

KANSAS DEPARTMENT OF WILDLIFE AND PARKS
COMMISSION MEETING MINUTES FOR
Thursday, August 25, 2005
Great Plains Nature Center
6232 E 29th St N, Wichita

Subject to
Commission
Approval

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

The August 25 meeting of the Kansas Department of Wildlife and Parks Commission was called to order by Chairman John Dykes at 1:32 p.m. at Great Plains Nature Center in Wichita. Chairman John Dykes, Commissioners Jim Harrington, Kelly Johnston, Gerald Lauber, Frank Meyer, Doug Sebelius and Shari Wilson were present.

Announcements – drinks in science classroom, parking in west lot.

II. INTRODUCTION OF COMMISSIONERS AND GUESTS

The Commissioners and Department staff introduced themselves (Attendance roster - Exhibit A).
Chairman John Dykes introduced Senator Janis Lee and Representative Don Myers.

III. ADDITIONS AND DELETIONS TO AGENDA ITEMS

Lee Allison is with Kansas Geological Survey, on loan to Governor's Office of Science and Energy Policy, not U.S. Geological Survey.

IV. APPROVAL OF THE June 23, 2005 MEETING MINUTES

Commissioner Meyer moved to accept minutes, Commissioner Wilson second. **All approved.** (Minutes - Exhibit B).

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Colonel Peter Goldberg, Fort Leavenworth, represented the Garrison Commander, presenting a problem at Fort Leavenworth. A low-level bureaucrat took it upon himself to contact the department and established the deer hunting season for Fort Leavenworth. Fort Leavenworth is supposed to pick 12 days between the first of November and the end of December. In the past the season has been over several successive weekends and the reason for that is that there are students and general staff college, totaling about 900 officers, plus the faculty that supports them, who are not allowed to take any type of leave or vacation on weekdays. If they are going to get any reasonable amount of time to hunt, they have hunted on successive weekends. The bureaucrat told the state that he wanted the same days as the rest of Unit 10, and that means these soldiers and faculty now only have about four days out of the 12 possible days to hunt. There has been a slight decrease in the number of hunters over the years, but the number of deer that is being taken is going up suggesting an increase in the deer herd on the base (Exhibit C). In fact, the City of Leavenworth is going everything they can to take deer out of there and are soliciting bowhunters to come in and reduce that population. If the population stays high on Fort Leavenworth, it is going to affect the City of Leavenworth, counteracting what they are trying to do. In the interest of trying to get these soldiers the number of hunting days they should have had

coming and keep the deer population in check, Col. Goldberg said he came to ask the Commission to extend the antlerless season and open it on December 24 and take it to its conclusion date, January 8. These dates were requested because they are between Christmas and New Years, a time when the officers in this class and the faculty can take leave during the school year. Chairman Dykes asked if big game biologist Lloyd Fox was present. Col. Goldberg said that Fox was who sent him to the Commission here. Fox said this couldn't be changed because the regulation was already published for the year. Chairman Dykes asked KDWP attorney Chris Tymeson what could be done. Tymeson said that the regulation states that the Fort needs to notify KDWP with the dates they want to have within a certain time frame. Tymeson said he needed time to figure out if there is a way to approach this subject. Col. Goldberg said he recognized that the department owned the animals and the military owned the land, but this will help take care of the health of the herd and the City of Leavenworth will get hurt if we cull an inadequate number of animals out of this herd. Chairman Dykes agreed, and said the timing was awkward, but that the Commission would try to come up with a solution. Col. Goldberg added that since he was a biologist and controlled the land, he could offer access to any biologists who wanted to do research on a unique ecosystem. Commissioner Meyer reminded everyone that a deep debt of gratitude was owed to the soldiers.

Senator Janis Lee then addressed the Commission: Thank you for the job you do and thank you for allowing me to come visit with you. I am not going to read my letter to you. I have attached to the letter emails that I have received from Mike Hayden on nonresident tags and from Chris on the timeframe and the legality of what I am asking (Exhibit D). I was not aware until just recently that in April the rules had been changed dealing with nonresident deer hunters. In previous years nonresident deer hunters that came to Kansas who were not lucky enough to be in the draw, could still purchase over-the-counter antlerless tags and go ahead and hunt deer. In fact, my brother who lives out of state and still owns land comes and brings several friends with him. They always enter the draw, but very seldom are they fortunate to get an antlered permit. But that doesn't make any difference, they still come and have a good time, spend a lot of money and enjoy being in Kansas. Obviously, with the change that was made in April, they will no longer be able to do that because once again this year, although three of them paid the \$320, and graciously left the state with the \$20, none of them were fortunate enough to get an antlered permit. They now cannot come and hunt. I talked with a number of people in Wildlife and Parks and they indicated that the reason was that you had a group of hunters out there where only one had the antlered permit, and there were four or five of them, and they never knew which one of them took the antlered animal. That it might not be the person that had the permit, somebody else in the group took the antlered animal. As long as the numbers of antlered animals are not exceeded I really see that it makes no difference to us as a state, who took that animal. I understand there is poaching. I understand that there are more antlered deer than should be, taken, but I would suggest that in-state hunters do that as well as out-of-state hunters. It simply isn't good for our state, our image, in terms of out-of-state hunters when we tell them, unless you are lucky enough to be in the draw, or unless you are lucky enough to own land or be a relative of somebody that owned land who can do the transfer, then you can't come to our state and hunt deer. They do spend a lot of money and frankly, as the Colonel said, there are still a lot of deer. I travel more than 40,000-45,000 miles a year, primarily in my district in central, northcentral and southcentral Kansas, and I can assure you that as I travel I am worried very little about the other motorists, but I do always worry about the deer. I have had more than one unfortunate encounter with the deer. I would encourage you to change this back. I know that in the next year or so the department is going to bring to us in the Legislature, and I have served on the Natural Resources

Committee for quite a number of years, I am no longer the ranking, because I became ranking on a couple of other committees, but have had a great interest in that area. I know that you are to bring to us a proposal that will deal with a whole lot of the different deer regulations and changes that the agency believes need to be made, and I would like to suggest that we leave this one the way it was last year and if there is justification bring that change along with the changes we can look at. Chairman Dykes responded: Senator, I think everybody at this table and that one realize that you have been a great ally of the department in the Legislature, the Senate and especially the Natural Resources Committee, so when we learned of your concern, we gave it a great deal of thought and still are giving it a great deal of thought and I think you will probably see the department asking for maybe some modifications for regulations next season. I am sure you talked to Mike and several others about the circumstances. I, for one, got a lot of complaints from resident hunters who felt nonresident hunters were taking advantage of the state's generosity in providing these antlerless game tags at \$10 a piece. So groups of hunters would come to the state to hunt, one or two might draw an antlered permit and the rest would have game tags and whoever shot the nice buck would use the buck tag. It was a big a dilemma. So we finally got to the point where we were hearing enough complaints from the conservation officers from the field that I, for one, became convinced that it was just isolated instances where this ruse was being used, but it was becoming fairly wide spread. In doing a little bit of research I noticed one other state that has the same requirement of nonresident deer hunters and that is Missouri. I think they have had that requirement in place for several years. We are sensitive to your concerns, and we have complaints from other people, not just you, along these same lines. Having taken all of that into consideration I think this is where we have landed, but we are open to possibly making changes for the 2006 season that might be more accommodating. Senator Lee: I was hoping this could be changed this year, there is time, but that may not possible. I would not pretend that there are not people who do not trade. Frankly as long as you are willing to do that and there is only one deer shot I am not certain it makes that much difference who got the tag in the first place. I think our concern is the numbers that are shot; the number that is harvested as opposed to exactly who shot. If there is poaching that is done by people in-state, out-of-state and frankly by people who don't have a permit. It just seems to me that what we are doing, and I have just heard recently of situations where out-of-state people are developing legal arrangements to rent land in the state so they now qualify for an in-state license. The thing that I have learned in 17 years in the Legislature is that whatever law or rule we make somebody figures a way to get around it. I don't care what it is. I think by being this strict and only limiting it to those lucky enough to be in the draw, maybe there needs to be a second draw, the antlered are what we believe people to be interested in. Frankly, people that come to our place just like to shoot a deer and they spend a ridiculous amount of money to come and shoot the deer and then they have it processed, and then they have it shipped home. That deer that they are eating is now probably \$30 or \$40 a pound. It is good for travel and tourism in our state, it is a way to bring people in, if we get too strict with regulations, they will figure out a way to get around it and they will be able to figure out some type of a lease arrangement and get to be here. I thought it was good the way we had it before. Chairman Dykes: We appreciate the fact that you came here, you could have easily told Mike or myself and we could have raised it, but having you here is important, and I appreciate you going to that trouble. I would say, as I was thinking about this, your point that it doesn't matter who shoots the deer as long as one deer only is harvested, but I believe and Lloyd, if he were here, could back me up, but I am guessing that when we sent the number of antlered permits to be made available to residents and nonresidents that we factor in

some type of success rate based on historical averages. You can imagine if you have groups of hunters how that would change those statistics. I had one conservation officer tell me he checked a group of 13 hunters on a public wildlife area, from South Carolina, and only two had an either sex tag and the rest had doe game tags and he said, the two that had antlered tags had two real nice bucks. I have heard from other COs around the state that is going on in their areas also. It just reinforced to me that we needed to rethink this whole thing and figure out how we could address it. If we can't address it equitably, in the way we have, maybe we could increase the price of the game tags to try and eliminate some of the ease in which people can come in and take advantage of the system, but I know we are open to look at it and come up with something.

Senator Lee: I know the department is looking at the whole issue of rules and regulations for deer hunting. I would just rather you had made that change at that time as opposed to picking out one area now and isolating it.

Chairman Dykes: This may give us the opportunity to fix it, I hope so.

Commissioner Lauber: I can envision an alternative category, probably not this year, where we can try and accommodate both sides of the issue. Personally, I don't have a lot of support for approving or acquiescing informal transfer ability. That is kind of what you are talking about. If you stop looking at that, then it does lend itself to further encroachment on the rules and a little bit more abuse, and I think we probably have to still maintain that type of unlawful transferability where its current posture is.

Senator Lee: I am not telling you I approve of people doing what we are recognizing that they do, I am just a realist after 17 years, and I understand they do that. If you want to figure out a way to make it more difficult, make the fine more serious, that is fine. I still think that probably is going to happen regardless of what you do with the rules unless you have a game warden out there with every single hunting party that is out there. I understand your concern about who ever gets it, perhaps the best shot is the one, I might argue with you and say that the hunters I am aware of, it is whoever is the luckiest. It is not that I am acquiescing, but that happens and I suggest that any rule we make, as long as there is more than one hunter out there, they may be trading. What we should do in order for them to transfer those is a whole other issue. We have now closed the door on a number of nonresident hunters who would come and spend a significant amount of money, not only in terms of the tags that they are willing to buy, but in terms of the tourism and the dollars they spend for motels and food. People who are willing to spend \$320 in a draw are willing to spend a whole lot of money for room and food.

Chairman Dykes: I can assure you that certainly wasn't the intent in trying to amend the regulation so we could prevent the abuse. We recognize no matter what we do, as you well know, somebody doesn't like it. I asked Kevin Jones to come up with some situations and about the magnitude of the problem.

Kevin Jones: Earlier this week I prepared a brief statement. I provided a copy to the Commissioners and Senator Lee as well and there are additional copies at the back table (Exhibit D). I asked the regions in the state, occurrences of where antlerless deer permits were misused in the harvesting of deer. The information compiled were actual arrests or active investigations at this time of identified individuals. Over a six year period we had 112 people violate the law by taking antlered deer without a valid permit. This does not seem like a large number, but this is only the ones we know about. I factored this into a study that was done quite a few years ago by James Vilkitis who formulated a statistical process to try and estimate the number of occurrences from the known occurrences, estimate what the potential would be out there. Of the 112 violators, under this study, there was one arrest made for 200 occurrences. When factored out, it would come out to 22,288 individuals involved in this type of activity over that six year period, which averages out approximately 3,715 people per year. That is what the estimate would be. There is the ability to debate the methodology and indices that you use in the calculation of this, but nevertheless this is the best known science we have to estimate this in the law enforcement world. Also, I provided a break down, not only in the state,

but also in Region 1, the northwest corner of the state and the reason I picked that part was that there was a considerable amount of concern as to the impact of using antlerless deer permits for a justification for being in the field during the hunting season and the loss against mule deer, which is probably one of our more critical species in deer hunting. There is a chart showing the number of mule deer harvested in proportion to white-tailed deer and in 55 percent of the cases mule deer were taken on white-tailed antlerless game tags. These are the types of things that raise our level of concern in the law enforcement world; how big is that unknown?

Lynn Johnson, a blind hunter asked the Commission to allow laser sights for blind hunters (hunting with an assistant, who lines up the shot for the blind hunter). Chairman Dykes said modifications for disabled hunters have been considered over the years, but have never considered this in the past, but that is not to say we wouldn't. Johnson added that there were no provisions for the blind. Chairman Dykes said the chance for abuse was why laser sights hadn't been considered in the past. Commissioner Johnston said he had spoken with Johnson and would like to see the Commission consider this. One, for the American with Disabilities Act and two, the number of hunters who would qualify to hunt this way would be a small number. Johnson said that it should be the same as the law that allows the use of the crossbow, a doctor's permission, not just legally blind, because that covers a multitude of people. Commissioner Johnston asked about Johnson's hunting success rate. Johnson said he had been successful two out of three years. Sunlight and the height in the tree are factors. One problem with someone sighting over a hunter's shoulder is they lean forward and the shooter hits the ground a lot. This is the only way to be accurate and humane. Chairman Dykes asked Johnson how many people had similar conditions. Johnson said he knew about seven other hunters ten years ago, but wasn't sure of current numbers. There is a group in Kansas called The Disabled Hunters, but they are mostly physically impaired. Chairman Dykes asked Johnson if he had spoken to that group. Johnson said he had but they don't deal with that many people that are blind. They said they back this proposal

DeEtte Huffman, Arkansas River Coalition said the group was pleased that the department was trying to get money for river. She added that the department should be proud of the ancient Cross Timbers park. Kansas is the only state that has such a state park. It is very well signed for the different trees and the ages of the trees. She suggested better signage to get to the trail. It is an excellent trail.

Robert Morphin asked the Commission to consider providing a single buck tag that can be used in any season because most of hunters only have the weekends to hunt. He said hunters appreciate being able to use the muzzleloader tag in firearms season, but he would like to be able to use archery equipment. Chairman Dykes said there were a lot of people who don't want that to happen. Morphin asked who. Chairman Dykes said the archery hunters, for one group. This topic has been debated by the Commission in the past. Morphin asked if the Commission was allowing the bowhunters to dictate to the state. Chairman Dykes said that was not the case, he was just mentioning one group. He added that he was sure there were people on both sides. When that is up as a regulation we can put that to a vote.

Morphin then commented on why deer may be listed as game on Walk-In-Hunting areas, but there were none on the area. Commissioner Lauber commented that the department was lucky to get any land in the program, and that it was more difficult to obtain leased property for high powered rifles. Chairman Dykes said it was also an economic aspect; deer habitat is leased at a premium the state cannot afford. Secretary Hayden added that when the program started it was primarily targeted for upland birds. Over time, the department has tried to meet the needs of

more of hunters. For example, there is now a program for spring turkey hunting. The program tries to cater to a great number of species in a great number of areas. But the department is at the mercy of the market and it is a willing program. It can't tell anyone that they have to put their land in the program.

Morphin went on to say that Unit 19 is a problem. He asked if the department had tried to get land in that area enrolled in the walk-in-hunting program. Secretary Hayden said that staff were certainly trying to pursue that, but it is more and more urban and suburbanized all the time and they have a large problem with people using high powered rifles there. Also, because of the proximity to the urban areas the landowners are getting pounded for hunting rights and the department does get outbid a lot and sometimes get a no. Morphin said he agreed with the need to keep firearms out of the picture.

Morphin commented that since allowing nonresidents to hunt the state, the number of outfitters has grown. He asked if there was such a thing as limiting the number of outfitters or restrictions on out-of-state hunters. Secretary Hayden said that ours is a mobile society, that he was a Kansan but has lived in other states. The department wants Kansans to be able to hunt in other states and for the first time Kansans can hunt in Oklahoma. Their money is needed in this economy. It has only been the last 15 years that nonresidents have been allowed to hunt in Kansas, but the number is limited, but the number of outfitters is not limited. It is set in statute, by formula. It is a fairly restrictive limit, either 3 to 1 or 4 to 1. Morphin said that money coming into the state was alright, but residents can't find places to hunt. Secretary Hayden said the department was trying to address that in two ways, WIHA (more than 1 million acres) and public lands that are open to hunting and fishing. Morphin asked if the department was going to restrict nonresidents from those lands. Secretary Hayden said they already are because they can't get game tags. Morphin asked if the department was going to keep nonresidents out. Secretary Hayden said that all residents can get a buck permit, but nonresidents cannot. Nonresident access is limited in that way.

VI. DEPARTMENT REPORT

A. Secretary's Remarks

1. Legislative Interim Committee Assignments - Dick Koerth, Assistant Secretary of Administration, presented this report to the Commission (Exhibit F). On July 18, 2005, the Legislative Coordinating Council (LCC) approved the topics for interim committee review. There was one topic assigned to the Legislative Budget Committee that has a direct impact to the department. This topic is entitled "State Park Financing and Operations." The issues associated with this topic are a review of state park financing including SB 87 (outdoor recreation motor vehicle registration fee); study the possible acquisition of federal campgrounds; and review indirect cost share for central administration of the State Park Division. The department will discuss this topic with the committee on September 2, 2005. It is the intent of the department to emphasize the need for stable long-term funding of the state parks. The emphasis has been on SB 87; however, KDWP will consider other methods of assuring that the state parks are adequately funded and will discuss the need for indirect cost support for the state parks to be funded from non-wildlife sources. The issue of federal and state campgrounds was discussed with the Senate Committee on Ways and Means during the 2005 Session of the Legislature. The subcommittee report expressed concern with the operation of federal parks and campgrounds in the state that offer free access to those parks and lower fees for camping than charged at the state parks. In addition, the report commented that it would be in the best interest of the state to revive the

dialogue with the U.S. Army Corps of Engineers (Kansas City and Tulsa offices are involved) regarding transfer of federal properties to the state with compensation to assist the state in assuming operations of the federal lands and facilities. There are other interim committee topics, which could have an impact on KDWP. The Legislative Budget Committee will be discussing veterans' benefits. The department is appropriated funds each year to reimburse current Kansas National Guard members for park vehicle permits and hunting and fishing licenses. KDWP issues the permit or license and the State General Fund appropriation provides reimbursement for the cost. This program is currently limited to active members of the Kansas National Guard, but if the program were expanded to include veterans, additional State General Fund support would be needed. The KDWP cannot issue free hunting and fishing licenses and receive federal aid reimbursement for the licenses. The Joint Committee on Pensions, Investments, and Benefits will be reviewing various KPERS retirement issues. At this time, the department is not aware of an issue which will impact the department, however, if any issues develop, we will provide appropriate comments.

2. FY 2006 Budget - Dick Koerth, Assistant Secretary of Administration, presented this report to the Commission (Exhibit G). The 2005 Session of the Kansas Legislature has completed the appropriation process to approve the FY 2006 budget for the Kansas Department of Wildlife and Parks (KDWP). There are no changes from what was submitted at the last meeting. If there are no questions I will go on to FY 2007.

3. FY 2007 Budget - Dick Koerth, Assistant Secretary of Administration, presented this report to the Commission (Exhibit H). The FY 2007 budget will maintain existing programs in fisheries, wildlife, boating, law enforcement and education. The sources of funding for these activities are adequate to continue with the authorized number of positions. Additional funding is requested for initiation of an Archery in the Schools program, \$20,000; replacement of backhoe for heavy equipment crew, \$220,000; implementation of statewide buoy plan, \$46,000; one FTE and operations cost for third state of Prairie Spirit Rail Trail, \$50,000; expansion of trout and urban fishing programs, \$95,000; and expansion of WIHA program, \$300,000. Capital improvements of \$5,490,000 is requested, but does not include new initiatives for FY 2007. \$1,050,000 is requested to maintain land acquisition program, including wetlands; maintain department facilities: \$650,000 for public land maintenance; \$1,080,000, of which \$775,000 is federal funds, for state park facilities; \$910,000 for boating access including the Kansas River; \$1,700,000 for roads and bridge maintenance to be funded with a transfer from State Highway Fund; and \$100,000 for boat storage facilities. Current operations for the State Park Division is an issue and has been discussed previously, with additional funding being appropriated in FY 2005 and FY 2006 from the state legislation to continue operations due to the decline in receipts to the Park Fee Fund. A portion of the money came from the bridge and road maintenance fund. Available financing from Park Fee Fund will be \$5,570,000 a reduction of \$743,665 authorized for FY 2006, with an ending estimated balance of \$46,306. Managing expenditures to coincide with available revenue will require close management by park staff. For FY 2006, authorized expenditures are \$9,103,635 for operations with funding for FY 2007 at \$8,307,045. This is a reduction of about \$800,000, and the department is reviewing various plans to reduce FY 2007 expenditures by \$800,000 and is required to develop an additional reduction package of \$176,902. These plans are being reviewed and will be included in the FY 2007 budget submission on September 15, 2005. Staff are confident the governor will give serious consideration to providing additional funding however; the department is preparing a current services budget. Commissioner Wilson asked if this reduction was department or parks by \$800,000. Koerth said it was in parks. The agency is funded by two different funds. It is called

diversion wildlife fee funds are spent on parks. Commissioner Wilson asked if reducing the budget by that much would mean closing parks or laying off people and she added that she felt they were working as efficiently as they could. She said that at this point, if it is about closing facilities or parks, the department would not be fulfilling its mission and would hurt the state economically if the parks close. Koerth said staff agrees and strongly support the parks program. It is not a matter of which park to close in the fall and not open in the spring because the fiscal year begins July 1. Staff has to sit down with legislators and the governor. The budget is made based on current revenue. Secretary Hayden commented that Commissioner Wilson's comments were right on key. Fees have been raised for the past two years. Forty years ago parks were funded 100 percent by SGF. Last year 16 percent of the Parks' budget was SGF. The department has tried all types of innovative ways to make the money, but the problem is the erosion of the SGF. There is no state agency that runs without SGF. In Missouri, they receive \$20 million from SGF. Kansas parks got \$3 million. Chairman Dykes commented that the 2006 and 2007 budgets were pretty well cast. The Park Fee Fund will get a little increase after Labor Day, and Dykes asked if there was any idea what the balance would be at the end of the year. Secretary Hayden said that less than \$50,000 was expected by the end of the fiscal year, and March is a big spending month getting ready for the summer season. There are other funds that can be borrowed from, but they have to be paid back. Koerth said that road maintenance money can be used, but it has to be paid back when money is available. Commissioner Sebelius commented that on the attachment for FY 2007 for capital improvement, maintenance is expected at \$10 million,. He asked if that had anything to do with the \$800,000. Koerth said that it didn't. After the floods of 1993, money was provided to put the parks back in order, but now what was repaired needs to be maintained. Commissioner Meyer thanked Senator Lee for her support, and encouraged everyone in the room to let their legislators know that they support parks. It is important to provide these recreation opportunities to everyone in Kansas. Commissioner Sebelius commented that he had yet to hear anybody speak out against SB 87 and he thought Representative Myer should to take that message back to Topeka.

break

B. General Discussion

Chairman Dykes – Agency staff has asked that we make a change to the afternoon agenda, so Karen Beard will come up and make her comments on electronic licenses so she can catch a plane to Nashville.

3. Electronic Licenses and Permits - System Update – Karen Beard, chief of Licensing Section, Administrative Services Division, presented this report to the Commission (Exhibit I). Staff signed off testing the automated license program and went live with internet and phone sales on June 1. At that time it was just basic hunting and fishing. Big game permits have since been rolled in and as of yesterday all sales are available through the system that hunters and constituents will need for this hunting season. The problem is that there are very few vendors up and selling. WebPOS vendors, which is a basic extension of our internet sales, are up and running. It works off of the same interface and they are using their personal computer (PC) and a department printer. Those consist only of about 120 vendors, all of our offices, all Wal-Mart are up and a few county clerks and vendors throughout the state. The VeriPhone equipment that runs off of the phone line, and this is the equipment that $\frac{3}{4}$ of our vendors chose to use. It is the equipment that you swipe a driver's license and it reads the information off the magnetic stripe. If for some reason it can't connect to the host it will work in the store and forward mode and can sell licenses all day long without connecting to the host. Those are the two main selling points of this equipment and those are the two main points they are still having problems with. They still don't have the swipe working or the store and forward working and they do still have some glitches in the system. We spoke to them yesterday on the phone and their last schedule was

September 22 to roll this equipment out. They were told that would not work, since dove season opens next week and vendors out there who are up-in-arms who have no HIP permits and they are calling on a daily basis. They have equipment they can't use so they call frequently to see when it will be up and running and when they are going to be able to sell. Bear was scheduled to travel to Nashville, Tenn. to do some extensive testing for the next two or three days and hopefully go through and see what is not going through and what the problem is. Chairman Dykes asked if other states had been using this new technology for years. Beard said yes. Chairman Dykes asked if there was some type of technological upgrade that was causing problems. Beard said that Kansas was their tenth state and for every new state they bring on they hire new employees. Some of the more professional, more experienced employees have been moved to work with other states. They basically overbid their capability right up front. If the experience people would have remained on our project, Kansas would be up and running right now. The design document was signed off on in December, so they should be a lot further along than they are. The other problem is complaints on requirement of social security numbers. Tymeson commented that there are three pieces of legislation that require social security number, one is a tax requirement for original licensure, one that is based primarily on non compliance with child support payments, and those have always been in place, but we have not had the capability or ability to preclude somebody who hadn't been complying with other requirements under law from purchasing a license when we had an over-the-counter system. Now with the new system this is the first year for the requirement to be in place. The department previously required social security numbers on lifetime licenses. Beard said once this system gets through a year and the database is built buyers can be put into the system with a driver's license or customer number that prints out on their license. This is a one year problem. Some of it is coming from people not wanting to give their social security numbers to kids at Wal-Mart behind the counter and busy offices with a lot of people standing around. It is bad timing with all of the identity theft going on. Tymeson said that the only purpose that number is used is either upon request of the Director of Taxation or upon request of the Secretary of SRS to assure compliance with child support payments. Chairman Dykes asked if there were any penalties in the contract with the vendor for failure to meet the deadline. Beard said there were, but they have not been enforced yet.. A penalty of \$1,000 a day is not going to get hunters out in the field any sooner. The department's concern is a good working relationship with them and a good product when we get it there.

1. State Law Action Pertaining to Exotic Cat, Mountain Lion, Bear and Wolf Ownership – Review of Regulation - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit J). Regulations and laws in other states have been reviewed, and quite a number of comments from people have been received. He presented some guidelines or frameworks to try and establish a working regulation to bring back in the workshop session of the next meeting. Two other suggestions have been given. Some of these revisions seem to be repetitive, but Jones indicated he wanted to make sure he presented all of the provisions that would apply in those situations. The actual structure of the regulation would be more condensed. The necessary regulatory language governing the possession of mountain lions, wolves and bears for will be amended to KAR 115-20-4, concerning the possession of certain wildlife, instead of KAR 115-18-10 which covers the prohibitions and importation. Because the following proposals do not actually ban the importation of large cats, bears and wolves, it is felt that this would be the proper means to implement these proposals. In item two facilities and the requirements for types of possession permits and their allowances are addressed. Under 2a, there is mention of facilities that are accredited under the American Zoo and Aquarium Association (AZA) which would be exempt from our possession permit requirement. The rationale behind this is that in most regulations provide an exemption written in for AZA facilities. AZA appears to be the gold standard of accreditation processes. Under federal law zoos must have inspections by the U.S.

Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) in order to have an exhibit facility. The species considered include six large cats that are in the Captive Wildlife Safety Act (lions, tigers, leopards, cheetahs, jaguars and mountain lions), bears and wolves at this time. Facilities that are operating at the current time as exhibition facilities are being looked at. They would be required to obtain a possession permit from the department, which would be renewed on an annual basis. They would be permitting the individual animals in their care and custody no matter how many animals they have or what type that they are using for exhibition purposes. They would also be required to have an APHIS permit and come under USDA APHIS inspections. We put in a requirement that the individuals be 18 years of age or older; provide documentation sufficient to prove legal ownership; must be in compliance with all county or municipal laws or ordinances where the facility is located; allow the inspection of all animals, records, equipment, or confinement, housing or storage structures related to the holding and welfare of the animals by department personnel or other law enforcement officers; shall acquire, maintain and provide live traps or other equipment to capture any animals that may escape and efforts to recapture an escaped animal shall begin immediately upon report or discovery (applicable to all classes); reporting requirements to the department and local law enforcement if an escape does occur; this would be an annual permit and they would need to note if there were any changes in the status of that animal whether it was disposed of that animal by transfer or sale, or if there was a death of an animal so we can keep an inventory of these animals within the state; the animals must be identified by a tag, tattoo, micro-chip or other individual identification information appropriate to identify the animals; and provide the name, address and phone number of the veterinarian who provides medical care for the animals. In subsection (d) there is language that deals with how new facilities could be established in the state and this is an area that the Commission may want to consider and give guidance on how we should go through that process. Whether we go by these standards or whether we create a standard that any new facilities would have to meet with AZA standards or something like that. We also talk about existing facilities in the state whose main purpose is raising and selling of these animals where it is legal to sell the animals. Many of the provisions are very similar to those I just went through however that part of the operation would be covered within our game breeder regulations. There is a section of statute that deals with that and it does allow the Commission to put into force regulations dealing with these types of exotic animals. There are similar provisions currently on the books that deal with mountain lions, wolves, bears and native reptiles where a game breeder's permit is allowed. A lot of the provisions and operational standards would be similar. Under this segment APHIS inspections would be required because APHIS does cover exhibition and dealership in these types of animals. Again in subsection (f) we have language that deals with new facilities if it is the desire of the Commission to allow new facilities for the raising and selling of these types of animals to occur. We need to address whether we want to allow that to continue or if we want to place some type of prohibition on that. In section (g) we talk about people who have animals in private ownership. These individuals do not have the animals for exhibition or breeding purposes, but are a casual owner who owns the animal for their own personal enjoyment. There would be a registration period where these people would have to register their animals with the department and many of the provisions that have already been talked about as well as having the equipment to capture the animal if it did escape; notification to the department; identification of the animal and things of that nature. The permit is an annual permit and they would be required to report to us the status of that animal. There is a similar provision to this in the current regulation in regards to mountain lions, bears and wolves. That regulation just basically puts it upon the permittee to report if there is a change in status. About a year ago we did a review of what we had as a current list of permittees to try and track down what had happened to these animals over the course of time and there was a number of people who had disposed of their animals by gift or sale or some of the animals died and our records were not complete because people were not reporting these activities. This would require these individuals to report on an annual basis so that we could have a current inventory of all animals. Further this would be limited to people who are in current possession. The way we would be

proposing this would be if they currently owned the animals could possess them until they lose that animal, by placing it with another APHIS inspected facility, a sanctuary or something like that. We are not anticipating allowing new people to come in and acquire a new animal. Over the course of time this would restrict the possession of animals to APHIS facilities. There are provisions that would allow bona fide animal acts, such as circuses, to come into the state and operate for a period of not more than 60 days without requirement of a state permit. It would allow people to transport animals across the state or from one state to another if those animals are in compliance with the Captive Wildlife Safety Act. For instance, such transportation is allowed under federal law if the animal is being taken from one APHIS permit holder to another APHIS permit holder or to a sanctuary for placement somewhere outside the state. The Secretary shall be directed to seek reimbursement, through any legal means, to recover the actual costs expended by the department while capturing or euthanizing any animal that escapes so the department would not stand the brunt of that type of an action. There are two other provisions that would allow department personnel or other law enforcement officers to immediately euthanize an animal that has escaped or found running at large if there is immediate concern for the safety of the public, domestic animals or livestock; and allow the capture of an animal within three days or it would be considered feral and be under the authority of the state to take action in that situation which means the animal could be put down by department personnel or other law enforcement officers.

Commissioner Johnston – On that last subject, there is a provision as it relates to pet owners requiring registration within 90 days of enactment of legislation. Has there been any consideration to including in the definition of feral, or running at large, an animal that is not registered within that period of time? If an existing owner of a tiger failed to register the animal in the 90 days, could they be listed as feral? Jones – Yes, we could put that in there, if the animal could not be identified. Commissioner Johnston – Even if it could be identified and it is in a cage in somebody’s back yard, if it is unregistered within the 90 days, I think we need to send a very distinct message to this classification of owner that is not going to be permitted for them to ignore the regulation that requires them to register their animal. If we communicate to them that our COs would have the ability to euthanize these animals immediately under that classification I think that would be a powerful message to register their animals if they want to keep them. Jones – We can look at putting that in the regulation. The idea behind this is that after the 90-day registration period a person was found in possession of these animals we would take legal action by citing it as a criminal act for possessing an unregistered animal within the state. We would have to look at seizure of that animal to see what the legal process would be. Commissioner Johnston – That is more complicated than I was envisioning, but we need to look seriously at what we do, or what the penalty is if they don’t register the animal within 90 days. Also on this subject I noticed in the definition of how you acquire a new animal, gift is not one of those things that would not be prohibited as a way to replace your lost animal. It says breeding, sale or trade and I think we ought to add gift. Jones – That is an oversight on my part that should have been included. Commissioner Lauber – Do you envision that the permit costs would cover the department’s expenses in regulating this? Jones – At the present time we have not proposed a fee on the possession permit. We have discussed it briefly internally, that could be something we consider doing, possibly \$75 to \$100 range, depending on how much time is involved in this process. Commissioner Lauber – My concern is, if this becomes a lot of work and a lot of enforcement and a lot of regulation and every cat found in the back yard should be exempted because of “fill in the blank” and there is going to be a lot of sportsmen’s dollars spent trying to regulate something that sportsmen may or may not have much of a warm feeling about. Most proponents of big cat ownerships say they will pay but probably nobody wants to pay enough permit fees to offset the cost of real regulation and supervision. Second, do we have any real idea of how many of these animals there are in cages in the back yards? Jones – No, at the present time we do have some feel for mountain lions, wolves and bears and I do have figures on that.

We have approximately 30 individuals who possess mountain lions and significantly less for wolves and bears, but this is only those who have complied with the current regulation. We have some incidental information where individuals having noted on their possession permit have noted they may own tigers or African lions or something like that, but what the true count is we don't know because it is not a requirement at the present time. Commissioner Lauber – The need seems to be apparent and there has been no shortage of emails coming to me and other Commissioners with a broad range of opinions. I think this could be expensive and we are trying to get so many other things and suddenly we have to fund this too. I'm not saying I don't like the concept. Jones – I concur with your opinion on that. We have had comment before the Commission before, that the department should adopt its own facility inspecting requirements, caging requirements and things of that nature. In states that have that do have those types of provisions in force have dedicated staff that do nothing but this and quite frankly we do not have that kind of personnel that we could expend. I can't give you specific numbers state by state, but they could have as few as two or three people or far greater than that. Commissioner Harrington – Could you elaborate on differences between AZA and APHIS provisions? Jones – There may be people in the audience that could describe it better than I, but AZA is a private association that has established requirements for facilities to have this accreditation that deals with a whole host of issues. The facilities that are provided; the type of experience the public gains from it; the housing of the animals; and how the facilities are created. We have six zoos in the state that are AZA accredited. The sole focus is not necessarily exclusively on the housing facilities and the care of the animal, but overall aspect of that facility and how it is operated, like its appearance to the public and aesthetic qualities. APHIS looks simply at the housing facilities; taking care of maintenance of the animals; fencing requirements, and things of that nature. They don't necessarily go into aesthetic types of issues of the facilities; they look the fencing requirements up to standard to adequately hold the animal within the confines. If there is perimeter fencing? Is there secondary fence that doesn't allow people to get in direct contact with the animal and things of that nature? I think AZA does not subscribe to direct personal contact with the animals, but APHIS does say animals can't be taken out of enclosures and handled in certain manners specifically. So the guidelines, as I spoke to the folks out in Fort Collins, for instance, in talking about their permitting I inquired, "If a facility was constructed, do you limit the number of animals?" They do that, but it is an onsite inspection and if another animal is added to the population they would come back at that time and see if it was adequate. They have a much broader view of inspections than AZA does. Commissioner Harrington – APHIS regulations are a lot less stringent, in regards to public safety, than AZA regulations? Jones – I would say yes. Chairman Dykes – Will our regulations imply facilities or individual animals? Jones – To a degree both, the facility inspection would be placed on APHIS to inspect as they will through the year and we would receive reports back from APHIS or the permit possessors as to what their most current inspection ruling was. We would look at how many animals were within that facility, not our officers going out and looking at a facility and measuring it and figuring if it was adequate to hold the animals that would be on APHIS. We would simply be registering what animals and how many animals are in that facility. Commissioner Wilson – On part (d) and (f) which deals with new facilities for exhibition purposes and raising and selling the animals whether this is something we want to have meet higher standards than the existing facilities or whether we want to prohibit them. I would like to make sure we give some direction on that as to what our sense is. I don't necessarily have a problem with grandfathering in facilities that are already operating, but I am not sure we want to perpetuate the facilities and allow new ones. I would like to hear comments from other Commissioners on that. In section (g) #5, there is a provision that requires that the animal should be confined at all times and I was wondering if that should be part the requirements of all sections. Jones – We could do that. It is my understanding that confinement is part of a requirement of AZA facilities, municipal zoos could be different from that, but that could be addressed in this. The Animal Welfare Act, which is the federal regulation law that APHIS abides by and there are provisions in that for transporting animals and things of that nature. I believe the confinement issue is basically whether the animal was in an

encaged enclosure at all times. We have had instances in Kansas where lions have been staked out in the yard without a fence. Commissioner Lauber – Most public service supervision is public policy. Most people can see the reason why we have it. For us taking on this responsibility of regulation is this economic development is it education, is it recreational? I am not sure why we want to take this on when by our own admission it might be very expensive and I don't know if there is a general public clamoring that this is an activity everyone wants to share in. Jones – The history of this is that several months ago the department was asked to review the statutes that exist on the books on these animals and by the statutes in place the department is basically directed to deal with these types of issues, whether it is importation, collection of animals for scientific research purposes, exhibition, breeding and things of this nature. We are the agency in the state that has been directed to deal with this issue and it has come to the forefront and the Commission asked us to see what the laws were and that was the briefing I gave in January 2004 and we have been directed to go further and see what type of regulations could be put in place to further regulate this type of activity. Commissioner Lauber – Maybe my inexperience puts me at a disadvantage. Jones – There are several statutes that the legislature has enacted under the authority of the department. There is a very broad definition of wildlife; it goes all the way from earthworms to elephants. Commissioner Lauber – I suppose it is our responsibility, so I suppose my instinctive reaction would be more restrictive regulation is more efficient for us to take care of. The fewer things we allow the fewer resources we have to devote to it because I don't see much likelihood of much money rolling in to take care of this. Jones – I concur with that. Commissioner Johnston – I have a question for Chris, "Is there anything illegal about the state being more restrictive than USDA APHIS as it relates to these existing zoo-like facilities that we are talking about if we decided to not permit new facilities would be legally permitted to do that?" Jones – If Chris would like to add to my comments that would be appropriate, but to my understanding the way the structure of law is, the state has the ability to be more restrictive than the federal government in determining what happens within its boundaries. Basically the federal law that currently exists, particularly Captive Wildlife Safety, deals with interstate transportation and movement of animals and it is my understanding that a state can be more restrictive. Commissioner Johnston – To answer Commissioner Wilson, I am not in favor of allowing new facilities after the implementation date of this set of regulations. In addition, missing from this proposal, that was in earlier proposals, was a sunset date for pet ownership and I am also in favor of a sunset date after which no one would be permitted outside an APHIS, AZA or municipality facility. My reasoning is that these pet owners are the only classification of owners who would be unregulated except in the way we regulate them and if we are not going to be financially able to inspect even that classification of owners and I think it is a reality that we would not be able to afford to do right now then I would be unwilling to allow basically a classification of owners, who are not inspected, to remain in the state. Jones – I have had concerns about that as well. Looking at the longevity of some animals, if you have an animal that is six months old, for instance, you may be looking at dealing with this as an annual permitting process for the next 20 years or better, depending on the lifespan of the animal. Commissioner Sebelius – On private ownership, those people that are not exhibitors, breeders, or zoos, it appears that we don't have any specifics about what those persons who privately possess these animals would have to have in the way of fencing barriers of where they are going to be confined like many of the breed-specific dog ordinances that cities have which are very tightly written. I have written a few of those ordinances myself for cities and we always have an ingredient in there that requires that owner to have liability insurance. I would like to see you phase them out as soon as you can, you say they can possess them if they currently have them until the animal is legally transferred or dies, but my suggestion would be that we consider tightening it up with private ownership including requiring the liability insurance. Maybe you have a plan for putting the specifics in there about what the caging should be. Governments often, if they don't have the money to administer this and do the inspections they require that the person go and get it, within a certain

period of time, from somebody that offers it privately and make it private pay on their end. If they can't produce a certificate then they must transfer the animal to a facility that legally can take that possession, such as an exhibitor or a zoo. I agree with many of the other Commissioners I think that if we are going to do this then let's make sure that we don't steal from ourselves for other things that we already handle. Make these requirements much more specific. I was asked a question earlier by someone that is here, if we have got something in mind for that and perhaps we might want to look at Sedgwick County's regulations about private ownership. Chairman Dykes – Are some of those issues you just mentioned particularly relating to the structure requirements are some of those not covered under APHIS? Jones – APHIS doesn't specify a cage has to be a minimum size, where it is a specific dimension so you know square footage, it just says it has to be adequate space. In my understanding, from talking to APHIS personnel, they don't come out and inspect a facility prior to an animal being put in it so they can look at an animal and see how it reacts within that environment. Hence they will not say that a facility can hold a minimum of so many animals. States that have implemented more specific regulations have laws in statutory form that say a large cat must have so many square feet, which are very definable types of things where you could determine whether that facility is capable of hold one animal or five animals. Again this starts down the road of going out and inspecting and measuring and looking at the facility. It is possible to do, but I have no idea what the manpower or funding would be. Chairman Dykes – If we go down that path where we are more specific, more limiting, more restrictive in identifying what criteria must be met in order to have a permitted facility then, as it relates to public safety, we are taking on some responsibility for having the right rules in place and then enforcing those rules. If someone doesn't meet specific requirements we set in place and we don't inspect it in a timely manner and an animal gets out then I could see there being lots of problems. Commissioner Lauber – There is an old saying, “you don't have to pick up a hitchhiker, but if you do you owe him a safe ride” and if we start to regulate taking this on we have more to do. Chairman Dykes - How often does APHIS inspect? Jones – Annually, but they are backlogged as well and have limited staff for the areas that they cover, but they are to do annual and periodic spot inspections as they can as well. Chairman Dykes – This is a draft that could lead us into a well defined regulation. It is my understanding that we would exempt AZA facilities, municipal zoos and APHIS facilities. Jones – Currently operating APHIS facilities. Chairman Dykes – Then people who have accredited APHIS facilities would then have to permit them with the department, but not AZA facilities. Jones – AZA does not track individual animals they permit facilities. Chairman Dykes – An AZA facility would not have to the animals in that facility permitted with the state. Jones – Correct, but all would have to have APHIS accreditation. Chairman Dykes - We are permitting individual animals and APHIS facilities annually and the question then becomes, if that is acceptable, “Do we allow new APHIS facilities after a certain date?” or “How are we going to handle the animals that are not going to be in APHIS facilities?” and “Are we going to allow a time limit for the animals to find an APHIS home”. Commissioner Johnston – The other question is how much do we want to grade or regulate them they are under USDA? Chairman Dykes – I have concerns because of the implications for the agency, not only expense but in terms of liability. Commissioner Johnston – I agree and I am not in favor of state creating square footage and thickness of steel regulations. I think we need to consider things like the definition of “always confined” and whether there will be contact permitted between animals and the public under any circumstances. These types of yes or no rules and if they can we be more restrictive than APHIS. Chairman Dykes – If we say the animals cannot be removed from their cages and we get a complaint and we don't follow up on that in a timely manner and the animal hurts somebody, are we at risk legally? Commissioner Johnston – No, I don't think we would be liable; **although Chris Tymeson is the expert on that subject**, it is more of a moral obligation. If we get a call about an APHIS facility allowing the members of the public, not their employees, in contact with these animals, we have an obligation to inspect it or write citations just like wildlife violations. Commissioner Lauber – Is your concern that you would hate to have the state define what is considered safe? Commissioner Johnston – No, I think we are defining safe, but we don't have

the ability to inspect facilities for the adequacy of cages and environment. It is not nearly as burdensome to investigate something after the fact rather than an annual inspection. Commissioner Meyer – I see it as a matter of public safety and beyond that it is a matter of the welfare of the animals we are looking at. From past discussions, comments were made that if we pass regulations that they would violate them and that doesn't impress me and I think the penalties or fines have to be large enough to discourage that type of activity and cover the cost of enforcing these regulations. This is going to be expensive, it should be self-supporting. If you are going to feed and house a tiger you have some financial backing. Jones – As far as a criminal violation, we are bound by statutory guidance as to exactly what the penalties could be and there are also provisions on where the fine monies have to go. At the current time the money goes to the State General Fund, they do not come to the department that is not to say that the court couldn't assign a ruling of restitution for costs. In subsection (j) it talks about recouping expenses through some type of legal process to recover costs.

Ryan Gucker, Sunset Zoo, Manhattan – I represent the zoos in Kansas. The Kansas Association of Accredited Zoos meets once a year and this has been high on our list at meetings. We have come up with a position statement and how we felt about the draft regulation. I would like to emphasize, the public safety question that is not mentioned in the proposed regulation. We don't feel it is safe to take the animals into the public for full public contact. One other thing we would like you to consider is facility standards. The AZA develops its standards under research for the physical and well being of the animals we take care of. It is the gold standard as Mr. Jones stated. We don't say every institution should abide by those standards, but you should look at how those animals are taken care of. APHIS standards are minimal standards, they don't necessarily look at the well being of the animal. AZA institutions are also covered by APHIS and are inspected annually and they are getting more behind on inspections all the time. Also, we don't feel breeding these species for sale or gifts, where they are placed into hands where there is no regulation set for them, is conducive to public safety and animal welfare.

Jim Marlett, Sedgwick County Zoo – We do agree with direction the Commission is taking and applaud you for doing what you can and hope you do consider the placement of animals and spell out the regulations as much as possible.

Mike Coker, Topeka – We commend you for looking at this. Public safety is paramount of what we do and we will do whatever we can to help you. Come look at our facilities and guidelines.

Chairman Dykes – Are APHIS standards adequate? Coker – Adequate by definition or by law.

Gucker – The reason AZA has different standards, is because it depends a lot on the inspector, some are very strict, some are very lenient, some don't answer very many questions at all. Some places that have been inspected by APHIS, I consider inhumane, in my opinion. APHIS looks to us sometimes for help in updating their standards. Chairman Dykes – On paper, as APHIS presents the guidelines, are they adequate from a public safety standpoint? Marlett – Difficult to answer.

Commissioner Lauber – Do they stress the condition of the animal more than public safety? Do they want the animal to be healthy rather than malnourished and public safety is a secondary item? Marlett – They look for things that are patently dangerous, they looked for rusted hardware. If they thought the condition of the animal was obviously inhumane that would be something they would pick up on. I think the best way to answer this question is to examine the APHIS regulations and talk to some APHIS folks. The fairest thing for us to do is make the AZA standards available to the Commission and that way you could judge for yourself.

Commissioner Meyer – I would like to see them. Commissioner Johnston – Under current USDA APHIS regulations is contact between big cats, bears and wolves and members of the general public permitted and if so under what general circumstances? Marlett – To be perfectly honest it is not an area we have to challenge APHIS on and so I frankly don't know. I suspect it might be an interpretation of the inspector as well.

Clint Perkins, APHIS facility holder – USDA does hold standards and they have come in recently and told us we are not to exhibit animals over 75 pounds, hands off with the public.

They came door to door and said that and then recently, everyone knows about the incident at Mound Valley, everything less than 75 pounds can be handled, but the older ones you can not. There are APHIS facilities that are trying to step up and meet other standards, not only in our facilities, but our knowledge about the animals. We all want it better for the animals, that is why we are all here.

Matt Baker, Atchison – I have the APHIS book here. If someone is going to give you an opinion on APHIS standards on whether or not they are adequate, they should at least be knowledgeable about what is in this handbook. There is a very short section on handling of large animals so I would think it wouldn't take the average person more than a couple of minutes to read the one page. I would like to quote a couple of paragraphs: "Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well being. A responsible and knowledgeable and readily identifiable employee, or attendant, must be present at all times during periods of public contact. During public exhibition dangerous animals such as lions, tigers, wolves, bears or elephants must be under the direct control and supervision of a knowledgeable and experienced animal handler.", my comment is they address it and it is a shame that you don't know how they address it. Commissioner Johnston – As I understand what you just read, direct contact with the general public is permitted as long as the animal involved is under the direct control of the handler? Is that right? Baker – That is what I just read, the comment this other gentleman gave you about the size of the animal and the weight is an addendum to this book. So this is not the only regulation it is part. Commissioner Lauber – Based on the Associated Press write-up on the story at Mound Valley then that would have been a permissible act under APHIS. Chairman Dykes – No, not according to him. Commissioner Lauber – Not according to him, but according to the book. Baker – Not according to APHIS. APHIS regulates the size of the animal that can come into direct contact. Commissioner Lauber – Then what did you just read? Baker – I read a short excerpt from the regulation, I did not read it all to you and I did not read any of the addendums made available to APHIS certified individuals. Commissioner Johnston – That is the question I originally asked. Baker - That contact in Mound Valley was not legal. Commissioner Johnston – Under any circumstances under **is physical contact with the general public permitted** APHIS regulations. Commissioner Lauber – When did the addendum that you were talking about come out? Perkins – They came down to door, large animals be under some restraint other than just holding them. Commissioner Lauber – Chronologically this addendum took place after that incidence took place. Baker – Absolutely, it has been a couple of years.

Commissioner Johnston – Again, I am not sure I am hearing everything I need to hear. You were just talking about they needed to be under restraint. Could you go over that again? Perkins – The USDA said they had to be on some type of tied-down restraint, that no man could hold a tiger. No handling over 75 pounds unless on some type of permanent restraint. Under 75 pounds you can have interaction, over 75 pounds must be restrained. No public contact with anything over 75 pounds. Commission Johnston – What you just told me is direct contact between a member of the general public and an adult lion is permissible as long as the lion is under restraint. Perkins – Yes and no, there is kind of a gray area there, but no public contact with anything over 75 pounds. Suzanne Windsor - USDA said there is to be no photo shots or direct contact with the public with the large cats, period. Chairman Dykes – That was in the USDA regulations before? Windsor – They amended them in 2004. There is no public contact except for the young and they have to be younger than seven months and under the weight limit. The National Animal Control Association article that was just published in their magazine says, "Total bans simply create an underground. We do live in a democracy and we treasure our individual rights. History shows us that eventually the populace will rebel against tyrants. Total bans whether on exotic pets or anything else do not work." As far as the zoos and the AZA goes, they have accidents and escapes too. "July 9, 2005, Hutchinson, Kansas, a cougar escaped a zoo, investigators are looking into the possibility someone trespassed in an area posted for authorized personnel and opened the cage which was supposed to be secured with a key and locked." There are two more incidents and I just heard of a third incidence here in Kansas by a zoo. There have been 12

gorillas escape from zoos, injuries occurred. Also, 14 orangutans have escaped from zoos, again injuries occurred. Twenty-eight chimpanzees have escaped from zoos, so AZA might have higher standards, but I am looking at more escapes than I have seen in the private sector and people have been injured. Chairman Dykes – I don't think anybody would say that accidents don't happen in APHIS facilities or AZA facilities. Windsor – Also, earlier this year I gave you CDs on Florida regulations and I went ahead and made another packet again. Florida is a \$1 million industry on them regulating animals. To say you are going to lose money, you can profit from it. You can downsize it to the amount of animals you have here. I have highlighted the cat regulations in here that you would be interested in. Also, I put in the amendment to USDA and their new guidelines. Chairman Dykes – Kevin, in his opening remarks was alluding to the state of Florida where they had taken a more proactive approach to regulating exotic wildlife and Kevin can describe what he learned himself.

Marlette – The gentleman is right about the APHIS regulations, that is something I should have known about if that was an activity that I undertook. Our standards are different and we don't allow that and unfortunately I can't remember every regulation that comes out. He is right it is probably something I should have known about, but we don't take the animals into public contact so that is why I didn't. Personally, we are not questioning anybody's motives for what they are doing. It is just that this is how we feel about the animals that we think we know the most about. Chairman Dykes – Kevin, tell us a little bit about what you learned in conversations with Florida. Jones – The state of Florida has quite an extensive regulation dealing with the ownership of a whole list of animals, not just the animals that are in question here, but virtually all wildlife in private ownership. I can not speak to the exact number of personnel that they have, but I know they have an entire section of their department that is devoted to doing nothing but dealing in these issues. I could make some phone calls and advise you at a later time of what their personnel staffing and budget would be. Chairman Dykes – The reason I mention that is the lady's assertion that somehow this is a money making proposition in the state of Florida. It sounded to me, from our earlier conversations, it was anything but. Windsor – Right on their website it states, on the first two pages, what kind of profits they get from this industry. Chairman Dykes – From the industry maybe, but I misunderstood your point, I thought somehow the state was somehow paying its way through the regulation. Windsor – It is paying the way for the Fish and Wildlife to regulate the animals and the officers that go out. They have the schooling behind them to handle those animals.

Vickie Harvey – On the first page, when you talk about 90 days, from personal experience, the general public doesn't know when these laws are passed. If an animal is found after the 90 days, that they should be given so many days to come into compliance with the laws. We've got some over zealous animal control officials out here that would just as soon ... there is three cases that I am working on now that the Animal Control Officer has gone in and confiscated the animals and killed them and in one case I am dealing with the state law actually states they have 30 days to come in compliance and get the permits. I would just like to request that you have a provision there somehow because the private individual doesn't know when the law is passed. We are running into this in a lot of states and we are having a lot of problems that we have to deal with because of it. I have been out on a few rescues lately myself because of lack of knowledge and no provisions to allow them to come into compliance when in fact they had the animals long before the law passed. I don't want to slam the zoos or anybody else here, all I would like to see is that people are still allowed to keep their rights, but when the zoo officials say that APHIS has substandard laws I know personally of a lot of zoos that have gotten noncompliance letters and have gotten into a lot of trouble with APHIS. Nobody is perfect and I believe APHIS has some very good laws and not all of them are in the books, there have been some amendments and they have been talking lately on some. On public safety, my condolences to everybody involved in what happened here in Kansas, that was very horrific. That was a weird accident, he was not following regulations, it was against APHIS laws and if you will look at the amount of kids or

teenagers that have died this summer from football games, there have been a lot of deaths out there that were not created by animals, a lot more than was created by this one incident. Accidents are going to happen.

Schanie Anderson, Sedgwick County Zoo; Rachel Shaw, Curator of Education, Sunset Zoo; Lori King, Sedgwick County Zoo – As a group of educators that are with an accredited zoo here in the state of Kansas we just wanted to stress the importance of the mission of education with using exotic animals. Although you can get a lot of public appeal and “wow” factor by bringing these large animals out it is really important to look holistically at the education message. When people come away from a program and all they can remember is “wow” that animal was cool, or its name was Buddy, that doesn’t necessarily meet the mission that some of our own mission statements say we are to follow. Really trying not to have the animal be the major aspect, but to have the subject of the education program be the major aspect with the animal being the tool that we can bring in and that is an important piece of everything we do and we would encourage everyone to follow that same mission. When using the animals we can inspire children in so many different ways in making sure the messages are strong. One of the struggles we come across is the kids come to the zoo and they do want to know or just want to take the animals home because they are cool, but it is our job and our passion to get out there and make sure the right messages are taken home. Although there was some discussion on what the regulation for APHIS was. If it truly is anything over 75 pounds cannot be handled by the public, what happens when the animal reaches 100, 150, 200, or 250 pounds, where does it go then when it has lost its educational appeal.

Steve Sorensen, Kansas Wildlife Federation – The regulation is going to cover the hybrids of large cats, is it going to cover hybrids wolf? Jones – Not at the present time because of the difficulties in differentiating. Wolves are very difficult to detect hybrids in. I have had some experience with that in the past. Sorensen – So if it is difficult to tell a full wolf from a half wolf how does an individual know what is going to be covered and what isn’t? How does the public know when passing a cage on the street and there is this big tall critter that looks like a wolf, but is a quarter wolf, how do they know that is properly permitted? Jones – I don’t know that they do, but therein lays the difficulty in determining that. It is admittedly a more liberal stance than if we would be dealing with pure blood wolves as opposed to hybrids in trying to differentiate if this is a wolfy-looking dog or an actual wolf. Sorensen – So if you get a phone call are you going to send an officer out there to look and if the owner says it is a quarter dog are you going to take his word for it, or check it, or how are you going to handle that? Jones – We would have to follow that through. If there was a complaint that a person had a wolf in possession we would certainly need to take a look at it as the law would require now for possession. We would have to build the standard of probable causes to whether a seizure could be made within the parameters of what we operate under law as to whether we have any credible evidence that would substantiate probable cause to make a seizure for further testing. Sorensen – I want to follow up on Commissioner Lauber’s comments on the cost, especially to the sportsmen. Even though the department has jurisdiction over all wildlife at this time you don’t have jurisdiction over captive bred elk and deer, correct? So why can’t you shove this authority on captive bred lions, tigers and bears, back to the Department of Agriculture in Kansas? Jones – That would take legislative action. Sorensen – Ok, we can work for that.

Gabrielle Collins – I am speaking as a private owner. I don’t actually own a big cat so that in itself is not necessarily the whole concern. I work with groups that keep all sorts of exotic animals, including big cats as privately owned “pets,” also some veterinarians and some sanctuaries. Speaking as an exotic pet owner and advocate of being able to own exotic pets as long as you can keep them responsibly, one of the main things that we have been looking at recently is statistics and looking at what the danger is. The problem is that you are much more likely to be injured in any number of ways than by an exotic animal. In the past 5 ½ years, since I have been keeping track of exotic pets that have bitten, scratched, jumped on, or whatever, just speaking of exotic cats alone, there have been a total of 19 instances, two involved no injuries whatsoever, four of those were deaths – three by tigers and one by a lion. In the fatalities it was

the owner that was killed not someone from the general public and it was generally not someone who was taking adequate precautions and they probably should have known better. If you look at it in regard to other possibilities, for instance, there are many more dogs obviously than exotic animals, but there are about 4.7 million dog bites every year. If you look at sky diving accidents, there were about 36 fatalities every year; race car driving, both spectators and drivers combined, there are about 26 deaths every year. So statistically if you look at it there really not as much danger. It is sort of like comparing apples to oranges and I know that, you can't compare the millions of dogs or cats that are owned to the hundreds of thousands of exotic animals that are owned. Nonetheless it is a factor that even people who have exotic animals some of the estimates are anywhere between 5,000 to 15,000 tigers alone in the United States. Out of that in 5 ½ years you have a total of less than 20 attacks. Statistically that is not a very big risk. I personally agree and many people who own exotic animals personally, regulations are a good thing. You want to have some sort of standard. You don't want someone keeping a tiger in their house. You don't want someone having a bear live in their house or in the garage, or an alligator living in the garage, but these kinds of regulations need to be looked at in a fair manner. If a person can reasonably, financially take care of an animal, know the requirements for that animal and can demonstrate that, the likelihood that there is going to be any injury whatsoever is not all that great. Chairman Dykes – Is there anything unfair about requiring a private individual to keep an animal in compliance with APHIS guidelines? Collins – No, there are some municipalities have requirements, not all do. If a city or county does not have exotic animal requirements, most of them have some sort of requirement for animals in general, some don't so that would be up to a city. Many places do not allow exotic animals as pets, specifically like the big cats or bears; such is what you are talking about. Chairman Dykes – Yes, but the question is, “Is there anything unfair about requiring a private individual to keep animals in compliance with APHIS guidelines? Collins – No, as a matter of fact it is a very good idea to keep them in compliance just for public safety and for the benefit and welfare of the animal.

Ken Lockwood, Current USDA exhibitor license holder – Animal owners here are passionate about their animals and they love them dearly. A lot of the public worry is about the caging. In December 2003, APHIS did pass a new regulation that you are required to have a perimeter (secondary) fence around the initial enclosure. When you talk about fencing and caging, not only is important for the general public, it is also important for your employees. For example, have a shift cage if the employee has to go in and clean or if you have to transport the animal or if you have to move it for any reason. These animals are very strong and if you go down to Wal-Mart and buy some chain link fencing and put a 600 pound tiger in there, chances are it may push through it at one point. USDA APHIS does have guidelines for they type of gauge and concrete flooring around the perimeter of the fence. For instance, leopards are climbers; make sure you have tops on them. If you follow a good caging guideline that it would alleviate a lot of the public worry about these animals. As far as contact and the 75-pound-limit, two years ago we had a hand-raised snow leopard that weighed about 65 pounds. We didn't have a shift cage for her and the only way I could change her water was to go in there with her. I went in there 100 times, but 101 she decided that was the day and 30 minutes later as I pulled her teeth out of my chest it makes you very aware of just how powerful these animals are. I think if we make sure everyone has the proper caging, that will alleviate a lot of problems. Sedgwick County does have guidelines on that, as far as gauging and concrete barriers and things like that. Chairman Dykes – Are the APHIS guidelines adequate in your opinion? Lockwood – I think they are because the book, like the gentleman had there, I have and I also have one from years ago and they do talk about the gauge of wire, they do talk about having the concrete, how far to bury the wire down and things like that. You can buy zoo panels, but particularly if you are going to have a place where you are going to exhibit, not having a secondary barrier, whether it is just a bar or something, it is the temptation to go up really close to that cage and the barrier may be just enough to keep the public back. When I first started in this business I had the wild factor too and

wanted to be really close to them, it is human nature, but that changed and you have to respect them. Complacency could be your worst enemy. You may be aware of the Peabody situation, the Clearwater situation and the Topeka situation and there was one common denominator when those cats all escaped, they didn't have a perimeter fence to contain the cats. Nine times out of ten it is the cat that is going to suffer, chances are they are going to be put down and they shouldn't have to suffer.

Matt Baker – Emotions run high and I hope I didn't offend any of the zoo people because I don't mean to take a shot at them. It sad that it seems to me that a lot of the zoo community feels that they are the only ones with enough knowledge and financial backing to be able to handle these animals, when in fact they have an ally and a lot of the public that shares their same passion for wildlife. Some of the questions the Commissioners brought up in your discussion was the expense to regulate. Sometimes it seems like we are trying to reinvent the wheel and I think you having been hitting it right on the head Mr. Dykes when you are asking the direct question, "Are APHIS guidelines sufficient, or are AZA?", there are guidelines out there that are good guidelines and to try and let agencies that already have inspectors and guidelines in place is a good idea. Mr. Jones mentioned APHIS accreditation in all of his categories. There is already a tool to use. AZA regulations took a lot of scientific research and different things were put into developing these things, APHIS or USDA put a long of effort into developing their guidelines as well. Just require simple registration. It doesn't have to be expensive to have inspections done, the conservation officers can inspect when they are in the area, not necessarily on a set schedule. One last comment is whether the APHIS or AZA standards are in the best interest of public safety and this is a question I don't have an answer to, but it is a question I pose. Sometimes statistics speak for themselves, if there are figures available, "What is the escape ratio, or problem ratio with caging requirements, from the zoos, whether publicly or AZA, versus how escapes occurred in the last 10 years for APHIS or USDA licensed facilities?" That doesn't mean one is any better than the other, I am just saying maybe APHIS is a good enough standard that is very public safety oriented.

Chairman Dykes – We have heard from people from zoos or with APHIS accredited facilities. Is there anybody here who owns one of these animals that is not part of a zoo or APHIS facility? Is everyone comfortable with the idea of following the APHIS guidelines and setting the standards for continued ownership of these exotic animals? Commissioner Johnston – Are you talking about currently licensed APHIS facilities? Chairman Dykes – Yes. Commissioner Johnston – My only concern is the circumstances where big cats are going to be permitted to come into human contact with members of the general public. It is my understanding that current APHIS regulations prohibit that contact with any animal over 75 pounds and if that is accurate than I don't know what would be inappropriate about us giving that same limitation, our own regulatory backing, given the fact that APHIS inspectors are overworked, backlogged and few and far between. That would give our law enforcement officers the ability to step in investigate and charge if such a violation was found. Chairman Dykes – Would it be your suggestion that we make that requirement more restrictive, no public contact regardless of size? Commissioner Johnston – No, I am comfortable with establishing some sort of limitations on small cats, kits, cubs, whatever they are called and I don't know if 75 pounds is the right place or not, but that is the existing standard. I would be in favor of us including a similar limitation in our regulations and not just leaving it up to USDA. Chairman Dykes – Ok, no contact with any animal larger than 75 pounds. Commissioner Meyers – It is my understanding that our conservation officers have legal and enforcement authority the same as police departments and sheriffs in the State of Kansas. If someone breaks the law they can take care of it and I think that takes care of this if there is somebody breaking the law, whether it is ours or any municipality or the state they can take care of it. Jones – Yes, our officers are certified law enforcement officers in the State of Kansas.

Vickie Harvey – The 75 pound limit, there are different breeds of cats and it might be a good idea to add an age along with the weight, because you have smaller cats that will eat your lunch. Common sense should go along with that, you should limit it to six months or a year, or

something like that. Baker – I believe there is already, 6 months at least for the City of Wichita and I think APHIS has one also. Chairman Dykes – Look that up and let us know. I think the Commissioners are on the same page as Kelly to reiterate in this regulation that there be no public contact per the APHIS guidelines with animals larger than 75 pounds.

Educators – What happens to these animals when they get past 75 pounds? Chairman Dykes – People can still look at them, they just can't bring them out of the cage. Educators – Where will they all go because more will be bred to have the smaller animals for public contact, then what do you do when those animals are older. Specifically, you will need more housing for more animals and there could be a problem there. Chairman Dykes – You would argue that there be no public contact with any animals? Educators – With any of the dangerous animals. Commissioner Wilson – I am in the minority here and I prefer no public contact. Burgess – I think you should lower the weight, I guarantee a 75 pound snow leopard tore me up. Commissioner Johnston – I don't think we need to determine right now what that boundary is. Chairman Dykes – We want to give Kevin some guidance, we are going to workshop this regulation in October and we can amend it then if we need to.

Commissioner Harrington – I think APHIS is satisfactory. I would like to see this not be profit oriented, but that it would be monetarily self sustaining, that the fees and permits would be at such a level that the department wouldn't have to fund the operation itself. Commissioner Lauber – That could result in a permit fee of \$1,000. Commissioner Harrington – then so be it. Chairman Dykes – Kevin, you do need to come back with some idea of what is going to cost the agency to administer this. Commissioner Sebelius – The only missing link I see is, are we making this also applicable to private ownership on the same level as if they were going to be an exhibitor, breeder, zoo or otherwise. I think it probably should because we have both the animal's welfare in mind as well as the public safety ingredient and that is not there from what we have gone over right now. Chairman Dykes – I think it is there, assuming we adopt the APHIS standards.

Commissioner Sebelius – I am just going from what Mr. Jones put together and if it was intended to be in there, then OK because I think it ought to be the same across the board if you are going to have private ownership. Jones – The clarification on that is that group of individuals that are not exhibitors or breeders are not required under APHIS to be permitted. Commissioner Lauber – What if you are just a backyard owner and like big cats and you got one in the backyard in a cage? Jones – It is my understanding that APHIS does not apply to that individual.

Commissioner Lauber – I think that is an area that we want to bring underneath there. Chairman Dykes – I think we are saying that if we adopt these APHIS standards, there is not going to be a backyard thing, everybody will to be covered under APHIS. Commissioner Johnston – I misunderstood your original question then because I thought this discussion was just concerning existing facilities regulated by APHIS. If we are talking about making APHIS standards mandatory on current backyard pet owners then we are also going to have to take on the responsibility of inspecting and regulating because USDA does not do that. I think it is a different situation and we need to have an entirely different discussion as it relates to pet owners.

Chairman Dykes – Are we going to require these pet owners to have an APHIS permit and we are not going to allow any additional ownership unless they are APHIS permitted?

Commissioner Lauber – The question has been, is APHIS enough? I don't know how strict it is, but I don't think we could do anything stronger than APHIS, but the goal would be to reduce the number of units through regulations. Chairman Dykes – I think we will if we require these people to become APHIS facilities, some people are going to chose not to, then the questions is going to be how long do we give them to become APHIS accredited? Once they do not, how long do we give them to get rid of their animals? Commissioner Johnston – You are describing a situation that is much more aggressive than was laid out in the briefing book and I am comfortable with being more aggressive. I think that has been the flavor of my comments so far, but I do think you are going to have to give more thought to the time allowances. There are going to be people who will not realize what we have done. Commissioner Lauber – I think the

direction we want to go is going to cost a lot of money because we want to bring everyone under a minimum level of supervision and regulation in which we think APHIS provides that minimum standard. We want to have it self-supporting and it is going to have to be up to us to do it and you are going to have to have research and litigation to determine how much of these statutes we recommend passage of, can actually stick. It is going to be awfully expensive and that is why I wish we could shuffle this to some other agency and them use their resources. Chairman Dykes – I am not sure I follow that or agree with it. If Kevin comes back and we pass a regulation that says, as of January 1, 2006, if you own a tiger and want to keep it you have to become an APHIS accredited facility within 90 days. How much guidance and latitude do we give these people, if they say they won't, then what kind of guidance do we give the department to say how much time we give the owners to get rid of those cats? Commissioner Lauber – In reality, if we have 300 facilities that have to gain certification and each of those has a public safety factor, I just assumed it would take quite a bit of, you would have to have a small division within the agency to do that. Maybe it could just be done on a zero tolerance basis. We need a procedure to take care of the offending animal. Commissioner Wilson – We are talking about the backyard owners. Does APHIS even regulate people like that? Collins – No, only breeders, exhibitors, or brokers. Baker – Anyone can apply for any of those three licenses that APHIS offers, all they have to do is meet APHIS requirements. You don't have to breed 15 babies a year to be an APHIS breeder, you don't have to be open to the public five days a week to be an exhibitor, you simply have to meet their minimum requirements and they provide those to you. They have a fine of \$3,750 per violation, for not meeting requirements if you don't have it corrected in the time allotted. You don't have to reinvent the wheel, there is a law enforcement agency out there with federal funds that can do this and if a private owner doesn't want to come under APHIS guidelines that is his choice, anyone can apply, it is whether they want to comply. Commissioner Wilson – If we would go this route, of requiring the backyard owners to state I am going to be one of these three things, then in affect we are creating a whole new class and perpetuating this exhibition breeding. Is that really what we want to do? Chairman Dykes – The class already exists, there is already a group of people out there who are APHIS facilities, so we may increase their ranks. Commissioner Wilson – I think we only have 17 or 18 APHIS facilities in the state right now. Commissioner Sebelius – We still have the sunset provision at death or transfer, correct? Commissioner Wilson – I missed that part. Baker – I think the idea that started this whole thing was to protect public safety and make sure animal welfare was also protected. The only way was to eliminate private ownership, but that was not necessarily the end result or goal to eliminate all of these animals. If you keep in mind our goal is to protect the public and the animal welfare, then whether or not we have perpetuated the ownership of the animals, it may not be what some of you thought would be the best remedy, but it will at least achieve the goal you were after. Commissioner Harrington – So the ma and pa, backyard owner would just fall under exhibition, if they have the kids come out and look at the lion, they would qualify for APHIS regulations because they would be exhibiting. I think we need to have all of these animals under APHIS regulations, whatever category there are. Commissioner Lauber - There can be no big animal possessed in the state that isn't APHIS regulated. Commissioner Harrington – Precisely. Chairman Dykes – What is your preference on handling the transition, assuming we are in agreement that these facilities have to become APHIS accredited, and then what sort of guidelines do we give Kevin on crafting the way we transition where we are today and where we want to go? How much time do we give them to make that decision and that transition? Commissioner Johnston – I think we need to know how long it takes, reasonably, to receive an USDA APHIS permit. Chairman Dykes – If they are not accredited and want to be APHIS accredited, then how long do we say is sufficient after filing an application with USDA? Do we say, if you have an application, we will give you a year from application date to be granted APHIS certification? Is that reasonable? Collins – It generally takes three to six months for them to respond to you, but it can take longer. A year is reasonable. Chairman Dykes – Give them 90 days to apply from the date this regulation takes effect that they have to make a decision. Commissioner Johnston – How difficult is it to prepare an application for USDA? Collins – It

does not take that long, ½ hour to 45 minutes. Jones – I understand that any private individual, not an exhibition facility, would be given 90 days to register animal their animal with the state and they would need to come under APHIS compliance, if they so desire to become a broker, exhibitor or breeder and become permitted under APHIS. The question is what do we supply as a deadline for those who decide not to comply under APHIS? Chairman Dykes – To get rid of the animal? Commissioners – 90 days. Commissioner Harrington – If I have a tiger in my back yard, and I want to keep my tiger, what would keep me from just saying that I am an exhibitor? Jones – Under this proposal, nothing. Windsor – You get a certificate from APHIS, guidelines, procedures, if they escape you have procedures for capture. Any time they come in there and you are not following those procedures, you are in trouble and they do not call you and tell you when they are coming. Chairman Dykes – Do we know how they define exhibitor? Windsor – Showing the animal to the public. Chairman Dykes – How often? Windsor – At least once a year. Commissioner Lauber – I think everybody will be able to technically qualify to what we believe the APHIS rules are. Is it asking too much, Kevin, to ask how much this is going to cost us? Or is that too hard because we just don't know the number out there? Jones – That is the unknown, how many animals we will be dealing with over the course of time. I can try to come up with an estimate based on what we know. We don't even know everyone who might possess a mountain lion in the state, we know of the ones who have come forward and registered, but there may be others out there. Chairman Dykes – This seems to be the least expensive remedy short of requiring everybody to be an AZA facility. Commissioner Lauber – It is, I was just curious of what the bill is going to be. Chairman Dykes – We have asked him to tell us when he comes back with this at workshop, how much we are going to charge for these permits. Commissioner Johnston – On the question of how long we give a current unregulated owner to make arrangements for their animal if they are not going to apply for a USDA permit. I would like to know, practically speaking, what the ability is for someone to sell or give a big cat or a bear to someone credible? What is involved in the current market? We don't want to force people into releasing these animals into the wild. Chairman Dykes – I agree, but I think there is going to be that risk no matter what we do. Harvey – 90 days would be very generous to find that cat another accredited place to go to. Commissioner Johnston – Anybody who really wants to transfer ownership to a proper facility, 90 days should be more than enough? Audience – Yes. Commissioner Harrington – What if they don't, do we do out and put a 500 pound cat in the back of our pickup. What do we do with this tiger if it has lost all of its teeth, or something like that, and nobody wants to take it? Commissioner Lauber – We have to be prepared to euthanize the animal. Commissioner Wilson – I am still unclear as to what the disposition of paragraphs (d) and (f) are, in regards to new facilities. Commissioner Johnston – If we are going to force people to apply to become new facilities in order to come into compliance I don't see how we can, at the same time, prohibit new facilities from being created. Chairman Dykes – I don't think we have to, I think this will regulate itself. Commissioner Wilson – I would like to see a hefty permit fee then because I am very much against new breeding operations coming in here. Commissioner Lauber – I think a hefty permit fee will be a real incentive to downsize. Windsor – Several other states have permit fees set up already that you can look at. Chairman Dykes – We will workshop this in October and vote on it in January.

Keith Sexson – Lee Allison has been waiting to present his program and he needs to leave before we break.

Chairman Dykes – Move Lee's program forward on the agenda.

5. Wind Farms – Lee Allison, Governor's Office of Science and Energy Policy, presented this report to the Commission (Exhibit K – PowerPoint presentation – “Wind Energy in Kansas”) I want to cover the general concept of wind energy and how it is applied in Kansas and why all of a sudden it is a big issue, and what is driving it; and some of the things we are doing in the

state to take advantage of the wind energy resource. There is a new concept that has been developed in the U.S. in recent years on community wind. The maps show a tremendous resource potential across Kansas although Kansas is between number 1 and number 3 in wind resource capacity; we are number 12 in installed capacity. We only have 114 megawatts (MW) of wind energy compared to 10 to 20 times that in California and Texas. This map of wind project proposed around Kansas (Exhibit L) is a little out of date because it is changing constantly. We have one project out in Gray County, the Montezuma plant, 112 MW run by FPL Energy, the largest wind developer in the United States, with 43 projects. We have about 1,900 MW of wind energy proposed among all of the projects. Nobody expects that all of these projects will be built. The one that is under construction right now is 150 MW, an Elk River project in Butler County and that should be up and running around November. One that was just announced in the last few days is that Sunflower Electric is going ahead with their 30 MW project out in western Kansas. The interesting thing about that is they are going to use turbines that are 2.1 MW per wind turbine, in Montezuma the turbines are about 660 kilowatts, about half that. World demand for wind energy is driving this, as prices go down and the technology improves. Over the last decade most of the growth has been in Europe, but growth in the U.S. has been pretty dramatic. In the last 20 years we have seen new technologies come along, 25 years ago the standard turbine out there was only 50 kilowatts and they were latticed towers with relatively small blades. The average wind turbine going up today is 1.5 MW and the 2.1 MW turbines are starting to be installed. We are right on target, but maybe in the next five years the standard turbine might be as big as 5 MW per turbine. As you do that the cost of the electricity has been dropping and the cost of natural gas has gotten so expensive. Westar put together a chart that they showed the legislature last session showing the array of different sources of electricity from their own mix, from peaking plants to combined cycle to their base load coal fired plants and these are the ones they try to run 80 percent of the time. Some of the base load plants they only run 10 percent of the time, but when they put all of their costs into place they find these peaking plants are extremely expensive to operate because you have to staff them and have them up and available to turn on at a moments notice, but they may only run a couple of days a year. Those end up costing \$150 or more per MW hour, when you get down to their base load, coal-fired plants, like Jefferies and others that run 80 percent of the time, \$46 per MW hour, but look at wind energy, their projection is 1/3 cheaper. There are federal rules out there about base load power that applied to wind, even though it is not a base load fuel. Those rules are being changed right now. When that goes into affect I think you will see a dramatic increase in the number of utilities that can take advantage of wind energy. It is a hedge against long term prices, wind developers will sell contracts today for 10 years or 20 years of electricity for 3 to 3 1/2 cents per kilowatt hour, with a minor inflation factor in there. Nobody is going to do that with fossil fuels today, so we are seeing a tremendous drive from utilities to do this. The other thing is that for farmers you rent your land out at \$3,000 a year per turbine and it only takes up an acre or two of your land per turbine and so you continue to farm and graze the land. The Governor, as part of her Wind and Prairie Initiative called on a voluntary goal of having a thousand MW of renewable energy installed in Kansas and we assume most of that will come from wind energy, but we are already a long way towards that, we have 112 MW at Montezuma, Empire is building 150 MW in Butler County, Sunflower has just announced 30 MW and KCP&L has put on RFP on the street for 100 MW, the bids are due in September 9 and they will come back in another year and ask for another 100 MW. We expect in the next two years that we may be half way towards the Governor's goal. The state has an entire capacity factor of a little over 10,000 MW. There are controversies about wind, the 1.5 MW turbines have the hubs up at over 300 feet and when you put the 90-100 foot blades on them you have the top at over 400 feet tall. When you 100 of these in line at an industrial scale windfarm it is a fairly major impact on the landscape. There is also concerns about bird mortality. One of the first big windfarms was in the Altamont Pass in California it was badly designed and badly located and they had towers that had the lattice work, they had towers that had the nasals that encouraged birds to nest there, they were right in a raptor flyway so they had huge mortalities so it became assumed that this was a typical

windfarm. We have changed that now, the towers no longer have places for birds to nest, the towers are taller so they are up out of the flyway of a lot of birds and they are making more studies of placing these towers when they put them up so they are not in flyways and so the wind industry has been working closely with wildlife groups to minimize the impact of bird kills. Out of the one billion birds killed each year by human causes, 50,000 are killed by wind turbines and as more wind turbines are put up that number may go up. On the map it shows that the Flint Hills has wind quality as good as western Kansas. This map is only based on six really good data points and some lower quality data. Wind developers moving around the state are finding that the wind resources are much better than shown by the map. The Flint Hills zone includes Wichita, Kansas City and transmission lines, so we have the quality wind the two big urban areas that need electricity and the best transmission grid in the state connecting them. So this is obviously where a wind developer coming in sees everything he needs. At the same time we have the untilled tall grass prairie and it is in the same area and so we have potential conflict with wind development and areas of tall grass prairie that people are interested in preserving. The Governor has created an area called the "Heart of the Flint Hills" where she has asked for voluntary restraint from developers and utilities until we can address a lot of the issues. She has a three-fold program that is under way that she wants to see addressed before she is going to say that she would be willing to let local communities move forward with wind energy in those areas. One of the things we have done is put together a siting handbook for counties and cities. We sent this to every county in the state. It based on zoning, or siting, guidelines developed in four counties in the Flint Hills and one of them is Butler County. One of the options we are starting to look at is something called community wind and that is the idea that instead of having 100 or 150 of these wind turbines all clustered together in one area, lets take these and spread them out across the countryside and make them less than 20 MW and anywhere from one to a dozen turbines. Have a smaller impact on the landscape, simplified grid connection and you can also supply more local needs. The idea is that you may only have one turbine, but you can use that to supply energy to local schools, community projects, local businesses and local municipalities. It is interesting that in Europe where most of the wind development in the world is going on that 80 percent of the wind projects there are community wind, they don't have big 8,000 acre tracks like we have across Kansas that allows them to put up these large industrial size wind developments. From a study done in Ontario, Canada that has been looking at wind energy and got a lot of analysis out of Europe and the came to the conclusion that community wind really made sense in Ontario. It is not just that they are smaller, but community involvement, management and ownership of the project and community use of that energy. This is green energy in a scale you can deal with and local ownership is important because as everyone knows, "Your Own Pigs Don't Stink". What they found in Europe was that smaller projects were compatible with local communities and very accepted because they allowed farming to go on up to the base of the turbines. There are actually a half dozen community wind projects in Minnesota and they have been very innovative in this technology. Community Wind Farms allow: grazing, right up to the base; tourism (in industrial ports hardly noticed); help Schools (eight so far in Iowa); and biking, hiking and recreational facilities are happening in and around these wind turbines. One of the benefits is that wind energy doesn't have the air problems that coal fired power plants or even types of fossil fuel have so you have no sulfides, nitrous oxides or CO2 and wind energy is a renewable and actually produces more energy going out than going in to a much better factor than nuclear and coal does. We are looking at how community wind can benefit Kansas. Right now if you were to lease your land out, you are not investing anything and get a royalty, no risk, but low return. If you are a part owner or investor in that you have a little greater risk, but much greater economic return. This is a good model for central and western Kansas. What is working right now at the federal level is the production tax credit has just been renewed for another 2 1/2 year, but you really need a big tax liability to take advantage of that. Also have five year accelerated appreciation so you can recover a lot of your costs and then under the Farm Bill there are grants available and Iowa

and Minnesota have been very aggressive of taking advantage of those grants to help subsidize some of these projects. In Kansas we have a permanent property tax exemption on wind energy and it is not limited, even at the residential scale as well as the utility scale. Have sales tax exemptions for equipment. Net metering, which allows the utilities to pay back 150 percent of the avoided costs if you put one up and start pumping power into the grid. There is also a new law that allows renewable coops to be formed although none have been formed yet in Kansas. We have identified seven different economic models for community wind and I am only going to touch briefly on a couple of these. Most of the ones we are familiar with are the common ownership where basically a company builds these and sell the energy to the utility. The wind farmer really only leases the land to the wind farm owner so the community doesn't directly participate. Coops are something that rural communities are familiar with, but they don't seem to be well situated to take advantage of wind energy because you can't use that federal production tax credit. So this isn't a model that looks good for community wind. One that we are most excited about is something called the Minnesota "Flip" model where a big company comes in and finds local partners and form a Limited Liability Company (LLC). The locals may put up as little as one percent of the equity to build one of these facilities and the companies come in and put up 99 percent of the money, but the locals get 51 percent management control of the project. Over the first 10 years the company gets their recovery of capital, but during the 10 years they have trained the locals how to run this thing and then they flip the ownership so that the locals have 99 percent or even 100 percent of the ownership of this thing and take full management of it. This is exciting because companies like John Deere are pursuing it (they have created a new wind division). They have projects under way in Minnesota and Texas and they have said they want to come to Kansas. The road blocks are that when you do these smaller projects they are not as cost effective because you still have to bring in the big cranes and do a lot of work to hook up to the grid and you have to go out and find a utility willing to buy the power and they are not obligated to do that. Also, you have to find a "for profit" company that has a tax appetite to take advantage of that. The Kansas Energy Council, Farm Bureau, and the Rural Life Task Force are all working together to see how these models work, what barriers face Kansas and what we have to do to make this a viable economic model. Just in the last couple of days I have met with Sunflower Electric and not only are going to put up 30 MW of wind energy, but they are going to build two new 600 MW coal fired power plants at Holcomb. It is being financed by a Colorado company and they are going to build transmission lines from Colorado into western Kansas. There are two basic electric grids in the United States, the eastern U.S. and the western U.S. and the boundary is on the Kansas/Colorado line. It has been very difficult, if not impossible to move electricity back and forth and they are going to bring the western U.S. grid into western Kansas. They are going to put up three new transmission lines leading to the front range. For the first time western Kansas is now going to have transmission and access to a very large market that needs a lot of electricity.

Chairman Dykes – Where has the Montezuma electricity been going? Allison – Aquila buys 100 percent and they, like Empire Electric, depend more heavily on natural gas than Westar. Across the nation 51 percent of electricity comes from burning coal, in Kansas it is over 72 percent, which right now is the cheapest electricity source out there. But Aquila and Empire over the last decade or two have invested more in gas fired and now with natural gas now four times what it was at the turn of the century that is about the most expensive electricity out there. Chairman Dykes - The power grid here goes clear out to Montezuma? Allison – They have a strange grid and corridors that go down through central Kansas, just along the highway and a spider web grid in some areas and it all comes into their overall mix. They separate whether it is wind energy and take a green credit and are making a profit on the world market. Hoogy Hoogheem – What happens when subsidies goes away? Allison – They have been extended for 2 ½ years, and we expect them to be further extended, but still cheaper without tax credit in place and will be able to run on its own. Chairman Dykes – What will have to happen for the Governor to lift moratorium in Flint Hills? Allison – No moratorium just voluntary zone. If a landowner has a contract with a wind developer they can put a turbine up so the Governor felt we needed more of

a public process in that debate. She is looking at several different options, such as conservation easements. The legislature funded \$31,000 which funded the one conservation easement on the table. The idea is that there are a lot of folks in the Flint Hills that need the additional income to keep the family farm or ranch going and rather than being forced into going with commercial, full scale, industrial type wind, at least offer that chance for conservation easements. It is also a long-term way to preserve that cultural and physical heritage of the Flint Hills. We are disappointed that the legislature did not fund that program effectively; the funds are not there to carry out her goals. A third part is that there is an economic assessment of the Flint Hills underway funded through the Department of Commerce with a company called Fermata. We hoped that study was going to be out in June but they have met so much interest on the ground that they have been overwhelmed so that report is not yet done. They are going back out in the field again to make sure everyone that wants input gets it. We want to see their analysis of economic assessment and how wind, eco-tourism and agri-tourism fits in and analyze that. Some of the counties in the heart of the Flint Hills have told us that they are not going to develop zoning, or siting guidelines. Their feeling is if a landowner wants to lease their land for wind the local government will have no say on that and they will not participate in the Governor's recommendations. Without that public process, she is going to ask for voluntary restraint from the developers and from the utilities. The utilities have all told us they will go along with the Governor's request.

Steve Sorensen – Approximately 22 of top 25 rated areas for wind energy in Kansas are all associated with our native prairies. While the Governor's recommendation has been to save the heart of the Flint Hills I think we are sacrificing Smoky Hills, Gyp Hills, Sandsage Prairie and shortgrass prairie. If all of those energy proposals happen, what will happen to the greater and lesser prairie chicken populations in the state? Wildlife was not a compatible use in your listing of compatible uses. Allison – I haven't addressed that particularly. These were slides that came out of the Ontario study and I don't know if they looked at wildlife and determined that it wasn't compatible, but with certain types of wildlife I would say that it probably is. The prairie chicken is one where we heard from Bob Robel at K-State that the prairie chicken nesting is affected by any kind of structure around it and for some distance away, but Dr. Robel also pointed out that we have seen an 80 percent reduction in prairie chicken in the Flint Hills without a single wind turbine up already. He felt the bigger impact was some of the grazing practices and burning. I am not sure where the 22 of the top 25 wind sites came from because the maps that we have talk about broad geographic areas and the developers that are putting up meteorological towers are finding larger areas. Sorensen – Four years ago the U.S. Energy Department, when we were going back and forth between, North and South Dakota, Kansas and Texas, they specifically sited 25 locations. One of them right now is the grasslands up in Cloud and western Clay counties and even the sandsage prairie where Sunflower Electric is going to go. Do you know where the transmission lines are running for Colorado? Are they going to go right through the sandsage prairie? Allison – One of them will run along I-70 from Burlington to Colby and the other two are going to run parallel from Lamar to Holcomb, but they haven't laid out a precise line because in Colorado it is laid out county by county, it is not a statewide issue. That gives you a good general idea of where they will be going. Sorensen – You showed the chart that Westar provided the legislature this last session and shortly after that they came out and said they were not going to pursue wind energy facilities in the foreseeable future. Allison – They said, at this time they are not going to pursue wind. This was based them buying electricity from a wind developer. One of the analysis they are doing now is the possibility of them actually owning the wind farm to see if that makes a difference. This is also based on current rules and regulations. As FERK changes the rules, so that wind is considered a base load fuel where you have to provide dedicated dispatchable backup, that frees up the ability to use wind as an advantage fuel. As that rule comes into affect that is going to change the bottom line on everybody's economics. The other thing is that there is growing demands for emissions controls. Westar has a couple of

coal plants that are putting out a fair amount of pollutants. EPA is negotiating with them on how they are going to do that. It might be more cost effective for Westar to negotiate a mitigation rather than actually reducing the pollutants, like putting in wetlands to offset the environmental impact. One of the possibilities could be for them to put up a wind farm generating electricity with no pollutants. In fact, that is what KP&L is doing. They proposed two new coal plants along the Kansas/Missouri border and they got so much public opposition because of the environmental impacts of another coal plant that they backed off on one coal plant and are putting up 200 MW of wind energy and they are going in and retrofitting all of their existing coal plants to state-of-art technology. So yes, Westar said right now, because they are so heavily dependent on coal, that wind energy, because of the other things that go with it, is not cost effective for them, but they didn't say they would go back to it. They did say that they expect to go to wind at some time, just don't know when. Sorensen – Do you foresee a big void in the southeastern quarter of the United States that offers virtually no wind potential as increasing pressure on additional wind facilities in Kansas in order to export? The Elk River facility in Butler County, none of that electricity is going to Kansas, right? Allison – No, it will. Empire Electric serves southeast Kansas, southwest Missouri and part of Arkansas and Louisiana. They told us that Kansas customers will see a savings from the wind energy because they are burning an awful lot of wind energy right now. Sorensen – It is my understanding that Kansas is currently an energy exporter? Allison – We are an electricity exporter, we are a net energy importer. Electricity is one of the things we produce more of than we consume and that is what most states want to be. FERK actually tries to set reliability standards so that you have a certain capacity, so that when a plant is down for repair you've got enough to back it up, so we are in good shape. Some people feel that we shouldn't impact the environment of Kansas with wind towers if all we are going to do is export it. We raise 6 ½ million cattle a year and we don't consume all of those in Kansas and they have an impact on the environment, we are exporting cattle, corn, wheat, and airplanes. We are as wealthy as we are because we export a lot of the things we produce that we are good at. Wind energy is one of the things that we have a potential and it has a lot less environmental impact than a coal plant is something that we ought to be looking at. The Governor said that we can have both preservation of Flint Hills and development of wind energy. Wind energy shouldn't be everywhere there are appropriate areas for it. Sorensen – And that is where we are concerned is that if all we are preserving is the heart of the Flint Hills, that we are willing to sacrifice all other native ranges and the wildlife that associates with them. Allison – The assumption is that we are sacrificing something or that wind energy will destroy something. Hoogheem – You haven't addressed that we are not. Allison – I would argue that putting up a wind tower doesn't destroy the prairie, it has an impact on it, on the view, the sage grouse, but so do all of the other things like oil wells, farming, grazing, the mini ranchettes creeping out from Sedgwick County all have an impact. We have to analyze and work out what the trade offs are. Our focus right now has been on the heart of the Flint Hills, that is contentious enough and as these other areas of the state come forward we are trying to empower the local governments to have some good guidelines, tools and resources to help make informed decisions. It has been a surprise to me personally to see the debate over wind energy coming out of McPherson. It is a new industry, it is big and these things are scary. Sorensen – The arguments in the McPherson area go back to Minnesota and the restrictions in placing wind towers within certain distance of wetlands. If you go west of McPherson and that is virtually all wetlands and that is going a significant impact on waterfowl and we haven't addressed the impact towers make on bats either. The sportsmen of Kansas put a lot of money into McPherson Wetlands and then to have a series of 80 to 100 towers come in and degrade those wetland developments isn't something we look forward to. Allison – That is where some of these studies need to be done before you say it is going to degrade it. Lets determine if it will degrade it or to what extent or impact. That is why we are trying to encourage local communities to discuss this and to get this type of information out. The alternative is statewide regulation, but there has been very little interest and we don't think we are going to have much success if we were to go to the legislator and ask for a new regulatory agency that is going to control wind. Hoogheem – Wildlife and Parks is a good place

for you to come because they are in charge of the wildlife and they have to address that issue with us. Allison – I was pleased that Secretary Hayden, who chairs the Natural Resources Sub-cabinet, was in charge of the group that took the report from the Wind and Prairie Task Force and analyzed that and made the recommendations back to the Governor. It was his group that recommended the Heart of Flint Hills be carved out, 3 million acres, and said lets hold off there until we can get some of these issues resolved. Sexson – Is there some interest in the community base? Allison – There is interest all over the state and Farm Bureau seems to be very excited about that. I met with their Board of Directors, even the folks said that we need the partner and really take a look at this and see if this might be an alternative way of doing this rather than 100-200 turbines, smaller number of turbines meeting local needs. They are working with us to analyze that. One of the problems is that Fort Hays State goes out and puts up one of these turbines they don't have the tax appetite, they don't take advantage of the production tax credit. What if they found a third party that will build it for them, but they can't really do that right now because the law says they can't compete with an existing utility. We need to look at these things to see if there are some barriers out there that we could fix or get rid of, or some incentives we might provide to move this kind of wind energy to a smaller scale and out into the areas were it is wanted and where it is going to have less of an impact. We are taking a working group up to Minnesota next week to visit 6 or 7 of the community wind farms and visiting one of the schools that operates them to find out what works, what didn't work and come back and write up a report through the Energy Council that we will share with the legislature, the Governor, Farm Bureau and others.

VII. RECESS AT 6:00 p.m.

VIII. RECONVENE AT 7:00 p.m.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

Welcomed Gordon Stockemer, Wichita and Will Carpenter, El Dorado, former Commissioners.

X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Steve Sorensen, Kansas Wildlife Federation – Commented that KWF was disappointed that there was no money in FY 2007 budget for shooting range development. At the Hays meeting in June we asked for \$250,000, but would have liked to see \$50,000 at least just to show that the Commission and the department was interested in long-range development of shooting skills and youth participation. Since the meeting in Hays, I continue to get comments on pheasant season changed to first Saturday in November and many of the people are talking about going to the legislature to get this changed and this scares me. You have seen what we have done in Kansas with deer regulations allowing it to go to the legislature. They are too busy to have to worry annually about when to set a pheasant or quail season opener and it seems to me if you could address it again before April I would like to see you do that. Nebraska is opening their season October 29 this year, but since 1975 this will be the 9th year that they have set an October opening date and it has nothing to do with marketing strategy, it basically meets their formula of opening on the first Saturday closest to November 1. Unfortunately in 2006 the Saturday closest to November 1 is the first Saturday in November, the same Saturday as ours. It seems counterproductive for us to be opening up on the first weekend, the same time as our neighboring state is. I don't know how many Kansans go to Nebraska, but I know a lot of Nebraskans come

to Kansas and I think if you could revisit that issue you would satisfy an awful lot of Kansas hunters.

Ralph Goodwin, Current President for Kansas State Rifle Association – We too would like to see some money included in the budget for development of shooting ranges. We think that is an important part of Kansas tradition and preservation of game and wildlife being taken in safe manners. Also, would like to ask KDWP to allow sportsmen's groups to participate up front in the planning for the new deer management plan. This year, House Bill 2253, an anti-poaching bill was spearheaded by Kansas Wildlife Federation, supported by a coalition of sportsmen's groups, from concept to overwhelming passage in the House and Senate and we would like to see a new bill or new deer management plan go through also. If that won't be allowed we would certainly like to see extreme simplification of unit boundaries, reduction in the number of units and we would like to see boundaries be paved roads, clearly marked on maps and reconsideration for archery seasons and black power and for conventional firearms also. Chairman Dykes – The last time we discussed shooting range issues it seemed like the department had a long-range plan developed for shooting ranges across the state. Is there such a plan or an idea of where we want to put new shooting ranges if we had the money and when new shooting ranges ought to come on line? Secretary Hayden – I wasn't here the last time the plan was developed and I am not aware of any long-range plan as far as specific ranges should go. If there is such a plan I am not aware of it. The shooting range questions is an important one and several of the points that have been made are good ones, but unfortunately we have had some very significant unfavorable experiences with range funding and construction. We have had three different projects that caused us a lot of cost overruns, consternation in the local communities and in fact we just finally got the last one repaired and opened after a multiyear process. So we are conservative as we look ahead toward the development of shooting ranges, that doesn't mean we are opposed to it and if we had a good plan for a good location, obviously we should consider that. Our experiences, over the last half decade or more, we have had three or four that have really burned us and some with unbelievable cost overruns, so we are very cautious about plunging into that. We had favorable experience in Manhattan, it was controversial, but it worked out well.

Gary Black, Valley Center – I have a concern about the use of spinning wing decoys. I know Arkansas has banned them for 2005 and 2006 and I wish the State of Kansas would look into that as well. I feel a lot of juvenile birds are getting shot and down the road it is going to hurt the duck population. I think it also takes away from the sport, as far as the calling and decoy placement. If you can't consider it this year I would like to see you look at it for next year.

Will Carpenter – I would like to visit about the quail season changes and the shortening of the season. What was the reasoning behind that? Chairman Dykes – The principle rationale had to do with some research that had been done in past five or six years into quail habitat, harvest and mortality. There was a study that Roger Applegate participated in that was published in 2004 and they looked at quail mortality in the January time frame. I am not a biologist, but it was clear to me and some of the agency biologists that the that quail make it to mid-January were quail that would survive to participate the next nesting year. Speaking for myself, I thought it made a lot of sense and there was other research that supported that and it made a lot of sense given the trends we saw in quail populations, that whatever we could do with the margins, even though it wouldn't solve the problem in the big picture, we all know that is habitat, but felt we could help with next nesting season we probably should try to do that. We had a meeting before the hearing and a lot of the special interest groups that were interested in quail seasons were invited and we hashed this all out. We talked about the chicken, quail and pheasant seasons and came to an agreement, everybody felt like they were giving something up, but we felt we came out of that meeting with something we could live with, but that didn't stop the debate and controversy. My

idea was that is we closed the quail season earlier we could afford to move the opener up. There would be more quail to hunt at that time and it seemed to me to make a lot of sense for a lot of reasons. The group, in the spirit of compromise, wanted to leave the opening date at the traditional second Saturday of November, but reluctantly considered closing it earlier. Carpenter – It is the second Saturday of November? Chairman Dykes – It doesn't change. I was misinformed; I thought it changed with the pheasant season. I quail hunt a lot and even that opening weekend it is too warm in the early season and your dogs are done by noon. I always heard there was no impact, when we talked about for years, about no impact of hunting on the population and I hunt late season clear up to the last day of the season and I am the only one out there, usually. We used to talk about 75 percent of them die, whether you hunt them or not so you are harvesting animals that are going to die of starvation, lack of habitat, or something like that anyway, so I was surprised to see you shorten the season. Chairman Dykes – I would be happy to send you the study that was published. Dr. Robel told me that when we were teaching students 40 years ago in wildlife biology, we didn't know any better. We thought that hunting mortality didn't matter and that it didn't make a difference, but the research that is being done here and other places is starting to be pretty clear that it is additive that if the birds make it to the middle of January there is a very high chance that they are going to survive onto nesting season. Carpenter – I would like to read that. Chairman Dykes – I was as impacted as anybody because I spend most of November deer hunting so I don't hunt birds until December or January, but I was personally impressed by the research and discussions I had with other biologists and Dr. Robel. Carpenter – I want to invite you all to the BOW program, it means a lot if you guys could come to that the last weekend of September at Rock Springs. It means a lot for the Commissioners and the Secretary to come. It is a great event that the department puts on. I will be putting on that pheasant class and we've had about 100 women go through that since that law was changed, but there is nothing more fun than a woman killing her first pheasant. Chairman Dykes – How long have you been involved in that program? Carpenter – Since the first year I was a Commissioner, in 1995. I was just a gopher that year and then they asked me to teach a class and now they can't get me to leave. Jim Call, Call of the Wild Outfitters – In regards to the changes in bird seasons, you need to get rid of predators first because they are taking a lot of eggs out of your fields. When you put an early season up you have a problem with pheasants not having their color to them and you will see a lot of birds shot that are hens. All of my hunters coming out of North and South Dakota want to come to Kansas because they are getting tired of commercialization and I hate to see the pheasant season moved. On the quail population, I put out birds myself and I have had real good luck with that. I put out 500 hens in the spring, I probably have 150-200 birds in each quarter of ground and I put out 600-700 quail. In September I have a good quail and pheasant population and the habitat and the food plots make a difference.

XI. DEPARTMENT REPORT

General Discussion (continued)

2. Wildlife Violator Compact – Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit M). Passed by the legislature last session, two weeks ago made application for compact, received approval which will be in affect November 1, 2005.

4. Affinity Credit Card – Alan Stark, Region 4 Parks Supervisor and Cindy Livingston, Administrative Services Division director, presented this report to the Commission (Exhibit N). Stark - In 2004, the department's Revenue Task Force recommended the development of an affinity credit card program. An affinity credit card is a personal credit card, issued from a bank or lending institution, which allows the card holder to demonstrate visibly on the card, and economically through the use of that card, their support for a particular cause or group. The Task Force envisioned a card program which would emphasize benefits to card holders, the department, and the outdoor resources of Kansas but involve no department funds or risk. This recommendation was reviewed and approved by Secretary Hayden and the Management Team. A Request for Proposal (RFP) was developed and as a result of that process a contract with United Missouri Bank (UMB) was developed after they were chosen as the successful applicant. Applications went out to our offices and each one received a display easel for the credit card from UMB. Constituents will be allowed to pick up applications at our offices or apply through a link on the department website or a pull out in the magazine. The agency benefits when each new applicant is approved, as we receive an initial sign-up fee from the card company and a small portion of each card use is donated to the particular program the applicant designates to support. They are given five choices on every application so they can choose to support state parks, hunting, fishing, boating or watchable wildlife at the time they apply. The designated program continues to receive long-term support from every card issued through a small percentage (\$10) of what each card holder spends. Each approved application also will receive a free two-year subscription to the *Kansas Wildlife and Parks* magazine from UMB. Each card holder will also earn reward redemption points on qualified purchases (one point per \$1 spent). The points can be redeemed for Kansas Wildlife and Parks merchandise, permits, or licenses from a selection listed in the redemption guide. Nebraska has a similar program and it will be small in the beginning, but will grow over time. Both of these benefit the card holder directly and the department indirectly. We are confident that constituents will be pleased with the Kansas Wildlife and Parks Visa Platinum card program. They will not only get an attractive credit card which promotes Kansas and its outdoor resources, but they can benefit from the magazine subscription and rewards program and have the knowledge that they are also benefiting a selected outdoor program. We get a lot of requests from people asking how they can show support and this is a way for that to happen. Livingston – We do not have draw permits in the redemption guide. There will be a copy on the website under Kansas info. Stark – Applications will be at state fair, sport, boat and travel show and our offices.

C. Workshop Session

1. Commercial Guide Deregulation - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit O). Result of House Bill 2466 which passed during the 2005 legislative session and signed into law by the Governor and repeals all statutory provisions for commercial guide services and becomes effective January 1, 2006. Because there will no longer be a requirement for guide permits to be issued, all the regulations relating to commercial guide services must be revoked and KDWP will no longer have any regulatory authority. These regulations need to be revoked: KAR 115-21-1, 115-21-2 and 115-21-4 which will be brought before you for repeal. Additionally, KAR 115-2-1 will be amended to remove the fees associated with commercial and associate guide permits issued to residents and non-residents.

2. Revenue Task Force (RTF) - Part II – Boating Fee Increase - Mike Miller, magazine editor, presented this report to the Commission (Exhibit P). Brought before Commission at June

meeting, currently, boaters pay \$20 for vessels under 16 feet long and \$25 for vessels 16 feet long and longer and this registration lasts for three years. There are approximately 100,000 registered boats in Kansas. Any boat propelled mechanically, motor or sail, used on public waters must be registered. In 2004, 16,641 boats less than 16 feet were registered at a fee of \$20 and 18,735 boats 16 feet long or longer were registered at a fee of \$25. Total revenue was about \$801,000. This proposal would eliminate the length categories and increase the three-year registration fee to \$27 for all boats. Using the figures from 2004, this fee change would increase annual boating revenues \$153,957. Dan Heskett, boating law enforcement officer, and Robert Barbee, public lands coordinator, expressed needs for improving boating education, law enforcement, and access. Roads can be done if they lead directly to a ramp and some maintenance can be done. Motor Boat Access can be used for parking lots and ramps. Commissioner Johnston – From information from surrounding states, Kansas is the lowest even with the increase, except for Nebraska. Miller – Kansas is very comparable, or lower than other states. Chairman Dykes – Is there a statutory cap? Tymeson – Yes, \$30, regardless of length. Chairman Dykes – Why not \$30? Miller – Picked a number that wouldn't be so dramatic for all of our boaters. We did do away with length differential, but we could look at that. Chairman Dykes – Wouldn't bother me if we increased that to \$30 for the public hearing. Commissioner Lauber – More PR than anything else. Miller – I can bring that back for public hearing. Commissioner Lauber – In smaller boats, it is more expensive for law enforcement to regulate those. Unknown Audience – Does this include jet skis? Miller – Yes.

3. Fishing Regulation Changes for 2006 - Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit Q). First talk about Secretary's Orders, no big changes planned. Based on current information and pending the fall sampling efforts. List is not complete yet, but there are no changes for large reservoirs planned for 2006. Most changes under consideration are for state fishing lakes and Community Fisheries Assistance Program (CFAP) waters. Second, offered to take over trout programs at community fishing lakes, four trout lakes, three turned us down because we would have to charge children and they currently did not. Garnett-Crystal Lake (formerly Garnett City Lake South) has agreed to the program and will be added to the list of designated trout waters. The third item is the way we present the regulations to the public. Confusing special regulations and statewide length limit. We plan to do away with chart and go lake by lake and what the regulations are.

4. 2006 Spring Turkey Season – Mike Mitchener, Wildlife Section chief, presented this report to the Commission (Exhibit R). Turkey hunting units were developed about four years ago, as you see on the map, and were developed by evaluating the overall habitat conditions, as well as the population of turkeys that habitat will support. As conditions change, recommendations will usually reflect increases or decreases to permit numbers initially. More drastic changes, such as unit boundary shifts, are not typically considered until enough time has passed to establish trends. Staff recommends no changes to current turkey unit boundaries and permit numbers. Didn't feel four years of data was enough to change unit boundaries. We are going to track this very closely, especially in the extreme eastern portion of Unit 1.

5. Nontoxic Shot - Marvin Kraft, waterfowl research biologist, presented this report to the Commission (Exhibit S). Historically, the USFWS approves new nontoxic shot types annually in late August. However, this calendar year, four shot types are expected to be approved this fall. Only two of the four shot types are brand new types and two are modifications of existing types with differing percentages of element composition. With the proliferation of nontoxic shot types

available as well as the direction the USFWS is taking with listing shot types, it is proposed that where shot type compositions are already available, the regulation state the term “alloy” after the type, signifying that more than one shot type of the listed elements is approved. In addition, the department proposes adding the other two new shot types. Chairman Dykes – With the addition of these four how many shot types are there? Kraft – I believe there are 12. Commissioner Harrington – What is the gravity of one of these alloys? Kraft – I don’t know, but I bet they are heavier than steel. Tungsten is heavier, 130 percent of lead (a wild guess).

C. General Discussion (continued)

6. North American Waterfowl Conservation Act (NAWCA) Grants – Joe Kramer, Fish and Wildlife Division Director, presented this report to the Commission (Exhibit T). The North American Wetlands Conservation Act (NAWCA) of 1989 has been one of the most successful partnerships that our state has had, as far as funding. There is a handout that talks about how many NAWCA grants the state has received since the early 1990s (Exhibit T). This goes back to a time when organizations were gathering together to try to save Cheyenne Bottoms and get it renovated. It is obvious that there is not a lot of money to go around. If you take 30,000 duck hunters in our state and they buy a \$5 duck stamp that generates about \$150,000 a year and yet through the opportunity to partner with NAWCA it allowed our state to receive 12 NAWCA grants and they amounted to \$7.8 million and partnerships also generated another \$13.7 million. That is a lot of money when you think about the fact that the duck hunters are only generating about \$150,000 a year. That gave us an opportunity to leverage those funds with NAWCA funds and it has been a real success story going back to when Steve Sorensen took his orange van and relayed water up to the legislature to get funding for Cheyenne Bottoms. We had organizations like The Nature Conservancy, Ducks Unlimited, Audubon Society, Bureau of Reclamation and KAWS; we have had a lot of partnerships since 1989. We have also formed some joint ventures in our state, the Playa Lake Joint Venture and the Upper Mississippi Great Lakes Joint Venture and those organizations have kept things out front to make sure we have data and information that obtains to our ability to get NAWCA funding. The four I want to specifically talk about are: Cheyenne Bottoms; McPherson Wetlands; the Playa Lake Joint Venture area that covers almost 2/3 of the state; and our new NAWCA grant for Jamestown. Cheyenne Bottoms, prior to renovation, was an older wetland that needed attention, renovation and development and it was obvious that one agency certainly wasn’t going to generate \$19 million to get it renovated. This is something the state should be proud of, other than Parks 2000, we received almost \$6 million in State General Fund and now with the funding the way it is it is hard to believe that we were able to get that done. The Nature Conservancy acquired about 7,000 acres northwest of Cheyenne Bottoms and they actually contributed their acquisition to the funding of these NAWCA grants. We had four of these grants at Cheyenne Bottoms and it generated millions of dollars to help us renovate. After total renovation we have three dikes in center pool one; another cross dike in pool four; a cross dike in pool three; and we didn’t dike pool two. We used Chickadee Checkoff and Ducks Unlimited funding to purchase an amphibious backhoe and that backhoe is still in operation. We have a lot more equipment now that allows us to do the kinds of work we need to do at Cheyenne Bottoms. After we were able to get Cheyenne Bottoms renovated McPherson Wetlands was the next challenge that the agency took on and we were very fortunate to have Ducks Unlimited step forward to help us with the grant. When you put these NAWCA grants together they are fairly complicated and take a lot of time and we have been fortunate to acquire, enhance and develop around 4,000 acres at McPherson Wetlands. We had five NAWCA grants and we just finished with the last one. Lee Queal with Ducks Unlimited was a leader in helping us get that done. We had a lot of other organizations, but generally when you have a NAWCA grant you have three funding sources: you have the department that comes up with about 1/3 of the funding; Ducks Unlimited that comes up with 1/3; and then we go after other partners to get the remaining funding. McPherson Wetland is a little bit different kind of a

wetland and there has been a lot of waterfowl use and it is close to Wichita. I might go back and mention that Cheyenne Bottoms, because of the 1989 RAMSAR Treaty became a “Wetland of International Importance” and that is critical and has been identified by the North American Plan committee as one of the essential areas in Kansas and we are sitting on about \$3 million for an education center and none of this would have happened if we hadn’t gotten Cheyenne Bottoms renovated and get the support we have. Heron Playa is a little different situation, we had three small NAWCA grants which allowed us to acquire land over a period of time and we have acquired about 200 acres. Roughly we have about 250 acres in Ford County and it is being used as an education area, Commissioner Shari Wilson has participated in some education programs out there. We have had Playa Lake Joint Venture workshops out there. We do have the ability to pump water, not something we want to do every year, but we have the water rights and we want to keep those water rights protected. It is very important to promoting playa lakes education. It is a large 200 acre basin and now we have the ability to take water away or put water on and it going to be a real nice wetland in an area void of wetland habitat. Jamestown is our last NAWCA effort that we are working on. We have submitted our first NAWCA grant and what we are trying to do there is very similar to what we did at Cheyenne Bottoms, to renovate a wetland that has been around for some time. It has silted in, we have problems with water control, and we have some cattail problems there. We also were able to use Ducks Unlimited as our grant manager to help us with the NAWCA grant and you will be hearing some good things about that. The three major wetlands that DU is still working with in our state is McPherson Wetlands, Jamestown, and Marais des Cygnes. You will see a shift from McPherson Wetlands and NAWCA 5 will probably be our last one in the near future for McPherson Wetlands and we are going to shift all of our energies and resources and get Jamestown renovated.

Unknown Audience – Where is Jamestown? Kramer – It is northwest of Concordia, about 12 miles northwest and is part of the Republican River. If you know where Lovewell Reservoir is it is about 25 miles south of Lovewell Reservoir. It is a very popular wetland; a lot of people from Salina use it and a lot of nonresidents also.

D. Public Hearing

Kansas Legislative Research Department and Attorney General’s office comments (Exhibit U).

1. Late Migratory Bird Seasons - Marvin Kraft, waterfowl research biologist, presented this report to the Commission (Exhibit V). The process of establishing migratory bird regulations is an annual affair and involves gathering data throughout the year, deliberations by the status within their respective flyways and recommendations presented to the U.S. Fish and Wildlife Service (USFWS) which then issues frameworks. The frameworks include the earliest a season can open or close, maximum season length, maximum bag limits and shooting hours. States may be more restrictive when they set their seasons, but cannot be more liberal. Kansas has been operating under the current set of zones since 2001, this is the last year of this five-year period of zones and next year the window will open and we will be able to reconfigure those boundaries if we desire. Unfortunately, it doesn’t look like we will get an additional zone which Joe and I, and a lot of other people across the country, worked very hard to get. The USFWS is very much opposed to any proliferation of zones so what we’ve got now is what we are going to have. The only changes in the frameworks from last year is: scaup – last year the bag limit allowed 3, this year 2, but it doesn’t really affect our recommendation because we recommended 2 last year and again this year; the other is a restriction with white fronted geese, last year the season was 86 days long and this year it is only 72 days. The expected duck, coot and merganser frameworks are for shooting hours for all species and seasons may extend from ½ hour before sunrise until sunset. The daily bag limit shall be 6 ducks, with restrictions as follows: canvasback and pintail, with an additional restriction of 39 days, and mottled duck - 1 bird; wood duck, scaup, and

redhead - 2 birds; mallards - 5 birds, of which no more than two of may be hens. The daily bag limit for mergansers of 5, which may include no more than one hooded merganser and the daily bag limit for coots may be no more than 15. The possession limit for all species may be no more than double the legal daily bag, except light geese (there is no possession limit). Seasons may begin no earlier than the Saturday nearest September 24 (September 24, 2005), or extend beyond the last Sunday in January (January 29, 2006). Early and Late Zones may not exceed 74 days and in the High Plains may not exceed 97 days. Of those 97 days, 23 must be taken after December 11, 2005. We are allowed youth waterfowl hunt days and states may select two consecutive "Youth Waterfowl Hunting Days," in addition to their regular duck seasons. The youth hunt days must be held outside of any regular duck season on either a weekend or holiday when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck season framework, or within any split of a regular duck season. The daily bag limit may include ducks, geese, mergansers and coots, the same as allowed in the regular season. Canvasback and pintail are allowed in the bag. Youth hunters must not yet have reached their sixteenth birthday. An adult at least 18 years of age must accompany the youth hunter into the field. This adult may not hunt waterfowl. The duck season recommendations is a daily bag limit of 6 ducks, which may include no more than 1 mottled duck; 1 canvasback, 1 pintail; 2 scaup; 2 redhead; 2 wood ducks; or 5 mallards, of which no more than one mallard may be a female. A daily bag limit for coots of 15, and a daily bag limit for mergansers of 5, which may include no more than 1 hooded merganser. Both the coot and merganser seasons shall run concurrent with the regular duck season in the respective zones. Possession limit for all species shall be double the daily bag. Shooting hours for all species shall be one-half hour before sunrise to sunset. Seasons in all three zones split once. The High Plains zone 1st segment will open October 8 and close January 3, 2006; 2nd segment will open January 21 and close January 29, 2006. The Early zone 1st segment will open October 15 and close December 11, 2005; 2nd segment will open December 17 and close January 1, 2006. The Late zone 1st segment will open October 29 and close January 1, 2006; 2nd segment - Open January 21 and close January 29, 2006. The pintail and canvasback seasons (the 39 days) will run in the High Plains October 8 through November 15, 2005; in the early zone October 15 through November 22, 2005; and in the late zone October 29 through December 6, 2005. These recommendations, with the exception of the early zone are basically unchanged from those adopted last year. The early zone recommendation is for one week later. The dry conditions at the time I wrote these recommendations encouraged me to move this back a little to give us a little more time for rainfall and water recharge. Commissioner Lauber – The frameworks allow for two mallard hens and we only allow for one, why did we decide to make that change? Kraft – I personally have always felt that the biological information was just a little bit weak in regards to impact of additional harvest of hens. I think the USFWS has ignored the hen segment of the population and manage mallards based on drake band recoveries and just assume the relationship between the drakes and the hens is the same and has remained the same when we can show that when states went to a two hen bag, the proportion of the harvest composed of hens increased. I think we had some strong indication for the past 20 years that there is a real imbalance of drakes per hen's ratio up on the breeding grounds. There is some thought by biologists on the breeding grounds that this is to the extent that it could have a negative affect on the nesting. I want to save hen mallards, I guess and that is an old attitude. I think we are seeing more support generated and we could see the frameworks change in the near future. Carpenter – I support Marvin 100 percent and I have a lot of friends at Ducks Unlimited who support the one hen limit. Kraft - Recommended youth hunt days in the High Plains are October 1 and 2, 2005; Early Zone is October 8 and 9, 2005; and Late Zone is October 22 and 23, 2005. These are all one week prior to the regular seasons. The bag limit for the youth hunts will be the same as the regular seasons including ducks, geese, mergansers and coots, with the exception that light geese will not be open during youth hunt days. I get the question quite often asking why we don't allow youth to take light geese and that is because there are no light geese in the state at that time of year and if we use those days then we would run short on our 107 day total for the regular season

and it would mean we would have to open on a Sunday or a Monday and close on Thursday or Friday.

Steve Sorensen – Does the youth waterfowl days count against number of days of duck season?
Kraft – Against the 107 days, yes they do.

For the Canada goose frameworks Kansas can select a maximum season of 95 days, with a daily bag of not more than 3 Canada geese and the season may begin no earlier than September 24, 2005 and end no later than February 12, 2006 and we can split the season once. Possession limit may be no more than double the legal daily bag. The recommended Canada goose season is for a split season with a bag limit of 3 birds, a possession limit of double the daily bag. The first segment will run October 29 and 30, 2005; and the second segment will run November 12 through February 12, 2006.

On white-fronted goose frameworks Kansas has two options for season length and bag limit. These options include: Option 1 - a season of 72 days with a daily bag limit of 2 white-fronted geese, or Option 2 - a season of 86 days with a daily bag limit of 1 white-fronted goose. The season may begin no earlier than September 24, 2005, and end no later than February 12, 2006 and the possession limit shall be no more than double the legal daily bag. The recommendation for whitefronts is for Option 1 with a split season, and season dates being the first segment opening October 29 through October 30, 2005 (2 days) and the second segment opening November 12 and running through Friday, January 20, 2006. This is a shorter season allowance but does allow 2 white-fronts in the bag and I think hunters prefer the opportunity to take two birds when they are there. The dark goose season is one week later than last year and that move was made, at least partially, due to the anticipated switch or movement backwards in the crane season. The recommendation you will be seeing shortly for cranes is for a Wednesday opener. If we open dark goose hunting (Canadas and White-fronts) in that Stafford and Cheyenne Bottoms area prior to the sandhill crane season I think it would have a rather severe impact on our sandhill crane harvest. Moving it back should not be a problem in that respect, it should allow the sandhill crane hunters to have their day and the goose hunters on that Saturday can also join in. Light goose frameworks allow a season of 107 days with a bag of 20 geese and there is no possession limit for light geese. The season may begin no earlier than September 24, 2005, and end no later than March 10, 2006. Kansas may split the season twice and there is no limit on the number of zones. The recommendation is for a season that opens from October 29 through February 12, 2006, with a daily bag of 20 and no possession limit.

The frameworks for falconry, the eligible species include all species of migratory game birds for which a regular season is permitted, including ducks, coots and mergansers, may be taken during the September teal and regular duck seasons and during the selected “special falconry seasons.” Falconers may take any migratory game species, including dove, rails and snipe, during any open gun season on those species. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons. Falconry seasons can not begin prior to September 1, 2005 or extend past March 10, 2006. The season length is limited by the Treaty restriction of 107 days of all the hunt seasons combined. The recommendation for falconry is that there are no days remaining of the 107 in the High Plains zone so there will be no special falconry season in that zone. In the early zone the recommendation is for February 17 through Thursday, March 10, 2006 and the same dates are recommended in the late zone. This is basically the same season they have had the past two years.

Perry Prosser, Andale – On the proposed dark goose seasons, I for one am not too thrilled about

not being able to hunt the traditional first weekend of November. I do hunt around the Stafford and Barton county areas and traditionally there are hundreds of thousands of geese there that first 10 to 12 days of November. To not be able to hunt these geese during that period of time could result in lost opportunity and farmers in that area are not going to be too happy about the fact that these geese are out there eating their wheat to the ground and they can't do anything about it. I understand the department's proposal and wanting to not mess up the sandhill crane hunting by not having the two days before the proposed Wednesday opener. I would think that the if the reason we are moving the sandhill crane season back is to protect whooping crane than having the goose season open before sandhill crane season officially opens would go more to protecting the whooping cranes than trying to let the crane hunters have at it first. That is a very critical two week period where if we have the two day segment October 29 and 30 and not allowing any hunting of dark geese in that area. There is lost opportunity and depredation that are going to occur. I would like to ask you to take these two days, October 29 and 30 and move them back to the traditional opener, November 5 and 6 and then run the rest of the season as they proposed.

Kraft – I was aware of the recommendation he was going to make because we visited. I understand the problem, because they do get a lot of geese in that area and I looked at the numbers last year and they were approaching a half-million birds and that was the most you have had in the first half of November, most years it hasn't been quite that high. There is potential for depredation problems. The negative aspect of moving those two days a week later is that it shortens that interval between so you lose the impact of another opening day hunt. That is not really that big of a problem with me, but the bigger issue with me is I like the idea of duck hunters, particularly in the low plains late zone where most of our duck hunters in the state of Kansas reside and hunt. I like the idea of our duck hunters being able to kill dark geese if they come into their decoy spreads. It is a mixed bag, trophy opportunity. This is a Commission call and depredation is a serious issue and I hate to see it get out of hand out there. It is actually a four week delay from last year and you will have sandhill crane hunting in that region which to a certain extent would alleviate some of that depredation to a certain extent. Chairman Dykes – Are we getting many depredation complaints from that area? Kraft – I am not hearing about it if they are occurring. Helen Hands (wildlife biologist) – No, we don't hear about Stafford County at Cheyenne Bottoms, but Quivira might hear more about it. Kraft – In 1992, we had a lot of rain and we had quite a bit of depredation at that point in time and that was one of the reasons we initiated the effort to get the sandhill crane season, but I don't know if that is a significant problem. I think they have had some problems since then, I have talked to guys who have went hunting out there and farmers come and ask them to hunt these fields, in contrast to some areas of the state.

Ron Klataske, Manhattan – I am having a little trouble following Marvin's logic on this issue here. I certainly concur with what he was saying about hen mallards and I appreciate the conservation approach they are taking with that species. I don't follow why you have to open the dark goose season a week later because of the fact that we are going to delay the sandhill crane season. Part of the reason originally for the sandhill crane season was to reduce depredation and now if you've got hundreds of thousands of dark geese in the area it seems to me that the potential for depredation could be much greater. Also, I am a little uncomfortable with the idea that we are blaming the sandhill crane season for delaying the dark goose season. I don't think the two should be as closely tied together as Marvin has tied them. I think we should have some facts, I think we are doing things anecdotally without any specific information. He was talking about this really impacting the sandhill crane season if we open the dark goose season several days earlier. What will be the impact? How many fewer sandhill cranes will be killed if you open the dark goose season on the Saturday before the sandhill crane season opens? How does that

diminish hunter opportunity, and are we in fact diminishing hunter opportunity a lot greater, by moving back the dark goose season? I think the Commission really needs to examine the issue. Kraft – We haven't done this so we don't know how much it will impact it, but I would anticipate a pretty severe impact on sandhill crane harvest if we open dark goose hunting the Saturday prior to that Wednesday. There will be intense hunting activity in that area and the times I have been in that Stafford County area the guys were hunting sandhill crane and geese almost in the same area. A lot of the same fields are being used. It is like saying we will open the duck season for everything but mallards, we will open mallards on Monday but the other species will open on Saturday, and can almost guarantee that if you spend any time around a heavily hunted area in two days those birds learn where the hunt areas are and where the refuges are that. So that just leaves me to believe that it will have a negative impact on our sandhill crane harvest. If you look at the whooping crane issue and how it relates to geese, of all of the noted and recorded mortality, only one has had to do with sandhill cranes, the others have been goose hunters, duck hunters, vandals, so it is people with guns out there that kill whooping cranes it is not necessarily sandhill crane hunters. Moving the Canada goose season back a week just keeps those guns out of the field one week longer while the whooping crane migration slides through. Klataske – If his logic applies, that if you have goose hunting occurring for several days and that is going to drive the sandhill cranes away so that you have less opportunity to harvest them, won't the converse apply as well, that if you have sandhill crane hunters out there for several days before the goose hunters get an opportunity, then the geese are going to get smart. I think it goes both ways here and I think you have to weigh all that.

Mike Pearce – I got trapped in my car in a rainstorm last night by a guy from Scott City who got my cell phone number and I could not get off the phone until I said I would speak his piece for him. This is not me or anything to do with the Wichita Eagle, but he guides and he started quoting facts and he said his sandhill crane success goes down dramatically when pheasant season opens because guys are in the fields and they won't take the pressure and they move off. He quoted me how his goose hunts go after the pheasant seasons start and they still stay pretty strong. His feeling was that you are now giving me a three day sandhill crane season. He has been guiding three years and I was supposed to say that he would be in favor of starting the sandhill crane season a little later in the day and he said he has had whooping cranes over his decoys four times in three years.

Perry Prosser – If I had known the sandhill crane season would affect the dark goose season, when this was implemented back in 1993, I wouldn't have stood before the Commission and voiced my opinion in favor of that season. I asked you to take the two days and move them back to the traditional day as far as I can tell has worked, as far as I can tell we are trying to fix something that isn't broke and take that and weigh it against the risk the farmers have of having their crops eaten to the ground in those two weeks. I have hunted out there for the last eight years and I have seen a quarter-section of wheat get eaten to the ground by 5,000 to 10,000 geese.

Kraft – This past week is the first time since I have been a waterfowl program coordinator that I have had comments supporting an earlier dark goose season that what I recommended. The pressure has always been to push later and I have always resisted. I have given ground grudgingly over the years primarily because I was concerned about the late season harvest of our resident geese and I have come to the conclusion that is probably isn't that big of an issue. We are probably killing just as many resident geese early as we are late. If you are comparing the impact of crane hunters on goose hunters, versus goose hunters on crane hunters, there is probably a lot more goose hunters out in the field than there are crane hunters. We have roughly

500 active crane hunters and we sell about 1,000 permits. The depredation issue is serious. When you look at the migration chronology in Stafford County and Cheyenne Bottoms, there is no doubt that they have a lot of geese in November, a greater number than in February. If you look at the statewide numbers, the number of birds in the first half of November is basically the same as they are in the first half of February (about 100,000 more in February).

All approved.

Marvin Kraft - Potential changes for 2006 Waterfowl regulations (Exhibit W - PowerPoint presentation). Multiple stock duck harvest management and adaptive harvest management (AHM), is the duck management program we have been operating under for a number of years now. One of problems we are running into is how we handle those species like pintail and canvasback when the AHM runs primarily on mallard data. The hunter's choice bag limit concept is something you might be hearing about a year from now. Since 1995, the duck regulations have been established by AHM and we have three packages currently, restrictive (for the low plains of Kansas – 39 days); moderate (60 days); and liberal (74 days) and the models that are very dominate in choosing which package we end up in are heavily influenced by the May ponds on the duck breeding survey and the mallard breeding population status. Unfortunately, what is good for mallards may not be good for some of the other species that have small populations, like mottled ducks, canvasbacks and redheads; or declining populations like pintail, scaup and widgeon and these other species require some special consideration. The mallard breeding populations are looking pretty good compared to the North American **gull**; pintails don't look too good; widgeon not terribly bad, but numbers since 1995 are not doing very well; and scaup are at an all time record low. The USFWS this year wanted to go to a one scaup bag and through the protest of the flyways they backed it up for a year while we looked at the data. Redheads are looking pretty good, but it is a relatively small population, hundreds of thousands rather than millions. We need to reduce the harvest on those species requiring additional protection while maintaining hunting opportunity on the more abundant species, particularly the mallard drake. We want duck harvest regulations that are not overly complex, that are enforceable and acceptable to duck hunters. Some of the techniques that we have used over the past years to manage, or limit, the harvest of species needing some harvest relief have included: modifying opening and closing framework dates; area closures; restrictive bag limits; point system bag; aggregate bag limits; closed seasons; closed seasons, or seasons within seasons (seasons within seasons or closed seasons is when the harvest of one bird for an entire season is greater than the USFWS wants to allow or that the population can withstand); and the next step is a totally closed season on a species. Waterfowl managers do not want to have closed seasons on species because it puts a tremendous amount of pressure on our hunters in the field. In particular they don't want to close a season on a brown duck, like a hen pintail. The alternatives are closed or partially closed seasons which we have had in recent years. We can reduce the hunting opportunity on mallards or other abundance species (reduce overall season length to protect vulnerable species). The hunter choice bag limit coupled with a strong education effort for our hunters to make them aware of the issue and get their support for this particular approach. The problem with using seasons within seasons, or closed seasons within seasons, is closing the season on a brown duck. When you close a season on a pintail hen, for instance, the problem for younger kids and older people, who have a hard time seeing, is that you effectively close the season on gadwall, widgeon and all the other brown duck species out there, so this puts a tremendous amount of pressure on our hunters out in the field. The objective is to have a system that takes pressure off hunters, but effectively reduces the harvest on those species, is acceptable to hunters, maintains hunting opportunity, prevents closing seasons, is compatible with both

experienced and novice hunters, and has high compliance and enforceability of the regulation. Three key elements of hunter choice bag limit are: an aggregate bag category (one mottled duck or one pintail or one canvasback or one hen mallard; the hen mallard has to be included in that aggregate bag; and the total duck bag limit is the same as the mallard bag limit. The fact that we wouldn't have closed seasons should reduce the complexity of the regulations and reduce the inadvertent violations. The hen mallard has to be included in this even though it may not need additional harvest restriction because they are one of the most abundant ducks. Our hope is that the presence of hen mallards will buffer the harvest of the other species in the aggregate bag, in other words, before the USFWS is going to let us adopt this concept we have to show that we will reduce the harvest of pintail, canvasback and mottled duck to the level that we would in the 39 day season. We feel like we need to have the hen mallard in that mix to do that. Total duck bag limit has to be the same as the mallard bag because if the mallard limit was five and the total bag was six the hunter could still wait for the brown duck and we wouldn't see the harvest reduction. With the bag limit the same, when that individual shoots the pintail or canvasback he has given up the opportunity to shoot a drake mallard. With the frameworks we have this year the hunter's choice bag limit might be a daily bag limit of five ducks with species and sex restrictions of: scaup – 3; redhead and wood duck – 2; and one duck from the following group – hen mallard, mottled duck, pintail or canvasback. One of the key things is that we have to have the support of our hunters on this. The USFWS is not tickled about it because it is something new and I think they would prefer a reduction of the overall season length and trying to affect the harvest in that manner. In March 2005, we conducted an experiment to show whether we can reduce the harvest on these species to the level they desire; this fall we will conduct a survey of hunters throughout the Flyway; and then conduct another survey at the end of three years when the experiment; September 2005, hunters will still use a season within a season. The USFWS needs to formally approve the hunter choice experiment next year as they can't approve regulations a year in advance. A year from now we will begin the experiment and evaluation. The experiment involved pairing up the ten states in the Central Flyway based on the proportion of pintails in their duck harvest and as you can see Kansas is paired with Nebraska. There was some pairing that we didn't suspect, like Wyoming and New Mexico. Between these paired states, one state will be in hunter choice and the other state will stay with the season within a season like we have this year. Kansas won the coin toss and will be doing the hunter's choice for the next three years assuming that duck populations remain relatively stable. Other hunter's choice states are: North Dakota, South Dakota, Wyoming and Texas and the other states will stay with the season within seasons.

Chairman Dykes – That is our choice, to adopt the hunter's choice approach or go to extremely shortened seasons. Kraft - Not necessarily extremely shortened, but there is a strong push to go to a 60 day season which means we would lose two weeks. The thinking is that by reducing the season to 60 days it is going to reduce the harvest population and they would stay a little higher and we will be falling into that 39 day season on a less frequent basis. I don't want to be the person that goes back to our Kansas hunters and tells them that we are reducing the season. Those extra two weeks are critical to those hunters who like to hunt early. The season would basically be shrunk down to November and December. Tymeson – We will be locked into this hunter's choice for three years and if the other states are in the season in a season and you see a population rebound in pintails, what then? Kraft – All the states are locked into what they were given for the next three years. This year, canvasbacks did not need to be in the 39 day category, the other three flyways are having a one bird bag limit for the entire season, it is only the Central

Flyway that has the 39 day restriction and that is so we can get the third year of this control data prior to initiating the experiment. Chairman Dykes – What is the shortest season length we have had in the last decade? Say, back to 1994? Kraft – We had 39 day seasons for some time and that is when people chartered bus services to come to these meetings. I hope I am not around when it happens again.

Chairman Dykes – You forgot to do Marais des Cygnes goose.

Marvin Kraft – Dark goose management units for the Marais des Cygnes unit is a recommended season of December 24 through February 12, 2006. Shooting hours from one-half hour before sunrise to 1:00 p.m. and the bag limit would be the same as the statewide bag limit. In the Southeast unit there is a major change from last year, even though the unit will basically be in existence the season will be the same as the statewide season. The first segment would run October 29 and 30, 2005 and the second segment would run November 12 through February 12, 2006. Shooting hours would be one-half hour before sunrise to sunset. In the Southeast unit there has been a lot of comment and pressure for a number of years to liberalize the harvest in that area of the state and there has been disagreement in our own state and we finally decided to go ahead and open it up and watch the breeding survey data and re-implement if we have to.

Commission agreed with all recommendations.

2. KAR 115-25-20. Sandhill crane; management unit, hunting season, shooting hours, bag and possession limit and permit validation - Helen Hands, waterfowl research biologist, presented this report to the Commission (Exhibit X). This regulation is being reviewed because of an unfortunate shooting of two whooping cranes last fall by one party of sandhill crane hunters. Since then department staff have been intensively studying the issue of sandhill crane hunting, migration chronology and whooping crane migration chronology. At the January Commission meeting we presented five regulatory options: 1) to delay the season opener; 2) establish a buffer zone around whooping crane concentration areas; 3) further restrict shooting hours; 4) increased emphasis on implementation of the federal/state whooping crane contingency plan; and 5) increased emphasis on hunter education and awareness. However, at the same time we recognized that implementing one or more of these regulatory options would be complicated by the extremely large numbers of sandhill cranes and geese that occur in the Cheyenne Bottoms and Quivira areas and that these large concentrations could provide the potential for a devastating disease outbreak that could kill thousands of waterfowl and crane, including whooping cranes. Department staff also discussed the sandhill crane/whooping crane issue with staff from the U.S. Fish and Wildlife Service and as a result of that study and discussions we have recommended to delay the opening of the sandhill crane season until the Wednesday following the first Saturday of November, starting in 2005 and to implement a mandatory test for sandhill crane hunters by September 1, 2006. Delaying the opener would allow more whooping cranes to pass through the state and the four-day delay was selected as a compromise between the need to allow more whooping cranes to move through the state and to allow farmers to control likely crop depredation by the huge number of geese and cranes that concentrate in the area. More restrictive recommendations were not recommended because we have concluded that the whooping crane shooting was an isolated, though unfortunate, incident and that the vast majority of sandhill crane hunters have shown themselves to be able to pursue the sport responsibly. We have worked on increasing hunter education and awareness which we feel is the most effective way to minimize the chance of another whooping crane shooting in the future and at previous Commission meetings I have shown you some of what we have been working on. The brochure would go to sandhill crane hunters when they go to purchase their sandhill crane permits and would also be available on the agency website. The poster would be for display at

license vendors, Cheyenne Bottoms and Quivira offices where hunters would be coming in to get information. We recommend delay of implementation of the online sandhill crane test because this year the licensing process is more complicated with point-of-sale licensing and trying to get names of sandhill crane hunters that have passed the test into that system database would be extremely complicated.

Carol Cumberland, Wichita – Will the guilty party be given a sandhill crane permit? Hands – That case is being prosecuted by the federal law enforcement and I have no idea where that case is right now. Is there a way to stop that person if they went in to purchase a sandhill crane permit if they are not prosecuted yet? Kevin Jones – At the present time, what Helen said is true, the USFWS has not brought charges, but we expect some resolution to that case in the next few weeks, from the USFWS standpoint. We will just have to see what sentence will be imposed if there is a guilty entry into that case. One key factor that you have to keep in mind is that the federal government does not issue hunting licenses or permits. The federal court could tell them that they could not hunt. Through the automated system we will be able to inquire in that system (usually the sanctions placed by federal courts are very strict and severe) and stop them from purchasing a license. Cumberland – Has anybody been charged? Jones – The formal federal indictment has not been handed down at this point in time.

Steve Swaffar, Kansas Farm Bureau – You have already heard about some of the potential issues of depredation with the reductions in seasons and I encouraged you back in January not to over react to an isolated incident. We don't know the specifics so we don't know if we have an accidental or an intentional shooting at this point, but we are making changes on something we don't know all the facts about. I would encourage you to take action once you have all of those facts and not before then.

Rosa McHenry, Wichita Audubon Society – We have 1,000 members and I want to thank you for the opportunity to speak and for considering the suggestions that have already been made. However, we feel the department response to the shooting of the three whooping cranes is inadequate and that you are failing in your responsibility to protect an endangered species. The events of last November made it clear that hunting sandhill cranes represents a threat to whooping cranes. Hunting proponents may argue that the event was an accident, but we have reliable eyewitness reports of another incident where sandhill crane hunters shot at a flock of cranes that included both sandhills and whooping cranes. In that case the birds flew off and the damage was unknown, but clearly unreported incidents have occurred and this is an unacceptable amount of risk for such a fragile species. In 1944, 21 whooping cranes in the world with just over 400 now with approximately 230 in the wild flock that migrates through Kansas. This is the only self-sustaining wild flock and it has taken more than 60 years to get to this point. It is estimated in the USFWS species recovery plan that it will require another 35 years to reach a population of over 1,000 whooping cranes and this is the point where they will be delisted from endangered to threatened. The federal government has been working on active whooping crane recovery since at least 1970 and currently spends \$4 million a year on the project. The estimated cost through 2010 is \$32 million and through 2035, \$125 million. As taxpayers, we find it unacceptable that one branch of the government is spending about \$10,000 per bird, per year, keeping them alive, while another branch is putting them in danger. The small amount of income to the Department of Wildlife and Parks surely does not even cover the cost of administering the hunt and certainly doesn't cover the cost of the collateral damage. Only four places on the migratory route are designated as critical habitat to whooping cranes and two of those places are Cheyenne Bottoms and Quivira. With the ongoing loss of wetlands, these places become more critical every year. As

home to two vital stopovers Kansas has a special responsibility to make sure the whoopers are safe during the time they spend in our state. Moving the sandhill crane season back four days is the smallest concession to the threat that it poses. We urge you to do the right thing and make significant reforms to the timing and location of sandhill crane hunts. Don't underestimate the international effort to preserve this unique species and we encourage you to a part of the team that brings them back. Chairman Dykes – What exactly would be your recommendation?
Cumberland – Moving the season back further and creating a buffer zone around Cheyenne Bottoms and Quivira.

Cheryl Miller, Wichita – I have written to all of you earlier this spring. I have lived in Kansas most of my life, with the exception of six years for professional and educational reasons. I come from a family that has a strong tradition in hunting and fishing, however I am a non hunter, but I want to make it clear that I understand that hunting is a useful wildlife management tool and I am not opposed to hunting. In my review of the 2004 hunting regulations and the hunter education manual there is no mention of whooping cranes in the educational material and people may look at different illustrations, for example the four dove species, or find out about falconry limits, but there is nothing about the whooping cranes in particular. Also, sandhill cranes are not shown in the hunter education manual and I know there is a movement out to do some things electronically and I applaud that, but I was wondering what kind of specific changes will be made in these two documents are planned that might demonstrate the differences between the two crane species and also indicate the whooping cranes endangered status? Second, on the Quivira website indicates that the whooping cranes migrate October 15 through November 15 and sandhill cranes migrate between October 15 and December 15. There seems to be a significant overlap between the two species and I have to admit that I am disappointed that season opener is only delayed by four days and I think it should be later to allow the whooping cranes to migrate through. If there truly is a reason to have the sandhill crane season in areas known to attract whooping cranes, namely Quivira and Cheyenne Bottoms, then why is there not a buffer zone around those two places in particular.

Hands – Those are good suggestions to add pictures of sandhill cranes and whooping cranes in hunter education manual. I have been trying to address the sandhill crane/whooping crane identification issue a little bit more in hunter education classes lately. I taught a class in Ellinwood just recently, did the wildlife ID and emphasized the differences and showed them some pictures of situations not to shoot in. I will be doing that at three classes in Great Bend and also one at Quivira in October. We are also putting pictures of sandhill cranes and whooping cranes in the hunter regulation booklet so that when hunters go to get the season information they will also have identification information and also a map showing where whooping cranes are likely to be. Just more awareness about whooping cranes sharing the sandhill crane concentration areas. There are also photos in there of sandhill cranes in bad light and emphasizing to the hunters that there are definitely situations to not shoot in. In terms of why we haven't selected a buffer area is that we strive for less complex regulations and the areas where the whooping cranes are is also the main concentration areas for sandhill cranes. In terms of harvest, 84 percent (the average of the first 10 years of the season) of the sandhill crane harvest occurs in the Barton and Stafford county areas. If you were to completely close those two counties, you would lose 84 percent of your harvest.

Ron Klataske, Executive Director, Audubon of Kansas, Manhattan – I have a long statement mostly to provide background information and rationale for some specific proposals. Thanks for opportunity to share our concerns and recommendations with you. We are offering three modest, but very important recommendations for amendments that will substantially reduce the prospect of whooping crane, and other non-target species being shot during the sandhill crane season and

other seasons. Chairman Dykes – Can we just deal with the recommendations? Klataske – Yes we certainly can. Basically, we are recommending that the sandhill crane season open no earlier than November 10, but wouldn't quibble if you decided to go with the 9th this year. However, if you look at the calendar over a period of years we will end up having the first Wednesday after the first Saturday in November sometimes as early as November 5, which is a day earlier than the tragic event of last year. As a matter of policy we should set a date. Most whooping cranes are gone by November 20 and so it presents far less of a threat to whooping cranes. Another recommendation is to begin the shooting hours ½ hour after sunrise, or later, to allow light conditions to improve, so we are not dealing with silhouettes against bright rising sun or where light conditions are still pretty dark at that time of day. As I pointed out, part of reason for this is the sandhill cranes and whooping cranes often intermingle and are flying through the same fields and as Mike Pearce pointed out from the outfitter indicated that on a number of occasions they have had whooping cranes come into their sandhill crane decoys. That is a special thrill for many of these hunters who really appreciate the unique opportunity to do that, but there is a few out there that might fire upon silhouettes of birds coming in. I probably have viewed more sandhill cranes than most people in Kansas having worked every spring along the Platte River in Nebraska on sandhill crane habitat issues and I can tell you that it is hard to distinguish the difference between sandhill cranes and whooping cranes in low light conditions, even for professionals. We want to not only protect whooping cranes, but protect hunters and the department from mistakes because it hurts everybody when these mistakes occur. Basically, what we are suggesting is that 7:30 would give you a ½ hour on the 10th of November and that decreases down to about five minutes by the end of the November, and then you could jump to sunrise in December, when the whooping cranes are gone. We also believe that Cheyenne Bottoms should be closed to sandhill crane season. I think it is indefensible to have shooting line along Cheyenne Bottoms with birds coming out and shooting sandhill cranes. As the USFWS has indicated, in conversations I have had with their staff, it is sometimes whooping cranes are arriving at these major stopovers as late as an hour to hour and a half after sundown, so in many occasions we are not going to know that the whooping cranes are on Cheyenne Bottoms or Quivira at sunrise the next morning. The critical habitat areas, Quivira and Cheyenne Bottoms should be closed to sandhill crane shooting. It also reduces the risk of other non-target species being shot because there are a lot of long-legged, long-necked birds flying around and they are primarily in wetlands. Most of the sandhill crane hunting occurs in agricultural fields and that is most defensible because it reflects our higher degree of sportsmanship to bringing them into decoys and the traditional approach for hunting these species and it addresses one of the issues for justification of the sandhill crane season in Kansas which was to control crop depredation and it also reduces the prospects. If someone indicated they didn't want to give up a half hour in mid November, than close it ½ hour later. The reason for that is you are not risking very much, the mistaken identity. When we are thinking in terms of low light conditions, 15 percent of males in the world are color blind and that complicates things. Immature whooping cranes are basically rusty colors with some white and some black and immature sandhill cranes are often rusty on gray with the absence of black and will you are dealing with first year birds it gets a little more difficult to distinguish. I think we should discount is whether or not the people intentionally shot the birds or accidentally, but I prefer to believe it was accidental. There is nothing we can do to prevent wanton illegal activities, except law enforcement after the fact, but we have an obligation to recognize and memorize those mistakes.

Chairman Dykes – Anyone here hunt sandhill cranes? Tim Keenan, Great Bend – I hunt sandhill cranes and I think the recommendation the staff came up with is a good compromise and most hunters can live with the four days and accept the recommendation. I personally don't favor going any farther than that and extending it a week or ten days. Chairman Dykes – How big of a disadvantage does putting the opener at 7:30 affect you? Keenan – Personally, it probably doesn't affect me, but it would affect some people depending on where they hunt and how close they are to the refuge. I think the facts have pointed out that hasn't been a problem in the past. Chairman Dykes – I am like Ron and believe this is an instance of mistaken identity and as the sport grows there is more opportunity to make mistakes, especially in low light conditions. I am open to the ½ hour later might help reduce those chances. Keenan – What would sunrise be on the 9th of November? Hands – I think Ron was right, that it would be about 7:00 am, but they have done experiments with ducks, in terms of comparing non-targets taken a half hour before sunrise and sunrise and there is no significant difference, so I don't know whether you will see any change. There has been no study done looking at identification at sunrise versus ½ hour after sunrise, but there is no data to show it is going to be that much different. The key for every hunter is you have to remember one of the ten commandments of hunter safety is “be sure of your target before you shoot”. Hopefully with our educational efforts we can drill that into the hunters. That is the most important thing for all kinds of hunting, not just sandhill crane hunting. Keenan – This season has strong support in the Barton and Stafford County areas and is very popular with the goose and duck hunters and I ask that you decide this on the biology and the facts and not the emotion of this unfortunate event. If you did anything more than has been recommended you are going to punish all of the Kansas sportsmen and we shouldn't be treated any differently than the sportsmen in the rest of the flyway, with the exception of Nebraska. Joe Barkowsky, Bird Curator, Sedgwick County Zoo – Before the Topeka meeting, where we first discussed this, I spoke to recovery team leader for the whooping cranes and they had said they were holding a meeting in the spring and they were going to discuss this situation and specifically areas in Kansas that were becoming more prevalent for whooping cranes and said that they were going to somehow designate this as a much more important area for the recovery of these birds. How much did the whooping crane recovery team lead into what you have looked into for this and did they had any say in this whatsoever or did they have come out with a statement regarding the importance of this being a more important region now? Hands – Cheyenne Bottoms and Quivira have been listed as critical habitat for years and I don't know what more can be done to designate it as such. The whooping crane coordinator, Tom Stain, attended our meeting; we had frank discussions and had agreements on some issues and disagreements on others and one of the areas of disagreement was probably on perhaps the buffer zone. He recommended it, but we did not. Ben Rogers – I am perfectly aware that hunting is an important part of culture and preservation and conservation, we can only look at Pennsylvania deer issue to see what happens when you don't hunt enough. My recommendation is that we emulate Nebraska, I think we should stop sandhill crane hunting, which Nebraska never started and they have problems with depredation too, and that we spend a good deal of time and effort setting up viewing of sandhill cranes on closed spaces. It has made the Platte River world famous and has brought a great deal of money and people into that area. The concentration of sandhill cranes, particularly at Quivira is probably larger than any single concentration in the Platte River area. In terms of the original reason for starting sandhill crane hunting in this state, it was suggested that depredation was a major factor. I have a real doubt that what we are doing in terms of harvesting sandhill cranes has any appreciable affect on depredation in this state. The number of sandhill cranes harvested versus the number sandhill cranes in our area is insignificant. It may be that if you hunt in the wheat and

milo fields you would decrease the number of sandhill cranes in those areas, but the result is that you drive them to the refuge and that is where the biologists say we are in the greatest danger of increasing the diseases. So if we decrease depredation, we increase the chances of disease. I think that is a good reason to go back to 1993 and rethink that and then start a program in Kansas to use the sandhill crane population to our advantage.

Unknown Audience – When people receive a sandhill crane permit do they get an identification guide? Hands – Yes, when they got a hard copy of the permit, at least the first ten years of the season when the pamphlets were readily available. I think last year was the first year the USFWS didn't provide us the pamphlets. Also, the reverse side of the permit had identification information for whooping cranes and sandhill cranes.

Steve Sorensen, Kansas Wildlife Federation – At our annual meeting in Manhattan last February KWF passed a resolution that supported sandhill crane season as it was last year. In 1993, when we supported it we actually wanted to see the season open a week earlier, but we agreed with the department that it should start in the first week of November. With the four-day change, we can support that change and are tickled to see an increased education effort. There are a couple of things that were brought up, last year, when those whoopers were shot, starting it at 7:30 or 8:00 would not have made any difference, it was foggy and it stayed foggy until 10:00. Light conditions were low and you can start the season at noon in Kansas and still have low light conditions on days because of rain, snow, fog or whatever. You are just playing an odds game.

As Helen pointed out with waterfowl identification, there is not much difference between a half hour before sunrise and sunrise. There wouldn't be that much of a difference. It is time we stopped punishing all of the hunters for the unfortunate acts of a few. We don't penalize all of the drivers because one guy goes off and has an accident. We set standard speed limits and whatever and I wish the USFWS would give us some idea of what is going on with that situation.

Chairman Dykes – If the crane hunters don't think it would make any difference whether we move it a half hour after sunrise, than why not delay it? Sorensen – If there is no difference in hunting availability and those guys are out hunting geese and cranes at the same time it won't make a significant difference in non-target species harvest. I am not sure if it would make much difference if opened duck season earlier. Even now you can shoot only one mallard and if that is the case then maybe you need to look at that because it is just as easy to mistake a mallard and a gadwall at 20 minutes before sunrise as it is a sandhill crane or a whooper. I think there is significant difference. The difference between an immature sandhill and whooping cranes can be very little, but the difference between the birds flying with those immature birds is significant.

Rarely are you going to ever have an immature sandhill crane come out by itself, it is usually with the family group. We are also concerned because we have already set up buffers, Quivira was shut down to all hunting last year from the middle of October to the middle of December and that is a huge buffer. So we penalized a whole series of people that only hunt ducks at Quivira and they virtually didn't have a season last year. We support what you have come up with and hope you will adopt Helen's recommendations. Chairman Dykes – If the crane hunters don't care if we change it later, why not? Hands – Depends on how far your hunting area is from the roost. The closer you are to the roost you are going to have more early morning opportunity.

Klataske – We are playing an odds game with whooping cranes, there is a big difference between gadwalls because they are not severely endangered. There good duck hunters who can identify ducks by the sound of their wings, at least some of the species. Obviously there are many hunters who could identify most of the time under low light conditions. But, since we are playing the odds game, I think we should increase the odds for whooping cranes. Chairman Dykes – Mike,

does it make any difference to you if we started at 7:30? Mike Pearce – When I have hunted, the opportunity is so rare that you have to take the opportunity when you can. As a bowhunter I have to tell you that there is a world of difference between ½ hour before sunrise and sunrise, but between sunrise and ½ hour after there is almost no difference. I haven't hunted cranes enough to have a solid opinion. Keenan – It depends on who you ask on whether you start a half hour later or not. If you take away a half hour you could be taking away about 1/3 of the opportunity. Commissioner Meyer – I think we are forgetting our partners out there who are providing the food for our birds and you mentioned Nebraska not having a season, but it is a corn state and it is planted in the spring and harvested in the fall by the end of mid-October and the sandhill cranes are feeding on the residue and adding some valuable fertilizer in the process. In Kansas, we are a wheat state, which is planted around September 15 through November 1 and the wheat is at a very tender state, and it is quite possible for those sandhill cranes to destroy several thousand dollars of wheat every morning of every day, because they don't bite it off they pull the whole plant out. When it comes to depredation I think we have a very huge problem in Kansas if we don't disturb those birds and keep them moving around. Speaking on behalf of the people out there feeding our game I think we need to continue the hunting pressure on those cranes and I think from our instructions last spring, that Helen and the staff have done an excellent job of providing materials to educate hunters. I think that is where the mistake was made over the past few years we have quit doing that. The key is the figure on the trigger. If you can't absolutely identify determine what you are shooting at. I think what we are doing here is the answer to the problem and I commend everybody that was involved in this because they have followed our instructions and have done an excellent job. I think the recommendations we have are good and I think they should be passed.

Commissioner Meyer moved to bring KAR 115-25-20 before the Commission.

Commissioner Lauber seconded.

Commissioner Johnston moved to amend shooting hours to 30 minutes after sunrise until, not including, December 1. Commissioner Sebelius second.

The roll call vote to amend KAR 115-25-20 was as follows (Exhibit Y):

Commissioner Harrington	Yes
Commissioner Johnston	Yes
Commissioner Lauber	No
Commissioner Meyer	No
Commissioner Sebelius	Yes
Commissioner Wilson	No
Commissioner Dykes	Yes

The motion to amend KAR 115-25-20, passed 4-3.

The roll call vote on amended KAR 115-25-20 was as follows (Exhibit Y):

Commissioner Harrington	Yes
Commissioner Johnston	Yes
Commissioner Lauber	Yes
Commissioner Meyer	Yes
Commissioner Sebelius	Yes
Commissioner Wilson	Yes
Commissioner Dykes	Yes

The motion to approve KAR 115-25-20 as amended, passed 7-0.

XII. OLD BUSINESS

XIII. OTHER BUSINESS

A. Future Meeting Locations and Dates

October 20, 2005, Fairgrounds, Kinsley (with tour of Circle K)

January 19, 2006, Cabela's, Kansas City

March 16, 2006, Kansas Museum of History, Topeka

XIV. ADJOURNMENT

Commissioner Harrington moved, Commissioner Wilson seconded to adjourn.

The meeting adjourned at 9:54 p.m.

(Exhibits and/or Transcript available upon request)