge this Commission to combine those together. We need to continue to deal with those. We'll continue to look at resolution through a depredation system both with the legislature and continually within the Department. It's difficult to look at all things equally on the ground, but to try to do that just through hunt management is inadequate as far as addressing those areas because you've got ice cream areas where you could kill every other animal and you're still going to have animals on those irrigated pieces of pasture especially in drought conditions or where green is and those animals are going to migrate to those areas. It's not simply a matter of managing those units to address those specific problem areas. We need to continue looking at that Roswell area and try to decrease that overall population. We're trapping/transplanting animals, doing depredation hunts to address what you've raised as an issue with antelope, but antelope is different when you're talking about antelope overall. If we come to you voluntarily and ask whether you're willing to have depredation hunters on your ranch we're not excluding you from the antelope season system. We're looking at that as a regional issue on antelope. That's not the case when we get an individual who wants to claim depredation on a portion of their ranch. We're doing that as portion so if we're saying yes on the irrigated portion of that ranch you want to claim depredation and we go do that we're actually excluding that if the landowner wants to, we're allowing them to continue to sign up the rest of their properties. That piece of country we're dealing with from a depredation standpoint, if they determine they want to go into that system, currently by Commission rule they are excluded from being able to participate in the regular landowner system.

Representative Ezell: I understand problems with hunters coming on to our ranches, but if they decide to deliberately cut fences to go into an area that's posted for no hunting and they get hurt, I stand the liability of being sued for my entire ranch. That's another problem we're going to have to work out in the legislature. The issues brought up earlier about the open gate access agreement being a private landowner if there are areas the rancher does not want hunted, they do have to be posted. We're talking about this open gate access agreement, am I understanding this correctly, are we going to have the rules available at the entrance?

Jim Lane: No, it'll be posted based on the rules that landowner puts on that agreement. Those rules will be posted at the entry of the open gate property. For instance, if you're allowing folks to come on and scout for antelope, your scouting season is one week before, not the week prior to that. Those rules will be posted and it will be the landowner agreement rules.

Representative Ezell: Whenever Director Stevenson is talking about depredation hunts, prior to you taking the reins we found out about a depredation hunt that was taking place in our area the day the hunters showed up. That sits damn poorly with us as landowners. Whenever you're talking about extending seasons on ibex/oryx/bighorn from two to three days, why aren't we taking into consideration the pronghorn hunt because that's a two-day hunt. I'm very encouraged by the common sense this Commission is using moving our hunts back so we don't have spoilage of meat. That's a major concern. I'll visit with you later about the unitization agreements.

Chairman McClintic: I want to defend the Department in a couple of areas that I think you're a little off base on—the first, you act like Mr. Latham's problems have gone on two and a half years and we haven't responded to them, but you've got to understand we can only offer/do so much. When a man tells us that isn't acceptable, stay off my land, I don't want you to do this, he just said again that he's not accepting our fence offer so we're trying to work outside the box to get something that will calm a lot of his concerns. The last time his offer to us was give me ten, \$10,000 bull tags in a different area of the state and we'll call it good. Well, if he has a depredation problem with elk running over his property, us giving him ten bull permits in another area I don't understand how that's going to help his overpopulation of elk. I rode fence for six years of my life so I understand fence probably as well as you understand it. What Brian was trying to get at is if the fence is old and dilapidated there may be areas where wildlife is not knocking the fence down, but they are so old that they have to be repaired and we don't believe it's the Department's responsibility. If we have wildlife damage to that fence, I have no problem trying to figure it out, but to take something that is so old that it's falling down and it's not a wildlife problem and act like it doesn't make a difference, I disagree with you. We work very hard to get these issues resolved.

Representative Ezell: I understand what you're saying, but I've also seen herds hit a new fence and lay it down. In my neck of the woods we also have wind that takes fences out. It did my fence, about a three-mile stretch, that I built less than two years ago. Whenever a private landowner continually has a problem wherever we have open spaces like that, there's no easy solution.

Commissioner Salopek: Whenever there's a depredation hunt and say we need 20 hunters, can they be where they kill an animal there, but they can also put in for the general hunting, or do they get that depredation they're done?

Tim Frybarger: By rule they can only kill one big game species.

Commissioner Salopek: Are there enough depredation hunters on the list to take care of the needs if we have depredation?

Tim Frybarger: Yes, although as mentioned with Option 5, we have run out of hunters on our list.

Commissioner Salopek: I'm talking any species not any in general.

Tim Frybarger: We have run out of hunters but we've gotten around that by going back to the people that didn't draw because we draw those in sequence, so we go back to the first hunter that didn't draw.

Representative Ezell: The problem we ran into when we found about this depredation hunt when the hunters showed up it was three weeks before our paid hunters came in. Do you think that I, while struggling to make it at ranching am going to allow a depredation hunt to take place three weeks before my paid hunters come in, no, it's not going to happen. We need to take care of the problem when the problem exists because there's a certain farmer who lives close to me that had his total hay crop destroyed. He never got a cutting but at that time the comment was we do not kill a doe whenever she's pregnant.

Rosemary Smith: I was told that I could have 7/10 of an elk permit. How do I get 7/10 of an elk? Then I was told if you don't get drawn because I'm ranch-only, I'm running calving ground for you people. I'm running any where from 300-400 head of elk in McGaffe, Unit 10. Then they proceed to tell me that they'll get me a tag in Unit 9, ranch-only. What's that all about?

Brian Gleadle: We fenced off part of the Smith property. The rest remained in E-PLUS so it's contingent upon the E-PLUS formula. When it got reduced and put into the E-PLUS formula it falls into the small contributing ranch and that's what kicks in the second portion of the E-PLUS rule. It wasn't offered by us. It was the E-PLUS rule that takes private land authorizations that are left over in other units of the state if they're available and say Mrs. Smith's property doesn't qualify for a permit that year in Unit 10, they're put into a pool to draw leftover licenses in Unit 9, so when original E-PLUS rule criteria was put into the place, the thinking was that at least it was offering the landowners something whereas in a normal year they wouldn't have qualified for anything. I'm seeing more landowners that are resentful because they're taking that as a strike.

Chairman McClintic: What we're looking for is an explanation of the typographical error on the 7/10 of an elk.

Brian Gleadle: I don't know where that came from other than when you run the E-PLUS rule and multiply the acres times the number of permits, it comes out to .07, so that's where the 7/10 come from or .7. Usually if it's .5 or above it gets rounded out to one because when you run formulas/mathematics and divide it you get fractions and that's where the fraction comes from.

Rosemary Smith: The liability of the lands has been covered. I run calving grounds. What's happening is those hunters are on both sides of the hill, it sounds like war, and they're shooting across at each other because elk are at the bottom. My land is posted. Someone is going to get shot. That's the reason it's closed. I don't want anybody in there. I don't want the liability. I've got brand new fences and they look worse than Mr. Latham's old ones. The calves go underneath, break the bottom wires. Elk don't go over the top, they break them so the calves can go through. I'm fighting a brand new fence and the forest bounds me. My cattle get out in the forest the Forest Services tells me they're going to impound my cattle. Forest Service has impounded my cattle. I can't be fixing fences every day when I've got other ranch work to do.

Domingo Ramirez: I'm from Roswell. I'd like to see Unit 37 made a combo hunt cow/mule deer.

Robert Espinoza: Executive Director with NM Sportsmen for Fish and Wildlife. We support everything proposed. One thing we're hearing in Units 34 and 36 is that the number of cow hunts going from 2-3 and the number of permits is going to hurt the herd so we request the Department to provide information as to why those are increasing, is it sustainable, what the objectives are so that I can relay that information to our members. If there is some latitude for adjusting those hunts we'd like to have them look at that.

Biz Ladner: I'm with NM Cattle Growers Association and we're in support of Option 4. **[Discussion item only]**

AGENDA ITEM NO. 11: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Chairman McClintic: I want to introduce Senator Muñoz and we're glad we could come to your area.

Bob Ricklefs: I'm from Philmont Scout Ranch. Philmont Ranch was part of the bear study in the '90's. We voluntarily closed part of the ranch for five years to hunting. When it was re-opened, the objective of the study was to tag/identify bears in that area; however, when we opened it to hunting for the next two years we didn't catch any tagged bears. There was a study conducted. I believe the hunt strategy especially in the northern portion of Zone 2 needs to decrease the population. It would be a good idea to divide Zone 2 into northern/southern. The northern portion is much private land, southern portion is different, and it's too large to manage correctly. You should consider a spring hunt and you should allow dogs on us in the private property portion. We don't chose to hunt bow in September. We should be able to hunt bear with dogs and other weapons.

Commissioner Arvas: How about lions? Do you have any problems with lions in your area? Do you actively hunt lions?

Bob Ricklefs: We've never had an attack but some seasons there are considerable lion sitings and lions following people. The numbers of lions have increased considerably. There's a quota but we would like to hunt more in December/January. Also, we kill 2-8 lions a year and I'd hope lion season would be more liberal.

Commissioner Arvas: The Department is going to address that problem in your area.

Bob Ricklefs: I'd hope lion season would be more liberal also.

AGENDA ITEM NO. 12: Adoption of an Amended Aquatic Invasive Species Rule (19.30.14, NMAC).

Presented by Bob Jenks – The Department presented for adoption the Aquatic Invasive Species rule (19.30.14, NMAC). The proposed changes provided conformity with the recently amended Aquatic Invasive Species Control Act (17-4-35, NMSA) and clarity regarding certain provisions.

Commissioner Salmon: Could you tell us what we're trying to do in the way of invasive species, the particular problems because the waters of the state are full of invasive species or non-native species of one kind or another?

Bob Jenks: There are a variety of non-native species in NM/North America some of which are of particular concern because of threats they pose to nation's NM's economy/ecology/livelihoods of people in the state. Specifically, the law/statute, the Aquatic Invasive Species Control Act, identifies two species of concern--quagga/zebra mussels. The statute also provides that the Director may identify in consultation with the Secretary of NMEMNR Department and the Secretary of Agriculture other species that may be considered aquatic invasive. The intent is to identify and then specifically prohibit the importation or potential introduction of those species that are of significant risk to the state's ecology/economy, and specifically at this point the only two that are identified are quagga/zebra mussels.

Commissioner Salmon: What you're saying is that if other particularly noxious species appear we can put them under review and act on them?

Bob Jenks: Yes, that's correct.

Commissioner Arvas: How much of that \$139M do we get? It says that nationally they're going to spend \$139M for control.

Bob Jenks: That's an estimate in terms of what all the states/federal governments/local municipalities are spending to do one of two things—either eradicate locations that are permanently infested or interdict the potential introduction of aquatic invasive species. That's really expenditures and not necessarily funding that's available. The funding available to the Department for the interdiction of aquatic invasive species which is where we are now is limited. Last year we received a grant from USFWS in the amount of approximately \$35,000 which we've used for a variety of associated tasks and will be seeking similar funds again this next fiscal year. **[Action Item]**

MOTION: Commissioner Salopek moved to adopt amendments to the Aquatic Invasive Species Rule (19.30.14, NMAC) as presented by the Department. **Commissioner Fonay** seconded the motion.

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

AGENDA ITEM NO. 13: Preliminary Budget Discussion.

Presented by Alexa Sandoval – The Department presented initial phases of developing the FY12 proposed budget to be acted upon by the Commission at the August 28th meeting. Although guidance from the Department of Finance and Administration is pending, the expectation, based on economic conditions and continued concerns about revenue into state coffers, is to continue with a flat or reduced budget. The Department sought general budget guidance from the Commission.

Chairman Clinic: You say we're going to be tight in our budget, but sportsmen in this state pay the majority. Are you talking about General Fund applications we'd be looking for because I don't see the revenue from our license sales going down. Explain that to me.

Alexa Sandoval: We don't receive General Fund funds at all. What we are working within is legislative/executive orders. I foresee the possibility of having to reduce our budget even though I understand that we are funded as a separate stream, it's still public funds that we work within, so we're going to have to work within guidelines for reductions in the future. Our current revenue stream is strictly from licensing dollars/federal assistance. If there's an executive order typically we are subject to that executive order to do budget reductions even though our funding stream is not General Fund, it's still considered to be public funds source so we're still held to the same standards as other executive agencies. This year we had an executive order to reduce our budget by 3.5%, we complied with that and did do a reduction. What in actuality happens is that we're just saving that money. It helps prolong the cash balance of the Game Protection Fund and our smaller funds.

Commissioner Arvas: Have we out lived the legislative concern about our cash balance. Is that still a problem?

Pat Block: No, not necessarily. One thing that's fairly unique with state wildlife agencies is that when the federal aid program started in the mid-twentieth century, Congress had the foresight to make those programs come with some strings attached, so you'll find that both state/federal law language that says that if you collect that money from hunting/fishing license sources, you can only use it to run the state wildlife agency. If you change your mind and do something different, you're no longer eligible to participate in those funding sources, which is about one-third of our budget. Next year on the wildlife side it will be \$9M, on the fisheries side about \$6M. We have seen efforts in the past to take a portion of that cash and move it off to other uses in other agencies, they have I think at least so far seen the wisdom in taking \$2M to do something with it for one year and losing \$15M every year in the future, but as times/finances become more dire, that tradeoff may not be as critical, so the short answer is no. It's important to make sure we're keeping conversation open/fostering an understanding so that as those kinds of moves are contemplated people at least understand the consequences.

Commissioner Arvas: So when we have a 3.5% budget reduction this last year, what we really did is took that money out of our budget since it was a flat budget to start with, and it was just put in savings so we haven't spent it then?

Chairman McClintic: Roughly \$1.3M?

Alexa Sandoval: That's correct. That goes to our cash balance and we save that for the future.

Pat Block: It let's us last longer on the current revenue stream.

Chairman McClintic: It's not a question that you perceive revenue from hunting/fishing licenses is going to be reduced enough that we have to reduce. Your biggest problem is the political aspect of whether we have to be in line with the rest of the state agencies even though we're not supported by them?

Alexa Sandoval: Yes, that's correct. We have not seen a large decrease in our license revenue even under the current economic conditions. We're required to be in compliance with the executive orders. Part of that development of the FY'12 budget recommendation is that we have a strategic plan and adhere to it. Our current one runs through 2014. That strategic plan was required by the Accountability in Government Act and within that we are broken down into four different programs with specific performance measures that we're required to meet each year. We will also be submitting our capital project proposal. Right now we're working off Severance Tax Bonds/Game Protection Fund and other funding sources/Bond Interest and Retirement Fund, but that is a definite/distinct request from our Operating Budget. We've been focusing on the rehabilitation of certain dams throughout the state as required by OSE. We've also been working on a warm water hatchery, and then also throughout the state where we've had issues on needing to improve/enhance our properties both buildings/other infra structure throughout the state. One thing we need to keep in mind is these funding sources from external funds, for instance the General Fund, are going to be limited. As we go forth and develop our capital plan we need to be cognizant of that and understand that we will probably be looking at developing those projects out of the Game Protection Fund which will have a large impact on our cash balance if we develop new/grandiose capital projects. We have one major fund which is the Game Protection Fund and seven smaller Special Revenue Funds that the Department manages. Our cash balances based on proposed projects and current annual operating expenditures are on the decrease. One anomaly is our Trail Safety Fund which is a new fund we took over this year and our revenues are double what our current Operating Budget is.

Commissioner Fonay: Explain to me the revenue source of Big Game Enhancement.

Pat Block: There are several different enhancement licenses created in statute. With Bighorn sheep, there are two licenses created—one by auction, one by raffle. The proceeds from those are re-directed into Bighorn sheep management, and it goes down the line from there--deer/turkey.

Commissioner Arvas: The way that you predict what you're going to spend January/February/March is you've got to have that money on hand? Is it hard to do?

Alexa Sandoval: It was not hard to do, it just took quite a bit of time. It took us a full week to go through and pull out those expenditures and have our revenues in the appropriate place. We have not received instructions from DFA for the FY'12 budget development process. We'll be back before the Commission in July to review what we have so far and where we're headed. We'll be coming to you individually with our proposed budget as we've done in years past, and then we'll be providing our final recommendation at the Saturday, August 28 Commission meeting in Albuquerque, because by statute our budget is due September 1.

Commissioner Arvas: I'd like consideration be given to reviewing the licensing fees. Having become the victim of applying in surrounding states, there's a lot of money out there that the individual leaves on the table that Departments profit from in other states. Look at some of our fee structures, even if we have to go to the legislature.

Commissioner Fonay: When you come back to the July meeting, you'll have a preliminary budget?

Alexa Sandoval: We're hoping we'll have all our instructions/comments in place in order to get a preliminary look at what we'll be proposing to you.

Pat Block: We'll also have a five-year thumbnail sketch of capital outlay projects based on what the executive guidance is to all agencies. We'll probably be able to give you general parameters of what the final is going to look like, but we won't have a preliminary document yet. That'll be in the middle of the time that the divisions are building their requests. [Discussion item only]

AGENDA ITEM NO. 14: Feral Hog Management and Management Authority.

Presented by Jim Lane and Leon Redman – The Department provided an overview of feral hog management concerns/issues within the state, and provided information to the Commission regarding ongoing attempts by USDA, Wildlife Services and other agencies to control and manage feral hogs. Representative Ezell was key in sponsoring HB 594 that passed March 3, 2009, and the provisions are that no person shall import feral hogs for hunting/transport feral hogs within the state/hold feral hogs for breeding/can't release/sell/operate a commercial feral hog hunting enterprise.

Commissioner Salmon: Could you summarize the hunting opportunities people might have when you have hogs on public land v. hogs on private land, what you can/can't do?

Jim Lane: They are not a protected species. Folks don't need a hunting license to kill these animals. There are a lot of questions in NM about who has authority allowing killing/hunting them. If they are not livestock, therefore feral, they are free game both on public/private land in NM, and no license is needed. Private landowners that want these animals there and may be selling hunts and have opportunity even if it's against the law. You've got some combating interest that if they're on their land they will/can argue that that is their private property, that they own those animals, and that they're their livestock. It's a quandary that our agency/Livestock Board are both in on how to try and manage this species.

Commissioner Salmon: If they're on public/BLM/Forest Service land it would be open season?

Jim Lane: Yes, sir.

Leon Redman: To add to that, there's still a trespass issue even though we do not cover them as protected species and you're talking about the hunting opportunities. Those people that do go on to private property still need to get permission to go on to private property.

Commissioner Salopek: If you had a chance to shoot ten and left them, would you get a ticket for wanton waste of meat?

Leon Redman: It's still not a protected species, so there would not be any wanton waste.

Representative Ezell: There's a problem I've discussed with Miles Culbertson and I haven't had a chance to visit with you, Director Stevenson. Evidently there is one property in the Boot Heel that does have a feral pig operation. Their concern is that one neighbor over is putting in a sub-irrigation system. I need to know the ruling if those pigs leave this one particular property and get over here. I told him a second landowner does have the right to shoot and that has been run by the attorneys also. So, if they are not confined I don't know how a person can say they own feral pigs. If they leave the property a person does have the right to kill them because they are not only destructive to agriculture, they have been known to tear out water systems that service towns/municipalities.

Commissioner Salmon: Isn't it also the case in NM that while cattle/goats/sheep have to be branded, pigs don't?

Representative Ezell: That's right. We have seen what the Livestock Board has done as far as pigs going to different fairs/shows. They do have a method of marking these pigs. A pig can become feral within five days. There's a big difference between a feral/javelina pig and they are two different species. The over 40 diseases these feral pigs carry is not only bad for livestock but for wildlife. We don't need this to be a hunting sport in NM that is regulated by the Department. We need to eradicate them.

Commissioner Arvas: Who's going to do that?

Representative Ezell: Anybody and everybody that wants to.

Commissioner Arvas: Are we actively doing that now?

Representative Ezell: You bet.

Commissioner Arvas: In this part of the country?

Representative Ezell: Yes, sir.

Chairman McClintic: The whole state where they're at?

Representative Ezell: Yes, sir. My bill did provide fines up to \$1,000 and/or jail time for anybody that's caught transporting these, moving them into the state, setting up a feral pig hunting operation, and we mean business. We don't need this in our state.

Commissioner Arvas: I support it but I'm surprised we're not emphasizing it more in terms of getting rid of them.

Representative Ezell: I know two different operations where they do have hunting of feral pigs on their own property, but these landowners do know that if these pigs escape they're fair game and will be taken down.

AGENDA ITEM NO. 15: HJM 56, a Joint Memorial Requesting the Department of Game and Fish to Study the Consolidation of Various Hunting and Fishing Licenses and Stamps for the Ease of Hunters and Fishermen.

Presented by Alexa Sandoval and Pat Block – The Department provided a summary of the provisions of House Joint Memorial 56 asking the Department to study the consolidation of hunting and fishing licenses and associated stamps. Further it requested that the Department provide its findings to the Interim Courts, Corrections and Justice Legislative Committee by November, 2010. The Department described a proposed approach to conducting the study and alternative approaches for Commission and public involvement.

Commissioner Arvas: What you need to do is give us an education course in terms of what we can do either with/without legislative intent by rule. That's an important facet of this because a simplification process makes a lot of sense obviously, but I do know there are some things we can't do unless we go to the legislature, but I do know there are some things we can do.

Alexa Sandoval: An overview of what we can/cannot do from a statute v. rule perspective, all of our licenses are set by statute. Under Section 17-3-13, NMSA, 1978, all specific licenses as delineated with the fees associated. When you look at the creation of those stamps and some alternative pieces that go in with the licenses with the exception of the Big Game Depredation stamp, those all sit underneath rule. If you're going to consolidate licenses themselves that would take legislative action.

Pat Block: We have the Habitat Management stamp and the way it works is you only have to buy one per year per person, so if somebody buys a fishing license and they get it on there they don't have to buy one later for an elk hunt, but in a way he feels

that makes it complicated so he's saying why can't you roll that fee into every license which means that somebody that buys more than one license would buy more than one of those but if you want to go fishing you buy one and you get to go fishing rather than having to know whether you're going to hunt on BLM/Forest Service land therefore you need the Sikes Act stamp. If you've already bought the Habitat Management stamp or not but he's asking is there a way to make it to go fishing I go buy a fishing license and I'm done. To do that since they do live in law you'd have to change the law to re-define what a fishing license is and how that Habitat Management stamp works. Some ways you can do that is to say any license in this section. The fee for any license in this section includes X dollars that go to habitat management.

Commissioner Arvas: You wouldn't do it on every individual license?

Pat Block: Potentially you would if that was your aim. There are a variety of ways to do it.

Commissioner Salopek: What do we have to buy currently--\$4 and \$5 stamps, and that's it?

Alexa Sandoval: That's correct depending on where you're going.

Commissioner Salopek: Either or maybe but a different spot I have to buy both?

Alexa Sandoval: If you're going to be out participating in a hunting/fishing activity on federal land and you have that HAMAS Stamp that's correct.

Commissioner Salopek: That would be \$9? If I bought one for Elephant Butte and bought them both, that'd be \$9 for that license? If I happen to put in for the two turkeys, fall/spring elk/bear/cougar then it drops to \$1 per average if I only had to buy one? My thinking is if you have \$2.50 and \$2.50 per license, so if you bought a fishing license, \$5 added to that, \$5 to elk, out of me it'd come out \$40 if I put in for eight instead of the nine? That's my thinking. I'd like it simple so when you buy a license you don't have to worry about a habitat stamp.

Pat Block: That's exactly the aim of this memorial. We think we can do that and this gives us a unique opportunity to look at the way we do licensing overall. The way licensing works is that any hunter has to hold a base license which generally entitles you to hunt small game. Anything else you buy is a tag that's attached to that base license. There are some real advantages to going that way, there are some disadvantages too. With what you were talking about a while ago, I think we can figure out what we'd need to set those fees are to approximate the same amount of revenue we're getting now so we're not doing this as a way to make more money, but rather to truly simplify things.

Commissioner Fonay: I like that idea when I've talked to people about needing a general hunting license if you're going to hunt. Then you'd add elk/bear and you'd have your habitat stamp. I'd say I've watched people buy a license and the vendor didn't understand what the individual needed, and the individual didn't understand what they needed. I probably get this complaint more than any other. As we're talking about license simplification, I'm aware of some of the issues we may/may not be able to do but if we could go to one draw, rather than one time for oryx, one for the rest of our game, I think that'd be an improvement. The other problem we've had this year with that problem on April 1 when we didn't have the draw until April 7 and people trying to buy a deer license and they don't have their habitat stamp if they want to go fishing after April 1, I'd like to see that draw rolled back. I know there are some people that wouldn't agree with that but I think as a whole for our customer that's got merit.

Pat Block: We are looking at that as one way. There are multiple ways even if you're talking about furbearers so we're looking at other ways to fix the shortcoming of that process this year because we understand people want to be able to buy that combination license, get out and fish or do whatever it is right away upon April 1 or buying that privilege whichever comes first, so we're looking at several different ways to get that solved and we'll come back to the Commission with specifics.

Chairman McClintic: Is it your opinion that it'd be easier to move everything back to April 1 or move the fishing season from the 31st up to the 7th?

Pat Block: My personal opinion is you don't need to do either one of those things. One of the alternate ways rather than moving the deadline is to provide that authorization number and charge the full fee immediately upon application. Like anything, it's got pluses/minuses. One of the minuses is it potentially limits that applicant's ability to change their hunt choices, but that is one way to get that done without causing additional concerns such as the ones raised by outfitters at prior meetings.

Commissioner Arvas: Not only would I like to see it simplified, but I'd like to make more money. If all these other states around us are doing that it's not as though we're breaking new ground. They seem to get away with it easily so if they get away with it I don't see a reason we can't. You're talking about a lot of money that we need anyway and to be able to get that money as easily as it seems is very attractive.

Alexa Sandoval: One advantage that those states have is that they are able to certify through the federal process several thousands hunters/fishermen. We don't have that ability so that means \$100 per person for Pittman-Robertson and \$25 for Dingle-Johnson money.

Commissioner Salmon: I've asked once before, but what about selling a license to hunt unprotected game like coyotes/jackrabbits? I was told that would take legislative action yet a non-resident who hunts those animals does need a license? How did that work out that way?

Pat Block: There's a requirement and a license classification created in statute labeled non-resident/non-game and if you go into the other section where it describes what each of those licenses is, it talks about how that's a requirement for non-resident who does not hold another current hunting license.

Tod Stevenson: Part of the reason that happened was around coyote/furbearers primarily where an individual that was a non-resident instead of buying a non-resident trapping license could hunt coyotes or part of those furbearing animals without having to get a license. It went through the legislative process and a whole variety of things are on it, but that was one component of why they required non-residents to have some type of license.

[Discussion item only]

AGENDA ITEM NO. 16: Update on Big Game Enhancement Projects.

Presented by Donald Auer – The Department presented a summary of habitat restoration and improvement projects funded by Big Game Enhancement funds.

Commissioner Arvas: Is there some way that all this work you're doing, the public can be made aware of it? It seems it'd be good PR for the state, but whatever you do whenever you go to those auctions, you ought have some of this stuff so people can see where that money is going.

Donald Auer: We've started ramping up this program in the last couple of years and hopefully by next year we'll have before/after photos. A lot of these products are multi-year. Hopefully we'll have a series of shots across multiple landscapes in the state.

Commissioner Arvas: You're obviously able to coordinate this with Sikes Act monies?

Donald Auer: We do. The Sikes Act money is collected by us and then BLM/Forest Service are given that money. We have leverage of where they spend that money and then we come in behind them and figure out where is that money lacking and fill in the gaps to get these projects done. [Discussion item only]

AGENDA ITEM NO. 17: Importation of Live Non-Domestic Animals, Birds and Fish, 19.35.7, NMAC.

Presented by Dan Brooks – The Department proposed repealing current Importation of Live Non-Domestic Animals, Birds and Fish (19.35.7, NMAC) rule and replacing with a substantially modified rule. An overview of a draft replacement rule was presented, and included development of a Director's list of domesticated and wild animal species allowed for importation with a permit. There was also a discussion of other importation procedures and requirements.

Commissioner Arvas: I read we're more restrictive than surrounding states and is there a formal definition on domestication/non-domestication?

Dan Brooks: I'd say we are more restrictive with the de-venomization requirements. States weigh in on different things. We're liberal on temporary imports for movies/circuses, but the de-venomization requirements we're stricter on than most states. On domestication that's actually our definition. It's not defined in statute, but once again we were trying to come up with criteria that we thought was reasonable so that's why we put that in the rule—domesticated animal. For the purposes of this rule the Director may designate an animal species as domesticated in those instances where individual members are commonly tamed/raised/bred/sold in captivity. This ties back to the list because if he's/she's going to designate it, then we need to make sure we're clear on what that is because that goes hand-in-hand with the statute, no permits required, that's why we've got a list and that's designated.

Commissioner Arvas: It'd help me when you come back with your final draft to put in a side note after your recommendation of what this is going to do to the public. In other words what's the impact to the public as a result of this measure?

Dan Brooks: I failed to point out that when you start talking about impact, in my Division this rule will facilitate the trade a lot more and it moves us away from such a rigid rule. When it comes to consequences/impact, we usually initiate a cooperative compliance stance. In other words, we've always investigated illegal importations. As soon as we get notice that someone has done something illegally, we immediately investigate. My stance has been one of cooperative compliance. If you remove the animal from the state and you start over we might be able to accommodate you and we may not, but that way we don't get into a seizure/arrest/citation issue. That's been my stance and it's worked out well because people have a relationship with the animal and we don't want to take it away from them and I'm not interested in making an arrest, but I'm trying to uphold the rule and keep people moving toward compliance.

Commissioner Salmon: Is there a market for venom and by banning venomous animals would we be impacting someone's livelihood or can they operate with a permit? What are the ramifications?

Dan Brook: There are markets out there. We don't have one that I'm aware is established here, but I do think they actually do use venom and there is value to that. This rule would allow for something like that to happen. There's a section that talks about the Director being able to designate a qualified expert so that could be someone that's doing that very thing. They would qualify under Group IV and be able to participate.

Commissioner Salmon: That makes sense because then you allow for the expert, but you can still guard the public from potential dangerous activity.

Director Stevenson: There's a misperception that currently the law's been in affect for a long time. The current rule's been in affect for about 10 years and is much more restrictive than we are contemplating with this. We're trying to address those concerns that the public/permitting staff have as to every time one of those requests comes in, they've got to go through a

stringent set of requirements where if we can get to part of these lists where part of these animals are much more common, then it's pretty much a stamping process that says yes we approve this and we go on down the road rather than a very specific time consuming process that has to happen right now. As with the venomous issue, currently they cannot bring those animals into the state no matter what that issue is and as you will remember, we had that gentleman from Rodeo who wanted to bring those in for a museum/educational purpose and they did not have the ability to do that.

Public Comment:

Heather Angevine: I own Subterranean Jungle in Albuquerque, a retail reptile pet store. De-venomizing reptiles for purposes of allowing people to keep them as pets is a death sentence. De-venomizing them limits their digestibility and essentially kills them. In long-term cases, it's deadly. From a retail pet store standpoint, venomous animals should continue to be banned along with all the crocodylians because the average person is not capable of taking care of those animals. The other issue that I'd like to address is a possible extension because the draft list is incomplete. An extension of at least 30 days would allow my reptile/bird/mammal/fish group to work more cooperatively with the Department to compile a very accurate list. We've been working on this for two years and I think a 30-day extension is a fair extension.

Heather Ferguson: I've the legislative director for Animal Protection of NM. We currently represent a network of over 60,000 members. We stand in support of this.

Trina Hatcher: My area of expertise is parrots. I'm concerned with the use of the CITES when talking about parrots because currently the list says all cockatoos are invasive. I want to emphasize that this list should have nothing to do with CITES. We should get together and talk about each species that's going to be restricted/banned. To ban a parrot species not based on data or scientific study, just based on prejudice or maybe because somebody else is doing it, is wrong.

Chairman McClintic: Is there a reason that we couldn't give them a 30-day extension or explain to them why you/Commission would okay it, or explain to them why you think we should do it.

Dan Brooks: For clarity, we're not asking the Commission to adopt the species list. That will be the Director's responsibility and that can happen later. What is imperative is that we keep moving forward to July because then the Commission can give the Director authority to create that list so I doubt it will be ready by July, but it will give the Director authority and us the ability to work closely with the groups, so I think we're right in line with their request already because we're not asking for the Commission to finalize that list, that'll be up to Director Stevenson.

Chairman McClintic: Is that a good compromise? What I need to know is if we/Director give you a guarantee that he's going to work on that list with you and give you time to go over that rather than make a decision in July, is that satisfactory?

Heather Angevine: Absolutely. The rule can be adopted as soon as you decide that it would be necessary, but provided that you're still willing to negotiate that list with us beyond that date is all we're asking for.

Dan Brooks: I'm fine with that.

Sandra Brennan: I'm a parrot breeder and have been for the last 25 years. Parrots ought not be on this list. [Discussion item only]

AGENDA ITEM NO. 18: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session, pursuant to Section 10-15-1, NMSA, 1978, to discuss matters related to litigation, possible acquisition of additional lands for conservation and habitat purposes, disposal of surplus land, and determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated regulated procedures and conduct as per 19.30.8, NMAC. If in the Commission's determination an individual was served notice, he/she were afforded an administrative hearing following 19.31.2, NMAC.

Commissioner Arvas: I'd entertain a motion to enter into a Closed Executive Session pursuant to Section 10-15-1, NMSA, 1978, of the Open Meetings Act in order to discuss matters pertaining to litigation, public acquisition of additional lands for conservation and habitat purposes, disposal of surplus land, and a determination of sending Notice of Commission Contemplated Action for outfitter and/or guide registration to any identified individual/individuals that may have violated regulated procedures and conduct as per 19.30.8, NMAC, as listed on the Agenda.

MOTION: Commissioner Salopek moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1, NMSA, 1978, of the Open Meetings Act to discuss limited purposes of personnel matters, litigation and land acquisitions.

Commissioner Fonay seconded the motion.

Roll Call Vote:

Chairman McClintic – yes

Vice Chairwoman Buffett – absent

Commissioner Arvas – yes

Commissioner Fonay - yes

Commissioner Salazar – absent

Commissioner Salmon - yes

Commissioner Salopek – yes

Motion carried unanimously.

Commissioner Arvas entered into Open Session and stated that for the record the matters discussed in the Closed Executive Session were limited to those specified in the motion to close the meeting. No action was taken during the Closed Executive Session.

AGENDA ITEM NO. 19: Notice of Commission Contemplated Action.

Presented by Dan Brooks – The State Game Commission determined, if appropriate, to direct the Department send a Notice of Commission Contemplated Action to any outfitter/guide for whom evidence and information indicated they may have violated their Professional Code of Conduct or other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978. **[Action Item]**

MOTION: Commissioner Arvas moved to accept the Department’s recommendation and send a Notice of Contemplated Commission Action to the registered outfitter(s) or guides discussed in Executive Session. **Commissioner Salopek** seconded the motion.

Chairman McClintic presiding.

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

AGENDA ITEM NO. 20: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Commissioner Salopek: Mike Sloane, Billy Parker has a fish hatchery and he had a concern that he has to get a permit to deliver his fish.

Mike Sloane: He does, yes.

Commissioner Salopek: Is he the only one in-state that has a public fish hatchery?

Mike Sloane: There’s one other that’s a tilapia farm south of Lordsburg, but yes, he’s the only one raising game fish for distribution. The permit is actually an importation/release permit, so we get him to apply through the release permit.

Commissioner Salopek: His question was the importation, but he’s not importing. He just wants to make sure he doesn’t get in trouble. Why does he get a permit every time?

Mike Sloane: The process we have with fish deliveries is he puts in an application, say he wants to deliver fish to you. He says over the course of the year I’m going to deliver 10,000 pounds of fish. We sign off on that. Each time he’s actually going to deliver an increment to that, 1,000 pounds or something, he faxes us a sheet of paper, we sign off on it so that we can keep track of—yes, those fish went out, no, they didn’t, how many pounds, where is he on delivery—that kind of stuff.

Commissioner Salopek: So it’s just a matter of faxing? He thought it might be nice to have a simpler solution where he didn’t have to do a permit every time.

Mike Sloane: For us, it’s just tracking them and seeing where they are in the permit process.

Darlene Parker: I have owned/operated an exotic bird shop in Santa Fe for 25 years. I’ve always sold domestic, hand-raised birds. I’ve never had any problems as far as diseases. I don’t think parrots should be on this list.

AGENDA ITEM NO. 21: Adjourn.

MOTION: Commissioner Salopek moved to adjourn. **Commissioner Salmon** seconded the motion.

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

Meeting adjourned at 3:53 p.m.

s/
Tod W. Stevenson, Secretary to the
New Mexico State Game Commission

July 8, 2010
Date

s/
Jim McClintic, Chairman
New Mexico State Game Commission

July 8, 2010
Date

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