

**AGENDA**  
**KANSAS DEPARTMENT OF WILDLIFE AND PARKS**  
**COMMISSION MEETING AND PUBLIC HEARING**  
**Thursday, April 16, 2009**  
**Logan County Courthouse, 710 W 2<sup>nd</sup>**  
**Oakley, Kansas**

**Tour April 15, 2009**

- I. CALL TO ORDER AT 1:30 p.m.**
- II. INTRODUCTION OF COMMISSIONERS AND GUESTS**
- III. ADDITIONS AND DELETIONS TO AGENDA ITEMS**
- IV. APPROVAL OF THE March 12, 2009 MEETING MINUTES**
- V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**
- VI. DEPARTMENT REPORT**
  - A. Secretary's Remarks**
    - 1. Agency and State Fiscal Status (Dick Koerth)**
    - 2. 2009 Legislature (Chris Tymeson)**
  - B. General Discussion**
    - 1. Park Regulations (Jerry Hover)**
    - 2. Fishing Regulations (Doug Nygren)**
    - 3. Chronic Wasting Disease (CWD) Update (Shane Hesting)**
    - 4. Horsethief Reservoir Update (Mark Sexson)**
    - 5. Late Migratory Bird Seasons (Faye McNew)**
  - C. Workshop Session**
    - 1. Early Migratory Birds (Helen Hands and Faye McNew)**
    - 2. Furbearer Regulations (Mike Mitchener)**
    - 3. State T&E Review Status (Ed Miller)**
    - 4. KAR 115-25-9a. Deer; open season, bag limit, and permits; additional considerations (Lloyd Fox)**
- VII. RECESS AT 5:00 p.m.**

**VIII. RECONVENE AT 7:00 p.m.**

**IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS**

**X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**

**XI. DEPARTMENT REPORT**

**D. Public Hearing**

- 1. KAR 115-8-1. Hunting, furharvesting, and discharge of firearms (on public lands). (Brad Simpson)**
- 2. KAR 115-25-7. Antelope; open season, bag limit and permits. (Mike Mitchener)**
- 3. KAR 115-25-8. Elk; open season, bag limit and permits. (Mike Mitchener)**
- 4. KAR 115-4-11. Big game permit applications. (Lloyd Fox)**
- 5. KAR 115-25-9. Deer; open season, bag limit and permits. (Lloyd Fox)**

**XII. OLD BUSINESS**

**XIII. OTHER BUSINESS**

**A. Future Meeting Locations and Dates**

**XIV. ADJOURNMENT**

If necessary, the Commission will recess on April 16, 2009, to reconvene April 17, 2009, at 9:00 a.m., at the same location to complete their business. Should this occur, time will be made available for public comment.

If notified in advance, the department will have an interpreter available for the hearing impaired. To request an interpreter call the Kansas Commission of Deaf and Hard of Hearing at 1-800-432-0698. Any individual with a disability may request other accommodations by contacting the Commission Secretary at (620) 672-5911.

The next commission meeting is scheduled for Thursday, June 25, 2009 at Morris County 4-H Building, Fairgrounds, 612 E Hwy 56, Council Grove, KS.

**Kansas Department of Wildlife and Parks  
Commission Meeting Minutes  
Thursday, March 12, 2009  
Dillon House  
404 SW 9th, Topeka, Kansas**

Subject to  
Commission  
Approval

**I. CALL TO ORDER AT 2:00 p. m.**

The March 12, 2009 meeting of the Kansas Department of Wildlife and Parks Commission was called to order by Chairman Kelly Johnston at 2:00 p.m. at the Dillon House, Topeka. Chairman Johnston and Commissioners Gerald Lauber, Frank Meyer, Doug Sebelius, Debra Bolton, Robert Wilson, and Shari Wilson were present.

**II. INTRODUCTION OF COMMISSIONERS, STAFF AND GUESTS**

The Commissioners and Department staff introduced themselves (Attendance roster - Exhibit A). The meeting began later than normal to accommodate the lunch reception for legislators sponsored by Kansas conservation organizations.

**III. ADDITIONS AND DELETIONS TO AGENDA ITEMS**

Sheila Kemmis - Revised agenda: moving Agency and State Fiscal Status (#2) under Secretary's Remarks from the evening session back to the afternoon session; and added Early Migratory Birds (#5) under General Discussion to the evening session; Jake George and Matt Smith will be giving a presentation before Secretary Hayden and Chairman Johnston present the Private Lands Habitat Award this evening. Also, there was a mistake in the briefing book, the wrong extended deer season map was included, revised maps are on the handout table and at the Commissioners table.

Chairman Johnston asked everyone to please sign in on the sign-in sheet in the lobby.

**IV. APPROVAL OF THE January 8, 2009 MEETING MINUTES**

Commissioner Shari Wilson moved to approve the minutes, Commissioner Frank Meyer second. *Approved.* (Minutes – Exhibit B).

**V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**

Al Glotzbach, Shawnee County (northwest) – I remember one horse or two horse power. To make a point, I belong to greatest generation, but I think elders should be heard once in a while. Our history shows that there were no deer, turkey, or walleye when I was a boy; bobcat made

headlines and so did fox. Everything remained status quo until WWII, then things started to change, and deer and turkey numbers were brought back up and that made Kansas an ideal place to live. We promoted wildlife and game and brought in things that hadn't been here before -- spent tax payer money on that. One piece of puzzle is still missing: jackrabbits. There are none from Salina east and they are fading in western Kansas. Settlers lived off them and every pasture had 1-2 pairs for every 80 acres. In the middle of January, you could shoot six jackrabbits and make chili. This is our heritage and we need to bring them back. We brought back several other things, but need to bring back jackrabbits. I was here five years ago and made a pitch and was told by one Commissioner that we would be laughed out of town if we stocked them. We have deer/vehicle accidents on the rise; turkeys are picking cornfields clean; but we need jackrabbits back before they go completely away. I know you are strapped for money, and you have done a tremendous job. We need publicity on the demise of jackrabbits because there are a lot of us who want to contribute to bringing the jackrabbits back. Their demise is because we took out hedgerows and their habitat has changed and we let predators grow and now they are gone. We have a lot of CRP so there is more habitat for them now. Studies should be made on what it takes to bring them back. They should be, will be, and must be, brought back. People in my category (age) need to have a little money spent on them. Need public awareness and ask for contributions from your tax base and you will find people who will contribute. Commissioner Meyer – I am looking at our threatened and endangered species list and I don't see jackrabbits on it. Do we have any statistical information on the jackrabbit population? Jim Pitman – Mail carrier survey is primary method of how we count them, which we have been doing since back in the 1960s. In the eastern one-third we have seen some monumental declines in the last 20 or 30 years. I suspect that they require early succession grassland shrub habitat much like quail, many of our songbirds and cottontails and we have seen declines in all of those species as well. Those declines are due to the major shift of the landscape in eastern Kansas. I have talked about some of these reasons before, woody encroachment, increase in forest cover, urban development, and conversion of native grasses to cool season grasses, primarily fescue and brome. I suspect those are the same reasons that have lead to the decline of jackrabbits. In the western part of the state where we have put two to three million acres of CRP in the last 20 years we have actually seen some increases in jackrabbits, according to our surveys. I suspect what we are doing to benefit quail will benefit jackrabbits to a certain degree. I will be happy to chat with any of you later or do some more digging. Glotzbach – One more thing, in the study you do, there may need to be some predator control in these areas where you stock the jackrabbits.

Chairman Johnston – I would like to welcome Representative John Grange to our meeting this afternoon.

Doug Whitehead – I am the Kansas State Rep for Bowfishing Association of America, and I am here representing them and the bowfisherman of the state. Thanks for all the work you do for the wildlife and fish. Consider adding catfish to legal species of take with bow and arrow. I have bowfished for the last 20 years and spend about one-third to half of my summer on the water. I get about a dozen chances each summer to harvest a catfish. I get thanked from other fishermen and KDWP for taking the trash fish from the water, and as a reward I would like to see us legalize catfish for these anglers for taking trash fish to put table fair on their tables. There are about 15 states that allow bowfishing for catfish, and I don't see any impact on resource, we

have legalized hand fishing and this is just one more resource opportunity because this is growing sport. Chairman Johnston – Joe, has this subject been considered before? Kramer – No, it has not. We have made quite a few changes recently but that has never been suggested before as far as I know. Chairman Johnston – My suggestion would be that you exchange phone numbers and communicate with each other and perhaps the department can give some thought to that.

## **VI. DEPARTMENT REPORT**

### **A. Secretary's Remarks**

1. 2009 Legislature - Chris Tymeson, chief counsel, gave this report to the Commission. I want to point out that Representative John Grange was recognized by the Kansas Wildlife Federation as the Conservation Legislator of the year (applause). There are quite a few bills that impact the department, and we usually put about 15 bills that impact our constituents on the website and then I track another 60 per session. This is the first year of a two-year cycle for the House, so bills are alive for this year and next year. *SB 51* is a department initiative and deals with clothing requirements for hunting deer or elk. At Fort Riley we have an overlap with elk firearms season and deer archery season and also in Unit 19, between Topeka and Kansas City in January season when elk season goes statewide. According to the statute archers hunting in those areas have to wear blaze orange and Fort Riley approached us, and the department agrees, that the risk is minimal and we have requested a change to the statute. That did go through the Senate quickly and the House had a hearing last week and we expect movement by the end of March. If it doesn't move in the next couple of weeks we might have to hold off until next year. *SB 100* deals sales tax exemptions for guided and non-guided hunts and the sale of game birds. It is not a direct impact, but it is a topic that many of our constituents follow. The bill had a hearing in the Senate Tax Committee and was placed on Senate General Orders but has ridden low on the calendar for a month. It does have a fiscal impact, so I don't think it will get much movement. *SB 189* dealt with an outfitters license. There was an attempt to create an outfitter license again. It had a hearing in the Senate a month ago and has been tabled, and I don't anticipate it move this session. *SB 286* would repeal existing statutes dealing with prairie dogs. It was introduced at the end of February and has not had a hearing yet. It is getting a little late, but there is the potential for a hearing. It came out of an exempt committee, therefore it is not subject to the normal rules for movement. *SB 287* deals with prairie dog management, control and conservation and is similar to a bill introduced two years ago and similar to a bill that the department introduced. Rather than mandatory eradication, it deals with voluntary practices that landowners could do in order to keep prairie dogs on their property. Once again it came out at the end of February and is not subject to the same rules for movement in the Senate. I don't know if it will get a hearing. *Senate Concurrent Resolution 1602* is a constitutional amendment that would authorize the legislature to classify taxation for watercraft. Watercraft are currently taxed at a high rate. In order to change that rate of taxation, there would have to be a constitutional amendment, therefore it is a Senate concurrent resolution, and it would go to the House, and if it passed it would go before the voters to make that change. There was an attempt in 2000 to do that, and it failed. It also included aircraft at that time and came out of the Senate Tax Committee. This has ridden very low on the calendar and once again it is going to have a fiscal impact, and this is a

difficult year. *Senate Concurrent Resolution 1611* is a constitutional amendment on an individual right to bear arms. This is an NRA initiative that was introduced in the beginning of March. Currently, through case law, your right to possess firearms in the state of Kansas is a collective right, much similar to prior to the Heller case that went to the Supreme Court in DC and their ruling, would be to change this from a collective right to an individual right for possession of firearms. One reason we are following it is because it deals with firearms, but number two is that it is using hunting as one of the rationales for individual possession of a firearm. I haven't seen the language yet. *HB 2049* is hunter education in the schools. IT had a hearing in the end of January and this is also an NRA initiative. Currently, hunter education in the schools is a voluntary program and we have about 18 schools involved. The bill had a hearing and there was some concern about unfunded mandates for educational systems, and I think the bill is tabled. However I did see some movement. It has been routed to a committee and back. It has been blessed, so it is not subject to the same movement rules. *HB 2064* deals with reducing light pollution and would impose on the Department of Health and Environment a requirement to reduce light pollution over time for certain areas, state parks being one of them, and a couple of other areas that are specifically mentioned like Cheyenne Bottoms, so we are following that. It had a hearing, went to a subcommittee, which recommended it unfavorable for passage, so I think it has been tabled for the rest of this year. *HB 2254* dealt with lifetime licenses, particularly for military members, and it would have allowed nonresident military members to purchase lifetime licenses if they met certain requirements, which is an issue of residency, which would make them residents, not nonresidents, therefore the bill is not going anywhere. *HB 2296* imposition of conservation fees on Department of Wildlife and Parks permits and licenses and put those proceeds into the State Water Plan Fund. The department opposed that bill because it basically would have tacked on \$5 to every nonresident permit or stamp or issue and taken that money, which is a diversion of license dollars, loss of control for the department. The bill had a hearing, but I doubt it is going anywhere. Obviously the impact would be that it would generate about \$1 million for the State Water Plan Fund, but would have cost us about \$11 million in federal aid. *HB 2342* would establish a special season for archery hunting of deer within Shawnee Mission Park in Johnson County. It had a hearing on March 10 and the department testified as neutral. Clearly the department is supportive of using archery as a means to harvest those deer, but it is a local access issue so we try to respect that as well. It was sent to a subcommittee and they had a hearing yesterday and their recommendation was to table the bill. Johnson County Parks and Rec. did testify that they are moving toward a biodiversity plan and they expect to have it out shortly. It includes the potential for harvesting deer, and they will have it out this fall. Legislature is taking a "wait and see" attitude. *HB 2346* has a sales tax exemption for Hunters Feeding the Hungry, which is a feed the hungry program using deer, and we will talk about that because there is another bill. This bill was introduced, but didn't go anywhere. *HB 2362* however is the omnibus deer bill and it would extend all seasons, for the taking of antlerless deer, an additional 60 days at the end of every season and in every unit. Obviously the department opposes that because it would dramatically impact the age structure of our herd because as you know bucks shed their antlers later in January and if we were shooting antlerless deer we could be harvesting shed bucks instead of does. It also has some provisions for transferable permits and the department opposes that. Clearly we have only had one season under our new deer management program. The bill would also impose a \$5 fee on nonresident deer permits to go to Feed the Hungry Fund, which we oppose because it is a diversion of our license

fees; two issues, whether that is part of our management program and second transferring those funds outside of the department. Also, there is more than one organization providing this service in the state, and if we are going to fund a program like that it is a social service program, it just happens to be run with deer. We are not taking a dollar from every rancher who raises a cow to feed the hungry. Let's use State General Fund, which is what we have been advocating for. There are two concurrent resolutions in the House: *HB5012 and HB5013*. One is urging the Corps of Engineers to look at the Pick-Sloan Act, which manages the Kansas and the Missouri River systems and the dams; and one is about extending the productive lives of our reservoirs in Kansas. Both had hearings and are on the House floor on general orders. There has been some movement on finances and Dick will talk about that next.

Commissioner Meyer – Can we add onto that river bill that all Kansas rivers are public access?  
Tymeson – It is a concurrent resolution, but there is a case from 1990, called *Mick V. Hayes* and that really is the where the issue of whether or not rivers are traversable comes from. Basically the Supreme Court of Kansas ruled that there were three public rivers. It would take an act of the legislature and perhaps the people to amend the Constitution such as Missouri had done. To answer your question, no, we can't add it to that, but there is a way to get it done.  
Commissioner Meyer – I maintain that the water of Kansas belongs to the people of Kansas. If I am on the water and step out of the canoe and my feet are wet then I am still on my own property.  
Tymeson – I can't provide you legal advice, but you might just want to do that on the three navigable rivers for now.  
Commissioner Shari Wilson – If the Johnson County Parks does decide to allow hunting by any means in the Shawnee Mission park, does the department have any involvement at that point?  
Tymeson – We have personnel standing by and ready to assist in developing a program. There are several templates available; Leavenworth, for example and right across the border in Missouri, they have been running hunting in their parks system for a long time. The department has also made changes to regulations, so Unit 19 we allow six permits to be filled and allowed other means like the crossbow during firearms season.

2. Agency and State Fiscal Status – Dick Koerth, Assistant Secretary of Administration, gave this report to the Commission. Due to timing of events, we do not have a handout to put in front of you. Gone through House Committee on Appropriations, subcommittee and full committee, also yesterday they approved the report which still has basically three things; 1) uniform reduction to all agencies on benefits for contributions to the state health plan and for death/disability moratorium (the state had paid into those accounts more than necessary, so the Governor's recommendation was to not make payments to those two items in 2010); 2) added money back into 2010 budget to compensate for reductions made in 2009 as part of SB23, referred to as the cut bill, also included a 1.25 percent reduction in State General Fund (SGF) for all agencies, that is continued in 2010 also and is about \$125,000 in SGF that was deleted; 3) as discussed in January, the Governor's recommendation on the FY 2010 budget took about \$1 million of what had traditionally gone to road money for state park roads and moved to state park operations to fund salaries, wages, and operating costs. That reduced the amount available from road money to about \$600,000. The House Committee on Appropriations added that money back in, so we now have the \$1.6 million back and still have the \$1 million in the state park operations, so the amount of money transferred from KDOT to us has gone up to \$2.6 million, rather than \$1.6. We appreciate the support of the House Committee, as those roads are important to us to maintain. If they are not, they can deteriorate pretty fast. The Committee also

included a paragraph on our cabin program. They commended the agency on the success of the program, which is unusual and we appreciate that support also. The Senate Ways and Means Committee started their work yesterday afternoon and haven't completed their work and have asked us for more information on projections, fund balances and budget cuts, which we will provide to them today so they can work on it this weekend and meet again next Monday. The Senate Ways and Means Subcommittee on capital improvements met at lunch and added \$1.5 million in road funds back to us on the parks side, so now we have the \$1 million road money in park operations, \$2.1 million for road money to maintain our park roads, so we appreciate their support. The other part of my report deals with general fund, which is very confusing. At the start of the legislative process, there was a lot of talk about a billion dollar deficit that was based on estimates made earlier. The legislature had a reduction bill called SB23, which took out money in the current year to help alleviate the problem. By the time that bill was done the estimate was down to \$44.5 million for FY2010. This still creates a problem for them because technically the law says you have a 7.5 percent positive balance, not a negative, so obviously there is still some need to work on the budget. The Governor has submitted a GBA1 on the budget stimulus bill. If that is adopted by the legislature that puts a positive balance back into the general fund, but has not been acted on yet. Committees are trying to make reductions to ensure adequate funding for this year and next year. We are worried about the continuing decline in SGF receipts, which have gone down every month since November. In January, it was only \$12 million, which was less than the previous month, so it is on a downward trend. On April 17 the group will meet again and revise the estimates and there is some concern that will be down also, which could mean further reductions in the Omnibus session that occurs at the end of April.

## **B. General Discussion**

1. GPS Video Tour Guide – Cris Collier, Great Bend Convention and Visitors Bureau, showed this video to the Commission. First I wanted to tell you that the Wings and Wetlands birding festival coming up at the end of April for Cheyenne Bottoms and Quivira; applications are available (handout- Exhibit C). Currently we have 17 states registered to attend and we received our first registration from Canada. We will also be doing the grand opening for Kansas Wetlands Education Center on that Friday. We have a new project we are working on through the Convention and Visitors Bureau. We applied for an attraction development grant through Travel and Tourism to secure GPS video tour guides for our scenic byway and specifically for Cheyenne Bottoms. We felt it would be helpful for people to get a nice interpretive flow of the Bottoms, and it seems like the more people that visit from the metropolitan areas, they get inside the Bottoms and get a little intimidated by where they are and if they can find their way out. This will be the first in the state and Travel and Tourism is delighted to give this a try. Mainly these were developed for zoo tours, but I think we are the second byway currently working on one. I don't know of any in a wildlife area or wildlife refuge. But these are triggered by GPS coordinates and one of the things we have determined on Cheyenne Bottoms, because there are so many entrances into Bottoms, it has to be a random tour, but it doesn't matter where they enter, it will give a welcome introduction and driving from the opposite direction it will give a thank you for visiting at all of the entrances. These will be available in Great Bend at the Raptors Center and at some of our area motels for check out. We hope to have this project done by the end of this year. Our timing is about 60 minutes of content for Cheyenne Bottoms, but we don't



know if that will break down to about 20 three-minute segments or 30 two-minute segments talking about interpretation. We are working with Ted Cable at K-State to do the interpretive writing and have also contacted just about every agency or organization that has an interest or a stake in Cheyenne Bottoms and letting them know we are working on this and asking them if they have an input for story ideas and locations. Wildlife and Parks staff have offered to be available with some of the video and still photography that will go into these. While these are hand held, we did order car chargers so they can sit on the dash and come out through the speakers in the car. This is about a \$100,000 grant (total project) and we are partnering with the City of Great Bend. Commissioner Meyer – I would like to make a comment. If you want something done, tell her it can't be done and it will be. Collier – We are excited to see the Wetlands Education Center opening. Commissioner Bolton – Did you mail out the brochures to a lot of people? Collier – Yes, those went in mail this week, and we have a database of about 1,000 people that have expressed interest in birding and have advertised in several bird magazines. Chairman Johnston – How many GPS devices will your grant pay for? Collier – Right now we are looking to purchase ten that will be in five separate locations. Where they will set will have a computer screen and the plug-in for the unit, and we will have the monitoring computer in our office, so we can plug in special activities into those so they are very current in the calendar of events and e-bird trail tracking.

2. Kansas Prairie Dog Plan and USFWS Black-footed Ferret Reintroduction – Mike Mitchener, wildlife section chief, gave a portion of the prairie dog report to the Commission (Exhibit D). You received copies of the management plan and petition after the last meeting. The USFWS petitioned to list black-tailed prairie dogs as threatened in 1998. They were listed as “warranted but precluded” in February 2000. At that time the Statewide Prairie Dog Workgroup was formed which consisted of ag/landowner and wildlife/environmental interests. The state plan was completed in 2002 and prairie dogs were delisted in 2004. The goal of the plan is to maintain biologically viable populations of black-tailed prairie dogs at selected sites across the historical range in Kansas, which is being met. Black-tailed prairie dogs are maintaining a viable population across the historic range in Kansas. In fact, it appears that acreage is increasing. The objective of the plan was to establish a statewide black-tailed prairie dog work group and conservation strategy to determine and monitor species distribution and status. We established regulatory protection to identify, maintain, and promote existing and additional suitable prairie dog habitats. We used education and outreach to identify, prioritize, and implement research needs; and implemented the State Conservation Strategy. Initial work was completed at time of plan completion and additional work is ongoing. Changes in statute have been introduced previously and failed in legislature. Black-tailed prairie dogs remain wildlife in Kansas and under the authority of KDWP to regulate hunting, and use of fumigants. However, the Legislature removed the requirement for residents to have a hunting license to shoot them last year. Prairie dog habitat has been identified and staff promotes control rather than eradication methodology wherever appropriate. Some educational articles and information have been produced, but more effort may be necessary. Research into control methods and grazing impacts of prairie dogs has been conducted through KSU Extension and various universities in Kansas. Kansas' Conservation Strategy is to maintain at least current acreage of 130,000 acres of black-tailed prairie dogs in Kansas; maintain distribution over 80 percent of their historic range (west of the Flint Hills); maintain one complex greater than 5,000 acres; and

maintain 10 percent of acres in complexes of greater than 1,000 acres; with a 10-year goal of increasing black-tailed prairie dog acreage to 150,000 acres (1 percent of suitable land) by 2012 if appropriate landowner incentive programs are developed at the federal level. All strategies are being met at this time. USFWS listing criteria is stated as: the present or threatened destruction, modification, or curtailment of its habitat or range; or there is over-utilization for commercial, recreational, scientific, or educational purposes. Factors include: disease and predation; inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting continued existence. USFWS 90-day finding in November 2008 was that the species “may be warranted” for listing. This initiates a 12-month status review and solicitation of scientific and commercial information pertaining to their status. Results are due in November 2009. KDWP has provided comment through WAFWA Grassland Shrub Steppe conservation committee to USFWS in February on current status of the species in Kansas.

Matt Peek, furbearer research biologist, gave a portion of the prairie dog report to the Commission (Exhibit D). I coordinate the surveys so I will talk about prairie dog status and the conservation strategy that Mike mentioned. The area in question is what is considered the historic range. The last range-wide surveys were done in 2000 and 2001. In 2006, we reinitiated surveys in an effort to determine survey techniques that would be used in the future. So we conducted several different techniques independently over this area in northwest Kansas. From 2000 to 2006 the number of colonies has decreased by 38 percent; but colony area increased by 33 percent, from 60,000 acres to 81,000 acres based on the aerial line transect survey, which is an aerial survey in a fixed-wing airplane. This was the technique used in 2000, so that was the 2006 survey data to estimate the change in colony acreage and number. If we apply those changes in percentage to the 2000 survey we would come up with statewide estimates of 3,030 colonies and almost 174,000 acres of prairie dogs in Kansas. The more realistic estimate of the number of prairie dogs on the ground actually turns out to be higher than what we used in the estimate. Based on the other surveys we compared to we came up with a correction factor and the line transect survey alone underestimated the number out there. In fact the 173,000 acres and 3,000 colonies is probably an underestimate. However, the eastern colonies in Kansas are more susceptible to extermination. Relative to the conservation strategy, we needed to maintain at least the current acreage of 130,000 acres of black-tailed prairie dogs in Kansas. We are doing that without question, we believe there are nearly 90,000 acres in northwest quadrant only. The 10-year goal of having 150,000 acres appears to be met based on the fact that there are 70,000 acres in the remaining three quadrants, so it appears we are meeting that objective as well. There are five complexes that are over 1,000 acres and the sum of those five complexes is 15,000 acres, which is 12 percent of the total estimated acres within the range in Kansas. So we are achieving the one 5,000-acre complex and 10 percent of 1,000-plus acre complexes. However there is a problem with this figure; the aerial line transect survey uses north/south transects and we spot and identify in one mile buffers, a spotter on each side of the plane looking out a half mile. The point is the transect lines are four miles apart so you are only surveying one-fourth of the area, so that previous data ignored all of the colonies between the transect lines. A complex is a group of consecutive prairie dog colonies that are within 7 kilometers of each other. A definition the Black-tailed Prairie Dog Interstate Conservation Team came up with. It is based on the greatest nightly movement of a ferret in Wyoming. In fact, prairie dogs are capable of moving farther than that. So the 7-kilometer rule is conservative. The previous survey used a 3.5 kilometer

buffer around each colony so two of them side-by-side, if they are 7 kilometers apart, are included within the same complex. However it didn't take into account only a quarter of the area was surveyed. We can account for this by multiplying the buffer by four and use a 14-kilometer buffer or a more conservative approach would be to use average dispersal distance of prairie dogs, which is five kilometers, so using a radius of 2.5 kilometer buffer and multiplying that times four you get a 10-kilometer buffer. Using the 10-kilometer buffer in the 2000 range-wide data, you have a single complex of over 1,000 acres in Kansas, but that single complex includes over 1,100 colonies and over 30,000 acres that were identified and since the survey only identified a quarter of the colonies the actual number in this complex is more like 120,000 acres and 4,500 colonies. If we look at the 2006 data, with the 10-kilometer buffer, we have a single complex of nearly 20,000 acres. In fact there is only one colony we identified that does not fall within the complex rule. These figures do not take into account features on the landscape, for example, rivers with water in them would be a barrier to movement. In conclusion, prairie dogs appear numerous in Kansas relative to the goals set forth in the state plan and most appear to be associated rather than isolated. Statewide surveys are underway, so the 174,000 acres statewide estimate was just based on one quarter of the range, and we will have range-wide estimates in the very near future.

Chairman Johnston – What are the consequences of federal listing if that would happen?

Mitchener – Good questions, Mike (LeValley) might be able to expand more on this when he gets up here, but we don't know because there are different facets that might go into potential listing based on those five criteria that the USFWS has to look at, so it is difficult to say what the impact would be. Chairman Johnston – Is there a range of potential limitations that listing would impose? Mitchener – The most impact would be on federal properties or any project that included public funds. Private landowners, as far as specific instances on their property, may not see a tremendous amount of impact. There are rules that are written when listings are made that may be different species to species. It is hard to say exactly what the impacts may be.

Commissioner Shari Wilson – Mike, you mentioned additional education efforts may be needed. How will we know if they are needed or not and what are those efforts? Mitchener – They're not identified at this time. We produced some posters with Chickadee Check-off funds and things like that that get distributed, but there is information on benefits of prairie dogs that needs to get out. We will be working with our I&E folks and other interested parties like KACEE, for example, to try and determine what kind of information may be needed. Commissioner Shari Wilson – Those posters very popular with teachers. What other universities have been doing work on prairie dogs or ferrets beyond K-State? Mitchener – I believe Fort Hays has been doing some work too.

Ron Klatske – Thanks for scheduling this. Touch on the importance of prairie dogs beyond prairie dogs themselves as prey and predators. They are important to burrowing owls, ferruginous hawks and golden eagles. Rozal poisoning takes 1-3 weeks for the animal to die, and animals feeding on them will also die. Appreciate efforts at looking at plan and what elements still need to be looked at. One objective was to create a prairie dog working group and that was accomplished in 2002. I felt good about the conservation strategy. Identify, maintain and promote and fall below goal on promotion. On education and outreach, there is more we can do, and I hope we can partner with the department on that. Implement state conservation strategy,

only accomplishments have been a few landowners and efforts of prairie dogs themselves. Nothing has been done except at three state parks. We need to do more to work with landowners who want to maintain prairie dogs for conservation purposes. Black-tailed prairie dog historic range is devoid prairie dogs in some areas. Complexes over 5,000; only one is Haverfield/Barhardt/Blank so we should underscore the value of that property. Since surveys were done in 2006, elimination of prairie dogs has occurred since then, within three miles of that complex. Logan County is trying to eliminate the population completely. Development of management incentives, promoted in the plan, don't have state or federal incentives. You could acknowledge and compliment landowners who are willing to have these prairie dogs on their land. A letter from the Commission or individual commissioners would be good. We should partner with landowners and others to develop a protection area. Education and outreach could be enhanced if a letter was sent to Logan County Commissioners and other county commissions to outline benefits of prairie dogs. We can lose species in a hurry when mandatory eradication is in affect and that can be devastating to wildlife. It is important for the state to say that we don't want to have to list species and proactive is the best defense. In regards to 7 kilometers, I don't think that is something the working group endorsed, defining what a complex meant and five kilometers being average dispersal. K-State suggests immediate land, could be invalid if that is their average dispersal. I think that was an error statement. Commissioner Lauber – I would be disappointed if prairie dogs were listed; but I don't agree with Ron on getting involved in the battles in Logan County. That is an issue of landowner rights. The black-footed ferret recovery effort is not our initiative, and I don't think we want to make it our issue. I question promoting this because of far-reaching consequences. Also, we are in litigation with some of these people at this point. Tymeson – That is correct. Commissioner Lauber – How do you engage in litigation and offer congratulatory comments? I want to participate on our nickel with USFWS participation so no confusion as to our intent. I would like us to stay neutral. What the department has done has been reasonably thorough, goals have been met and we are doing our part. Commissioner Sebelius – Counter point; it is important and it is an issue for our department to be involved in or we wouldn't have the presentation we just had and know where the colonies are. We are involved because of black-tailed prairie dogs, but encouragement of introduction of ferrets has heightened awareness. Logan County can't change their name now, felt violation of plan because livestock was brought in. Ferrets are there and if responsible action doesn't get taken, they are in jeopardy. Recommend following USFWS or get action permit to do anything that would affect the ferrets. Haven't heard about litigation, but Mr. Klataske's statement is well taken. Why wait until they are threatened? I encourage the department to send a statement of recommendation to the County Commission. Our opinion should count for something. Peek – The Interstate Working Group set 7 kilometer rule and 5 kilometer rule is from literature. Chairman Johnston – Whatever the department should or should not do must be considered by legal staff. It is appropriate that be considered first before anything else is done. Klataske – The litigation is about allowing phostoxin to be used by a vendor. It started on Labor Day weekend, filed injunction to stop that issuance of permits for phostoxin. Don't know if any other issues. Chairman Johnston – Don't know what the issues are in that litigation and this is not the place to discuss that in detail.

Mike LeValley, US Fish and Wildlife Service, gave the report on black-footed ferret reintroduction. Do you want me to answer the question of what listing might mean on black-

tailed prairie dogs? Chairman Johnston – That was my question, and I would like to hear the presentation first. LeValley - In fall 2005, USFWS contacted by two landowners about having their properties evaluated for reintroduction trials. One had been catering to shooters for black-tailed prairie dogs and the other individual was interested in ferrets and intensive cell rotation grazing. One contacted USFWS in the mid-1990s, but at that time we felt we needed to concentrate on 10,000-acre to 20,000-acre areas and felt they were too small to justify the project. Both properties were greater than 9,000 acres and the USFWS black-footed ferret coordinator and Kansas field office personnel met with landowners and toured properties in November 2005. The USFWS was running out of public land in the west to reintroduce the colonies on and was having continuing problems with sylvatic plague, which is transmitted by fleas. The disease came on ships and prairie dogs and ferrets are very susceptible to that. Landowners presented letter formally requesting evaluation of their properties for ferret reintroduction. Met with landowners and learned the Nature Conservancy's (TNC) Smokey Valley Ranch in Logan County was managing prairie dogs as part of their management goals and asked them for information on colony sizes and densities. TNC had been keeping prairie dogs on their properties and were paying for control on surrounding neighbors prior to ferret reintroduction. Began meeting with TNC, KDWP, landowners and other interested parties and later with county commissioners, local legislators, etc. to discuss project needs and coordination. The main concerns were: presence of endangered species and potential restrictions on non-participating lands, as well as emigration of prairie dogs from reintroduction sites onto surrounding lands where they are not desired. In July 2006, a multi-agency crew assessed habitat for ferrets by measuring active prairie dog burrow densities. As a result of the July 2006 surveys, USFWS entered into cooperative agreements with five landowners on three sites and a reintroduction plan was formed. In November 2006, the FWS completed a draft environmental assessment on a proposal to experimentally reintroduce ferrets into Logan County prairie dog colonies. We also held a public meeting in the county, to inform residents of the plan and obtain their feedback. Although not required, we developed draft environmental assessment and held a public meeting because of high public interest and request from local legislators. Concerns expressed were the same as those heard earlier: presence of endangered species will restrict property rights, and prairie dogs needed to support ferrets will emigrate onto surrounding lands. One property was determined not suitable due to size; another decided to drop out for personal reasons. Section 10(a)(1)(A) scientific recovery permit was used to comply with ESA. The permit was issued to the Kansas field office by the Region 6 regional office. Section 10(a)(1)(A) was used previously at two sites in South Dakota (Brule and Wind Cave) and was more flexible (to protect non-participating landowners), less costly, and less time-consuming than section 10(j) experimental population process. Section 10(a)(1)(A) process was used to exempt prohibition against take of an endangered species off of the reintroduction sites from normal farming and ranching activities, including prairie dog poisoning. On sites, incidental take of ferrets is allowed on up to 12 percent of population annually to cover take from normal farming and ranching activities and other otherwise lawful activities. Action was delayed for 11 months and got go-ahead in October 2007 and had 30-day public comment period and got over 16,000 favorable (from all over the country) and 120 opposed (which came from Logan County area). Ten ferrets went to TNC and 14 went to the other ranches. Ahead of the release USFWS entered into agreement with KSU Extension Wildlife in 2006 to study effectiveness of 90-foot vegetative border surrounding the larger complex and recolonization rates on treated lands surrounding the

complex (out to 3 miles). Treatment of lands out to 3 miles surrounding both sites began in the fall of 2007 and continued in 2008. TNC continued to pay for treatments on their neighbors during 2007. USFWS, KDWP, and TNC entered into an agreement with USDA Aphis-Wildlife Services in 2008 to conduct prairie dog control surrounding both complexes for duration of experiment (through December, 2012). A full-time employee began work in August 2008. The next steps are to continue to monitor the status of released animals, and we may release more ferrets if necessary. A spotlight over-winter survival survey was done in March 2008 and confirmed eight different animals still alive on the release properties. A mix of females and males provided optimism for litters to be produced. We expected 60 percent to 70 percent annual mortality and had only 33 percent. In August 2008 a productivity survey with live-traps was done to capture ferrets for identification and also for veterinary examination, vaccinations, and micro-chipping. August surveys identified four distinct ferret litters, with a minimum population of nine kits and six adults. In October and November 2008, 50 more ferrets (not as many as we asked for) were released, 34 to Haverfield complex and 16 to TNC. Starting next week we will have another team of volunteers help us do our next over-winter survival survey. Commissioner Bolton – How is TNC managing their prairie dogs? LeValley – They set a management target of 2,000 acres of prairie dogs and the ranch is substantially larger than the other complex. So they are trying to, through selective or strategic elimination or poisoning of prairie dogs on peripheral of the ranch, force their colony more into the center of the ranch where they are not as prone to get off onto the neighbors. Commissioner Bolton – What are they using for the poison? LeValley – This year they used zinc phosphide, which is less of a secondary poisoning hazard to non-target animals, especially mammals. There is no silver bullet though, zinc phosphide is toxic to carnivorous birds and in fact was implicated in the turkey deaths in Logan County this past winter. Chairman Robert Wilson – How many states do this? LeValley – South Dakota, Wyoming, Montana, Colorado, Kansas, New Mexico and Arizona; Mexico; and Saskatchewan, Canada this year or next if we can get some of the international stuff worked out. We have them in every state that was in the historic range except North Dakota, Oklahoma, Nebraska and Texas. Chairman Johnston – Would you please address the consequences of listing (prairie dogs). LeValley – I don't think it would be a good thing because it would reduce flexibility for all involved. If a species is listed as threatened, that allows the Service to write special rules to allow take of a listed species. Section 9 of the ESA strictly prohibits take of a federally listed species unless it is covered by an incidental take statement and a biological permit or you have a Section 10 permit to take them. We have a species right now, a Utah prairie dog, a sub-species of the white-tailed prairie dog, that is federally listed as threatened and that allowed special rules to be written, so that people, up to a limit, can poison and control Utah prairie dogs where they are a problem. The other implication is if there was any federally funded or permitted projects where you have prairie dogs; like a transmission line that went through a colony; they couldn't be taken unless they were covered by a permit, if that transmission line had federal money in it, which would trigger a review of the project by my office. If there is no federal handle, then somebody who needed to take prairie dogs in the absence of a special rule under threatened status would need what is called a Habitat Conservation Plan to allow you to take the species and not violate Section 9.

Klataske – I want to mention that many people appreciate what the USFWS has been doing with this project. Think they are really going to great lengths to work with landowners on both sides

of the fence and subsidizing control on areas surrounding the sites at their own expense. There were also a lot of favorable comments within Kansas and Logan County in favor of the reintroduction. While you may have considered not complimenting the landowners, I think it would be nice for the department to thank the USFWS for bringing a native species back to Kansas. One more pitch for the Haverfield complex: it may be the only viable site in the state where they are viable. TNC is good, but is only 2,000 acres. Commissioner Shari Wilson – You mentioned a multi-agency review in 2006, what were the other agencies? LeValley – We had K-State University Extension Wildlife, TNC, Turner Ranch, and KDWP.

*Break*

3. Update on laws and regulations pertaining to coyote hunting – Kevin Jones, Law Enforcement Division director, gave this report to the Commission (Exhibits F, G, H). The laws and regulations controlling the take of coyotes in Kansas are included in statutes 32-701. Wildlife is a broad definition containing all animals in the animal kingdom, with exception of livestock and domestic animals and includes anything from earthworms to elephants. Coyotes are defined as wildlife and do not have any other classification such as furbearer or game animal; and includes live animal, dead body, or parts thereof. Take means a lot of things in the state including: harm, harass, pursue, shoot, wound, kill, molest, trap, capture, collect, catch, possess or the attempt to do any of those actions. Furharvest and hunt are two terms you need to take careful consideration of, furharvest deals with furbearing animals, but also deals with the trapping or the attempt to trap any coyote; hunting means take in any manner other than by trapping, any coyote. Article 10 deals with unlawful acts and in 32-1001 basically says if a license is required, a person has to have that license in order to hunt in the state and that requirement is in state statute. In 32-1006 subsection (a) except as provided by subsection (b), it is lawful for a person to take coyotes in this state at any time if such person holds a valid license to hunt or furharvest, as the case may be. There is also a notation about moles and gophers. But, this is one where it specifically says if you hold a hunting or furharvesting license you can take a coyote. In subsection (b) is a point that came up the January meeting about the closure of coyote season during the firearms deer season. It is unlawful to take coyotes during that firearm deer season. From the information I received relative to this, from 1978 to 1985, the taking of coyotes during the firearm deer season was prohibited; in 1986 and 1987 there were modifications made to the regulation that closed the coyote season the first two days of the firearms deer season; then in 1988 season that regulation was put into place that basically opens coyote season during the firearms deer season. This was the direct action the Secretary's regulations that opens coyote season during the firearms deer season. In 32-1002 it talks about: unless and except as permitted by law or rules and regulations it is unlawful for a person to do a number of things concerning wildlife and that is in part to hunt or furharvest or take any wildlife by any means or manner. We talk about possession; purchase or sale; take for sale, exchange or other commercial purposes; and use of a coyote during field trials or training of dogs. So the law basically says you can't do anything to wildlife unless we allow it to happen by law of statute or regulation. The next statute, 32-1003 in subsection (a)(1) they make specific reference to motorized vehicles, airplanes, land and water vehicles to prohibit the take of game animals and furbearing animals. There is no mention of wildlife in general; subsection (2) talks about the use radios or other mechanical device to talk about where animals are; but again is specific about game animals and furbearing

animals. However, I will remind you in the previous statute it says you can't do anything or take by any means unless allowed by law and this basically reemphasizes what 1002 does, but more specific to game and furbearing animals. In subsection (7) it says it is unlawful to spotlight or use artificial light or cast those rays upon the land, fields or woodland of the state for spotting or taking any wildlife. So this is where it says you can't use artificial light to take coyotes, except for the provision which talks about using that spotlight for conducting surveillance, actively caring for agricultural equipment or livestock or conducting activities described in subsection (c)(2) of KSA 32-1002 and amendments thereto, when on land under the person's control, if the person owns such land. 32-1002 talks about the prevention of damage to property; (c)(2) talks about the owners or legal occupants of land killing any animals when found in or near buildings on their premises or when destroying property, subject to the following: and it talks about taking into consideration the threatened and endangered species act; unlawful to use, or possess with intent to use, any such animal killed unless authorized by rules and regulations of the secretary; and such owners or legal occupants shall make reasonable efforts to alleviate their problems with any such animals before killing them. So a landowner can take a coyote that is depredating livestock or something like that. Article five of our regulations deals with trapping and Furharvesting and 115-5-1 deals with furbearers and coyotes and legal equipment and methods. Subsection (a) talks about hunting equipment for hunting coyotes and talks about: firearms; archery equipment; crossbows; and that optical scopes or sights may be used that project no visible light toward the target and do not electronically amplify visible or infrared light. If you recall, 32-1006 says that coyotes can be taken at any time, so if you put that statute and this regulation together you could kill coyotes at night, but you can't use artificial light, except when you are trapping, as we will see in a little bit, or you can't use a laser or night vision scope or something like that. It is conceivable that you could kill a coyote at night on a clear night. When you go to subsection (b) it talks about trapping coyotes and a list of legal equipment. In subsection (c) it says calls may be used; and handheld, battery-powered flashlights, hat lamps or something of that nature while checking traps; it also allows them to carry .22 caliber rimfire rifles and handguns to dispatch those coyotes while carrying the handheld light so that is the only exception to the use of artificial light. Jumping to subsection (5) it talks about the use of lures, baits, and decoys; (6) the use of horses and mules; (7) is in reference to 32-1002, where it says unless we allow it, it is prohibited, here is where we allow the use of motor vehicles for the taking of coyotes; also allow (8) the use of radios in land or water vehicles for taking coyotes; and allow (9) the use of dogs for hunting for furbearers and coyotes. Under subsection (13) all trapping devices shall be tagged with the user's name and address. Trespass laws are germane to the taking of coyotes, so 21-3728 is the criminal hunting statute and it goes beyond just hunting, but it does talk about hunting, shooting, fur harvesting, or pursuing any animal, or fishing upon any land or non-navigable body of water without first having obtained permission of the owner; or upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises without having that permission. So they cannot just drive down and road and shoot coyotes unless they have permission from that landowner that adjoins that public roadway or have permission to be on that land they are hunting. Combined with this statute we have a statute under Wildlife and Park law, 32-1013 that says any land that is posted as being "by written permission only", then a person must have written permission in their immediate possession while hunting on that property. In summary: a hunting license is required to hunt coyotes; a furharvesting license is required to trap coyotes. Coyotes may be taken at any



time. Currently the regulations allow coyote hunting during the firearms deer season. Coyotes may be hunted at night, but artificial light, night-scopes, and laser-sights may not be used (hunting not trapping). Artificial light may be used to check traps at night, but the light must be “hand-held” and battery powered and only a .22 caliber rimfire rifle or handgun may be used. Lures, baits and decoys are allowed. Horses and mules may be used for hunting, trapping or running coyotes. The use of motor vehicles is allowed. The use of two-way radios is allowed. The use of dogs for hunting and running is allowed. To avoid trespass, the hunter or trapper must have permission from the landowner or person in possession of the land and this includes hunting from a public road or highway and includes lands where dogs are turned out or run.

Commissioner Meyer – The Secretary could, by regulation, not allow coyote during the deer season? Jones – Yes, you could change that in 115-25-12. You could close it entirely or for a portion of the season. If you repeal entire regulation then the statute would take precedence, which would close it.

Chairman Johnston – I am more interested in your appraisal of the extent of the problem such as come to our attention during the last rifle season and whether this is an isolated problem or a trend? Jones – If referring to comments at last Commission meeting, I have been in the state for a little over nine years and have heard concerns from officers in the state about people using this as an excuse to not buy a deer license. In the last two or three years have had more calls in Pratt. In trying to find history of this issue, from 1978 to 1985 coyote hunting was prohibited during firearms deer hunting and sometime during that time the issue came up with a number of landowners having concerns because they couldn’t kill coyotes when they saw them or were having problems with them. Also, there were concerns from trappers and other people who wanted to hunt coyotes during that time. It also would prohibit a deer hunter from killing a coyote if he saw one while hunting. For whatever reason the rules changed, so the first two days it was closed then it was open and then that went away. No clear cut answer. If you have a law that may take away an excuse, not preclude person from carrying gun during that time. Tried before in this state, but changed and now allows hunting during firearms deer season.

Commissioner Meyer – If you are driving down the road you have to have permission from the landowner to can shoot a coyote? Jones – Absolutely. This is a complex issue, from law enforcement perspective we have to build a case to prove guilt beyond reasonable doubt.

Commissioner Meyer – What do you think the reaction of the general public, livestock organizations, or whatever would be if we would disallow hunting during the deer season? Jones – You would see a mixture of emotions. The gentleman from the last Commission meeting was a livestock producer.

Commissioner Meyer – He also told me he went to two farm organizations and was told they didn’t want coyote hunting season closed and they refused to back him up. If he could get those organizations to come to us, we will do it and that didn’t happen.

Mike Pearce – You are saying, if the organization asked you to close the season you could get the Commission to do it? Commissioner Meyer – I would vote for it, but I am not the Secretary.

Ron Klataske – Are there certain elements, in terms of regulations, influencing the approach of certain things allowed, less than closing the whole season. For example, method of take, not drive around and use radios to flush out coyotes, so they can’t use vehicle off-road for coyotes. Might improve the ethics of hunting and might be okay for stationary hunter or landowner using a vehicle if he is on his own land, but no outside people.

Alan Fine, Quenemo – I am a coyote hunter and we do hunt them from vehicle and off-road, which is the most efficient way of keeping the coyote population down. We are doing it for a sport, not making any money at \$3 a coyote. During the deer season, I don’t think that would

hurt us a lot, but that is taking our sport away from us. I am also a deer hunter and enjoy hunting coyotes when we are deer hunting. With the prices of fur, not many people are taking coyotes and they are getting to be a problem, so there could be a lot of disease. I have heard different opinions, like keeping your guns cased and not shooting from vehicles and all of that. I wouldn't be here right now if the law stood in Kansas of having your gun cased. I have pictures, if I would have had my gun cased, I wouldn't have stepped out of the truck, one foot out when a bullet went right over the steering wheel and right into the seat where I was sitting and out the back window. If my gun had been cased I would have been trying to get it out and have been sitting in that seat. It was a foolish mistake by one of the individuals in our hunting party that shot at a deer. Commissioner Meyer – The legitimate coyote hunters, your blood runs pretty hot, and two of friends have been killed and it is pretty intense. The problem is those who are not legitimate hunters and not true sportsmen. Jones – In regards to Mr. Klataske's comments, some other states have approached this from a different angle. All of the states surrounding us, Oklahoma, Colorado, Nebraska, Missouri and Iowa regulate what types of weapons can be in the field being used for hunting during the firearms deer season or you have to be in possession of a deer permit if you are in the field. Not a clear cut issue. There other things other states have implemented restricting the carrying of firearms to shotguns with shot shells or rimfire rifles during the firearms deer season.

Kerwin Nichols, Carbondale – When it was shut down first time, was there any significant difference in hunting the coyotes from then to now? Was there more illegal activity then or now? Jones – I'm not sure I can answer that as I was not here during that time frame.

Rick Campbell, CO, Wamego – When hunters came out of the field with centerfire rifles when deer season was over and told us they were coyote hunting. It eliminated group hunting because they had no excuse to be there. Now they say they are coyote hunting and use their vehicles more now then they did then. There is a lot of difference with behavior of firearms deer hunters.

Nichols – What about the guy hunting with dogs? Campbell – Closing may not be the answer, but modifications could be made. Nichols – Bird hunting could be used as an excuse too.

Chairman Johnston – I am not sure how significant and widespread of a problem this is and I don't think I have heard enough yet to change the rules, but if Cattlemen's Association or Farm Bureau told us they were in favor of it, maybe. Want to be kept aware of what is going on with this.

4. Furbearer Regulations – Matt Peek, furbearer research biologist, gave this report to the Commission (Exhibit I). In 2008 we were at a 20-year high relative to furharvester license sales. The market crashed this year so I expect that will continue for the next few years. Furbearer regulations were last considered in 2002. Recommended changes for 115-5-1 are minor, would not have brought forward alone, but in regards to live trap terminology because any number of devices can be used as a live trap so we would change live trap to include cage trap and colony trap. A colony trap is not a live trap, but has been included under the box trap terminology in the past, so this is a clarification. In KAR 115-5-2, 1) eliminate possession periods; and 2) eliminate the requirement to skin furbearers within 48 hours of the close of the season. The purpose of these are a round-about way to allow law enforcement to better enforce the seasons as they currently stand. There have been some issues in terms of people being able to follow the regulations appropriately. For example, we have possession periods that differ for species depending on whether or not there is a running season and then we have a 48-hour skinning

requirement and bobcat pelt tagging requirements. There are a series of different dates that people are having a hard time following. In KAR 115-6-1 pertains to fur dealers and fur dealer licenses and there are minor changes. No changes to recommend to open season and bag limit regulation or coyote season (KAR 115 25-11, KAR 115 25-12). Commissioner Lauber – I was contacted by gentlemen at the end of furbearer season who was trying to lawfully tag a bobcat within 48 hours and I didn't know who to have him contact so any flexibility there might help with compliance. Peek – They have seven days to get a bobcat tagged and there are approximately 135 employees or offices within the department that tag bobcats. Commissioner Lauber – They were afraid that by Monday it would be beyond that time. Peek – Contact information is in numerous department publications.

Carson Mansfield, Salina – I have a narrow focus, don't understand why we are allowing conibear traps, which are kill traps, on land that is hunted by bird hunters, or areas that are controlled by the state that allow bird hunting. There has to be more bird hunters and other hunters who use dogs than people who trap. I am not against trapping, but against kill traps that are used in ground sets. I have had dogs caught in leg traps, which is no big deal, you just let them out. You are out hunting, everything is fine and the dog looks at a bucket and it is over with. I knew that trapping season was on and I got up that morning and looked to see if it was over and saw there was another day to go (February 14), so I stayed away from the creeks thinking that would keep me away from the traps. Saw a leghold trap and didn't think about a bucket. I had looked up conibears and thought I could undo them. I knew how they worked and I knew you were supposed to use a belt or shoelace or something like that. I heard my dog scream and I went over and I could see his neck was caught and then I realized he was trapped in a conibear trap. I thought I knew what to do, I have seen people die in my work because I am a police officer and I can stay calm. So I depressed the spring to try and get her some air and she is depending on me to get her out and I can't find the clips, she was starting to die, so I wedged my chin in the trap trying to give her some air and this goes on for about six minutes, but eventually she died. The point is, I am looking for a narrow restriction. I don't think it makes much sense to allow traps for a few people on public areas. I have talked to the Salina Journal and they are going to write an article on it and I am doing everything I can. I appreciate you listening to me. Chairman Johnston – Matt, tell us about conibear traps. Peek – A conibear is a brand name of a body gripping trap used to trap raccoons. The department is extremely concerned about events of this nature that occur on public land. We monitor this situation and our conclusion is this is an isolated incident. The potential for conflict exists out there but it hasn't happened with any level of frequency. We will be discussing this more, but we didn't bring this forth with any recommended changes. Chairman Johnston – How prevalent are the use of these types of traps versus others and do they have a particular utility that is not available in other traps? Peek – They kill the animal, so that is considered beneficial in some cases. The advantage on a wildlife area is the animal is not moving around or prone to theft and the 220, in particular, is considered easier in a lot of cases for a furharvester to set so in some regard it is preferred. I can't answer the question as to how frequently they are used. We don't have information that information and would be impossible to obtain. Chairman Johnston – As it relates to other states' experiences, are conibear traps legal in most states? Peek – The 220 is legal in 31 of approximately 45 states that allow trapping. In the Midwest most of them do with the exception of Ohio. All allow 220 on dry land. Some states have exemptions, for example Missouri has the most severe where you can't use this trap anywhere in the state except in elevated in buildings, for taking problem animals.

Other states like Indiana, Illinois, Iowa, basically are like we are as far as being able to use it. Nebraska allows it, but not on public lands. So there are a wide range of regulations out there. Commissioner Shari Wilson – My understanding that this trap not tagged. Could you refresh our memory if people trapping on public lands have to, beyond getting their furbearer license, have to register or let anyone at our areas know they are trapping on public lands. Peek – At the current time they do not and trapping is not allowed on state park. Commissioner Shari Wilson – I think trapping is different than hunting in that the trap is left there. When you are hunting you have your gun with you and when you leave your gun leaves. I know the regulation requires that the trap be checked every day, but the person is not there all the time. I think we need to consider this because we are getting more use of our public lands by people who are walking their dogs, watching wildlife, or strolling with their kids and I think that is more the trend. I don't believe we are getting more trappers. I think the potential for this to happen more is definitely there. Mr. Mansfield made a good point about people out walking their dog or just out walking and not everyone will think to look on the internet and research the possible kinds of traps they might run into and how they might release a dog or kid from one of them. Commissioner Lauber – This is the second time since the first of the year that I am aware of dog being killed in a conibear bucket trap. The other one was on private land. I feel bad for people who have lost their dogs. To start restricting trapping, maybe we should consider conibear or kill traps, but it is a very strong statement for this group to start restricting trapping. That is a slippery slope. Trapping is as much of our heritage as jackrabbits. I have concerns when you do that because of animal rights radicals who would love to push one step past kill trips to leg traps and cage traps. We should review on whether we do it on public lands or not, but strong statement if we start changing trapping laws. Mansfield – I see where you are coming from, but I will say that Wildlife and Parks says what species you can kill when hunting, they say how you can hunt it and they even say what sex it can be in some cases and I don't think a reasonable limitation on trapping is any different than a reasonable limitation on hunting.

Mike Pearce – Matt, have you had any people complain about their dogs run into snares on public lands? Peek – Of course last year there was the issue that where the individual wrote into the magazine and we had two incidents last year that I documented and neither dog was injured in any way. This year, two dogs have been killed in conibears on private land, and one on public land that I am aware of. Pearce – But you have heard no complaints on snares? Peek – I haven't documented any this year and we do hear things after the fact on occasion, but not on public land. The department is not in support of trapping to the extreme at the expense of dog owners or that is not our intent. Our belief is that it does not happen very often.

W.R. Brecheisen, Chanute – I think we need to work more on educating the public and hunters on the traps we use. I have a brochure put out by the Wisconsin Trapping Association and their DNR on how to remove your dog from a body gripping trap. We, as Kansas Furharvesters Association, are looking into making that available to the public. Also, speaking for myself, I would like to see a short 15-minute demonstration at the end of every hunter education course where a trapper could come in and show hunters the type of traps we use and how to remove their dogs from them. I think this would help. It is a sad thing that the gentlemen had to lose his dog, but I think with a little more education he could have removed his dog from the trap.

Dan Barrow, Denison – I am a rancher, farmer and in the fur business. First, on conibears, I have asked a couple of different agents this year, one in Jackson County and one in Jefferson County about the use of traps on walk-in hunting. It says right on the sign that there is no trapping

allowed. The first one told me you could trap on walk-in hunting and then he said I am the one who puts signs up and he looked at the sign and he said, you are right, you are not supposed to trap on walk-in hunting. A week later I had another agent at my business and so I asked him and he said you could. Both of these guys are my neighbors and friends and I am not saying anything bad about anybody, but there is a vague place in interpretation in the law on what you can and can't do on walk-in hunting. The issue to be is I was informed that you can trap on walk-in hunting land leased by Wildlife and Parks if you have permission from the landowners. I am dog hunter and if I go to a piece of ground that is walk-in hunting and I read a sign that says no trapping allowed and turn my dog loose, I don't want to see traps. I've made my livelihood from fur business for over 40 years. Who is responsible if a dog gets caught in a trap on a piece of ground leased by Wildlife and Parks and the sign says there is no trapping on that ground. Is it legal to trap if you have permission of the landowner? Peek – Yes, it is. Tymeson – Our contract is with the landowner to lease the hunting rights. If they give permission to an individual or they trap themselves the department has no control over that activity. The no trapping is to let people know we are not leasing the trapping rights. Barrow – It doesn't say that. The point I am trying to make is that I would have no idea if I went to turn my bird dog or coon dog loose in front of a sign that said no trapping. I think those signs need to be changed, that sign doesn't mean what it says. I have a list of other things on regulations. I have a lot of respect for Matt and enjoyed working with him. I would like to see pre-trapping kill season for dog hunters like in state of Nebraska where there is a season from the first day of October to the first day of November, then I could hunt that dog 30 nights if I wanted to. I could hunt that dog and not worry about getting him in a conibear or a snare. I don't think the average people who would hunt in this pre-season time are going out to kill a lot of coons they are doing it for the sport, not for the money. I would like to see a season like that. Coon calling is a new thing in this state and I am opposed to it as a fur buyer and as a conservationist. I don't like the idea of being able to call five coons out of a tree, shoot all of them, but only kill two and wound three, I am opposed to that. It is a waste and will have an impact on what we can pay a coon hunter. Good coons are getting hard to find. No problem with the population of coons, early season would kill young, middle is males and females, and late in season is females. Snares and conibears that are set in a fence along a roadway, should be set only by landowners or their agents. Who is an agent? Jones – That would be someone who can speak on behalf of the landowner or is authorized by the landowner. Anyone who has permission from landowner then they are an agent of the landowner. Barrow – Bobcat tagging is probably the biggest complaint and getting them tagged. Some states, like Texas, let the fur dealers do the tagging and that eliminates the problem. If you do something wrong with the tagging that is a federal violation, so you aren't going to do something wrong. Chairman Johnston – Matt, this 48-hour rule you are proposing to modify, is that what he is talking about? Peek – No, he is talking about who has the ability to put the tag on the bobcat. Right now the department does all of the tagging. We might discuss some of those issues in the department in the near future, but I don't think that is a regulatory issue. Jones – No, it says presented to the department. Barrow – Throughout the state there is a lot of difference in what the individual conservation officer will let fur dealers do. Some places allow several people to leave animal at fur dealer with information and the CO comes in and tags for four or five people, it varies from one place to another. I like possession period the way it has been, that way they have to get the stuff in and skinned in certain period of time. If they just keep dragging in and it will make a difference on the fur prices. Peek – In regards to Mike's question on snare incidents

this year, I was thinking in terms of legal traps and whatnot. There was a high profile incident where a dog was snared and the guy didn't check his snare for two weeks and he got a ticket. Pearce – Was that on public or private land? Peek – Private land. Chairman Johnston – I assume you need some consensus from us to go ahead with the proposals you have made. Commissioner Robert Wilson – When they started tagging bobcats, did they do that as a study to see how many kittens were having and stuff? Peek – We used to collect the whole cat to collect some biological data. Bobcats are tagged because they are considered a look-a-like species under an international treaty so it has nothing to do with the abundance of bobcats. It has to do with the U.S. Fish and Wildlife Service carrying out an agreement that our federal government made to tag bobcats to control international trade in other spotted cats that may be endangered that may look like them. Chairman Johnston – Are we in agreement with recommendation of staff? *Consensus*. I am not sure how widespread this problem is becoming, but I think this is another subject the Commission would like to be kept aware of (public land incidents and dogs being caught). Also, I am personally concerned about this signage question that has come up. Barrow – I am not opposed to trapping or hunting, but the major issue to have signs out that says there is no trapping when there can be trapping.

**Moved rest of afternoon items to evening session.**

**VII. RECESS AT 5:35 p. m.**

**VIII. RECONVENE AT 7:00 p. m.**

**IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS**

**X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**

*None*

**XI. DEPARTMENT REPORT**

Chairman Johnston – I would like to propose that we do General Discussion item #7 – the habitat award first. *Commission consensus*.

7. Private Lands Statewide Habitat Award – Jake George, Private Lands Coordinator – This is the second year for the Kansas Wildlife Habitat Conservation Award. It is a statewide award modeled after the county awards for Soil Conservation, which focus on recognition of farmers and ranchers who have completed projects designed to improve environmental quality or conserve natural resources such as soil, water or energy. The purpose of this award is to stimulate interest in wildlife management in Kansas by recognizing individuals who have exhibited outstanding progress in development and stewardship of wildlife resources. The nominations for the award are accepted from biologists across the state and are reviewed by Committee and a winner is selected based on overall habitat quantity, quality, maintenance and enhancement on the property. Additionally the award winner will be nominated for the Association of Fish and Wildlife Agencies national private lands fish and wildlife stewardship award. Matt Smith will be introducing this year's recipient.

Matt Smith (PowerPoint - Exhibit J) – I am pleased to be here and part of this award that recognizes the efforts that farmers and ranchers make toward developing habitat on their land. In a state that is over 97 percent in private ownership, it is very important that we have landowners like Mr. Wallace. This award goes to Wallace Weber of Russell County. Known as the land of the post rock because when first settlers settled that land there was very few trees, but there was a lot of rock, not too far under the ground and not too hard to get to. They used it for building materials, and fence posts are the most common thing you see. Some of those fence posts are over eight feet long and weigh up to 100 pounds per foot, so you have to give credit to those pioneers. All of the pictures are on Mr. Weber's property. There are remnants of stone houses, some still lived in. It is a permanent and daily reminder that people were here before us. They also used rock for churches, which were known for their fantastic craftsmanship. The church at Dubuque was built 100 years ago and is still in use. There was a young man that came from the country of Luxembourg, Nicholas Weber who settled for a time in Dubuque, Iowa and came west and he started a little post office and founded the town of Dubuque in 1879. He and his wife had 14 children, the youngest being Frank, Wallace's father. The land is on the county line between Russell and Barton counties. Frank Weber ranched and farmed in that area and was a baseball player and traveled the country playing amateur baseball. He had two children, Cheryl and Wallace, who was born in 1943. He grew up in the house he lives in today. He spent 31 years in the U.S. Army and served nine years of active duty in Desert Storm. He founded Heartland Dermatology Center and sold the practice in 2005 and is retired. He is a lifelong outdoorsman who has been farming and ranching on his property since 1987. Wallace has done countless numbers of conservation projects on his property and he has taken advantage of a lot of programs that are out there to help landowners do that. He has used the Wildlife Habitat Incentive Program and the Conservation Reserve program and many others. He started a wetland project about a year ago that is starting to come along. He has planted numerous trees and shrubs, put many acres back to grass that were marginal farmland, and has done prescribed burning. The overall driving force is that he wants to meld wildlife practices with agriculture practices. Russell County is good prairie chicken land. Mr. Weber donated his 1,783 acres to Pheasants Forever and Quail Forever, the largest single donation in their 26-year history. He wants to see the land stay together and be managed as a wildlife habitat demonstration site and have several groups come through. This legacy he is leaving behind will last like the limestone rock in the area.

Secretary Mike Hayden and Chairman Kelly Johnston presented a plaque and a framed print to Mr. Weber.

Wallace Weber – I am honored and awed to be here. My sister couldn't be here, she left today with her husband and adopted daughter for a week in New York City. When she found out about this she wanted to be here, but even though she doesn't own the ground now, we both emotionally own it and she is as much a donor in that as I am. It is not about me, but you have really honored me with value added. Thank you. Hopefully it will be a guide for some other people for legacy things that we can do for other people beyond ourselves. (*Applause*).

Chairman Johnston – We will return to where we left off in our afternoon session.

## C. Workshop Session

1 Fish and Wildlife License/Permit Fee Regulations – Mike Hayden, Secretary, gave this report to the Commission. At the last meeting we brought you a proposal to begin to look at fee increases for next year and you gave us some instructions and comments. That was before we had the Governor's recommendations and revenues, particularly in November, had really fallen off so we were quite concerned that we needed to seriously consider an increase in fees in order to keep funding the agency. Since that time a couple of things have happened. The good part is the revenues rebounded in December, January and February and that is good because if you look at other state receipts, they started sliding in October and November and are still sliding. In addition to that, because of the recession, the Governor has had a conservative approach to budgeting and she reduced our recommended budget. Given the combination of the fact that revenues right now don't look as bad as they did the last time we met and the fact that we are going to take a more conservative approach to spending, I think we can delay this (fee increases). In addition, Mike Miller is heading up a committee that is looking at possible packaging of licenses and marketing to help us increase sales as well. They are just beginning their work. If you take those three things combined into consideration, it is best advised to delay further discussion on any fee increase until next December. We have enough money to get through the current fiscal year and the next now that we have a pretty good picture of spending because we not only got the Governor's recommendations, but we have been before the House and in the process of going through the Senate. Suspend this until December and look at it again. Then we can consider a fee increase if needed. Chairman Johnston – Thank you for some wonderful news. Commissioner Shari Wilson – Does that include spending at the same levels as in the past and keeping current programs? Hayden – We will have to reduce expenditures a little. Most of the reductions however are going to occur on the park side because that is where the pressure is on the general fund. As you will remember we didn't bring you any park fee increases in the last proposal so that portion wouldn't have impacted the decisions you would have had to make. We are going to have to cut back on the parks so we are preparing for that. We are going to have a little more conservative approach on wildlife side, but we will have the same number of employees and virtually continue the same programs. The Governor didn't recommend any vehicle replacements so we will have to make some adjustments like that. Mike Pearce – You are going to bring this back up in December and that would mean it would be the June meeting before it would be voted on? Hayden – Either June or August. Pearce – When, if they approve fee increases, would that take effect? Hayden – In 2011.

2. KAR 115-25-7. Antelope; open season, bag limit and permits - Matt Peek, furbearer research biologist, gave this report to the Commission (Exhibit K). We are recommending a total of 130 firearms permits and 48 muzzleloader permits. By unit that would be: Unit 2 – 94 firearms permits and 24 muzzleloader permits, an increase in total permits of ten; Unit 17 - 36 firearms permits and 12 muzzleloaders, an increase of 12 permits from last year; and Unit 18 - 12 muzzleloader permits, up from eight permits. Season dates are same as past years.

3. KAR 115-25-8. Elk; open season, bag limit and permits - Matt Peek, furbearer research biologist, gave this report to the Commission (Exhibit L). The recommended season and



bag limits would be similar to previous years, but the September season on Fort Riley would run through October 4, 2009. The other thing we are proposing is eight any-elk and 15 antlerless elk permits be authorized. Pearce – Matt, how do those numbers compare to last year for those permits? Peek - Last year it was ten any-elk and 15 antlerless. I mentioned at the Emporia meeting the possibility of reduced permits based on comments, but when we flew the Fort we saw a lot more out there than hunters had reported. The numbers were good and the bull quality from what we saw was pretty good, as well, so the cut was minor. Pearce – I heard somewhere that there was going to be a change in the application period like you would get a bonus point? Peek – Lloyd is going to talk about that.

4. Public Lands Regulations - Brad Simpson, Public Lands Section chief, gave this report to the Commission (Exhibit M). Workshop session for special regulations under posted notice on state wildlife areas and state fishing lakes. Changes in the briefing book are changes to the existing reference document we passed in April 2008. This is the same proposal as in the last briefing book. These will be adopted in KAR 115-8-1 series, under public lands regulations.

5. State T&E Review Status – Ed Miller, nongame wildlife research biologist, gave this report to the Commission (Exhibit N). This has been a long process looking at the five-year review of threatened and endangered (T&E) species in Kansas. We will not have a public hearing on this until the June meeting because we are currently in a 90-day comment period that was just published in the Kansas register. Over a year ago we started this process and we looked at 21 petitions and the Task Committee recommended that there should be no action on eight of those; eight should be listed as species-in-need-of-conservation (SINC); and five would be changes to the T&E list. The proposed changes are: for delisting the peregrine falcon from threatened list; delisting the bald eagle from the threatened list; and listing three aquatic species to the threatened list – the plains minnow; the shoal chub; and the delta hydrobe. In addition, eight fish species are recommended for SINC list, our watch list where we collect data on sightings and also we can target conservation programs and funding to hopefully prevent future listing to the T&E list. Those fish are: bigeye shiner; redbfin darter; lake sturgeon; striped shiner; common shiner; southern redbelly dace; cardinal shiner; and Johnny darter. As far as feedback I did get a letter of support for listing of the fish species from the Arkansas River Coalition (Exhibit O) and they sighted Haslouer et al's 2005 paper on the current status of native fishes in Kansas, and I also cooperated with three newspaper reporters on bald eagle sightings and nesting data in Kansas.

## **B. General Discussion (continued)**

Chairman Johnston – Just as a reminder, please sign in and let us know where you are from.

5. Early Migratory Birds – Helen Hands, wildlife biologist, gave the report on doves (Exhibit P). Since 1983 the federal frameworks for mourning doves have provided an option of either a 60-day season and a 15-bird bag limit or a 70-day season and a 12-bird bag limit. Kansas has opted for the 60-day, 15-bird bag limit for at least 20 years. Since 2002 we have provided a split season, and we have had a few different variations of that. During the past several years the three dove technical committees have been developing a mourning dove harvest strategy. The

three dove technical committees are based on the three dove flyways, which are different from the duck and geese flyways. We have the western management unit, the central management unit and the eastern management unit. These are based on banding just like ducks, but the dove migration routes did not fit the four flyways. About 10 years ago the U.S. Fish and Wildlife Service (USFWS) said that we needed to develop mourning dove harvest strategies which are trigger points where if the population is increasing at a certain rate, what kind of decision does that mean you have to make in terms of the frameworks of the season or if the population is declining at a certain rate what is the trigger for you to change those regulations. We have finally completed an interim harvest strategy that has been approved by the USFWS and each of the three dove technical committees has its own harvest management strategy. As part of this we did an analysis of the harvest information program harvest statistics and what they found from that was that you will have more of an influence on the total harvest if you change the bag limit versus changing the seasons. Because they want to learn more about the affect of changing the bag limit on the harvest and eventually the population, they wanted to make the season length standardized. The season they chose was 70 days. The harvest strategy goes into affect this year and the USFWS will be changing the federal frameworks for doves to a 15-bird bag limit and 70-day season. The 15-bird bag limit indicates the population is stable, if it was increasing we could potentially have a 22-bird bag limit; if declining, an eight-bird bag limit. The recommendation is the 70-day season with the first segment running from September 1 through October 30; and the second segment opening on the first Saturday of November and remaining open for 9 days. We considered a couple of options for the split, but chose the first Saturday because it would allow dove hunting during the opening weekend of the upland bird season and allow the second segment to close before the exotic dove season opens on November 20. If the dove season overlapped with the exotic dove season, it would unnecessarily complicate the regulations and enforcement because a HIP stamp is not required during the exotic dove season. Chairman Johnston – As I understand it, the reason you are recommending the first Saturday in November is so there is no overlap with exotic dove season? Hands – That is correct.

Faye McNew, Waterfowl Research Biologist, gave the report on teal (Exhibit P). The hunting season framework is September 1 and September 30, 2009. We can be allowed either: 1) sixteen days if the blue-winged teal breeding population is above 4.7 million; or 2) nine days if the breeding population is between 3.3 and 4.6 million. Bag limit is 4 and possession limit is 8. Last year's blue-winged teal breeding population was 6.6 million and we had a 16-day season. The 2009 blue-winged teal season is unknown. There is still snow so we probably won't know until probably July. Right now the habitat conditions are looking favorable for another 16-day season. The Dakotas got a lot of snow this year so hopefully that will break the drought trend. For the High Plains if we have a liberal regular duck season, we will only be allowed an eight-day season. So there are three options. We are recommending a nine-day season to run September 19 through September 27, 2009 for both the High Plains and the Low Plains zones; and a 16-day season running September 12 through September 27, 2009; and for the eight-day High Plains Zone, September 19 through September 26, 2009. The shooting hours are expected to be a half hour before sunrise to sunset.

6. Archery in the Schools – Gary Keehn, Archery in the Schools Coordinator, gave this report to the Commission (PowerPoint - Exhibit Q; Exhibits S, T). This is the third year since Kansas Wildlife and Parks established the program here, and I have been fortunate enough to be

involved the last two years. I would like to present a PowerPoint that shows new data and end with some information about Kansas. They have about \$100,000 donation for this survey. Basically National Archery in the Schools (NASP) is to promote an international-style of archery for in-school curriculum that provides educational, performance and participation in the shooting sports for students in grades 4-12. In Kansas, one of our mission statements is to teach target archery as part of school curriculum. An objective at the national level was: 1) implement in 120 Kentucky schools by March 3, 2005, achieved by April 2003; 2) implement in 25 states by December 31, 2008, achieved by May 2008; and 3) maintain program's standard and canned approach. Have 4.6 million students, with one million this year with 5,000-plus schools. We have 46 states; and Victoria, Australia; Nova Scotia, Canada; Saskatchewan, Canada; South Africa; New Zealand; and Alberta, Canada in May; and British Columbia, Canada in August. During the survey, teachers were asked about the effectiveness of the program, 93 percent effective; 84 percent increased confidence; 78 percent increased motivation; 76 percent helped attention on range and in classroom; 74 percent better behavior; 73 percent better attitudes; 40 percent better attendance; 40 percent said kids would move onto other outdoor sports; and kids say "I can do this!". The teachers are trained for eight hours and by the end of the day the teachers are wondering why they never tried it before. Students surveyed said: 80 percent like NASP; 77 percent had no prior archery; 70 percent like their teacher better; 65 percent shoot after NASP; 51 percent shoot with their dad (mother or family member); 59 percent want a club in their area; 53 percent like themselves better; and 37 percent are willing to start a club themselves. NASP kids also buy equipment: 21 percent who took NASP this year; and 26 percent who took NASP a year or more ago. Seventy-nine percent of NASP graduates do target archery and 56 percent go bowhunting. The culminating event was the sixth annual NASP Nationals last year had 2,856 student archers. The goal is 3,600 in 2009; 39 percent female participation; and \$14,000 in scholarships were awarded. Teams are 14 in a team and you have to have at least five members of the opposite gender on the team.

In the packet (Exhibit S) there is a two-page summary from a 40-page study that went on. In Kansas, we have over 100 schools and 200-plus teachers involved with the program. We were ranked 25<sup>th</sup> in the world, now we are ranked 15 or 16 in participation numbers. NASP is trying to promote competition shooting and finding out that most states don't have a state tournament, some of that is funding, and some is getting groups to do it. We are getting more interest in dual competitions. Roy Grimes called Monday and they are inviting three states to do an online NASP state tournament. They have invited New Mexico, South Dakota and Kansas. I told them we would be more than willing to work that program. I would take some time contacting all of the schools. They have a month to do competition in their own school (relying on their honesty), then individuals and teams can qualify kids for nationals. There would be no cost for our state and would open us up to other grants. If this works, they will go nationwide and worldwide with it and hope to have over a million kids involved in some type of virtual contest. Things we have changed: this program is designed for grade schools and high schools and we see a need to get colleges involved. In the past year, Highland Community College, Colby Community College and Fort Hays State have trained pre-service teachers. We are also working with other instructors who are working with youth programs, like 4-H leaders, church groups, boy scouts, girl scouts and KACEE, to keep programs going and kids interested outside of school. This fall hope to work with annual physical education conference in Pittsburg and put on a training day the day before or the day after. We are trying to get more teachers involved in a district because if

something would happen to that one teacher the program could be lost, so the last three training sessions in the last two months, we trained four districts with six to nine teachers from each district. Also, we are working with small districts to rotate kits because they can't afford the \$3,000 alone. Trainers are trying to keep in touch with schools. We have already trained to see if they need anything. We have sixteen KDWP employees and six non-department who have gone through the training to become facilitators (BAIT – Basic Archery Instructor Trainers), for a total of 22 BAITs. This summer Roy Grimes came in and did a program in Salina and trained Dave Adams, Bob Funke and myself as BAIT Specialists, which means we are certified to provide necessary training for future BAIT instructor (only 20 in the world). Also, I worked with Roy Grimes for three days to put on a video, which was shot in Salina. We have 250 teachers and 100-plus schools involved, which puts us 18<sup>th</sup> in the world, which is low because when we train college students they don't unless they contact us if the program is going on. Some of the challenges include funding and getting the kids to the schools and we are trying to work with National Wild Turkey Federation and Kansas Bowhunter Association and other organizations that might be willing to help. Chairman Johnston – You are doing a great job and it is a pleasure to see a presentation like this and the impact on the kids. Keehn – It is hard to tell the exact number of kids, but it is phenomenal. Commissioner Shari Wilson – KACEE has really enjoyed working with this program and with Gary. He has made presentations at our annual conference that have been very well attended and had a lot of interest. Looking forward to continuing that in the future and hope this program continues. I think there are a lot of kids in outdoor sports that probably would have never had the opportunity to learn about it.

### **C. Workshop Session (continued)**

6. KAR 115-25-9. Deer; open season, bag limit and permits - Lloyd Fox, big game wildlife research biologist, gave this report to the Commission (Exhibit T). We are set to vote on this regulation in April. There has been a substantial amount of legislative input recently. One item we may bring forward would be a change in the extended whitetail antlerless season. We were recommending three days and now we may be looking at an amendment of January 1 through January 10 -- two weekends. Another item that is new this year is deer management units where we have extended seasons. We are considering including Units 4 and 5, in addition to the units we have had for the last five or six years. It is recommended that deer hunters be authorized to purchase up to five white-tailed deer antlerless-only permits and allow them to use one statewide, including public lands. The second antlerless-only white-tailed deer permit would be valid on private land in all but units 17 and 18 and would also be valid at Cedar Bluff WA. The last three antlerless-only white-tailed deer permits would be valid only in Units 7, 8, 12, 13, 15, 16, and 19. We are moving forward with an idea to move our application date earlier in the year to allow nonresidents, guides, outfitters and other people longer to prepare and to know earlier so they can try and go some other place. One comment from legislators was to move our application date the other way in the hopes that more permits might be available later in the season. I don't think we communicate back and forth and I think there are some misunderstandings on what the basic needs and wants of the hunters and resource really are. Commissioner Shari Wilson – Did you say Units 4 and 5 were also being proposed for the extended season? Fox – Yes. Commissioner Shari Wilson – The map we have tonight doesn't show Units 4 and 5. Fox – You have two maps, one is just the deer management units and the

other is the special extended season. You don't have a map with the Units that have one, two or five whitetail antlerless permits. Units 17 and 18 are the only two units that have just one; the rest allow two; Units 7, 8, 12, 13, 15, 16, 19 and 10a are all units where you can have three additional permits. Commissioner Bolton – Why isn't Unit 17 included in the antlerless-only season? Fox – Deer densities are lower in the western part of the state. Staff has recommended against a January antlerless season. Chairman Johnston – The department is moving in the direction of developing an earlier application period? Fox – Yes we are, but not for this year, for next year so we can notify them in the regulations this year. Steve Sorensen – On the map included, with the extended seasons, Unit 7 is labeled wrong. Does that mean I get to hunt both sides of 281 this year? Fox – We have a corrected map on the table and that map actually goes with 115-25-9a (Exhibit V).

7. KAR 115-25-9a. Deer; open season, bag limit, and permits; additional considerations - Lloyd Fox, big game wildlife research biologist, gave this report to the Commission (Exhibit U). This will be brought forward for public hearing at the June Commission meeting. This regulation originally started as the Fort Riley season regulation and has become a catch-all for late recommendations and has three components to it. One is the Fort Riley season recommendations; antlerless-only permits for either species (mule deer doe permits) and the licensing and permitting section would like to offer these on a first come, first serve basis, but our regulations require that a hunter have an antlered deer permit before they can obtain an antlerless permit, so they are recommending that we not come forward with this until after the non-resident deer permit drawing; and the special extended season where in the past we had an additional one-week season extension in the whitetail antlerless season in northern portions of DMUs 7 and 8. There has been a lot of concern about deer numbers and the ability of hunters to control deer numbers. We have consistently mentioned that this is an access issue, but we are getting pressure to keep the deer herd lowered or to bring it to a lower level and we have looked at this and recommend including a complete DMU as opposed to subdividing and have additional confusion (Map – Exhibit V). We may change all of our whitetail antlerless extended seasons to the same as was in the northern portions of DMUs 7 and 8, which would do away that particular aspect. We would have consistency across all units. We are getting substantial emphasis to reduce the deer herd, especially in Unit 15, the Wichita and Hutchinson area. We are considering various options to address this. One would be similar to what we did by creating an urban deer management unit like we did in Unit 19 or to maintain full DMUs 6 and 15 completely. It becomes difficult when you start realigning your units because you lose your historical trend information, so we have been hesitant to subdivide or realign deer management units unless we considered it permanent and essential. We are in a state of flux on this and are waiting for additional information and input. We are going to run ideas through our field personnel and may bring this forward as an amendment. Pearce – You are considering changes in Unit 15 and what other one? Fox – Unit 6, the Hutchinson, Newton area and also from Wichita south. Pearce – In Unit 6 you have been pretty conservative on antlerless-only permits and have been for years. Fox – The area east of Hutchinson has had high deer numbers and low hunter access. It has a lot of ranchette-style subdivisions, excellent cover for deer and has had high deer/vehicle accidents. The Wellington to McPherson area is an eco-region with excellent habitat. We would look at a suburban corridor that would include: Hutchinson, Newton, Wichita and south of Wichita. When we starting drawing those lines, we start subdividing and it gets

really messy in a hurry. Consideration is the key word. Pearce – Were these considerations before the recent happenings up here? Fox – Yes and no, we have considered a Wichita urban deer zone in the past, but the key is finding the right roads.

8. KAR 115-4-11. Big game permit applications – Lloyd Fox, big game research biologist, presented this report to the Commission (Exhibit W). We thought this one would be easy and we would avoid all of the 4-series this year. We will bring forward at the April meeting, KAR 115-4-11 and in this we will have a recommendation for a change in the preference point and drawing system for elk. A person would be entered into the drawing as many times as they had applied and been unsuccessful. Even a first time applicant will have an opportunity of being drawn with a system like that, but people who have been applying for many years will be given additional opportunities and a higher probability of getting drawn. Another item for review will be the problem in our system dealing with one application per hunter and we want to clear up the language in the regulation to make sure that hunters who are unsuccessful in a drawing will have an opportunity to obtain a permit that is still available over the counter or left-over for either sex type of permit. Also we are working on clarifying the language to minimize problems with hunt-own-land, landowners, tenants and limited liability corporations. This will also be an amendment if we can develop the language. The other item in the permanent regulation is the Hutchinson/Wichita area, if we go forward with an urban deer unit; we would need to change regulation KAR 115-4-6 so we would not be able to act on that until the June Commissioner meeting. Pearce – Is the elk preference point retroactive or would that start now? Fox – Good question, not sure if we can make it retroactive at this point. I don't know if we can go back and figure it out, but we may be able to through the KOALS system, but not sure if that will be possible. Tymeson – No, we can't. Pearce – Why not? Tymeson – In the sense of fairness everybody needs to start from square one.

## **XI. DEPARTMENT REPORT**

### **D. Public Hearing**

*None*

Notice and Submission Forms (Exhibit X).

## **XII. Old Business**

*None*

## **XIII. Other Business**

Commissioner Shari Wilson – I wanted to bring to everyone's attention a group called the Outdoor Foundation, which recently released the 2008 outdoor recreation participation report. This report surveys Americans ages six and older and covers 114 outdoor activities. They found that overall participation had increased over 2007, with more than 138.4 people getting outdoors. The more alarming end of that was that outdoor participation for children ages 6 to 17 declined more than 11 percent, with the greatest declines occurring between the ages of 6 and 12. For the

first time, the declines were greater for girls than boys. We have talked a lot about the need to get more kids outside including efforts such as: National Archery in the Schools, Kansas Children's Outdoor Bill of Rights, and Kansas Outdoor Summit. We are seeing more evidence to continue these efforts and create as many new ones as we can. I got this information from the National Wildlife Federation. They have a policy bulletin on connecting children with nature, and I received this at the end of February.

Commissioner Sebelius – I had questions from a couple of people, who made a good point, about the material we use for our permits and the quality of the paper and have seen it in some of the cases I have had and tried to enforce wildlife and parks violations. For instance, those that have failed to tag or are being accused of it and paper isn't conducive to writing clearly or is more conducive to smudging. I know that people have used that as an excuse to make it vague as to when they actually completed their permit. Do we have any thoughts of shifting to a different kind of paper or system or cut outs for dates when the tag is filled. I have seen it so I was wondering if it was showing up elsewhere or any thoughts of getting a different vendor for that. Cindy Livingston – The paper comes with the KOALS system. We would have to check about changing the paper and style and every time we change something, for instance if we do the cut outs, we get charged for it. We did have something come about the fact that if they are printed at our offices they tend to stay better printed and don't smudge as much, but if printed at a store that doesn't have the ribbon, some of those don't stay near as long. I know Kevin has had that issue with his officers. We can talk to them and see what other options we have. When we went into the contract they already have a lot of rolls of permits printed up with out name on the back.

#### **A. Future Meeting Locations and Dates**

April 16, 2009, Logan Courthouse Basement, 710 W. 2<sup>nd</sup>, Oakley

June 25, 2009, 4-H Building, Fairgrounds, 612 E Hwy 56, Council Grove

August 6, 2009, The Peoples Bank, Sunflower Room, 117 S. Main, Medicine Lodge.

October 15, 2009, Sedan, TBD.

#### **XIV. ADJOURNMENT**

The meeting adjourned at 8:28 p. m.

(Exhibits and/or Transcript available upon request)

Exhibit Y – Friends of Fancy Creek Range Brochure

Exhibit Z – Article “Show-Me State Shows the Way with Range Success”

Exhibit AA – The Hunter's Journal, February 2009; from Safari Club International

Exhibit BB – “Kansas Wind Energy Development: avoiding special places” map

# Secretary's Remarks



## **Secretary's Remarks**

2. Agency and State Fiscal Status – No handouts at this time.

# **General Discussion**

## **General Discussion**

1. Park Regulations – No handouts, no recommendations for changes.

## **Park Regulations**

There are no recommended changes to park regulations at this time.

## **2010 Reference Document Proposed Changes for Special Length and Creel Limits:**

- Perry Reservoir – add 35-inch minimum length limit and change to 5/day creel limit on blue catfish.
- Douglas SFL – change to 5/day creel limit on channel catfish.
- Kanopolis Reservoir – change to 5/day creel limit on blue catfish.
- Kanopolis Seep Stream (Sand Creek) – Artificial bait only (lures or fly fishing) at Power poles number 9 through number 16.
- Coffey County Lake – change to 18- to 24-inch slot length limit on walleye.
- Prescott City Lake - change to 5/day creel limit on channel catfish.
- Uniontown School Pond - add 18-inch minimum length limit and 2/day creel limit on largemouth bass and add 15-inch minimum length limit and 2/day creel limit on channel catfish.
- Carbondale East Lake, Blue Mound City Lake, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Fort Scott-Lake Ft. Scott, Fort Scott Community College Lakes, Linn Co. Strip Pits, Mound City Lake, Parker City Lake, and Richmond City Lake - remove the 10-inch minimum length limit and the 10/day creel limit on crappie.
- Crawford SFL - add 18-inch minimum length limit on striped bass.
- Pittsburg - Lincoln Park Pond, and Wilderness Pond - add 15-inch minimum length limit and 2/day creel limit on channel catfish and largemouth bass.
- Pittsburg-Lakeside Park Lake – add 15-inch minimum length limit on channel catfish, change to 2/day creel limit on channel catfish, and change to 2/day creel limit on largemouth bass.
- Hutchinson-Carey Park Lagoon & Pond – change to 5/day creel limit on channel catfish.

### **Other possible Fishing Regulation Changes for 2010.**

Changes to 115-7-3 to accommodate the use of some baitfish species greater than 12 inches in size. Gizzard shad and goldeye for example.

Changes to 115-7-2 to clarify that anglers may use “one trotline, **or** eight floatlines, or eight setlines as intended. Anglers should not be allowed to set one trotline and eight floatlines, or eight setlines.

## 2008 CWD UPDATE

### HISTORY OF CWD IN KANSAS

1. 2001 – Captive elk, Harper County
2. 2005 – 1 Free-ranging white-tailed deer, Cheyenne County
3. 2006 – No CWD detected in Kansas deer/elk
4. 2007 – 3 white-tailed deer, Decatur County
5. 2008 – 10 white-tailed deer: CN (1), RA (2), DC (5), SD (2)

Chronic Wasting Disease (CWD) is a disease of the family of diseases commonly referred to as TSEs or transmissible spongiform encephalopathies. CWD is the cervid form; BSE or mad cow disease is the bovine form; TME is the mink form; and CJD is the human form. Mad Cow disease jumped to humans in the form of CJDv (variant). Basically, abnormal prions accumulate in the brain, causing brain matter to degrade, leaving holes or a sponge-like appearance. Shortly before death, the infected animal will stagger, exhibit listlessness and lethargy, have little fear of people, drool or salivate, have extreme thirst, and will appear malnourished or emaciated--wasting away. A TSE is always fatal to the infected individual. There is no cure or vaccine.

Many states are affected by CWD, including Colorado, Wyoming, Nebraska, Wisconsin, and others. It was first discovered in Colorado in 1967.

TSEs are caused by abnormal, infectious prions. The infectious prions cause normal prions to change to the infectious form. The infectious prions accumulate in the infected animal because they are resistant to enzymatic breakdown, thus, the labeling PrP. PrP is an acronym for protease resistant proteinaceous prion. Prions are technically not alive, with no nucleus containing DNA or RNA. They are proteins. Prions are very stable structures, which resist deactivation due to heat and environmental degradation, very much unlike bacteria and viruses. Therefore, animals can be infected by other animals AND by a contaminated environment. Prions can and do remain in soil for years as documented by Colorado State University.

Timing of infection during an animal's life is important to determining when clinical symptoms of the disease will start to show. Incubation periods may be three years or longer until clinical signs are evident. All of the CWD positive deer in Kansas exhibited no clinical symptoms at the time they were killed. No deer was older than 3.5 years.

### CURRENT STATUS OF CWD IN KANSAS

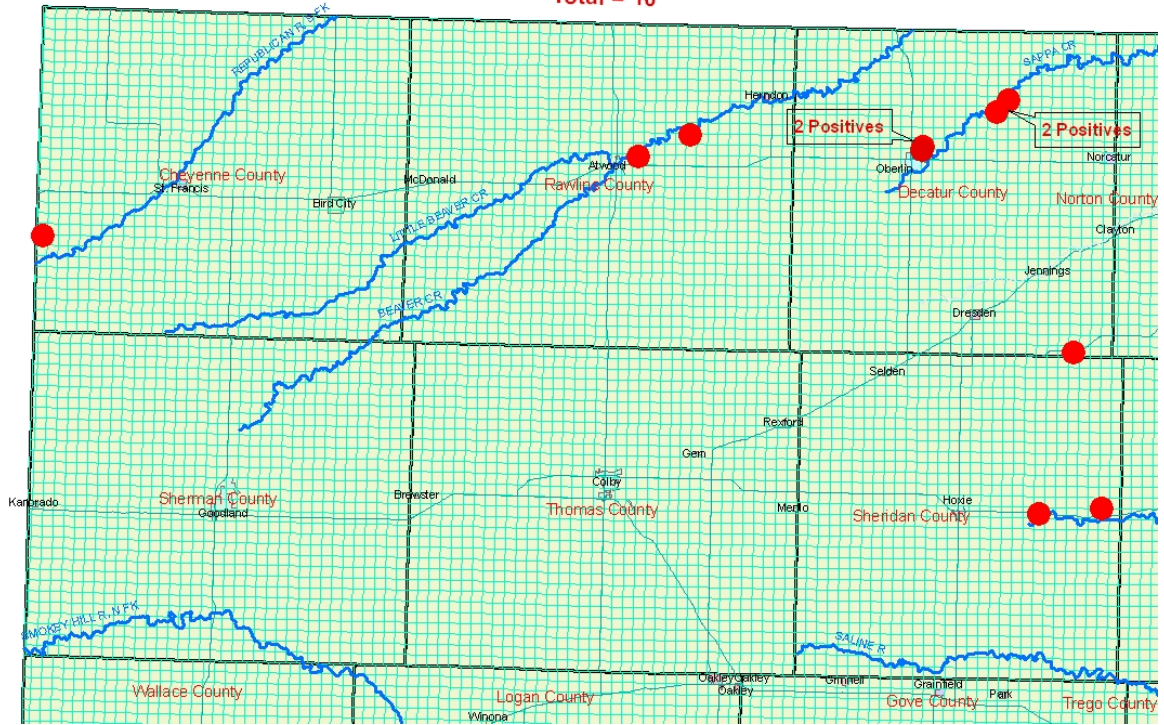
- Deer/elk herd currently monitored using \$235,000 USDA grant to cover contractor /staff sampling, lab testing, supply, and associated costs.
- Current grant period runs 8/1/08 to 7/31/09
- Current infected counties include: Cheyenne, Rawlins, Decatur, and Sheridan-all in the northwest corner of the state.

- Drainages where infected deer were detected include: South Fork of Republican River, Beaver Creek, Sappa Creek, North Fork of Solomon River, and South Fork of Solomon River.
- 2,693 samples were collected during the survey period since 8/1/08.
- Suspect (sick) animals are tested throughout the year.
- Current sampling is set up to detect a 1 percent infection rate (prevalence) with 99 percent confidence.
- One of the infected animals was harvested by a Kansas landowner who is a Colorado resident. The deer was confirmed positive by CSU.
- Targeted surveillance is also now used in conjunction with random hunter harvest surveillance. Targeted surveillance targets animals killed by vehicles and taxidermy animals. There is a greater statistical chance of detecting CWD in 1) animals which may not be acting normally and get killed by vehicles and in 2) older animals---the ones that most often show up at a taxidermist shop. Targeted surveillance is an effective way to monitor for CWD, thus, an efficient use of grant funds.
- Public is encouraged not to transport carcasses out of the endemic area into currently unaffected areas.
- Public is encouraged not to bring carcasses from other states' endemic areas to Kansas.
- Due to lack epidemiological information about CWD and other TSEs, it is recommended CWD infected deer are not consumed by people. As of now, there is no evidence people can contract CWD. We (scientists) have a lot to learn about TSEs.
- Public is encouraged not to move captive cervids around the state or in from other states unless their herd has been certified CWD-Free. Transportation regulations and laws apply to transport of captive cervidae.

In nature, CWD spreads at a fairly slow rate throughout a population, but assisted by people, CWD can spread many times faster.

STATEWIDE  
2008 CWD POSITIVES

Total = 10





## HorseThief Reservoir Update

HorseThief Reservoir will be located on the Buckner Creek drainage 8 miles west of Jetmore in Hodgeman County. This new 430 acre impoundment is a joint project with the Pawnee Watershed District and the HorseThief Reservoir Benefit District. The Secretary of KDWP holds a seat on the Benefit District's Board (HTRBD) of Directors. The majority of funding being used for the construction of both the dam, as well as the park facilities is coming from a sales tax collected in the four adjacent counties, which include Ford, Finney, Gray and Hodgeman. An additional \$4.2 million is being provided through the Small Lakes Program of the State Water Plan. Additional funding is being supplied by the State of Kansas through grants, as well as some federal and KDOT funding for highway alterations. This includes funding from KDWP in the form of personnel involvement (Parks and Fish and Wildlife divisions), future fish stockings and management, and direct grants. Direct funding by KDWP thus far includes a motor boat access grant to complete the first stage of the boat ramp facility and a trails grant that is aiding in the development of the equestrian trail.

The dam portion of the project is currently projected to cost \$17.5 million including contingency, and the park portion of the project has a current budget of \$2.75 million. The final budget available for the park facilities will be dependant on the bond funds that remain after the dam portion of the project is complete. As the below-ground portion of the project has been completed, the possibility of any unseen expenses is fairly unlikely. As HTRBD now has a better idea of available funding for the recreational facilities, planning and development of these additions can move forward.

Dam construction was on winter shutdown until March 1, but is now in full operation. The winter months were used to complete construction on the spillway structure. All is in place to complete the soil and rip rap portions of the dam. At present, work is being done to install the sand drain and the construction of the dam core. Most of the fill is being obtained from the emergency spillway area located on the south end of the dam. The structure is calculated to be 65 percent complete at this time. The gate is scheduled to be closed October 2009.

The park facilities are in various stages of planning, and estimates and timelines are being worked on or in some cases they have already been established. The HTRBD is working at hiring a full time manager, and it is their desire to get someone on by the late spring or early summer.

The first stage of the boat ramp facility has already been installed. The facility includes a lower boat ramp to accommodate users as the lake fills or during low lake conditions. The upper two ramps will accommodate users during average and good water conditions. The second stage of the facility that will include docks, lights, parking, restroom and roads is being planned for installation next year. KDWP anticipates funding a portion of the Stage 2 developments.

As the hydrology studies done for the lake have indicated it could take five years for the lake to fill, much of the early park development will concentrate on getting the major utilities in place, so above-ground facilities can be quickly installed when needed. The first stages will be to develop the water well at the west end of the property and to install trunk lines to the camp areas, the office and boat ramp area. The entrance road will also be planned and installed in the first stages of development. And the electrical trunk system will also be installed to areas where

camp, office and other electrical outlet areas are anticipated. A small portion of the main campground and some camp sites and in the equestrian area are also scheduled for installation to accommodate early users on the area.

## 2009 LATE MIGRATORY BIRD SEASONS

### Background

Late season waterfowl frameworks (maximum bag, possession limits and season length, and earliest opening and latest closing dates) are established annually by the U.S. Fish and Wildlife Service (Service). These frameworks establish the limits which states must operate within when establishing waterfowl seasons. These frameworks are published around August 15, after results from the May Breeding Duck Survey and recommendations from Flyway Councils are available.

### Discussion

We do not anticipate major changes in the frameworks for geese. We anticipate that the season length for Canada geese will be again be 107 days, the maximum allowed by Migratory Bird Treaty Act.

At this time there is little information upon which to base speculation concerning the duck season frameworks for 2009. The results of the May Breeding Duck Survey, which provides duck abundance as well as pond numbers, will not be available until late July.

The three current Adaptive Harvest Management regulatory packages include the following:

**Liberal package – 74-day Low Plains Season, 97-day High Plains Season, (package selected since 1997)**

**Moderate package – 60-day Low Plains Season, 83-day High Plains Season**

**Restrictive package – 39-day Low Plains Season, 51-day High Plains Season**

The 2008 hunting season was the third year of the three-year Hunter's Choice Experiment in the Central Flyway. The analysis of the study will not be completed until July. We will not know if Hunter's Choice will be operational for the 2009-10 season until August.

If Hunter's Choice becomes operational, **the daily bag limit for the liberal and moderate alternatives shall be 5 ducks, with species and sex restrictions as follows:**

**scaup, redhead – 2  
wood duck - 3**

**only 1 duck from the following group – hen mallard, mottled duck, pintail, canvasback.**

Within the restrictive regulatory alternative, **the daily bag limit shall be 3 ducks, with species and sex restrictions as follows:**

**scaup, redhead and wood duck – 2**

**only 1 duck from the following group – hen mallard, mottled duck, pintail, canvasback.**

The possession limit shall be twice the daily bag under all regulatory alternatives.

If Hunter's Choice does not become operational the bag limits will revert to the federal frameworks.

In summary, goose frameworks and resulting recommended regulations are expected to change little from last year. It is too early to predict which regular season duck regulatory package will be included in the frameworks, although we are hopeful that the liberal package will again be adopted.

# **Workshop Session**

## **RECOMMENDATIONS FOR 2009 "EARLY" MIGRATORY BIRD SEASONS**

### **EARLY TEAL SEASON:**

**Framework** - Hunting season between September 1 and September 30, 2009, not exceeding: 1) sixteen days if the blue-winged teal breeding population is above 4.7 million, or 2) nine days if the breeding population is between 3.3 and 4.6 million, with a daily bag and possession limit of 4 and 8 teal, respectively. Last year's (2008) blue-winged teal breeding population was 6.6 million. The 2009 blue-winged teal breeding population total will not be known until June.

It is possible that only eight days will be available for the Early Teal Season in the High Plains zone. This potential restriction on the High Plains Early Teal Season is due to the 107-day annual limit (by treaty) on hunting of any one species. A regular High Plains zone duck season of 97 days allowed under the regular season liberal package, plus 2 days of youth hunting leaves only eight days to reach the 107-day total.

### **Recommendation:**

**High Plains Zone** - A bag and possession limit of 4 and 8, respectively, with the following season date possibilities:

**A 9-day season running September 19 through September 27, 2009,**

**or a 16-day season running September 12 through September 27, 2009,**

**or an 8-day season running September 19 through September 26, 2009**

**Low Plains Zones** - A bag and possession limit of 4 and 8, respectively, with the following season date possibilities:

**A 9-day season running September 19 through September 27, 2009,**

**or a 16-day season running September 12 through September 27, 2009.**

### **SHOOTING HOURS FOR ALL EARLY SEASONS:**

**Framework** - Shooting hours frameworks are expected to be ½ hour before sunrise to sunset for all seasons.

**Recommendation-Adopt maximum shooting hours allowed in the frameworks, probably ½ hour before sunrise to sunset.**

## **PROPOSAL TO MODIFY THE DOVE HUNTING REGULATION (KAR 115 – 25 – 19)**

### **Background**

Since 1983, federal frameworks for mourning doves have provided the option of a 60-day season and 15-bird bag limit or a 70-day season and a 12-bird bag limit. Kansas has opted for the 60-day season and 15-bird bag limit for at least 20 years. In 2002, the Kansas Department of Wildlife and Parks split the traditional mourning dove hunting season dates to allow three days of hunting during the opening weekend of the upland bird season. In 2003, the dove regulation established a hunting season with two segments. The first segment ran for 58 days starting on September 1 and the second segment began on the second Saturday in November and continued for two days. In 2004, the dove regulation was modified such that the first segment opened on September 1 and ran for 44 days and the second segment opened on November 1 and ran for 16 days.

During the past several years, the three dove technical committees have been developing a mourning dove harvest strategy. This harvest strategy outlines decision-making criteria for setting the federal frameworks. Based on an analysis of Harvest Information Program (HIP) data for mourning doves, changes in bag limit have a more significant effect on harvest than changes in season length. For consistency, the harvest strategy sets season length at 70 days, so any changes in harvest are effected by changing bag limits. Potential changes in bag limits would be based on 5-year composite trends in Call Count Survey (CCS)-heard, CCS-seen, Breeding Bird Survey, and population growth rates derived from banding data. (The Call Count Survey is the one population survey targeted specifically for mourning doves and has been conducted since 1966. On the CCS, doves heard and seen are recorded separately. The Breeding Bird Survey is conducted during June for all birds. Birds heard and seen are recorded, but not separately.)

The mourning dove harvest strategy goes into effect in 2009 and with it the Federal frameworks for mourning doves will allow a 70-day season with daily bag limit determined by the harvest strategy. In addition, the Federal frameworks for white-winged doves will be changed to match that for mourning doves. Thus, for Kansas to implement the 70-day season with the daily bag limit permitted by the harvest strategy (15), Kansas needs to run this change through its regulation-setting process.



## **Recommendation**

Modify K.A.R. 115-25-19 such that:

1. The first segment of the dove season opens on September 1 and runs through October 31
2. The second segment opens on the first Saturday of November and remains open for 9 days.

## **Discussion**

Mourning dove hunting activity and harvest are concentrated during the first week of the season when on average, 56 percent of hunter days and 61 percent of the harvest occur. By the end of the fifth week of the season, 99 percent of the hunter days and 98 percent of the harvest have occurred. Thus, very few hunters hunt after October 5<sup>th</sup>, and splitting the season to provide additional dove hunting opportunity has resulted in very little additional dove hunting activity. In fact, hunter days and harvest during the last 2 weeks of October were higher in 1999-2001, prior to the split season, than in November during 2002-2007.

We considered two alternatives for allocating the remaining 9 days:

1. Open the second segment on the first Saturday in November, or
2. Open the second segment on the second Saturday in November (concurrent with the opening of the upland bird season).

We selected the first option because it would allow dove hunting during the opening weekend of the upland bird season and allow the second segment to close before the exotic dove season opens on November 20. If the dove season overlapped with the exotic dove season, it would unnecessarily complicate the regulations and enforcement because a HIP stamp is not required during the exotic dove season.

## Furbearer Regulations

### 115-5-Series. Furbearers; and, KAR 115-25-11 Furbearers; open seasons and bag limits.

#### Background:

Just more than 6,500 furharvester licenses were sold in 2008. This is the most permits sold since 1988, but participation is still far below what it was in the late 1970s and early 1980s, when more than 10,000 trapping licenses alone were being sold annually (furbearers could be hunted at that time with just a hunting license). About 75 percent to 80 percent of license buyers are active in a given season. This would include approximately 2,900 trappers and 3,300 hunters, with some doing both. Trappers accounted for over 115,000 user days in 2007-08 and hunters accounted for more than 60,000 user days.

Furbearer regulations were last considered by the Commission in 2002. At that time, eastern and western furharvesting units were eliminated, and the eastern season closing date (for all harvestable furbearers except beaver) of February 15 was adopted statewide. Opening dates were slightly modified at that time as well. Bobcat was also added to species that may be legally pursued during the running season, and minor terminology updates were made as well.

#### Discussion and Recommendations:

(a) The following revisions are recommended for K.A.R. 115-5-1. Furbearers and coyotes; legal equipment, taking methods, and general provisions.

- Terminology used to describe trapping equipment needs to be modified so that “live trap” is replaced by “cage trap,” and “colony trap” needs to be added.  
**Discussion:** This would clarify and more accurately describe which equipment may be used.

(b) The following revisions are recommended for K.A.R. 115-5-2. Furbearers and coyotes; possession, disposal, and general provisions.

- Eliminate possession periods.  
**Discussion:** Possession periods were intended to discourage out-of-season harvest and to aid law enforcement in prosecuting those who harvested fur out of season. However, most furbearers are of little value outside current possession periods so there is little incentive to harvest fur outside of them. Possession periods also create some degree of hardship for the

increasing number of furharvesters who ship fur to out of state auctions as well as those holding onto fur for taxidermy or tanning.

- Eliminate the requirement to skin furbearers within 48 hours of the close of the season.  
**Discussion:** This regulation was intended to aid law enforcement in prosecuting those who harvested fur out of season. However, the level of deterrent this regulation presents to those who may harvest out of season is questionable, such that this regulation has become an unnecessary hardship for legal furharvesters who freeze furbearers whole and put up fur after the season as well as those wishing to maintain furbearers for taxidermy. Elimination of this regulation would simplify furharvesting regulations and help eliminate confusion that has occurred between dates required for skinning, pelt tagging, and possession for the different species.

**K.A.R. 115-6-1. Fur dealers license; application, authority, possession of furs, records and revocation.**

- Eliminate expiration years - 1990 and 1991.
- Include swift fox along with bobcat in reference to requiring these species to be tagged in order for a fur dealer to purchase or acquire.

**K.A.R. 115-25-11. Furbearers; open seasons and bag limits.** No change.

**K.A.R. 115-25-12. Coyotes; season.** No change.

## KDWP Threatened and Endangered Task Committee Recommendations 2009

Common name (petitioned species)	Current status	Petitioned to	Preliminary recommendation	Final recommendation
Bald Eagle	T	Unlisted	<b>Warrants review</b>	<b>Unlist</b>
Peregrine Falcon	E	Unlisted	<b>Warrants review</b>	<b>Unlist</b>
Broadhead Skink	T	Unlisted	<b>Warrants review</b>	<b>Remain T</b>
American Eel	Unlisted	E	<b>Warrants review</b>	<b>Remain Unlisted</b>
Shoal Chub	Unlisted	T	<b>Warrants review</b>	<b>T</b>
Bigeye Shiner	Unlisted	T	<b>Warrants review</b>	<b>SINC</b>
Redfin Darter	Unlisted	T	<b>Warrants review</b>	<b>SINC</b>
Plains Minnow	SINC	T	<b>Warrants review</b>	<b>T</b>
Delta Hydrobe (snail)	SINC	T	<b>Warrants review</b>	<b>T</b>
Lake Sturgeon	Unlisted	E	SINC	SINC
Striped Shiner	Unlisted	E	SINC	SINC
Common Shiner	Unlisted	T	SINC	SINC
Southern Redbelly Dace	Unlisted	T	SINC	SINC
Cardinal Shiner	Unlisted	SINC	SINC	SINC
Johnny Darter	Unlisted	T	SINC	SINC
Neosho Midget Crayfish	SINC	T	SINC	Remain SINC
Blue Catfish	Unlisted	SINC	Remain unlisted	Remain unlisted
Northern Plains Killifish	Unlisted	SINC	Remain unlisted	Remain unlisted
Fantail Darter	Unlisted	SINC	Remain unlisted	Remain unlisted
Shovelnose Sturgeon	Unlisted	SINC	Remain unlisted	Remain unlisted
Goldeye	Unlisted	SINC	Remain unlisted	Remain unlisted

Threatened and Endangered Species Task Committee:

Wm. Busby, Mark Eberle, Elmer Finck, Edwin Miller, Tom Mosher, Daniel Mulhern, Bryan Simmons

Endangered Species (E): any species of wildlife whose continued existence as a viable component of the state's wild fauna is determined to be in jeopardy (KSA 32-958c).

Threatened Species (T): any species of wildlife which appears likely, within the foreseeable future, to become an endangered species (KSA 32-958f).

Species-in-Need-of-Conservation (SINC): those species which are highly specialized, whose habitat is very limited in Kansas, or show population declines that warrant data collection concerning its status in Kansas. Conservation efforts focused on these species can prevent future listing as threatened or endangered. No regulatory oversight occurs on SINC listed species.

Regulatory implications for Endangered and Threatened species: Only publicly funded or assisted projects or projects that require some other state or federal permit are reviewed by KDWP. This review process is used to assess the project's affect on the critical habitat of Threatened or Endangered species. Activities which are not tax-funded or trigger state/federal permitting criteria and are otherwise lawful, are not covered by KAR 115-15-3. Lawful activities carried out by private landowners or developers, such as housing or business

construction and normal farming and ranching practices are not subject to current T/E protection regulations even if those activities result in incidental taking of listed species. This regulatory oversight does not apply to SINC listed species.

Currently in 90-day comment period, public hearing at June Commission meeting in Council Grove.

## Current (2008) Kansas Listed Species (KAR 115-15-1 and 2)

### **ENDANGERED (25 species)**

#### **Invertebrates**

Elktoe mussel#  
 Ellipse mussel  
 Flat floater mussel  
 Mucket mussel#  
 Neosho mucket mussel#  
 Rabbitsfoot mussel#  
 Western fanshell mussel#  
 Slender walker snail#  
 American burying beetle\*  
 Scott optioservus riffle beetle#

#### **Fish**

Arkansas river shiner\*  
 Pallid sturgeon\*  
 Peppered chub#  
 Sicklefin chub#  
 Silver chub  
**Amphibians**  
 Cave salamander#  
 Graybelly salamander#  
 Grotto salamander#

#### **Birds**

Black-capped vireo\*  
 Eskimo curlew\*  
 Least tern\*  
 Peregrine falcon  
 Whooping crane\*

#### **Mammals**

Black-footed ferret\*  
 Gray myotis\*

(\* also federally listed)

---

### **THREATENED (34 species)**

#### **Invertebrates**

Butterfly mussel  
 Flutedshell mussel  
 Ouachita kidneyshell mussel#  
 Rock pocketbook mussel#  
 Sharp hornsnail

#### **Amphibians**

Central newt  
 Dark-sided salamander#  
 Eastern narrowmouth toad  
 Green frog  
 Northern spring peeper  
 Strecker's chorus frog  
 Western green toad

#### **Birds**

Bald eagle  
 Piping plover\*  
 Snowy plover#

#### **Mammals**

Eastern spotted skunk#

#### **Fish**

Arkansas darter#  
 Blackside darter  
 Chestnut lamprey  
 Flathead chub  
 Hornyhead chub  
 Neosho madtom\*  
 Redspot chub  
 Silverband shiner  
 Sturgeon chub#  
 Topeka shiner\*#  
 Western silvery minnow#

#### **Turtles/Reptiles**

Common map turtle  
 Broadhead skink  
 Checkered garter snake  
 Texas blind snake  
 Redbelly snake  
 Longnose snake  
 Smooth earth snake

(\* also federally listed)

---

## **SPECIES-IN-NEED-OF-CONSERVATION (SINC; 70 species)**

### **Invertebrates**

Creeper (squawfoot) mussel  
Cylindrical papershell mussel  
Deertoe mussel  
Fatmucket mussel  
Fawnsfoot mussel  
Round pigtoe mussel  
Snuffbox mussel  
Spike mussel  
Wabash pigtoe mussel  
Wartyback mussel  
Washboard mussel  
Yellow sandshell mussel  
Neosho midget crayfish  
Prairie mole cricket  
Gray petaltail dragonfly  
Ozark emerald dragonfly  
Delta hydrobe snail

### **Fish**

Banded darter  
Banded sculpin  
Blacknose dace

### **Fish** (continued)

Black redhorse  
Blue sucker  
Bluntnose darter  
Brassy minnow  
Brindled madtom  
Gravel chub  
Greenside darter  
Highfin carpsucker  
Northern hogsucker  
Ozark minnow  
Plains minnow  
River darter  
River redhorse  
River shiner  
Slough darter  
Speckled darter  
Spotfin shiner  
Spotted sucker  
Stippled darter  
Tadpole madtom

### **Amphibians**

Crawfish frog  
Red-spotted toad

### **Turtles/Reptiles**

Alligator snapping turtle  
Eastern hognose snake  
Glossy snake  
Night snake  
Rough earth snake  
Timber rattlesnake  
Western hognose snake

### **Birds**

Black rail  
Black tern  
Bobolink  
Cerulean warbler  
Chihuahuan raven  
Curve-billed thrasher  
Ferruginous hawk  
Golden eagle

### **Birds** (continued)

Henslow's sparrow#  
Ladder-backed woodpecker  
Long-billed curlew  
Mountain plover  
Short-eared owl  
Whip-poor-will  
Yellow-throated warbler

### **Mammals**

Franklin's ground squirrel  
Pallid bat  
Southern bog lemming  
Southern flying squirrel  
Texas mouse  
Townsend's big-eared bat

# KS recovery plan completed or pending

## **KAR 115-25-9a Deer; open season, bag limit, and permits; additional consideration.**

### **Background**

The regulation contains the following items:

- ▶ Dates of firearms deer seasons at Fort Riley.
- ▶ Additional dates for archery deer hunting at Fort Riley.
- ▶ Establishment of antlerless-only deer permits in units where the harvest of mule deer does is desired.
- ▶ A special extended season for antlerless white-tailed deer.

### **Discussion**

Personnel at Fort Riley requested a later date for establishing the season dates for a firearms deer season on the Fort. Typically the deer season dates are established in K.A.R. 115-25-9 at the April Commission meeting. These procedures have been requested by Fort Riley personnel so that they will be able to select days for firearms deer hunting when military training activities will not interfere with potential hunting. Fort Riley personnel have also requested additional archery hunting days in September to accommodate military personnel scheduled for deployment.

Mule deer populations occur at relatively low densities in western Kansas and the trends in these populations have been relatively stable in recent years. There have been large concentrations of mule deer in a few scattered locations, leading to the desire by some landowners for additional herd controls. Antlerless-only permits were authorized in 2007 and 2008 for DMU 3.

Sale of the either species antlerless-only permits may only be made to people that already have a permit that allows them to take an antlered deer. Demand for these permits is relatively low. The licensing and permitting section prefers to offer these permits on a first come, first serve basis after the non-resident deer permit drawing.

Deer-related vehicle accidents continue to be a management concern in many parts of the state. People have requested an additional extension in the white-tailed deer antlerless only season with the hope that addition hunting pressure will reduce the herd's potential for growth. People have requested a special one week extension in that season in DMU 7, 8 and 15. Access to private land is the primary reason that deer hunters are unable to control deer in many parts of the state. Additional days of hunting are ineffective where access to hunters is denied. Under some circumstances, increased number of days for antlerless only hunting may cause additional problems by placing more pressure in the areas where



access is granted and no reduction in the herd where access is denied. The potential occurs for landowners and hunters to reduce their harvest of deer to protect deer when the season is extended. Department staff have reviewed previous extended seasons and suggested that all of a DMU be included in special extended season as opposed to sub-divisions of a management unit.

### **Recommendation**

Season dates currently being considered for the 2009-10 firearms deer hunting at Fort Riley are as follows:

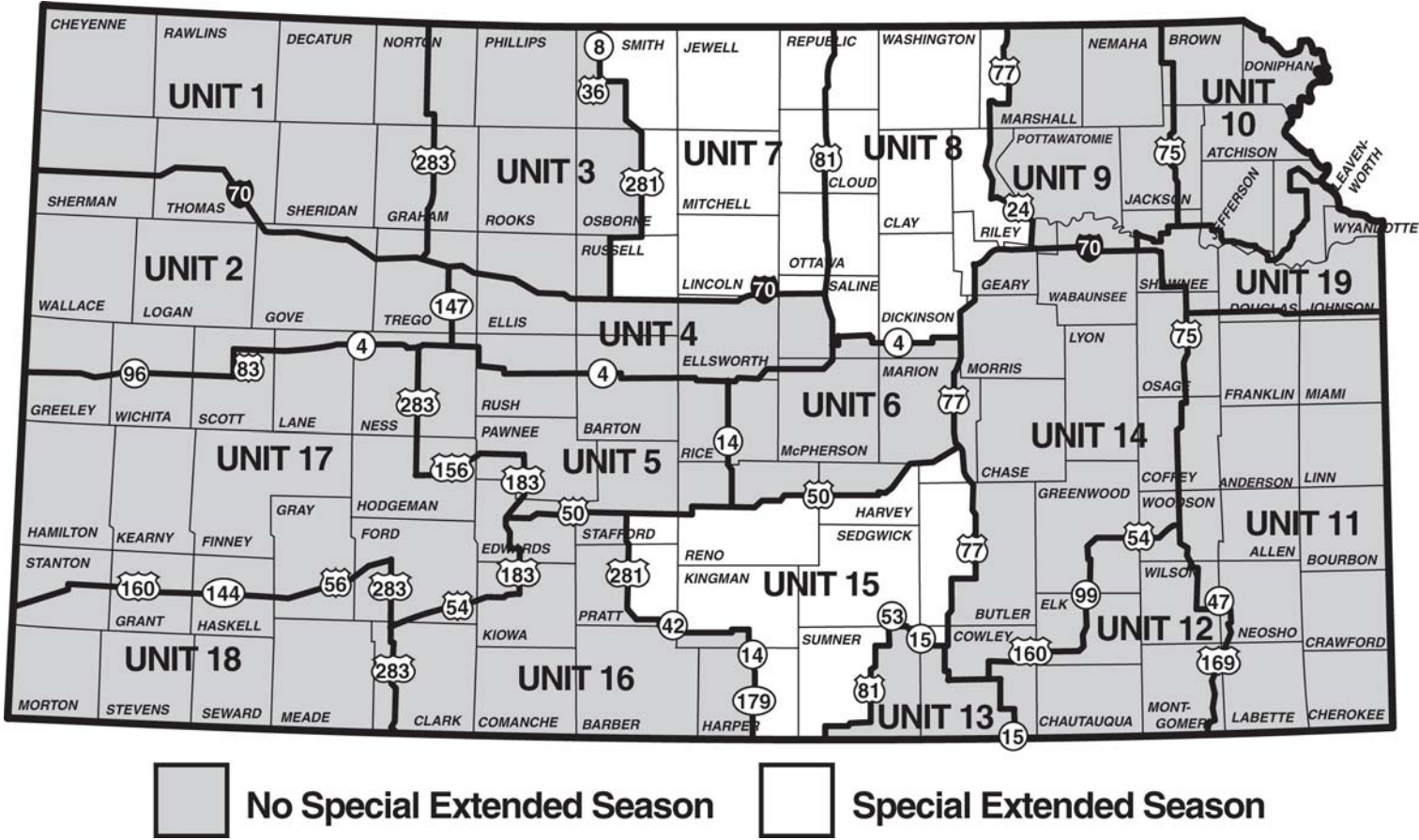
- November 27, 2009 through November 29, 2009
- December 18, 2009 through December 22, 2009
- December 26, 2009 through December 29, 2009

An additional archery season on Fort Riley is recommended for the period from September 1, 2009 through September 20, 2009.

Antlerless-only permits are recommended again this year for DMU 3. No additional units are being recommended where increased hunting pressure will be applied on female mule deer.

A special extension in the white-tailed deer antlerless only season is proposed for DMU 7, 8 and 15. The traditional extended season will be from January 1 through January 10, 2010 and the special extended season will be from January 10 through 17, 2010.

# Proposed Special Extended Deer Season Units



# Public Hearing

Document No. \_\_\_\_\_

KANSAS REGISTER  
SUBMISSION FORM

Agency Number -- 710-01

Agency Name -- Kansas Department of Wildlife and Parks

Agency Address - 1020 S. Kansas Ave., Suite 200

Topeka, Kansas 66612-1233

Title of Document -- Public Hearing

Desired Date of Publication - March 12, 2009

**ITEMS SUBMITTED IN DUPLICATE**

CERTIFICATION

I hereby certify that I have reviewed the attached documents, and that they conform to all applicable Kansas Register publication guidelines and to the requirements of K.S.A. 75-431, as amended. I further certify that submission of these items for publication is a proper and lawful action of this agency, that funds are available to pay the publication fees and that such fees will be paid by this agency on receipt of billing.

Christopher J. Tymeson  
Liaison officer's typed name

\_\_\_\_\_  
Liaison officer's signature

Department Attorney  
Title

(785) 296-2281  
Phone

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## Wildlife and Parks Commission

### Notice of Hearing of Proposed Administrative Regulations

A public hearing will be conducted by the Wildlife and Parks Commission at 7:00 p.m., Thursday, April 16, 2009 at the Logan County Courthouse, 710 W. 2<sup>nd</sup> St, Oakley, Kansas, to consider the approval and adoption of proposed administrative regulations of the Kansas Department of Wildlife and Parks.

A workshop meeting on business of the Wildlife and Parks Commission will begin at 1:30 p.m., April 16, at the location listed above. The meeting will recess at 5:30 p.m. then resume at 7:00 p.m. at the same location for the regulatory hearing. There will be public comment periods at the beginning of the afternoon and evening meetings for any issues not on the agenda and additional comment periods will be available during the meeting on agenda items. Old and new business may also be discussed at this time. If necessary to complete the hearing or other business matters, the commission will reconvene at 9:00 a.m. April 17 at the location listed above.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Sheila Kemmis, Commission secretary, at (620) 672-5911. Persons with a hearing impairment may call the Kansas Commission of Deaf and Hard Hearing at 1-800-432-0698 to request special accommodations.

This 30-day notice period prior to the hearing constitutes a public comment period for the purpose of receiving written public comments on proposed administrative regulations.

All interested parties may submit written comments prior to the hearing to the Chairman of the Commission, Kansas Department of Wildlife and Parks, 1020 S. Kansas Ave, Suite 200, Topeka, KS 66612 or to [sheilak@wp.state.ks.us](mailto:sheilak@wp.state.ks.us) if electronically. All interested parties will be given a reasonable opportunity at the hearing to express their views orally in regard to the adoption of the proposed regulations. During the hearing, all written and oral comments submitted by interested parties will be considered by the commission as a basis for approving, amending and approving, or rejecting the proposed regulations.

In addition to any previously published regulations, the regulations that will be heard during the regulatory hearing portion of the meeting are as follows:

**K.A.R. 115-25-7.** This exempt regulation establishes open season, bag limit and permits for antelope. The proposed version would increase permits over the previous season by a total of 26 firearms and muzzleloader permits.

**Economic Impact Summary:** The proposed amendments are not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses, or the public.

**K.A.R. 115-25-9.** This exempt regulation establishes open season, bag limit and permits for deer. The proposed version would add two units to the list of units in the extended firearms seasons.

**Economic Impact Summary:** The proposed amendments are not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses, or the public.

Copies of the complete text of the regulations and their respective economic impact statements may be obtained by writing the chairman of the Commission at the address above, electronically on the department's website at [www.kdwp.state.ks.us](http://www.kdwp.state.ks.us) or by calling (785) 296-2281.

Kelly Johnston, Chairman

Document No. \_\_\_\_\_

KANSAS REGISTER  
SUBMISSION FORM

Agency Number -- 710-01

Agency Name -- Kansas Department of Wildlife and Parks

Agency Address - 1020 S. Kansas Ave., Suite 200

Topeka, Kansas 66612-1233

Title of Document -- Public Hearing

Desired Date of Publication - February 12, 2009

**ITEMS SUBMITTED IN DUPLICATE**

CERTIFICATION

I hereby certify that I have reviewed the attached documents, and that they conform to all applicable Kansas Register publication guidelines and to the requirements of K.S.A. 75-431, as amended. I further certify that submission of these items for publication is a proper and lawful action of this agency, that funds are available to pay the publication fees and that such fees will be paid by this agency on receipt of billing.

Christopher J. Tymeson  
Liaison officer's typed name

\_\_\_\_\_  
Liaison officer's signature

Department Attorney

(785) 296-2281

Title

Phone

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This space for Register office use only  
Wildlife and Parks Commission

Notice of Hearing of Proposed  
Administrative Regulations

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This 60-day notice period prior to the hearing constitutes a public comment period for the purpose of receiving written public comments on proposed administrative regulations.

All interested parties may submit written comments prior to the hearing to the Chairman of the Commission, Kansas Department of Wildlife and Parks, 1020 S. Kansas Ave, Suite 200, Topeka, KS 66612 or to [sheilak@wp.state.ks.us](mailto:sheilak@wp.state.ks.us) if electronically. All interested parties will be given a reasonable opportunity at the hearing to express their views orally in regard to the adoption of the proposed regulations. During the hearing, all written and oral comments submitted by interested parties will be considered by the commission as a basis for approving, amending and approving, or rejecting the proposed regulations.

The regulations that will be heard during the regulatory hearing portion of the meeting are as follows:



**K.A.R. 115-4-11.** This permanent regulation establishes application provisions for big game and wild turkey applications. The proposed amendments would allow bonus points for additional chances for unsuccessful applicants from previous years in the elk permit drawing.

**Economic Impact Summary:** The proposed amendments are not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses, or the public.

**K.A.R. 115-8-1.** This permanent regulation establishes certain requirements or restrictions for hunting, furharvesting, and discharge of firearms on Department lands and waters. The proposed amendment is to update the reference document with changes.

**Economic Impact Summary:** The proposed amendments are not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses, or the public.

**K.A.R. 115-25-8.** This exempt regulation establishes open season, bag limit and permits for elk. The proposed version would decrease the number of permits by two from the previous season.

**Economic Impact Summary:** The proposed amendments are not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses or the public.

Copies of the complete text of the regulations and their respective economic impact statements may be obtained by writing the chairman of the Commission at the address above, electronically on the department's website at [www.kdwp.state.ks.us](http://www.kdwp.state.ks.us) or by calling (785) 296-2281.

Kelly Johnston, Chairman



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

STEPHEN N. SIX  
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FL  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 29  
WWW.KSAG.ORG

February 2, 2009

Chris Tymeson, Legal Counsel  
Kansas Department of Wildlife and Parks  
1020 S Kansas Avenue, Suite 200  
Topeka, Kansas 66612

Re: **Various regulations**

Dear Mr. Tymeson:

We have reviewed the above-referenced regulations for legality pursuant K.S.A. 77-420, and have approved finding no issues of concern, have approved them.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL  
STEVE SIX

*Camille Nohe*  
Camille Nohe  
Assistant Attorney General

CN:cn

Enclosure: Original document

cc: Rep. Carl Holmes, Chair, Joint Committee on Rules and Regulations  
Senator Vicki Schmidt, Vice Chair, Joint Committee on Rules and Regulations  
Rep. Janice L. Pauls, Ranking Minority Member, Joint Committee on Rules and Regulations  
Raney Gilliland, Legislative Research

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**115-8-1. Department lands and waters: hunting, furharvesting, and discharge of firearms. (a)**

Subject to provisions and restrictions as established by posted notice or as specified in the document adopted by reference in subsection (e), the following activities shall be allowed on department lands and waters:

- (1) Hunting during open seasons for hunting on lands and waters designated for public hunting;
- (2) furharvesting during open seasons for furharvesting on lands and waters designated for public hunting and other lands and waters as designated by the department;
- (3) target practice in areas designated as open for target practice; and
- (4) noncommercial training of hunting dogs.

(b) Other than as part of an activity under subsection (a), the discharge of firearms and other sport hunting equipment capable of launching projectiles shall be allowed on department lands and waters only as specifically authorized in writing by the department.

(c) The discharge of fully automatic rifles or fully automatic handguns on department lands and waters shall be prohibited.

(d) Department lands and waters shall be open neither for commercial rabbit and hare furharvesting nor for commercial harvest of amphibians and reptiles.

(e) The department's "KDWP fisheries and wildlife division public land special use restrictions," dated January 30, 2008 ~~7, 2009~~, is hereby adopted by reference. (Authorized by K.S.A. 32-807; implementing

K.S.A. 32-807; effective Dec. 4, 1989; amended July 13, 2001; amended May 16, 2008; amended P-

\_\_\_\_\_.)

## **ECONOMIC IMPACT STATEMENT**

**K.A.R. 115-8-1.** Department lands and waters; hunting, furharvesting, and discharge of firearms.

**DESCRIPTION:** This permanent regulation establishes certain requirements for and restrictions on certain activities on department lands and waters, including hunting, furharvesting, and other discharge of firearms. Over a period of many years, posted notice has been used to restrict access to certain properties and enhance recreational opportunities. Many of those posted notice restrictions have become long-term policies and to better inform the public as well as enforce the posted notices, the department has consolidated many of those notices into a reference document for adoption by reference. This is an update to that reference document.

**FEDERAL MANDATE:** None.

**ECONOMIC IMPACT:** The proposed amendments are not anticipated to have any appreciable economic impact on the department, other agencies, or the public.

**ALTERNATIVES CONSIDERED:** None.

**Kansas Department of Wildlife and Parks**

**KDWP Fisheries and Wildlife Division Public Land Special Use Restrictions**

Dated: 7 January 2009

**Access Restrictions**

The following properties have access restrictions (curfews) during specific times during a 24 hour period.

**Region 1**

Saline SFL-closed to vehicle traffic sunset to sunrise

**Region 2**

Benedictine WA-use of parking lot ½ hour after sunset to ½ hour before sunrise restricted to individuals authorized by permit

Pillsbury Crossing WA-open 6 a.m. through 10 p.m.

**Region 3**

Hain WA & SFL-no vehicle access during waterfowl seasons

Playa Lakes (Herron, Stein, & Wild Turkey)-hunting allowed from ½ hour before sunrise until 12:00 PM from September 1 through November 22

Pratt Backwater Channel-open 6 a.m. through 10 p.m.

**Region 4**

Maxwell Wildlife Refuge-access restricted to main road, area closed to all activities, except during special events

**Age Restrictions**

Portions of the following properties restrict hunting to specific age groups

***Definitions:***

**Novice/Mentor Only** -A novice hunter is anyone 18 years of age and younger, or persons who have not possessed an annual hunting license in the past three years. A mentor must meet the necessary age requirements and supervise a minimum of one novice to participate.

**Youth/Mentor Only** -Both the youth and mentor must meet the necessary age requirements for the hunting season in which they wish to participate

**Region 1**

Glen Elder WA-Walnut Creek area, novice/mentor-all seasons

Jamestown WA- Ringneck & Puddler Marshes, novice/mentor-all seasons

**Region 2**

Hillsdale WA-Big Bull wetland area, novice/mentor-all species, all seasons

Milford WA-West Broughton area, youth/mentor hunting-all species, all seasons

Perry WA-designated area, youth/mentor hunting-all species, all seasons

**Region 3**

Cheyenne Bottoms WA-Mitigation Marsh, youth/mentor-all seasons

**Region 5**

Melvern WA-designated area, youth/mentor hunting-all species, all seasons

Neosho WA- Pool 8, youth/mentor waterfowl hunters on weekends and holidays, all other days  
open to general public

**Alcohol – No cereal malt beverages.**

**Region 1**

Rooks SFL & WA

**Region 2**

Atchison SFL

Benedictine WA

Douglas SFL & WA

Elwood WA

Jeffery Energy Center WA Area 2

Leavenworth SFL

Middle Creek Lake Area

Miami SFL

Pillsbury Crossing WA

Pottawatomie SFL's 1 & 2

Shawnee SFL & WA

**Region 3**

Pratt Backwater Channels

**Region 4**

Black Kettle SFL

Butler SFL

Byron Walker Wildlife Area Archery Range

Cheney Reservoir at shooting range

Cowley SFL

Chase SFL & WA

Kingman SFL

Maxwell Wildlife Area at shooting range

McPherson SFL

**Region 5**

LaCygne Lake

Lyon SFL & WA

Montgomery SFL & WA

Mined Land WA-Unit 1 only

Shoal Creek WA

**All Non-Toxic Shot**

**Region 1**

Jamestown WA

**Region 2**

Benedictine WA

**Region 3**

Cheyenne Bottoms WA

Isabel WA

Playa Lakes (Heron, Stein, Wild Turkey)

Texas Lake WA

**Region 4**

McPherson Wetlands

Slate Creek Wetlands



**Region 5**

John Redmond Reservoir-Otter Creek WA  
Marais des Cygnes WA  
Neosho WA

**Boating Restrictions**

**No Motorized Boats**

**Region 1**

Jamestown WA-portions of Marsh Creek

**Region 2**

Milford WA-no motorized boats of any kind are allowed in any wetland areas except Mall  
Creek/Peterson Bottoms  
Perry WA-no motorized boats are allowed in any wetland areas except East and West pools of the  
Kyle marsh

**Region 3**

Cheyenne Bottoms WA-motorized watercraft permitted only during the waterfowl  
season. From 4/15 thorough 8/15, no boats permitted from 10 a.m. through 5 p.m. No out of  
water propeller driven watercraft permitted at any time.

**Region 5**

Elk City WA-Widgeon and Simmons Marshes.  
Marais des Cygnes WA-no motorized boats except in Unit A (boat lane only) and Unit G

**No Wake**

The following lakes require all motorized vessels to be operated at no wake speeds.

**Region 1**

Cedar Bluff WA-west end only as designated  
Jewell SFL  
Ottawa SFL

Rooks SFL  
Saline SFL  
Sheridan SFL

**Region 3**

Meade SFL  
Scott SFL

**Region 4**

Black Kettle SFL  
Butler SFL  
Cowley SFL  
Kingman SFL  
McPherson SFL

**Region 5**

Marais des Cygnes WA  
Wilson SFL  
Woodson SFL

**Closed to All Hunting**

Properties could be included in the STWD special hunts program.

**Region 2**

Green WA-(8 mi. West of Topeka)  
Pillsbury Crossing WA  
Pottawatomie SFL # 2  
Rocky Ford Fishing Area

**Region 3**

Big Basin Prairie Preserve  
Ford SFL  
Kiowa SFL  
Pratt Backwater

**Region 4**

Maxwell Wildlife Refuge

**Equipment Restrictions (Hunting)**

**Archery Only**

**Region 4**

McPherson SFL-archery deer and turkey only

**Region 5**

Mined Land WA Unit 1, Unit 21, Unit 23, a portion of Unit 22 and Unit 47

**No Center fire Rifles**

**Region 2**

Douglas SFL  
Shawnee SFL  
Leavenworth SFL

**Region 3**

Meade WA

**Region 5**

La Cygne WA

**Shotgun & Archery Only**

**Region 1**

Lovewell WA-designated area below the dam  
Ottawa SFL  
Saline SFL  
Sheridan SFL

**Region 2**

Douglas SFL-deer hunting  
Kansas River WA-no firearms deer hunting  
Leavenworth SFL-deer hunting  
Shawnee SFL-deer hunting

**Region 3**

Sandsage Bison Range & WA-north pasture only

**Region 5**

Berentz/Dick WA

Osage SFL

Shoal Creek WA

**Shotgun, Archery & Muzzleloader Only**

**Region 2**

Elwood WA

Jeffery Energy Center WA Area #2

Middle Creek Lake Area

Rutlader WA

**Region 5**

Otter Creek WA at John Redmond Reservoir

**Shot Shell Limit**

**Region 3**

Cheyenne Bottoms WA-12 shot shell limit in possession for goose hunting zones

**Handicap Accessible Hunting**

The following properties have specific areas designated for handicap access hunting. Specific locations are posted at the wildlife area and can be found on the area brochures and web sites. Special permit is required and available from the Area Manager.

**Region 1**

Glen Elder WA

Lovewell WA

Norton WA

Webster WA

Wilson WA

**Region 2**

Clinton WA

Milford WA  
Perry WA  
Tuttle Creek WA

**Region 3**

Cheyenne Bottoms WA-disabled hunting blind restricted to disabled only use. Assistants allowed to hunt if they accompany disabled hunter.

Hodgeman WA  
Meade WA  
Pratt Sand Hills WA

**No Shooting from Dikes or Levees**

**Region 3**

Cheyenne Bottoms WA

**Region 5**

Marais des Cygnes WA  
Neosho WA

**No Swimming**

Waters in addition to the state fishing lakes that are closed to swimming.

**Region 2**

Pillsbury Crossing WA

**Region 3**

Big Basin Prairie Preserve  
Pratt Backwater  
Sandsage Bison Range & WA Sandpit

**Region 4**

El Dorado WA-jumping bridge located at the Junction of the Walnut River and NE Chelsea Road

**Refuges**

The following properties have portions of the area designated as a refuge during specific periods of the year, or year-round. Access and activity restrictions are for refuge management and special hunts.

**Closed to all Activities-year round**

**Region 2**

Benedictine WA  
Jeffery Energy Center-Area #3  
Milford WA-Steve Lloyd refuge area

**Region 3**

Cheyenne Bottoms WA-Pool 1

**Region 5**

Fall River WA  
Marais des Cygnes WA  
Mined Land WA Bison Pen located on Unit 1  
Mined Land WA-portions of Units 28 & 29

**Closed to All Activities 9/1 through 3/31**

**Region 5**

Elk City WA  
Neosho WA

**Closed to All Activities 9/15 through 3/15**

**Region 4**

Cheney WA

**Closed to All Activities 10/1 through 1/15**

**Region 2**

Clinton WA  
Hillsdale WA  
Perry WA

**Closed to All Activities 10/1 through 3/31**

**Region 4**

Marion WA

**Region 5**

Neosho WA

**Closed to All Activities 10/21 through 1/15**

**Region 5**

Melvern WA

**Closed to All Activities through portions of the year**

**Region 3**

Greeley WA-February 1 through August 31

Playa Lakes (Herron, Stein & Wild Turkey) Closed to all activities from February 1 through August 31. Open to half-day hunting for all legal species from September 1 through November 22. Open to all hunting all day November 23 through January 31.

Sandsage Bison Range & WA-any pasture where Bison are present

**Closed to Hunting (year-round)**

**Region 1**

Ottawa SFL

Rooks SFL

Sheridan SFL

**Region 3**

Meade WA

**Region 4**

Kingman SFL

McPherson Wetlands

**Closed to Hunting (seasonally)**

**Region 1**

Cedar Bluff WA-November 1 through March 1

Lovewell WA-November 1 through March 1

**Access by Permit Only (year round)**

Cedar Bluff WA-area below dam

**Access by Permit only 10/1 through 3/1**

**Region 1**

Brzon WA

Cedar Bluff WA

Glen Elder WA

Griswold WA

Jamestown WA

Lovewell WA

Ottawa SFL

Saline SFL

Smoky Hill WA

Vogel WA

Wilson WA

**Access by Permit only 11/1 through 3/1**

**Region 1**

Norton WA

Webster WA

**Seasonal Closures**

**Access by Permit 10/1 through 3/31**

**Region 2**

Benedictine WA

**Open to Hunting Thursday, Saturday and Sunday 9/10 through 3/31**



**Region 2**

Brown SFL

**Open to Hunting 12/1 through 1/31**

**Region 2**

Shawnee SFL

**Open to Hunting Tuesday, Thursday and Saturday**

**Region 5**

Berentz/Dick WA

**Open to Upland Bird Hunting Tuesday, Thursday and Sunday**

**Region 2**

Elwood WA

**Closed to fishing 9/15 through 4/15**

**Region 5**

Marais des Cygnes WA (marshes only)

**Shooting Area (Ranges)**

The following properties have designated firearm or archery ranges. Shooting hours are posted at the facility and available on area brochures and web sites.

**Region 1**

Glen Elder WA

**Region 2**

Shawnee SFL (firearms)

**Region 4**

Cheney Res. & WA (firearms)

Kingman SFL (archery)

Maxwell Wildlife Refuge (firearms)

**Region 5**

Hollister WA (firearms)

**Shooting Hours Restrictions**

The following properties have shooting hour restrictions that are more restrictive than statewide regulations. These restrictions may be species specific and regulated only on portions of the property.

**Shooting Hours End 1 PM**

**Region 5**

Neosho WA-South Unit for waterfowl

**Special Permits (Daily/ Use\* Hunt Permits)** Daily hunt permits are available on the property at select parking lots and informational kiosks. Designated (\*) properties require a permit for all activities.

**Region 1**

Cedar Bluff WA  
Francis Wachs WA  
Glen Elder WA  
Jamestown WA  
Lovewell WA  
Sherman WA \*  
Webster WA

**Region 2**

Clinton WA  
Elwood WA  
Jeffery Energy Center WA Area # 2  
Kansas River WA  
Milford WA-waterfowl only  
Tuttle Creek WA

**Region 3**

Cheyenne Bottoms WA-In addition to daily hunt permit, trapping permit is required from the manager to trap  
Isabel WA  
Texas Lake WA

**Region 4**

Byron Walker WA  
Kingman SFL  
McPherson Wetlands  
Slate Creek Wetland

**Region 5**

Berentz/Dick WA\*  
Marais des Cygnes WA-waterfowl only  
Neosho WA-waterfowl only

**Species Restrictions (Hunting)**

The following properties restrict or prohibit the harvest of certain species on portions of, or all of the property.

**Region 3**

Playa Lakes (Herron, Stein & Wild Turkey)-No upland game hunting September 1 through November 22

**115-25-7. Antelope; open season, bag limit, and permits.** (a) The open season for the taking of antelope shall be as specified in this subsection. The unit designations in this subsection shall have the meanings specified in K.A.R. 115-4-6.

(1) Archery season.

(A) The archery season dates shall be September 19, 2009 through September 27, 2009 and October 10, 2009 through October 31, 2009.

(B) The taking of antelope during the established archery season shall be authorized for Smoky Hill, unit 2; West Arkansas, unit 17; and Cimarron, unit 18. Unlimited archery permits for residents and nonresidents shall be authorized for the area.

(2) Firearm season.

(A) The firearm season dates shall be October 2, 2009 through October 5, 2009.

(B) The open units for the taking of antelope during the established firearm season and the number of permits authorized shall be as follows:

(i) Smoky Hill, unit 2: Ninety-four resident firearm permits shall be authorized for the unit.

(ii) West Arkansas, unit 17: Thirty-six resident firearm permits shall be authorized for the unit.

(3) Muzzleloader-only season.

(A) The muzzleloader-only season dates shall be September 28, 2009 through October 5, 2009. Muzzleloader permits also shall be valid in the unit for which the permit is authorized during the established firearm season dates.

(B) The open units for the taking of antelope during the established muzzleloader-only season

and the number of permits authorized shall be as follows:

(i) Smoky Hill, unit 2: Twenty-four resident muzzleloader permits shall be authorized for the unit.

(ii) West Arkansas, unit 17: Twelve resident muzzleloader permits shall be authorized for the unit.

(iii) Cimarron, unit 18: Twelve resident muzzleloader permits shall be authorized for the unit.

(b) The bag limit for each archery, firearm, and muzzleloader permit shall be one antelope of either sex.

(c) Applications for resident firearm and muzzleloader permits shall be accepted in the Pratt office from the earliest date that applications are available through June 12, 2009. Applications with a postmark date of not later than June 12, 2009 shall also be accepted. Applications for resident and nonresident archery permits shall be accepted where issued from the earliest date that applications are available through October 30, 2009. If there are any unfilled permits after all timely applications have been considered, the application period may be extended by the secretary. Any applicant unsuccessful in obtaining a permit through a drawing may apply for any permit made available during an extended application period, or any other permit that is available on an unlimited basis.

(d) This regulation shall be effective on and after May 1, 2009, and shall have no force and effect on and after March 1, 2010. (Authorized by K.S.A. 32-807 and K.S.A. 2008 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 2008 Supp. 32-937, and K.S.A. 2008 Supp. 32-1002.)

## ECONOMIC IMPACT STATEMENT

**K.A.R. 115-25-7.** Antelope; open season, bag limit, and permits.

**DESCRIPTION:** This proposed exempt regulation establishes hunting unit boundaries, bag limit, application periods and season dates for the 2009 firearm, muzzleloader, and archery antelope seasons. The hunting units include all of the area included during the 2008 season. An unlimited number of archery permits are authorized, however, recent trends indicate that about 171 people may apply for these permits for residents. 6 nonresident archery permits were issued in 2008 and it is anticipated that a like number will be issued in 2009.

The proposed unit boundaries for the 2009 firearm hunting season are the same as the 2008 unit boundaries. A total of 130 firearms permits are proposed in two management units as follows: Unit 2 - 94 permits and Unit 17 - 36 permits, an increase of 16 permits from the previous season. In addition, 48 muzzleloader permits are proposed in three management units as follows: Unit 2 - 24 permits, Unit 17 - 12 permits, and Unit 18 - 12 permits, an increase of ten permits from the previous season.

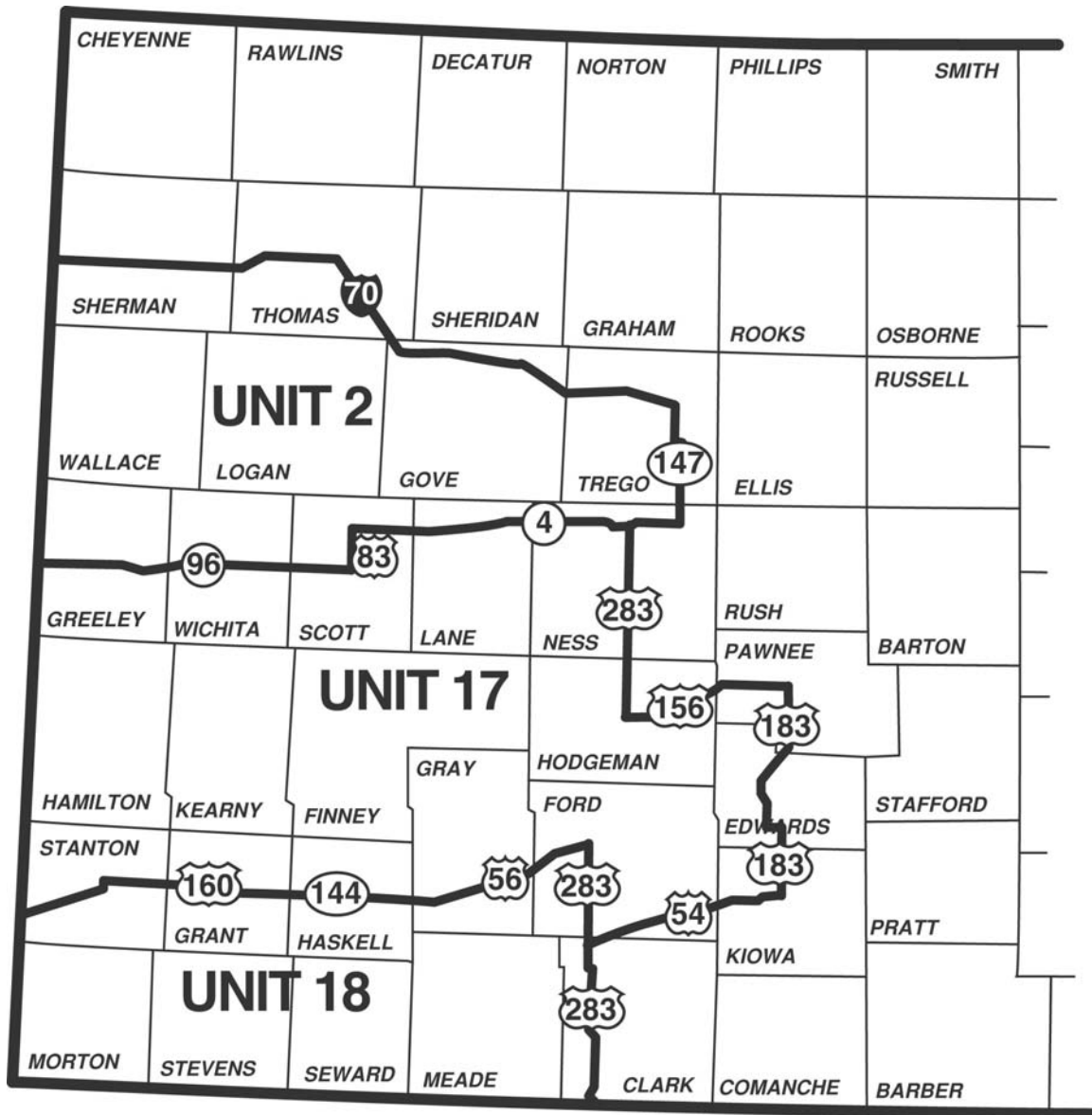
**FEDERAL MANDATE:** None.

**ECONOMIC IMPACT:** It is anticipated that 355 antelope hunting permits will be authorized. Estimated revenue if all permits are issued would be approximately \$11,700. That amount represents equal participation in the antelope season by landowner/tenants and general residents, as well as nonresident participation. Approximately 1000 people will apply for an antelope permit. A \$5 nonrefundable application fee from all applicants will generate an additional \$5,000. Other administrative costs associated with the season are borne by the Department.

Approximately 1775 days of hunting activity will occur. The national survey of fishing, hunting, and wildlife associated recreation conducted by the U.S. Fish and Wildlife Service estimated that an average big game hunter spent more than \$512 per season, thus the antelope season may generate \$181,760 in economic benefits to businesses providing goods and services. There will be no other economic impact on the general public or on other state agencies.

**ALTERNATIVES CONSIDERED:** None.

# **Antelope Units**





**115-25-8. Elk; open season, bag limit and permits.** (a) The unit designations in this regulation shall have the meanings specified in K.A.R. 115-4-6, except that the area of Fort Riley, subunit 8a, shall not be included as part of Republican, unit 8.

(b) The open seasons for the taking of elk shall be as follows:

(1) The archery season dates and units shall be as follows:

(A) Statewide, except Fort Riley, subunit 8a, and Morton County, a portion of unit 18:

September 21, 2009 through December 31, 2009.

(B) Fort Riley, subunit 8a: September 1, 2009 through October 4, 2009.

(2) The firearm season dates and units shall be as follows:

(A) Statewide, except Fort Riley, subunit 8a, and Morton County, a portion of unit 18:

December 2, 2009 through December 13, 2009 and January 1, 2010 through March 15, 2010.

(B) Fort Riley, subunit 8a:

(i) First segment: October 1, 2009 through October 31, 2009.

(ii) Second segment: November 1, 2009 through November 30, 2009.

(iii) Third segment: December 1, 2009 through December 31, 2009.

(3) The muzzleloader season dates and units shall be as follows:

(A) Statewide, except Fort Riley, subunit 8a, and Morton County, a portion of unit 18:

September 1, 2009 through October 4, 2009.

(B) Fort Riley, subunit 8a: September 1, 2009 through October 4, 2009.

(c) An any-elk permit shall be valid during any season using equipment authorized for that season. Eight any-elk permits shall be authorized.

(d) An antlerless-only elk permit shall be valid during any season using equipment authorized for that season, except that an antlerless-only elk permit shall be valid on Fort Riley, subunit 8a, only as follows:

(1) A first-segment antlerless-only elk permit shall be valid on Fort Riley, subunit 8a, only during the first segment. Five first-segment antlerless-only elk permits shall be authorized.

(2) A second-segment antlerless-only elk permit shall be valid on Fort Riley, subunit 8a, only during the second segment. Five second-segment antlerless-only elk permits shall be authorized.

(3) A third-segment antlerless-only elk permit shall be valid on Fort Riley, subunit 8a, only during the third segment. Five third-segment antlerless-only elk permits shall be authorized.

(4) All antlerless-only elk permits shall be valid on Fort Riley, subunit 8a, during the September 1, 2009 through October 4, 2009 archery and muzzleloader seasons.

(e) The bag limit shall be one elk as specified on the permit issued to the permittee.

(f) Antlerless-only elk permits and any-elk permits shall be awarded from a pool of applicants who are Fort Riley military personnel and applicants who are not Fort Riley military personnel.

(g) An unlimited number of hunt-on-your-own-land elk permits shall be authorized statewide, except Morton County, a portion of unit 18. A hunt-on-your-own-land permit shall be valid during any open season. The bag limit for each hunt-on-your-own-land elk permit shall be one antlerless elk.

Applications for hunt-on-your-own-land elk permits shall be accepted at the Pratt office from the earliest date that applications are available through March 14, 2009.

(h) Applications for antlerless-only elk permits and any-elk permits shall be accepted at designated locations from the earliest date that applications are available through July 10, 2009.

Applications with a postmark date of not later than July 10, 2009 shall also be accepted.

(i) If there are leftover antlerless-only elk permits or any-elk permits after all timely applications have been considered, the application periods for those permits may be reopened by the secretary.

Leftover permits shall be drawn and issued on a daily basis for those application periods reopened by the secretary. Any applicant unsuccessful in obtaining a permit through a drawing may apply for any leftover permit or any other permit that is available on an unlimited basis.

(j) Each permit holder shall, upon harvest of an elk, contact designated department staff within two calendar days to arrange for collection of biological data and tissue samples.

(k) This regulation shall have no force and effect on and after April 1, 2010. (Authorized by K.S.A. 32-807 and K.S.A. 2008 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 2008 Supp. 32-937, and K.S.A. 2008 Supp. 32-1002.)

## ECONOMIC IMPACT STATEMENT

**K.A.R. 115-25-8.** Elk; open season, bag limit and permits.

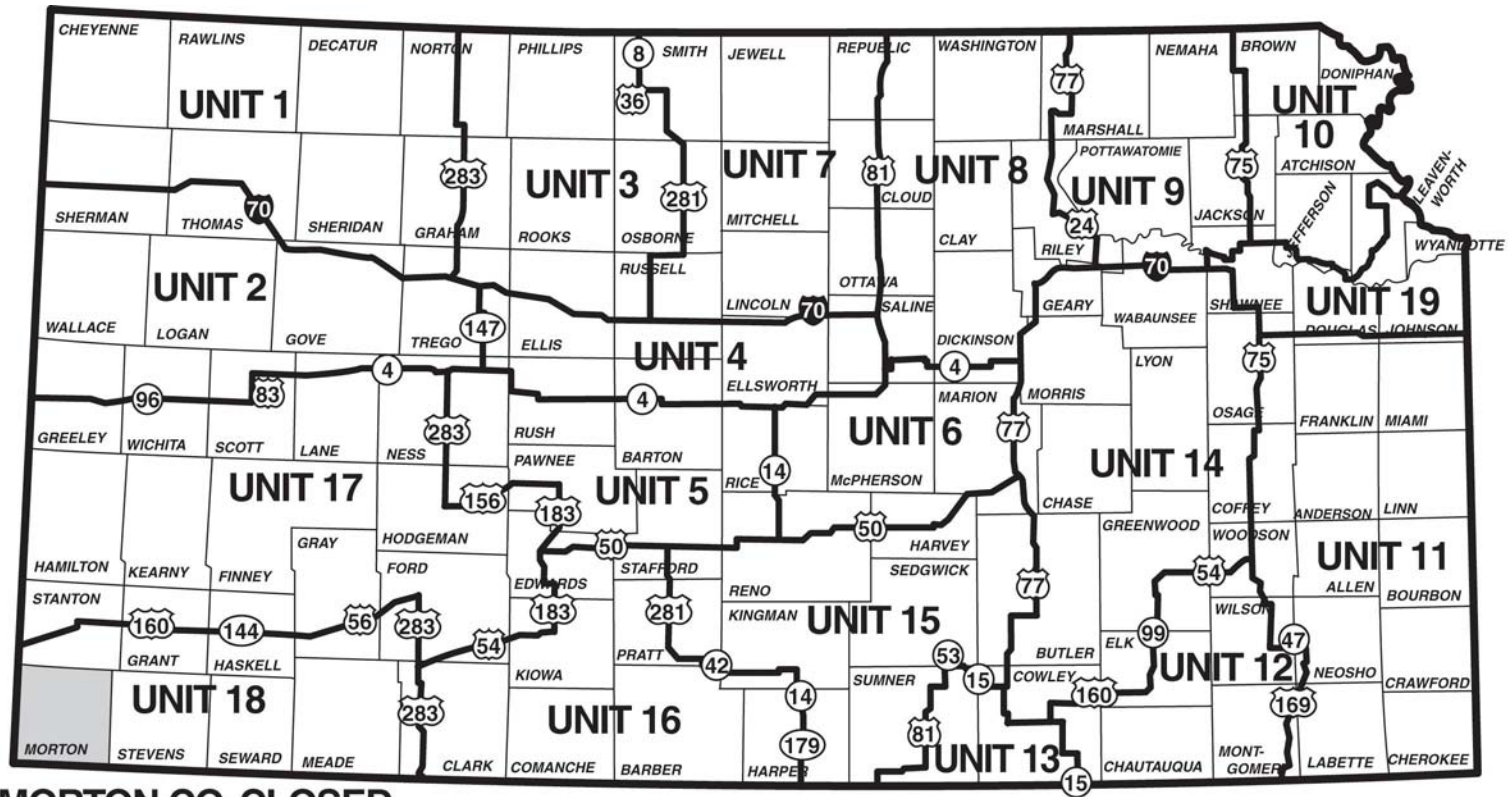
**DESCRIPTION:** This proposed exempt regulation establishes hunting unit boundaries, bag limit, application periods and season dates for the 2009-2010 muzzleloader, archery, and firearm seasons for elk. The units allow for statewide use, except in Morton County. Elk hunters would be allowed to hunt during any open season with the equipment that was allowed during that season. The proposed regulation would allow elk hunting from September 1, 2009 through March 15, 2010 statewide (outside Fort Riley, except Morton County). All fifteen antlerless permits would also be valid during a September muzzleloader and archery equipment season on Fort Riley. However, only five antlerless-only elk permits at a time would be made available for use during each of three seasons on subunit 8a (Fort Riley) (October 1, 2009 through October 31, 2009; November 1, 2009 through November 30, 2009; and December 1, 2009 through December 31, 2009). Eight any-elk permits would be valid from September 1, 2009 through December 31, 2009 on subunit 8a and from September 1, 2009 through March 15, 2010 in the remainder of the state, except Morton County. In addition, an unlimited number of hunt-on-your-own-land (HOYOL) antlerless-only elk permits would be made available, to be used during any open season. Fort Riley military personnel would continue to control access to the military grounds for the purpose of elk hunting, and are expected to provide hunting access only during a portion of the available days during the open seasons. The seasons are intended to provide increased opportunity for those hunters drawing elk permits, and increased flexibility to address elk that may disperse off the Fort. This represents an decrease of 2 total permits for 2009.

**FEDERAL MANDATE:** None

**ECONOMIC IMPACT:** It is anticipated that 43 elk permits may be issued, including 20 available non-HOYOL permits. In addition, it is estimated that 930 of people will apply for the drawing permits and those individuals pay a \$5 nonrefundable application fee. The application fee generates \$4650. Estimated revenue if all permits are issued would be approximately \$8,100. Administrative costs associated with the season are borne by the Department. Approximately 390 days of hunting activity may occur, thus providing economic benefit to businesses providing goods and services. To the extent the expanded unit, seasons, and permit numbers help prevent dispersal of elk onto private land, and therefore help prevent occurrence of damage from dispersed elk, there may be some positive economic impact to the general public. No other economic impact on the general public or on other state agencies is anticipated.

**ALTERNATIVES CONSIDERED:** None

# Elk Units (all permits open statewide – except Morton County)



**115-4-11. Big game and wild turkey permit applications.** (a) General application provisions.

(1) Unless otherwise authorized by law or regulation, an individual shall not apply for or obtain more than one antlered big game or wild turkey permit for each big game species or wild turkey.

(2) Unless otherwise authorized by law or regulation, each big game or wild turkey permit application shall be signed by the individual applying for the permit.

(3) Subject to any priority draw system established by this regulation, if the number of permit applications of a specific species and type received by the designated application deadline exceeds the number of available permits of that species and type, a random drawing to issue permits of that species and type shall be conducted by the secretary.

(4) A hunt-on-your-own-land permit shall not be tabulated in a priority draw system if the permit would otherwise reduce the applicant's odds of receiving a big game permit through that draw system.

(b) Deer permit applications.

(1) Subject to any priority draw system established by this subsection, in awarding deer permits in units having a limited number of permits, the first priority shall be given to those applicants who did not receive, in the previous year, a deer permit that allowed the taking of an antlered deer. All other deer permit applicants shall be given equal priority.

(2) In awarding a limited number of deer permits by a priority draw system, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(A) One point shall be awarded to an individual for each year the individual is unsuccessful in

obtaining, by a priority draw system, a deer permit that allows the taking of an antlered deer.

(B) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(C) If an applicant obtains, by a priority draw system, a deer permit that allows the taking of an antlered deer, all earned points shall be lost.

(D) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(E) If an individual desires to apply for a preference point for a deer permit that allows the taking of antlered deer and not receive a permit, the person may apply for and receive a preference point by paying the proper application or preference point fee and making application during the application period specified in K.A.R. 115-25-9. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(c) Firearm antelope permit applications. In awarding firearm antelope permits, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(1) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining a firearm antelope permit.

(2) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(3) If an applicant obtains a firearm permit, all earned points shall be lost.

(4) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(5) If an individual desires to apply for a preference point for an antelope firearms permit that allows the taking of an antelope and not receive a permit, the person may apply for and receive a preference point by paying the preference point fee and making application during the application period specified in K.A.R. 115-25-7. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(d) Elk permit applications. An individual receiving a limited-quota elk permit shall not be eligible to apply for or receive an elk permit in subsequent seasons, with the following exceptions:

(1) An individual receiving an any-elk or a bull-only elk permit may apply for and receive an antlerless-only elk permit in subsequent seasons.

(2) An individual receiving a limited-quota, antlerless-only elk hunting permit shall not be eligible to apply for or receive a limited-quota, antlerless-only elk permit for a five-year period thereafter. Subject to this subsection (~~d~~), however, this individual may apply for and receive an any-elk or bull-only elk permit without a waiting period.

(3) When a limited number of elk permits are awarded by a random draw system, each individual shall have an additional opportunity of drawing for each bonus point earned by the individual in addition to the current application. Bonus points shall be awarded as follows:



(A) One bonus point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a random draw system, an elk permit that allows the taking of an elk.

(B) If an individual fails to make at least one application or purchase one bonus point within a period of five consecutive years, all earned bonus points shall be lost.

(C) If an applicant obtains, by a random draw system, an elk permit that allows the taking of an elk, all earned points shall be lost.

(D) If an individual desires to apply for a bonus point for an elk permit that allows the taking of elk and not receive a permit, the person may apply for and receive a bonus point by paying the proper application or bonus point fee and making application during the application period specified in K.A.R. 115-25-8. No individual may apply for more than one bonus point in the same calendar year, and no individual shall apply for a bonus point in the same calendar year as the calendar year in which the individual is applying for a permit.

(e) Wild turkey permit applications.

(1) When awarding wild turkey permits in units having a limited number of permits, the first priority shall be given to those individuals who did not receive a permit in a limited wild turkey unit during the previous year. All other applicants shall be given equal priority.

(2) In awarding a limited number of wild turkey permits by a priority draw system, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(A) One point shall be awarded to an individual for each year the individual is unsuccessful in

obtaining, by a priority draw system, a wild turkey permit.

(B) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(C) If an applicant obtains, by a priority draw system, a wild turkey permit, all earned points shall be lost.

(D) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(E) If an individual desires to apply for a preference point for a wild turkey permit and not receive a permit, the person may apply for and receive a preference point by paying the preference point fee and making application during the application period specified in K.A.R. 115-25-6. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit. (Authorized by K.S.A. 32-807, and K.S.A. 2003 2008 Supp. 32-937, as amended by L. 2004, ch. 99, sec. 5, and L. 2004, ch. 99, sec. 12 K.S.A. 2008 Supp. 32-969; implementing K.S.A. 2003 2008 Supp. 32-937, as amended by L. 2004, ch. 99, sec. 5, and L. 2004, ch. 99, sec. 12 K.S.A. 2008 Supp. 32-969; effective Sept. 10, 1990; amended May 27, 1991; amended June 1, 2001; amended April 18, 2003; amended Feb. 18, 2005; amended P-\_\_\_\_\_.)

## ECONOMIC IMPACT STATEMENT

**K.A.R. 115-4-11.** Big game permit applications.

**DESCRIPTION:** This regulation currently addresses permit application requirements for obtaining big game permits. Based on public comment and KDWP Commission input, the department is proposing a modified bonus point system for the elk permit drawing whereas none currently exists. The system, while not a true preference point system, would reward applicants who apply annually an additional opportunity to draw a permit while not excluding new applicants.

**FEDERAL MANDATE:** None.

**ECONOMIC IMPACT:** The proposed amendments are not anticipated to have any appreciable economic impact on the department, other agencies, or the public.

**ALTERNATIVES CONSIDERED:** None.

**115-25-9. Deer; open season, bag limit, and permits.** (a) The open season for the taking of deer shall be as follows:

(1) Archery season.

(A) The archery season dates shall be September 21, 2009 through December 31, 2009.

(B) The entire state shall be open for the taking of deer during the archery deer season.

However, nonresident archery deer permits shall be valid in only two adjacent deer management units designated at the time of application and unit 19.

(C) All archery deer permits also shall be valid during the portion of the extended firearm season beginning on January 1, 2010 and extending through the last open day in units open during an extended firearm season and shall be valid with any legal equipment authorized during a firearm season, but shall be valid only for antlerless white-tailed deer during those dates and valid only in deer management units open to the extended firearms season.

(D) The number of archery deer permits based on a review of deer population indices, biological and ecological data, history of permit use and harvest rates, public input, and other relevant information shall be as established by the secretary with the concurrence of the commission.

(E) The urban antlerless-only white-tailed deer archery season shall begin on January 4, 2010 and extend through January 31, 2010 in all units designated as an urban deer management unit.

(2) Firearm season.

(A) In the Fort Leavenworth subunit, the firearm season dates shall be November 21, 2009 through November 22, 2009, November 26, 2009 through November 29, 2009, December 5, 2009

through December 6, 2009, December 12, 2009 through December 13, 2009, and December 19, 2009 through December 20, 2009. In the Smoky Hill Air National Guard subunit, the firearm season dates shall be November 24, 2009 through December 5, 2009. The regular firearm season dates in all other deer management units shall be December 2, 2009 through December 13, 2009.

(B) The urban firearm deer season in all units designated in K.A.R. 115-4-6 as an urban deer management unit shall be October 10, 2009 through October 18, 2009. White-tailed either-sex deer permits issued for a deer management unit adjacent to or encompassing an urban deer management unit shall be valid only in the urban deer management unit during the urban firearm deer season.

(C) During the regular and extended firearm deer seasons, white-tailed either-sex deer permits issued for a deer management unit adjacent to or encompassing an urban deer management unit shall be valid in both the designated unit and the urban deer management unit.

(D) The number of firearm deer permits for each management unit based on a review of deer population indices, biological and ecological data, history of permit use and harvest rates, public input, and other relevant information shall be as established by the secretary with the concurrence of the commission.

(3) Muzzleloader-only season.

(A) The muzzleloader-only season in all deer management units shall be September 21, 2009 through October 4, 2009. Muzzleloader deer permits shall also be valid during established firearm seasons using muzzleloader equipment, except that during the portion of the extended firearm season

beginning on January 1, 2010 and extending through the last open day in units open during an extended firearm season, these permits shall be valid with any legal equipment authorized during a firearm season. During an extended firearm season, only muzzleloader deer permits for deer management units open during these dates shall be valid, and only for antlerless white-tailed deer.

(B) The number of muzzleloader deer permits issued for each management unit based on a review of deer population indices, biological and ecological data, history of permit use and harvest rates, public input, and other relevant information shall be as established by the secretary with the concurrence of the commission.

(4) Season for designated persons.

(A) The season for designated persons to hunt deer shall be September 12, 2009 through September 20, 2009 in all deer management units.

(B) Only the following persons may hunt during this season:

(i) Any person 16 years of age or younger, only while under the immediate supervision of an adult who is 18 years of age or older; and

(ii) any person with a permit to hunt from a vehicle issued according to K.A.R. 115-18-4 or a disability assistance permit issued according to K.A.R. 115-18-15.

(C) All resident and nonresident deer permits shall be valid during this season.

(D) All persons hunting during this season shall wear blaze orange according to K.A.R. 115-4-4.

(5) Extended firearm seasons.

(A) Any unfilled deer permit valid in unit 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, or 19, as applicable, shall be valid during the extended firearm season beginning January 1, 2010 and extending through January 3, 2010 in those units.

(B) Only antlerless white-tailed deer may be taken.

(C) Permits restricted to a specific unit shall remain restricted to that unit during the extended firearm season.

(D) Equipment legal during a firearm season shall be authorized with any permit.

(b) Unlimited resident hunt-on-your-own-land, special hunt-on-your-own-land, and nonresident hunt-on-your-own-land deer permits shall be authorized for all units. These permits also shall be valid during the portion of the extended firearm season beginning on January 1, 2010 and extending through the last open day in units open during an extended firearm season, but shall be valid only for antlerless white-tailed deer during an extended firearm season.

(c) Permit applications.

(1) Applications for resident firearms either-species, either-sex permits shall be accepted at designated locations from the earliest date that applications are available through July 10, 2009. Applications with a postmark date of not later than July 10, 2009 shall also be accepted.

(2) Applications for resident any-season white-tailed either-sex deer permits, resident archery deer permits, resident muzzleloader either-species, either-sex permits and hunt-on-your-own-land deer permits shall be accepted at designated locations from the earliest date that applications are available through December 30, 2009.

(3) Applications for antlerless white-tailed deer permits shall be accepted at designated locations from the earliest date that applications are available through January 30, 2010.

(4) Applications for nonresident antlered deer permits shall be accepted in the Pratt office from the earliest date that applications are available through June 1, 2009. Applications with a postmark date of not later than June 1, 2009 shall also be accepted.

(5) Nonresident applicants may select, at the time of application, one deer management unit and up to one adjacent management unit where their permit shall be valid.

(6) Resident applicants for either-species, either-sex muzzleloader or firearm deer permits shall select, at the time of application, the unit where their permit shall be valid. The west unit permit shall be valid in units 1, 2, 17, and 18. The east unit permit shall be valid in units 3, 4, 5, 7, and 16.

(d) Any individual may apply for and obtain multiple deer permits, subject to the following limitations:

(1) Any individual may apply for or obtain no more than one deer permit that allows the taking of an antlered deer.

(2) Any individual may obtain no more than five antlerless white-tailed deer permits. One antlerless white-tailed deer permit shall be valid statewide, including lands managed by the department. One antlerless white-tailed deer permit shall be valid in units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 10a, 11, 12, 13, 14, 15, 16, and 19 on lands and waters not managed by the department, except Cedar Bluff Wildlife Area. Up to three additional antlerless white-tailed deer permits shall be valid in subunit 10a and in units 7, 8, 12, 13, 15, 16 and 19 on lands and waters not managed by the department.



(3) Any resident may obtain no more than one either-species, either-sex permit through the application period described in paragraphs (c)(1) and (c)(2).

(4) Nonresidents shall be eligible to obtain antlerless white-tailed deer permits. Otherwise, a nonresident shall be eligible to apply for and obtain only those permits designated as nonresident deer permits.

(5) No resident or nonresident shall purchase any deer permit that allows the taking of antlerless-only deer without first having obtained a deer permit that allows the taking of antlered deer, unless the antlerless-only deer permit is purchased after December 30, 2009.

(e) The bag limit for each deer permit shall be one deer, as specified on the permit issued to the permittee.

(f) No deer permit issued pursuant to this regulation shall be valid after January 31, 2010.

(g) This regulation shall be effective on and after May 1, 2009, and shall have no force and effect on and after March 1, 2010. (Authorized by K.S.A. 32-807 and K.S.A. 2008 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 2008 Supp. 32-937, and K.S.A. 2008 Supp. 32-1002.)

## ECONOMIC IMPACT STATEMENT

**K.A.R. 115-25-9.** Deer; open season, bag limit, and permits.

**DESCRIPTION:** The proposed exempt regulation establishes hunting bag limits, application periods and season dates for the 2009-2010 firearm, muzzleloader and archery deer seasons. There are few changes from 2008-2009 seasons. First, season dates are adjusted to coincide with the calendar. Second, the extended season for antlerless white-tailed deer is expanded to include two additional units from the previous season.

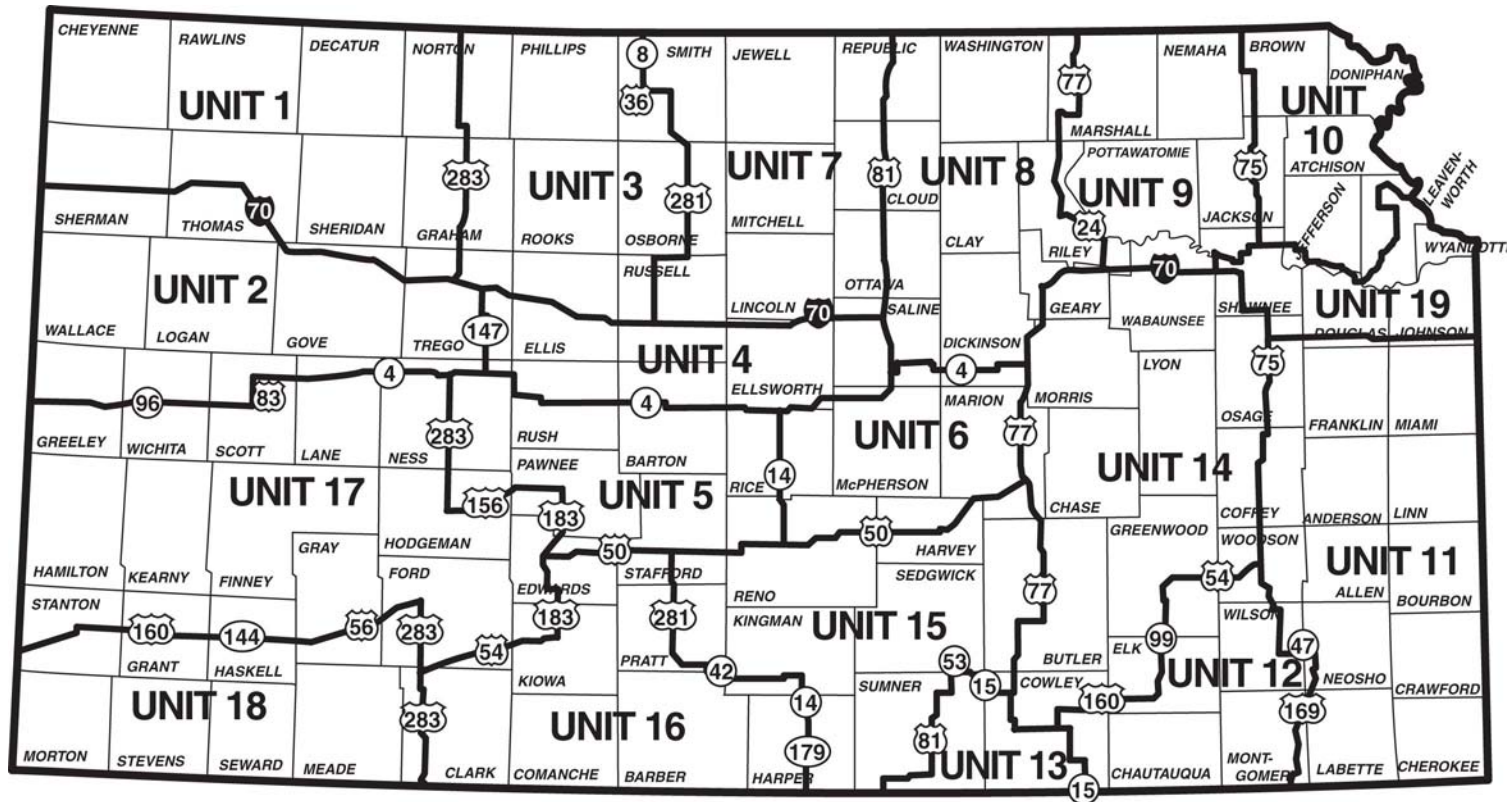
**FEDERAL MANDATES:** None

**ECONOMIC IMPACT:** If the economic impact to the department, the general public, small business and other agencies from the 2009-10 seasons were to be similar to the estimate for the 2008-2009 seasons, total revenue to the department from the sale of all resident, nonresident, and landowner/tenant deer permits is estimated to be approximately \$8,000,000.

Approximately 415,000 days of hunting activity by 83,000 hunters are anticipated. A 2001 survey conducted by the U.S. Fish and Wildlife Service estimated that big game hunters spent approximately \$512 per year on trip and equipment expenditures, thus the 2009 deer seasons in Kansas are anticipated to generate approximately \$42.5 million worth economic benefit to businesses providing big game goods and services. No other economic impact to state agencies is anticipated.

**ALTERNATIVES CONSIDERED:** None.

# Deer Management Units



# Proposed Extended Deer Season Units

