

**KANSAS DEPARTMENT OF WILDLIFE AND PARKS  
COMMISSION MEETING MINUTES FOR  
Thursday, October 20, 2005  
Fairgrounds  
Kinsley, Kansas**

Subject to  
Commission  
Approval

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

The October 20 meeting of the Kansas Department of Wildlife and Parks Commission was called to order by Vice Chairman Jim Harrington at 1:32 p.m. at the fairgrounds in Kinsley. Commissioners Kelly Johnston, Gerald Lauber, Frank Meyer, Doug Sebelius and Shari Wilson were present.

Vice Chairman Harrington explained that without sound equipment, anyone wishing to speak should come up to the front of the room.

**II. INTRODUCTION OF COMMISSIONERS AND GUESTS**

Vice Chairman Harrington welcomed Representative Virginia Beamer to the meeting.

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

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

*None*

**IV. APPROVAL OF THE August 25, 2005 MEETING MINUTES**

*Corrections*

Commissioner Johnston – Page 14, six lines from bottom, after “No, I don’t think we would be liable;” add “although Chris Tymeson is the expert on that subject,”. On Page 16, middle page, on line that starts “contact in Mound Valley...”, under Commissioner Johnston reply insert (in front of “APHIS regulations”) “is physical contact with the general public permitted”.

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

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

Bill Scott, Ransom – Lived close to Cedar Bluff all his life, watched dam being built. Encourage KDWP to protect Cedar Bluff as important and maintain whatever water we can. It is very important as a fisheries and wildlife area. It can be completely dry in the river there at times. We are losing visitation at Cedar Bluff because the lake is down so much, need to keep at least conservation level. Also, I am representing Western Kansas Water Watchers as President of that organization, protecting water in western Kansas. Cedar Bluff is very important. I have presented Commissioners a chronology on Cedar Bluff from the time it was built until present time. On another issue, as a farmer I object to you opening pheasant season a week early that puts more pressure on farmers to get our crops out of the field by that time.

Commissioner Lauber – What are the sources of water loss, other than evaporation? Scott – Irrigation up stream, in the lake itself it is evaporation, but seepage out of the lake also. There is a point at the north part of the dam that has stream flow out of it year-round. When the lake was built, the dam was not sealed at that north part and 2 to 2 ½ feet per second seeps out so all of the water that leaves is not evaporation, some of it flows down the river.

Keith Houghton, Kansas Sporthunting Association and owner of Ringneck Ranch – Attend most of the meetings, but I missed the meeting where we deferred the second prairie chicken season. I live in an area with a proliferation of prairie chickens. What was the motive for rolling that season back to November? Secretary Hayden – Studied pheasant, quail and prairie chickens and although populations in your area has increased, there is a decline in the rest of the state. We are one of the only states that still have a season on prairie chickens and there was considerable pressure to reduce that season. The department tried to decide whether to close the season at the front or the back of the season. Different openings was also a consideration, so we decided to close the season at the back and have a uniform statewide opener to address the concern of biologists, especially outside of the department. In most places the numbers are down, in your area they are up, but in Allen County, for instance, they do not have birds any more.

## **VI. DEPARTMENT REPORT**

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

1. 2006 Legislation – Mike Hayden, Secretary, presented this report to the Commission. One of the things the House Committee on Parks and Tourism asked us to do was to look at deer statutes and regulations. Keith has appointed a committee internally to work on deer issues and Mike Miller is the Chair of that committee and they are beginning work on that. Also as time has passed a lot has changed in deer hunting and Mike's committee is going to review those changes. The committee has not met yet so I don't know what our recommendations will be, but we will report to the Tourism Committee at that time. We don't have another Commission meeting until January so we will not meet until the session starts, so we will take the recommendations to the House committee after that meeting if we do want to make some changes. Our current legislation is a mandated phase-in increasing the number of permits available and we have two years left of that five year schedule. We have gone to the maximum each year, these are ceilings, not floors, and we have always gone to the maximum because we felt that was legislative intent. We have seen impacts on demand; pricing on open market; and need to know if you want to go to the maximum again next year as permissible by the law. If you want to we can, or we can go to a lesser number if you wish, but we would need to know in time to get the regulations out.

Commissioner Johnston – What is the maximum? Secretary Hayden - Archery 23 percent, I believe; firearms is 18 percent of resident number for next year. Resident numbers are declining in firearms and you are talking about a percentage of a moving target. Archery is fairly stable.

Commissioner Johnston – Where are we this year? Secretary Hayden – I believe 21 percent archery and 16 percent firearms. Commissioner Lauber – We should consider not going to the maximum, there is some sensitivity already regarding nonresident permits, cut that in half or freeze it this year possibly. These are caps and are moving up from what was 10 percent up to 20 percent for firearms, but consider not raising that this year.

Commissioner Meyer – I would like to get input from Lloyd and biologists and get some facts before we decide that. Vice Chairman Harrington – We can defer this to the workshop session where this will be discussed.

2. FY 2007 Budget - Dick Koerth, Assistant Secretary of Administration, presented this report to the Commission (Exhibit C). Submitted the FY 2007 budget request is for a total of \$48,507,627 and 407.5 positions, an increase of one position (for Prairie Spirit Rail Trail to complete phase 3 of that project). The amount of State General Fund (SGF) expenditure requested is approximately \$4.2 million. The revised FY 2006 budget totals \$59,512,798 of which \$3,768,271 is from the SGF. The large amount of expenditures for FY 2006 includes re-appropriated capital improvement projects from prior years. The approved capital improvement amount for FY 2006 was \$4.8 million. There are several major issues included in the revised FY 2006 budget request. As discussed with the Commission at previous meetings, KDWP is concerned with the financing for operations of the Parks Division in both FY 2006 and FY 2007. At the current time, receipts to the Park Fee Fund for FY 2006 are six percent less than the prior year, which is less than the year before that. The total receipts for the prior year, FY 2005, were slightly less than the previous year. The 2005 Legislature authorized the use of \$300,000 from the Road Fund to finance operations of the state parks during FY 2006. In addition, we are holding an additional \$400,000 of Road Fund monies in reserve to assure adequate financing of the state parks in the current fiscal year (expect to be \$500,000 short in PFF). This will reduce the funds available for road repair and maintenance and match for LWCF grants. On September 27, 2005, KDWP requested State Finance Council approval for a \$405,000 increase in the expenditure limitation for the Wildlife Fee Fund. These funds will be used to repair damage to the dam at Leavenworth SFL. The FY 2007 budget request continues current operations for KDWP at the previously approved levels with 406.5 positions, plus one position. Included in the current operations request is an amount of \$266,000 in SGF appropriations to continue the program approved for FY 2005 which provides active Army and Air National Guard members with free hunting and fishing licenses and free annual vehicle permits to state parks. Expenditures for this program in FY 2005 were about \$74,000. The financing for the operations of the state parks continues to be a concern. For FY 2007, KDWP has requested expenditures of \$6.5 million from the Park Fee Fund to finance operations of the state parks system, an increase of \$220,901 from FY 2006. However, it should be noted that actual revenue to the Park Fee Fund in FY 2005 was \$5,569,974. The FY 2007 budget submitted by the Department includes revenue of \$1,318,500 from a revenue source still to be determined. For FY 2007, KDWP has requested several enhancements to assist agency operations, which is not as bad as it sounds, we have discussed ways to fund that with the Division of Budget. A request to expend \$1,139,300 from various funds was made to acquire 62 replacement vehicles, primarily trucks. The Department relies on vehicles to accomplish tasks associated with law enforcement, biology, and state parks. The replacement criteria have been increased to 140,000 miles for trucks, from 90,000 miles. The approved FY 2006 budget authorized the replacement of 39 vehicles. Other enhancements included in the FY 2007 request were as follows: \$220,000 to replace a large backhoe; \$65,000 and one FTE to operate the third stage of the Prairie Spirit R/T; \$46,000 to implement a STWD buoy plan; \$95,000 to enhance urban fisheries; \$300,000 to expand the WIHA program; \$20,000 to create an Archery in the Schools program; \$60,000 for fisheries genetic management equipment; and \$160,000 for an increase in funds to operate the state parks. The Commission has previously been provided information on the FY 2007 Capital Improvement request submitted by KDWP on July 1, 2005. Have had a zero percent increase for several years. Commissioner Wilson – We bring this up at every meeting, but I am concerned about how we are funding our park system, we expect more money in park fee fund when the trend is in the opposite direction. The department has raised park fees and we are maxed out there and we need

to find another formula or another way to supplement our park fees. We had a bill in the legislature last year, and I hope that will come back and get passed. Our parks have a lot of economic development for people in our state, families who work in parks live in local communities, have kids in schools and there are community businesses that are set up around parks. Koerth –SB 87 is still alive. We have increased fees in prior years, but hope for recovery next spring.

Commissioner Sebelius – I agree with Commissioner Wilson. Before the January meeting we should discuss and plan for alternative funding and discuss what we have to close if portions of the parks have to close. Also, what is the additional person in the budget? Koerth – That money covers the person’s salary and vehicle expense. Commissioner Sebelius – Is that a temporary position? Koerth – No, permanent. On the park issue, by January we will know what the Governor is recommending and will be able to comment to the Commission at that meeting. Commissioner Meyer – Help us out folks and talk to your legislators, because if we continue to use the Road Fund, eventually they will begin falling apart too and that money will no longer be available.

Paul Babcock, from western Kansas, said he had read articles in Hays paper on Kansas Water Office and Department of Revenue, concerning economic benefits of selling lake front property around state reservoirs. He was concerned about how the Commission felt about it. He stated he was opposed to it. We have so few water facilities and I want to point out to you that it is extremely important to us in western Kansas. It is a long way between Denver and Kansas City. Population decline is a problem and I hope you won’t allow the property to be sold off for commercial purposes. Commissioner Meyer – Toured Crawford State Park where they allowed that right after it was built and I don’t think we want to do that again. Babcock – The article said that some of that land has been sold. Interested in your opinion, aware of what their suggestions are. Secretary Hayden – We are aware of it, they came to us in the beginning. There were four firms looking at doing studies, including Wichita State University, so no study has been done, no firm has been selected to do these studies. Two site visits have been selected and I visited one in Nebraska and there are cabins there and a marina involved, the Director of the Water Office said they have not had any complaints. There also was a visit in Oklahoma that I was unable to attend. There is very little likelihood that any developments would occur in western Kansas, they will not go around uncertain water supplies. At Cedar Bluff, even though we control most of the water, we can’t control weather or seepage. The farthest western reservoir might be Wilson. There are going to be studies done, the department will have input and we have to protect the public entity, but if you can protect all of the natural resource values you may see some of that. Babcock – If I understand you, they are talking about selling the property for use by homes and businesses, not lake view, but lake front? Secretary Hayden – The Corps is willing to sell property for commercial use on the lake front, but residential is lake view only. No concern for diversion of public land for private use. We don’t have golf courses, and lack marinas in the state so the likelihood is slim.

## **B. General Discussion**

1. Electronic Licenses and Permits - System Update – Keith Sexson, Assistant Secretary for Operations and Karen Beard, Chief of Licensing, Administrative Services Division, presented this report to the Commission (Exhibit D).

Keith Sexson – We know that over the process most, if not all of you, have been contacted about the way the system is going. The final product was due better than two months ago, but still working on final end to this process. Reported recently to the Joint Committee on Information

Technology on this topic because they had heard concerns from vendors and customers. Sent letters to all legislators informing them of what came out of that hearing and had comments from some appreciating the report. We have a meeting November 16 to review and update committee on where we are in the program and go over the process and how we awarded the contract. That afternoon we will update them on the progress. We have scheduled a meeting next week in Topeka to look at the status of the contract. Gearing up for deer season, which even under a paper permit system was always a crunch, trying to head off problems of long lines, and we are going to do a tremendous media blitz to get people to buy permits early. This system gives us the ability to look at how sales are going. We have sold 11,000 at this time. That is the kind of information we are tracking and what we might expect. Home sales have been one of our biggest vendor types, because initially we didn't have our vendors up and running, particularly prior to the beginning of the dove season. Would like to think it is an important source to obtain all licenses to hunt and fish in Kansas. If at any time any of the Commissioners have questions be sure to give us a call and we will be happy to get the information you need.

Karen Beard - We are in much better shape than a month ago, 690 vendors are up and running, 186 selling from web PC, all have been trained. Small vendors are just now coming up. We only have 476 vendors with actual sales, 45 are seasonal vendors that won't come up until spring, 75 Dillons stores that are not starting until next week, and 20 vendors that we have not been able to contact. There are still about 100 that have equipment, but no sales. Going to call them to see if they need more training or have other problems. Some don't sell until closer to pheasant season. Doing more PR to make sure those vendors are not falling through the cracks. ALS claims they will have all of the problems fixed by next week. Park permits should be out next week at only our vendors, still lagging behind on VeriPhone equipment. Selling 2006 licenses starts December 16, and this is always a big sale item for us for Christmas. We don't want to go through the problem of the vendors not being ready again. After park permits come up, we will be testing big game applications. Next year a person will be able to apply on line for those. Central Bank will perform the draw for us. Tennessee and Florida are the only states that have had the draw done for them. They stress testing several times before the actual draw. We have also had questions about the fees.

Commissioner Johnston – With respect to the fees, are these per item fees? Karen – Yes.

Commissioner Johnston – If I bought several permits at the same time I would be paying for each one? Karen – Yes, they based the price of the equipment on the number of privileges sold, and that is how we are paying for the system. Commissioner Johnston – We can't change the contract after it is signed, but what about when I buy one at the Wichita office? Karen – Yes, you will be paying there also. The agent fee is per item and the processing fee is per item to pay for the equipment. The processing fee is the \$1.15 per item and Internet is considered a convenience fee. Commissioner Johnston – So I won't be paying both? Karen – Yes, you will be paying both, the convenience fee is for items sold on the internet. Commissioner Johnston – Does statute read that we pay \$1.00 that is not discretionary? Statutory, not regulatory? Karen – Yes.

Commissioner Lauber – Used to be optional, the 50 cent fee and some vendors did not charge it at all. Now it can be more work for the department, internet is a benefit for you? Karen – A lot of work for us, single use options need to read instructions, install pdf plug in, which allows only one copy of the carcass tag to be printed. It has been brought to my attention that they can just copy it off at a copier, but that is illegal. Some people breeze through that without reading the instructions. Commissioner Lauber – Reduce convenience fee if they would save money, that might be a way to be able to reduce the number of people needed to service people. If we

eliminated the convenience fee, you might have more people using the internet. Karen – That is something we would have to take up next week with the contractor because that is the online provider providing that fee. Commissioner Lauber – The extra dollars is the extra cost of soon having a better system and you didn't have to raise the licenses as a result.

Commissioner Wilson – Which fees does the department get to keep? Karen – We get the agent \$1.00 fee, when the license is sold in our offices, and the price of the license. Commissioner

Wilson – Are there financial incentives or penalties in place to make them do these things on time? Karen – That is what we are going over next week. Commissioner Wilson – You have

been keeping track of that. If they have been in violation of the deadlines, will we be able to be reimbursed? Karen - \$1,000 a day for every day late, \$2,000 a day for peak season. Amy

Thornton, Legal Counsel – We will be addressing fines next week. Commissioner Wilson – They should be held accountable for whatever contract we have with them.

Keith Sexson – We have been talking about the front end of system because that affects our vendors and constituents, but there is a back end to this system that we are paying for too, the

accounting for the license sales, bonding, etc. That is a real boon for us. Karen – We do have a wealth of information at our finger tips for marketing purposes, who is buying fishing licenses,

top vendors, and harvest information the day after seasons close. There is more stuff out there than we can even imagine. Keith – Explain how we sweep accounts. Karen – We sweep accounts

on Tuesday, and the money comes out of their accounts on Thursday. Commissioner Johnston –

What is the length of the contract? Karen – Five years, with an option to extend another five years. We could negotiate at that time. The negotiations next week are on the schedule mainly,

don't know if we can negotiate fees, laying the problems on the table to see what their incentive back to us is.

Keith Houghton – I propose inconvenience fees. I represent vendors in this case and write 1,000 licenses a year. The majority of my clients pay with a credit card, and we will pay credit card

fees of \$2.35 cents, hope that will improve, so we have \$5 cost over and above revenue for the \$1 fee we collect. Master card and Visa is 1.2 -3.2 percent. I would imagine you have lost

vendors. Karen – We lost 100 vendors. Houghton – Fee is \$1, convenience fee is 2.5 percent,

would like you to look at it from the perspective of the vendor. How are major organizations like Wal-Mart collecting fees? Karen – They are allowed 2.5 percent for online provider to recoup

fees. Online providers, but not the department. When we take credit cards, we lose money just like you do. Houghton – It is putting the vendor at a disadvantage. Karen – Bond requirements

went away at the vendor level and paper remittances also went away. We sent out surveys and three-fourths of the savings was at the vendor level, since they no longer need bonding and not

having to do paper. Will go much smoother next year after we have a lot of the hunters in the database and it will be a faster system. It is training for all of us, everybody just needs to get used

to the system. Hopefully, the roughness is behind us and it will be a convenience in the future.

Cindy Livingston – We didn't mention county clerks. Karen – In most counties county clerks

had jurisdiction over vendors within their counties and charged their vendors (agents) another \$1 for providing service, in other words \$2, most places are seeing only about a 15 cent increase in

older paper system and new automation system.

Virginia Beamer, State Representative 118<sup>th</sup> District – Constituents were upset in my district

because they couldn't buy licenses. You stated you were down on sales across the board on

permits? Karen – That is just a trend. Secretary Hayden – On park permits mainly, on the other permits we don't see any real noticeable decline in fishing or hunting. Karen – This is the first

year we have had the data to see. Representative Beamer – Most vendors in my area are small,

because they haven't been able to sell, we have to go to Wal-Mart to buy them, now they are down in sales of shells, or whatever, because people are going to Wal-Mart. Need to get this

information out that these vendors are up and running. Secretary Hayden – Our number one vendor is home computers, not necessarily Wal-Mart, but that does cut down on vendors also. We will list vendors, phone numbers, addresses, etc. on our website to help them get more traffic in their stores. Commissioner Lauber – That should be self-correcting, in the future everybody will be in the same database. Karen – Customers like going to their local hardware store to buy their licenses because that is where they prefer to buy. Commissioner Sebelius – Does this new system affect hunt-own-land system? Karen – Yes, those were only sold at our offices, now all web-based vendors can sell the permits with a PC based program. This year, however, we can only transfer permits at our office, next year that can be done online also.

### *Break*

2. Proposed 2005 Recreational Trail Grant Applications – Jerry Hover, Parks Division Director, presented this report to the Commission (Exhibits E, F). Division of State Parks administers this grant, which has been reauthorized for the next five years. We receive \$1 million annually for recreation trails program grants and anyone can apply. The Statewide Trails Advisory Board met last week -- total cost of projects proposed was \$2.4 million with \$1.8 million being requested, which is more money than we have. There are five categories of recreational trails: non-motorized single-use; non-motorized diversified use; diversified motorized and non-motorized; motorized single use (30 percent of monies); and educational. The handout actually lists the actual requests and recommendations made. The Advisory Board has two motorized recreation representatives (ATV, dirt bikes, four-wheel drives, etc.) and one person from each group representing equestrian, walkers, joggers, bikers, and skater groups. We are asking the Commission for consensus to proceed on the grant program. Those receiving grants are: City of Anthony \$21,571; Ft Scott Community College \$80,850; Jewell County Hospital \$60,000; City of Winfield \$61,500; Milford State Park (SP) (final equestrian) \$30,000; Tuttle Creek SP (Rocky Ford Trail) \$66,500; City of Lansing (connecting trail head) \$42,500; Milford SP (trail crossing) \$7,000; Cheney SP \$9,500; Sand Hills State Park (Phase 1 of equestrian campground) \$74,800; Cedar Bluff SP and Wildlife Area (WA) \$26,800; Elk City SP \$1,880; Kansas Trails Council \$171,000; Pomona SP \$21,000; Clinton SP \$22,000. Seven percent can be held out for educational projects - \$15,800 to Milford SP; \$2,700 Fall River SP; Cross Timbers SP \$2,000 (new trail brochure). Administrative funds are 5 percent. No motorized projects were submitted so we will continue to take applications. There is approximately \$300,000 available for those types of projects. We are asking to obligate \$773,390. Commissioner Wilson – What would qualify as a motorized project? Hover – ATV, motorized bikes, pickups, jeeps and those kinds of trail projects. Commissioner Wilson – Did you receive many requests for those types? Hover – We haven't had problems in the past, but weren't been able to spend all of last year's money either. KanRocks Park is strictly motorized. We can hold the money for five years, but then will have to revert the money back to the federal government. Commissioner Wilson – Are there any physical fitness goals projects? Hover – Not a large number yet, but expect that will increase. Commissioner Meyer – On motorized trails, I think communities are not requesting them because of the noise. If they would cut down on the noise I think more could be done.

3. Ecological Impacts of Wind Farms – Rob Manes, The Nature Conservancy, presented this to the Commission. (Exhibit G - Handout; Exhibit H - PowerPoint) The Nature Conservancy of Kansas (TNC) is not here to advocate for or against wind power, we are here to talk about the best available science good for wildlife. At the August meeting Lee Allison made comments to Commission. We are working with Kansas Wildlife Federation and Audubon of Kansas. TNC is a proponent of wind power if done right (conceptually). We can tell you about the economic impacts, not talk about energy economics. The first turbines were about three or four times as tall as the average windmill. The new ones are very large with a blade diameter as wide as a 747 airplane. Flint Hills, Smoky Hills, Red Hills and a few other areas intersect where ecology is best in the state. These areas are pretty much the way they looked 100, or even 1,000, years ago, but are also where some of our species are declining. Look at continental perspective, look at old growth species, grasslands are most diminished. Grassland birds are fastest declining group of birds in North America and two-thirds of all remaining tallgrass prairie in North America is right here in Kansas. In Kansas we have about 8.5 million acres of tilled landscape in the areas where the wind power potential is good. Habitat fragmentation; collisions; avoidance; population dynamics and genetic health (speculation) are key points. Avian collisions get the most attention in the media and get the most research. Bats are most susceptible because they don't produce a lot of young. Rotor speeds compound collision problems, well over 100 miles an hour, even though it appears to be going slow, but this is not the issue for most species. Habitat fragmentation is the high concern for wildlife advocates in Kansas. Grassland birds don't want to land around tall things, don't nest in trees and don't raise broods around large structures, for instance. Prairie grouse need large areas of grasslands. The new facility in Butler County (Elk River I project) will be 100 turbines and will be subsidized with \$99 million in federal production tax credits.

Dr. Robel did a survey on infrastructure of wind turbines and other tall structures and how they affect wildlife populations and found that prairie chickens strongly avoid manmade features: 580 feet from pump jacks (18,000 sites); from improved roads 2,500 feet; a little over 2,000 feet from power lines; and about 2,000 feet from buildings. From wind turbines (from Robel's research and South Dakota State research) about 1.25 miles was abandoned by 95 percent of lesser prairie chicken and greater prairie chicken hens. For the Butler County project that means 11,000 acres of quality habitat that birds won't, or can't, raise their young in. Fragmentation causes genetic health problems also. We don't know why the prairie chicken habitat and good wind areas overlap. We should applaud the Governor for her voluntary moratorium on the "Heart of Flint Hills", but the Elk River I project is going in some of the best tallgrass prairie in the world. Consternation of trade off of global warming is not exactly true, you can't shut off a coal-fired plant on windy days. There are 17 or 18 wind development companies working in Kansas (three from out of the country). Can we do wind energy right? We feel that we could move the wind turbines to the fringes of the Flint Hills instead of in the middle. The wind power experts say they would lose about 6.5 percent of cost (\$1.4 million a year). It is about ecological health. There is concern among state wildlife agencies all across the country as well as the U.S. Fish and Wildlife Service. Kansas has good wind energy siting guidelines, but they are not being used. KDWP can be an important force for development of wind energy in the state.

Ron Klataske, Executive Director, Audubon of Kansas –Advocates for siting standards and state and local protocols. Actively pursuing wind energy in states, without concern for wildlife. He commend department for guidelines developed a year ago and signed by Secretary Hayden, however, developers are ignoring recommendations. As members of Commission and individual conservation leaders, you should stand behind KDWP staff on this issue and do everything you can to get other state agencies to adhere to guidelines, including suggesting not developing



certain sites. The Elk River Project impacts 8,000 acres south of Beaumont. Multi-national and non-resident organizations are coming into Kansas wanting to develop our native grasslands for profit. Expect to get \$99 million over the years from Elk River project. Several non profit organizations are trying to draw attention to the Flint Hills, however it is important that we recognize other areas in the state that have irreplaceable grassland habitats (Sand sage prairie, for instance, is one of the last remaining short grass prairies.) We need to educate one another on importance of native prairies within the state. Posters, brochures and other information should be available. It's also important to thank ranchers and other landowners who have tried to champion the tallgrass prairies and get them to help carry the ball.

Steve Sorensen, President, Kansas Wildlife Federation – (Exhibit I – Notes) thanked Commissioners and Secretary Hayden for the opportunity to speak today. The Kansas Wildlife Federation is a 54-year-old grassroots organization dedicated to the wise use, conservation, appreciation, and the restoration of our state's wildlife and natural environment. We approach this mission primarily from the perspective of hunting, fishing and outdoor recreation, which are important traditions in Kansas. Over 500,000 hunters and anglers generate close to one billion dollars to the state economy each year. Members of KWF passed a resolution at the 2003 annual meeting dealing with wind energy, which I have provided you (Exhibit - Handout). We support wind energy if the facilities meet stringent siting standards that minimize their impact on sensitive wildlife species and threatened native grasslands. I am here to provide some anecdotal observations on the impacts of wind energy facilities on wildlife. You may have already observed Kansas' first wind facility near Montezuma and may have also heard about energy facilities in Iowa that are similar to Montezuma. Within the last month, I have observed three wind generation sites in central and north central Iowa. I am also familiar with one of the earliest Iowa sites, which is within 40 miles of my hometown. These sites have been touted by the wind industry as being examples of effective sites with little impact on wildlife. To compare these facilities with the Elk River facility in Butler County, located in the southern Flint Hills is like comparing apples and pineapples. They may sound alike but have a totally different impact on wildlife. The facilities in Iowa and at Montezuma are located in cropland, habitat that has been previously disturbed. The photo in Rob's handout looks more like the facility at Elk River and those in grasslands in Oklahoma. As pointed out by Rob in his presentation, our native grasslands, and the wildlife species that rely on those habitats, are in jeopardy. Fragmentation caused by conversion to cropland, urban sprawl, oil and gas exploration and production have already impacted native prairie wildlife species. Wind generation facilities, often incorporating 5,000–8,000 acres, will further fragment the remaining habitat. These large facilities can actually exclude some wildlife species from an area 2-3 times the size of the area incorporated in the facility. With the number of wind facilities proposed in the Flint Hills region alone, many populations of greater prairie chickens will become isolated and could disappear entirely. As you know, Governor Sebelius has declared an area as the heart of the Flint Hills and has asked that developers stay out of this core until siting standards can be developed that protect our natural resources while allowing wind energy production. Unfortunately this area is minimal in size and does nothing to protect our remaining native grasslands. Of the top 25 sites in Kansas evaluated for wind energy production, 22 of them are located in native grasslands. The proposed facility recently announced by Sunflower Electric, to be constructed near Holcomb, will probably construct distribution lines through the sandsage prairie in order to connect to the western power grid. As pointed out by Dr. Robel's study, prairie-chickens avoid transmission lines, further fragmenting our remaining habitat. We need siting standards that protect all native grasslands in

Kansas, not just the Flint Hills. Kansas has over 34 million acres of croplands, 8 million of which can support wind energy facilities without significantly impacting wildlife. Department siting guidelines are a good start, but we need statewide guidelines. KDWP Commission and staff have a difficult task ahead in carrying out your charge in protecting our natural resources. When the Legislature authorized the construction of wind generation facilities without any oversight by Kansas' regulatory agencies, they abdicated their responsibility in protecting natural resources in Kansas to local counties.

Commissioner Wilson – Rob, is it possible to get a copy of Dr. Robel's study that you referenced? Rob – Yes. Commissioner Wilson – What is status of siting guidelines? Going through legislature or voluntary? Klataske – Voluntary, a wish list for developers to stay out of areas. Commissioner Wilson – Are they in any bill form or are there plans to do that? Manes – Not that I know of. Secretary Hayden – The legislature has said that all siting guidelines will be done at the county level. Only two counties have put in any type of siting guidelines, Butler and Riley and Morris and Chase have refused to adopt any siting guidelines at all. No power companies have breached the voluntary areas. There are no guidelines for the other grasslands in the state. That is the next question for the Governor and the sub-cabinet. There is a whole lot of the state where these issues have not been resolved and I don't see the legislature changing their position. I think the next moratorium (if there is one) will be in the Smoky Hills. It takes time and money to do the biological survey. Commissioner Wilson – Of the two counties, that have guidelines, are there allowances for protecting wildlife? Secretary Hayden – Most of the guidelines have to do with proximity to other structures, height, etc., very few have ecological aspects to them. Manes – In McPherson County Wednesday, they were talking about adopting guidelines like those other two counties; they are considering an area on the edge of Maxwell Game Refuge, which is some of the best prairie chicken habitat in the state. Commissioner Wilson – Are they considering some of the voluntary guidelines? Secretary Hayden – Some just refuse to vote on it. In McPherson they are looking at some ecological parameters. Klataske – There is no zoning whatsoever in those counties (Chase and Morris) and some of the others in the state. In some counties politics plays a big factor and sometimes one person could be the deciding factor. We need state protocols that put wildlife in the equation. Commissioner Wilson – What are you asking us to do? Are you asking the department or Commission to enforce existing regulations or pass a resolution in favor of voluntary guidelines? Manes – The department has been good and responsive to date on this. The Environmental Services Section has given guidance where it could. It is important for you to develop an established position on wind power development. This is not something that moves slowly, Elk River is 11,000 acres. Continue to have department staff be as aggressive as they can be. Commissioner Meyer – Send me this information. Commissioner Sebelius – County Commission is only going to do what is public sentiment or economically benefits them. You can't just decide to target one area of a county and have to be careful how you zone or look at specific areas. From the perspective of trying to protect ground water there is a sector out there that is hostile to that kind of approach. County does not have the same type of rights as a city does. There are pitfalls out there. I agree with the Secretary that it is the responsibility of the legislature. Ask them to do it, if they had the funds to do so, but I can see a lot of reluctance on smaller counties to do that. Commissioner Lauber – For us to be promoters of more regulations might be one more fight that we would have to take on. With the parks issue already a big issue, I am not sure you want another big fight. Commissioner Johnston – I would like to consider this issue again and like staff to consider some options for us to look at.

Arnold Thomas, Utility worker – I take care of water lines and to just disturb the earth we had to do an environmental impact study and I don't know how these energy companies are getting by

without doing an environmental impact study. Manes – That is a great point. Very few other types of projects that are federally, or state, subsidized have gone forward without one. There is no process that gives everybody a seat at the table. NEPA standards are not being followed either, even with billions of dollars federally going into it. Thomas – If KDWP oversaw it, maybe it would be possible to generate some money for the agency because there is a lot of money in this proposition.

4. Circle K and Middle Arkansas Water – Mark Sexson, Region 3 Public Lands Supervisor and Tina Alder, KS Dept of Agriculture, Division of Water Resources (DWR) presented this report to the Commission.

Tina Alder – I supervise Sub Basin Water Plan and our agency has been out working with water users since 1999. DWR has developed water strategies to be completed by 2015 and have a lot of work to do to meet goals therefore we did a water budget analysis on how much water is going in and out of the area. A contract was signed with Kansas Water Office in 2004 to come up with a ground water model to define impacts of retiring water rights and implications for the Arkansas River, which should be completed by the end of the year. A Technical Advisory Committee was also developed to provide input and feedback to come up with the model. Retirement of water rights in Circle K would not be a total solution to the mid-Ark problem, but could be a localized solution. I believe in what the department is proposing.

Vernon Hurt, Groundwater Management District (GWM) 5. We appreciate the chance to work together on this.

Mark Sexson – (Exhibit J) My area encompasses Edwards County. Clock starts as soon as we have authority over the property. There is no way of determining what will be done until we take that control because of existing contracts and what chemicals have been used on the fields. Crops in the field will have to be analyzed to see if the existing crop can be used as a cover crop or if we have to put in something like sedan grass. Personnel will be an issue because there will be a whole process to convert that from agricultural land. It is very doubtful that anything will be done the first year because it will take time to get infrastructure in place. Analysis of property and current agricultural practices needs to be done and coordination and cooperation with Bet Farms will have to take place. We would have to develop a budget and get equipment and personnel in place to establish grass/habitat conversion. Start dealing with infrastructure changes to deal with public. Developing contracts (state agricultural contracts) would be spending a lot of our budget right away. A retirement schedule for the water would have to be worked out. We have also made a commitment to work with the local community. A lot of discussion has occurred about how fast to retire the water, five years (maybe ten). In the first five or six years we would probably retire water and establish grass, then the rest of the ten years it would take to fully establish the area. We may need to use some of the water pivots to establish the grass in the beginning. We would also need to consider leaving 200 acre feet in place for permanent food plots and look at water sites for wildlife and livestock. Investment priorities – distance from river (retire part of ranch not all – closer to the river first); condition of wells (in bad shape – high priority); condition and ownership of the pivots (do away with bad ones or ones we don't own first); crops (possibly stripping); water rights (junior rights first); public use facilities (roads, signs, buildings, etc.); public access (vehicle controls in place – not allowed on all places – close some crop areas to public). Todd Gatton has a PowerPoint presentation to show you the Pratt Sandhills as this would be a similar public wildlife area.

Todd Gatton, area manager, Pratt Sandhills, provided this program to the Commission. (Exhibit K) – This Pratt Sandhills is a 5,700-acre wildlife area in Pratt County just south of Edwards County line. It is also a sandy area with shrubby cover and some stands of cottonwood and shelterbelts. Access provided by public roads and we have parking lots along roads. In some areas 4-wheel-drive is necessary. Vehicles are not allowed off public roads. Main uses of the area are hunting quail, pheasant, dove, white-tailed deer, mule deer, turkey, rabbit, and coyote. Best comparable visitation data comes from Texas Lake Wildlife Area which is four miles south. At this area, 67 percent of visits are from Kansas residents; of these, only 21 percent are from Pratt County. The highest percentage from a single county comes from Sedgwick County. Thirty-three percent of visits are from non-residents, from at least 24 states and Canada. Management of the sandhills includes grazing, burning, mechanical removal of trees, food plots, and wildlife water. Approximately 5,430 acres are grazed at some point during the grazing season. Areas that are not grazed include food plots, shelterbelts, some rough and extremely sandy topography, and odd areas. A quick rotation example is three pastures totaling 1,760 acres; 220 head (500 lb. yearlings) stocked in one pasture at a time; cattle rotated so that they are in each pasture three separate times during the season; leaving two pastures at rest at any given time. Use burning to remove woody vegetation, mechanical means to remove some of the larger cedar trees. National Wild Turkey Federation helped with this project and they plan to continue to help. Food plots are fenced to exclude grazing and are located near shelterbelts. Wildlife and cattle water came originally from windmills, solar wells, and now have a water line that is supplied by an electric well.

Mike Herrmann, Mayor of Kinsley – (Exhibit L – Letter) Purchase of the Circle K and conversion of land use from agricultural production would have a negative economic impact to the city. We feel the State has a responsibility to the region to assure appropriate development of the property as a tourist destination.

Bill Scott, Western Kansas Water Watchers – We are also against the purchase of Circle K. Cedar Bluff released 11,000 acres of water to Russell, but very little reached there. We understood that you asked to trade Circle K for water rights at Cedar Bluff and we are concerned about that. Don't know why Kansas Water Office would even consider buying it. I did observe area is east and south of the river, will water run back in the river? I have a complete map of all of the water wells in the state. What about all wells from Circle K all the way to Colorado border, will they be retired? Secretary Hayden – Appreciate Bill's remarks, but disagree, we are not going to trade Circle K for water storage for Cedar Bluff water rights. In fact, we are trying to purchase more of those rights through negotiations, hope to acquire 95 percent of storage capacity. We will not trade, sell or barter it for Circle K. We are doing everything we can to acquire that and hold it in perpetuity.

Duane Mathes, Edwards County Commission – We wrote a letter to GWD 5 in support of Circle K purchase.

Steve Sorensen – KS Wildlife Federation – We support the acquisition of Circle K and have worked with Secretary Hayden and a few members of legislature. This would be a good addition to the shortage of public lands in the state.

Fred Burgess, Edwards County Economic Development – How many visitors do you have at Pratt Sandhills? Gatton – By estimates, 6,000 hunters a year. Burgess – Are the public roads county roads? Todd – Yes. Burgess – We have yet to see anything in writing to back up that we will be supported, like to see something more substantial.

Bill Scott – If Secretary Hayden, the Water Office, or the Commission would write a letter to us that you are in no way taking water from Cedar Bluff, we would support this.

Representative Virginia Beamer – Concerned with the fiscal impact for KDWP, this would add to budget problems. I know where the State of Kansas stands for additional monies. The Kansas Supreme Court will be looking for money for school finances and other concerns. These are considerations I have for Circle K being part of Wildlife and Parks. I did not go on the tour today but I was on the Kansas Geological Survey last June, but one of the things that really struck me was the roads. I think it would be a similar situation, don't know if the county could take over the roads for this type of project. Who would be in charge of the roads? Secretary Hayden – You make good and appropriate comments and the budget issues are real, but we are not asking for general fund monies that would compete with schools or other funds. Three-fourths of the money would be reimbursable from the federal government from hunters excise taxes. Vernon also stated they would be willing to contribute financially to retire the water rights because it would help them. We can get federal participation for management costs up to 75 percent (we have to pay for things first, but can get reimbursed). The land in Pratt County, where the office is, was donated 100 years ago (12 acres from the County Commission) and is the reason we are there and we hope that we could work with the Edwards County Commission in the same way. It is hard to work the infrastructure out until we have the lands. If you have questions, go down and talk to the Pratt County Commission and you will find we are good neighbors. We are not asking the legislature for state general fund monies, we can do it with partnerships and federal monies.

*Break*

### **C. Workshop Session**

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 M). This has been discussed numerous times at past Commission meetings. The first discussion in this most recent series of discussions occurred in January 2004. Considerable review of current law in Kansas and other states has occurred. A number of comments have been received in a variety of formats. In December 2003, the Captive Wildlife Safety Act, a component of the Lacey Act, was signed by the President, leading us to these discussions. We are working on the regulation, but have not come up with it in regulatory form yet. Currently, the changes will primarily occur within two existing regulations; the first being KAR 115-20-4. This regulation concerns the possession of certain wildlife, namely mountain lions, bears and wolves. This regulation will be amended to include lions, tigers, leopards, jaguars and cheetahs. The regulation will require all persons wanting to possess these animals to acquire a possession a permit from the department in addition to a license to exhibit wildlife from the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). Zoo facilities accredited by the American Zoo and Aquarium Association, or zoos owned and operated by governmental entities, such as cities and counties, would be exempt from the department-issued possession permit process. The process of application will allow those private individuals currently in possession of an APHIS exhibition license, as well as those persons who do not currently have such a license, the ability to acquire the department-issued permit. However, a license issued by APHIS along with APHIS facility inspections will be required in order to acquire and maintain a department-issued possession permit. Several provisions will be added to the regulation, including a requirement to pay a permit fee, acquiring, maintaining and providing equipment to capture any wildlife that may escape from the facility, limiting physical

contact with the public, and marking or tagging requirements. While department personnel will not be required to conduct inspections, the provisions of the permit will allow department and other law enforcement personnel the ability to inspect all records and facilities associated with these animals. KAR 115-12-3 would also be amended to address the raising and selling of these animals. The current proposal would require any person who wants to raise and sell these species of wildlife to become a permitted game breeder. Most all of the provisions concerning the identification of animals, compliance with federal, state and local laws, capture equipment, etc. occurring in KAR 115-20-4 would also be included in KAR 115-12-3. If passed as proposed, those individuals currently possessing these animals will be allowed a maximum of 180 days from the date of the enactment of the regulation changes to either acquire permits and licenses from the department and APHIS for exhibition or breeding and sale, or dispose of the animals, preferably by placement in an appropriate facility. Physical contact was discussed at the last meeting. I spoke with the individual who presented information at that meeting, a regional APHIS person, and an APHIS person at Fort Collins, and was told that no rule exists limiting contact of animals over 75 pounds. There is however, a rule that says no contact with animal over 3 months of age. Anyone permitted under this would be required to contact the department in writing of disposal or death of the animal. There are also provisions for feral animals (which are animals loose for more than 3 days). Also, if an animal did escape, the animal could be immediately euthanized, and the department could seek reimbursement. In states with established provisions, a \$100 permit is the most common. Commissioner Sebelius brought up the issue of liability insurance, Arkansas requires \$100,000. Do we want this to also deal with game breeders? On one hand we would be controlling the population and on the other, we would allow people to raise and sell them. Four of these cats are on the transport list (which means they can only be transported within state, not across state lines). It is my understanding that I will provide ability for physical public contact in line with APHIS rules – no contact after 8 weeks to 3 months of age; permit fee of \$100; require liability insurance; and put in game breeder provisions.

Commissioners agreed no public contact. Commissioner Johnston – I want it more detailed on what “no physical contact” means. Does that permit people to be in proximity to animal on a leash? I want a physical barrier between the animal and the person. Jones – APHIS standards say adequate barriers or distance between the animals and people. Vice Chairman Harrington – I think some type of impenetrable barrier. Commissioner Lauber – Just let APHIS define reasonable barrier and don’t define it.

Vice Chairman Harrington – Is the permit fee of \$100 enough? Commissioner Lauber – No, I say \$300. Is this per animal or per facility? Jones – Per facility. Commissioner Lauber – That is not enough then. Commissioner Johnston – How much is the APHIS fee? Jones – I believe it is \$100. Commissioner Lauber – I think it should be at least \$500. Commissioner Meyer – Would this be an annual fee? Also, need to talk about penalties for failure to comply. Jones – That is another issue. Vice Chairman Harrington - \$500 per facility seems to be the consensus.

Vice Chairman Harrington – What about insurance? Commissioner Meyer – Yes we should, then insurance facilities would come out and inspect facilities to make sure they comply.

Commissioner Johnston – Concerned with general public contact, not employees. Need to consider requiring worker’s compensation for employees. Vice Chairman Harrington – I suggest we work on worker’s compensation issue at a later time. It is not outrageous to require liability insurance, I have to have a \$1 million to \$3 million policy just to go to work, \$100,000 would take care of you for about four or five days medically. Commissioner Johnston – What about \$250,000? ***All Commissioners agreed on \$250,000.***

Vice Chairman Harrington – I think breeding can be addressed under game breeder regulation. Commissioner Lauber – I don't want to see more of them breed. Those that want to keep them should step up and pay the fees, but we don't want to have more of them. Jones – Under APHIS regulations a breeder is required to comply also. Commissioner Wilson – If you are an exhibitor and you have the APHIS and state permit, would you have to get a separate game breeder permit? Jones – We would be placing further regulatory control on them because they are considered as exotic wildlife. Commissioner Meyer – This does not apply to zoos? Jones – No. Commissioner Wilson – If an exhibitor breeds an animal, they wouldn't be able to sell the animals in the state? Jones – We can do that. Commissioner Wilson – Then I am concerned about where these unwanted animals would go. Also, the backyard owners who won't comply, what are we going to do with those animals? Commissioner Lauber – I don't think we can solve everything, if we can retard the flow and sale of these animals that is a step in the right direction. Vice Chairman Harrington – Could we go back and look at that aspect again, because most of us are against the backyard breeding of animals. If we allowed it at all, it should be grandfathered. I don't think we should permit that in the state of Kansas. Jones – We can look at sanctuary types of facilities also. Commissioner Wilson – We are asking Kevin to look at banning breeding and what provisions we might look into for a non-profit sanctuary. Commissioner Lauber – I guess we will deal with that if that happens. Vice Chairman Harrington – We are all against small backyard breeders.

Mike Good, representing Haley Hildebrand who was killed by the tiger in Mound Valley (Haley's stepfather) (Exhibit N) – I commend you for actions being taken and we greatly appreciate your movement on that. Until tonight I didn't hear anyone admit that the 75 pound limit did not exist. I encourage you to educate the public. In our particular instance it was accepted to have physical contact. Haley did not have permission to have contact at all, but no one ever came along and said don't do it. We did allow her to visit there and look at the animals as they were caged. On the four points you brought up, I totally agree with you about banning physical contact. Risks aren't worth the "educational" benefits. Barrier is too wishy-washy and you need to define that. Common sense would keep you from doing some of those things, but \$500 for the permit, in my opinion, is not enough. Liability insurance of \$250,000 is not enough either. It is going to cause the reputable people to be involved. I see no purpose for breeding animals outside of a zoo or accredited sanctuary. You will need to educate the public, starting with the local mayor and county commissioners about these new laws. We couldn't find guidance when we went looking for help. We look forward to the next meeting.

Randy Hildebrand - Haley's other dad, Mike said what I wanted to say. Strict inspections would be the only other thing I ask for.

Arnold Thomas – I own exotic animals and I have been before you at past meetings. In regards to a non-profit sanctuary, I would be willing to do that. Liability insurance of \$250,000 is too low. Commissioner Lauber – Do you have a recommendation on insurance? Thomas – Bare bones of a half million dollars. Vice Chairman Harrington – We will look into the non-profit sanctuary idea.

Keith Hildebrand – I am Haley's brother and I think there should be no private ownership at all. Jim Marlett, Sedgwick County Zoo – There are three types of licenses, two of those are breeders and brokers, and a Class C exhibitor is also allowed to breed.

2. Big Game Commission Permits – Keith Sexson, Assistant Secretary for Operations presented this report to the Commission (Exhibits O, P). This is a new one for you, a statute was

passed allowing big game permits. Rather than going through the statute itself, I would like to look at the draft application we passed out to the Commissioners. We need to come to a consensus on the application process. We suggest the application be available by early November, with a deadline of January 6 for turn in to give us time to check non-profit status to be sure the applicants qualify. One permit allowed to any one organization, but chapters would qualify. At the January meeting we would tell you who was successful. Commission can issue seven permits, one elk, one antelope, and the remaining five could be deer; or all seven could be deer. As presented in the briefing book, we are recommending one any-elk permit (Fort Riley laws would apply); one antelope; five any deer and that would qualify as that person's permit for the year. Elk are a once in a lifetime permit. In the case of antelope and deer, that would be their permit for the year. The permits would cost the organization \$250 for elk, \$40 for antelope, and \$300 for any deer, which would be paid by the organization to KDWP and then they can dispose of the permits by any legal means (i.e. raffle or auction). Statute says, 15 percent of the proceeds comes back to be used for department projects from Farmers and Hunters Feeding the Hungry (FHFH); or 85 percent from other organizations. For this first year, use letter of law to establish this program, can further restrict it in the future if you so desire. Need to announce permits, get applications out and get them back, hold drawing and see where the program goes.

Commissioner Johnston – I am concerned about the favoritism for FHFH, depending on what the permits might sell for in their auctions, that could be a lot of money and to single out one organization raises some legal questions in my mind. Has this been looked at by legal counsel?

Amy Thornton – I haven't, but I don't know about Chris Tymeson.

Sexson – For years FHFH has come to us looking for help. This would be a mechanism to give them that help.

Thornton – It was part of the statute.

Commissioner Johnston – I don't disagree with them getting that, I was just wondering about the legal issue.

Vice Chairman Harrington - We need to move Big Game regulations to the evening session after we reconvene.

## **VII. RECESS AT 6:35 p.m.**

## **VIII. RECONVENE AT 7:10 p.m.**

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

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

5. Kinsley Gun Club/Kinsley Kids Klassic – Frank O'Brien, Secretary Kinsley Gun Club since 1968, presented this report to the Commission (Exhibit Q). Mike Miller asked me to report on what we are doing for young shooters. We were organized in 1901 and have operated continuously since then, except for maybe not being very busy in the 1930s. With me is Larry Skelton, who received the 2003 Regional Hunter Education (HE) Instructor of the year award; and my wife Mary O'Brien, who is in the Kansas Trap Shooters Hall of Fame. We had a program with local kids before 4-H had organized shooting in Kansas. Started program in 1993, and have had from 39 kids to as many as 200 kids each year. Through our example there have been many other shooting programs started in the state. It has been a lot of fun working with the kids. We had two guys from our club who won the State handicap shoot, before that we were just a practice shooting area until 1970. We expanded in 1973. In 1998, my wife and I were inducted into the Kansas Trapshooting Hall of Fame. In 2002, the club received a grant from KDWP to



purchase two new automatic traps. The last few years we have received support from the Pass It On Program for the Edwards County 4-H Shooting Sports program.

*NO TIME FOR SHOOTING as indicated on the agenda.*

3. Big Game Regulations – Lloyd Fox, wildlife research biologist, presented this report to the Commission (Exhibit R). Further review of all deer regulations may be proposed at a later date after a department committee develops recommendations for changes in statutes dealing with big game. Good luck to Mike Miller on the new committee. No changes are being proposed for KAR 115-4-2 (carcass tag information; procedures for transferring meat; procedures for possessing a salvaged big game carcass; and who may assist a big game permittee). Requests have been received from individuals who would like changes to KAR 115-4-4 (legal equipment and taking methods) to allow different or additional equipment and taking methods. They include items such as: 1) Laser sights for people with certain disabilities; 2) Expand definition of broadheads to include knapped points; and 3) Expand centerfire equipment to include certain .22 caliber rifles. However, no changes are being proposed for KAR 115-4-4 at this time. Commissioner Johnston – I talked to a guy from Wichita who wants to sell battery powerednock device? Told him to call Chris and he mailed a device to Doug Sebelius. Commissioner Sebelius – I can't come up with anything that makes me think it is unfair. It is lithium battery powered. Fox – It is called the lumi-nock and you can go online to see it and it is illegal to use per our regulations. Kevin has looked at it and I have only one person who expressed an interest to use it. This can be used for target practice. Commissioner Johnston – This guy wants to sell it. Is that something we want to consider? Fox – It is already on the market. There will always be new products on the market that aren't legal. Vice Chairman Harrington – We need an opinion on the three items Lloyd stated. Commissioner Lauber – Need to be careful of allowing .22 caliber, they are too small. Vice Chairman Harrington – If that is your opinion that is the opinion of the U.S. Army also, but I am not in favor of hunting with them either. Commissioner Johnston – I don't have an objection to knap points, but I am uncomfortable with the term "certain disabilities". Commissioner Lauber – Leads to a slippery slope. Vice Chairman Harrington – One physician's opinion of a disability might be different than another physician's. Commissioner Johnston – I am not talking about industrial blind people, but completely blind people if we are talking about keeping them from hunting. Commissioner Lauber – A laser sight in the field could be problematic. Skip Lloyd – Physically handicap hunters don't need laser sites to do that, I had a totally blind hunter who killed an animal at 37 yards with just a pin on the bow. Vice Chairman Harrington – I see no problem at just looking at it. Fox - In KAR 115-4-6 (description of boundaries), a request has been received to designate the Fort Leavenworth subunit as an urban unit allowing this area, which is adjacent to urban DMU 19. They show an interest in being included in the urban area to have additional firearm hunting dates and the use of additional game tags not currently available in DMU 10. Commissioner Meyer – I am in favor of that. Commissioner Wilson – Would this be incorporated into Unit 19 or be a new unit? Fox – Declare it as an urban unit, no boundary descriptions on Fort Leavenworth, and their boundary line is a surveyed line without roads. Input from the public and the Commission is desired on this potential change. No changes are being proposed for KAR 115-4-6a (deer archery management units) and there have been no specific difficulties with this regulation during the past year, however, a bill is still in the legislature that could eliminate the

need for these units. Commissioner Lauber – Do we have the ability to change this? We can't go back to a statewide at this point even if we wanted to. Secretary Hayden – We can't go less than nine units by legislative mandate. Fox – These units were based on firearms unit boundaries and grouped together, two or three per unit, and in some cases left a unit alone. Commissioner Lauber – This particular statute is one that we had forced upon on us. Fox – That is correct. Drew McCartney – What is the Commission's stance on this? Commissioner Johnston – We voted unanimously against the units. Commissioner Meyer – I will testify again next year if needed.

Fox - No specific difficulties have been encountered with KAR 115-4-11 (permit applications) during the past year. An internal review of KAR 115-4-13 (permit descriptions and restrictions) has been requested to evaluate the potential for alternative species harvest management strategies, but no changes are being proposed at this time. This will be discussed quite thoroughly in that Committee and are waiting for input. The landowner deer management program, which was legislatively mandated, regulation KAR 115-4-14, was not successful last year in recruiting five cooperators for the pilot program. We only had one successful applicant and we only have a small number of permits that will go to general residents. We don't have enough information for a pilot project. It did not appear that many landowners were willing to allow a portion of the deer hunters using their property to be individuals that were selected at random. Comments and suggestions are requested from the public and the Commission on opening an application period for additional participants in the pilot project. Vice Chairman Harrington – Could that Committee look at this? Fox – Anything dealing with deer can be worked on by that Committee. Vice Chairman Harrington – I don't see any reason to open it again if no one is interested. Commissioner Lauber – Could we not do it since it is mandated? Fox – It is incredibly difficult and time consuming. The concept was to have a guarantee of permits for landowners involved in deer management. Commissioner Johnston – I feel we have met legislative mandates in terms of the law and I am not in favor of liberalizing this. Amy Thornton – In the statute the provisions expire January 1, 2008. Commissioner Lauber – Can we engage in minimal compliance? Commissioner Wilson – Didn't we go out twice for proposals? Fox – We had one application period and had one that we selected. We did not have two to compare, we had three total applications and two only had youth hunts and a very small number of tags involved. Commissioner Johnston – The one you did select didn't sign the contract? Fox – Yes, they did, it is an active contract and we have drawn the permits, but there are just three permittees. Commissioner Lauber – We have to comply, do we need to try and continue to get applications, or let the existing participant be the only one? Vice Chairman Harrington – Is anybody in favor of reopening this for more applications? My recommendation is to see what the Committee comes up with.

Steve Swaffar, Farm Bureau – I would encourage the Commission not to close their minds to this. Farm Bureau was the one who got this passed and we had a lot of interest from farmers at the time, but one of the biggest problems was allowing public access. How many inquiries did you have? Fox – 10-15 serious inquiries, most saw it not as a deer management program, but as an extension to transferable tags. Vice Chairman Harrington – I would like to put this in the hands of the Committee. Commissioner Lauber – It is my opinion that there was a dismal level of interest in participants and maybe we should look at something else. Swaffar – This would help landowners.

Skip Lloyd – If you improve habitat and don't allow access to hunters that would be a problem, and "boom" there would be more accidents.

Fox - Annual adjustments are made in the season and application dates in KAR 115-25-9.

Population indices will be examined and public input will be considered in the development of a

list of units where extended firearms seasons and antlerless white-tailed deer game tags will be authorized. The number of game tags that may be used in each unit will also be evaluated after additional data becomes available. Some difficulties occurred over season dates at military subunits. Input has been received from people dissatisfied with the restriction enacted last year which prohibited people from obtaining a deer game tag or antlerless white-tailed deer permit unless they had a permit that allowed them to take an antlered deer. Some people have expressed their opinion that this change in the regulation will result in a dramatic decline in the number of deer game tags sold and a decrease in the ability of the department to control the deer population. Comments have also been received from people in support of the restriction. Those people generally state that the restriction will decrease illegal activities and have minimal effect on the number of game tags sold or the ability of deer hunters to control deer populations. We need to revisit that item again. This regulation must be revised to establish season dates. Dates as opposed to number of dates will be included in the sections of the regulation dealing with military subunits. A review of the number of game tags purchased by residents and nonresidents will be made after the seasons close but before a draft regulation is prepared. Additional public input is desired on the issue of requiring a hunter to purchase a deer permit before they may purchase antlerless-only white-tailed deer permits or deer game tag. Commissioner Lauber – Senator Lee was at our last meeting and pointed out some of the problems with this and if we had a nonresident game permit that is cheaper, might be an encouragement. Commissioner Johnston – Look for middle ground, not just preserve status quo, if they don't get drawn and then can't come to Kansas to hunt. Commissioner Lauber – If game tags are an effort to serve as a management tool, then a nonresident game tag might be a compromise. Fox – The primary reason it was proposed last year was through Law Enforcement who were encountering individuals who only had a game tag with an antlered deer - the group hunt where not everyone had a permit to get an antlered deer. That is the back ground of how we came up with the "primary" permit. It was a way to close some of the loop holes. Commissioner Johnston – Wasn't another problem that they could buy a game tag 24 hours before the hunt? That put them in another class. Vice Chairman Harrington – You are suggesting a third alternative? Commissioner Johnston – Yes, a middle ground. Vice Chairman Harrington – Go ahead and give an antlerless tag to people who applied but were not successful? Commissioner Lauber – You will still have some cheating.

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

Kent Davis, Meade – There is a petition going around the state calling themselves the Sportsman Alliance and we have heard that it says it is supported by the Kansas Bowhunters Association and it is not. Vice Chairman Harrington – This as I see it, is not something we can discuss here. This is something that would need to be brought up to the Governor as it involves Secretary Hayden.

Davis – On knapped heads, I missed the discussion. A person who uses them is going to make sure that they are nice and sharp in my opinion, so I think they should be allowed.

## **XI. DEPARTMENT REPORT**

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

## **XI. DEPARTMENT REPORT**

### **D. Public Hearing**

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

1. KAR 115-2-1. Amount of Fees - Commercial Guide Deregulation - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit T). The next four items deal with the same item, repealing or modifying the regulations because of the legislative mandate. Three classes of guide permits would be stricken from this regulation.

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

**The roll call vote to remove fees for guides from KAR 115-2-1 as recommended was as follows (Exhibit U):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>Yes</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to remove guide fees from KAR 115-2-1, passed 6-0.**

2. KAR 115-21-1. Guides; permit application, examination, and restrictions - Commercial Guide Deregulation - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit V). Based on legislation approved during the 2005 Legislative Session, the department is revoking all regulations dealing with commercial and associate guides. Skip Lloyd – How much money will you lose? Jones - \$49,000. Lloyd – That is dumb.

**Commissioner Johnston moved to bring KAR 115-21-1 before the Commission. Commissioner Lauber seconded.**

**The roll call vote to revoke KAR 115-21-1 as recommended was as follows (Exhibit W):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>Yes</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to revoke KAR 115-21-1, passed 6-0.**

3. KAR 115-21-2. Guides; reporting requirements - Commercial Guide Deregulation - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit X). Based on legislation approved during the 2005 Legislative Session, the department is revoking all regulations dealing with commercial and associate guides.

**Commissioner Lauber moved to bring KAR 115-21-2 before the Commission.  
Commissioner Johnston seconded.**

**The roll call vote to revoke KAR 115-21-2 as recommended was as follows (Exhibit Y):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>Yes</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to revoke KAR 115-21-2, passed 6-0.**

4. KAR 115-21-4. Guides; use of department lands and waters - Commercial Guide Deregulation - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit Z). Based on legislation approved during the 2005 Legislative Session, the department is revoking all regulations dealing with commercial and associate guides.

**Commissioner Johnston moved to bring KAR 115-21-4 before the Commission.  
Commissioner Wilson seconded.**

**The roll call vote to revoke KAR 115-21-4 as recommended was as follows (Exhibit AA):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>Yes</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to revoke KAR 115-21-4, passed 6-0.**

5. KAR 115-2-4. Boat Fees - Revenue Task Force (RTF) - Part II – Boating Fee Increase - Mike Miller, magazine editor, presented this report to the Commission (Exhibit BB). The original proposed change is to reduce registration classes from two classes to one and to increase the vessel registration fee to \$27.00 per registered vessel. However, there is an amendment raising the overall fee to \$30, at the request of the Commission at the last Commission meeting.

The registration fee covers a 3-year registration period, which would equate to \$10 a year, with the amendment, and would be effective on January 1, 2006. Current fees for registering a vessel under 16 feet are \$21 and for a vessel 16 feet and over are \$25. Commissioner Wilson – Is registration the same for boats as cars to register where you live? Miller – I believe they ask you where you are going to keep it. Commissioner Lauber – I am not sure that is even permissible now. Jones – Under U.S. Coast Guard rules, you can register it if the principle use of 60 days is in another state, and yes, the boat could be registered in Missouri. If the boat is brought back into Kansas and used for 60 days, then it would have to be registered in Kansas. Commissioner Johnston – The vast majority of fee increases is being placed on the smallest boats, but I understand the desire to streamline regulations. I am concerned that this type of fee, the smallest boats are bearing the biggest fee increase on this. Commissioner Lauber – I don't think they will object to \$10 a year, the fairness comes back into play when they pay taxes on their boat. I believe we can charge up to \$30 and I don't think it would be considered as unfair. Miller – They use the same waters and ramps and the money would be used for the same facilities and boating education. Vice Chairman Harrington – Is there any difference in the paper work in pulling over a small boat as a big boat? Jones – Operational equipment differences, but predominate boats in Kansas are 16-24 foot boats and very large boats are few. Yes, it takes a little bit longer time for larger boats, but not that much more time.

**Commissioner Wilson moved to bring KAR 115-2-4 before the Commission. Commissioner Johnston seconded.**

**Commissioner Lauber moved to amend KAR 115-2-4 before the Commission. Commissioner Wilson seconded.**

**The roll call vote to amend KAR 115-2-4 as recommended was as follows (Exhibit CC):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>No</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to amend KAR 115-2-4, passed 5-1.**

**The roll call vote on amended KAR 115-2-4 was as follows (Exhibit CC):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>No</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to approve KAR 115-2-4 as amended, passed 5-1.**

6. KAR 115-25-14. Fishing; creel limit, size limit, possession limit and open season - Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit DD). The proposed regulation would add the Garnett Crystal Lake to the list of waters where a trout permit is needed from October 15 to April 15. This is a new area of opportunity where the Department intends to stock trout. The department offered to take over trout programs at community fishing lakes, which consisted of four trout lakes, three turned us down because we would have to charge children and they currently do not, but Garnett-Crystal Lake (formerly Garnett City Lake South) agreed to the program. Also, the way we present the regulations to the public is confusing with special regulations and statewide length limits. We plan to do away with the chart and list regulations lake by lake.

**Commissioner Meyer moved to bring KAR 115-25-14 before the Commission. Commissioner Wilson seconded.**

**The roll call vote to approve KAR 115-25-14 as recommended was as follows (Exhibit EE):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>Yes</b>
<b>Commissioner Lauber</b>	<b>Absent</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to approve KAR 115-25-14, passed 5-0.**

7. Secretary's Orders 2006 - Fishing – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit FF). No big changes planned. Based on current information and pending the fall sampling efforts, 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. **Commission agreed with all recommendations.**

8. KAR 115-18-14. Non-toxic shot; statewide – Mike Mitchener, Wildlife section chief, presented this report to the Commission (Exhibit GG). The proposed amendment would add two materials that received federal approval for use when hunting migratory waterfowl. By adding these materials to the states' approved list, the state list would include all of those types of shot approved by the U.S. Fish and Wildlife Service. New shot material types are generally more expensive than most other types of shot currently approved for use within the state (probably more than twice the cost of steel shot, for example). Consequently, the number of hunters deciding to use these types of shot is anticipated to be relatively small. Nonetheless, to the extent they are purchased and used by hunters, the proposed amendment would provide an economic benefit to resident businesses selling these types of shot. 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. Commissioner Johnston – Is tungsten coated with something? Mitchener – Tungsten/bronze is tungsten coated with bronze, I

would make the assumption that the tungsten is coated with those other elements. Vice Chairman Harrington – Spent time and looked this up and according to my research these are all very safe.

**Commissioner Johnston moved to bring KAR 115-18-14 before the Commission.  
Commissioner Meyer seconded.**

**The roll call vote to approve KAR 115-18-14 as recommended was as follows  
(Exhibit HH):**

<b>Vice Chairman Harrington</b>	<b>Yes</b>
<b>Commissioner Johnston</b>	<b>Yes</b>
<b>Commissioner Lauber</b>	<b>Yes</b>
<b>Commissioner Meyer</b>	<b>Yes</b>
<b>Commissioner Sebelius</b>	<b>Yes</b>
<b>Commissioner Wilson</b>	<b>Yes</b>
<b>Commissioner Dykes</b>	<b>Absent</b>

**The motion to approve KAR 115-18-14, passed 6-0.**

## **XII. OLD BUSINESS**

## **XIII. OTHER BUSINESS**

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

January 19, 2006, Cabela's, Kansas City.

March 16, 2006, Kansas Museum of History, Topeka, with lunch planned at the Capitol.

Commissioner Wilson – I enjoyed the 100<sup>th</sup> anniversary celebration in Pratt. It was fun to interact with the people and I would like to thank department staff for that opportunity.

Secretary Hayden - Consideration for April Commission meeting, Kelly did you check on the Gander Mountain meeting facility in Wichita? Commissioner Johnston – They do not have a room big enough. Secretary Hayden – Let's wait until January meeting to set the April date.

Commissioner Wilson – I think we discussed meeting back west, possibly Scott State Park.

## **XIV. ADJOURNMENT**

**Commissioner Johnston moved, Commissioner Wilson seconded to adjourn.**

The meeting adjourned at 9:54 p.m.

(Exhibits and/or Transcript available upon request)