

NEW MEXICO HORSE RACING COMMISSION
MINUTES OF THE REGULAR MEETING

Date: November 17, 2022, at 9:00 a.m.

Place: NMRC Boardroom; 4900 Alameda Blvd., NE, Albuquerque, NM and Zoom Video Conference – Meeting ID: 851 9467 0359

Members Present: Chairman Sam Bregman, Vice-Chairman David “Hossie” Sanchez, Commissioner John Buffington, Commissioner Billy Smith, and Commissioner Margaret Branch.

NMRC Staff Participating: Executive Director Ismael Trejo (via Zoom), In-House Counsel Richard Bustamante and Law Clerk Denise Chavez.

Also Present: Assistant Attorney General Sally Malave (via Zoom).

<i>AGENDA ITEM</i>	<i>RECORDING #</i>	<i>DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
Public Session 1: 1. Call to Order and Roll Call	8:06 – 8:3	Meeting called to order at 9:00 a.m. by Chairman Bregman. Roll call was taken by Denise Chavez. Executive Director Ismael Trejo and Assistant Attorney General, Sally Malave were present via Zoom. In-House Counsel Richard Bustamante, and NMRC Law Clerk, Denise Chavez were also present.	No Action Taken.
2. Pledge of Allegiance	8:44 – 9:01		Pledge of Allegiance was recited.
3. Approval of Agenda	9:30 – 9:57	Chairman Bregman asked if there were any changes to the agenda today. There were none.	Motion to approve the agenda made by Commissioner Smith. Commissioner Buffington second the motion. Motion passed unanimously.

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4. Approval of Minutes: October 20, 2022	10:02 – 10:21	Chairman Bregman asked if the minutes for the October 20, 2022, meeting were reviewed and if there were any changes. There were none.	Motion to approve the minutes from the Regular Commission Meeting on October 20, 2022, made by Commissioner Smith; Second by Commissioner Buffington. Motion passed unanimously.
5. Chairman's Reports	10:30 – 13:04	<ul style="list-style-type: none"> Chairman Bregman thanked the NMRC staff for all their hard work. Chairman Bregman reminded everyone there will NOT be a Commission meeting in December. Next meeting will be in January, 2023. Chairman Bregman also reminded everyone the upcoming Tuesday is a big day at Zia. We are looking forward to this day. There will be a lot of good races going on and he encourages everyone to go out and enjoy the races. Chairman Bregman updated everyone on the Federal lawsuit filed by the NMHA against the NMRC which has been dismissed for the most part. There is one count left. However, all the Commissioners who were sued 	No Action Taken.

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		<p>individually have had those counts dismissed.</p> <ul style="list-style-type: none"> Chairman Bregman thanked all the Commissioners and the racetracks for all their hard work. He said he knows the horseracing industry faces a lot of challenges, including HISA, but if we all continue to work hard together, New Mexico will continue to be a great place to run racehorses. 	
<p>6. Agency Director Reports: A. NMRC Report</p>	<p>13:40 – 16:23</p>	<ul style="list-style-type: none"> Executive Director Trejo reported HISA/HIWU are coming along. There is a planned meeting with them on November 29, 2022, at Sunland Park Racetrack. He hopes to have Sunland Park Management there at this meeting. Discussions will include the logistics of HIWU testing facility and seeing what needs to be done as far as upgrades go for accreditation. Ongoing discussions have taken place regarding the implementation of the Voluntary Agreement, which have been rolling along modestly. No moves have been made by either side. HISA/HIWU are grateful we are willing to talk with them to move things forward. This needs to be a cooperative effort between ALL parties to make this work. 	<p>No Action Taken.</p>

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B. NMHBA Report	16:24 – 23:49	<ul style="list-style-type: none"> Executive Director Trejo reported that, yes, the big race day is approaching at Zia Park Tuesday, November 22. In closing, Executive Director wished everyone a happy and safe holiday season. He thanked all the Commissioners for all their support. <p>NMHBA's Mary Barber presented the Race-A-Day Report for Zia Park through Sunday, October 30, 2022, stating it ran 71 NM Bred Races in 16 days. In overnight races, the NMHBA contributed \$1,063,000, which was \$192,500.00 more than in 2021. It averaged 4.44 NM Bred per day, +23 for three a day.</p>	No Action Taken.
7. Unfinished/New Business and/or Action Items A. Approval of First Half of 2023 Regular Commission Meeting Dates	23:50 – 24:57	NMRC considered the following proposed regular Commission meeting dates for January through June, 2023: January 26, 2023 (Albuquerque); February 16, 2023 (Sunland Park); March 23, 2023 (Albuquerque); April 20, 2023 (Albuquerque); May 18, 2023 (Albuquerque); June 15, 2023 (Albuquerque).	Motion to approve the First Half of 2023 Regular Commission Meeting Dates as presented made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.

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B. Approval of 2022/2023 Sunland Park Stewards	24:59 – 26:09	Commissioners considered Connie Estes, Gary Terrien, David Lupo and Larry Fontenot, Jr. as Sunland Park's 2022/23 Official Stewards.	Motion to approve 2022/23 Official Stewards as presented made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
C. Approvals for The Downs at Albuquerque			
1. Request for Approval of 2023 Import Simulcast	26:12 – 30:04	Mr. Cook requested approval of the 2023 Import Simulcast. Chairman Bregman informed everyone he had the chance to meet with all track managers very briefly before the meeting began and asked why there was such a big difference between all the track in NM and what they are being charged to simulcast. Mr. Cook explained that a while back all the tracks were in a co-op but now all tracks negotiate individually.	Motion to approve 2023 Import Simulcast for the DAA made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
D. Approvals for SunRay Park			
1. Request for Approval of 2023 Stall Application	30:08 – 36:41	Steve Fedunak requested approval of 2023 Stall Application. Commissioner Buffington asked Mr. Fedunak if there were any changes from last year's stall applications. Mr. Fedunak responded the only changes were the dates. Commissioner Buffington said he thought there was language regarding the simulcast agreement being approved before horses could enter the grounds. Mr. Fedunak said he believes such language was removed but it could be added back if they wanted. Executive Director	Motion to table the approval of the 2023 Stall Application made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.

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<p>2. Request for Approval of 2023 Stakes Schedule</p> <p>3. Request for Approval of 2023 NM Breeders' Futurity Nomination Blanks</p> <p>4. Request for Approval of 2023 Four Corners Futurity Nomination Blanks</p>		<p>Trejo also pointed out there are two different deadlines listed on the stall application and asked if Mr. Fedunak could explain the difference. There was a typographical error, and the Commission decided it would table this matter. Executive Director will approve after the correction is made and it will be brought back in January for ratification.</p> <p>Steve Fedunak requested approval of 2023 Stakes Schedule. Chairman Bregman asked Mr. Fedunak if SunRay is having the same stakes as last year. Mr. Fedunak replied there was only 1 stake race eliminated due to reduced purses.</p> <p>Steve Fedunak requested approval of 2023 NM Breeders' Futurity Nomination Blanks.</p> <p>Steve Fedunak requested approval of 2023 Four Corners Futurity Nomination Blanks.</p>	<p>Motion to approve 2023 Stakes Scheduled made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve to amend 2023 NM Breeders' Futurity Nomination Blanks made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve the 2023 Four Corners</p>

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<p>5. Request for Approval of 2023 Import Simulcast</p> <p>E. Approvals for Ruidoso Downs</p> <p>1. Request for Approval of 2023 QH Stall Application</p> <p>2. Request for Approval of 2023 TB Stall Application</p>	<p>36:50 – 47:01</p>	<p>Steve Fedunak requested approval of 2023 Import Simulcast.</p> <p>Rick Baugh requested approval of 2023 QH Stall Application. Mr. Baugh reported the only change made to the Stall Application is it now states “[a] horse that receives a positive hair test for a non-therapeutic medication will be excluded from the racing grounds.” Questions regarding this hair testing rule were asked by Chairman Bregman and Vice-Chairman Sanchez.</p> <p>Rick Baugh requested approval 2023 TB Stall Application. Commissioner Sanchez asked Mr. Baugh what the difference was between the TB and the QH Applications. Mr. Baugh responded they are basically the same.</p>	<p>Nomination Blanks made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve 2023 Import Simulcast made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve 2023 QH Stall Application made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve 2023 TB Stall Application made by Commissioner Smith. Motion seconded by</p>

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<p>3. Request for Approval of 2023 Stakes Schedule</p> <p>4. Request for Approval of 2023 Import Simulcast</p> <p>F. Approvals for Zia Park</p> <p>1. Request for Ratification of Approval of Amended 2022 Racing Officials</p>	<p>47:19 – 54:27</p>	<p>Rick Baugh requested approval of 2023 Stakes Schedule. Mr. Baugh said pursuant to the NM Breeders' Association's request, they shifted the Zia Futurity and Derby earlier to allow more time between the finals and trials of the All American as well as adding more time between the All-American trials and the finals to allow those babies to have more time.</p> <p>Rick Baugh requested approval of the 2023 Import Simulcast.</p> <p>Bill Belcher requested ratification of the approval to amend 2022 Racing Officials. Chairman Bregman asked Mr. Belcher how the meeting was going so far. Mr. Belcher reported, so far so good. The weather finally hit Hobbs today. This morning training had to be delayed due to the track being frozen. Otherwise, everything is going really, really well.</p>	<p>Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve 2023 Stakes Schedule made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to the 2023 Import Simulcast made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to ratify the approval to amend Zia Park's 2022 Racing Officials made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>

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<p>2. Request for Ratification of Approval of 2022 Purse Increase</p>		<p>Bill Belcher requested ratification of the approval of the 2022 Purse Increase. The purse increase will begin this Saturday, November 19, 2022. Commissioner Smith commented there are many complaints about the purse increase. Commissioner Smith confirmed the reason for the increase is more because of “lack of entries” and less because the track is not paying attention to what’s going on. Mr. Belcher confirmed that is part of the reason for the increase. The other reason is because Zia Park had a great October in the casino.</p> <p>Commissioner Sanchez reported on many complaints he received about Zia Park’s surface. Mr. Belcher said he has not heard that complaint and in fact, has heard the surface is the best it’s been in years. Commissioner Sanchez asked where and what type of sand is used for the surface. Mr. Belcher was not sure but said he would look into that and let the Commissioners know. Commissioner Sanchez asked if there have been more break-downs than usual and asked Mr. Belcher to look into that and report back. Mr. Belcher stated he did not believe the break-downs were bad at all but would look into it and report back. Executive Director Trejo confirmed the NMRC has the catastrophic break-down information. He believes there have been 3 TB and</p>	<p>Motion to ratify the approval of the 2022 Purse Increase made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>

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<p>3. Request for Approval of 2023 Import Simulcast</p> <p>G. Approvals for Sunland Park</p> <p>1. Request for Approval of 2022/23 Jockey & Exercise Rider Insurance</p>	<p>54:33 – 58:58</p>	<p>2 QH break-downs. Zia Park had a pretty good year last year and so far this year, it is going as well. The jockeys' guild has reported good conditions.</p> <p>Bill Belcher requested approval of the 2023 Import Simulcast.</p> <p>Dustin Dix extended happy holidays to all Commissioners. He also invited everyone out to Sunland Park January 1, 2023 for the Racing Commission Stakes. Mr. Dix reports he is looking forward to the inspection of the track so it can show off some of its capital improvements for the upcoming race meet.</p> <p>Dustin Dix requested approval of the 2022/23 Jockey & Exercise Rider Insurance pursuant to NMAC 15.2.2(B)(11). Chairman Bregman reminded Mr. Dix this matter has been the subject of a recent lawsuit. Chairman Bregman confirmed this request is consistent with the last order of the court where it stayed its decision and the issue will be revisited if the legislature makes any changes to this rule. Mr. Dix confirmed.</p>	<p>Motion to approve the 2023 Import Simulcast made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve 2022/23 Jockey & Exercise Rider Insurance made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>

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<p>2. Request for Approval of 2022/23 Racing Officials</p>		Dustin Dix requested approval of the 2022/23 Racing Officials. There are still a few open positions but hope to have those positions filled in a week or so.	Motion to approve 2022/23 Racing Officials made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
<p>3. Request for Approval of 2023 Import Simulcast</p>		Dustin Dix requested approval of the 2023 Import Simulcast. Mr. Dix addressed Chairman Bregman's comments about the tracks receiving different rate for the import simulcast. He said he believes Sunland gets a better rate than other because it uses its signal as leverage since there is not a lot of competition in the winter. He would welcome all the tracks getting together to work on rates as a group.	Motion to approve 2023 Import Simulcast made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
<p>4. Request for Approval of Payment of 2022/23 Purses</p>		Dustin Dix requested approval of Payment of 2022/23 Purses pursuant to NMAC 15.2.3.8(4)(d).	Motion to approve payment of 2022/23 purses made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
H. Hearing Officer's Reports			

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1. IMO: S. Trey Wood	59:18 – 1:24:51	<p>Assistant Attorney General Erin Lecocq presented the Hearing Officer's Recommendation to dismiss this matter. The Prosecutors filed a motion to dismiss on July 8 due to the appeal being untimely. On July 12, Mr. Blackburn, attorney for Mr. Wood, requested an extension until August 8 to respond to the motion. However, no response was ever filed by the 8th or thereafter and no additional time was ever requested by Mr. Blackburn. Almost 2 ½ months later, the Hearing Officer granted the motion to dismiss due to no response ever being received. Further, no objection to the Hearing Officer's recommendation was ever filed pursuant to NMAC 15.2.9.15(E) and (F). AAG Lecocq argued this motion should be granted. Mr. Blackburn was present to rebut AAG Lecocq's arguments. Chairman Bregman stated the Commission definitely has compassion for Mr. Blackburn's arguments, however, the NMRC has been told numerous times it needs to follow its own rules. Commissioner Smith abstained from voting on this matter. AAG Sally Malave pointed out the NMRC rules provide that within 10 days after a Hearing Officer's report is filed, a party of record may file objections to that report. So as far as the argument that there was no clear rule of how long Mr. Blackburn had to object to the Hearing Officer's report, the Commission rules are very clear it is 10 days after the report is filed. Mr. Blackburn agreed an extension request to object to</p>	<p>Motion to deny the Hearing Officer's Recommendation and not dismiss this appeal made by Commissioner Branch. Motion seconded by Commissioner Sanchez. Commissioners voted 2-2 to deny the HOR. The Commission was deadlocked and decided to return to this issue after executive session.</p>

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2. IMO: Martin Orona, Sr. & Victor Lozano	Second Open Session Recording 5:34 – 9:19	<p>the report was never sought by him. Chairman Bregman will entertain a motion to uphold the Hearing Officer's recommendation to dismiss this appeal.</p> <p>Chairman Bregman asked AAG Malave if she had any recommendations since Commissioners cannot agree what to do with the Hearing Officer's Report. Ms. Malave said she is not sure what the remedy is if they cannot agree with the Hearing Officer's Report. Commissioner Branch suggested in-house counsel do some research on how to handle this matter. Chairman Bregman said he will entertain a motion to bring this matter back in January.</p>	<p>Chairman Bregman moved to bring this matter back in January. The motion was seconded by Commissioner Buffington. Motion passed unanimously.</p>
	1:24:58 – 1:26:30	AAG Lecocq stated there are no objections to the Hearing Officer's recommendations in this matter and asked Commissioners to adopt the Hearing Officer's recommendations. Chairman Bregman asked if there was anyone present representing Mr. Orona and Mr. Lozano, but nobody was present.	Motion to adopt the Hearing Officer's Recommendation made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
Executive Session: entered at 10:19 AM	1:26:35 – end	Chairman Bregman called for a motion to enter into executive session to discuss the items listed in the agenda, pursuant to Sections 10-15-1H(1), H(3) and H(7) of the Open Meetings Act authorizing closed sessions for matters related to	Commissioner Smith moved to enter into Executive Session. Commissioner Buffington seconded

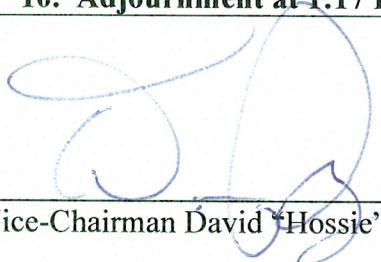
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K. John Bobroff (Licensing) L. HISA (Personnel) M. Mark Hettinger (Licensing) N. Max Moreland (Licensing) O. Steve Fedunak (Licensing)		See Below for action taken. See Actions taken Below.	
9. Unfinished/New Business and/or Action Items A. Ruidoso Downs 1. Discussion & Decision on 2022 Purse Money 2. Simulcast	10:00 – 11:18 11:19 – 13:20	There was some left over money (approximately \$900k) from Ruidoso's last meet. Commissioner Smith made a motion to split the total amount of left over from the last meet. Half of the money should be "retroed" and the other half can be kept by Ruidoso Downs to start the next meet. Ruidoso Downs failed to simulcast the DAA race on October 1, 2022. Chairman Bregman said he is disappointed this occurred and reminded Ruidoso Downs in order to keep the casino open this race meet should have been simulcasted. Commissioner Sanchez also reminded Ruidoso Downs could be fined up to \$100,000 for such violation. This violation will be reported to Gaming Control Board as well.	Motion to retro half to those who ran at Ruidoso Downs last race meet and the other half saved for next race meet at Ruidoso Downs made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. Motion to fine Ruidoso Downs \$7,500 made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
B. John Bobroff (Licensing)	13:23 – 15:46	John Bobroff went before the Commission asking to be allowed to be licensed as a groom. Mr.	Motion to deny Mr. Bobroff's request to be

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		<p>Bobroff was available to answer questions by the Commissioners during Executive Session. It is the understanding of the Commission, that sometime next year Mr. Bobroff will have the opportunity to petition the Court to be released from supervised probation. Chairman Bregman said he would entertain a motion to deny Mr. Bobroff's request until he petitions the Court and is released from supervised probation. Commissioner Sanchez added if Mr. Bobroff does not petition the court or if the court does not grant early release, Mr. Bobroff can return to the Commission June, 2026 when he has completed his probation and request to be licensed then.</p>	<p>licensed as a groom made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>
C. Discussion & Decision to Sign HISA Voluntary Implementation Agreement	15:50 – 16:50	<p>Chairman Bregman expressed it is his opinion the Commission should authorize Executive Director Trejo to negotiate with HISA regarding this Voluntary Implementation Agreement and if they are able to come to satisfactory negotiations, Executive Director Trejo should execute such Agreement, and then return in January to ratify the decision.</p>	<p>Motion to give Executive Director Trejo authority to negotiate and execute VIA with HISA made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>
D. Mark Hettinger (Licensing)	16:57 – 17:32	<p>Mr. Hettinger was approved pending his background check at a prior Commission meeting. Today Gaming Control Board staff</p>	<p>Motion to approve Mark Hettinger made by Commissioner Smith. Motion</p>

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E. Max Moreland (Licensing)	17:35 – 18:04	<p>reported Mr. Hettinger's background came back satisfactorily.</p> <p>Mr. Moreland was approved pending his background check at a prior Commission meeting. Today Gaming Control Board staff reported Mr. Moreland's background came back satisfactorily.</p>	<p>seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve Max Moreland made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>
F. Steve Fedunak (Licensing)	18:05 – 18:36	<p>Mr. Fedunak was approved pending his background check at a prior Commission meeting. Today Gaming Control Board staff reported Mr. Fedunak's background came back satisfactorily.</p>	<p>Motion to approve Steve Fedunak made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>
G. Discussion of the State of the NM Horseracing Industry	18:37 - END	<p>Discussion regarding struggling horseracing industry led by Executive Director Trejo. Chairman Bregman asked Executive Director Trejo what he believes the obstacles are the horseracing industry is facing in NM. Executive Director Trejo said he believes the Breeders "hold the cards". He said why would TB owners want to come to NM to only have a couple of</p>	<p>No Action Taken.</p>

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		<p>opportunities to run in mixed race meets where most are QHs. Purses are great, but TB owners would not want to lose money for not as many opportunities as QHs. We need to have opportunities every race day for people to be attracted to come to NM. Chairman Bregman asked Thomas Goncharoff of NMHBA what he would suggest as solutions to these issues. Mr. Goncharoff said they are currently working on some measures to improve their numbers of both breeds and the quality of both. Commissioner Sanchez suggested opening all races instead of having breed races to attract horses from other states. Chairman Bregman gave Mr. Dix of Sunland Park the opportunity to share his thoughts regarding this issue. He too believes mixed meets seem to be a big issue in NM. Commissioner Buffington said there needs a real plan to run straight meets. Rick Baugh of Ruidoso Downs suggested a summit to discuss this issue amongst all interested parties. Chairman Bregman suggested a meeting be organized to flush out all these issues and brainstorm ideas. A special meeting should be organized to open this dialog in early January. Don Cook reminded everyone this would be the third time for such a summit. Five years ago, NM was known for being a drug state. In his opinion, NM has horseracing and bush tracks. NM is still considered bush racing until change is made.</p>	

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10. Adjournment at 1:17 PM			


2/16/2023
 Vice-Chairman David "Hossie" Sanchez Date


2-16-23
 Executive Director Ismael Trejo Date