

**KANSAS DEPARTMENT OF WILDLIFE AND PARKS
COMMISSION MEETING MINUTES
Thursday, October 18, 2007
Colby Community Center
Colby, Kansas**

Subject to
Commission
Approval

I. CALL TO ORDER AT 1:30 p.m.

The October 18, 2007 meeting of the Kansas Department of Wildlife and Parks Commission was called to order by Chairman Kelly Johnston at 1:30 p.m. at Colby Community Center, Colby. Chairman Johnston and Commissioners Debra Bolton, Gerald Lauber, Frank Meyer, Doug Sebelius, Robert Wilson, and Shari Wilson were present.

II. INTRODUCTION OF COMMISSIONERS AND GUESTS

The Commissioners and Department staff introduced themselves (Attendance roster - Exhibit A).

III. ADDITIONS AND DELETIONS TO AGENDA ITEMS

Sheila Kemmis - Under general discussion, added Shooting Range Grants Update and added Commission Permit Update to item #1.

IV. APPROVAL OF THE August 16, 2007 MEETING MINUTES

Chairman Johnston had a change on Page 4 – deleted words “vista shots, and” towards bottom of page and on Page 7 – changed antidotal to anecdotal.

Chairman Johnston moved to accept the minutes as corrected, second by Commissioner Shari Wilson (Exhibit B).

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Jim Engel, Emergency Management Director, Thomas County – I would like to see a change to the regulation to allow cast bullets for big game hunting. Some other states allow them and I know you don't allow non-expanding bullet. These are intended for hunting. Chairman Johnston – I would like to hear from Chris Tymeson. Tymeson – Are these muzzleloader or rimfire? Engel – Rimfire. They are a cast lead bullet, which offers a quick kill and is better for entrance and exit of bullet. Tymeson – Regulation 115-4-4 would cover that, and we would need to examine that and discuss it with Lloyd and Law Enforcement. Commissioner Lauber – Where can I get these, can I buy them or do I pour them myself? Engel – They are intended for older cartridges. It is not like a full metal jacket, but has a full front plate. Commissioner Lauber – You can buy the form and fill with lead yourself? Engel – Yes. Chairman Johnston – We will look at that and take it under advisement.

VI. DEPARTMENT REPORT

A. Secretary's Remarks

1. Budget Status Report – Dick Koerth, Assistant Secretary of Administration, gave this report to the Commission (Exhibit C). FY 2009 CI budget was submitted in June 2007 and discussed at the June meeting. We are trying to get gaming money or some other funding for parks. The FY 2009 budget requested is \$56,689,422 of which \$49,909,922 is for operations and \$6,779,500 for capital improvements. KDWP is also requesting 12 new FTE for a total of 422.5. Additional amounts were included for seasonal and temporary employees, fuel, utilities and IT services. In addition, \$55,000 was included for development of new State Financial Management System and \$2 million from SGF for “Open Admissions” (state park) effective January 1, 2009. Currently, entrance fees are half-price. Enhancement items: three additional Law Enforcement positions; three for parks, including one Ranger for Clinton and two Administrative Assistants, of which one will be at El Dorado; one Information and Education position; one wildlife management position at Jamestown; one Information Technology technical support position and we want to reclassify three unclassified positions. We asked for additional 2008 funding of \$448,201 for state park operations and the Governor approved \$3.9 million for flood repairs including \$1 million to repair the bridge on Prairie Spirit Rail Trail. Also, we submitted a request for damage repairs for expenditures from the Wildlife Fee Fund and for an increase to build up the Kansas Wetlands Education Center building site. Commissioner Sebelius – Lets go back to the dedicated source of funding. Have we decided not to use vehicle registration as a source of funding? We had to go in and ask for money for half-price admission. What do you see being suggested as a permanent source of funding? Secretary Hayden – As an agency, we still have an interest in the vehicle registration source. It is working well in Montana, but we cannot garner the legislative vote. I sat down with the Governor to discuss options, assuming that one was not viable. In 2006, the new gaming revenue fund was set up from money received from casinos and slot machines at dog tracks and the legislature did not earmark that money but has said what it can be expended on. It can be spent on capital improvements (CI) and the budget director suggested we seek a portion of those gaming funds for CI in the parks. We suggested as they dedicate that fund, as money starts coming in this year, that we try to earmark \$3 million of that per year for that use. That can't be used on operations. Commissioner Sebelius – Will that take a piece of legislation or will we have to ask for it each year? Hayden – We would need permanent legislation. Lottery money was dedicated 20 years ago and those fees are still dedicated for those sources. Our goal would be to get a statutory commitment. It will be a bill, but other people will be trying to get that money also. That fund is expected it to be \$200-\$300 million a year. We have a good chance of doing that.

2. 2008 Legislature – Chris Tymeson, legal counsel, gave this report to the Commission. Park funding is our big push for this year, including flood damage, free entrance and long-term funding; failure to comply with W&P citation is three-fourths of the way through the process, and it would allow courts to suspend licenses if violators failed to comply; vessel liability insurance – there is some difficulty with that bill; field trial permits, double regulate on CSAs, attempted recently to address this in regulation and Attorney General denied us; KPF retirement package, some state employees are in this, some are not, they meet next week to look at our law enforcement officers and rangers joining that; prairie dogs, there is ongoing litigation; NRA no net loss statute, that would be to reopen additional land for land that is closed and have right to

hunt amendment, spoke with NRA representative and it doesn't appear they are going to push forward; conservation easements, decision on coal fired plants and wind power being made today will bring this to the forefront; IGUCA, indirectly involved as we have water rights in those areas and the interim committee is meeting next week; FHFH, we assisted them in getting a grant from SRS, and possible long-term stable funding from SRS; free hunting and fishing for veterans (since 2003), if this goes through we would lose the fees for the license sales and federal aid because they will not be counted as sold; guides want to be licensed again, under Commerce instead of us; transient guest tax, possible on cabins; CSAs and removing hunting license requirements, expect no movement; bills that deal with exempting us from commenting on bills (three) water projects environmental coordination act, T&E species repeal, and posted land-searches of building; registered sex offenders in parks, not much action; hunter education exemption for military; over 65 free fishing licenses; feral swine; captive cervid; deer, not much action on deer because new program starting next year, 10 years ago we had 25 bills in one year; and other bills out there that pertain to us are SB 38, SB 189, SB 266, and HB 2143 may be used as vehicles to get bills moving. One other item of note, on the boating bill that passed a couple years ago, it is raising consternation on muffling laws. Commissioner Meyer – Huge number of Canada geese in Herrington area, could we add them to the feeding the hungry program. Tymeson – They are federal migratory species and would have to go to a processor in Minnesota, which is cost prohibitive. Chairman Johnston – On zebra mussels at Perry Reservoir, have you heard anything on that? Tymeson – No, as session gets closer we will hear from some legislators on that. Chairman Johnston – ~~On~~ In discussions with a legislator in Wichita, before the Perry news;. He was talking about a law requiring boats to go through a bleaching or chemical process to be moved from one water to another. Tymeson - We tried to find out if he is going to do something or not. Commissioner Lauber – I have seen the dipping pit that would be used to take the gel coat off your boat and I think it would be crazy. There are unenlightened fishermen who have the wrong perception of how serious this is. I don't know what can be done, but that is more radical than people are going to put up with. Other than not being able to move boats from one lake to another. Tymeson – I will make an attempt to call him. Mike Pearce – Zebra mussels at Perry is new to me. Doug Nygren – We did confirm the presence of zebra mussels in the marina, as a boat that had not left the lake for 10 years was pulled out he noticed them, divers found vilagers at 8-10 feet and we have posted the lake. Pearce – Do you expect them to go down the Kansas River? Nygren – They have not been detected downstream, but they go with the flow. They have been detected on barges in the Missouri River.

B. General Discussion

1. Hunt of a Lifetime and Commissioner Permit Updates – Keith Sexson, Assistant Secretary for Operations, gave this report to the Commission (Exhibit). We can issue up to 10 permits. Applications were sent out the first part of September with a deadline of the end of September. We received applications for three permits, one from Hunt of a Lifetime out of Harborcreek, Penn. and two from Buckmasters American Deer Foundation out of Tuscaloosa, Ala. All three hunts will occur in Pawnee County with Tim Schaller, who has been doing this for a long time. We called both organizations and told them we have seven more permits that we could issue to them or any other organization.

There are seven commissioner permits that can be issued each year, one elk and one antelope or all of them can be deer (Exhibit E). In January 2007 Wildlife and Parks held the second

drawing. Winners of the permits were: Ducks Unlimited - Shawnee Mission Chapter; two to Pheasants Forever (Flint Hills and Soloman Valley Chapters); two to Friends of NRA chapters (KS-4 Topeka and KS-26 Ottawa); and two to NWTF (Lawrence and Ottawa Chapters). Permits sold for a total of \$26,973.56. In 2006, the combined permits sold for \$49,000 which was higher because Rocky Mountain Elk Foundation sold the elk permit for \$23,000. Permit applications for 2008 will be available November 1 with the winners being drawn at the January 10, 2008 Commission Meeting in Independence. Chairman Johnston – In 2008 we set in place rules for how the funds were handled. How did that work? Keith – They can extract funds they have coming to them and send the rest to us and we put the money in Wildtrust. Then they submit projects and we send them back the money. Archery in Schools funds or something similar will go right to those special projects from us. Before that, we let them hold the money and expend it on projects as they saw fit. Chairman Johnston – The report says that NRA has not sent in their funds. Sexson – We need to remind them the money needs to go through us. They are involved in a lot of shooting sports programs that we like to see.

2. Prairie Dog Update – Keith Sexson, Assistant Secretary for Operations, gave this report to the Commission. This was an opportunity to revisit email traffic as a result of our involvement in the Logan County prairie dog issue and bring you up to where we are. There are state statutes in place, 80-1201 to 80-1208, that allow access to private property for prairie dog eradication. About two years ago a notice went out to Logan County landowners that said unless they controlled the prairie dogs, the county would come in and control them. Essentially, this action was the center of the controversy. KDWP wasn't involved directly in initial discussions because methods didn't require permitting from the department. In late August 2007, an application came to the department asking to apply Phostoxin as a permit is required under 115-16-2 (to apply poisonous gas or smoke) to do that. The initial permit was asking to treat 10,000 acres on three adjoining landowners. In reviewing that we determined that to be excessive for the use of phostoxin. The applicator was contacted by phone and told this would pose an inordinate risk to non-target species, which is one category we can deny the permit. Following that an amended application was received for 3,000 acres and considering the acreage and location that was also determined to be excessive. Knowing the landowners involved had been attempting control on their borders, it was determined an acceptable condition for the issue of the permit to apply Phostoxin was to limit its use to those borders adjoining neighbors who were not originally named in the application. In consulting with the Extension wildlife specialist who was familiar with the area and the border control plan, the department did issue a conditional use permit for 2 ¾ miles of border to a width no greater than 100 yards. That amounted to about 100 acres. That permit was issued on September 4, application of Phostoxin started on September 7, and three-fourths of a mile was treated. On September 10, a temporary restraining order was issued and the application of Phostoxin was stopped. The restraining order names KDWP and the Logan County Commissioners and was brought by the three landowners. A hearing is set for October 29. We await the hearing process. Another issue is The Nature Conservancy (TNC) applying Phostoxin without a permit, and those allegations have been under investigation and we are awaiting the results. Chairman Johnston – The ongoing investigation of TNC's alleged use, is that being performed by KDWP? So we can't talk about it since it is an incomplete investigation. Sexson – Absolutely. Lauber – I am hearing a cacophony of opinions. Tymeson – Stop. Keith has been subpoenaed for this court hearing, so stick to facts on your questions. If it is any sort of opinion or any other speculation, or where is Keith going I would say Keith should not discuss it. Chairman Johnston – I suggest you feel free to interrupt him if he starts to wander.

Commissioner Lauber – I am trying to figure out, since I believe this is a property rights issue, if this battle can go on and we can remain on the sidelines. This is a controversial issue and there are lots of opinions. If we take a side one way or the other there are activists that will want us to support their position or aggravate Farm Bureau and KLA. So, I wish there was a way we could keep out of this fight. Tymeson – That pertains to litigation strategy and Keith can't comment on that. Commissioner Sebelius – Have we ever given much thought to taking the position as a department, not just this case but anything in the future on species like prairie dogs, just banning the use of that substance or do you feel it has a place in control? Tymeson – If you want to, perhaps at a future meeting, we could discuss Phostoxin permits, but I would suggest we wait until after this litigation and go through that step-by-step to see if we need to modify our regulations. Commissioner Meyer – I feel it would be appropriate to address non-target species so they are protected throughout this whole thing. Commissioner Shari Wilson – I echo what Commissioner Meyer said. When there was a less toxic option available within a month or so of when the permit was requested, that concerned me and I would like to see these issues dealt with in the least toxic way possible, in my opinion. That is part of good wildlife management in general. Chairman Johnston – Discuss at future date the future permitting and use of chemicals? Commissioner Shari Wilson – That is a good idea. Commissioner Lauber – This litigation could go on forever and will probably be dealt with in the legislature at some point in time so based on counsel's advice, Keith may not be able to talk to us for a while. It was my understanding that there were less aggressive methods considered and tried, but there was no landowner cooperation, that there were cattle present and certain reasons that Rozol. I am hearing a lot of those general facts. I too am concerned about non-target species and believe prairie dogs are blamed for more damage and harm than they are guilty of. Be careful on getting a large group of agricultural interests mad at us because they perceive us as not ag-friendly. I think it would best if we could keep out of this fight.

Ron Klataske, Executive Director of Audubon Kansas, Manhattan– I would like to provide background information on the specific properties involved in the permit for the use of Phostoxin. Two years ago I was contacted by landowners involved, and they were concerned about the fact that their property rights were being violated by the county and were trying to accommodate as much wildlife as possible. They are conservation interested and recognize that prairie dog colonies are valuable for burrowing owls, swift fox, ferrugous hawks, golden eagles, bald eagles and many other species. I can make an analogy to a prairie with prairie potholes or wetlands in it. If you have a prairie you are likely to have a diversity of species that are associated with the grassland. The same thing is true for shortgrass prairie and you have prairie dog "potholes" and you get more diversity of wildlife. Some landowners enjoy this. Unfortunately the Kansas Legislature has not repealed or revised the century-old statutes that are certainly not consistent with modern thinking on wildlife conservation or property rights. It may be an issue where the department can't always take the middle of the road and not be involved. We have a position we would like to advocate. Up to this year, Logan County Commission's attempt to try and get imposed controlled eradication on this land. This landowner who was involved in Phostoxin, hired the county noxious weed person to come in last fall to treat a strip of 20-plus miles of his border in 220 yards and was planning on doing the same thing this fall. Unfortunately, the application process did not involve any communication between the Department of Wildlife and Parks and the landowners. This has exposed some major flaws in the permitting process. Not only has this landowner dedicated over 250 acres to vegetative buffer strips that he doesn't graze, which defers colony growth, he implemented last year and planned to use less dangerous poison, zinc phosphide. It kills prairie dogs or whatever eats the poison

oats, but does not kill secondary predators that feed on the dead or dying prairie dogs. They don't want harm to come to the swift fox or burrowing owls or anything else. The problem with Phostoxin is it will kill every living thing. The other problem with Phostoxin is it is being imposed on them and it is very expensive, \$75 an acre or more. We need to change the protocols on the use of Phostoxin permits so the landowners are in the loop. These landowners have not been blind to the concerns of surrounding landowners. In fact, in partnership with Audubon of Kansas and the U.S. Fish and Wildlife Service, \$40,000 was allocated last fall to be used to control prairie dogs on surround lands within a mile or so without any expense. **We should not allow these landowners to provide some of elements identified of great importance.** (As recommended) in the 2001 Kansas Prairie Dog Conservation and Management Plan that the state developed with shareholders involved, including the Farm Bureau, these landowners are providing one of the two prairie dog complexes of 5,000 acres or more identified as important. The other thing they are doing is providing for species at risk conservation, which was also identified and prioritized in the 2005 Kansas Wildlife Diversity Conservation Plan. These guys are modern day conservation heroes and should be given partnerships from wildlife agencies. Work with the Commission and try to educate them on the importance of working together. Other landowners in Logan County have had shooting interests involved. One had a viable cottage industry of accommodating shooters to stay at his ranch and shoot prairie dogs providing the local community with \$100 to \$150 a day. He could fill up the whole year with the interest that is out there. The department should work with landowners who want to do this. It is unusual that Audubon of Kansas is supporting the shooting of prairie dogs because if you have prairie dog colonies you have opportunities for dependent or associated species. A lot can be accomplished far beyond shooting and conservation. You may want to consider some opportunity for walk-in shooting opportunities. We request that you consider at a future meeting, a resolution to help deal with the Phostoxin issue. I suggest you pass a resolution on a moratorium on the issuance of Phostoxin permits for some length of time, perhaps 6 months to a year (read moratorium he had written). Chairman Johnston – You mentioned there had been some sort of an application of some type of chemical in 2006? Klataske – Yes, Rozol was used, which is the toxicant of choice, but it is not normally used according to label. The label requires that you go back and remove the dead animals. Most people who utilize Phostoxin, apply it and then never worry about the secondary poisoning threats that occur. The reason that the label requires that is because of animals feeding on poisoned animals can die also. There is a case in Nebraska right now where a bald eagle died. When TNC treated their land or surrounding lands a couple of years ago, even though they did follow up, they still found a dead badger. Chances are you are never going to find all of the animals that die this way because they wonder off and perish. The problem with Rozol is it takes five days up to a week to die so the animals are running around with a lethal load of this anticoagulant and are more susceptible to predation. We personally believe that shooting is the preferred means of control and zinc phosphide the second best. Chairman Johnston – Are you aware of a count or study prepared or published as to the numbers and types of animals, if any, that were killed before the temporary injunction was issued? Klataske – It really would be impossible because you are killing everything in burrow and most of those things would be out of sight unless you went down there with an extended camera. One of the things that the landowner noticed was that this applicant was treating all burrows regardless of whether they were live burrows or dead burrows. He also noticed that he treated a burrow that was dug out by a badger. In that case what he did was to squirt some water into the burrows and then throw a couple of Phostoxin tablets and then put a sandbag over it. In a relatively warm and moist environment the tablets evaporate and create this poison that basically

kills everything in the burrows. I realize that KDWP didn't intend to step into this situation, and unfortunately had no opportunity to look at how they were going to manage these permits. Paul Babcock, Hoxie – I am a concerned wildlife conservationist. Is there any assumption of economic impact of the financial benefits if the land that is in question, has agreed to allow the reintroduction of black-footed ferrets? In hunting antelope in that area, I see a lot of out-of-state vehicles just to see the geological things down there and it seems to me if the ferrets get reintroduced and established, they will attract a lot of people worldwide just to observe. This could be positive to this area. Chairman Johnston – I don't think it has been resolved that is going to happen yet. Klataske – Last year and this year the Fish and Wildlife Service (FWS) black-footed ferret recovery team has reserved young ferrets to be released here. Last year it wasn't possible because things got delayed too late and then they filed their draft environmental impact assessment in November with the Department of Interior to publish, but for some reason it was never published so the public couldn't comment officially and FWS couldn't review that. We are of the assumption that part of the argument against publishing it was "lets wait and see how the litigation filed against the landowners by Logan County comes out." Basically it was dropped so there is no reason why the Department of Interior needs to hold it up. It may get published soon and then there will be a 30-day comment period. The FWS has to consider all of the views presented and decide whether they should do an experimental reintroduction. We say experimental reintroduction because of the fact that these animals don't fall in same category as wild and existing endangered species. They are presumed to be expendable which means if someone inadvertently killed one they wouldn't get charged with destroying an endangered species. There are a lot of safeguards that protect the surrounding landowners and no requirements that people can no longer poison prairie dogs close by. There would be no prohibition, but it would bring in other partnerships. FWS is looking at bringing in additional resources to help the surrounding landowners control prairie dogs so they can feel comfortable that the presence of ferrets on these 10,000 acres and/or on TNC's Smokey Valley Ranch may positively impact nearby economic and agricultural interests. Hoping some time this winter that they can be reintroduced. They are available. Commissioner Shari Wilson – I asked about this before and no one can seem to produce anything, but are there any known credible studies that actually show the harm of having a prairie dog colony on your property can cause for cattle grazing or that type of use. We hear that is the reason why some landowners don't want the prairie dogs to come onto their property because they somehow harm the property for cattle grazing, but I have never seen any research study. It seems there would be one out there because this has been going on for so long, and if anyone knows of anything like that, I would be interested in seeing that.

3. KDWP Flood Damage Assessment – Brad Simpson, Public Lands Section chief, presented this report to the Commission (Exhibit F). As of this week, all of the site visits from FEMA are supposed to be completed on our wildlife areas. We know we will be reimbursed on four areas (Marais des Cygnes, Neosho, Pottawatomie SFL #2 and Woodson). They are going to cover our costs of \$114,000, with a 75 percent reimbursement, so we are looking at about \$86,000. The Marais des Cygnes and Neosho were two of the most damaged areas. But if you look at Miami, Louisburg, Hillsdale, those are small areas and the damages were repaired with their O&M fund and when you have a budget of \$7,000 and you spend half of that in the first two or three months of the fiscal year we really need that FEMA reimbursement for them to make it through the rest of the year. We are waiting on the word on the rest of these. Wilson SFL was damaged and even though it was reimbursable, there was enough supplies on that area and it

wasn't quite \$20,000 as first anticipated -- that has been completed. One that wasn't on the list is Smoky Hill wildlife area, which is on Kanopolis Reservoir and we didn't think that was going to be eligible because it was on a federal reservoir, but they are going to reimburse for some area that is outside the flood plain, but we don't know how much. If you look at Cheyenne Bottoms, it is still flooded, but it may not be as extreme as we thought. It may only cost \$500,000, depending on availability of soil to repair the levees and the cost of rip-rap. On tornado damage at Kiowa SFL, FEMA visited, but don't know what they are going to cover. They are going to cover, between Pratt Sandhills and Ottawa SFL, about \$15,000 of damages there. We don't know about equipment shed estimated at \$40,000, so we will get about 75 percent of that back. We had 13 areas not eligible for FEMA reimbursement ranging from \$1,000 up to \$500,000 at Fall River. The reason that one is so high is because there were a couple of bridges there that were destroyed. Those bridges are not actually ours so that is going to be a lot lower. We are not going to pay to have the county bridges replaced. Primarily the reason these areas were not reimbursable is because they occurred on federal reservoirs. Because of the lease agreement we have with the Corps of Engineers, they will not pay for damages due to natural causes in the flood plain. We had four wildlife areas that we owned that will not be covered by FEMA because they are not in FEMA eligible counties, so we will have to use O&M money. Again they are small amounts, but when you have small operating budgets it takes a lot away from normal operating procedures. Progress is ongoing and we are learning more as we go. Chairman Johnston – On the list of FEMA eligible repair projects, a number of the projects the work has been completed, what is the status FEMA reimbursement then and how long is that expected to take? Simpson – They send us a project worksheet that details what the damages are and what they were going to cover. We sign that and send that back in and it goes through the federal system and they determine whether they are going to do all of it or part of it. We don't know what that is until the check comes in, but if it is less than \$59,700 they will upfront us the money to repair damages. Any project over that we have to upfront the money and show them what the expenses were and they will reimburse us 75 percent. Chairman Johnston – Do you have a prediction as to what the horizon is of getting a check from FEMA? Simpson – I met with FEMA last week and they said some of the projects the money has been encumbered so the money is starting to trickle in.

Troy Brown, Parks West Region Supervisor, presented this report to the Commission (Exhibit F). Areas with the most damage are Prairie Spirit Rail Trail (PSRT), El Dorado SP and Crawford SP. PSRT had \$1 million including bridge. We are working with consultant, and once assessed it will be sent to FEMA and we'll receive 75 percent back on that project. Parks are on Corps of Engineers properties so we will have the same problems as Brad -- not much if any. Elk City SP was shut down for most of summer, opened part of it on September 1 and continued to remove debris. The water receded and most debris is picked up. We have three work teams at El Dorado working on campground restoration. We could have used some of that rain out here in western Kansas. Chairman Johnston – By next spring what is your prediction to when repairs will be completed? Brown – We will still be working on that, especially the roads. Elk City will also take some time, but we are making progress. The goal was to get it open for Labor Day weekend, but it is not up to our standards. Next year at this time we will be better off, but not where we need to be. Chairman Johnston – All parks are reopened at this time, is Elk City completely opened? Sexson – I think all of it is, at least a portion. Commissioner Sebelius – If we lost the park office at Crawford, what are we using there? What are they going to do if we can't get FEMA money? Will that be a capital improvement or will the finance council cover that? Koerth

– We are a split funded agency and yesterday the Finance Council addressed wildlife funded portions of our budget, essentially wildlife areas. As a special revenue fund they have the authority to increase the limitation. The parks unfortunately are on the parks fee fund can't be increased enough to cover the damage. It takes state general fund appropriation and that takes legislative action. Commissioner Sebelius – So we have to find a trailer or what? Koerth – There is a FEMA trailer available, but the building wasn't totally destroyed, but had a lot of water damage. They are trying to makeshift use of it until something else is available, but general fund appropriations will be next spring before we will know where we are at. We will prepare a request to go to the Governor as a part of her budget, to be reviewed by the legislature. Commissioner Bolton – Of \$4 million in estimated damages, 75 percent of that is FEMA reimbursed? Brown – No, only at PSRT. Commissioner Bolton – How much? Brown – Overall, not much. It's starting to trickle in now, but it will be minimal. Koerth – It will depend on what FEMA declares as eligible. As Troy mentioned the bridge at PSRT is eligible. It is a \$1 million damage estimate and three-fourths of that will be reimbursed by FEMA. At Crawford, we hope some of that will be eligible too, but we don't know how much. Commissioner Bolton – I just didn't want people thinking that isn't as bad as that looks. Koerth - Wildlife areas are not as bad because most of them are not in Corps areas.

4. Statewide Trails Advisory Board Recommendations – Troy Brown, Parks West Regional Supervisor, presented this report to the Commission (Exhibit G). Jerry Hover is at the Trails Conference in Lawrence. The Kansas Recreational Trails Grant Program (KRTGP) began in 1992 with a small amount of funding. It was not funded for 1993 and 1994 but it has been funded annually since 1995. This program is administered by the Parks Division and is funded from the Federal Highway Administration through the Transportation Enhancements portion of the current SAFE-T-LU authorization and reimbursable up to 80 percent. There were requests of over \$3 million for this year, actually \$5 million before October 2, 2007 meeting pared the list down. Commissioner Meyer is on the Statewide Trails Advisory Board who reviews the applications. We are working with the City of Overbrook to see if they can change their lake trail phase II application to cut it down and reapply for part of that project this year and the rest next year. That is the only one we are still negotiating on. It is a tough decision for Board to make. Applications come in incomplete and those are put at the bottom of list. If the Commission agrees to these we will move forward. There is \$40,000 granted to Horsethief Canyon Reservoir. I was on that committee when we started working on the plan and am personally glad to see that. Commissioner Meyer – Under federal regulations we are required to give 30 percent to motorized trails, but there no applications this year. Last year we gave some to Salina, but we have almost a million dollars to go to motorized trails. The biggest problem with those is noise, there is opposition to boating noise on the water and the same applies to trails. If the legislature could regulate noise not only on water, but on the road, more communities would be receptive to this going on. It is a good program and would be glad to see more motorized applications. Chairman Johnston – Was Syracuse submitted as a motorized application? Commissioner Meyer – No. Chairman Johnston – What is the mitigation for Syracuse Sand Park. Sexson – Our ESS staff, particularly Jim Hays, has been working on that and they have not got back with them and Jerry has not heard from them in terms of proceeding on the grant. I don't know what they are doing. Commissioner Shari Wilson – Syracuse application was non-motorized? Commissioner Meyer – No, it was motorized, but they did not submit an application because of the controversy going on.

Break

5. Shooting Range Grants Update – Ross Robins, chief of Education Section, presented this report to the Commission (Exhibit H). The Shooting Range Grant program was put in place to meet demand for places to shooting. We receive a lot of calls for places to shoot and have to send them a long ways to find a place to shoot. Reasonable access to safe places to sight-in rifles or pattern shotguns prior to hunting, and to learn, practice, and enjoy recreational shooting is an important need. Youth shooting programs, such as those supported by the Department’s “Pass It On” program, are increasingly popular, and require places to shoot. In addition, there is a need to provide live-fire training during hunter education classes throughout the state, to better train new hunters. In response to the need for safe, convenient places to shoot, the Kansas Department of Wildlife and Parks has implemented the Shooting Range Grant Program. It is a partnership, which provides funds for the construction, development and improvement of shooting ranges and associated facilities. These funds will be allocated on a cost-share basis to cooperating organizations and individuals through an application process. Partners provide a minimum of 25 percent of the construction costs, and in return agree to operate and maintain the ranges, and to keep them open to the public, and to the department for special events and programs. This grant program is similar to one that the Department administered several years ago. Under that program the department entered into shooting range grant agreements with 20 different partners. Two of the largest grants went to the cities of Garnett and Horton, each of which built fully-baffled rifle and pistol ranges. The ranges are open to the public and are manned by certified range officers. Partners will take care of range operation and maintenance. Applications are due by December 1 and rated on proposed sites, proximity to other sites and suitability of site. We haven’t received applications yet but have a number of interested parties.

6. Fall Turkey Season – Mike Mitchener, Wildlife Section chief, presented this report to the Commission (Exhibit I). Unit 4 is not open for turkey hunting during the fall season. New unit boundaries have taken affect, which include portions of four counties (Rush, Barton, Pawnee, and Stafford) that are now open to fall turkey hunting for the first time. The number of permits and game tags issued for the fall 2006-2007 turkey season was 16,227 (includes 4,530 game tags) and for the eleventh consecutive year exceeded the record number sold the previous year. The percentage of hunters that harvested at least one turkey during the fall 2006-2007 season was 53 percent. These hunters harvested an estimated 6,112 turkeys (770 archery and 5,342 firearm) of which only 33 percent were females. The initial permit accounted for 84.5 percent of the statewide harvest and 81.7 percent of the harvest in an area that approximates hunt unit 2. In Unit 2, where three game tags are valid, the combined harvest taken with second and third game tags accounted for only 5.4 percent of the total harvest during the fall 2006-2007 season. In recent years, the turkey population in the eastern one-third of the state has declined. The population may be starting to stabilize in that portion of the state. It’s normal to see a high increase and drop-off to a lower level and maintain there, however, it will take a few more years before we know for sure. The recent heavy rain and flooding that occurred this summer across much of the state reduced production to near record lows. The heavy rain undoubtedly flooded nests along many riparian corridors. As a result, fall hunting this year will be tougher in the eastern part of the state because there will be fewer juveniles. Expect spring hunting will be tougher next spring in the eastern half of the state due to poor production. Spring hunting will be especially tough in 2009 because there will be fewer 2-year old gobblers in the population. Because turkey numbers are expected to be lower for the next couple of seasons the department

is not considering any further liberalization to the fall season at this time. Hayden – Since we have had the fall season for a few years, and only 5.4 percent is game tags, possibly we could do away with carcass tags in the fall and go to a daily bag and possession limits as we have on pheasants. This would not start until the 2009-2010 season. After the first turkey there is not much desire to shoot more than that. Mitchener – We haven't discussed that, but we can look at it and bring back some information and see what kind of harvest that might lead to. Hayden – Think about it. Now that we have the KOALS system and the difficulty these carcass tags are causing with the single print issue, it seems like we could experiment in the fall which is our lowest harvest to start thinking about daily bag and possession and do away with problems that come with carcass tags and make it simpler for Law Enforcement as well. Mitchener – We looked at other states regarding carcass tags and there seems to be quite a wide range of things the other states do. We can get some information on that and what kinds of populations and bags they have. The ones I am most familiar with are season bags instead of daily bags. Chairman Johnston – I am interested in hearing more about that subject in terms of simplifying our permitting systems. Commissioner Lauber – I concur as well, but don't want to leave any revenue on the table. People who buy turkey permits don't get as upset as deer permit buyers, but maybe some type of turkey stamp would work. It would be worth looking into.

7. Baiting, in relation to Big Game – Lloyd Fox, wildlife biologist, presented this report to the Commission (Exhibit J). This is primarily about deer, but Mitchener has some additional information about turkey if you want it. The use of bait by hunters is a controversial issue throughout North America. It is debated on ethical hunting, and biological and ecological fronts. The use of bait as an attractant is not uniformly regulated for resident wildlife, as it is for migratory waterfowl. No regulations about baiting were established in Kansas when big game seasons were established because the agricultural Midwest was considered an area where food was readily available for big game and individual bait areas were not considered to be highly attractive to wildlife. Since that time there has been substantial refinement in the use of specialty feeders and substances to attract deer. Feeding and baiting wildlife has become an issue with an economic interest. Manufacturers build feeders and stores sell them. Agricultural producers supply the feed used in the feeders. Several states have tried to regulate baiting and have run into economic consequences. It has long been considered that artificial feeding results in large quantities of food in one area and concentration of wildlife increases the potential for disease transmission. In October 2006 an article was published in Science (314:133-136) that documented that saliva from a deer with chronic wasting disease could spread the disease to another deer. That finding prompted some people to speculate that baiting should be ended for herd health reasons. Across the nation there are 25 states where baiting is permitted and 25 where baiting is prohibited. When we do opinion surveys on hunters, landowners and non-hunters, wildlife health issues is an area that has the least amount of controversy and the strongest support. When the question is phrased in a general way, people are in favor of maintaining a healthy wildlife population. The problem becomes how the public will react, residents, nonresidents, landowners and hunters, or how strong the opinions are and if they support regulation of specific baiting practices when the science about the issue could only be expressed in generalities. Two states have tried to change baiting laws and have run into strong opposition. A bill was proposed to the Kansas legislature a few years ago on the use of bait by deer hunters. The emphasis of that bill was to prohibit a hunter or landowner on one property from attracting deer to leave the property of an adjacent landowner. It was not proposed as a wildlife health issue. Personnel at Quivira NWR and the Kansas Cooperative Wildlife Research

Unit are currently seeking funds from the U.S. Fish and Wildlife Service to investigate the degree of movement that occurs as deer respond to feeders being used by people adjacent to the refuge. At this time we have no recommendation or proposal to regulate the use of bait in big game hunting. Commissioner Bolton – When you say baiting, is it something you plant or something you bring in? Fox – Dumped on the ground as opposed to food plots. One is habitat related and the other is food related. Commissioner Lauber – Will eliminating baiting slow down the transmission of CWD? Fox – I don't know. I would like to have a strong scientific basis for it. The general assumption is that anything that concentrates deer and increases deer-to-deer communications will increase disease transmission, but I don't know how great the difference is between where it is prohibited and where it is not. I have examples of states where they have no baiting and CWD is still expanding. Chairman Johnston – Of the states equally split that prohibit or don't prohibit baiting, is there a trend since the October 2006 *Science* article one way or the other? Are states that are prohibiting changing their laws? Fox – Prohibiting states are not opening it up, but those that allow baiting are having difficulty not allowing it. Chairman Johnston – You are unaware of any states that have gone to prohibiting baiting? Fox – New Brunswick Canada did take away deer urine as an attractant. Chairman Johnston – Can you clarify how conclusive the article was and the conclusion of CWD spread from deer-to-deer by saliva or urine. Fox – It was a penned study. Carcasses of CWD animals were placed in one pen and removed, then healthy animals were put into that pen and those treatment animals came down with CWD at a significantly higher level than the control group. I don't know how it occurs with saliva. I don't know how prions go from one animal to another. We know there is a binding that occurs on clay particles in the soil, the deer pick it up in feeding or licking the ground, get in their digestive system and it goes into the lymphatic system, but the exact mechanisms are not known at this time. Chairman Johnston – Your recommendation is clear, Kansas should continue baiting. Given the breadth of your discussion I am not sure why. Is this because of the perceived or expected negative reactions from hunters, or retail sellers of feeding equipment or is it a scientific reason? Fox – Tough question. The problems we have is getting hunters and landowners supporting us, and if we try to prohibit baiting, will we lose support, will we cause discussion to go off into other areas, like ethical use of bait, and detract from ability to do other things. At this time I haven't seen where it has been successful and our program has looked for programs that have been done successfully someplace else and then we refine that and take it on. This isn't one at this point that is successful. On the other hand, every opportunity I get professionally to discourage people from baiting, I do that. The difference is between suggesting and recommending, rather than regulating. I am pushing for education as our first step until we get better information or much stronger support. Commissioner Lauber – You may enlighten us in next subject, but from the concern of CWD transmission, the risk of transmission through baiting is much lower than high population density of captive cervid. If we are going to tackle something controlling captive herds is what we should eliminate or regulate. Fox – Two things occur in captive industry: one is moving animals long distances from one farm to another and the other is high concentrations of animals maintained on the same area for long periods of time. That is why we see the high prevalence of CWD in certain pens in certain areas. Ron Klataske – I support the approach of trying to educate people and at some point you may want to regulate this if there is additional scientific information. I had a couple transferable deer permits that I issued to a man and his wife who hunted last year, but to my surprise this year he brought two feeders. He had them out for a month. It will look like a stomp lot by early December, and I think the potential of deer saliva shared on ground and on the corn is very high. I was of the impression for many years that we didn't allow baiting in Kansas or people assumed

you couldn't and I thought you couldn't even put out salt to attract deer. I suspect at some point you will have to deal with it and it will come into play with turkeys as well. Turkeys are very messy around an area so it may represent a disease issue as well. Chairman Johnston – Was it ever illegal? Sexson – No. Commissioner Robert Wilson – It was for waterfowl. Fox – It still is for waterfowl in all states. Five states allow baiting for turkey, and 25 states allow it for deer. There was confusion regarding salt. Looking back at regulations going back to 1965 I don't see anything that specifically prohibits baiting or salt. In 1973, it specifically says you can use lures. Klataske – Is it prohibited for turkeys or not? Fox – No, we are one of the five states.

8. High Fence Areas – Kevin Jones, Law Enforcement Division Director, presented this report to the Commission (Exhibit K). At one time all deer were under Wildlife and Parks. In 1993, HB 2106 transferred authority of private-owned (domesticated) deer to the Kansas Livestock Commissioner. This bill created several new sections of law and amending several existing statutes. It made it unlawful to raise domesticated deer unless they are permitted by the Livestock Commissioner. This brought in a separate state agency as the controller of domesticated deer. Domesticated deer was defined as any member of the family Cervidae, legally acquired, that are sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or, for companionship. If an individual wanted to keep a deer that was acquired from a non-wild source they could and be permitted by the Livestock Commissioner. Under the criminal procedures law there was an amendment made that states the intentional release or setting free a domesticated deer from a confined area as a violation of law. The definition of domesticate deer shows up elsewhere in numerous places throughout animal health laws, particularly under the Livestock Commissioner's authority and added into the public health law as it applies to the preparation of meat products. Statute 32-954 was affected concerning game breeding which removed that portion of deer from us, so the department has no authority over domesticated deer and no management. The Livestock Commission has the authority to establish rules and regulations. There are marking requirements such as ear tags, tattooing or microchips and permittees are to maintain inventories of their animals and make the confinement area escape-proof. Kansas has 103 permittees that possess captive cervids. There is a ban or prohibition on transport of domesticated deer across state lines to the extent that only deer that have been entered and tested in the CWD prevention program for four years or more can be transported into the state and out. In 1993, the laws were changed and we have no control. Commissioner Lauber – In 1993, I went back and tried to get a handle on what occurred. In an effort to maintain the integrity of the wild deer herd, we had a lot of concerns and felt the need to impose restrictions, and it was probably perceived that we were damaging economic potential. So by statute this was taken away from us. Does the Livestock Commission, on hotspots of CWD or confirmed clusters around high breeding areas, do anything to try to minimize trading and shuffling of these animals or just promote economic activity on the farm? We all get pictures of whitetails on internet that look like they have elk antlers and can barely hold their head up. I would hate to see any of those get out into the gene pool, is this being addressed or do we do? Jones – There are some correlations between the spread of disease and captive herds. For instance where CWD occurred in northeastern Colorado and southeastern Wyoming originally, now you have it in Wisconsin without a contiguous line in between, which would lead one to believe that is a transport issue. It is an issue with a lot of my contemporaries in other states. Some speculative information that a person could come to that conclusion. As far as the regulation and control by the Livestock Commissioner, there is the moratorium I mentioned, no deer brought in for these herds that have not been in CWD testing program for

four years. A person can't just acquire an animal from any place; they need health documentation to show it is from a clean herd. Commissioner Lauber – Personally, I would like to see high fence operations under our supervision. I think it was taken away because we wanted to impose reasonable restrictions. It would be interesting and of value, if we formally request the Livestock Commission show us some reasonable safeguards, have opportunity to have these under our control. I suppose people enjoy hunting these areas, but it is a small segment of our hunting population. I believe they provide some risk to wild herds. My opinion is that very little is done about keeping exposed or affected animals from escaping, and it is hard to keep wild animals out. I think it is a serious problem, but maybe not as serious as I think. Chairman Johnston – What information do you have or are you aware of on the frequency of escapes? Jones – Escapes are supposed to be reported to the Livestock Commissioner and there are provisions under the law to try and catch them and the Livestock Commission can order the destruction of that animal. I hear about two or three a year. It is up to the operator voluntarily reporting that. Chairman Johnston – Quite some time ago there were some CWD positive tests in captive cervid. Jones – Yes, one elk in Harper County and that herd was put down. Chairman Johnston – How long ago was that? Jones – That was in 2001. Chairman Johnston – What is your opinion on getting back authority of high fence areas? Jones – Same thought process as baiting. There is deep-seated emotions on both sides of the issue, and I am concerned about transmitting diseases across the country. Some states have become more prohibitive or banned domestic deer herds. I believe North Dakota has banned domestic deer herds. It is a monumental job. In states where wildlife agencies do the monitoring and control, it takes a lot of time and energy to do the inspections. Wisconsin has 900 facilities, and they hold a deep concern for some of the issues, particularly in disease control. I don't know if I can render an opinion, other than we should be looking at ways to control disease vectors and there are cases in some states where those deer have been brought into the wild herd. There a number of issues of concern out there. Commissioner Lauber – I think that while there might be some controversy, 103 against, but sportsmen are not going to have much sympathy unless they bring in people to hunt in these areas. I don't think it is going to be politically unpalatable for people we represent, but politically unpalatable for those people who perceive that we will reduce economic opportunity for those 103 permittees. Commissioner Sebelius – I would be interested in having more information on how big a task it would be to see if there is a recommendation to repeal the entire thing and return to before 1993. I am sure it would be like getting rid of exotic animals. I don't like the concept. I have had experience with the Livestock Commission; they aren't very big and they don't like to step in on a number of things. I don't know that they wouldn't be interested in getting rid of that. Hayden – We have a good relationship with the Livestock Commissioner and work with him on a number of issues. I suggest we invite him to make an appearance at a Commission meeting and give us a report on the status of high fence operations. If we are going to consider change we need to know more about it. Prepare our questions so he knows what questions we have. Chairman Johnston – I think that is an excellent idea. Hayden – The March meeting is in Topeka and that is where he is located so he wouldn't have to travel. He does have a small staff and a small budget. I will extend that invitation. Commissioner Shari Wilson – Was there an incident that prompted this being on our agenda? Sexson – It was put on the agenda because Commissioner Lauber had some questions and Lloyd was gone at the last meeting so we postponed it to this meeting.

9. Field Trial Permits and Controlled Shooting Areas – Kevin Jones, Law Enforcement Division Director, presented this report to the Commission (Exhibit L). This deals with a

situation that Chris Tymeson spoke about earlier in the legislative briefing. We were contacted by an individual who was questioning the rationale of why it was necessary to issue a field trial permit on a Controlled Shooting Area during their operational year as birds are released, harvested and accounted for under their reporting system. They wanted to know if this could be incorporated into one, collect data on birds taken during field trial, but not require the Controlled Shooting Area to actually go through the process of being issued a field trial permit. We brought that matter before the Attorney General's office and they advised us that we would have to do that under statutory change rather than regulatory change. The recommendation was made that those changes occur to the statute and we would go forward with legislation to affect that. After doing more study, there are some issues concerning permit requirements that we need to look at a little bit more before we bring forward legislation.

C. Workshop Session

1. Big Game Permanent Regulations – Lloyd Fox, wildlife biologist, presented this report to the Commission (Exhibit M). We will be discussing KAR 115-4-2, big game, general provisions – information that would go on a carcass tag and transferring meat to another person - it does not appear that this regulation will need to be changed, however further review of this regulation by staff is necessary; KAR 115-4-4, big game, legal equipment and taking methods – more popular of permanent regulations, requests for changes in equipment that can be legally used - restrictions and liberalizations on the legal equipment (like the earlier discussion on cast bullets), or such items as holographic sites and illuminated arrow nocks. Currently telescopes are not authorized for muzzleloaders during the early muzzleloader season (generally in September), but telescopes are authorized during all other seasons when a muzzleloader could be used. Requests have been made to allow telescopes to be used during all seasons. Currently various primitive hunting devices like spears, and knapped broadheads are not authorized for big game hunting. Requests have been made to allow these equipment types and accessories; KAR 115-4-6, deer, firearm management units - deer management will continue to be monitored on a deer management unit basis with the existing boundaries. Many resident deer hunters will select a deer permit that will be valid in all units, however, non-resident hunter permits and harvest data will continue to be at the level of the traditional deer management units. For nonresidents, the unit boundaries will be used for archery, firearms and muzzleloader equipment users, i.e., there will not be separate units for archery; KAR 115-4-6a, deer, archery management units - this regulation will no longer be needed if we continue on the route proposed by the Deer Task Force and staff recommends we revoke it. Commissioner Robert Wilson – Go back to statewide archery tags with no unit designation? Fox – Right, that will come up in 4-13 where we will describe new permits and one of the permits will be for a resident statewide archery either sex, either species. On KAR 115-4-11 – big game and wild turkey permit application process - legislation won't require us to make any change, however we have had staff discussion on concerns about differences in application fees for permits that include a preference point systems compared to applications where they are not included. We will look into that a little bit more and come back with a specific recommendation on this if we can find a way to be more consistent. Kenneth Servos, Fontana – On big game legal equipment, is caliber of shells where that should be discussed? Fox – Yes those are in that regulation. Calibers that are legal, for example for centerfire it is a .23 caliber or larger and those are in that regulation. Servos – Are you talking about considering any type of change in that, specifically the calibers? Fifteen years ago I can understand the rationale of the caliber, but with modern technology of the bullets I don't

understand how the dividing line of the caliber is. Now with 223 caliber or 22-250 you can go with loaded ammunition from 60 grain up to 90 grain. They are petition bullets made for big game hunting and you can buy 243 loaded down to 55 grain. The bullet technology is so improved and I was wondering what is rationale of keeping it the same? I would like consideration or thought given to changing that. Fox – We have looked at that and one year we changed this regulation and allowed .22 caliber and as a result we had other people come back and petition us to change that back and one of the largest folders in my file cabinets is on ballistics. That regulation is one of our hot button regulations. Servos – That is right and that is why I am here. I remember the time you are talking about and it was an emotional thing and at that time I don't think you could get information because you couldn't buy a factory big game bullet loaded in a .22-250 or .223. But that was 15 or 20 years ago and since then bullet technology is so much different. It is like comparing apples and oranges. Chairman Johnston – It is my understanding that staff is continuing to review this regulation, but would it be acceptable to take a look at this subject as well? Fox – We will be coming back with all of these again in January in a workshop and the final will go through in March or April. Tymeson – Most likely March. Fox – Initially what we were thinking was make the changes in these regulations that will satisfy the change in the state law that occurred with our bill. Whenever you open these up you open it up to spears and .22 calibers and all of the other items. Servos – If they haven't already made up their mind, I can provide information on this and would be happy to do that. Chairman Johnston – Leave your address and phone number with Sheila. Servos – I signed in. Fox – K.A.R. 115-4-13, deer permits, descriptions and restrictions; this is the permanent regulation that will receive the greatest modification as a result of the passage of House Bill 2437. Provisions need to be made to define the various permits that will be new to the system, for example, the mule deer stamp; and KAR 115-4-14, landowner deer program – we had one person in this program and he has requested to get out of it so this regulation will no longer be needed and staff recommends we revoke it. Commissioner Shari Wilson – On 115-4-13, one of the bullet items says, “nonresident deer permits shall be valid for the same season and same management unit as those for which the equivalent resident permits are valid” so we are allocating how many nonresident deer permits we will have based on the number of resident permits in each unit? Fox – This is written up to show what the current regulation has and that will be one of the items that changes, just like it says we will have game tags and the proposal is to do away with game tags and have just permits with different fee structure and residents and nonresidents will go in a separate tract and nonresidents will be on a unit-by-unit equipment basis and residents will have options that will be a whitetail either-sex and it will be any season and any unit. Nonresidents will have options that will allow them to pick their unit plus one adjacent unit. This will see a lot of modification compared to what it looks like right now. Commissioner Shari Wilson – I suggest we go over those items thoroughly so public understands it as well as the Commission.

2. Parks Regulations – ADA access issue - Troy Brown, Parks West Region Supervisor, presented this report to the Commission (Exhibit N). KAR 115-8-13 currently does not allow anyone to use unregistered vehicles on KDWP property, but occasionally we receive requests from handicapped individuals to use all-terrain vehicles, scooters, and other vehicles not capable of being legally registered. We wish to amend the current regulation to allow this type of vehicle to operate on department lands under certain conditions by or for handicapped individuals meeting certain requirements. We also want to further clarify the current regulation to specifically prohibit unauthorized use of unregistered motor vehicles including, but not limited to, four-wheelers, other all terrain vehicles, golf carts, go carts and any two-wheeled vehicle that

is propelled by an electric or gasoline powered motor which is not a moped, registered motorcycle, or motorized bicycle as defined by law. One of the things we deal with now in the park setting is we don't have a regulation dealing with this other than our off-road regulation. Right now our officers have to write a Notice to Appear in court and many courts have requested a clear definition. Amending the current regulation would also allow the department to more fully comply with current ADA requirements and make department lands more accessible to handicapped individuals while maintaining good safety practices and resource protection. Commissioner Sebelius – You are talking about a person who fits the definition of disabled or handicapped can go in off-road areas that are not sensitive. Is that what you are doing? Like golf carts or motorized wheelchairs? You are not trying to liberalize what can be used on public roadways? My concern is that we are trying to expand into an area where we can't. ATV can be used off road, but that is bigger than what you would want someone to go to the shore with. Tymeson – Applies to wildlife areas as well, this puts a formal process in place to access a place to hunt or to get to a shoreline where we have declining water levels. Commissioner Sebelius – This will leave it to the permitting process what could be used as well as where? Tymeson – Yes. Commissioner Bolton – Would that include WIHA areas? Tymeson – No, we are under contractual obligation to landowners and we prohibit motorized vehicles.

3. Public Lands Regulations – Brad Simpson, Public Lands Section chief, presented this report to the Commission (Exhibit O). There are more than 100 KDWP-managed public land areas that include wildlife areas and state fishing lakes. These areas range from less than 100 acres to nearly 20,000 acres in size and are just as varied in the types of wildlife habitat, public hunting, fishing, and other public use opportunities they provide. The department is empowered by state statute 32-807 under powers of the Secretary and 32-1015 for miscellaneous violations to use posted notices for provisions or restrictions as established by posted notice on portions of, or entire, public land areas. Posted notices provide public land managers with a great tool to provide the flexibility necessary on individual areas based on resources, locality and constituents. Posted notices will be categorized into a reference document that we discussed several meetings ago to address the issues of enforcement, user fairness, and understanding of public land regulations. However, there remains the need to have some flexibility to provide for public lands management and certain posted notices maybe necessary. A thorough review is being conducted on posted notices that are in effect for each wildlife area and state fishing lake. The proposed categories in the reference document will include; access restrictions, age restrictions, alcohol prohibited, non-toxic shot, boating restrictions, equipment restrictions, handicapped access, and hunting restrictions. We will address refuges, seasonal closures, shooting areas, shooting hour restrictions, special permits, and swimming restrictions.

Secretary Hayden – We would like to take a picture of the Commission, so if you would stay in place we will have Mike Miller come take a picture.

VII. RECESS AT 5:00 p.m.

VIII. RECONVENE AT 7:00 p.m.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

None

VI. DEPARTMENT REPORT

D. Public Hearing

Kansas Legislative Research Department and Attorney General's office comments (Exhibit P).

1. KAR 115-2-1. Amount of fees – Mike Miller, magazine editor and special assistant, presented this report to the Commission (Exhibits Q, R). I am presenting these because they are part of the final recommendations provided by the Deer Task Force. It provides big game permits for youth and we are recommending doing away with the deer game tag and going with a whitetail antlerless-only permit for \$15. The recommendations eliminate the transferable hunt-own-land permit so we will have a Special Hunt-Own-Land permit that a landowner's lineal family, siblings and their spouses would be eligible for and that will be \$30. A mule deer stamp will also be available. Nonresidents who apply for a whitetail either sex muzzleloader or archery permit in the nine units in the western part of the state will be allowed to enter a drawing for a limited number of mule deer stamps. They would have to include an additional fee of \$100 which is the recommended fee. If they are drawn, the permit would then become any-deer or either species permit. Other recommended amendments to this regulation include a change in the 24-hour fishing license from \$5 to \$3, and a youth paddlefish permit for anglers under 16 years of age for \$5 which is half-price of the adults. Commissioner Lauber – What was instead of a deer game tag? Miller – An attempt to simplify our permit structure, we have whitetail antlerless-only permits which are currently \$30 and then you drop then you drop down to the game tags that are \$11 or \$12 and they are only valid on private land. The recommendation was that we have whitetail antlerless-only all for \$15 -- the first one you purchase is valid anywhere in the state on public or private land and any others are going to be unit restrictive private land and designated public land areas. Commissioner Shari Wilson – On the special-hunt-own-land permits, you said those are good for lineal relatives? Could you explain who that is? Does that include, for example, my sister's husband? Miller – Yes, landowner siblings and spouses and lineal relatives, kids or grandkids or grandparents, either up or down. Commissioner Shari Wilson – I had a call about this. Miller – Originally the siblings and spouses weren't included in the recommendations, but those are some of the compromises we made as we worked with the legislature. Chairman Johnston – Why is the economic impact in 2008 higher reduction than in 2009 in the wildlife fee fund? Tymeson – If you look at the estimates for the increases or reductions that is how it added up when you take all of the changes combined, you ended up with a larger decrease next year, but it is offset in 2009, because we are going from \$10 to \$15 on game tags and that is offsetting the youth. The last half of 2008 you will see a larger reduction in the budget because we will have more youth participation in the spring. The deer stuff then kicks in for FY 2009.

Pearce – On the transferable permits, these are not the landowner's personal permit. They can still hunt themselves. Miller – It is not a transferable permit, basically family members are eligible. It is still limited to one permit per 80 acres. A landowner can get his own permit and his relatives could purchase a hunt-own-land permit, regardless of residency and that would be the \$30 permit.

Drew McCartney – On the mule deer tags, what will determine how many of those will be

issued? Miller – That will come from recommendations of the staff, Lloyd Fox and biologists based on the biology and the deer population. McCartney – Yearly? Miller – Yes. McCartney – Is the landowner tag restricted to land that landowner owns? Miller – Yes, owns or operates. Pearce – The hunt-own-land permits for relatives, would that be any deer? Miller – It would be the same as hunt-own-land permits are now, so yes. Pearce – If they had 800 acres they could shoot 10 deer. Miller – If they had that many family members.

**Commissioner Frank Meyer moved to bring KAR 115-2-1 before the Commission.
Commissioner Robert Wilson seconded.**

The roll call vote on KAR 115-2-1 as recommended was as follows (Exhibit S):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-2-1 passed 7-0.

2. KAR 115-2-3a. Cabin camping permit fees – Troy Brown, Parks West Region Supervisor, presented this report to the Commission (Exhibit T). KAR 115-2-3a establishes fees by locations for cabin camping within the state parks, state fishing lakes, and wildlife areas. We evaluate these fees on a yearly basis. We have a few adjustments needed for January 1. Current demand for cabins is exceeding our expectations. At Cedar Bluff SP cabins 1 and 2, we recommend increasing the fee from \$35 to \$45. These are older primitive cabins that are in the process of being completely updated to current standards; Cheney SP cabins 1-8, increase from \$45 to \$55 for Sunday through Thursday, year-round, and from \$65 to \$75 for Friday and Saturday, May 1 to September 30, add cabin 9 at \$85 for Sunday through Thursday, year-round, and \$100 for Friday and Saturday, May 1 to September 30, and \$85 for Friday and Saturday, October 1 through April 30 and a year-round per-week price of \$570 – Cabin 9 is a new and larger cabin on the East Shore; Eisenhower SP cabin 1 and yurts 1 and 2, adding a three consecutive night rate of \$100 and a weekly package price of \$225; Glen Elder SP cabins 1-4, deleting current multiple pricing schedule and implementing a year-round standard price per night of \$75 and a weekly rate of \$450; Kanopolis SP cabins 1-5, Sunday through Thursday from \$45 to \$55, Friday and Saturday April 1 through September 30 from \$60 to \$70, Friday and Saturday October 1 through March 31 from \$45 to \$55, changing the weekly rate from \$300 to \$400 for April 1 through September 30 and from \$275 to \$350 for October 1 through March 31; Scott SP cabins 1 and 2, adding a year-round weekly rate of \$420; Tuttle Creek SP is reduced to 1-4, instead of 1-7; and Webster SP cabin 1, decreasing nightly rate from \$65 to \$50 for Sunday through Thursday and from \$80 to \$70 for Friday and Saturday to stimulate occupancy as this is below estimates due in-part to low reservoir water levels, also changing weekly rate from \$450 to \$375. Effective January 1, 2008. Chairman Johnston – What prompted the reduced rates at Webster. Brown – Struggling with low water levels and cabin hasn't done as well as we thought it would, hope this will help entice people there.

**Commissioner Gerald Lauber moved to bring KAR 115-2-3a before the Commission.
Commissioner Debra Bolton seconded.**

The roll call vote on KAR 115-2-3a as recommended was as follows (Exhibit U):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-2-3a passed 7-0.

3. KAR 115-25-6. Turkey; spring season, bag limit, permits and game tags – Mike Mitchener, Wildlife Section chief, presented this report to the Commission (Exhibit V). We talked about this the last couple of meetings and I would like to remind you of the minor changes we put into this. We increased the number of permits in Unit 4, the draw unit, to 325 for general resident and landowner and 75 for youth only. We also extended the youth disabled season, it will open April 1, along with archery-only and run concurrent through the opening day of firearms season

**Commissioner Debra Bolton moved to bring KAR 115-25-6 before the Commission.
Commissioner Frank Meyer seconded.**

The roll call vote on KAR 115-25-6 as recommended was as follows (Exhibit W):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-25-6 passed 7-0.

4. KAR 115-7-1. Fishing; legal equipment, methods of take and other provisions – Doug Nygren, fisheries section chief, presented this report to the Commission (Exhibit X). Changes have to do with changing the status of gigging as a method of take, right now it requires posting for it to be legal. The change would allow it to be legal unless posted otherwise. Also remove the requirement for a barbless hook for paddlefish snagging.

**Commissioner Shari Wilson moved to bring KAR 115-7-1 before the Commission.
Commissioner Doug Sebelius seconded.**

The roll call vote on KAR 115-7-1 as recommended was as follows (Exhibit AA):

Commissioner Bolton	Yes
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Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-7-1 passed 7-0.

5. KAR 115-7-8. Bass fishing tournaments – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit Y). Clarification of regulation that has to do with weigh-in tournaments for bass and we left out the words “black bass” and some people were questioning if it would be legal for striped bass or hybrid striped bass. Black bass is spotted bass, largemouth bass and smallmouth bass.

Commissioner Frank Meyer moved to bring KAR 115-7-8 before the Commission. Commissioner Shari Wilson seconded.

The roll call vote on KAR 115-7-8 as recommended was as follows (Exhibit AA):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-7-8 passed 7-0.

6. KAR 115-7-9. Weigh-in black bass fishing tournaments not using tournament black bass pass – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit Z). This is a new regulation outlining the requirements for all weigh-in tournaments for black bass. Basically we used many of the requirements we put together for the bass pass program last year. We thought we should hold all of the different tournaments to the same standard in terms of how they handle black bass on a weigh-in tournament. If you go down through there you can see the stipulations. Chairman Johnston – This has nothing to do with expanding bass pass program. Nygren – This would be for non-bass pass weigh-in tournaments.

Commissioner Gerald Lauber moved to bring KAR 115-7-9 before the Commission. Commissioner Robert Wilson seconded.

The roll call vote on KAR 115-7-9 as recommended was as follows (Exhibit AA):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes

Commissioner S. Wilson
Commissioner Johnston

Yes
Yes

The motion as presented KAR 115-7-9 passed 7-0.

7. KAR 115-18-10. Importation and possession of certain wildlife; prohibition, permit requirement, and restrictions – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit BB). This is what we commonly refer to as the regulation that sets the prohibited species list, species that are illegal to have in your possession. We want to add diploid grass carp to the prohibitive species list in an effort to eliminate grass carp reproducing in the wild in Kansas and in our neighboring states. We are doing this in response to a nationwide Asian Carp management control plan that is calling on all fifty states to implement this regulation. It would still be legal to sell triploid grass carp which are infertile because of a genetic manipulation so people would still be able to use grass carp in their private ponds and we would be able to use them in our hatchery system. Diploids would no longer be allowed in Kansas except by permit. Commissioner Lauber – There are currently diploids in lakes now? Nygren – Yes there are. Commissioner Lauber – So if caught one you would have to dispatch it? Nygren – Right, you can't have them alive. To be safe someone would need to dispatch any grass carp because in reality you can't tell by looking if it is a diploid or triploid. The point would be that over a period of a few years all of the diploids in the wild would disappear and everything that would be stocked subsequent to this regulation passing would be, private and on by the department would be the infertile variety.

Commissioner Doug Sebelius moved to bring KAR 115-18-10 before the Commission.
Commissioner Debra Bolton seconded.

The roll call vote on KAR 115-18-10 as recommended was as follows (Exhibit EE):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-18-10 passed 7-0.

8. KAR 115-18-12. Trout permit; requirements, restrictions, and permit duration – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit CC). This regulation would allow children under the age of 16 to fish for trout without having to have a trout permit. There is a companion regulation that we will talk about in a moment that would also reduce the creel to two-a-day.

Commissioner Debra Bolton moved to bring KAR 115-18-12 before the Commission.
Commissioner Shari Wilson seconded.

The roll call vote on KAR 115-18-12 as recommended was as follows (Exhibit EE):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-18-12 passed 7-0.

8. KAR 115-18-20. Tournament bass pass; requirements, restrictions, and pass duration – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit DD). This is clean up language also relating to the clarification that the bass program is a “black bass” program and this has to do with the bass pass itself. This makes it clear that the bass pass is good only for black bass tournaments.

Commissioner Frank Meyer moved to bring KAR 115-18-20 before the Commission. Commissioner Shari Wilson seconded.

The roll call vote on KAR 115-18-20 as recommended was as follows (Exhibit EE):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-18-20 passed 7-0.

8. KAR 115-25-14. Fishing; creel limit, size limit, possession limit and open season – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit FF). We have several changes here. This would add one new trout fishing location. It allows for modification of the length and creel limits for paddlefish and the addition of some new water bodies. Willow Lake in Tuttle Creek State Park is being moved over to the list that says if you are fishing there during trout season you must have a trout permit. Lake Shawnee in Shawnee County will be new trout water, under an agreement with Shawnee County to take over their trout program and require the department’s trout stamp and they will do away with their local trout stamp which is another simplification for the anglers. Also, on the species creel limit table, you will see we are changing the creel limit for children to two-a-day for children that don’t have a trout permit in their possession. In the reference document (Kansas Special Size Limits, Creel Limits, and Bait Restriction Tables – Exhibit HH), we are having a white perch problem at Wilson and to address that we are wanting to implement a five-a-day creel on blue catfish and a 35-inch minimum length limit on blue catfish at Wilson Reservoir and also a 35-inch blue catfish minimum length limit at Cheney Reservoir which has zebra mussels and white perch. We are using the blue catfish to take advantage of this new food source and to try to help control these invasive species. Another one that is new to the reference document is the wiper creel limits. We feel there are

some lakes where we can be more liberal than two-a-day on hybrid striped bass so we are proposing to change from two-a-day on Coldwater City Lake, Douglas County Lonestar Lake, John Redmond Reservoir, Leavenworth State Fishing Lake, Paola Lake Miola and Shawnee County Lake Shawnee to five-per-day. We also have a program on the Mined Land Area trout water in Unit 30, the Fish and Wildlife Service and other states are providing brown trout to the department and we want to try and create a unique brown trout fishery there so we are proposing a 20-inch minimum length limit with a one-a-day brown trout creel limit. One last item a clarification on paddlefish snagging locations, the Burlington and Chetopa areas are confined just to the city park areas. There was some confusion on just how far downstream of the dam you could snag paddlefish.

Commissioner Shari Wilson moved to bring KAR 115-25-14 before the Commission. Commissioner Debra Bolton seconded.

The roll call vote on KAR 115-25-14 as recommended was as follows (Exhibit GG):

Commissioner Bolton	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner R. Wilson	Yes
Commissioner S. Wilson	Yes
Commissioner Johnston	Yes

The motion as presented KAR 115-25-14 passed 7-0.

XIII. OTHER BUSINESS

Commissioner Meyer – On noodling, did we have several people do this? Nygren – We sold about 96 hand fishing permits, and we are in the middle of conducting a survey, but I don't have the results yet. The reported harvest is going to be well below one per permit.

Commissioner Lauber – We had Audubon of Kansas issue a press release about mountain lion confirmation and without going into any detail I would like our staff, Matt or someone, make a report as to that. I think they did some investigation, but don't know how in depth. Every time a new mountain lion sighting gets in the paper there tends to be a little anti-Wildlife and Park murmuring and I think the more we keep this in the front burner the more we will reduce the rumors that we are stocking them from Blackhawk helicopters. I wouldn't mind seeing what our people have to say about that. Chairman Johnston – I am not sure I want a rebuttal to the Audubon Society's website, but maybe just an update on the latest information. Commissioner Lauber – I agree with that. It would put us in a better light that we take these reports seriously.

A. Future Meeting Locations and Dates

January 10, 2008, Independence Memorial Hall, Independence (Tour – Elk City SP, Buffalo Ranch)

March 13, 2008, Memorial Hall, Topeka.

Set April 17, 2007 for Garden City.

XIV. ADJOURNMENT

Frank Meyer moved to adjourn, Debra Bolton second.

The meeting adjourned at 7:35 p.m.

(Exhibits and/or Transcript available upon request)