

**Kansas Department of Wildlife and Parks
Commission Meeting Minutes
Thursday, October 15, 2009
VFW, 610 Walnut
Sedan, Kansas**

Subject to
Commission
Approval

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

The October 15, 2009 meeting of the Kansas Wildlife and Parks Commission was called to order by Chairman Kelly Johnston at 1:30 p.m. at the VFW in Sedan, Kansas. Chairman Johnston and Commissioners Gerald Lauber, Frank Meyer, Doug Sebelius, Robert Wilson, and Shari Wilson were present.

II. INTRODUCTION OF COMMISSIONERS, STAFF AND GUESTS

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

III. ADDITIONS AND DELETIONS TO AGENDA ITEMS

Sheila Kemmis - In the Public Hearing section, we have reversed the presentation order because number 9 is included in the reference document which is included in 25-14 in number 8 and will be amended to that regulation.

IV. APPROVAL OF THE August 6, 2009 MEETING MINUTES

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

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Commissioner Meyer – I want to express my thanks to the law enforcement division and Lucy for their help. While out working on a trail I lost my hearing aid, after searching for several hours I called Pratt and Kevin sent out Jeff and Lucy (K-9) who found the hearing aid. The dog was amazing.

VI. DEPARTMENT REPORT

A. Secretary's Remarks

1. Agency and State Fiscal Status – Dick Koerth, assistant secretary of Administration, gave this report to the Commission (moved – Dick not present).

B. General Discussion

1. AmeriCorp Program and KDWP – Linda Lanterman, Parks Division assistant director, presented this update to the Commission (Exhibit C). The AmeriCorp program is one of the mini-grant programs that the Parks Division oversees, and we have been doing this for 11 years. Back in 1998, KDWP was approached by the Governor to consider putting in an application for the AmeriCorp program. We had done it a few years prior to that, did it for a couple of years, it went dormant for a while and then came back strong. We applied and were selected for the grant from a list of nationwide applicants. We apply as an environmental disaster response program. This year we have 25 full-time positions who serve 1,700 hours and 26 part-time positions who serve 900 hours. They receive a living stipend and an education award that they can apply toward student loans; \$4,725 for full-time and \$2,362.50 for part-time and they have up to seven years to use that money. Mini projects are what they do, through the parks system and throughout KDWP. Disaster relief is a requirement, so we send a team out to disasters. There was only one year we didn't respond to a disaster in Kansas. We do campground development, prescribed burns, public programs, trail development, and special projects. We sent a crew and staff (we always send some staff) to Hoisington for a week to help clean-up after the tornado and trained kids in the use of chainsaws and other equipment. Sent a crew to Scott City State Park to help clean-up trees and debris from the ice storm. We spent all summer in Greensburg, and we applied for special 300-hour positions for Greensburg kids so they could serve in their own community and they served under our AmeriCorp program. We had staff cleaning up and still have periodic ongoing relationships with the City of Greensburg. On cabin development, they help statewide with cabin construction at Cedar Bluff, El Dorado, Tuttle Creek, or wherever we have cabin development. At Crawford State Park, they helped on cabin development and campground improvements -- anything nature-based or environmental they will do. At El Dorado State Park we have a good crew because it is such a big park, and we always have a lot of stuff going on such as tree planting and landscaping. Tuttle Creek has another big crew because it is up by Manhattan and Kansas State University. We run 6-10 members there. For some of them, it is a new experience, something they haven't ever done before. It is a mentoring program so we have to administer a lot of patience. We do a lot of OK Kids programs and other public programs. Initially the AmeriCorp program was to help us with our naturalist program that we lost back in 1997, so this helps with a naturalist program helping kids. We go into the schools, parks and to civic groups that have kids' groups in the summer and teach environmental education to kids. In special park projects, we do a lot of trail development, which is about 50 percent of our time right now in the state parks. In public lands, we have had some members who did WIHA signage. Several years ago we were approached by the Governor again to see if we could put a crew together to help redo the Elk Falls Bridge. This was a pretty big project for us, and we had a lot of supervision down there, but they really did a nice job. The local community fed them, we provided the equipment, they provided the materials and we provided the labor. This last year we were approached by the Kansas Volunteer Commission out of Topeka to apply for stimulus money, they had money given to the State of Kansas that we didn't have to apply for, but I had to really think about whether it was worth it for us to apply for that extra money as it is a lot of paperwork. They asked us to compete nationwide so we had to meet specific grant deadlines, of which none is environmental so we had to think of another way

we could do it and it was education. We were a little leery about getting into the education part, but I asked for 11 full-time positions and 14 minimum-time positions because at the time Elk City, El Dorado and Cross Timbers were all under water. The 14 minimum-time positions target senior citizens and put them in the parks for disaster clean-up. We received that grant, the only one in the state who received the money from the nationwide competition. It is 1,700 hours and 300 minimum-time and they still get the same education award. So I had to put 11 full-time people in the schools, so I have a couple at the Great Plains Nature Center and the rest in schools, in Pratt, Independence and Hutchinson. The last few weeks the Environmental Services staff started up a science club in Pratt. We had 45 fifth graders sign up and they come every Thursday for two hours, they had to pay \$5 and we have a lead AmeriCorp member overseeing this. They took them to the river, my daughter is in that group and that is all I have heard about for two weeks. They looked at species, and things like the differences between minnows and catfish and those kids had a great day. It is all environmental. To put this in perspective we had 654 positions in the last 11 years. We cannot displace permanent people, but think about the impact of those people helping us; it is huge. We were allocated \$5.9 million in federal funding to pay for salaries. We have a match and we meet that match. Every year I wonder if I am going to do it again, because it is a lot of work, but these kids would probably never have the opportunity to get in the water without this. It is worth the effort I think. We made a good fit with education and the environment with KDWP. Chairman Johnston – You said some of this money was federal stimulus money? Lanterman – This year. Chairman Johnston - The \$5.9 million total? Lanterman – No, we received about \$190,000 this year. It was a good fit in the schools because we don't have to pay any of those salaries, that grant paid for everything. All we had to come up with some of the match and we used teachers in the schools as the match, but I still have a lot of paperwork to do. That is my time, Cherie Riffey's time; Kathy Pritchett and our state park managers. I couldn't do it without them. Commissioner Shari Wilson – Excited to hear about this program and I can see how it would be a great fit. I am glad you went after the money because we have missed our naturalists in our state parks because they were the ones doing the programs in the parks and at the schools in the area. The rest of the staff just doesn't have the time to do that. These may be in a small area of the state, but I am really glad to see it and hope there are more opportunities in the future.

A. Secretary's Remarks (moved)

1. Agency and State Fiscal Status – Dick Koerth, assistant secretary of Administration, gave this report to the Commission (Exhibit D). The department has submitted the agency budget request for FY2011 and attached in the briefing book is a table with the amounts by program, expenditure and funding. The capital improvement budget was provided to the Commission at earlier meetings. The FY2010 budget submission is the revised budget approved last session and is basically the same with a few exceptions, one being a supplemental request for \$50,000 to provide additional cabin revenue fund capital improvement expenditures as the number of foundations we will need will be more with more cabins coming online, and we have a contract with Skyline to build more cabins for us, which Mark will talk about later. The request includes the reductions taken by the 2009 legislative session and the Governor's reduction he took in July. We had a meeting October 12 and 13 with the House Committee on Appropriations. They are

starting earlier than normal this year trying to review agency budget requests to determine what is being requested. Secretary Hayden made a presentation to them on Monday, basically an overview of what we asked for. They took no action and had no serious questions, and they just wanted to know where we were at as far as reductions. Our budget request is basically \$32.4 million with \$7.3 million from the state general fund (SGF). Operating expenditures are roughly \$53.5 million and capital improvements of \$8.8 million. These will continue our current operations. We are trying to maintain the status quo, but one thing of note is that the request does include the use of a little over \$1 million in road money to fund the state parks, as requested in the past by the Governor in lieu of SGF. The allocation received for 2011 did not include that road money, and we are still putting in it, assuming it will be approved. To maintain current status of state parks requires that \$1 million, plus \$200,000 from the Cabin Revenue Fund (CRF), which was also in the 2010 approved budget. For FY 2011 our enhancements include primarily positions. The state is going to a new accounting system starting July 1 and Cindy and her shop are spending a lot of time working on this, and we are pretty sure a new accountant position is needed for the new accounting system, in some ways it will make life simpler and in some ways it doesn't. The parks division needs an administrative assistant position to assist in their efforts, as Linda has mentioned the increased workload of the federal programs. Other position requests include two environmental scientist positions to work on wildlife programs and expanded fishing opportunities in southwest Kansas, natural resource officer I for Osage County, assistant area manager position for Parsons Army Ammunition Plant Wildlife Area, and an environmental scientist I position to assist in reviews done by our Environmental Services Section. We have included an enhancement of vehicle replacements. In prior years that has been a standard operating item, but over the last few years we have been asked to make them an enhancement request. We have 40 vehicles in there for fish and wildlife and law enforcement. Due to the lack of SGF and Park Fee Fund (PFF) there are no replacement vehicles requested for the parks division this year. The two major special revenue (fee) funds continue to be of concern, as mentioned previously. At the end of FY2011 budget the ending balance in the PFF will be around \$130,000, which is getting pretty slim; and for the Wildlife Fee Fund (WFF), a little over \$1.3 million. These ending balances are down from prior years, and we were trying to maximize our resources as long as possible to avoid a fee increase. We also maximized the use of the CRF, and the balance in that fund will be about \$5,478, so we hope March numbers are good. The House Committee on Appropriations met Monday and Tuesday of this week and they revised SGF estimates for the current year and for next fiscal year. For the current fiscal year, ending on June 30, 2010, the state needs to find another \$129.7 million to just break even, just to get to \$0 on the SGF. On 2011, just to get back to \$0, it will take another \$480 million of cuts, reductions, or something. The SGF is not in good shape and the September receipts were down \$67 million below the estimate, which is not a good sign. On November 5 the State Revenue Estimating Group will meet to determine the numbers that are used by the Governor and Legislature in determining the 2011 budget. Right now, given these numbers, it is quite possible we will see another round of cuts. The Governor is required by law to have a balanced budget, so he will have to do something. There were some discussions in the committee on Tuesday about changing KPERS to a defined contribution ready-defined benefit that will apply only to new employees down the road. There is not a lot of support for that other than some of the people like the idea of eliminating liability for the state down-the-road. Commissioner Lauber – On the bottom of the

budget numbers, the FTE, is that full-time equivalent? Koerth – Yes. Commissioner Sebelius – About this cabin revenue fund, in order to use it we have to budget, but we can't access it throughout the year unless we are in budget authority? Koerth – The cabin revenue fund has two accounts, operations and capital improvements. Operations, there is basically no limit on that, but there is a limit on capital improvements. There is a fixed limit on creating infrastructure or foundations for new cabins. Commissioner Sebelius – So the legislature will try to effectively control that? So the strategy is to beef that up as much as you can and hopefully they say okay so when they sweep it you don't lose it? Koerth – That is the intent, in a way. Commissioner Sebelius – You got pretty close the last time. Koerth - If we spend it they can't take it. But as the same token they realized that is a source of revenue and last year is the first time they put any limit on that fund at all. Commissioner Sebelius – The better you do the worse it is for you. Koerth – Yes, it is a catch 22. Same as the park fee fund, in prior years, if we had any balance they would take it. Chairman Johnston – What is your best guess as to whether, and when, the Commission will need to consider a license increase? Koerth – Next year, in my opinion. Chairman Johnston – In 2010, how early? Koerth – It should go into affect January 1, 2011. That is my opinion and the Secretary can do whatever he wants to. Tymeson – Typically on fee increases we start talking about fee increases in January or March. Chairman Johnston – So our next meeting? Tymeson – Perhaps, yes. Koerth – That is based on current numbers, if we get extra revenue, like a great year in hunting, we could back off of that. But, from my view point as your fiscal advisor, we are spending more than we are taking in right now and we need to consider that based on current revenue estimates. Secretary Hayden – We need to monitor very closely, but I will say there are a couple of things that are favorable in the economic picture: the amount of federal aid from the excise tax on the sale of firearms and ammunition is up; and during this economic recession we are actually seeing an increase in license sales for hunting and fishing. We don't know if that will continue or for how long, but sales have been good so far this year. Dick is right we have to start planning because these numbers will turn down at some point and when they do we have to be ready to take the appropriate action. There is nothing wrong with the idea of beginning a dialog in January. We will know more about the numbers and have more of a consensus estimate from the state and more complete numbers from the feds. We have actually had a pretty good year financially, both in federal aid and receipts up to this point.

B. General Discussion (continued)

2. Standard and Specialized Department LE Training Programs – Dan Heskett, Law Enforcement assistant division director, presented this update to the Commission (Exhibit E – PowerPoint presentation). I want to start at the beginning, KSA 32-808 provides for conservation officers and employees; training requirements; powers and authority. Required course of instruction for law enforcement is KSA 74-5607a, it says to enforce all state law and regulation including chapter 8 (policy); powers of arrest as set forth in KSA 22-2401 and 2307. We serve warrants within the state for all violations of law and carry firearms or weapons, concealed or otherwise, in the performance of our duties. In 1923, state fish and game warden, J.B. Doze used special salaried state deputy wardens. These wardens became the missionaries for the department in an effort to gain public support for fish and game programs. During 1923-24, Doze and his men held about 50 meetings and succeeded in organizing 30 “County Fish and Game

Associations.” The Izaak Walton League came to Kansas, as well as the state Audubon society chapters. Doze, along with the first commission, placed the following qualifications for the deputy wardens serving the state full time and under pay: have a thorough knowledge of fish, game, and fur conditions and their habits; be able to identify any gamebird, fish or furbearer common to Kansas; should be posted relative to the current topics confronting conservation; have a specific knowledge of state and federal laws covering his work; should show considerable knowledge about the flora of this state, especially aquatic plants; should possess some specific knowledge relative to fish culture and game breeding; should know how to prepare the necessary papers in the prosecution of a case against a violator and the penalties prescribed for specific violations. This was before we had biologists. They should be able to drive an automobile and be able to repair it when out of order (outdated now); should be able to make a speech on conservation to almost any audience; should have general knowledge of guns, ammunition, traps, fishing tackle, lures and other equipment used in hunting, fishing, and trapping; should be active and physically capable of being able to get up before daylight and be in the field until dark, and if necessary be a good camp man; and should have conversational ability and the faculty of making friends, especially of making arrest for violations without leaving the accused in an ugly temper. Forestry, fish and game commission started in 1956. The past two years a game protector school was held at Kansas State in Manhattan for three days of training. The officers were brought up to date on laws and new steps and methods in fish and game management. The school has proven very successful and will now be an annual event. Dudley Foster in the audience today, a retired law enforcement officer and I learned all my bad traits from him and my father. Kansas law enforcement training requirement was set forth by state statute KSA 74-5607a. Full time officers’ employment requires at least 1,000 hours of law enforcement related work per year (KSA 74-5602); and officers must complete the Kansas law enforcement training center basic training of 14 weeks (560 hours). Beginning the second year after becoming a certified full-time law enforcement officer the officer shall complete 40 hours of law enforcement training annually. Three divisions have full time certified law enforcement officers: law enforcement, 80; parks, 54; fish and wildlife (public lands), 42; for a total of 176. Annual in-service training guidelines (spells out where, when and what we can do with it): training must relate directly to a law enforcement topic and must be approved in advance by the agency head or the agency head’s designee (Kevin passed along to me). Training sources: university/college/community college credit; and credit must be earned during training year (7/1 – 6/31) from accredited institution; maximum hours allowed are 15 hours each 3 credit hours for a total of 45 hours (have to have 40). Agency training instructors need to be approved and recognized by agency head as qualified to instruct the subject matter; workshops, seminars, out of state training; instructor credit (20 hour maximum); instructors approved and recognized by agency; course taught in classroom environment to at least one officer (no self-instruction); firearms training (16 hour maximum); instructors recognized by agency head; course content must be approved by agency head; course of fire must be approved by agency head and designed to reflect competency in use of police firearms; and at least one approved instructor present during firearms qualification. Field Training Officers (FTO) require 20 hour maximum (needed in our state): must have completed a formal training program of at least 16 hours; agency must have a formalized lesson plan outlining all phases of the training; program must be a minimum of 12 weeks in duration; program must provide for at least weekly written evaluations of the trainee by the FTO for a minimum of 12

evaluations; must have a minimum of 20 contact hours with the trainee; program must be submitted and approved by KLETC commission; video/computer/multi-media/satellite base training (20 hour maximum); viewing must be done in a classroom setting; viewing must be facilitated by a training coordinator for discussion or a post viewing exam administered; and exams must be kept for a minimum of 5 years. EMT (16 hour maximum): must be medical training, first-aid-related or CPR trained. Record keeping: records for officer training must be submitted to KLETC 30 days after the training concludes (LE division does this on-line for all three divisions). Now why to we really train? To assure public acceptance and public safety. When officers respond to something as awful as a fatality accident, we owe it to public to be able to handle the situation and we do that through training, one such accident at Wilson Reservoir where a three-person fatality, where three people also walked away unhurt. Enhance officer safety - 98 percent of people contacted do not create a problem, it's the other 2 percent we train for (Claude Dallas, in 1981 murdered Idaho officers Poe and Elms, held at El Dorado; Howard Franklin Bent was a person who commercially fished in state, later murdered a guy in Missouri and went to prison for that; seized narcotics). To accomplish department missions: education programs, hunter compliance, furharvesting compliance, recreational boating safety, fisheries compliance, parks and recreation - development and control, and public service. Management practices include nuisance animal and damage control, wildlife identification (game and nongame species), compliance with federal laws like threatened and endangered species and CITES. Officers must be familiar with federal and state laws, U.S. Supreme Court rulings - 4th amendment – search and seizure, open fields (if no residence attached don't need search warrant), Carol Doctrine (automobiles), search incident to an arrest, sensitivity training (racial profiling), verbal communications, domestic violence; and stalking. Other reasons why we train: information gathering and changes in technology; report writing; court preparation and testifying; computer technology; evidence collection; ensure a positive image of the department; political purposes (keep opinions to themselves); local and domestic images (people are watching us); national (emergency responses); agency interactions with KHP, KBI, state fire marshal, DOC, DEA, ICE, USFWS, USCG, other state wildlife agencies, other state marine patrol agencies, state emergency management, local law enforcement and rescue. In a U.S. Supreme Court case - Canton vs. Harris in 1989 they defined adequate training, which said you should be training officers according to their work. Question to ask? "Is there a component in the duties of the officer, which the officer's safety or the safety of the public may be involved?" If the answer is yes, then the Supreme Court says you better be training for it. "Training Reduces Liability" is the legal principle of vicarious liability applies to hold one person liable for the actions of another when engaged in some form of joint or collective activity -- the responsibility of one person for the acts of another. KDWP training strategy has five primary firearms instructors, five primary custody and control instructors, and five boating enforcement specialists. Primary instructors are from the law enforcement and parks divisions, one in each of the KDWP regions, and numerous secondary instructors are from all three divisions. Primary instructors take the lead in development and training in their area of expertise. KSA 32-807 – Powers of Secretary says "The secretary shall have the power to: (e) sue, be sued, plead and be impleaded in the name of the department." Items go up the chain in a law suit, from field officers to trainers to Capt. Jensen to Major Heskett to Col. Jones to Asst. Secretary Sexson to Secretary Hayden, trickle down or trickle up effect. We have four quarterly shoots, three weapon systems; must qualify once per

training cycle; 16 hours required by policy with at least two hours in weapon maintenance and one hour each in liability and weapon retention; qualify on .45 caliber handgun (c-post qualification by state law/year); 12 gauge Remington 870 shotgun; patrol rifle (currently transitioning from M-14 .308 to AR15 platform .223). Teach tactical procedures such as the use of cover and concealment; dim light and night shooting; multiple suspects; vehicle extractions and approach. Also, emphasize shoot/don't shoot situations. Custody and control trains officers in the concept of "use of force continuum"; officer presence; verbal commands; soft techniques like OC spray and wrist locks; hard techniques like strikes using the ASP baton, takedowns (clamp); deadly force with firearms and strikes to vital areas; handcuffing techniques; and is 8 hours a year minimum by policy, normally more than that. Clamp technique is the Chris Lein technique in arm management program, also showed takedown method. Use necessary force applicable to the situation to stop the threat; if the threat level increases, so may the use of force; if the threat level decreases, so must the use of force applied; critical judgment that may last only a few seconds or less; and screw up and watch the media frenzy. KDWP law enforcement division annual in-service training is open to all divisions and brings in special programs and instructors. Park rangers attend the KRPA (KS Recreation and Park Association Conference) annually for hours of training also. In the 2003 in-service Kevin Kelly, USCG gave BUI training and practical using volunteers in a wet lab, asked for volunteer drinkers and we gave them alcohol and officers tested their level of competence. The 2004 in-service had courtroom testimony shown by Thomas Stanton, Deputy Reno County District Attorney; had Spanish for game wardens given by Capt. Alfonso Vielma and Major Albert Gonzales, Texas Parks and Wildlife; blood splatter investigation by Mike Bradshaw, Texas Parks and Wildlife (used by all metro-Texas agencies – also human where he helped solve murders); ASP (expandable baton) training by Jeff Ostlund and Larry Hastings, KDWP instructors; waterfowl identification by KDWP Region 3 staff; and canine program demo on policy. If you never see them work you need to see them, it is spectacular what they can do. In 2005, federal firearms regulations by John Durastanti, ATF; falconry inspections by Vanessa Avara, USFWS; practical exercises in use of force continuum by KDWP; changes to the KS drivers license/alcohol laws and underage drinking by Department of Revenue and ABC; report writing; federal law; Lacey update by USFWS Special Agent Kenny Kessler; and herpetological review of Kansas species identification, value and detection of collectors in the field by Travis Taggart, Fort Hays State University. The 2006 in-service topics: handling stress; coding procedures for activity reports; felony possession of firearms by Matt Treaster (U.S. District Attorney, Wichita); digital photography, functions of the camera, policy, crime scene procedures for court by KHP trainer; search and seizure and laws of arrest by KLETC Legal Instructor; and guest speaker Lt. Col. Dave Grossman to train for the worst possible scenario and then go one step even further and you may be ready (wrote three books, two of which come to mind, one "On Killing" and one "Bullet Proof Mind The Psychological Cost of Learning to Kill"). Two years of planning concluded during April 16-21, 2006: all law enforcement division officers went through the marine tactical boat fire course on Wilson Reservoir. This was held in conjunction with Oklahoma water patrol firearms instructors; students had to utilize: boat handling skills; firearms skill (handgun, shotgun, and rifle); judgment skills (shoot/don't shoot scenarios – need more training); and adverse weather conditions. The 2007 in-service: KDWP Article 13 by Kevin Jones, KDWP; search warrant by Mike Jennings, SG County district attorney office; feral hogs by Chad

Richardson, USDA; Africanized honey bees by Glenn Salsbury, KS Department of Ag; KDWP staff on racial profiling (it starts early); fish identification by Mark VanScoyoc, KDWP; and hunter incident investigation by Rod Slings, Iowa DNR. In 2008 in-service: forensic interview and interrogation techniques for conservation officers by Jeff Baile, retired Illinois Conservation Police Officer, spent 2 ½ days going over techniques. The 2009 in-service: emergency management and response (brought on by Katrina (2005) two teams responded to Gulf Port, Mississippi, and Greensburg, KS (2007) F-5 tornado (we all know this one). Also, in part one: held special week long training course for officers with five years and less; boating enforcement school; held at Salina and Kanopolis reservoir May 9-13, 2009; course covered - boating safety class/test; boating laws and regulations; boating under the influence; marine sanitation; fire extinguisher demo; low and high risk boat stops; boat maintenance; throw bags and self rescue dragging operations; stolen boat investigation; vessel inspections; boat accident investigations; practical exercises in boat operations; boat trailering; throw bag deployment; vessel inspection; custody/control; high risk boat stop; and night operations vessel scenario's (varying situations – want more of this type of training). More scenario based training; the way for the future; and department purchased simulation-type equipment to facilitate live fire situations during training. Specialized training: canine training by Indiana DNR; wildlife forensics (2007) by Mike Stocksdale, TN fish and wildlife; hunter incident investigation schools; special wildlife investigation schools; National Association of Boating Law Administrators (comprehensive and advanced boat accident schools - reservoir officers and boating officers); NASBLA BUI train the trainer course (boating officers); USCG marine patrol officer course (instructor course and tactical course); specialized firearms schools including armorer; specialized defensive tactics schools; Indiana River Rescue Schools and similar schools; Army Corp of Engineers ice rescue courses; variety of training courses sponsored by other agencies: KLETC, KHP, City and County police department and sheriff's officer, KBI, FEMA department of Homeland Security; organizations include: International Chief of Police Association, Kansas Peace Officers Association, Kansas Chiefs of Police Association, Kansas Sheriffs Association, Kansas Intelligence Association; International Association of Marine Theft Investigators, International Boating and Water Safety Council, North American Wildlife Officers Association, Association of Natural Resource Trainers, and Kansas Association of Park Law Enforcement Officers. Officers pass their training to new generations to try and keep our children safe and maintain order and peace. Officer's pass their knowledge on to other agencies and share information to accomplish similar task. It's a different world out there than what my father and grandfather left behind! More people carrying firearms than ever before, good and bad. Meth labs are dangerous situations and now terrorists. Active shooter responses are necessary. In rural settings, we respond along with local officers, so we need to be ready and trained. My favorite quote by Chuck Yeager, "I was always afraid of dying. Always. It was my fear that made me learn everything I could about my airplane and my emergency equipment, and kept me flying respectful of my machine and always alert in the cockpit." Always remember - "crack kills." Commissioner Meyer – There seems to be a pretty good investment in training, is there an obligation on how many years they have to be with the department after we train them? Heskett – No. Commissioner Shari Wilson – Seems like we spend a lot of our time training, but we are below numbers on where we would like to be, with budgets the way they are, we are keeping commitment to training, as areas broaden, how are we dealing with that? Do we need to be

requesting more? It seems like a drop in the bucket from what we need. Heskett – Are not going to slack on training? No, we got some targets donated and can use balloons and cardboard, but not going to cut back on training. We have cut back on ammo and live fire, but we have to protect those because costs are going up. Coverage is always an issue, we have 105 counties and if we had 105 officers it would still not be enough, but we're doing fine job with what we've got, and we are trying not to over-train or under-train. We respect our officers' opinions on whether they feel they are getting enough training or not. It's harder to find slower times where we can fit it in. We can ask every day for additional budget, but we have to do with what we've got, and I don't know what the magic number of officers is.

3. Department Hunting/Angling Access Programs –
Hunting - Jake George, private lands coordinator, presented this report to the Commission (Exhibit F – PowerPoint presentation). – The fall of 2009 marked the 15th year for the Walk in Hunting Access (WIHA) program. Current acres enrolled are about 1.06 million acres enrolled, which represents a little over 16,000-acre increase compared to 2008. When we talk about these numbers, I say approximate because it is a moving target. We have agreements taken out from habitat loss, land sale and such. Of those acres, there are about 2,200 agreements with Kansas landowners. The average lease payment is \$2.13 per acre and varies from the eastern to western part of the state. That payment amounts to about \$650 per agreement. The majority of the acres are in the western half of the state, and we are attempting to deal with that in a couple of different ways. In fall 2008, to increase enrollment in the eastern part of the state and to facilitate the start up of private land special hunts, we expanded the area that is receiving the 50 percent enrollment incentive bonus over what you would receive in payment in other counties. Historically it had been in the urban counties, and the WIHA grant was amended to include counties with historically low enrollment. Also, that area is where we targeted the special hunts on private lands program, which was designed to provide landowners with an option of more limited public access. It gave landowners control over how many people were on their property, when they could access the property, and what species they were able hunt. They could be youth only, youth/mentor, or open hunts open to everyone. We have had some turnover as far as contracts not being renewed or cancelled due to habitat loss, CRP being lost, and so forth. It is representative of our overall program, 3 to 5 percent, about 30,000 to 50,000 acres, that we are changing out for new acreage each year. This year, it is about 16,500 additional acres above what we had in 2008. We have had some improvement as far as enrollment in the eastern part of the state with that incentive payment. The pilot program was in the spring of 2009 for the private lands special hunts. We had over 4,500 acres enrolled in nine counties -- 67 total hunts were offered for youth, youth/mentor, and open hunts. There were 165 applicants. We had an online system set up, no paper applications and if people had difficulty accessing it they were able to contact our office for us to fill out the application for them. There was a positive response and once the application closed, we had a computer-generated random drawing. Successful applicants were notified by email with detailed property maps, as well as hunt permits that consisted of a vehicle dash card, to be placed on the dash of their vehicle while hunting, as well as on-person permits to be carried on them. We continued the private lands special hunts this fall and had over 13,500 acres enrolled; 220 total hunts were offered; youth, youth/mentor, and open hunts; probably about 50-50, possibly leaning a little toward the youth hunts. The hunts ranged from upland hunts for quail

and pheasant; fall turkey; waterfowl; deer; and furbearer hunts. We just closed the application October 1 for the fall hunts, and I don't have totals yet, but the hunts available on the private lands side we had over 82 percent filled on the initial draw. What we have been doing is offering those (unfilled hunts) up on a first-come first-serve basis after the draw closes for people to call in and fill. As word gets out it will continue to grow. Also, as I mentioned part of the intent of the special hunts on private lands program was to try and increase access in the more urban eastern part of the state. Chairman Johnston – This special hunts private lands program started last year? George – Before we had the program initiated, we did some hunts on KU endowment tracts for youth deer prior in the fall of 2008, but we actually had the first program set up for spring turkey in 2009. Chairman Johnston – The statistics you showed early in the PowerPoint, 1.06 million acres in WIHA, did that include the acres in the special private lands program, or is that in addition? George – That is in addition, but there is some overlap as we had some acres for spring turkey walk in hunting access and are approaching about 170,000 acres for that.

Break

3. Department Hunting/Angling Access Programs (continued) –
Angling – Tom Lang, fisheries program specialist, presented this report to the Commission (Exhibit G – PowerPoint). Angling access is an important component of our agency's mission, to: "Provide the public with opportunities for the use and appreciation of the natural resources of Kansas, consistent with the conservation of those resources." Access to the opportunity is as fundamental to angling participation as our ability or desire to participate. You can have all of the equipment, knowledge and want to go, but if you don't have the place to go, you are not going. So angling access is extremely important. Historically we have had two main issues restricting angling access in our state: many of our fisheries resources are privately-owned, or simply not publicly accessible, and also many of our public waters owned by cities and communities, which charge additional local fees on top of our license to access their resources. The fisheries section saw those as two major issues and wanted to proactively attack those issues, so we have two federal aid grant programs focusing on these issues. One is the Fishing Impoundments and Stream Habitats program (FISH) program and the other is the Community Fisheries Assistance Program (CFAP). The FISH program pilot was in 1998 and based on the success was expanded statewide in 1999, and it is 75 percent reimbursable. The primary objective is to increase public access to privately-owned fisheries, and we have been able to fill in holes in access and opportunity in counties where there was no public access by opening up some of the private waters. We lease fishing rights from landowners from March 1 to October 31. Lease rates on small impoundments are \$42 an acre and on streams or rivers they are \$500-\$1,000 per mile (based on the quality of the fishery as determined by our Environmental Services Section stream crew); and stream or river access sites at \$100-\$1,000 per acre. Like Jake, we saw some holes in participation in our program in urban areas where folks are a little more leery, so we are applying what WIHA did by offering, this first year, a 50-percent urban bonus in lease rates, so they are \$63 an acre. Typically our FISH program participation will include 175 sites, with approximately 1,175 acres of impoundments, 90 stream or river miles, and about eight stream access sites. The future of the FISH program is that our grant has been extended through 2013, and we will continue to work to expand into urban areas. We have had FISH properties at The Nature

Conservancy's Tallgrass Prairie for a couple of years in a handful of their ponds and we want to strengthen these partnerships, and The Nature Conservancy is excited to be working with us and are interested in expanding their lease to include about 25 ponds on their property. We also want to look at ways to include perpetual easements in our program, where we bring in multiple landowners on a stretch of really nice stream and make a larger stretch open to the public and provide longer leases open for perpetuity. The CFAP program began in 2005, and we lease fishing rights from cities and counties, and it is a 100 percent reimbursable federal aid grant. The primary objective of CFAP is to remove those additional local fees to access community-owned waters. The secondary objective is to improve the quality of the fisheries resources and angler facilities like boat ramps, restrooms and those sorts of things, but also the fisheries themselves. By partnering we are able to get into those lakes and do some management. Lease amounts simply replace past revenues from local fees or if they didn't have a fee, we calculate based upon the quality of the fishery. These calculated leases are based upon: surface acreage, family friendly facility status, additional angler facilities (like heated fishing docks), fishery quality, and presence or absence of habitat management plans. On the family-friendly facility status, we actually pay them extra if they provide a couple of amenities that are more attractive to families, specifically if there is a lot of shoreline access where you don't have to have a boat to go fishing; or there is security lighting; regular security patrols; flush toilets; and no alcohol. We are really starting to recognize that we have diverse user groups out there that expect different things at different fisheries and we want to try and meet those expectations. By leasing the fishing rights, the communities can no longer charge anglers to launch a boat or fish from the shore, and KDWP assumes fishery and habitat management, regulation authority, stocking, and sampling responsibilities. We have a handful of non-cooperators out there who are now coming to us and want to know why they aren't catching as many fish as they used to and that is because we have to focus our efforts on our cooperators and help them make their fisheries as good as possible. Since 2005 we have leased these fishing rights to about 90 percent of community-owned fisheries in the state. Annually, that includes about 131 cooperators, 227 ponds or lakes, for a total of 12,589 acres. The program is growing with the addition of Overbrook Kids Pond, a nice 50-acre lake in Syracuse out west, and Ulysses will be coming on soon, as well as a new pond in Valley Center. There are some other ponds that cooperators wouldn't have taken on if it had not been for their experience with us in the program. They have been given the opportunity from a landowner whose developed it and made a retention pond and now they are taking that on because they have the backing of KDWP to make this a quality fishery. One of the really great opportunities coming through CFAP is we are partnering with Horse Thief Reservoir Benefit District. It is filling up right now, and we already have an MOU with them. When filled, we will have a 450-acre lake just north of Dodge City and Jetmore and that will really fill in some opportunity for us out west. Since 2005 we have distributed nearly \$3 million in CFAP leases. The cooperators are required to document spending -- 75 percent of the money we give them on the operation and maintenance (O&M) of their fishery, but they have actually documented nearly \$5 million in O&M, 250 percent more than required and almost \$2 million more than we gave them. Working with them to make better fisheries, showing an increased presence and giving them money up front is helping them taken additional pride in their fishery and making it more a focal point of their town. Essentially, the partnerships between the cooperators and CFAP have resulted in the removal of a major barrier to angling participation -- that additional fee -- helped to increase the

quality of fisheries and angling amenities, and increased the stature of KDWP with local communities. The program is completely paid for through federal aid and, according to cooperator surveys, it has increased angling participation at their waters. So it is working, and that is what we wanted to see happen. It is doing so well, we were recently nationally recognized by winning the 2009 Outstanding Sportfish Restoration Award for Access from the American Fisheries Society's fisheries administration section. At the March Commission meeting in Topeka, the fisheries administration section president is going to come and present the award to Secretary Hayden and to the Commission for this program. At Wildlife and Parks we have some best kept secrets out there, and we don't want these to be FISH and CFAP. We really worked to increase public awareness through KDWP internet, social networking sites, blogs, newspaper articles, fishing regulations, videos, and proper signage. All FISH and CFAP locations are published in the annual fishing atlas publication to inform anglers of their location by including an index of FISH sites, boat restrictions, fish species present, and the water type. Our FISH and CFAP would not happen without all of our district biologists and our hatchery folks producing fish to stock these and manage these, so it is really the entire fisheries section's effort for these two programs, and we are proud of them. The final slide shows my six-year-old son, Hunter, fishing on a CFAP lake at Pratt County on Father's Day. Commissioner Meyer – If I carry my fishing pole can I throw my canoe on one of these rivers? Lang – Where we have stream access sites on navigable rivers? Commissioner Meyer – On anything you have leased? Lang – Anything we have leased on a stream stretch, absolutely. Commissioner Meyer – So I can fish from a canoe there? Lang – I would hope you actually are fishing. Commissioner Shari Wilson – I don't think we should wait until March to recognize our fisheries staff for their award. I think that is amazing and wonderful. Thanks for all of your hard work (*round of applause*). Chairman Johnston – Of the 10 percent of community waters not participating, is there a common thread behind their reasons on why they are not interested in participating? Lang – Probably the two hardest nuts to crack are probably Wyandotte and Johnson County, and that has very little to do with us and most to do with one county not wanting the other county's residents to cross over, whether that would actually happen or not. We have been in conversations with them and are trying to stay in contact and remind them that they are jumping for one in the bush and I am going to put one in their hand.

4. Fall Turkey Season - Jim Pitman, wildlife biologist, presented this report to the Commission (Exhibit H). We have four hunt units in Kansas for turkeys, both spring and fall. We sell turkey permits over-the-counter for three of the four units, the exception is southwest Kansas -- Unit 4, and you can buy up to three additional game tags which will allow you to take up to four birds in Unit 2 in the eastern half of the state. In the 2008-2009 turkey season, we sold 13,984 fall turkey permits and game tags, of those there were 3,281 game tags sold. Those numbers are down by about 1,200 from the prior year and down nearly 2,500 from 2006 when fall license sales for turkeys peaked. We expect the decline has something to do with the turkey numbers that have dropped off in the eastern part of the state. Our success rates for last fall was 42 percent across the state, fairly consistent with what we have been seeing only fewer people. Of the 4,781 estimated turkeys harvested, 34 percent were females (mostly males harvested), which is typically not what you think of during fall harvest. We have seen a decline in the eastern third of the state, most notably in southeast Kansas due to poor production. This past summer was

more conducive, still really wet, but not like in the past few years, and our indices to production were back up near average. Not great, but an improvement from record lows. It takes two years for hunters to actually see birds in the field, so next spring will still be tough. We still have a long way to go from where we were four or five years ago. The department is concerned about that turkey decline, but we evaluated the harvest regulations to see if there was any benefit to reducing harvest in the fall, and we determined that was not the case because we harvest such a small percentage of the turkey population out there that we felt there was little benefit to be gained. For example, if we completely eliminated fall turkey hunting in southeast Kansas, we would save about 300 hens across the whole region and we felt that was insufficient to have much effect on populations. We are not recommending any changes to fall regulations for next year. Commissioner Lauber – The production index, is that calculation or formula available online or somewhere that I could see it? Pitman – I would be happy to get it to you. I don't think it is online yet, but should be this winter. Commissioner Lauber – I am curious how that is determined. Do you have the number of days that had rain, temperature, etc. or is it checking with what the mail carriers see? Pitman – We actually have two different things. The rural mail carriers survey where I develop an index of poults to adults back through the early 1980s, and within the last four or five years our department staff have been counting turkeys when they do their August roadside counts for pheasants and quail. From our departmental data, I came up with a poult to hen index and for the last four or five years our data and the mail carrier survey have been highly correlated. Commissioner Lauber – So you have had that information to come up with the 2009 hatch? Pitman – Yes, I have that for 2009, from mail carriers and I have seen some preliminary stuff from our department index, and it is showing about the same thing. Chairman Johnston – Last meeting we discussed approving the idea of selling an early combined spring turkey and game tag permit for a lesser price on the hopes of stimulating some license sales, is that correct? Pitman – Yes, that is correct. Chairman Johnston – Will that offering increase harvest? Pitman – If we sell more permits it is likely that we will have an increase, but it is hard to say how much until we actually go through that process, but spring harvest of turkeys doesn't really have much to do with population change unless you harvest 60- to 80-percent and we are nowhere near that based on bands and telemetry data.

5. Status of Lesser Prairie Chicken State Listing Review – Ed Miller, nongame biologist, presented this report to the Commission (Exhibit I). I am the spokesman for Threatened and Endangered Task Committee, and I was in front of you in June when we completed the five-year review of our list of threatened and endangered species and species-in-need-of-conservation, and I did not expect to be in front of you again for a few years. However, in July a petition was submitted to Wildlife and Parks to list the lesser prairie chicken as a state threatened species, submitted on behalf of the Kansas Ornithological Society and six Audubon Society chapters. The Task Committee met, and our objective was to determine if the petition contains substantial evidence to warrant a review, which would not imply anything about whether it should or shouldn't be listed but simply that a thorough review would be used to make a final recommendation after all required statutory actions are met. The Committee met in September and last Tuesday, and yesterday we submitted a recommendation that it does warrant a review to Secretary Hayden, and it is his decision to accept or reject that recommendation. Secretary Hayden – After reviewing the recommendation, I agree that further investigation and review is

warranted. Ed Miller – We looked at the statutory factors that were laid out for us. Those are: 1) the present or threatened destruction, modification or curtailment of the species' habitat or range; 2) the over utilization of such species for commercial, sporting, scientific, educational, or other purposes; 3) disease or predation; 4) inadequacy of existing regulatory mechanisms; and 5) the presence of other natural or man-made factors affecting its continued existence within the state. Of these factors the Task Committee recognized just one; that was the present or threatened destruction, modification or curtailment of the lesser prairie chicken habitat or range. We could not deny that two probable threats are looming: the expiration of CRP contracts and probable loss of habitat due to reconversion to row crops; and increased fragmentation due to energy development infrastructure that would reduce habitat suitability or connectivity between separate populations. The Task Committee feels we need input of experts in lesser prairie chicken biology to incorporate their expertise into the final recommendation. We also recognize it is difficult to quantify the scope and affect of future threats. The Committee also recognizes the ongoing and pending conservation actions could allay, alleviate or even eliminate the need to list the lesser prairie chicken as a Kansas threatened species. Commissioner Shari Wilson – How does this further investigation impact any process that windfarms may be going through in terms of siting. Ed Miller – From what we understand, wind energy companies are acceptable to recommendations on siting at this point. Commissioner Shari Wilson – For now the process for the energy developers stays the same? We review those proposals right? Ed Miller – Correct. Commissioner Lauber – I assume nothing good will come from this either way. Whenever you have something listed, you almost have to go with the review, and we are either going to find them not warranted but threatened, but it is always going to be running counter to the interest of wind energy. I can't see much silver lining in this at all. This is ultimately going to be the start of one less species we are going to be able to hunt in 20 years and then lesser prairie chickens will be confused with greater prairie chickens and then all prairie chickens will have to be protected. I am trying to be upbeat and it is a struggle. Ed Miller – I am with you.

C. Workshop Session

1. Big Game 115-4 Series Permanent Regulations – Lloyd Fox, big game wildlife biologist, presented this report to the Commission (Exhibit J). This is the second time to discuss this, and we will workshop them again in January with a goal of completing them in March along with 25-9. At this point, we have all of the permanent regulations that deal with deer open: 115-4-2; 4-4; 4-6; 4-11; and 4-13. At this time we do have a couple of issues that have been brought forward. One special area of concern is in regulation 4-2 dealing with carcass transport, especially interstate transport. Chronic wasting disease (CWD) continues to expand and increase in prevalence. No technique is available to wildlife managers that will prevent this disease; however, some techniques may reduce some aspects known to be potential sources of infection in the spread of the disease. Long distance movement of intact deer carcasses with improper disposal of waste may contribute to the spread of CWD. Thirty-five states currently have regulations dealing with the movement of deer carcasses, and there are inconsistencies among states that result in confusion and difficulty for hunters. Deer legally taken in Kansas and transported through other states were confiscated last year as a result of our regulation. Our regulation requires that the head remain attached, and some of the other states are prohibiting

deer to be transported that way. Hunters can have their deer processed and shipped, but as far as moving the whole carcass through our state, they are required to have the head attached. Staff discussions continue to address changes in these regulations, like pronghorn hunting at the same time as our early firearm deer hunting and the issue of requirements for blaze orange. At this point, the staff does not have a proposal for a change in these regulations. Chairman Johnston – I had an opportunity to attend the meeting of the Midwest Deer and Wild Turkey Working Group and a significant portion of that program had to do with CWD and other diseases. In between sessions, you advised me that in Kansas we have a CWD contingency plan and you gave me some information about additional research being done. Could you enlighten us? Fox – We have a CWD contingency plan, and we brought that to the Commission probably three to four years ago, maybe longer. It is being reviewed by staff right now. Shane Hesting is our CWD coordinator, and he is reviewing that and will make recommendations if necessary. Chairman Johnston – One of the presentations was from another state, where a particular region of the state was being discussed where the diseased animals were predominantly located, and there had been some encouraging work being done with a CWD active control project where the diseased animals were being found. Fox – That is Illinois. They have a section in the northcentral part where CWD occurs in some suburban areas and adjacent to suburban areas, and they are using department personnel to address that and have had some preliminary encouraging results. At least they are holding their own with this disease, while most other states are having difficulty saying that. Chairman Johnston – When do you expect hearing something about that review? Fox – CWD is a disease that has a long protracted epidemic time period and even when we see changes for a few years that may not be the whole answer. This is disease that the experts are talking about having an impact for 40-80 years. In some of the western states, where CWD started, they are seeing severe local impacts beginning to take place, but after it was found in the early 1990s. So it will take awhile before they can say.

2. Deer 115-Series Regulations – Lloyd Fox, big game wildlife biologist, presented this report to the Commission (Exhibit K). Deer; open season, bag limit, and permits in KAR 115-25-9 is brought forth with annual adjustments in season dates and application periods. Also, potential changes in units where extended firearm seasons may occur and the number of permits available for hunters to use for antlerless white-tailed deer. The recommendation for season dates for 2010-11 deer season are as follows: youth and disability is September 11, 2010 to September 19, 2010; early muzzleloader is September 20, 2010 to October 3, 2010; archery is September 20, 2010 to December 31, 2010; early firearms in Unit 19 is October 9, 2010 to October 17, 2010; regular firearms is December 1, 2010 to December 12, 2010; extended firearms season is January 1, 2011 to January 9, 2011; and last year we had three units with a special one-week addition to that extended whitetail antlerless season and those were DMUs 7, 8, and 15 and that season would be January 10, 2011 to January 16, 2011; and extended archery in Unit 19 would be January 10, 2011 to January 31, 2011. We are attempting to bring the nonresident application period ahead one month from May 30 to April 30, 2010 and the deadline for the resident drawing for either-species either-sex move to the second Friday in July, which will be July 9, 2010 this year instead of July 15. We will also be looking at and collecting additional information to see if we want to include additional units in the extended season and if we want to change the number of permits the hunters can get in some of the deer management units. We will wait until we get

further information for that. Also, in this regulation we have Fort Leavenworth and the Smokey Hill Air National Guard seasons and they are the same time period and general sequence that has occurred in recent years. Fort Riley's season will be coming forward in 115-25-9a and we will bring that in for general discussion at the next meeting. Commissioner Lauber – It says consideration is being made to allow hunters to purchase five. Can't you purchase five now? Fox – Yes, that is the number of units where they could hunt.

3. Elk and Deer Commissioner Permits – Keith Sexson, assistant secretary for operations, presented this report to the Commission (Exhibit L). We discussed this at the last meeting relative to changing some rules. State statute allows the department to issue up to seven commission permits, including no more than one elk, one antelope, or up to seven deer if elk or antelope are issued. We have been issuing these permits since 2006. What happened, as I described before, this year the 2009 Commissioner permit was purchased by an individual who had also purchased a Commissioner elk permit in 2007 and it was an oversight on our part in not passing along to the organization that received this permit that an individual, by law, could only have one elk permit in a lifetime. Because this individual had one and used that permit in 2007, he wasn't eligible to actually hunt with that permit in 2009. As we got to thinking about that, we wondered if we should consider setting the Commissioner elk permit to be separate from the current elk permits that limit an elk permit to once-in-a- lifetime. In theory an individual could actually buy the Commissioner elk permit and use it every year. One of the issues at hand is maintaining a pool of bidders who have an interest in, and ability, to maybe buy these permits at a healthy price because the purpose of the Commission permits was to provide funding through the various conservation organizations to go back into hunting and fishing heritage programs or habitat programs that benefit hunters and fishermen in the state and/or our resources. We had recommended to the Commission, when we started this process that they may want to consider exempting the Commissioner permits from the current regulation that limits the bull or any-elk permit to once-in-a- lifetime. On the elk side we would need to prepare regulations that would allow for that. The other side of this was the deer permits of which we generally have five, which allows an individual to hunt for either-species, anywhere in the state, during any season, with legal equipment. Currently the regulation states "that an individual shall not apply for or obtain more than one antlered or horned big game permit for each big game species" which essentially limits one antlered deer permit per individual per year. Again, do we want to pursue a regulation change that would allow an individual to purchase a Commissioner deer permit, use it, and also be eligible for a regular deer permit? It would be the one opportunity for an individual to take two antlered deer in the state. On the one side, we do have mule deer available for nonresidents through the mule deer stamp program and the whitetail either-sex permits that are available on an unlimited basis to our residents, but in this case we would be providing an opportunity for someone to purchase a Commissioner permit and use that permit to the full extent of its eligibility and that being mule deer or whitetail, anywhere in the state, during any season. We are continuing to recommend that we come back in January with regulations to exempt from current regulations, the Commissioner permits for elk and deer which allow individuals to purchase those permits, use them accordingly, and still be eligible for the regular deer permits and not be held to the once-in-a-lifetime on the elk side. Commissioner Lauber – On the deer, you are recommending they can have one Commissioner Permit and a regular statewide permit? Rather

than someone having seven, you could have one statewide and one Commissioner Permit?
Sexson – That is what we are thinking. Commissioner Lauber – This drives the value up, which is the goal and a good thing for the organizations. We screen the applicants who are eligible to receive our Commissioner permits and we have to be satisfied that the money goes back into habitat. I would limit it to one Commissioner deer permit, but other than that I think we should do it. Chairman Johnston – If we make this change on elk permits, the situation could still arise where the same person could, over the course of ten years, outbid and purchase several elk permits? Sexson – That is correct, there is only one per year, but theoretically the same person could outbid anybody trying to get that permit. We can see how that goes and look at the program again if it looks like that is happening. Chairman Johnston – While it is one thing to make a decision to breach the previous policy decision of the department to allow one bull elk permit in a lifetime, to allow two; but to consider making a change that could potentially increase that to three is a bridge too far for me. I would be more content on the elk permit to allow an exception if they had received a previous elk tag, but did not fill their tag, but I am just one voice. Commissioner Lauber – I understand and see your point, but I tend to think it is going to be scattered every year to a different person, because the permits go to different organizations. As long as we have two rich guys in the state of Kansas, they will bid against each other. If it becomes abused and apparent that the last rich guy standing gets the permit all the time, then we may have to modify and go with Kelly’s approach. We want to generate income, as that is what it is designed to do.

VII. RECESS AT 4:15 p.m.

VIII. RECONVENE AT 7:00 p.m.

Chairman Johnston – I would like to thank the Sedan Chamber of Commerce and VFW Post 6373 for welcoming us to your community and building.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

None

XI. DEPARTMENT REPORT

D. Public Hearing

Notice and Submission Forms; Kansas Legislative Research Department letter (Exhibit M).

1. KAR 115-25-6. Turkey; spring season, bag limit, permits, and game tags - Jim Pitman, wildlife biologist, presented this report to the Commission (Exhibit N). For the spring turkey season we offer permits over-the-counter for three of our four units, the exception being Unit 4 in southwest Kansas where we allocate 325 permits in a pre-season draw. This past year

we had 510 applicants for those 325 permits and that resulted in 19 landowner/tenants not successfully drawing a permit, as well as 27 youth. The department is recommending we make youth permits valid in any unit which would alleviate some of the over-subscription in Unit 4. Assuming we get the same number of applicants next year we should be able to fulfill demand with that change. Harvest rates that we are gathering from band data and radio telemetry indicate that our turkey population can withstand the added hunters that a statewide youth permit would result in.

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

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

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

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

2. KAR 115-2-1. Amount of fees – Spring Turkey Permits - Mike Miller presented this report to the Commission (Exhibit P). This is the third time you have heard this proposal. This came from the Marketing Task Force and was a recommendation to look at incentive-based permit sales, both in date of purchase as well as a combination. We are proposing to combine a turkey permit with a spring turkey game tag with a \$5 savings if you buy them both before March 31, which is the first day of the turkey season. It would be for youth, residents and nonresidents.

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

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

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

The motion as presented KAR 115-2-1 passed 6-0.

3. KAR 115-2-3a. Cabin camping permit fees – Mark Stock, presented this report to the Commission (Exhibits R, S). This is the third time we have brought this before you. We are proposing an amendment which allows us to align the rental fees for what we are charging at Crawford and makes an adjustment for Cheney for a proposed cabin. These fee changes for cabins come to you each year so we can anticipate what cabins will be coming online and therefore can charge the rental rates for those fees.

Commissioner Shari Wilson moved to bring KAR 115-2-3a before the Commission. Commissioner Robert Wilson seconded.

Commissioner Doug Sebelius moved to amend KAR 115-2-3a. Commissioner Shari Wilson seconded.

The roll call vote on KAR 115-2-3a to amend was as follows (Exhibit T):

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

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

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

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

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

4. KAR 115-7-1. Fishing; legal equipment, methods of taking, and other provisions – Doug Nygren, fisheries section chief, gave this report to the Commission (Exhibit U). This regulation establishes legal fishing equipment for sportfish and non-sportfish. Proposed amendments would allow the use of bowfishing for three sportfish: blue catfish, channel catfish and flathead catfish in certain locations and subject to certain restrictions. Also, we want to remove the mandatory take provision on paddlefish snagging, we want to allow people to throw back short fish.

Commissioner Gerald Lauber moved to bring KAR 115-7-1 before the Commission.

Commissioner Robert Wilson seconded.

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

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

The motion as presented KAR 115-7-1 passed 6-0.

5. KAR 115-7-3. Fish; taking of bait fish or minnows – Doug Nygren, fisheries section chief, gave this report to the Commission (Exhibit V). We want to allow people to use gizzard shad greater than 12 inches as baitfish. Currently our baitfish regulation prohibits the use of bait fish over 12 inches long. This would give people some additional opportunity to take advantage of larger shad for bait.

**Commissioner Robert Wilson moved to bring KAR 115-7-3 before the Commission.
Commissioner Shari Wilson seconded.**

The roll call vote on KAR 115-7-3 as recommended was as follows (Exhibit X):

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

The motion as presented KAR 115-7-3 passed 6-0.

6. KAR 115-7-10. Fishing; special provisions – Doug Nygren, fisheries section chief, gave this report to the Commission (Exhibit W). This new permanent regulation will help us deal with the recent problem that developed having to do with people cutting the tails off of walleye to make them sub-legal in length. While we were doing that we thought it would be appropriate to look at other ways that people might want to mark fish that would be detrimental to the fish population and to our management activities. This regulation will prohibit the marking, tagging, branding, fin clipping or disfiguring of any fish prior to releasing it back into the water.

**Commissioner Shari Wilson moved to bring KAR 115-7-10 before the Commission.
Commissioner Frank Meyer seconded.**

The roll call vote on KAR 115-7-10 as recommended was as follows (Exhibit X):

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

The motion as presented KAR 115-7-10 passed 6-0.

7. KAR 115-8-6. Fishing; fish bait, and seining – Doug Nygren, fisheries section chief, gave this report to the Commission (Exhibit Y). This regulation has to do with the CFAP program that Tom presented earlier and the fact that our current regulation on the prohibition of trotlines is only on bodies of waters that are 500 acres or less that the department owns and manages. There are quite a few of our community lakes that are in excess of 500 acres, the largest one is Winfield City Lake at 1,200 acres. What we propose is to increase the size from 500 acres and less to 1,201 acres or less.

Commissioner Frank Meyer moved to bring KAR 115-8-6 before the Commission. Commissioner Shari Wilson seconded.

The roll call vote on KAR 115-8-6 as recommended was as follows (Exhibit Z):

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

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

Reversed order because number 9 is included in the reference document which is part of KAR 115-25-14 in number 8.

Chairman Johnston – We are going to take up the white perch control plan at this time. Doug Nygren – At the last Commission meeting we mentioned that in our changes for length and creel limits that we had a recent development of finding white perch at El Dorado so Craig is going to explain what is going on and what we want to do.

9. El Dorado White Perch Control Plan – Craig Johnson, fisheries biologist, gave this report to the Commission (Exhibit AA). On July 23, 2009, an angler reported the catch of a possible white perch at El Dorado Reservoir. On July 24, 2009, we set short set gillnets and found an adult white perch a little over 8 inches in length capable of spawning. On August 11,

2009, while looking for shad, we ran across a young-of-the-year white perch, so we had proof that they had already spawned in the lake. Last week we finished up the fall October test netting sample and we saw more adult white perch and more young-of-the-year. We don't know how they got there, there are no upstream populations so they didn't just wash in, human transportation would have been required. We have them at Cheney and a couple of other lakes, and they were likely brought in to be used as live bait and either escaped or were released. Unknowingly introduced in Kansas in 1994 through a contaminated striper stocking from a Virginia hatchery. They were discovered in November 1996 and quickly overpopulated at Cheney Reservoir and have become a major management problem. Wilson got them through the same contaminated stocking in 1994. They were also discovered in 1996 and quickly established in the reservoir where they have impacted the sport fishery, but less severely than Cheney. Differences between Cheney and Wilson: Cheney was severely impacted/Wilson was moderately impacted; turbid water at Cheney/ clear water at Wilson, which allows bigger predator fish to see them, with more turbid waters predator fish can't see them as well and younger white perch can escape predation and grow into fish that might be too big for predators to eat; high density of small white perch at Cheney, studded out a few years ago/when kept at low density like at Wilson can grow to a larger size and are more acceptable to anglers; because fish are smaller, four to six inches long at Cheney, there is low angler white perch use/high angler white perch use at Wilson because they are bigger. We think El Dorado is more likely to follow the Cheney scenario, becoming quickly colonized with white perch and also having less clear water, chances of those fish taking off quickly is pretty likely. At Cheney, going back to 1990, the number of fish caught in fall test nets that were longer than 8 inches were white bass and gizzard shad. In 2003, the white perch have basically squeezed everything out. They are predators of eggs, they eat sportfish eggs and larval fish, so if left unchecked they squeeze all of the sportfish out and take over. By 2002, the major sportfish populations had dropped to low densities at Cheney and were composed of low densities of old individuals. Longevity of sport fish populations was threatened due to lack of recruitment resulting from competition with white perch. At Cheney during our fall netting, the number of walleye caught in our nets had a peak in 2002 but it dropped off in 2004. We had the highest peak of white perch density in 2006, but they have declined since then. We have yet to do the 2009 fall sample there. The walleye population dropped off as the white perch increased -- 42-30 stock catch per unit of effort on walleye, up to 48-50 in 2000, but after white perch went down to about 12 and stayed at those lower levels. Wipers weren't hit nearly as bad. They had been managed as a combination fish with stripers, so density wasn't that high, so no big drop because didn't have that many to begin with. White bass have similar life histories and requirements as white perch and really declined until about 2005. In 2002, started on Cheney white perch management plan because of the declining quality of the sportfish populations. It was implemented in fall 2003 when stocking rates were increased for walleye and wiper and protective length and creel limits were established for walleye and wiper of 21-inches and 2/day. In 2007, the white perch numbers were really starting to decline. Sportfish densities improved as the management plan progressed, and if you look at the numbers after plan was in effect, the numbers started going up. The El Dorado plan was designed to lessen the severity of white perch impacts on sportfish populations and anglers while increasing predator population densities and size of individuals for increased white perch predation. Early increased predation levels will reduce white perch peak densities where most damage is inflicted

on sportfish. We would like to begin in January 2010. The three main components are: stocking, impose harvest restrictions, and fish population monitoring. On stocking, we are looking to stock walleye at 25 fingerlings/acre. Historically walleye fingerlings have been stocked, switched over to fry stocking and then zebra mussels came along, which don't make good conditions for fry. Wiper will be stocked at 10 fingerlings/acre and 1 intermediate/acre. Sauger will be stocked at 10 fingerlings/acre. On harvest restrictions, we want to impose 15-inch minimum length limit and 5/day creel on sauger, an 18-inch minimum length limit on largemouth bass, smallmouth bass, and spotted bass, a 21-inch minimum length limit on walleye, a 21-inch minimum length limit on wipers, and a 2/day creel on walleye. Why sauger? Sauger stockings would allow for continued angler harvest of a percid species with 15-inch minimum length limit and 5/day creel and have done well at Melvern and Perry. Sauger would offer similar angling opportunities and table fare as walleye and are easy to differentiate from walleye where saugeye are a little more difficult to tell from a walleye. We have identification posters already in place to show the difference between walleye and sauger. Fish populations will be monitored with standard sampling methods to determine if management goals are met. Commissioner Meyer – El Dorado should be much clearer than Cheney shouldn't it with water coming off the Flint Hills? Craig Johnson – A lot of that depends on water conditions – inflows -- and we have had drought conditions in 2006 and the lake got pretty clear, but with heavy precipitation and flood events in 2007, 2008 and 2009, it is not as clear. Cheney has become clearer recently, and El Dorado has become more turbid. The water would clear under the ice and then in January or February when the springs kicked in and the ice came off the lake came back to turbid, and it hasn't cleared up since. So it was pretty much dirty for the later half of 2008 and all of the 2009 growing season.

8. KAR 115-25-14. Fishing; creel limit, size limit, possession limit, and open season – Doug Nygren, fisheries section chief, gave this report to the Commission (Exhibits BB, CC, DD, EE). We wanted to give you an update on the white perch because we had already submitted our length and creel limit changes to the Attorney General and we will have to vote on it as it was submitted to the Attorney General and then motion for an amendment, then a vote if you want to include the changes that are in place to deal with white perch at El Dorado. On the sauger introduction we are making a recommendation to introduce sauger, but because we have no records of sauger ever being taken in the Walnut River basin we are going to conduct an environmental assessment, which will include the opportunity for the public to comment on the introduction of sauger. There is some debate on whether sauger were ever in the Walnut River. They are native to the Arkansas River and have been found in the Neosho and the Ozark tributaries of the Arkansas River. Some authors think they were native to the Walnut River. The Walnut River is interesting in that back in the early 1900s it had severe pollution from oil field work in the El Dorado area, and we have no records before that time, so we can't say it is a native fish in that area. We will submit the environmental assessment to our federal aid folks in Denver because our hatcheries are funded with federal dollars and we are required to allow them to make a decision, or finding of no significant impact, and if they find that then we won't move ahead with it because it would require a full blown environmental impact study (EIS). The sauger is still contingent upon the finding from the U.S. Fish and Wildlife Service. The changes we have in place in 25-14 are primarily length and creel limits, but we also are making some changes in the reference document relating to paddlefish snagging locations on the Neosho River at Iola and

to the Marais des Cygnes River; basically we want to open it up from our up-stream end of our property on the Marais des Cygnes Wildlife Area to the state line, which is on the federal refuge there. There are no low-head dams there, just pools and riffles, and it will be a different type of paddlefish snagging area than we have had. Traditionally we have been snagging below low-head dams, and this will be open river with an opportunity to take paddlefish from a boat or bank on the riffles.

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

Commissioner Frank Meyer moved to amend KAR 115-25-14. Commissioner Shari Wilson seconded.

The roll call vote on KAR 115-25-14 to amend was as follows (Exhibit FF):

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

The motion as presented KAR 115-25-14 passed 6-0.

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

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

The motion as presented KAR 115-25-14 passed 6-0.

10. KAR 115-20-7. Doves; legal equipment, taking methods, and possession – Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit GG). The regulation we bring before you tonight, 115-20-7, dealing with the legal equipment for the taking of doves is being proposed for your consideration to account for legal equipment to take exotic doves. Under our regulation migratory doves, which are mourning doves and white wings, are controlled by federal regulation. Exotic doves do not fall within the Migratory Bird Treaty Act so it is necessary for us to pass this regulation so we can stipulate what the legal equipment would be for Eurasian collared-doves and ringed turtle doves. Commissioner Meyer – In reading the question on the use of BB guns and pellet guns? Jones – That is legal under federal

regulation. Commissioner Meyer - I have successfully shot starlings at 25 yards with a pellet gun, so I don't see what the point is. Tymeson – Our response to the Joint Committee is on the next page in the briefing book. Commissioner Meyer – I don't have a problem with that.

Commissioner Robert Wilson moved to bring KAR 115-20-7 before the Commission. Commissioner Gerald Lauber seconded.

The roll call vote on KAR 115-20-7 as recommended was as follows (Exhibit HH):

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

The motion as presented KAR 115-20-7 passed 6-0.

XIII. Other Business

Commissioner Shari Wilson – I wanted to point out the latest issue of *Kansas History* has an article about early water control projects at Cheyenne Bottoms. It has some really cool pictures in it. Also, I recently attended the Association of Fish and Wildlife Agencies (AFWA) conference and I really enjoyed it and appreciated the opportunity to go. I was able to learn a lot about different things in a short period of time, it was great. I would like to thank staff for their good work on Built Environment in the Outdoors conference in early October and thank Mike Miller for his help with my presentation by providing me some pictures.

A. Future Meeting Locations and Dates

January 7, 2010 – Kansas Wetlands Education Center at Cheyenne Bottoms, near Great Bend.

March 11, 2009 - Topeka, location TBA

April 22, 2009 – Wichita, possibly Great Plains Nature Center

June 24, 2009 – possibly Herrington or Mankato (to be decided in January)

XIV. ADJOURNMENT

The meeting adjourned at 7:39 p.m.

(Exhibits and/or Transcript available upon request)

Exhibit II – “Sedan, Kansas – The World’s Longest Yellow Brick Road” brochure
Exhibit JJ – “Sedan, Kansas – Birthplace of Emmett Kelly world famous circus clown”= brochure