

2010 MAFWA LEGAL COMMITTEE REPORT

Meeting Time and Place

Date: Thurs., June 17 2010, 8:00 am-11:45 am; Fri., June 18 2010, 8:00 am-11:45 am

Location: Kansas Wildlife and Park Region #2, Topeka, KS

Attendance

Attendees: James Barwick (Oklahoma); Mike Lutz (Wisconsin); Tim Andyrk (Wisconsin); Chris Tymeson (Kansas); Amy Thorton (Kansas)

Member States: Kansas, Oklahoma, Wisconsin

Executive Summary

Thurs., June 17 2010

1. Brief discussion of legal actions encountered by member states:
 - a. Wisconsin
 - i. CWD issues with deer – slowed, but not halted spread of disease
 1. Illinois is having success – primarily because of sharpshooting efforts
 - ii. Invasive species
 1. New rule approved by legislature
 - a. 1st used for bats – white nosed syndrome
 - i. not in Wisconsin yet, but fear is that it soon will be
 - ii. Thinking about human quarantine laws and how they apply to animal disease issues
 - b. Proposed for use on private property to close caves
 - i. possible constitutional issues with private lands
 2. Farm brought in 1000 feral hogs from Texas
 - a. Tried to create game farm illegally
 - b. Declared hogs invasive species
 - iii. Crane Hunting Season
 1. Proposed greater sandhill crane season
 2. May face opposition from international crane organization in Wisconsin
 - iv. Game Wardens
 1. "Partnered" with HSUS to advertise against taking in orphaned animals
 2. Conservation groups around the US protested
 - v. Constitutional right to hunt

1. No challenges to the "reasonable restriction" provision in the amendment
- b. Oklahoma
 - i. Tribal/wildlife codes – potential problems for regulation in the future
 1. Who owns the land?
 2. No court cases yet
 - a. Each tribe has court system and wildlife manager
 - b. State won't intercede if animals are shot on tribe lands
 - ii. Possible issues with hunting/fishing constitutional amendment
 1. "traditional means" for hunting could be problem
 - a. Could tribe members run buffalo over a cliff?
 - iii. Conservation passport
 1. Anyone using a wildlife management area will have to pay a passport fee
 - a. Even if you aren't hunting or fishing
 - b. Getting questions now from fee users who want to see improvements to the facilities
 - i. no plans by the state to use money to improve property
 - ii. fees are used for site management
- c. Safari Club
 - i. Delisting of Endangered Species - Wolves
 1. Change in how delisting process works
 - ii. Wild Horses
 1. Moving of portion of herds to private facilities – free range not corralled
 2. Plaintiffs challenge BLM's authority to regulate
 - a. DC judge – plaintiff's don't have standing
2. Conference Call with Michigan and Minnesota
 - a. Wolf status in the western great lakes
 - i. Discussion of recent Northwest Case
 1. If delisting continues it will be because of state of Idaho's arguments, not because of the Dept. of Justice's arguments
 2. Attorney for Feds was ineffective
 3. Attorney's for Idaho and Montana were effective
 4. NGOs were shut out of the oral argument process
 5. Main issue was could species be "carved up" or should they be treated as a whole.
 - ii. Discussion of suit in Minnesota regarding wolf delisting
 1. Plaintiffs will face difficulty if they don't get help from outside counsel
 2. Feds probably won't be able to dismiss
 3. Major obstacle to delisting – how many species of wolves are in the western great lakes region?

- a. Are there distinct genetic populations?
 - b. This has slowed down the FWS delisting process
 - 4. Minnesota and Wisconsin have filed petitions to delist
 - a. Michigan has not filed a petition
 - i. not sure that there is value in adding another petition
- 3. Presentation on Wind Turbine Federal Advisory Committee
 - a. Keith Sexton – Kansas Department of Wildlife and Parks
 - i. Tiered process for site selection
 - 1. site evaluation
 - 2. conversation with wildlife agencies/organizations
 - 3. field studies/collection of data
 - 4. post construction fatality studies
 - 5. other post construction studies – habitation alteration/loss
 - 6. Approached development: Avoid → Minimize → Mitigate
 - 7. Federal regulatory measures
 - a. Migratory Bird Treaty Act
 - b. Endangered Species Act
 - c. Gold and Bald Eagle Act
- 4. Wildlife Criminal Law Update
 - a. Wisconsin provided a brief update of recent US Supreme Court and state court cases relating to criminal law and wildlife criminal law

Thurs., June 17 2010

- 1. Presentation on paddlefish management
 - a. Nels Rodefeld – Oklahoma Department of Wildlife Conservation
- 2. Presentation of lesser prairie chicken management and endangered species act concerns
 - a. Jim Pittman – Kansas Department of Wildlife and Parks
- 3. Presentation on urban deer management
 - a. Lloyd Fox – Kansas Department of Wildlife and Parks
- 4. Presentation on black-tailed prairie dog management and black footed ferret re-introduction
 - a. Mike LeValley – United States Fish and Wildlife Service

Director Action Items

None

Director Information Items

None

Time and Place of Next Meeting

N/A

Appendices

Attendance List

Thurs., June 17 2010

1. James Barwick – Oklahoma Attorney General’s Office
2. Anna Seidman – Safari Club International
3. Kelly Johnston – Kansas (Private Practice)
4. Mike Lutz – Wisconsin Department of Natural Resources
5. Tim Andyrk – Wisconsin Department of Natural Resources
6. Chris Tymeson – Kansas Department of Wildlife and Parks
7. Amy Thornton – Kansas Department of Wildlife and Parks
8. Keith Sexton – Kansas Department of Wildlife and Parks
9. Tyler Turner – Kansas Department of Wildlife and Parks

Fri., June 18 2010

1. James Barwick – Oklahoma Attorney General’s Office
2. Nels Rodefled – Oklahoma Department of Wildlife Conservation
3. Kelly Johnston – Kansas (Private Practice)
4. Mike Lutz – Wisconsin Department of Natural Resources
5. Tim Andyrk – Wisconsin Department of Natural Resources
6. Mike LeValley – United States Fish and Wildlife Service
7. Mike Hayden – Kansas Department of Wildlife and Parks
8. Lloyd Fox – Kansas Department of Wildlife and Parks
9. Jim Pittman – Kansas Department of Wildlife and Parks
10. Chris Tymeson – Kansas Department of Wildlife and Parks
11. Amy Thornton – Kansas Department of Wildlife and Parks
12. Keith Sexton – Kansas Department of Wildlife and Parks
13. Tyler Turner – Kansas Department of Wildlife and Parks

Agenda

Thursday, June 17, 2010

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| 8:00-9:00 am | Group Discussion of Cases and Issues Which May Affect Other States-All |
| 9:00-10:00 am | Wolf Litigation Discussion/Update-Anna Seidman, Director of Litigation, Safari Club International, and Tim Andyrk-Counsel, Wisconsin Department of Natural Resources |
| 10:00-10:15 am | Break |
| 10:15-11:15 am | Lesser Prairie Chicken Management and ESA Status-Jim Pittman, Small Game Coordinator, Kansas Department of Wildlife and Parks |
| 11:15-11:45 am | Wildlife Criminal Law Update-Mike Lutz, Chief Counsel, Wisconsin Department of Natural Resources |
| 1:00-4:00 pm | Tour of Kansas History Museum |

Friday, June 18, 2010

8:00-9:00 am	Paddlefish Management-Keith Green, Oklahoma Department of Wildlife Conservation and Jim Barwick, Assistant Attorney General, Oklahoma Attorney General's Office
9:00-10:00 am	USFWS Wind Turbine Guideline Advisory Committee Final Recommendations-Keith Sexson, Assistant Secretary for Operations, Kansas Department of Wildlife and Parks
10:00-10:15 am	Break
10:15-11:00 am	Urban Deer Management and Immunocontraceptives-Lloyd Fox, Big Game Biologist, Kansas Department of Wildlife and Parks
11:00-11:45 am	Black-Tailed Prairie Dog Management and Black Footed Ferret Reintroduction-Mike LeValley, United States Fish and Wildlife Service