

**Kansas Department of Wildlife and Parks
Commission Meeting Minutes
Thursday, August 14, 2008
Hoisington Activity Center, Hoisington, KS**

Subject to
Commission
Approval

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

The August 14, 2008 meeting of the Kansas Department of Wildlife and Parks Commission was called to order by Chairman Kelly Johnston at 1:30 p.m. at the Hoisington Activity Center, Hoisington, KS. Chairman Johnston and Commissioners Debra Bolton, Gerald Lauber, 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 – At 7:00 pm this evening, after the recognition ceremony Barton County Administrator Ken Schremmer would like to have a few words.

NOTE: Afternoon session ends at 4:00 pm rather than 5:00 pm.

IV. APPROVAL OF THE June 26, 2008 MEETING MINUTES

Commissioner Robert Wilson moved to approve minutes as revised, Commissioner Shari Wilson second. *Approved.* (Minutes – Exhibit B).

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

John Morandy, Great Bend – Mr. Secretary, what is the agreement on the Visitor's Center, on the ownership of the ground and the building at what ever point it changes hand or the construction is completed? I am all for the Visitor's Center, but I am in the dark on the management. Who will maintain the management of the ground and the marsh and will hunting still be available for the youth? If not, is that ground going to be replaced because it was the mitigation marsh from the original renovation of the marsh? Secretary Hayden – The land belongs to Kansas Department of Wildlife and Parks (KDWP) and it is the mitigation marsh for work previously done and we will continue to own the property and control water regulation. The building is a partnership with many partners: KDWP and Fort Hays State University

(FHSU) are the major partners, but Barton County, City of Great Bend, Convention and Visitors Bureau, and the Nature Conservancy are all partners in this project in some form. In the partnership agreement, because FHSU is essentially providing the ongoing funding for the operation of the Center and the vast majority of employees, not the total, they will manage the facility. They will provide the director of the facility. We will have one staff member there full time; the Convention and Visitors Bureau will have one person and FHSU will have as many as five staff. Morandy – If utilization of the marsh will change, that will be KDWP’s decision. Hayden – Yes, but we will make that decision in concert with our partners. We would hope that we would continue to have some of kind of limited youth hunting opportunities on the mitigation marsh, but if that is not possible we will need to mitigate for that. We have to be concerned about public safety, but ultimately our hope would be that we could have a youth hunting program integrated into the operation of the Wetlands Education Center.

VI. DEPARTMENT REPORT

A. Secretary’s Remarks

1. 2009 Budget Status - Dick Koerth, Assistant secretary of administration, gave this report to the Commission (Exhibit C). We have completed the FY 2008 fiscal year on June 30 with adequate balances in the major funds; with an ending balance in the Wildlife Fee Fund was \$5.8 million and \$1.3 million in the Park Fee Fund. All State General Fund (SGF) operations appropriations were utilized and expenditures were within approved amounts. For FY 2009, the estimated revenue to the Wildlife Fee Fund and the Park Fee Fund will be adequate to finance approved expenditures. It should be noted that the department has been asked to reduce SGF expenditures by two percent or \$176,447. The reduction will be from several state park capital improvement items that have been delayed due to lack of available matching federal funds. The proposed FY 2010 Capital Improvement budget request totaled \$10.6 million and included funding for ongoing programs without any major new initiatives. The request did include \$3 million from the Expanded Lottery Act Revenue Fund (ELARF) for State Parks Major Maintenance. Staff is still involved in the development of the FY 2010 operations budget request that is due on September 15, 2008. Due to decreased funds available the request will not include any new enhancements or new programs financed from the Wildlife Fee Fund because the balance has diminished to a level that precludes any expansion of programs and with increased cost for fuel and other items, existing programs may be reduced. In order to continue existing programs beyond FY 2010 a request to the Commission for a license fee increase effective on January 1, 2010 should be considered. The FY 2010 SGF allocation continued the reduction of two percent and KDWP was asked to submit a reduced resources target with a further reduction of five percent. This reduction is not considered likely but in order to comply with the Division of Budget request, reductions of that amount will be identified. The Park Fee Fund has remained stable but with decreased SGF availability, this source will be utilized to maintain existing services with minimal increases for the cost of utilities and fuel. In addition to concerns regarding operating costs, we may be impacted by costs associated with the implementation of a new state pay plan that will not be fully completed until FY 2013. The FY 2010 budget submission will be completed by the October meeting. Commissioner Shari Wilson – When was the last time we increased license fees? Koerth – I believe it was 2001. Commissioner Debra

Bolton – Is there a hiring freeze on the department as well as other state agencies? Koerth – No, however we were approved for six new positions for FY 2009 which started on July 1 and we have held those, or frozen them, for six months to save some money and will fill them in December or January.

B. General Discussion

1. Cheyenne Bottoms Update – Karl Grover, Public Land Manager gave this report to the Commission (Exhibit D). I will give you a brief summary of the high water event that occurred during 2007, and progress on repairs of those damages. I have an unofficial rain gauge at our office and in April we had over 1 ¾ inches and in May over 16 ½ inches, which totaled 61,000 acre feet of water. The inlet canals were closed because the pools reached management level before significant rains hit. Additional water entered the basin through local creeks and other drainages. Four dikes were under water; two low water crossing were washed away; one dike was breached; six information signs were destroyed; and three other dikes were damaged. The only dikes not under water were the inlet canal and the one around storage Pool 1. The breached dike between the inlet canal and Pool 5 needs immediate attention. The original dike between Pools 2 and 3 was completely under water; and the dike built in 1990 through Pool 4 was under water. The tornado took out the six information signs. The boat ramp behind Pool 2 silted in due to wave action and run off following heavy rains. The contractor is cleaning those up. The Pool 1/Pool 2 dike eroded. It was rip-rapped in the 1950s and KDWP will repair that. Pool 1B dike, was damaged beyond what KDWP equipment or personnel could fix. It was constructed during the renovation in 1990 and was all compacted earth with a laid felt fabric liner on the slope of the dike and then rip rap was placed on top of that. The water got behind the fabric and washed dirt away from under the fabric. We need to strip off the rip rap, take out the old fabric, rebuild the dike and stitch in new fabric and then bring in rip rap to complete the job. There are several sites like this. The first priority this spring was to restore public access for visitors for spring migration; clean up from December ice storm; place rock on public roads; and place rock on township roads leading to property. We hired a consulting engineer to evaluate the damage and are in the process of completing repairs on parking lots and information signs. Also, we completed repairs to the water control gate operators; initiated foot crossing and boat ramp repairs for fall hunting season; started repairs to breached dike and minor dike erosion; and placed rock on dike where heavy truck traffic will be to complete repairs. Then we need to evaluate engineering recommendations to proceed with major dike repairs, obtaining specs and getting bids; hired consultant to recommend cost estimate to remove dead trees at Education Center shelterbelt. Just completed cleaning up some of the boat ramps. Pools 4A/4B dike has been reshaped and reroaked. Parking lot posts were striped of paint by the wave action and we have repainted those (it is like litter if you don't pick it up people notice, it didn't hurt functionality, but the public notices these things). Wetland acres have responded well, with good stands of bulrush; perimeter pools have been decreased in depth to get more soil plants; grasslands adjacent to wetland have recovered well, but are mostly sunflower, dock and pigweed instead of grass. This is good news for pheasant hunters. In 2007 there was a lot of damage, but we have addressed the repairs well and it will be a long effort to complete everything, especially dike repairs because of the bid process. However, the upcoming waterfowl season should be a good one. Chairman Johnston – Where has the funds come from to pay for the repairs? Grover –

We have received permission from the legislature to use our Wildlife Fee Funds and we met yesterday with Jim Williams from the State Emergency Office and he assured us that FEMA would be able to reimburse us a good chunk of that money, I think 75 percent.

Pat Hill, Great Bend – The parking lot where the water had removed all the paint, I believe is the south parking lot of Pool 4. Grover – I think that was Pool 3, but I am not sure. Hill – The west parking lot behind Pool 4 is about 100 yards from the parking lot to the water and I would like to see you increase the access from that parking lot. Not a boat ramp, but just enough of a canal to let the water get closer to that parking lot. Is there a particular reason why there is no water in that area? Grover – No particular reason that is just the way it was designed and that is where the water levels are at. The next parking lot to the east has a boating channel. Hill – It is a long ways in between parking lots.

John Morandy, Great Bend – When you do the repair work on those interior dikes, will you have to lower that water level significantly or even drain those? Grover – I hope not. We will be lowering them later this month when we start dewatering Pool 1 to bring the perimeter pools back up. I am hoping that will be sufficient to deal with that. It depends on what the contractors require and we will be dictated to where that rip rap that used to be there it went. I don't want to dry those pools up if I don't have to.

2. Big Game Permanent Regulations – Lloyd Fox, big game research biologist, presented this report to the Commission (Exhibit E). There are five permanent regulations dealing with big game KAR 115-4-2, 4-4, 4-6, 4-11 and 4-13. KAR 115-4-2 - general provisions: has information that must be included on the carcass tag; procedures for transferring meat to another person; procedures for possessing a salvaged big game carcass; and who may assist a big game permittee and how they may assist, including the provisions for designated individuals to assist disabled big game permittees. KAR 115-4-4 – legal equipment and taking methods and is the most controversial because it deals with specific equipment differences for hunting various big game species; specifications for bright orange colored clothing, which must be worn when hunting during certain big game seasons; accessory equipment such as calls, decoys, and blinds; shooting hours; and special restrictions on the use of horses or mules to herd or drive elk. The changes last year included an expansion in the equipment that could be used to hunt deer (e.g., muzzleloader with telescope during the early muzzleloader season, crossbows during the firearms season, and knapped broad heads during archery hunting). KAR 115-4-6 - deer; firearm management units: we took out the description of units and took out Fort Leavenworth special unit. KAR 115-4-11 – covers permit applications and drawing procedures. KAR 115-4-13 - deer permits; descriptions and restrictions and creates permit types. Significant changes were initiated last year. Permits types were changed, creating greater hunting opportunities for more hunters (e.g. white-tailed deer either sex permit valid statewide for residents and during all seasons with the equipment authorized during those seasons). This will be the first year for those and other changes. At this time no problems have been encountered that require changes in the regulations; however, further review of these regulations will be made as the each season progresses. No recommendations for change at this time.

3. Threatened and Endangered Species Review Process – Ed Miller, Non-game

biologist, presented this report to the Commission (Exhibit F). Every five years, KDWP is required to conduct a review of the species listed as threatened or endangered in Kansas (nongame and endangered species act of 1975 - KSA 32-960). This is the time when species are added, removed or moved to a different ranking and the process was initiated in February 2008 by use of press releases and making available blank petition forms to the wildlife community and interested individuals with petitions due by June 1, 2008. There were 22 petitions received and evaluated by the Threatened and Endangered Species Task Committee which included people from the Kansas Biological Survey; Fort Hays State University, the U.S. Fish and Wildlife Service and three KDWP personnel. The Task Committee evaluated the petitions and recommended that seven of those be assigned to the species-in-need-of-conservation (SINC) list. The following species petitions warrant further review for possible listing or delisting as threatened or endangered: delta hydrobe (aquatic snail); American eel; plains minnow; shoal chub; bigeye shiner; and redbfin darter. Species being reviewed for delisting from threatened or endangered categories are: broadhead skink (lizard); bald eagle; and peregrine falcon. Prior to the Threatened and Endangered Task Committee making their final recommendations these steps must be completed: 1) publication of the species under review in the Kansas Register; 2) 90 day comment period; 3) information meetings provided during this 90-day comment period; 4) T&E Task Committee continues to review literature regarding status of the species being reviewed; 5) expert review will be sought by using quantitative rating evaluation forms; 6) notification of adjacent states where the species occurs; and 7) documentation and status information is available for review at local repository. Commissioner Shari Wilson – Would you let us know where and when the public meetings will be? Miller – I have a few scheduled already – Shawnee County Public Library, Topeka on October 2; Parsons Arboretum, October 7; WATER Center, Wichita, October 9; and Pittsburg State University Yates Hall, October 30; and there may be more. Chairman Johnston – With respect to the nine species meriting further review, will we get another update when you completed those species. Miller – Yes, you will get a more formal written update with the Committee’s evaluation and recommendation.

Mike Pearce – On the species you are wanting to put under further review, what is the main reason the populations have dropped? Miller – Most of those are mostly riverine species and if you look at Kansas there is not much flowing water, area wise, and on top of that any point or non-point pollution or fragmentation greatly affects those habitats. There are also marked declines and that is why the Committee felt they should be reviewed. Pearce – So basically changes in habitat? Miller – Basically, yes.

Break

C. Workshop Session

1. Spring Turkey Season (KAR 115-25-6) - Jim Pitman, wildlife research biologist, presented this report to the Commission (Exhibit G). Currently there are four turkey hunting units in Kansas and there is a map in the briefing book. Permits can be bought over-the-counter for Units 1, 2 and 3, which includes all of the state except far southwestern Kansas, which is Unit 4. We offer 325 permits through a pre-season drawing and this spring was the first time that quota was increased from 200 in hopes of meeting demand. We were still oversubscribed as we

had 399 applicants, so about 75 people didn't draw a permit. For the 2008 spring season I have some of the information tabulated. For spring 2008 we sold 62,375 permits, the first time in 11 years we didn't exceed the record from the previous year, down about 2,000. That decline was in resident permit sales. Harvest was similar to 2007 and we killed about 35,000 turkeys, which we expected to be down due to recent declines in the eastern part of the state. While statewide harvest was similar we had large increases in the north central and northwestern part of state from the previous year, up about 30 percent. When you looked at south central and southeastern regions there was a substantial decline of 20 percent. Of total harvest I suspect only 20 percent was taken with the game tag. The decline is due to heavy rains and flooding in 2007 and 2005 in those parts of the state, with only 2006 being average production. We expect production this past summer to have been poor again due to all the rain in that part of that part of state, but I don't have the numbers crunched yet so I can't be certain. Given poor production in 2007, I expect next spring to be difficult in southeast Kansas again. The cohort of the harvest is two-year-olds and I expect that to be small due to reproductive failure in 2007. For the rest of the state, production in the central and far western part of state are stable or slightly increasing and it appears weather was fairly favorable in central and northwestern part of state for production this past summer. The one except would be southwest Kansas where we have been experiencing severe drought. We are not considering any changes for the spring turkey season, but we will be discussing some potential changes to fall regulations at our next departmental committee meeting which will meet in September and if we decide to recommend changes where turkey numbers are falling I will bring that to you at the next Commission Meeting in October.

Commissioner Lauber – This is more relating to fall harvest where hens can be harvested. Are there enough hunters where than makes any real difference? Pitman – We only shoot 5,000 birds statewide and only about half of those are hens. There may be localized areas where shooting hens could be an issue, but on a regional scale changes to fall harvest regulations aren't going to do much. Not sure if we are going to recommend a change. Lauber – A recommended change would go into effect in 2009 season if approved? Pitman – Correct. Commissioner Lauber – It is still your contention that the largest single factor is spring production? Pitman – Yes, since we have been recording productivity indices, which started in the early 1980s, 2007 was the worst year we ever recorded and 2005 was the second worst production year. Those were wet years and 2006 had average production and we expect it to bad again this year. Rainfall is at 12 inches or above in parts of southeast Kansas and many of those came in June, which is a critical month for production.

2. Cabin Fee Regulation (KAR 115-2-3a) – Jerry Hover, Parks Division Director, presented this report to the Commission (Exhibit H). This is about the sixth meeting we have discussed this. Norton, Ellsworth and Hutchinson Correctional facilities are producing cabins for us. Adding cabins at Crawford State Park, changing the numbering and adding \$10.00 to the prices that are listed for cabins 1 and 2 and setting the price for cabins 3-5 at the same price as the current cabin is now and increasing the current cabins by the \$10.00. We are adding an additional cabin to Cheney SP, 8 and 9; adding two cabins at Milford SP and setting fees, cabins 4 and 5, which are larger than the current cabins there; adding a modern cabin at Prairie Dog SP, currently they have cabins 1 and 2 which are primitive, which means there is no restroom, kitchen or shower, the new cabin will have those and we will set the price for that cabin per night and per week. Also, we will be setting price the price for State Fishing Lake and Wildlife Area

cabins at \$60 a night or \$420 per week. Adding to Clark SFL; Mined Land (2nd one); Woodson SFL; Fall River WA; Jamestown WA; and Kingman SFL. This will be brought back in October for vote.

3. Fishing Regulations and Reference Document Changes – Doug Nygren, Fisheries Section Chief, presented this report to the Commission (Exhibit I). I want to spend the most time on float or jug fishing, but we prefer to call it jug fishing because we don't want something hollow out there that could have water in it and contain zebra mussels so we are going to call it float fishing. The proposal is a trial on eight locations across the state: Hillsdale, Council Grove, Tuttle Creek, Kanopolis, John Redmond, Toronto, Wilson, and Pomona and be limited to daylight hours from July 15th through September 15th. All floats would be under the immediate supervision of the angler, meaning they have to stay in visual contact with the floats. To stay consistent with setline regulations we would limit them to eight float lines. This would be a zero cost permit which will allow us to do a survey at the end of the first season to see how many people took advantage of this opportunity and learn a little more about the harvest to come back with some recommendations on whether to continue it as it, modify it or eliminate it. We want them use something that won't hold water such as a closed-cell plastic, wood or foam material, which will eliminate the possibility of ANS being transported from one body of water to another. The last sentence didn't get edited out, it says the floats must be marked with the angler's name, address and KDWP float fishing permit number and we are striking the requirement for the permit number. We don't require that for setlines and trotlines. Commissioner Lauber – Why were these reservoirs selected over others? Nygren – We asked each regional supervisor to choose one or two in each region to put in this trial. We didn't necessarily pick ones that were high or low use, they are across the board; Hillsdale has high angler and boating use, while on the other end of it Toronto and John Redmond. Chairman Johnston – At our last meeting I was curious regarding, Missouri, Oklahoma, Colorado and Arkansas and their rules regarding night time float fishing and personal observation rules. Was that information available? Nygren – I have some information, most of those allow it 24 hours a day and I don't know of any of them that require visual observation at night, but some do require observation during the day. Similar to our setlines and trotlines, set them out and don't have to be attendance of them at all times. Chairman Johnston – Is the staff's position on night time fishing that you want to take this new opportunity slowly to make sure you don't create bad consequences and maybe liberalize the rules later? Nygren – That is exactly right. When we had this posted on the blog there were a lot of people concerned with these things blowing and washing away and the angler would loose them causing trash and unforeseen problems for other users and animals. That is why we opted to work around the time where there would be a reasonable chance we would eliminate those problems through visual observation.

Mike Pearce – If the decision is positive will this start in 2009? When will this be voted on?
Nygren – In October.

Commissioner Sebelius – Are we proposing a fee for this to see who is doing it? Nygren – Yes, otherwise we would have to rely on our creel clerks to come upon somebody who was out there employing these techniques and we don't provide our creel clerks with a boat so it is difficult for us to identify the impacts of this without some sort of permit that we can use at the end of the

season to follow up with a survey similar to what we do with deer hunters, paddlefish and hand-fishing. Commissioner Sebelius – Was there a particular group or area that wanted to see this go forward? Nygren – We, as biologists, wanted to collect some information on the harvest impact of this technique because it is going to be a relatively successful technique, we think.

Nygren – On the reference document which are regulations that are different than the statewide length and creel limits. I have a long list, but I don't think I need to go over the whole thing. One change of interest will be Glen Elder Reservoir, going from 15- to 18-inch length limit on walleye; putting blue catfish in lakes with zebra mussels to help reduce those, but we want to reduce the creel limit from 10-a-day to 5-a-day on Cheney, El Dorado, and Milford – currently this is only in place on Wilson. At Milford we don't have white perch or zebra mussels but we do have a good population of blue catfish that was developed by eight years of stocking that is now being maintained by natural reproduction and we want to make sure that is protected and continues to flourish. One other one of note might be of note on the Tallgrass Prairie Preserve we now have three fish waters that are open to fishing under the condition that it is catch and release fishing and we have never done that before. Secretary Hayden – On Tallgrass Prairie Preserve, let me complement you and your staff on getting those three bodies of water open and getting that program established. They have a lot of bodies of water and Fox Creek. Where are we as far as getting other properties available to fish on? Nygren – There are several of the ponds that have fish populations now and they are talking about eliminating those populations and stocking them with Topeka shiner and if they do that those will not be available. However, if this goes well this first year, we can pursue access to the streams and a few more of the ponds. Most of these you have to walk into, no place to drive up and park.

Commissioner Lauber – There is a hope that blue catfish will prey on and help reduce zebra mussels or ANS species. They do that, but channel catfish do not? Nygren – They have a special apparatus that allows them to crush the shells that channel catfish do not have. We do see zebra mussels being eaten by drum and carp. The bottom line is we are not going to control zebra mussels, but we were looking for species we could put in there that we would get some benefit from their presence. Chairman Johnston – I would like staff to consider another presentation in October on zebra mussels and how our educational program is working and what other options there might be. Nygren – We can do that and we are reconvening the original group, the committee that put together our ANS plan and asking them to review that original document and see if we need to tweak that. I can report back on the progress of that. We have had a rough couple of months, we had two new lakes show up with zebra mussels and in Colorado found in them Grandby Reservoir a couple of weeks ago and that discharges to both sides of the continental divide so the hope that we would stop zebra mussels from crossing the 100th meridian is gone.

Secretary Hayden – There is a meeting at 4:00 pm on the Cheyenne Bottoms Education Center and everyone is invited.

VII. RECESS AT 2:55 p.m.

VIII. RECONVENE AT 7:00 p.m.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

Recognition Ceremony for Donation of Land - Secretary Hayden – Pete Krier is here with his family and he has been very generous in working with us. He owns a piece of property on the north rim of Cheyenne Bottoms and he has worked with us to create a scenic overlook on the scenic byway and we want to recognize Pete and his family for their cooperation. Secretary Hayden presented Pete Krier and his family with a Wildtrust print (*Postrock Canadas*). Pete Krier – I thank you and I hope everyone uses it in a good manner where they can get a good education. It just so happened when we were out there that day with Secretary Hayden we saw a couple of whooping cranes land.

Ken Schremmer, Barton County – As Chairman of the Barton County Commission I want to welcome you to Barton County and Hoisington. Appreciate the fact you are willing to conduct meetings in rural Kansas. Barton County has a history of cooperating with KDWP and our Barton County road and bridge department did a considerable amount of dirt work at the interpretation center which included removal of debris, leveling dirt and putting in driveways, about at the cost of about \$40,000 to the County. Governor Sebelius drove a County front end loader at the ribbon cutting ceremony and loaded a dump truck. Barton County has had meetings with KDWP to explore additional tourist opportunities. Including work on K4 overlook and so far the County has moved over a 1,000 yards of various fill material at a cost of about \$11,000. We intend to continue to work on this project. The County has also agreed to work with KDWP to replace two bridges on NE 40 Avenue to improve accessibility to Cheyenne Bottoms from K4 Highway. We submitted a grant to KDWP to build a hike and bike trail from the Interpretive Center to the K4 overlook and have budgeted \$150,000 match as a County match. On the scenic overlook, Pete Krier and I have been friends for years and as a child my father took me to this hill where this telescope sat and it was a treat to look at the terrain and the birds. In high school, I used to spend a lot of time up there doing the same. In 1958 or 1959 the telescope was taken down and that was sad, but there was a lot of vandalism going on. When you look through the scope on that hill it is a view everyone needs to take in one time or another and I hope this is the way this will turn out. Mike and I have a joy of hunting and wildlife, we come from the same area and we take things like that for granted, growing up around here. This will do so much for education and we are excited about the overlook. There are too many people to mention that helped get the scenic byway, but when that happened I remember giving an opening speech at the park I thought about trying to get the scenic overlook and get a telescope back on that hill, so I ran that by Mike. The day Pete was talking about, I took him and Mike out there and we found the concrete and the other day I found the base from the original telescope. While working on these projects, Mike looked into this and Pete offered to donate the land for us. This project is something everyone will enjoy and I am grateful to Mike and his staff for allowing this to happen and again thanks to Pete. Presented campaign sign to Mike Hayden for when he ran for Governor that came from Frank Beeler. Commissioner Shari Wilson – Thanks to Pete and Lois, I grew up in Claflin and my weekends were spent driving around the Bottoms and learning the bird calls and to identify the birds in the sky and on the water. Unfortunately, the telescope was gone before my time, but I hope we can get one back up there. I have been to that scenic overlook many times and I know that it is also used as a scouting sight for hunters using the

Bottoms. You really don't realize how lucky you are to live in an area with this kind of wildlife until you move to the city.

X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Chuck Carper, Great Bend – Thanks for coming to Hoisington. I talked to Debra Bolton about Cedar Bluff Reservoir getting taken out of the early zone and put into the late zone I didn't realize this is set with the federal government until 2010. I would like to put into your minds to change that in 2010. Cedar Bluff is a hot spot for waterfowl later in the year. Here we get to harvest widgeon, gadwall and teal early in the year, and as the season progresses, and we get the big migration we want to hunt Cedar Bluff. Every large reservoir is in the high zone or late zone, except Cedar Bluff. We don't understand why it can't be put in that zone. Off of waterfowl reports from website, Cedar Bluff had more mallards than any place in the state of Kansas in December. I have several signatures here. Chairman Johnston – Is reservoir placement within the zones part of treaty negotiations? McNew – Zones are set for five years at a time with the Fish and Wildlife Service. At that time we can provide a request to change those old boundaries. It is done through the Flyway system, during the March meetings. We attempted to get Cedar Bluff into the High Plains zone this year, but they are making us stay with the five years. Most likely in 2010 we will recommend that it be included in the High Plains zone.

Steve Sorensen, Kansas Wildlife Federation – Going through some old Commission meeting minutes, last year in June or August you had a presentation on the Syracuse off-road vehicle project. Can anyone give an update on the status of that? Hover – Current status is that we went back to the City of Syracuse and explained that if they wanted to proceed with the project they needed to mitigate for the wildlife impacts that would occur. We have looked at several different sites that could be mitigated at and worked out some other things. At this point those have not been completed and no money has been granted to them. Whether it will or not is up to the City of Syracuse.

Fred Ness – I think you should reduce the sandhill crane numbers from three to two.

XI. DEPARTMENT REPORT

D. Public Hearing

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

1. Late Migratory Bird Seasons – Faye McNew, waterfowl research biologist, presented this report to the Commission (Exhibit K). In the United States the process of establishing hunting regulations for waterfowl is conducted annually. The process involves the status of waterfowl being presented and discussed at multiple meetings. The Fish and Wildlife Service has the ultimate power over what the frameworks and seasons will be. States may establish regulations more restrictive than allowed in the frameworks, but cannot adopt regulations more liberal than allowed in the frameworks. Fundamental considerations for department recommendations are: maximizing hunter opportunity and harvest; sound management; and

restrictions imposed by the Migratory Bird Treaty Act. The frameworks are based on breeding bird surveys results and Canadian pond numbers. This year mallards, blue-winged teal, green-winged teal, redheads and scaup are similar to last year's estimates. All but scaup are above long-term averages. Gadwall, shovelers, canvasbacks, pintails and widgeon were below 2007 estimates and canvasback and pintails continue to be below long-term averages. Canvasback declined 44 percent from 2007 and this has resulted in a closed season in the other three Flyways. Habitat conditions were characterized by delayed spring in comparison with preceding years and drought conditions were recorded in many parts of the survey area. Total pond count was 4.4 million, which was a 37 percent decline from 2007, with an estimate of 7 million ponds. The Canadian pond numbers were 3.1 million which a decrease of 39 percent from 2007 is. However, despite the decrease in ponds we are still being given a liberal season for 2008. This includes a 74 day season and a five bird daily bag and the season can open no earlier than September 27 and close no later than January 25. For the High Plains zone, which has a 97 day season we are recommending the first segment open October 4 and close December 30, 2008; and second segment open January 17 and close January 25, 2009. For the early zone we are recommending the first segment open October 11 and close December 7, 2008; and second segment open December 20, 2008 and close January 4, 2009. We have delayed the opener of the second segment compared to previous years to allow birds to rest and these dates will include Christmas day and New Years day to provide extra opportunity for hunters. The late zone first segment open October 25 and close December 28, 2008; and second segment open January 17 and close January 25, 2009. This will be the third year of the Hunter's Choice experiment. The bag limit is five ducks, including no more than two wood ducks, two redheads, two scaup and no more than one duck from the following group: hen mallard, mottled duck, pintail and canvasback. To be able to continue the Hunter's Choice experiment we were granted special exemptions from both canvasback and scaup restrictions that were imposed on the other three Flyways. Canvasback season will be closed everywhere except the Central Flyway and scaup bag will be in restrictive package, which in some Flyways will include a season within a season. The Canada goose framework is 107 days opening no earlier than September 27 and closing no later than February 15 with a bag limit of three. We recommend the first segment opening October 25 through 26, 2008; and the second segment opening November 5, 2008 through February 15, 2009.

For white-fronted geese the season has an option of a 72-day season with a daily bag limit of two, or an 86-day season with a daily bag limit of one. The frameworks are September 27 through February 15. We are recommending a 72-day season with two splits and a bag limit of two: first segment opening October 25 and 26, 2008; second segment opening November 5 through January 4, 2009; and third segment from February 7 through February 15, 2009. With Canada geese and white-fronted geese the possession limit is double the daily bag.

For light goose frameworks the season may a 107 days with a daily bag limit of 20 and no possession limit The dates are September 27, 2008 to March 10, 2009 with the first segment opening October 25 and 26, 2008; and second segment opening November 5 through February 15, 2009. The Conservation Order for light geese will automatically open the day following the close which will be February 16.

For the youth waterfowl hunt days we are making two changes. We are reducing the age of the accompanying adult from 21 to 18 and removing the requirements of licenses. This brings it in line with the federal regulations as well as all of the other youth seasons in the state. The dates

we are recommending are: High Plains Zone September 27 and 28, 2008; Early Zone October 4 and 5, 2008; Late Zone October 18 and 19, 2008.

Falconry seasons will run concurrent with regular seasons with a daily bag of 3 and possession limit of six and in the early and late zone there will be an additional season from October 25 to March 10. Chuck Carper – Could you move early zone for Canada geese to October 18 instead of October 11? McNew – After talking to all of the biologists in that zone the consensus was that October 11 provides more opportunity. You are trading days that are for sure open for December days that could be closed. Carper – You can't blame me for trying.

2. KAR 115-2-3. Camping, utility, and other fees – Jerry Hover, Parks Division director, presented this report to the Commission (Exhibit L). Most of this regulation is clean up of regulation and some fee increases. On the first page, (h) deleting camping per camping unit (January 1, 2005 – January 31, 2005), annual camping permit, overnight camping permit and 14 night camping permit; on page 2, after “camping-- per camping unit” delete “effective beginning October 1, 2005”; and increase utility prices starting at the bottom of page 2 and continuing onto page 3 (increases each utility by \$1.00 each to 1 utility \$6.50; 2 utilities \$8.50; and 3 utilities \$9.50); and on page 3 (i), take out language that refers to earlier effective dates. Chairman Johnston – We have seen, in 2008, a huge run up of fuel prices which are abating a little bit now. To what extent was the \$1.00 raise in utilities recommendation based on a particular point in the 2008 timeline or is it in need of being changed because of the time that has passed since you originally conceived it? Hover – Since we recommended, we started at \$.50 and in researching what it cost us we revised that to \$1.00. How long that will last before it will cost us more than we are bringing in I don't know. We try to set the utility fees at what it costs us to operate those utilities. We feel we are probably okay for another year at this level. If they continue to rise then we will be in trouble. We hope to be relatively stable for next 2-3 years.

**Commissioner Shari Wilson moved to bring KAR 115-2-3 before the Commission.
Commissioner Debra Bolton seconded.**

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

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

The motion as presented KAR 115-2-3 passed 6-0.

3. KAR 115-2-5. Trail access pass; requirement, fees, exceptions, and general provisions – Jerry Hover, Parks Division director, presented this report to the Commission (Exhibit N). Remove trail access pass from Sand Hills State Park and leave it on Prairie Spirit Rail Trail. In process of adding appropriate vehicle parking lots are constructed and a new, modern campground to add it to vehicle permit. This will be opened to the public in 2009.

Changes starting on page one, (a) add “any” and delete from “thereof,... to thereof,” and add “of the trail”; (b) strike “The provisions of” and add “who is”, then delete “who is” later in the sentence and add “if the individual meets any of the following requirements”; (b)(1) strike “is” and “department” and add “secretary”; (c) add an “s” to fee and add the words “the following”; (d) add “the pass is”; (e) and (g) strike “it” and add “the pass”; (h) strike “or the Sand Hills state park”; and finally under (i) correct effective dates.

**Commissioner Debra Bolton moved to bring KAR 115-2-5 before the Commission.
Commissioner Doug Sebelius seconded.**

The roll call vote on KAR 115-2-5 as recommended was as follows (Exhibit M):

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

The motion as presented KAR 115-2-5 passed 6-0.

4. KAR 115-8-9. Camping – Jerry Hover, Parks Division director, presented this report to the Commission (Exhibit O). Technical changes, on page one (b) strike “are” and put in “shall be”; (c) strike “not less than 5” and put in “at least five”; (d) “not less than 5” and put in “at least five” and add “except as authorized in subsection (e)”; add subsection (e); renumber rest of subsections; in (f), (g) and (h) strike “in excess of” and put in “for more than”; also in (h) strike “or” and put in “and any”; and (i) change effective dates. Commissioner Shari Wilson – When we were talking about this regulation earlier, it seems we were talking about a provision for the state park to be able to ask a camper to leave if their campsite was unkempt or kept in a way we don’t want our state parks to look. By extending the long term camping to six months, how will we handle that? Hover – Within the regulation the actual management of it is not included. The management of it is that they can get a 30-day permit which is an actual agreement that lists all of the things they can or cannot do and both the camper and the park manager sign that. In the event those are not met, in particular at the end of 30 days, the permit may not be renewed or we have the right to expel them at any time. There are safeguards built into the administration of it. Commissioner Shari Wilson – Six months is the maximum time they can stay, it is not the contract? It is more month by month? Hover. Yes.

Sorensen – How long are you going to keep this eclectic collection of unclaimed property to be reclaimed by the owner upon contacting the department? Hover – That is all covered by other state laws, as far as the maximum time limit that things are held before they are disposed of in some legal manner, whether by auction or some other manner.

Fred Ness – Are you saying you are going to allow someone to stay six months in one location? I think that is ridiculous.

**Commissioner Doug Sebelius moved to bring KAR 115-8-9 before the Commission.
Commissioner Gerald Lauber seconded.**

The roll call vote on KAR 115-8-9 as recommended was as follows (Exhibit M):

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

The motion as presented KAR 115-8-9 passed 6-0.

5. KAR 115-8-10. Pets; provisions and restrictions – Jerry Hover, Parks Division director, presented this report to the Commission (Exhibit P). Technical changes and possible amendment to clarify regulation to allow for service animals to assist people who require those services and clarify where pets can and can not be. Technical changes are in (b) strike “methods”; (b)(2) strike “provided”; (b)(3) add comma and words “privately owned”; (c)(3) make “noncommercial” one word; and (5)(d) strike some of the old effective dates. There is one amendment on proposed subsection (c)(5) and (d) by adding the word “mobility”. Commissioner Lauber – Does the department recommend the amendment? Hover – Yes. Commissioner Bolton – I am glad you added mobility because I was going to ask about that. Sorensen – Under (d) why not added? Hover – We did. Sorensen – I’m sorry I missed that.

**Commissioner Shari Wilson moved to bring KAR 115-8-10 before the Commission.
Commissioner Debra Bolton seconded.**

**Commissioner Gerald Lauber moved to amend as recommended KAR 115-8-10.
Commissioner Shari Wilson seconded.**

The roll call vote to amend KAR 115-8-10 as recommended was as follows (Exhibit Q):

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

The motion to amend KAR 115-8-10 passed 6-0.

**The roll call vote to approve KAR 115-8-10 as amended was as follows (Exhibit Q):
Commissioner Bolton**

Yes

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

The motion to approve KAR 115-8-10 as amended passed 6-0.

6. KAR 115-20-2. Certain wildlife; legal equipment, taking methods, possession, and license requirement – prairie dogs – Joe Kramer, Fish and Wildlife Division director, presented this report to the Commission (Exhibit R). This regulation specifically pertains to a bill that was passed in 2008 that does not require a Kansas resident to possess a Kansas hunting license when hunting prairie dogs, but a nonresident still must have a hunting license. In subsection (h) it says “A hunting license shall not be required of residents to take gophers, moles, and prairie dogs.”

Commissioner Robert Wilson moved to bring KAR 115-20-2 before the Commission. Commissioner Gerald Lauber seconded.

Commissioner Sebelius – I realize that most of the time when the legislature acts we don’t have any choice, it is assumed that we go ahead and simply approve it because of circumstance, but I think this is not good policy. For myself I am not going to support it because I think we should make a statement that the legislature is going down the wrong path. Obviously one circumstance that hasn’t been considered is that in the enforcement community, if the Conservation Officer goes out and is looking during deer hunting season and comes across a Kansas resident with a high powered rifle, without a license, he could simply say, I out here hunting prairie dogs. I would hope that even if this passes that we go back next legislative session and propose a bill to reverse this portion of SB 474. I think it is ridiculous policy that we treat the prairie dog like vermin similar to starling or some other species we don’t care about.

The roll call vote on KAR 115-20-2 as recommended was as follows (Exhibit S):

Commissioner Bolton	No
Commissioner Lauber	Yes
Commissioner Meyer	ABSENT
Commissioner Sebelius	No
Commissioner R. Wilson	Yes
Commissioner S. Wilson	No
Commissioner Johnston	Yes

The motion as presented KAR 115-20-2 failed 3-3.

Chairman Johnston – Chris, what do we do? Do we have the option to continue the discussion?
 Commissioner Sebelius – A tie is a loss in government. Tymeson – That is true. Chairman Johnston – So the motion fails. Commissioner Lauber – My heart is with Commissioner Sebelius, but I don’t want to get in an argument with the legislature over something that they feel

is very important. Sometimes I have had to vote for things I really don't agree with. I am not sure what real option we have. Secretary Hayden – The motion did fail on a 3-3 tie and one of the things is that one of our Commissioners is not here tonight and we could let this vote stand tonight and resubmit the question at the next meeting if we had all of the Commissioners and we could see if there was a different outcome. Tymeson – We would have to delay it until January, because October's meeting is already published in today's Kansas Register. This issue was debated in the legislature and as you followed this bill in the Senate it exempted everyone and we did get them to agree to limit that to residents. The vast majority of hunters are already licensed for other species very few Kansas residents would just go out to hunt prairie dogs, so we felt the impact was minimal. Commissioner Sebelius – You look at law of criminal defamation, it is still on the books, but we know the Supreme Court has said it is unconstitutional, but we don't do anything about getting rid of the statute often times. Here we get trumped by the legislature they know our action is basically meaningless. If it stays like it is it doesn't do anything other than make a statement that the department doesn't agree with it. They are always going to do something with a species when they want to make a statement themselves. I don't think we would get in trouble for not supporting something that is pressed upon the people who do the science, background and study. That should be left to the department to decide when a species is no longer valuable. I don't think it means a thing. Commissioner Lauber – What happens if this doesn't get approved? Tymeson – The legislature has a process whereby they can't approve or disapprove our regulations, they go before a joint committee of the legislature where they can comment on them and then a letter comes to us saying their comments. There were no comments on this as we went through that process. The law is still the law and this was a technical clean-up, but I have to report back to that committee on a regular basis and I will have to send them a letter that says this Commission did disapprove this regulation. I have not had that situation occur before and I don't know what sort of weight that will carry with that committee in the future. Chairman Johnston – If the Commission wishes to reconsider this item when we have a full Commission present do we need to take action tonight to preserve that or not? Tymeson – No. It is just a matter of the department re-recommending this regulation for action in January and when I set the official legal publication in the Kansas Register I will have to get the regulation reapproved through the process. Commissioner Sebelius – I apologize for that. Secretary Hayden – If we are going to look at this again, it appears that the way this is written, if you are seining salamanders for bait you can have no more than five in your possession. I'm not sure that is what we intended and we don't want to do anything tonight about it, but if we do revisit this regulation I think that question should be examined because I don't think we are limiting somebody to five salamanders if they are going to seine them for bait. Sorensen – That is a big book, because you can't have more than five nightcrawlers and other species. Don't you have other rules and regulations that refer to bait? Secretary Hayden – This regulation does not apply to nightcrawlers or crayfish. I am just saying if we are going to revisit this we need to see if that needs clarification.

XII. Old Business

Sorensen – I was not here when the minutes were adopted, but the title of the minutes of June 26 shows it was done in Garden City not at Bethel College. It is right in the write up, but wrong in the title. Chairman Johnston – Point well taken. **Commissioner Debra Bolton moved to bring**

the minutes back for amendment, Commissioner Shari Wilson second. All approved.

XIII. Other Business

A. Future Meeting Locations and Dates

October 23, 2008, Tonganoxie High School Auditorium (404 E Highway 24-40)

January 8, 2009, Emporia Best Western Hospitality House (3021 W Hwy 50)

March 12, 2009, Topeka

April 16, 2009, Oakley

XIV. ADJOURNMENT

The meeting adjourned at 8:07 p.m.

(Exhibits and/or Transcript available upon request)

Exhibit T – 2008 – 2009 Kansas Waterfowl Seasons Graph

Exhibit U – Letter, report and DVD on native fish species in Kansas from Steve Haslouer,
Kansas Department of Health and Environment