The People's Forum on Public Lands Trapping in New Mexico
Report from the People's Forum Panel

Executive Summary

The New Mexico Legislature should ban trapping on public lands in New Mexico because traps harm people, animal companions, and whole populations of wildlife including rare species. Most New Mexican voters believe that trapping is cruel and unnecessary. The State's 2011 administrative rule-making process relative to trapping was marred by special interest politics and undemocratic. Yet, trapping is an issue that all users of public lands endure.

Restraining traps such as the leg-hold trap hold an animal until the trapper arrives to kill it, whereas *kill traps* crush a captured animal between two jaws and is designed to render death outright. Traps are used with baits or lures that draw the animal to the trap.

Traps do not discriminate between species and often catch animals with no productive use including family pets. Trapping is most commonly done as a hobby, for supplemental income, as pest control, or for wildlife "management", yet it is a controversial practice.

New Mexico's neighboring states Arizona and Colorado, and others, have prohibited most wildlife trapping on public lands, while New Mexico has not. New Mexico Department of Game and Fish's animal population monitoring is haphazard and inadequate, and the State has no empirical population data for "fur-bearing" species such as bobcats, swift foxes, kit foxes, gray foxes, and minks. New Mexico has even failed to protect rare species from traps.

The State's Public Policy Process Failure:

The New Mexico Game Commission and the New Mexico Department of Game and Fish are charged with licensing and administration with regard to the trapping of "fur-bearing" animals, that is, animals killed for the commercial value of their pelts.

In 2011, the Game Commission opened the rule-making process with regards to trapping. Conservation and animal groups asked for a trapping ban and citizens throughout the State gathered signatures on petitions that requested a ban on public lands trapping. Over 12,000 signatures and comments were transmitted to the Department of Game and Fish and Game Commission for their consideration at a public hearing. Even counties and other entities representing over half of the state's population passed resolutions supporting a public lands trap ban.

The Game Commission set a public hearing on July 21, 2011 in Clayton, New Mexico, which was inaccessible to most citizens. The public hearing did not debate, nor was there any type of vote on the citizens' request to ban trapping on public lands. Without regard to the tremendous public input, the Game Commission expanded trapping throughout

New Mexico and eliminated the prohibition on trapping within the Mexican wolf recovery area.

Because of the Agency's apparent negligence with regards to holding a responsible public hearing, several non-profit organizations with a vested interest in the protection of wildlife and conservation sponsored the "People's Forum on Public Land Trapping" held in downtown Albuquerque on September 14, 2011. The sponsors invited the Department of Game and Fish and Game Commission, but none attended.

A seven-member panel of community leaders from around New Mexico heard testimony from forty people of the approximately one hundred forty people in attendance at the forum. There was also testimony from Dr. Robert Harrison, wildlife biologist and professor at the University of New Mexico.

Those in attendance were opposed to the current practice of trapping on public lands in New Mexico and voiced an obvious discontent with the Game Commission's irresponsible public hearing, and their own negative encounters with traps on public lands.

The panel then took a 30-day public comment period, to which 2,410 people responded including 1,588 New Mexican residents and 56 part-time New Mexican residents. When asked what activities one engaged in on New Mexico's public lands, the majority of the respondents (66%), stated that they watched wildlife, with the next category walking or hiking with pets (58.6%), and then hiking, skiing, or snowshoeing (57.7%). Less than 4% responded that they engaged in trapping activities.

The following report reviews the responses given to the People's Forum Panel (both oral testimony and a non-scientific, online survey), a professional survey conducted in 2005, and an executive action taken by former Governor Bill Richardson with regards to Mexican wolves and trapping, the testimony at the "People's Panel." This report also contains a regulatory background and a biological report on species trapped in New Mexico by Dr. Robert Harrison.

Because trapping is ubiquitous yet harmful to any species with legs, because the New Mexico Department of Game and Fish and the Game Commission failed their duty to hold an open democratic process, the People's Forum Panel recommends that trapping be banned on New Mexico's public lands.

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Introduction, Background, and History

New Mexico is a State of unparalleled physical and geographical diversity and beauty. It is vast, largely rural, and 45.6 percent of its land base is owned by the public. This percentage includes lands within the national forests, wilderness areas, wildlife refuges, national monuments, wild and scenic river areas, national conservation areas, state parks and county-owned lands. New Mexico allows and condones steel traps, snares and body-gripping traps on its public lands. Other Western states, including Arizona, Colorado, California and Washington, through legislation or by public initiative, have banned the practice of trapping on public lands. As described below, New Mexico's trapping goes barely regulated and New Mexico wildlife, its citizens, visitors to the State, and their companion animals have borne the consequences.

State law requires that New Mexico protect and conserve the state's wildlife (NMSA §17-1-1), and that the New Mexico Game Commission carry out rules and regulations that protect "fur-bearing animals" so that their populations are not "wasted or depleted" (NMSA §17-5-1). Furthermore, the Legislature gave broad authority to the Game Commission to carry out rules and regulations pertaining to wildlife management (NMSA §17-1-26).

The New Mexico Game Commission ("GC") and its Department of Game and Fish ("DGF") failed in these duties. The Governor appoints the Game Commission. Its composition and its decisions are subject to changes in administration. The Game Commission hires the Director of the Department of Game and Fish, an agency that is funded primarily through the sale of licenses to fish, hunt and marginally by licenses to trap. Because of funding ties, the State's wildlife-management decisions often fail to reflect the broad public's interest in wildlife conservation. Rather, those decisions cater to a narrow user group that pays license fees for the privilege of hunting, fishing or trapping (Jacobson et al. 2010, Nelson et al. 2011).

A "fur-bearer" is an animal that is hunted or trapped for the commercial value of its pelt. Between 1994 and 2000, the New Mexico Game Commission reviewed "fur-bearer" regulations at three-year intervals. From 2000 to 2006, the Game Commission reviewed those regulations at two-year intervals. In 2008, the Game Commission conducted a partial review of "fur-bearer" regulations. At that time it set reporting deadlines for sportsmen and commercial interests. That is, "fur-bearer" trappers and hunters were required to detail their catch to the agency. In 2009, the Game Commission voted to reopen the "fur-bearer" rule making process, but declined to take any action at that time.

By letter dated August 14, 2009, WildEarth Guardians, Animal Protection of New Mexico and the Sierra Club requested that the Game Commission reopen the rule-making process. The Game Commission and Department had failed to take a hard look at the "fur-bearer" rules, and had failed their public trust duty and statutory mandate to responsibly manage wildlife on behalf of the citizens of New Mexico, as well as the State's own statute mandating the same. Two years later, in 2011, pursuant to that

request, the rule making process was finally reopened.

In response to the re-opening of the rule making process, citizens throughout the State gathered signatures on petitions that requested a ban on public lands trapping, urged those who supported a ban to comment on the rule making process, and sought and received local governmental support for a ban on trapping on public lands. Over 12,000 signatures and comments were transmitted to the Department of Game and Fish and Game Commisson. Municipalities, Counties and other entities have passed resolutions supporting a public lands trap ban. Santa Fe County, the City of Santa Fe, the Town of Silver City, Animal Service Center of the Mesilla Valley, the Town of Mesilla, the City of Las Cruces, Dona Ana County, the Town of Taos, Taos County, the City of Albuquerque, Bernalillo County and the Town of Deming (mayoral support letter) and the San Pedro Neighborhood Association have all passed resolutions in support of a ban on public lands trapping. These bodies represent over a million New Mexico citizens or over half of the state's population.

The Game Commission set its hearing on "trapping and fur-bearers" for July 21, 2011 in Clayton, New Mexico, a small town in the northeastern corner of the state, just miles from the Texas/Oklahoma border. For all intents and purposes, the hearing was inaccessible to a majority of interested New Mexico citizens. At its meeting, the request to prohibit traps from public lands was never debated, presented or voted on. And, in spite of the overwhelming public support that favored a cessation of the practice of public lands trapping, the Game Commission amended the "fur-bearer" regulations with only one real substantive change: It created a buffer of ½ mile from public campgrounds and boat-launching areas, which represented a 1/4 mile increase from previous regulations. It also dropped the prohibition on trapping within the Mexican wolf recovery area, and otherwise expanded trapping in New Mexico by failing to address coyote and skunk trapping.[1] The regulatory scheme, and its changes will be discussed more fully, below.

Outcome of the People's Forum on Public Lands Trapping

In holding its rule making hearing in Clayton during the middle of the week, and in failing to raise, consider and vote on the requested ban on public lands trapping, the Department of Game and Fish and the Game Commission, for all intents and purposes thwarted a democratic rule making process.

In response, WildEarth Guardians, Animal Protection of New Mexico, the Rio Grande Chapter of the Sierra Club, and Born Free USA sponsored the "People's Forum on Public Land Trapping" to allow for a democratic hearing on the issue of trapping on New

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[1] Portions of Los Alamos County, the Wild and Scenic Rivers Recreation Area, the Valle Vidal addition to the Carson National Forest, the Valles Caldera National Preserve, and the McGregor military range had been explicitly closed to "fur-bearer" trapping.

The Department of Game and Fish draws no distinctions between the arid south and the mountainous north and there are no scientifically valid biological surveys or studies to determine what constitutes a sustainable opulation kill level for any species of wildlife trapped for their fur in New Mexico.

Mexico's public lands. The Peoples Forum was held in a downtown Albuquerque location on September 14, 2011. It received statewide media attention - both before and during the event. The sponsors invited the Department of Game and Fish and Game Commission. The New Mexico Cattle Growers sent a representative, and several trappers appeared.

Sponsors convened a seven-member non-partisan panel of community leaders in New Mexico, including Chairwoman Peggy Nelson (retired District Judge), Peggy Weigle (Executive Director, Animal Humane, Inc.); Nathan Cote (former New Mexico State Representative); Oscar Simpson (a sportsman and former Game Commissioner); Kathleen Holian (Santa Fe County Commissioner); Martha Marks (founder, Republicans for Environmental Protection); and Kathryn Sedlacek (outdoor leader for the New Mexico Mountain Club). Approximately one hundred forty people attended the forum, and forty citizens testified, including representatives from the sponsoring organizations and Dr. Robert Harrison, wildlife biologist and professor at the University of New Mexico. (Dr. Harrison supplied the People's Forum Panel with a report, included here as Appendix 2)

The citizens who testified all opposed trapping and raised these concerns:

- The New Mexico Department of Game and Fish and Game Commission failed to listen to the public;
- Trapping is cruel and inhumane;
- Trappers may overkill New Mexico's native wildlife such as bobcats and foxes but the State does not monitor species populations with any credible methodologies and the wildlife belong to the public not just to user groups;
- Most people enjoy wildlife watching while on public lands;
- Traps do not discriminate between species and many non-target species, including endangered animals or species off-limits to trapping in New Mexico are routinely captured including companion animals, especially dogs on public lands;
- Traps pose a danger to the public because they are hidden and unmarked;
- Game and Fish fails to enforce its own trapping regulations; and
- Several people experienced the trauma of having a companion animal ensnared, or finding a trapped wild animal while recreating on public land.

At the conclusion of the People's Forum, the panel announced a 30-day comment period for those who were unable to attend the public hearing.

The online survey and comment site was open from October 5 to November 5, 2011. Notice was provided to statewide media in New Mexico. Any member of the public could take the survey relating to the questions of trapping, and each individual was allowed to make additional comments. The comment period and survey closed on November 5, 2011. Over 2,400 individuals participated in the online survey, 66% identified as New Mexico citizens.

The survey was not an unbiased sample of the general public, and therefore cannot be

considered "scientific". In response to the question "Should traps be allowed on New Mexico's public lands?" 90.1% of respondents said "no", including 89.7% of the New Mexico residents.

One question asked, "Have you or someone you know encountered a trap in New Mexico that held an animal? What was the animal and what was the experience?" Most respondents reported their own family dog had been trapped. Others indicated that they had found trapped animals, in this order by species: coyotes, foxes, bobcats, and raccoons. Finally, respondents also reported finding non-target species not permitted for trapping, including cougars, squirrels, coatimundis, owls, hawks, rabbits, porcupines, javelinas and pronghorn antelope.

Overwhelmingly, the respondents opposed traps because they viewed them as inhumane and indiscriminate. Many stated that they believed that trapping is poorly regulated by New Mexico Department of Game and Fish.

Respondents who supported trapping gave reasons as follows: Trapping "controls" carnivores;[2] is legal or traditional; the land is public and trappers are part of the public; it controls disease; it provides income; they enjoy it; and, trappers pay for wildlife.

Public Attitudes, Survey, and Comments
2005 Survey

In 2005, The Rio Grande Chapter of the Sierra Club and Animal Protection of New Mexico engaged Research and Polling, Inc. to conduct a New Mexico Trapping Survey. That scientific poll found that only 41% of all voters statewide were aware that trapping was legal on public lands; 33% believed it was illegal; and, 26% were unsure. This random survey revealed that 63% of voters statewide said they either strongly supported (41%) or somewhat support (22%) a ban on leg-hold, snare and lethal traps on public lands. When pollsters considered demographics such as age, gender, ethnicity, income, education level, or political affiliation, *no* demographic favored trapping. A copy of the Sierra Club synopsis of the survey, with additional breakdown, is attached hereto. (See Appendix 1)

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[2] Regarding the issue of carnivore "control", it should be noted that trapping is prohibited in National Parks and Monuments, and land and wildlife managers in those areas do not appear to have a need to control carnivores in these natural settings. In fact, biologists have shown that killing coyotes leads to more births and immigration and coyotes will quickly return to vacant niches. Over-exploiting cougar populations causes social disruptions, which leads to more immigration by young males that may result in more negative encounters with livestock and people.

In years when pelt prices are low, trapping activity declines, leaving carnivores without "controls", without ill effect. In fact, the DGF's stated goal is to never remove more of the population than would likely die of natural causes and that would be replenished in the next breeding season. This is to keep the population stable and not in decline. Unfortunately, the agency does not empirically know what numbers are required to keep populations stable and viable. Trapping has not been shown to eliminate or control wildlife disease).

The Special Case of Mexican Wolves

The Mexican gray wolf (*Canis lupus baileyi*) is the smallest, rarest, and most genetically distinct subspecies of gray wolf. Once numbering in the thousands, it roamed across Arizona, New Mexico, Texas and the Republic of Mexico. Today, the Mexican wolf, or lobo, is one of the world's rarest terrestrial mammals. The U.S. Fish and Wildlife Service estimated that 58 Mexican wolves ranged in the recovery area at the end of 2011. Mexican wolves face multiple threats, all of which are human-caused and most of which are completely avoidable. One such threat to the wolf's recovery is the persistence of trapping and snaring for other species throughout the recovery area.

In 2010, Governor Bill Richardson issued an executive order prohibiting the use of traps and snares in the wolf recovery area, directing the New Mexico Department of Game and Fish to conduct a study to determine what traps could be allowed that would not pose significant risk to wolves. The Fish and Wildlife Cooperative Research Unit at New Mexico State University was contracted to make that determination. The research unit set about its study along with the U.S. Geological Survey (USGS). The USGS (2011) issued a report titled, "Evaluating Trapping Techniques to Reduce Potential for Injury to Mexican Wolves".

The USGS report concluded that traps can and have harmed wolves. The report found that 14 Mexican wolves were ensnared during 15 incidents; two wolves died while seven more sustained injuries. Of these, three underwent amputation surgeries, including two wolves that lost full legs and one lost a portion of its paw. While the research unit found that traps have harmed wolves, and have the ability to do so in the future, it determined that traps represented only a fraction of "other human caused impacts." New Mexico Department of Game and Fish then wrongly concluded that traps did not threaten the Mexican wolf population. Yet, the current population of Mexican wolves numbers only 58, and the harm to 14 individuals represents a startling 24% of the total population.

The USGS failed to consider that human-induced wolf mortality can be super-additive (Creel and Rotella 2010), that is, in amounts far greater than what would occur naturally. It also failed to consider that heavy mortality interferes with the social functioning of wolf packs. If either of the alpha (dominant) pair of wolves are harmed, the pack may disband with yearlings and young pups left to orphan die from exposure or starvation (Creel and Rotella 2010).

Wolves captured in body-gripping traps endure physiological and psychological trauma, dehydration and exposure. Trapped wolves sustain tissue damage and other injuries that reduce their fitness and chance for survival. Further, adult wolves provide for their pups for months after birth. Those harmed or killed by traps and snares cannot adequately feed and nurture their young. Wolves, considered "coursing carnivores", kill swift-moving wild prey after giving prolonged chase. Wolves require mobility for their very survival. If their fitness is compromised, so is their survival and the vitality of their dependent pups.

Finally, the USGS failed to consider, because the data are unavailable, that some of the dozens of "unknown" wolf mortalities could likely be attributed to trappers who are hostile to wolves (Mattson et al. 2006). In addition to the two wolves killed while in a trap, 37 more were killed by illegal means.

The USGS report informed both the New Mexico Department of Game and Fish and the Game Commission, which lifted the Richardson-era trap ban in the Mexican wolf recovery area in July, 2011. In February 2012, WildEarth Guardians sued the agency and Commission for failure to protect Mexican wolves, a "threatened" species under the Endangered Species Act from the harms caused by trapping.

New Mexico's Regulatory and Statutory Scheme

The laws, rules and regulations affecting "furbearer" trapping are found primarily in Chapter 17, NMSA and Title 19 ("Natural Resources and Wildlife") Chapter 32, ("Trapping and Furbearers") NMAC.

A fur-bearing animal is defined as a "quadruped" and includes the species: "muskrat, mink, weasel, beaver, otter, nutria, masked or black-footed ferrett, ringtail cat, raccoon, pine marten, coatimundi, badgers, bobcat and all species of foxes" (NMSA §17-5-2). Coyotes and skunks receive no protections from *resident* hunters or trappers (NMSA §17-5-5(B)). "Furbearers" which cannot be hunted or trapped include pine martens, river otters, black-footed ferrets and coatimundi.

When the regulations were opened for comment in 2011, the Game and Fish received over 12,000 comments and signatures opposing public lands trapping. Despite public opposition, few substantive changes were made to the regulations, found at Title 19, Chapter 32, Part 2, NMAC. Certain definitions were changed, renamed, or added to the new regulations. Other clarifications and wording of regulations appear in the newest version.

The principal substantive changes to the regulations are as follows:

19.32.2.9. Bag Limit: Both the old and new versions begin with the premise that "There shall be no bag limit on any furbearer." The regulations previously employed a highly criticized "estimated total sustainable harvest in the furbearer population assessment and harvest management matrix as approved by the commission". The new regulation provides that "The director, with the verbal concurrence of the chairman or his designee, may set a bag limit for furbearers to address significant changes in population levels or to address critical department management needs".

19.32.2.8 Open Seasons and Open Areas

B. Distinguishes trapping and hunting seasons from "Pursuit only" season. "Pursuit" is a new definition added in 19.21.2.7 and means "to chase by dogs without the intent to kill".
C. Was added, to provide that "Wildlife management areas shall be open for taking of furbearers or other trapping activities as authorized by the director."

19.32.2.10 Manner and Method of Taking Furbearers

B. (4) was amended with clarifying language, but the only substantive change was to increase the no-trap buffer around established and maintained public campgrounds and boar-launching areas from 1/4 mile to ½ mile.

B. (10), which previously placed a restriction on trapping on public lands within the Gila and Apache national forests of New Mexico, unless a department study to assess the risks to Mexican gray wolves due to trapping determined that some methods of trapping could be allowed, posing only minimal risk to the Mexican gray wolf, was removed from the regulatory scheme in its entirety. The new **B. (10)** outlines permissible shooting and trapping hours. Trapping hours are unrestricted.

19.32.2.11 added subsection **C.** Although New Mexico statutes deal adequately with the illegality of, and penalties for petty larceny and larceny, **C** states explicitly that "It shall be illegal to destroy, disturb or remove any trap, snare or trapped wildlife belonging to a licensed traper without permission of the owner....".

19.32.2.13 Areas Closed to Furbearing Trapping

C. Omits any reference to the E.S, Barker and Urraca wildlife areas, presumably opening those areas to trapping, as authorized by the director.

D. Opens the possibility of trapping on the McGregor military range if "authorized by an authorized representative of the department of defense."

Aside from increasing the buffer zone around established campgrounds and boat launches, the newly adopted regulations actually expand trapping within New Mexico.

Trapping in New Mexico pursuant to the new regulations:

Trapping is barely regulated or restricted within the State of New Mexico. Most of the State is open to trapping, subject to seasonal allowances. The Game and Fish charges a nominal fee to resident trappers and hunters of "furbearers" ($20.00 for a residential license).[3] In all likelihood, the agency's costs of administering "furbearer" trapping exceeds the revenues generated. Virtually no revenues go toward "furbearer" conservation.

All traps must have a trapper identification number from the State, or the user's name and address noted with a permanent marker. (19.32.2.10 B(1)). The "manner of take", that is, the methods by which wildlife can be killed, includes dogs, firearms, crossbows, falconry, bows and arrows, or traps and snares. (19.32.2.10 A). Trappers must place their steel traps, snares and body-gripping traps no closer than 1/4 mile from any occupied dwelling, signed roadside rest area or picnic area, and no closer than ½ mile from an established and maintained public campground or boat-launching area. Traps can be set no closer than 25 yards from the edge of any public road or trail. (19.32.2.10 B (5)).

[3] No-resident "fur-bearer" licenses cost $345.

There is no requirement that hikers and other public land users be warned, or have notice of traps and snares in any area. As a result, hikers, bikers, equestrians, wildlife watchers, companion animals and others have had negative encounters with traps on public lands.

Trappers or their agents are required to check their devices every 24 hours. The trapper, him or herself, must check the trap every other day. Trappers are required to carry a release device or catchpole to release non-target animals. (19.32.2.11 A). New Mexico's law enforcement budget is stretched thin. Game wardens cannot adequately oversee enforcement of trapping laws. Trap checks (traps must be checked every 24 hour period and non-target animals released) are not well monitored, and evidence from public land users makes it clear that some traps go unchecked for days.

Trappers and "furbearer" hunters must file a report by April 7 following the season-year they trapped and indicate the outcome of their trapping and hunting activities (19.30.10.9 A). Failure to file the report renders the trapper/hunter ineligible to receive a license in the next year (19.30.10.9 C), unless they pay a late fee of $8. With the payment of a late fee, they are then absolved of their failure to report in a timely manner. Compliance with this requirement has never exceeded 78% and has averaged only 58% since the requirement was implemented, and has steadily declined (Table 1 from WildEarth Guardians et al. [May 2011] letter to Game and Fish). Independent verification of the harvest report date, with the exception of bobcat kills, is unreliable.

Until passage of new regulations, the Department of Game and Fish relied on an "estimated total sustainable harvest in the furbearer population assessment and harvest management matrix" to determine "sustainable kill limits". This method was unique among states that allow trapping. And, it was a system inherently flawed, unsupported by information from the field, and contested by biologists. The new regulations allow the director or his designee to set a bag limit for "furbearers" "to address significant change in population or to address critical department management needs." (19.32.2.9)

Scientific data, specific to regions of New Mexico is not available, or timely. As a result, "furbearer" populations are not well monitored and the State's population monitoring is unreliable.

Conclusion

The people of New Mexico value their public lands for recreation, experiencing nature, solitude and activities such as hunting and fishing. Trapping animals is a low priority to a majority of its citizens. This has been illustrated by the relatively low numbers of people who engage in trapping of "fur-bearing" animals, as well as by the comments received both at the People's Forum on Public Lands Trapping and the online survey.

The recent sampling of public opinion, through the People's Forum and online survey was not scientific and may have attracted a select group of people, knowledgeable and opinionated on both sides of the debate. **The People's Forum Panel recommends that a reputable organization conduct an updated, objective poll of current public**

opinion on trapping on New Mexico's public lands.

Having heard the testimony and seen the photographs, including Born Free USA's undercover study of trapping in New Mexico, the **panel recommends that trapping be banned from New Mexico's public lands as soon as possible.** Trapping is motivated by profit for a handful against the rights of the majority of public land users. This includes the public trust right to species conservation. Trapping is cruel to animals, and poses a danger to the public and their companion animals. New Mexico's public lands are used primarily for recreation. Most New Mexicans, and visitors, have a low level awareness of the presence of traps on public lands.

Recognizing that achieving a ban on public lands trapping may take some time, **the panel recommends that the Forest Service, Bureau of Land Management, State Land Office and other public land managers alert the public to the presence of traps and their potential danger.** Education through the dissemination of brochures that accompany permits and licenses, public service announcements, advertisements, and appropriate signage around entrances and facilities located on public lands should be required.

The panel also recommends that the use of body-gripping traps be banned throughout New Mexico. Even as trapping continues, there is no need for this type of trap, which is exceedingly cruel.

For as long as trapping is allowed to continue, the New Mexico Department of Game an Fish must enforce the reporting requirements, and make all efforts to ensure that non-targeted species are not affected. Native carnivores such as coyotes, foxes and bobcats play an important role in maintaining the overall health of wild ecosystems. Game and Fish must monitor, accurately, how many and what types of animals are being taken. Strict limits need to be enforced, and limited in the more arid parts of the state, to ensure that species are not extirpated.

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Trapping of "fur-bearing" animals has a long history in New Mexico. As times change and human populations grow, the people's attitudes in New Mexico toward trapping have also changed. The conflicts between trappers and the general public have increased. It is the responsibility of the Department of Game and Fish and the Game Commission to respond to changing times. Unfortunately, this has not been done, and the interests of the few have overpowered the interests of the many. **The panel recommends State legislation banning all manner of trapping on New Mexico's public lands.**

Respectfully Submitted: April 11, 2012

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There are no minority or dissenting reports from members of the People's Forum on Public Lands Trapping in New Mexico.

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Appendix 1: 2005 Research and Polling Trapping Survey Results:

Respondents were read two statements below. How the results break down follows. Question:

(A) Opponents of trapping argue that it is a cruel way to kill animals who can suffer for long periods of time, especially since some trappers do not always check their traps every 24 hours. Critics believe that public lands belong to everyone and that the traps pose a danger to everyone who uses trails and roads on public lands as well as their pets and horses since there is no way to identify where traps are being laid. Pets, other domestic animals and unintended wildlife are injured or even killed by traps every year. Opponents also believe unlimited trapping could be hurting certain populations of animals like bobcats and foxes since trappers are not required to report their kills and there is no limit as to how many animals are killed.

(B) Supporters argue that trapping is an important source of revenue for trappers and the state of New Mexico, as well as being a tradition often passed down through family generations. Supporters also argue that trappers are required to check their traps every 24 hours and free any animals that are trapped by accident. Supporters also argue that trapping helps to control predators such as coyotes and skunks and helps to control wildlife disease. Some supporters are concerned that a ban on trapping using leg-hold and lethal traps is the first step to placing greater restrictions on hunting.

After hearing these arguments do you support or oppose banning leg hold, snare and lethal traps on public lands in New Mexico? Is that strongly or somewhat?

	State-wide	Hikers	Campers	Bird Watchers	Backpackers	Equestrians	Hunters	Anglers
Strongly support	41%	47%	42%	51%	46%	43%	27%	36%
Somewhat support	22%	21%	24%	17%	28%	19%	25%	23%
Mixed feelings	9%	8%	10%	10%	3%	6%	11%	11%
Somewhat Oppose	9%	9%	8%	9%	8%	9%	12%	11%
Strongly Oppose	13%	13%	13%	13%	13%	18%	21%	16%
Undecided	5%	2%	3%	1%	2%	4%	5%	4%

Appendix 2: Biological Overview

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The people of New Mexico have the good fortune to live in a state with a wonderful diversity of wildlife, including an especially charismatic group of carnivores and other species collectively known as furbearers. Encountering these animals in the wild is always a memorable event, and they have great aesthetic value. In addition, nearly all furbearers can be legally trapped for their fur, which is usually sold to the fur garment industry. Commercial trapping is a form of market hunting, and as such must be carefully regulated. Currently there are no limits on the numbers of animals that can be trapped and populations are not adequately monitored. Responsibility for ensuring that populations of furbearers remain healthy and available for enjoyment by the people of New Mexico rests with the New Mexico Department of Game and Fish (NMDGF). Furbearer management has been a relatively low priority at the NMDGF, with the result that current practices are, for the most part, outdated and/or conducted on a poor scientific basis. Although these practices were useful at the time they were implemented, they do not now represent the best available science. Also, there is no overall guiding management plan. In the following overview, I present basic reviews of why people trap animals, New Mexico trapping statistics, the effects of trapping, and NMDGF furbearer management.

Why Do People Trap?

There are several reasons why people trap furbearers. By far the most important reason, in terms of the numbers of people involved and the numbers of animals caught, is to make money (commercial trapping). Most American furs are ultimately sold in China, Russia, and Eastern Europe. People may also wish to protect livestock or eliminate animal pests (control trapping). Others simply enjoy trapping as a hobby, lifestyle, or form of recreation. To a diminishing extent Native American cultures use the furs and meat obtained for their own purposes (subsistence trapping). Scientists studying wildlife also trap to obtain research animals. These purposes often overlap. The most significant example of this in New Mexico is the overlap between commercial and control trapping. For example, a rancher wishing to protect his livestock may allow a commercial trapper to trap on his property. Overlap of purposes is one factor that has made the debate over trapping particularly rancorous.

The extent of commercial trapping is driven by the prices of furs, which in turn are driven by demand from the fur fashion industry. When prices rise, demand increases, more trappers become active, and more animals are caught. Commercial trapping is a form of market hunting. That is, its level of activity depends upon market demand and not upon

the size of animal populations. If the latter were the case, trapping activity would increase if it was determined that populations were high and "surplus" animals could be harvested. Market hunting has the potential to damage wildlife resources. For example, if a hard winter occurs and many animals die but prices are up, trapper activity will increase, opening the possibility that so many animals die that populations can not recover to normal levels by the next trapping season. Market hunting led to the extinction of the passenger pigeon and to the near extinction of elk, pronghorn, bison, and whales before measures were taken to protect them. Today market hunting is slowly driving tigers to extinction in the wild due to demand for their bones for Chinese medicine.

New Mexico Trapping Statistics

NMDGF has been recording trapper activity and numbers of animals killed since the early 1970's. Data is obtained from reports provided by trappers. Since 1980, an average of only 41% of trappers have reported their results, making it necessary to estimate the actual numbers killed. (See further discussion under *Harvest Reporting*, below). Sample statistics are presented in the accompanying table. The total numbers of animals killed statewide has varied from a high of nearly 50,000 in the 1986-1987 season, a time of particularly high fur prices, to a low of around 14,000 in 1990-1991. On average since 1980, about 24,000 animals have been caught each year. On average about 1500 people buy furbearer licenses each year. Coyotes, which are not a protected species, are the most caught, followed by gray foxes and muskrats, on average. Bobcats are the most prized species as their fur brings the highest prices.

Effects of Trapping

The effects of trapping may be divided into three categories: economic, ecological, and ethical. Trapping brings money into New Mexico from the sale of furs. The actual amount of money is difficult to estimate, as there is no recording or reporting of the income of trappers. For prices of bobcat furs, NMDGF uses an average western pelt price, which is probably not representative of New Mexico bobcats, as our bobcats lack the distinctive black spots on their bellies which are so prized by the fashion industry. Income also varies from year to year with fur demand. In general, annual statewide income has probably varied between a few hundred thousand and a few million dollars. In addition, the State of New Mexico sells trapping licenses ($20 for residents, $345 from nonresidents) which brings in about $30,000 per year. These are relatively small amounts compared to state income and budgets.

There have been concerns that unlimited trapping may lead to ecosystem collapse. Ecosystem collapse is a poorly defined term, and there has been no evidence of such an event in New Mexico. However, there are concerns that individual species may have been overharvested. For example, gray foxes in the Gila have been heavily trapped, and in some years the statewide number of bobcats caught has dropped even though prices rose. It is not possible to determine if these concerns are warranted or not with the data available. In general, trapping can be expected to change the relative numbers of species

present. In years of low prices when trapping activity is reduced, furbearer populations increase which leads to reductions in their prey such as rabbits and mice. Reduced numbers of rabbits and mice in turn lead to greater presence of their food such as seeds, grasses, and small plants. An increase in such forage is beneficial to grazers and browsers such as deer and elk. Although such effects have been well documented for individual species, the effect of trapping intensity on populations of species other than furbearers at the level of ecosystems level has never been studied.

Perhaps most important, and as described elsewhere in this report, there are notable ethical issues surrounding trapping, especially leg-hold trapping. While some people regard leg-hold trapping as barbaric, cruel, and in the same category as cock- and dog-fighting, others regard it as a legitimate use our natural resources just as we use water and soil, and still others regard it as an economic necessity to protect their livestock. Such arguments over values are not readily addressed by scientific inquiry. Nevertheless, if people are to continue their progress toward a more just society free from all forms of abuse then the debate over the morality of leg-hold trapping should be engaged.

New Mexico Department of Game and Fish Furbearer Management

To properly manage an exploited (hunted or trapped) wildlife population resource, a game management agency must know the numbers of animals killed each year, know how many animals can be killed each year without harming populations, set limiting regulations when necessary, and have a formal, written resource management plan. New Mexico Department of Game and Fish (NMDGF) collects data from trappers on the numbers caught, uses a "furbearer matrix" and track surveys (described below) to evaluate the effects of trapping on populations, and has set time periods that trapping may be conducted but otherwise allows unlimited harvests with no bag limits. NMDGF has no formal furbearer management plan. NMDGF has maintained that their methods to date are adequate and that no plan is necessary as no evidence of previous damage to furbearer populations has been detected. However, as explained below, NMDGF's efforts are outdated and not scientifically sound. Current methods of data collection are not adequate to answer the question of what effect trapping is having upon furbearers in New Mexico.

Below we discuss harvest reporting, evaluation of effects of trapping on furbearer populations, and the special case of swift foxes along with description of efforts by individuals to obtain information supporting NMDGF's assertions.

Harvest Reporting.

The actual numbers of animals taken by trappers each year is not known with adequate certainty to assess the impact of trapping on populations. Until 2006, acquisition of harvest data relied upon voluntary reporting by trappers, with the exception of bobcats, the pelts of which are required to be tagged under CITES regulations. Reporting rates averaged approximately 35%. Uncertainties of why some trappers reported and others did not made it difficult to accurately estimate the actual numbers of animals killed.

Successful trappers may have wished to avoid alerting other trappers of the locations of their success or may have wished to avoid paying taxes on their proceeds. Other trappers may simply have not wanted to take the time to report since there was no consequence for not doing so. It is also possible that some trappers deliberately underreported their catch. With the exception of bobcats, reported historical harvest rates are of little use for determining the historical impact of harvest upon populations. Mandatory reporting began with the 2006-2007 season, with a small penalty for non-reporting, and resulted in reporting rates averaging 68%, which is still clearly less than ideal. The State Game Commission directed NMDGF to limit the venues where trapping licenses may be purchased to NMDGF offices, so that non-compliance may be more easily tracked. Currently NMDGF can deny trapping license renewal for non-reporters, but this has evidently not been enforced unless approximately 32% of all license sales go to new trappers each year.

In the past, NMDGF used the ratio of reporters to non-reporters to estimate the numbers of each species killed each year. However, due to the uncertainties of assumptions necessary to generate such estimates, NMDGF has in recent years only reported only the numbers of animals reported to them and has not made estimates. To the casual observer, this practice may give the false impression that the numbers of animals killed are less than they actually are. NMDGF has maintained that reported numbers are adequate because non-reporters likely caught very few animals. Mr. Rick Winslow, furbearer biologist for NMDGF refers to this as the "Happy Hunter Hypothesis." He claims that non-reporters are likely not serious trappers but rather hunters who purchased a furbearer license in case they encountered a furbearer and wished to kill it. If this is true, then the actual numbers of furbearers killed would not be as high as would be estimated assuming that all those who purchased a license harvested at the same rate. The Sierra Club and Dr. Robert Harrison of UNM requested documentation from NMDGF supporting the happy hunter hypothesis. They received no documentation specific to trappers, either in New Mexico or elsewhere. They did receive documentation of a study of the reporting rates of New Mexico elk hunters which did support the happy hunter hypothesis. However, elk hunters likely have different motivations for reporting or not reporting than trappers. For example, elk hunters do not have to pay taxes on elk pelts because they do not sell them. Thus, there is no support available for the happy hunter hypothesis for furbearers and it can only be assumed that non-reporters harvest at the same rate as reporters. Rates of reporting of 68% thus results in increases of 50% in the actual numbers of animals killed beyond those reported in NMDGF's recent annual reports.

Furthermore, NMDGF has not consistently assessed the level of effort by trappers. Trappers are not required to state how many traps they set nor how many days they trap. It is important to know the level of effort because if effort increases or stays the same and the number of animals caught decreases, then that is a clear indicator that populations are declining and may be being negatively affected by trapping. Without such data, a decline in the harvest may be falsely attributed to simply less effort by trappers. In place of these data NMDGF uses the number of licenses sold each year, which is a general but far less informative indicator of effort. For example, using only license sales, NMDGF does not know how many purchasers are actually active trappers or how many are simply hunters.

It is not difficult to obtain better harvest information. For example, modern scientific polling of a random sample of license buyers could be used to generate harvest statistics that are valid and completely adequate for management purposes. The current NMDGF system, while useful in the past, is outdated. Even with adequate reporting, it will be many years before enough good data will accumulate to be able to properly examine trends.

Evaluation of Effects of Trapping on Furbearer Populations.

Based upon harvest reports, a furbearer population matrix (described below), and track surveys (described below), NMDGF maintains that trapping has had no effect on furbearer populations in New Mexico. It is impossible that trapping would have no effect, but how large the effect is and whether it warrants action are questions that should be addressed. Unfortunately, NMDGF's efforts to date can not adequately answer those questions for the reasons presented below.

Use of Harvest Reports While it is correct that there is no evidence that trapping in New Mexico has harmed furbearer populations, low historic rates of reporting as discussed above have made it impossible to determine whether or not populations have been harmed. (The special case of bobcats is discussed below.) Absence of evidence of detrimental effects has been used by the NMDGF as evidence of absence. At the 2009 Furbearer Task Force meeting, Jim Lane, now Director of Game and Fish, asserted that the conclusion of no harm was supported by "trend data". Dr. Robert Harrison of UNM formally requested documentation of analysis of the "trend data" from NMDGF in autumn of 2009, and received nothing to support the assertion, in violation of scientific protocol and government transparency. Evidently there is no supporting documentation.

Bobcats are a special case in this regard because the requirements of CITES tagging provide NMDGF with more accurate knowledge of the numbers of bobcats killed each year. At the State Game Commission meeting in 2001 in Clayton, Mr. Winslow presented a graph of the number of bobcats killed and the prices of bobcat pelts plotted for each year from 1982-2011. In general, when pelt prices are high, harvest is high, and when prices are low, harvest is low. Mr. Winslow maintained that the graph thus demonstrates that bobcat populations have not been harmed by historical trapping; otherwise harvests would be low even when prices are high. In general and at the level of statewide populations, this may be true. However, close examination of the graph reveals that the conclusion of no harm to bobcat populations may not be true for every year. In the periods from 1982 to 1986, 1989 to 1991, 1994 to 1996, and 2007-2010 harvests declined even though pelt prices remained relatively constant, which would indicate overharvesting.

Although the conclusion of no significant harm by trapping to bobcat populations based upon the correlation between pelt prices and harvests may be correct for most years, there are significant limitations to this approach which render its use questionable. First, use of

statewide figures may mask overharvesting in one area when combined with low harvests in another area. Second, as reported by Mr. Winslow, 48% of the variation in harvest size from 1982 to 2009 may be explained by the variation in pelt prices. An unknown portion of the remaining 52% of the variation in harvest size is undoubtedly due to such factors as delays between the time trappers realize that prices have risen and when they begin trapping, or unrelated economic cycles that encourage or discourage trapping. The rest of the 52% is undoubtedly due to variations in the actual population size of bobcats. It is not possible with this data to determine what portion of the variation of the harvest is due to actual changes in bobcat population size. In general, the correlation between pelt prices and harvest is too coarse a tool to quickly and accurately detect overharvesting. It is also unwise to conclude that because significant overharvesting of bobcats may not have occurred in the past, that it can not happen in the future.

The Furbearer Matrix Generated by NMDGF, the matrix provides a statewide population estimate and an estimated range of sustainable harvest level (number of animals that can be safely killed each year) for each furbearing species. Because the estimated sustainable harvest levels are greater than historical harvest levels, the matrix has been used to assert that historical and current levels of harvest have not harmed populations. Although produced in a scientific manner, the scientific foundations of the matrix are very poor for the following reasons:

A. No documentation is available for the citizens of New Mexico to determine for themselves if the figures used to generate sustainable harvest levels were appropriate. Dr. Robert Harrison of UNM formally requested such documentation from the NMDGF in autumn of 2009 and received two cardboard boxes of mostly miscellaneous documents, with nothing related to the creation of the matrix. The people of New Mexico, including trappers as well as non-consumptive users, are essentially being asked to take the Department's word that their figures are realistic. No endeavor can claim scientific credibility without documentation that is available to anyone who wishes to examine its validity.

B. Mr. Rick Winslow, NMDGF furbearer biologist, stated that figures used in the matrix came from a 1992 NMDGF publication (Thompson, B. C., D. F. Miller, T. A. Doumitt, and T. R. Jacobson. Ecologically-based management evaluation for sustainable harvest and use of New Mexico furbearer resources). However, the sustainable harvest figures which appear in the matrix are not in this publication. In fact, Thompson et al. concluded that it was impossible to generate reasonable limits for sustainable harvest levels with available information. Only a very limited number of studies have been done on furbearers in New Mexico since 1992. This further calls into question the sustainable harvest limits presented in the matrix.

C. Due to the lack of furbearer studies in New Mexico, population density estimates (i.e., number of animals per square mile) in the matrix, which are used to estimate statewide populations, are based upon studies from outside of New Mexico. Although it may be argued that some density estimates taken from outside of New Mexico may be similar enough to New Mexico densities to be applicable, there has been no ground-truthing (i.e., verification) of these estimates in New Mexico.

D. Population density estimates used in the matrix were based upon studies, which are usually conducted in relatively small areas. In order to obtain large samples of animals for research, studies are usually conducted in areas of relatively high densities of the focal species. As a result, study area densities are usually higher than those in many of the habitats where the species may be found. In the matrix, such study area-derived densities are very likely too high.

E. Population densities presented in the matrix are multiplied by the entire statewide extent of suitable habitat to obtain an estimate of the statewide population size for each furbearing species. As explained in D, these densities are most certainly too high to be representative of the entire extent of each species' habitat in New Mexico, which most likely results in a gross overestimate of the actual statewide population size, and hence a gross overestimate of the estimated sustainable harvest level. Also, the matrix assumes that all areas of the state are available to public trapping, when in fact Native American reservations, military reservation, national and state parks and monuments, and many privately owned lands are not open to trappers. Inclusion of such areas wrongly inflates the numbers of animals available to trappers.

F. The matrix presents population and sustainable harvest estimates for the entire state. The estimates are not broken down by region of the state. Consequently, a damaging overharvest of species in one region combined with a low harvest in another region may occur without exceeding the statewide estimated harvest limit. Hence no management action would be taken, and indeed, the overharvest would not be detected. Harvests are not evenly distributed across the state. Especially high harvests of gray foxes in the southwestern counties are an example of this unevenness.

G. The matrix estimates are fixed in time, with no provision for changing conditions from year to year. Sustainable harvest estimates remain the same regardless of periods of drought or high precipitation, for example.

Improvement of the data base of furbearer densities used to generate the matrix would require numerous extensive studies and will not occur in the foreseeable future. Statewide estimates of this type are very rare because they are generally considered to be no better than guesses. The matrix should be abandoned and replaced with a comprehensive furbearer management plan based upon data obtained from within New Mexico (see below).

Track Surveys. Since the late 1990's, the NMDGF has conducted track surveys for non-aquatic furbearers throughout New Mexico. Briefly, the surveys involve establishing a series of sandy track stations to which animals are attracted by a scent lure. Species of visiting animals are identified by their tracks. The results are intended to be used to monitor changes in population sizes of furbearers under the well-substantiated assumption that, in general, as populations increase, the number of visits also increases. The surveys represent a commendable effort to obtain much-needed data on populations independent of trappers' reports. Unfortunately, the survey effort has been conducted in

a manner which renders any conclusions from it to be worthless for the following reasons:

A. The surveys use one approach to monitor numerous species. All modern studies of survey methods that have examined multiple species have concluded that monitoring a variety of species requires a variety of methods. Thus the response rates of different species have not been optimized.

B. The survey effort has been inadequate to draw conclusions about population changes. There is no information available regarding how the number of track stations to be established was determined. The proper procedure is known as a statistical power analysis, and is now considered to be essential for any wildlife monitoring program. By conducting a power analysis before beginning field work, managers determine the effort required to reveal trends in population size at a predetermined level of confidence. It is analogous to checking if one has sufficient money before making a purchase. Assessment of the power of the past track surveys by Dr. Robert Harrison indicated that the level of effort has been grossly inadequate to detect trends. In other words, populations could rise or fall dramatically without the changes being detected by the track surveys.

C. Notwithstanding the fact that the power of the track surveys is inadequate, NMDGF has made statements to the effect that populations have not shown declines based upon the track station data. However, there have been no analyses of year-to-year changes in visitation rates to support these statements in annual reports, nor has there been any statement of how the data were to be analyzed. Again, absence of evidence has been used as evidence of absence of significant effects.

D. There is no documentation, such as photographs, of the tracks that were observed. The tracks of some species can be confused with others, and there is no independent way to check that the species identifications were correct.

To make the track survey program truly useful, a very large increase in effort and expense would be required. It would be best to discontinue this program and direct the time and money involved to collection of data which can be more useful (see below).

In summary of the efforts made by NMDGF to evaluate the effect of trapping upon furbearer populations, it is clear that while no disaster has been detected, no mechanism is in place to detect one in a timely manner should it occur. NMDGF uses absence of evidence as evidence of absence and justification for lack of effort to update their programs. The people of New Mexico, trappers and non-consumptive users alike, are being asked to take the NMDGF's word in support of their assertion of no effect of trapping with no supporting data analysis or documentation. NMDGF should recognize the limitations of its own data. Neither harvest nor pelt prices directly measures characteristics of furbearer populations, such as population size, the percentage of offspring surviving to adulthood, the ratio of older animals to younger ones, or the ratio of females to males. Knowledge of these characteristics would give us a much better

understanding of whether or not populations are being harvested in a sustainable manner. A more informative and precise assessment of the impact of harvesting upon populations is thus needed.

The Special Case of Swift Foxes.

Swift foxes are a species of special concern in New Mexico due to their former status as a candidate for endangered species listing. They are also a protected furbearer and may be taken in traps. Swift foxes are administered by the Conservation Services Division of NMDGF, rather than by the Wildlife Management division, which manages the other furbearers. Scat surveys for swift foxes have been conducted in 2002, 2005, and 2008. The surveys have the potential to track changes in swift fox populations, if done correctly. Unfortunately in 2005 inexperienced field personnel were contracted and were unable to locate an adequate scat sample. In 2008, an adequate sample of scats was collected, but delay in contracting a genetics laboratory to verify species identification resulted in deterioration of the DNA contained in the scats and an inadequate verified sample. As a result of these unnecessary problems, NMDGF has been able to determine only that swift foxes still occur throughout their historic range in New Mexico, with the exception of cropland areas. New mathematical techniques for determining the percentage of that area occupied by swift foxes are available and could be used to examine population trends in a much more powerful way than can be provided by at present by trapper reports. According swift foxes more serious attention would make their management much more beneficial.

Conclusion

It is clear that furbearer trapping in New Mexico is a very active ongoing endeavor with a variety of effects and the potential to result in the deaths of large numbers of wild animals. The extent of these effects is not clearly known. It is also clear that furbearer management by NMDGF is minimal at best, and that NMDGF uses poor science and outdated and inadequate management techniques that do not enable it to monitor what effects trapping is having on furbearer populations nor to quickly detect serious population declines should they occur. NMDGF has also failed to create or provide documentation of their goals, methods, and analyses for the public.