TEXAS PARKS AND WILDLIFE COMMISSION
REGULATIONS COMMITTEE MEETING
COMMISSION HEARING ROOM
TEXAS PARKS AND WILDLIFE HEADQUARTERS COMPLEX
AUSTIN, TRAVIS COUNTY, TEXAS
JANUARY 16, 2002

BE IT REMEMBERED that heretofore on the 16th day
of January, 2002, there came on to be heard matters
under the regulatory authority of the Parks and
Wildlife Commission of Texas, in the Commission
Hearing Room of the Texas Parks and Wildlife
Headquarters Complex, Austin, Texas, beginning at
9:00 a.m. to wit:

APPEARANCES:
THE PARKS AND WILDLIFE COMMISSION:
REGULATIONS COMMITTEE:
CHAIR: Katharine Armstrong Idsal, San Antonio, Texas
C CHAIR: Joseph Fitzsimons, San Antonio, Texas
Donato D. Ramos, Laredo, Texas
Philip Montgomery, III, Dallas, Texas
Ernest Angelo, Jr., Midland, Texas
John Avila, Jr., Ft. Worth, Texas (Absent)
Alvin L. Henry, Houston, Texas (Absent)
Mark E. Watson, San Antonio, Texas (Absent)

THE PARKS AND WILDLIFE DEPARTMENT:
Robert L. Cook, Interim Executive Director, and other
personnel of the Parks and Wildlife Department

COPY
JANUARY 16, 2002

COMMISSIONER FITZSIMONS: Madame Chair,
call the Regulations Committee to order.
The first order of business for the
Regulations Committee is the approval of the minutes
from our previous meeting. Have any changes or
revisions to the minutes?

COMMISSIONER MONTGOMERY: Move approval.

COMMISSIONER RAMOS: Second.

COMMISSIONER FITZSIMONS: All approve,
say Aye.

ALL COMMISSIONERS: Aye.

COMMISSIONER FITZSIMONS: All oppose,
same sign.

(No Response.)

COMMISSIONER FITZSIMONS: Motion carries
the approval of the minutes. And our first agenda
item is chairman's charges, Bob.

MR. COOK: Mr. Chairman, thank you very
much. I have three items that I want to report to you
on this morning and comment on.

The Implementation Provisions of the
Sunset Bill SB305 require the review of the oyster
lease permitting process: I need to report to you
that the coastal fisheries division have reviewed the
statewide oyster fishery proclamation and have
proposed amendments that directly affect the
administration and management of the oyster lease
program, and will provide consistency with the Parks &
Wildlife Code Chapter 76 as modified by SB305,
including decreasing of the lease fee from $3 to $6
per acre. And that is the fourth item on your agenda
today.

Secondly, to continue the rules review
process as directed by HB1 of the 75th Legislature:
The proposed statewide hunting and fishing
proclamation, which we're going to talk about today,
is a result of our ongoing rule review process. Staff
will request permission to publish rule review and
amendments of TAC Chapter 65 to you today.

Finally, to develop guidelines for the
removal of abandoned crab traps: This action is well
under way. Coastal fisheries and law enforcement
personnel would, in fact, like to invite the
Commission to participate in any number of crab trap
clean-up projects that will occur along the Texas
coast during the weekend beginning on February 23rd.
We'd love to have you there. The list being provided
to you, I believe, are some sites of where these
activities are going on, some of the focal spots. And
this -- this is going to be a big deal for us, it's
very important, and we're all kind anxious to see how
it goes. So we appreciate your help on that.

And that's my report, sir.

COMMISSIONER FITZSIMONS: Thank you,
Bob. I'm taking my Boy Scout Troop that week, so
that'll be fun.

The second item on Equine Anemia
Regulations, following up on our last Committee
meeting. Jerry?

MR. COOKE: Mr. Chairman and Members, my
name is Jerry Cooke, Game Branch Chief for the
Wildlife Division. And I'll be presenting to you the
proposed changes to Chapters 59, which are the park
rules, and Chapter 65, which address the wildlife
management area rules.

When we invite the public onto our
properties, the public arrives with a reasonable
expectation of being protected from other visitors,
minimally. One such hazard has been pointed out in
the past to us is the -- is the hazard of an infected
animal -- an Equine with Infectious Equine Anemia. We
proposed at the last Commission meeting that we
publish such a rule change. This -- this rule would
require that anyone who brings an equine of any kind
on to either a wildlife management area or a state park have with them for each equine a VS Form 1011, Texas Animal Health Commission, which shows that the equine has been tested negative to the official -- to an official Equine Infectious Anemia test within the previous 12 months. We had, at last count, twelve comments, all were equestrians, all in favor of these proposed changes. Do you have any questions?

COMMISSIONER FITZSIMONS: This would essentially bring our park regulations in compliance with what's now required by the Animal Health Commission for people at rodeos or any other --

MR. COOKE: For large gatherings.

COMMISSIONER FITZSIMONS: -- groups by the -- right.

MR. COOKE: We are defining -- we are defining entry on to our property as -- essentially as a large gathering, a public gathering of -- of equines.

COMMISSIONER FITZSIMONS: So they will now be compliant with -- with the rest of the rest of the --

MR. COOKE: With the intent, yes.

COMMISSIONER FITZSIMONS: Thank you, Jerry. Are there no further questions or discussions
or any questions for Jerry on this?

Without objection, I'll place this item on the Thursday Commission meeting agenda for public comment and action.

And continuing with the animal health theme, Jerry, we're discussing cervid disease issues. As a point of background, the Committee of -- of the whole, the Regulations Committee of the whole, asked the staff at our last meeting to consult with the Texas Animal Health Commission and report back on potential regulatory action at this meeting regarding cervid diseases. Jerry?

MR. COOKE: Again, Mr. Chairman and Members, my name is Jerry Cooke, Game Branch Chief of the Wildlife Division presenting this proposal to you related to cervid diseases in Texas.

As Chairman Fitzsimons pointed out, we've had ongoing conversations with the Animal Health Commission, including one, you know, full-blown meeting with them on these issues. One of the things that was impressed upon me and I think that they stressed was -- was the ideal situations the disease doesn't show up. I think that's to a certain extent may be wishful thinking. Because it's basically impossible to prevent a foreign animal disease from
entering the state; there are too many avenues.
That's the basics of it.

However, having said that, early
detection is our greatest hope of throwing the loop
around it and getting it under control as quickly as
possible, and early detection really is dependent upon
whether or not you're looking for it.

Also, it was impressed upon me that if a
regulation is presented -- and this really follows the
charges that we've had from this Commission all along;
a regulation should be reasonable, focused, and aimed
with the intent of the issue. Their version of this
is, you don't create a regulation that's any broader
than is necessary to address the issue, and that it's
focused directly on solving the problem. And I
believe this -- these proposals are complying.

One of the first things, of course,
that's discussed is importation, and I wanted to give
you a current status of the importation issue of
deer. The Texas Animal Health Commission is
addressing it in -- in several ways. One certainly
related to Chronic Wasting Disease is the State of
Colorado is currently embargoed for the transportation
of whitetail, mule deer, black tail deer, or elk into
the State of Texas. Also, they have current rules
that require TB testing for any animal that comes into
Texas from any state except for properties that --
that have a TB-free status. And specifically, with
the State of Michigan because the State of Michigan
has free-ranging tuberculosis, only animals coming
from a -- a TB-free certified facility can enter
Texas. But more importantly, the Texas Animal Health
Commission has the qualified staff for assessing risk
from the these various states and can expand their
embargoes as the risks become apparent.

Now, how are we currently dealing with
importation? In rules that were adopted several years
ago by this Commission, if an animal is brought into
the State of Texas, a whitetail deer or a mule deer,
for a scientific breeder facility they must be in
complete compliance with all Texas Animal Health
Commission testing requirements and entry
requirements. The reason that this is mirrored in our
regulation is it allows our staff to assist the Animal
Health Commission in enforcing their rules in this
respect. And it also gives the Texas Animal Health
Commission complete flexibility without requiring us
to change our regulations. We just say do what they
say to do and they can -- they can modify their
requirements as they see fit.
Now, the statutes that relate to the scientific breeder permit state that only whitetail deer and mule deer that are in a healthy condition may be sold, bartered, or exchanged or offered for sale, barter, or exchange by a scientific breeder. And the statutes further clarify that the only purpose of possession under this permit is for propagation or sale. The problem is, is that neither in the statutes nor our rules nor a very clear common agreement is the definition of "healthy condition" made. And we would propose that within our scientific breeder regulations that we do just that: Define healthy condition as being deer coming from a facility that has either a Chronic Wasting Disease monitored herd status no less stringent than Level A, and a tuberculosis herd accreditation status no less stringent than surveyed herd which are current existing animal programs within the Texas Animal Health Commission. And these are entry levels at these -- at these statuses as well.

VICE-CHAIRMAN ANGELO: Jerry, what --

what does Level A mean?

MR. COOKE: Can I -- Can I get that in a slide or two?

VICE-CHAIRMAN ANGELO: Sure.

MR. COOKE: Because I want to go ahead
and complete this thought and then -- then I'll clarify what that -- how that's going to apply. Alternatively, a valid herd health management plan approved by the Texas Animal Health Commission for a facility. This is essentially the Animal Health Commission's version of our wildlife management plans of sitting down with the landowner and -- or the facility operator and assessing the risks and the needs of the -- of the situation and -- and designing programs around those needs.

Now, what does this entail, Mr. Angelo. For instance, the -- the status for the Chronic Wasting Disease would require this: If you have an animal that clearly is looking suspicious that it -- that your veterinarian is concerned about as -- as having all the symptoms and signs by all means test that animal. That mean -- not necessarily means putting the animal down, but it's -- you know, it's for the benefit of the facility. Also, if any animal dies in the facility for whatever reason, hits the fence, gets caught in the gate, you know, gored by another animal, go ahead and test it, test it for Chronic Wasting Disease. This basically means if nothing dies in your facility it costs you nothing except to have a -- a clearer unique identifier for
every animal in the property in the facility; which
our rules already require anyway, that's no change
from our current requirements.

For a tuberculosis herd accreditation
status as described in the proposal, this would
require at least 20 percent of a herd be tested
annually sometime during the year for TB. This is --
this would involve essentially a vet visit. Any
positive tests that show up from a vet visit would be
followed up by the Texas Animal Health Commission.

Now, how would this apply to our rules?
I believe the statute is fairly clear in what that
means. But if we clarified it in rules there would be
no real question.

The proposed change would be no person
may sell, offer deer for sale, or transport other than
to a veterinarian temporarily relocated deer or
release a deer into the wild in this state if the
deer -- if the deer are not in a healthy condition as
defined it within our definitions. And that completes
my presentation. If you have any questions?

COMMISSIONER MONTGOMERY: As I
understand it, there's no live test for Chronic
Wasting Disease.

MR. COOKE: There is -- there is --
COMMISSIONER MONTGOMERY: How do we define healthy condition with respect to Chronic Wasting Disease?

MR. COOKE: There is -- there is currently no credited test; although, there's an experimental test going on in Colorado and Wyoming currently dealing with a -- with a tonsil biopsy which may be infected from mule deer. Now, there is -- there is a test that's being used -- I'm sitting here telling you all this. We have some people here from Texas Animal Health Commission to answer detailed questions for you of that nature so I don't mispeak for them. If -- if they would -- if you would care to have them.

Dr. Max Coates is with the Texas Animal Health Commission; he may be able to handle some of these technical questions better than I.

DR. COATES: I'm Dr. Max Coates with Texas Animal Health Commission, and in my position there oversee the field operations. I'd be happy to try to address this question or others.

As Jerry mentioned, currently there is no live animal tests for Chronic Wasting Disease. There are tests under development but, of course, they are a variable period of time out.
The test for Chronic Wasting Disease is a -- is a fatal experience because the brain tissue is required for a definitive diagnosis. Now, this would be the reason why all of the deads would need to be examined; particularly, if they were showing any signs that were compatible with a diagnosis -- possible diagnosis of Chronic Wasting Disease.

Your specific question, I'm not sure I've answered that for you. But if -- if I have not please restate and I'll -- I'll take another run at it.

COMMISSIONER MONTGOMERY: Trying to understand what we're being asked to pass, and how -- if -- how do we define healthy with respect to Chronic Wasting Disease?

DR. COATES: Chronic Wasting Disease is basically determine -- the status of a herd is determined by long-term surveillance; it's one of the diseases that has a very long incubation period. Or it may have a very long incubation period, so the only way that you can really tell that it's absent from a set of animals is prolonged surveillance, and to do the laboratory evaluation of any animals that are either symptomatic or died for whatever cause. And once you do this for a period of time -- and that
period of time is -- is variable in different
ejurisdictions, but may be up to five years -- and if
you have not had disease occur in a -- in a set of
animals that are kept isolated for that period of
time, it's -- it's believed that you're very safe at
that point in saying that they are truly free of this
particular disease.

The prion diseases as a rule have very
long incubation periods. And Chronic Wasting Disease
is one of those; scrapie is another. These are the
types of things that -- that take several years in
order to go from infection to clinical manifestation.

COMMISSIONER RAMOS: So really Chronic
Wasting Disease is a lot worse than our brucellosis
problem. Because with brucellosis you can test for
it.

DR. COATES: That's correct.

Brucellosis does have live animal tests and -- and is
much better understood. All of the prion diseases are
what might be classified as newly-emerging diseases.
And although they're being intensively studied,
particularly, as a result of BSE and the United
Kingdom, the total natural history of those diseases
has not yet been worked out.

COMMISSIONER RAMOS: And likewise, you
know, you can calfhood vaccinate for brucellosis.

Can -- is there a comparable vaccine?

DR. COATES: There are no vaccines that affective or even in the works at this time for any of these diseases.

COMMISSIONER RAMOS: So Chronic Waste Disease is a much worse problem if we get it into Texas than brucellosis?

DR. COATES: That's correct. Chronic Wasting Disease would be extraordinarily difficult, if not very nearly impossible, to eradicate with certainty in a wildlife population. And this is the issue that's facing places like Colorado and Wyoming.

MR. COOKE: And Nebraska.

DR. COATES: And Nebraska now.

COMMISSIONER RAMOS: And once we would get it in the state do you -- is the type of disease that would spread fairly fast? I mean if you -- if I had it in my herd, for example, is it very contagious or --

DR. COATES: It's a slow incubating disease. Its spread is not clearly understood, but it -- it is believed to be transferred laterally within a herd under specific circumstances and may be vertically transmitted from -- from dam to offspring.
And so it's -- and because you have to observe for such a long period to determine that you either did or did not have transmission, it would be a very long period of time before we would know. But I would suggest it's not raging contagious diseases that you would expect for things like, say, anthrax -- not anthrax but brucellosis. It doesn't spread that way and it doesn't incubate out fast enough to -- to be a real acute problem.

Commissioner Ramos: And -- and once an animal develops it, is it reversible or does the animal die?

Dr. Coates: It -- once an animal becomes infected and clinical, it's invariably fatal. There is no prevention, no treatment, and no cure.

Commissioner Ramos: Thank you.

Vice-Chairman Angelo: How long from the time the symptoms are visible does -- before the animal dies? Is there a standard for that?

Dr. Coates: A variable period of time. The -- again, a lot of detailed controlled experimentation has not yet been done with these things, and a lot of it depends on the general husbandry and condition of the animal going in as well as the environmental conditions. You know, a harsh
environment will take them down quicker than some mild
climate and -- and relatively decent groceries and low
parasite loads. But I think as -- from the time they
begin to be symptomatic and you notice that they're
wasting away, it doesn't take a great long time.

COMMISSIONER RAMOS: Would it make sense
that if you have them in a confined -- if you have an
animal in a confined area of pens that it's more
likely to spread but, obviously, throughout in the
wild?

DR. COATES: I think this is axiomatic
with any infectious or contagious disease situation;
the more concentrated the population the easier it is
for effective transmission to occur. And where we --
the -- the current herd, for example, in Nebraska,
the -- the whitetails that are infected, have a very
high infection rate. This is well beyond what's been
observed in free-ranging populations. However, I will
say that those are very heavily stocked. They're in a
high-fence containment situation. They're -- they
couldn't survive on a natural environment at that
density; you would starvation, wholesale starvation.
But this particular group is fed or they plant plots
of feed stuff so that they have plenty of -- of food
to match the population. But their rate is
extraordinarily high. Natural rate is about 4 percent
they believe in the free-ranging situation. These are
probably very nearly 40 percent.

COMMISSIONER RAMOS: So basically what
you're saying is, if -- if in fact we were to have a
case of in Texas of Chronic Wasting Disease that would
definitely be a threat to our deer herds?

DR. COATES: Yes, it would be. And I
think that the -- again, particularly where you
concentrate them and facilitate the transmission of
either TB or any other infectious disease and then
turn them loose you -- this is one of the reasons why
this particular population is so key to the long-term
health of free-ranging deer in my view.

COMMISSIONER RAMOS: Thank you.

CHAIRMAN IDSAL: Once again, could you
tell us the states where Chronic Wasting Disease has
been found; and also, what states currently have
suspended importation of whitetail deer?

DR. COATES: The -- the current
locations in free-ranging populations right now is
Nebraska, Colorado, and Wyoming. These are where you
have infected animals that are free ranging. On the
other hand, there has been infection detected in -- in
captive herds in a number of other states. Currently,
the only states that have quarantined captive herds --
Dan, correct me if I mispeak -- are Nebraska and
Colorado. But in the past Montana, South Dakota,
Oklahoma, Kansas, Nebraska, and Colorado have all had
captive herds infected.

The response to Chronic Wasting
Disease -- and this has been recognized as a very
significant disease by U.S. Department of
Agriculture. In fact, recently they have created an
extraordinary emergency and are providing support for
depopulation of -- of infected CWD elk, particularly,
and they're -- they're going up to three thousand
dollars per head in order to assist in getting this
out of the populations, because it is a -- a very
significant threat. And it's not just the animal
health threat, but it is the public perception of risk
associated with the -- with the wildlife population,
and certainly there are those who feel that it would
have a serious adverse effect on -- on hunters'
attitudes if it got into our free-ranging population.

MR. COOKE: As it has in other states.

DR. COATES: Now, I will say that there
are programs for captive deer already in several
states; South Dakota has had a program for a number of
years; Colorado has programs; we have had a program on
the book for captive cervids; and so there are active
steps being taken to try and maintain the
marketability of these populations.

MR. COOKE: If I might, Madam Chairman,
to address your question a little more specifically.
Doug Humphreys on my staff contacted every wildlife
agency in the United States to determine how many of
them had specific prohibitions related to cervids or
whitetail deer particularly. And of those, he found
that of the 50 states 16 of them had fairly rigid or
rigorous entry requirements related to whitetail deer,
and that there were 7 states who outright prohibited
cervids from entering the state, if that was your
question.

CHAIRMAN IDSAL: That is my question.

Thank you.

VICE-CHAIRMAN ANGELO: Mr. Chairman,
how -- how contagious is the disease from elk and deer
and mule deer to cattle, for instance?

DR. COATES: Cattle are not known to be
affected. The -- the reason that the language to date
has been crafted hand-targets only blacktails,
whitetails, mule deer, and elk is those are the only
species known to be affected by this particular
condition. It's not one organism that can affect a
very wide range of hosts; these are the only known
hosts at this time.

COMMISSIONER FITZSIMONS: Dr. Coates, I
have just a couple of questions. You pointed out --
and I may not have written this down quickly enough.
I'm interested in the relationship between captive and
free-range infection. Now, you listed free-range
infection Nebraska, Colorado, Wyoming?

DR. COATES: Colorado, Wyoming, and
Nevada. Those are the three states where free-ranging
disease is known to exist.

MR. COOKE: Chronic Wasting Disease.

COMMISSIONER FITZSIMONS: And there's no
coincidence that they are -- also have captive
infection. And my question is, it goes from captive
to free range?

DR. COATES: I'm not sure I would draw
that conclusion that -- that having both enhances the
possibility that disease will exist. Disease was
first noted in free-ranging animals -- and this was in
the area of north central Colorado up around the area
of Fort Collins where it was first disclosed, and
since then it's been detected other places.

One of the things that one must
consider, if you're looking at free-ranging
populations and -- and anything that causes them to 
slow down, lose condition, lose vitality, is that in 
the presence of reasonable predator populations these 
disappear from the scene at an abnormally fast rate, 
and unless you're out there looking it may exist out 
there at this low level and you won't notice that it's 
there.

COMMISSIONER FITZSIMONS: And it's that 
4 percent level, but, obviously, when you're captive 
at 40 percent that you mentioned you're going to see 
it.

DR. COATES: Right. This -- this set of 
deer in Nebraska is an interesting one. And this is 
fairly new and that -- that whole situation has not 
been extensively studied because it is a newly 
disclosed herd. But these things were caught in high 
fence when it was built. There have been no 
additional animals put in there, I'm told, for ten 
years. Again, the population has increased steadily 
over that period of time so that you have kind of a 
closed-cell increasing concentration. If in fact, 
those animals that were trapped in there initially had 
that low level, predators are obviously not a feature 
in that kind of situation. Then the opportunity 
enhances for transmission as the density increases, so
that it may be an indication of what happens. What really happened was that those animals, when they were trapped, contained the disease but nobody new about it.

COMMISSIONER FITZSIMONS: And then it's allowed to spread in that -- in the captive environment.

DR. COATES: Well, the -- those ones that are -- were trapped in that high fence continued to just spread it around and -- and was facilitated by the high concentration.

MR. COOKE: But that would necessarily suggest it was already free ranging before the fence was closed.

DR. COATES: Right. Undetected in the free-ranging population for the -- perhaps, for the reasons that I speculated about.

COMMISSIONER FITZSIMONS: Now -- and you pointed out that detection -- the problem with detection, I mean, just you boil it down that -- that it's -- because of the slow incubation you don't know until it's too late that you have it, I mean, five to six years; is that right?

DR. COATES: They -- they feel that you are very safe in saying if you carefully observed a
herd for five years and there is no indication of
disease that there is no disease present.

COMMISSIONER FITZSIMONS: But how does
it infect -- affect the integrity of a regulation if
you're allowing scientific breeders to release deer
into the wild in less than five years? That's what I
would -- there seems to be a gap.

DR. COATES: There is a gap. There is
frankly a gap. But in fact, although, we don't think
we've imported any at this point in time, we have no
reason to believe we have, there's -- there's --
there's two things about disease. You can either make
a statement that it's not known to exist, which means
it hasn't jumped up and bit you yet, or it's known not
to exist because you've been out -- been out there
actively looking for it.

COMMISSIONER FITZSIMONS: So either an
informed opinion or an uninformed one.

DR. COATES: That's right. You know, no
news is not necessarily good news and with -- you've
got to start with one of these things somewhere and my
judgment would be that the sooner the better. It's a
critically important piece of our economy and I think
we need to do things pretty vigorously to protect that
and make sure that the marketability of those products
is maintained.

COMMISSIONER FITZSIMONS: What would be the difference in enforcement and administration if instead of doing this you just waited until we got it and then addressed it?

DR. COATES: Well --

MR. COOKE: Ask Michigan about that issue.

DR. COATES: The Michigan whitetail deer is probably a good example of why you don't want to wait until you notice -- until you can't avoid noticing, which is basically what they did with their TB problem. It probably will not be cleared up in my lifetime.

COMMISSIONER FITZSIMONS: The TB problem in Michigan.

DR. COATES: The TB problem in Michigan. And this disease is probably more insidious and difficult to deal with than TB. We do have some test technologies for live animal testing in TB. Currently, there are no such techniques for -- for the prion diseases. So getting that done -- extraordinarily difficult. The fallout from trying to effectively deal with whitetails in this state, as Michigan is struggling to do by wholesale population
reduction and -- and so forth would not be -- I would
not want to be in your chair with that situation.

COMMISSIONER FITZSIMONS: So your --
your message is, better early than late.

DR. COATES: Absolutely. No question
about it prevention is always the best bet.

COMMISSIONER FITZSIMONS: I can
understand simple language like that.

COMMISSIONER MONTGOMERY: Is there
anything else that this department should be doing?

DR. COATES: I beg your pardon?

COMMISSIONER MONTGOMERY: Is there
anything else your department recommends that we do
other than what we're planning to do with this
regulation and the enforcement regs as you all
discussed?

DR. COATES: I don't have any other
recommendations at this time. But certainly we're not
bashful about making those, and we do talk with --
with Jerry and his staff on a routine basis. And
Dr. Baca has worked with y'all in the TB efforts and
with monitoring on the wildlife management areas
and -- and, you know, I think that we certainly
recognize the -- this jurisdictions and the concern
y'all have about maintaining a healthy deer
population, and we're committed to doing the very best
that we can to assure that it stays the way it is.

COMMISSIONER RAMOS: But I guess what
you're saying is, the best way to not have a problem
is to not let it come in, obviously?

DR. COATES: The best way to avoid a
serious problem it to take preventive steps early.
And the best way to assure that you don't have a
problem is to monitor for it so that if it occurs you
find it early while it still is in its smallest state
and affords the highest probability of prompt
resolution.

COMMISSIONER RAMOS: Okay. And do you
know, Doctor, at this point in time there's any type
of a vaccine that you say, you know, in a year or two
years will be out there to where you might be able to
vaccinate against it, or is that just not even on the
drawing board?

DR. COATES: I would say not. The whole
notion of -- of what prions are, how they work is just
kind of like bacteriology was, you know, 75 years
ago. We really don't know enough about the mechanisms
of how they work, but it's -- it's very much below the
cellular level.

COMMISSIONER RAMOS: And would you say,
Doctor, that in the last few years the -- the number
has grown in the United States? In other words, if
you were to back up and look at what you would see
four or five years ago as occurred to -- today are we
seeing more cases?

DR. COATES: Absolutely.

COMMISSIONER RAMOS: So the national
trend, as you might say, might be in favor of the
spreading of that disease?

DR. COATES: Yes, indeed it has been.
And I think this -- the reason that USDA made their
move is that they clearly recognize that too and feel
like it's critically important to -- to address this
problem now rather than waiting further.

COMMISSIONER FITZSIMONS: Could you
specifically tell me what the USDA -- I mean, would
that be APHIS?

DR. COATES: That's correct. Well, the
United States Department of Agriculture. APHIS
Veterinary Services is a piece of that complex.

COMMISSIONER FITZSIMONS: Right.

Exactly what their declaration -- emergency
declaration or whatever the term was you used, just so
I can get my nomenclatures correct.

DR. COATES: I thought it -- I thought
it might come up, so, in fact, I brought a copy of their declaration. It's published in the -- published in the Federal Register and available on the web site, but I did bring a copy of it that we can probably get some --

MR. COOKE: Copies made.

DR. COATES: -- copies made if -- if y'all would like those.

COMMISSIONER FITZSIMONS: One other --

Thank you, Doctor. In the prohibition or the embargo, I think, the term you used with Colorado I notice it's not all service, it's those mentioned blacktail, mule deer, whitetail, elk, correct?

DR. COATES: That's correct.

COMMISSIONER FITZSIMONS: And that is because that's where they -- that Chronic Wasting Disease has occurred positively in those species?

DR. COATES: It's also the only species of deer that it's known to occur in. There has never been any indication, reports that it affects things like sikas or fallow deer or any of the other exotic deer species. So what we'd like to do in -- in regulatory action is to do absolutely what's necessary but don't overkill and don't go beyond where you know you need to go. And I think that this is important
in -- in having credible regulatory programs is that
you do what you need to do and nothing more to
minimize the impact and -- and adverse effect.

COMMISSIONER FITZSIMONS: So whitetails
and -- and blacktail not an issue in Texas -- but
whitetail, mule deer, and elk are the --

DR. COATES: And blacktail.

COMMISSIONER FITZSIMONS: -- and
blacktail are the threats known to --

DR. COATES: That's correct. That's
correct. Those are the only species known to be
affected by this particular disease. So regulatory
control would only need to be exercised for those
particular types.

MR. COOKE: For that disease.

COMMISSIONER RAMOS: Would you have any
idea of what it's costing the other states that have
Chronic Wasting Disease in their herds? I mean --

MR. COOKE: I can get that for you.

COMMISSIONER RAMOS: -- I know the state
spends a lot of money fighting brucellosis. It would
be very expensive for the state to have to --

DR. COATES: I don't know what it costs,
but -- but those can probably be generated -- Jerry
can probably get those for you. But if you look just
at Colorado alone, when their problem erupted recently
they imposed a statewide ban on the export of all
deer, you know, and -- and they had a pretty sizable
industry up there, and that meant it all ground to a
halt. So whatever the value of that industry was at
the time it went to zero. And because of the disease
and the necessary protective responses by other
jurisdictions, it's going to be a very long time
before their marketability is regained for that
particular industry.

COMMISSIONER FITZSIMONS: That's
analogous to your example of Michigan on TB is, if you
till -- if you wait until you have the problem then
your industry is completely devastated rather than
getting in front of it.

DR. COATES: That's right. And it --
it -- the longer you wait -- if you wait until it
becomes a problem it is not a short-term fix. It is a
very, very long-term problem.

COMMISSIONER FITZSIMONS: And extremely
expensive, I imagine.

DR. COATES: Very expensive both in --
in dollars and political capital.

MR. COOKE: Well, in terms of the
Michigan thing, as I pointed out at the last
presentation, their surveillance is running tests on 37,000 animals per year; that's -- that's the agency costs of -- of the disease independent of the industry's impact.

COMMISSIONER FITZSIMONS: Commissioner Montgomery?

COMMISSIONER MONTGOMERY: The question is just where you're going, so what is the regulatory plan for these other -- the broader range of service given our limited jurisdiction?

COMMISSIONER FITZSIMONS: Well, I believe what Dr. Coates said that the risk that the -- that risk is where the disease exists, which is elk, whitetail deer, mule deer, and blacktail.

COMMISSIONER MONTGOMERY: Right. But given that we have limited jurisdiction, what is the overall regulatory plan?

DR. COATES: I beg your pardon? I didn't --

COMMISSIONER FITZSIMONS: Well, elk --

elk they've addressed with regard to Colorado.

DR. COATES: You know, all of the susceptible species are covered by the prohibition of importation from Colorado. And -- and there -- we are discussing at this point in time whether it is at that
point where the same sort of restrictions should be placed against Nebraska.

COMMISSIONER FITZSIMONS: You mentioned I -- I thought I saw something on the news the other day that -- that -- in a CWD-positive animal in Oregon?

MR. COOKE: Yeah.

COMMISSIONER FITZSIMONS: Is that jumping a state?

DR. COATES: That's TB. They're looking at TB.

COMMISSIONER FITZSIMONS: That's TB, okay.

DR. COATES: They all -- they've had some die off out there. And they have had some TB isolated from elk, and that elk herd is located on a ranch that also has cattle, so they're -- they're in kind of a twist out there right now.

COMMISSIONER FITZSIMONS: And a lot of your comments, though, about the incredible expense and the destruction of the industry if you wait too long, wait till you have it and then try and fix the problem.

Jerry talked earlier about coastal fisheries having their analysis of the fees being tied
to recoupment of administrative costs. I imagine
right now -- I don't know if that's in line with
this -- what that analysis would show with this --
with the scientific breeder permittees. But if we had
a CWD outbreak waiting for it to happen, and then had
to do what Colorado has had to do that ratio, my
guess, would be thousands to one.

MR. COOKE: Yeah. It would -- it would
not be pretty.

VICE-CHAIRMAN ANGELO: Chairman, why --
what we're doing right now, what you all are doing
and, I guess, we're looking at the same thing is,
restricting the importation from states where the
disease is known to exist. Would it make any sense,
in light of your -- your comments on targeting the
problem, to expand that, since we don't know that it
doesn't exist, in some of -- in other states? I mean,
is it -- as a proactive approach, would that be
extreme?

DR. COATES: I think, again, what we've
tried to do is make those suggestions that are based
on existing known circumstances rather than going to a
blanket let's restrict everybody. Most of the
industries and wildlife folks are concerned across the
country about these two problems. Because they've
gone to school on Michigan and they're going to school on Colorado right now and nobody wants to get in that game, and I think that you will see a lot of regulatory changes in the next year with regard to this particular thing.

One of the particular difficulties with anything that affects a population like deer is that you have a variety of statuses in different jurisdictions. Some permit the owning of that particular type of animal; others don't. If they're owned and are captive, then they may fall under Department of Agriculture jurisdiction for their control; while the ones that aren't fall under the Parks and Wildlife or the Fish and wildlife Commissions in those various states, so that you -- you have a regulatory coordination challenge to keep everybody doing the same thing and keep those levels of concern matched up.

And this is one of the reasons I -- I would really like to commend Jerry and appreciate y'all getting us into this. Because it is key for us to keep a coordinated fence built so that these problems don't come home to roost here.

COMMISSIONER FITZSIMONS: Thank you.

Madame Chair? In trying to wrestle with this issue,
and it's a tough one, and I know there are a lot of
people that -- that this will concern and that will be
affected by this, but paramount in my thoughts is
protecting them as well as others where there's a lot
we do not know.

In the -- In thinking this through, I
thought, well, why can't we just have certificate --
you know, health certificate papers or something?
Well, it's impossible to do that because you can't --
because there is no live test to date that we can rely
on. Could -- and then that led me to think, well,
how -- if we embargo those states where it has been
identified, does that guarantee that the deer from
those states are not brought into Texas? And then I
made some phone calls and I heard something
repeatedly, that it is not uncommon for a whitetail
deer to be sold to a second state and -- that is in
fact clean, and then that state, then the -- that
particular animal could then be imported into Texas
circumventing, in effect, the embargo that was set up
in the first place. Can you address that?

DR. COATES: Yes. One of -- one of the
things that I can tell you that's happened in recent
years that helps control this circumstance -- and --
and I'll open by saying that those people who operate
illegally and avoid all rules and regulations, we'll take them off the table right now because those folks are currently -- you can't reach them with logic and reason and rules.

If people, in fact, do the rules and -- and meet all the interstate movement requirements -- deer are required to be either from a certified -- or an accredited TB-free herd or have been tested and identified in order to move interstate. They have to travel; they leave footprints; they -- they have -- there is an auditable trail. And if a -- an individual has a disease problem, whether it's TB or Chronic Wasting Disease, in the process of that investigation one of the things that happens is all of the sales from that herd are traced and those animals are located and their status is determined.

And -- and I can tell you that we have had animals from Colorado traced through a variety of states that did end up here and -- and those have been dealt with. And again, this indemnification opportunity provided by the federal forces has helped a great deal, because these things are not cheap, as you know, and -- and just going in and saying, "we'd like for you to kill your stock" is not very palatable.
We've had some that were from Colorado went to Missouri, went to New York, came back to Texas. And all of those movements were traced, those animals were located, and they have been destroyed and tested and all found negative. So there is a mechanism out there that goes with the epidemiologic tracing of deer, and it has been made possible in large part by the TB rules that are mandatory interstate rules at this point.

CHAIRMAN IDSAL: What about Chronic Wasting Disease?

DR. COATES: Chronic Wasting Disease -- the recordkeeping for TB and the identification of the animals for the TB program gives you a vehicle to ride if you have to -- to chase CWD potentially exposed animals. And that's currently the mechanism that has been used.

COMMISSIONER FITZSIMONS: But if you don't have one you don't have anything to ride; I mean, you've got to have both programs --

DR. COATES: Right.

COMMISSIONER FITZSIMONS: -- in -- in place.

DR. COATES: Both conditions are of concern. But because of the federal TB rules and the
identification and so on, you have that set of wheels
that you can --

MR. COOKE: You could trace the
animals.

DR. COATES: -- trace exposed animals
that may have been exposed to CWD.

CHAIRMAN IDSAL: So you're using the TB
testing requirements as the --

COMMISSIONER FITZSIMONS: The vehicle?

CHAIRMAN IDSAL: -- the vehicle?

DR. COATES: The -- the TB does have a
testing requirement; CWD unfortunately we don't have
anything. But many states are beginning to put rules
and are under consideration of putting rules in place
that you can't come here unless you come from a
monitored herd situation.

COMMISSIONER FITZSIMONS: That's my
question, Chairman Idsal, is that I understand the TB
via -- I think that's a good analogy, the set of
wheels you use to sort of piggyback your tracing. But
if every state doesn't have a CWD monitoring program,
how do you -- how -- how do you maintain the integrity
of -- of that?

DR. COATES: What you ultimately end up
doing is putting in a state-peculiar requirement that
says you have to come from a CWD-monitored herd or you
can't come here. And -- and this is done ad hoc until
the federal folks decide that they're -- they're ready
to put a mandatory interstate movement rule in place,
and there is adequate support out there to do that.

We had TB rules in this state long
before there was interstate movement requirement by
the federal folks, because we had a -- a need to
protect our industries; both our domestic and our free
ranging. And -- and I'm glad in the light of the
Michigan determination that we have had that
protection up there.

COMMISSIONER FITZSIMONS: Back to the
point of what's on the agenda before us: The
definition of healthy condition.

DR. COATES: Right.

COMMISSIONER FITZSIMONS: It -- because
I think we're getting off into something of -- the
bigger questions here. But I think, if I'm clear,
your recommendation is that this -- these amendments
would allow us to get in front of the problems, as you
described, not being late as -- as Michigan was on to
it.

DR. COATES: I think this is our best
hope of getting out there and staying out there, and
I -- I will suggest that although its -- there is an
either/or. We -- we suggested that and feel that it's
an important provision in your proposal, that you --
you have these two statuses or an approved herd plan.
Because there may be peculiarities in any producer's
circumstance or situation that -- that make rigid
compliance with those two very-well-defined status
programs infeasible, and if we can evaluate those on
an individual basis to be sure that we get to the end
point, which is early detection of -- of disease
should it be introduced, then that gives us some
flexibility to adapt to the peculiarities of different
breeder's problems and circumstances.

COMMISSIONER FITZSIMONS: And right now
we don't even have early detection.
COMMISSIONER RAMOS: Could I have just
one comment?
COMMISSIONER FITZSIMONS: Yeah.
COMMISSIONER RAMOS: I'm looking at this
Department of Agriculture definition of an emergency.
And in there in the first paragraph it says that
Chronic Wasting Disease is a possible -- could be
possibly transmitted to cattle, domestic livestock and
humans also. So it seems that it's a threat not only
to the deer industry, but also to the cattle
industry. And I'm looking -- and I can give you a
copy of this.

DR. COATES: I -- I would suggest that
caveat is there because so the -- the absolute
detail of these prion diseases is unclear at this
time.

Initially, for example, BSE, commonly
bandied about as mad cow disease in the UK, was
believed to be a disease of cattle only. And then
after that had been going phone for some time this new
variant Kreutzfeldt-Jacobs disease issue came up, and
there are those that indicate that this is a situation
where that prion disease jumped from the cattle into
people. And -- and so rather -- early on the British
government said, no, it doesn't happen. Well, their
Department of Agriculture between BSE and hog cholera
and foot and mouth disease, they completely redesigned
their system. They don't have the old Ministry of
Agriculture and Fisheries anymore; they did away with
that whole agency and recrafted it. It was a very
serious thing to -- to begin to pound absolutes where
public health could ultimately be found to be
involved. So I think they're very cautious.

COMMISSIONER FITZSIMONS: Jerry.

MR. COOKE: I think -- I think the
wording of the -- of the statement was describing what
he was talking about earlier. What -- what is known
about prion diseases is very small, and the Chronic
Wasting Disease is clearly part of this spongiform
group, which also include diseases of these other
animals.

COMMISSIONER RAMOS: Well, what they're
basically saying, you can't rule out the fact that it
could go into cattle and humans.

DR. COATES: That's it.

MR. COOKE: Correct.

DR. COATES: They're not going to get
caught short.

MR. COOKE: That's right.

COMMISSIONER FITZSIMONS: I want to
thank you. Any further questions? I know that we'll
get a chance to talk about this some more. It's --
it's certainly an important issue. I want to thank
the Animal Health Commission and you, Dr. Coates, for
your help, your staff's help working Jerry to -- to
help us address this. And for your help in -- in
helping draft these -- these recommendations.

DR. COATES: Certainly. We stand ready
to assist in trying to respond to questions. Should
you have any in the future too, give us a call, and if
we don't know we'll go find some more folks that --
that can give us more information. Thank you for the
opportunity to participate with your process.

COMMISSIONER FITZSIMONS: Thank you, Doctor.

MR. COOKE: Should we publish this?
Should we publish this?

COMMISSIONER FITZSIMONS: Did we get all
the way through your --

MR. COOKE: We're through mine.

COMMISSIONER FITZSIMONS: -- your slide show?

MR. COOKE: Right.

COMMISSIONER FITZSIMONS: Well, if there's no further questions or discussion, without objection, I authorize the staff to publish this item in the Texas Register for the required public comment period. Mindful of the fact that there are other issues on our agenda for the Regulations Committee.

Next is the statewide oyster fishery proclamation amendments. Robin? Thank you.

MR. RIECHERS: For the record, Chairman and Commissioners, my name is Robin Riechers and I'm the management director of coastal fisheries. As indicated in the Chairman's charges this item proposes
final adoption of amendments to Chapter 58
Subchapter A, the oyster fishery proclamation. And
these changes are in accordance with Senate Bill 305,
which was passed during the last legislative session.
Senate Bill 305 in particular had
provisions that affected the oyster fish -- oyster
fishery lease program. The oyster lease program
currently operates only within the Galveston Bay
complex and is comprised of 43 separate leases.
The lease program has been ongoing since
1891, and currently under lease there are 200 -- 2,327
acres. These leases account for about 1.5 million
pounds of oysters landed each year, which equates to
about $3 million dockside value each year, and on a
whole this is about one-third of the total oyster
industry dockside value in Texas.
Throughout the legislative session we --
we continued to brief the Oyster Leaseholder
Association and the Oyster Advisory Committee to
advise them on these pending legislation changes.
More recently we have, again, met with the Oyster
Leaseholder Association, the Oyster Advisory
Committee, and we held a public hearing in the
Galveston County area concerning the proposed rules.
There were 11 individuals at the public
hearing and six we received comments from. The only
commments directed towards the proposals concerned the
implementation date of the $200 renewal fee. Persons
commented that they were under the impression that the
renewal fee would occur at the end of the fifteenth
year -- or the first time it would occur would be at
the end of the fifteen-year term which will begin on
March 1, 2002, and I'll address that comment in a
little bit.

In accordance with Senate Bill 305, the
proposed amendment set the term of the lease for
fifteen years. The per-acre lease fee will be raised
from $3 to $6 per acre with a 10 percent penalty if
the payment is not received within the first 90 days
of the due date. After that 90 days from March 1, if
the -- the payment is not received the lease will be
terminated.

Further provisions of Senate Bill 305
provided specific guidance for the transfer and
renewal of leases. And basically this sets up upon
renewal or transfer of a lease the Department will
receive $200 and can set procedures to accomodate
these transactions. In the past these leases could be
transferred and we wouldn't necessarily have record of
that.
In regards to the earlier public comment, the legislation took effect September 1, 2001. And so since that legislation took effect on that date, any subsequent renewal of the lease, which is March 1, 2002, would be subject to the $200 fee.

The rule also would require upon renewal of the lease in 2002 that an updated lease survey is provided to the Department within one year. A lot of the technology used for these lease surveys is old technology now, and we're asking each leaseholder to -- to basically provide us with a new survey.

In addition, after the leaseholder is offered a first right of refusal at the end of each lease, the proposals include provisions to allow an auction of the lease. The Department at that time, of course, can establish a minimal acceptable price and we would base that on previous auctions, open-market prices, and any other factors that we would have that would allow us to make that price determination.

Staff recommends only one change from the published proposed rules for the purpose of consistency and clarification, and that is in Section 5830 Release Renewals, we actually propose a minor wording change. We currently have in there "the need for depuration of polluted oysters" as the
phrase, and we would like to change that to "the need
for depuration of oysters taken from non-approved
areas." It's just to conform with language throughout
the proclamation.

That completes my presentation, and I'd
be happy to answer any questions.

COMMISSIONER MONTGOMERY: A fifteen-year
lease term is a legislative requirement; it's required
to be that long?

MR. RIECHERS: Yes, sir. Yes, it is.

VICE-CHAIRMAN ANGELO: These -- these
leases are actually farmed; is that not correct? I
mean, they're not totally natural, they're farmed?

MR. ROBERSON: Yes, sir. Basically,
oysters are -- are removed from a polluted area or a
non-approved area and put on those leases with a
transplant situation, and then allowed to depurate and
then harvested at a later time.

COMMISSIONER FITZSIMONS: Any other
questions or comments? Thank you, Robin. No further
questions or discussion, without objection, I'll place
this item on the Thursday Commission meeting agenda
for public comment and action.

Next, Statewide Hunting and Fishing
Proclamation -- Durocher, Osburn, and Graham.
Durocher first.

MR. DUROCHER: Madam Chairman and Commissioners: My name is Phil Durocher, I'm the Director of the Inland Fisheries Division. What I'll be presenting today is the inland fisheries proposed regulation changes for 2002-2003. Now, basically these proposals I'm going to go over today are the same ones that we presented in a briefing in November. I mentioned at the end of the briefing the probability -- or the possibility because of the staff was analyzing some data that we'd have several changes when we came to you in January, and we'll speak about those in -- in a minute.

Summarizing what we're recommending is, we're recommending one change for bluegill or sunfish and we're asking to remove the limits on one reservoir.

Red drum in freshwater: We want to modify the limits on one reservoir to be in -- in compliance with the -- with the standard regulation in freshwater reservoirs.

For largemouth bass, we're asking to change the length and bag limits on five reservoirs. Three of these were added since the November briefing.
And finally, for striped bass, we're asking to change the bag limit on one reservoir. The changes that we propose: The Purtis Creek State Park Lake in Henderson County we're asking to change the regulation for sunfish from 7-inch minimum, 25-fish daily bag to no minimum and no daily bag. And our goal here is to simplify the regulations. This is the only reservoir where we had this regulation in place, and it was experimental we were not achieveing the goals that we had hoped to achieve so we're asking that this be changed back to the statewide regulation.

On Coleto Creek Reservoir in Goliad and Victoria County we're asking to change the regulation for red drum from the current regulation, which is in -- the same as the one on the coast, the 20- to 28-inch reverse slot to the 20-inch minimum which is what we have on -- on regular freshwater lakes. Red drum do not spawn in freshwater, so we need to protect these fish a little more and -- and not allow harvest of the younger fish. And our goal here again is to maximize the angler potential for the recently stocked red drum in this reservoir.

We're also asking on Gibbons Creek Reservoir to change the limit for largemouth bass from
catch and release only to a 14- to 24-inch slot limit. Or goal here is to allow some harvest of the smaller fish. Hopefully -- hopefully, we'll be boosting angler interest. This recommendation was brought to us by the Texas Minicipal Power Agency who owns the reservoir. They're updating the facilities, creating more camping areas and they'd like to -- to allow some people to eat some -- eat some fish, keep some smaller fish and eat them and -- and maybe increase the camping and visitation to that lake. And we don't have a problem with any of that, so we'll recommend that this be changed.

The Brushy Creek Lake in Williamson County it's -- it's a new reservoir that's going to be open soon and we're asking to place an 18-inch minimum length limit for largemouth bass here. This is the same limit that we -- we generally recommend on any new reservoirs to -- to prevent an initial over harvest and to maintain the population through that -- through that opening.

The following reservoirs are ones that were added since our briefing in November. On Lake Alan Henry in Garza County up near Lubbock, we're asking to change the limit for largemouth bass from the current 18-inch minimum to no minimum and a 5-fish
bag where only two can be less than 18 inches. This
is the same regulation that we proposed and had
approved last near for O.H. Ivy. It -- it's a new
concept and it sort of replaces -- it does the same
things that we do with slot limits, but it's easier
for people to understand. And we're asking that this
be also put in place at Alan Henry.

Just say that the bag limit and length
limits smallmouth and spotted bass in this reservoir
will remain the same; we're only talking about
largemouth bass. And our goals here are to maintain
quality bass angling. Lake Alan Henry is one of the
most popular reservoirs in that part of the country;
it has a fairly constant water level, so the
populations do well and it's heavily, heavily fished,
a lot of pressure. We need to -- they have a really
good fish population there. In fact, it's almost too
good. The bass population has grown to the point
where they're eating all the foliage and we hope that
let -- allowing the anglers to remove some of the
small fish will improve the growth on all the fish
there and reduce some of that pressure on our prey
base.

At Lake Proctor and Lake Possum

Kindgdom -- and these are also two that were added
since the November briefing -- we're asking to change
the limit for largemouth bass from 14 inch, which is
the statewide standard, increase it two inches to a
16-inch minimum.

At Lake Proctor we're asking to do this
because the -- the reservoir -- during the drought here
in the last several years that reservoir had -- had
fallen down to probably near 50 percent of capacity.
And last year had a -- a good rise in the reservoir
and it's now full again, and when that happens we have
a tremendous year-class of fish that's produced. And
we're ask -- we want to protect that -- that group of
young fish coming on and prolong the angling quality
on Lake Possum Kingdom Reservoir. Fall of last year
we had a golden algae outbreak there and lost a
significant number of fish, and the reason we're
recommending this on Possum Kingdom is to help us
assist in the recovery of this bass population after
that golden algae outbreak. We want to reduce the
harvest of the remaining fish, of course, and protect
the fish that we stocked.

And the last recommendation that we're
making -- again this is one that -- that came to us
just recently -- again on Possum Kingdom Reservoir,
and it's related to the golden algae kill, we want to
change the daily bag limit on striped bass from five
fish to two fish. We're going to maintain the 18-inch
minimum length limit.

And again, our goal here is to assist
with the recovery of this population after the golden
algae outbreak. Striped bass are not like the
largemouth bass or any of the others in these
reservoirs; these fish do not reproduce in here. All
the fish that are in here are fish that we stock, so
it's going to take a little while for us to -- to get
that population back to where it was. We're going
to -- we're asking that this regulation be put in
place to reduce the bag limit until we get the
population back up to where it was, and then we'll
probably come back and ask that it be changed again
back to the statewide standard of five fish.

So that's our proposals for 2002-2003
and I'll be glad to answer any questions.

COMMISSIONER FITZSIMONS: Thank you,
Phil. And for the coastal fisheries portion now.

MR. OSBURN: Thank you, Mr. Chairman and
Members: I'm Hal Osburn, coastal fisheries division
director. I'd like to brief you on proposed changes
to the statewide hunting and fishing proclamation,
coastal fisheries. I also want to bring you up to
date on our scoping efforts with the spotted seatrout;
possible changes to those management strategies that
we have in place.

We've had two decades of conservation
efforts and -- and stocking from our marine hatcheries
and has allowed us to reach our current peaks in
our -- our trout population abundance. It's also
intriguing for us as biologists to note that we may
not still have reached our highest potential in the
population as we see the stocks continue to climb
and -- and have not leveled off.

We also see no evidence that our bays
have reached carrying capacity for this top predator,
and therefore, we believe it's feasible that we can
fine tune our regulations and continue our stocking
efforts and perhaps make a great fishery even better.

We also want to be proactive in
addressing changes that we see happening in the trout
fishery. Fishing pressure and -- and efficiency from
both private anglers and fish guides have been
increasing. In addition, the proportion of large
tROUT is declining in our -- in our samples, which
means that basically trout are not living as long as
they did in the past. Now, the vast majority of our
tROUT are harvested by the time they are 20 inches
long; that's about four years old or less than half of
their life span. Staff believes that there is
definitely a potential for improving the number and
size of trout caught by Texas anglers and that there
are a variety of moderate rule changes available that
could accomplish that.

Very much related to properly managing
the trout fishery is the issue of fishing guides.
They have tripled on the coast in the last 20 years.
But I -- I'm very happy to say that we have already
been approached by a number of guide groups suggesting
actually stricter guide requirements. In fact, in the
audience today, they came up to -- to see the
Commission in action, is Mr. Mark Lyons, Mr. Barry
Badders who are president and vice president of the
coastal -- Coastal Bend Guides Association, and they
are in the procession of attempting to organize a
coast wide guides association, and -- and I think that
that would really behoove us in our communication
efforts with that group and -- and I really appreciate
their attention to that and -- and appreciate them
being up here. I'm sure they'd be happy to answer any
questions if it was relevant.

We did since this summer do a fairly
extensive outreach effort on these issues. We've --
we met with numerous stakeholder groups. We've received a lot of written correspondence and -- and telephone calls on this issue. The -- the outdoor writers have been very helpful in -- in bringing this issue to the attention of the -- to the angling public. I need to tell you that there is still a wide diversity of opinions on what the optimum regulatory approach would be, and therefore, for that reason staff recommends that we continue to actively scope this issue.

We would like to begin with the creation of a task force that represents all the interests, all the different stakeholders up and down the coast. We believe that we can do an -- a education process and a discussion forum with that group and can come back to you next year, hopefully, with a package that a majority of the folks could support.

I want to move on to an Sabine Lake issue that was the subject of a petition for rule making last year. The Commission did deny the petition, but asked staff to investigate the benefits requiring that all fish landed in Texas conform to Texas size and bag limits.

Texas and Louisiana do have a reciprocal licensing agreement that essentially allows a person
to legally take both a Texas and a Louisiana limit in a single day. Now, that means that an angler could harvest 35 trout per day from Sabine Lake, or in the -- in the case of Toledo Bend that we share those waters with Louisiana, they could land 50 crappie less than 10 inches in that -- in that day.

There is not the best as we can tell a high level of abuse of this, but staff does believe that there would be an overall benefit to requiring that fish landed in Texas or possessed on Texas waters conform to the Texas size and bag limits.

We did quite a bit of scoping this last year, since the Commission charged us with that, and we -- we found that while there is definitely some opposition to this change there is also strong support for the rule. And most of the people said they would not travel to Louisiana or take their business to -- to Louisiana marinas just to avoid such a rule, and we think that's an important consideration in evaluating the effectiveness of this rule change. So at this time staff does offer this proposal be included in the statewide hunting and fishing proclamation.

And finally, as a clean-up item, there has been a nationwide movement to change the name of the Jewish to the Goliath Rouper, and staff wants to
suggest that we do the same. And pardon me, but I --
I guess Jewish is just not Kosher anymore. So --
MR. COOK: He's out of order.
MR. OSBURN: That concludes my presentation.
UNIDENTIFIED SPEAKER: I was waiting for that.
(Laughter.)
MR. OSBURN: Before somebody else stole it. That -- That concludes my presentation.
COMMISSIONER MONTGOMERY: A comment on the fishing guide planning effort. I would like to see us make sure that whatever mechanism we have in there to restrict -- to accomplish our conservation goal of restrict and take does not end up resulting in barriers to entry for the constituency that won't be represented as me, such are future people that want to become fishing guides. And what happens so often when professional or industry groups get involved in education is the regulation ends up restricting entry for new entrants and protecting people already in the business and I think our -- our job is to keep conservation goals in mind but not to create a franchise and not to restrict competition.
So to me that ought to be a clear
principle that's laid out early in the process, that we're not going to restrict future young people from getting into the business just because we have a regulatory goal to limit -- limit harvesting of a resource. Does that make sense?

MR. OSBURN: Oh absolutely. And -- and we will do that and staff concurs. There have been actually some proposals to do a limited entry on fishing guides; I will tell you that the Legislature would have to -- to do that. But our response has been that the -- that the fishing guide represents just an opportunity to take people fishing that don't have a boat or the same expertise, and could be equated like fishing piers or jetties and we don't have a -- we don't need to limit those opportunities. We may need to limit how many fish that party retains, but we see no need at this point to -- to emphasize any sort of limited entry in that -- in that regime.

COMMISSIONER MONTGOMERY: Another way to do it is auctioning off the permits where people have to bid for them so you -- it's a matter of cross --

MR. OSBURN: Correct. We --

COMMISSIONER MONTGOMERY: It's probably not very popular, but it's one way to do it.

MR. OSBURN: Fishing guides have been a
very volatile profession in terms of business change; you know, every five years you'll see a 25 percent turnover. That -- that's another reason not to sort of mess with the business by that limited entry approach. I -- I don't think we have a biological concern as we did with the commercial limited entry programs which were more a -- a different kind of problem.

COMMISSIONER FITZSIMONS: The market does a perfectly adequate job of regulating the number of guides, I would guess, and who the good ones are and -- let me ask you a question on the -- on the reduced bag limits, spotted seatrout. Why would you reduce the bag limit if you -- you showed a pretty good curve there, trend line of -- of increase in numbers? And I would guess that an increased bag limit is a reward for good management.

MR. OSBURN: It would be that your strategy would be to emphasize more bigger ones. Most of the increase that you see there is the result of more smaller ones in the population. And if those smaller ones are allowed to live for a longer period of time you will gain two things: You gain the potential of actually increasing the overall population from increased spawning; and the -- the
fact that there's a larger quality fish now available
for the harvest.

But the only way to do that is, since
most of the harvest is dominated -- those bag limits
dominated by small fish -- to ask folks to sacrifice
keeping all -- a bunch of small ones for the
opportunity to catch fewer bigger ones.

COMMISSIONER FITZSIMONS: I can see that
for the -- for the person that -- that does a lot of
fishing. But the average fisherman I would -- my
guess is, you might be reducing some recruitment
and -- and losing some casual fisherman because of the
bag limit. I just --

MR. OSBURN: We would not want to do
that. And I will tell you there is a -- a
psychological factor to a bag limit. 92 percent of
our private boat anglers catch six or less trout right
now on -- on a trip. So theoretically, you could say,
"well, I'll drop it to six and I've only affected
eight out of a hundred people," but there is a
psychological thought that, "well, I might" -- today
might be my day to get ten. I want that task force to
give us their -- their best opinion on that mix and
match of size limits, bag limits, guides versus
privates, avid fisherman versus weekend warriors. And
that's -- that's why it's -- it really is going to be a fine-tuning job rather than any sort of wholesale change.

COMMISSIONER FITZSIMONS: My instinct is if there's a -- if the resource can handle the present bag limit reducing it isn't good for recruitment or opportunity. That's just -- anybody else got an opinion on sea trout -- spotted seatrout?

Hal, thanks for -- I know you've worked awful hard. If I understand on the spotted seatrout we're going to a task force one year to flush out lots of public comments?

MR. OSBURN: You bet.

COMMISSIONER FITZSIMONS: I'm sure there'll be no shortage of that. Thanks for your work.

MR. OSBURN: Yes.

CHAIRMAN IDSAL: I have one question.

COMMISSIONER FITZSIMONS: Oh, Chairman.

CHAIRMAN IDSAL: I'm sorry. Hal, I would like to see some figures on the economics of the guides -- guide industry. What they make. What their annual income is. Some of the ranges daily, you know, what they charge typically. That sort of thing.

MR. OSBURN: There's some -- there's
some very good information out there from our
relationship with Dr. Bob Ditton at A&M, and -- and
we'll be able to provide that to you and some trends
as well. And we may solicit some more of that
information during this task force year.

CHAIRMAN IDSAL: Okay. Thank you.

COMMISSIONER FITZSIMONS: I appreciate
that. Thanks -- Thanks for your work. Gary.

MR. GRAHAM: Chairman Fitzsimons,
Members of the Committee, I'm Gary Graham, director of
the wildlife division. And we want to continue the
statewide with a presentation of ten proposals
developed by the staff and coordinated and reviewed
between wildlife and law enforcement. We started this
process in August. We gave you an idea of what we're
going to talk about in November.

And the first proposal I'm going to
spend a little extra time on because it's -- it is
fairly complex and it's a little bit of a departure
from what we've done in the past.

And this proposal is to redefine what a
legal buck is in -- in the six counties indicated in
yellow there in order to address the high hunter
pressure and -- and undesirable age structure that
exists for the herd in these six counties. Hunter
pressure has been high here for at least 30 years, and especially relative to the size of the deer herd. Such pressure typically leads to an over harvest of younger age classes. For instance, during the 1999/2000 season 43 percent of the deer that were harvested in these -- in the -- in the district here in the -- the entire district were one-and-a-half years old compared with only 19 percent of the deer that were harvested in the south Texas plains being that age at one-and-a-half years old. So there is a -- in fact, a large amount of data that shows the harvest of deer is -- is disproportionately favoring the younger individuals of the herd.

The specific proposal will define a legal buck as having at least one unbranched antler or at least six points on one antler or at -- at least 13-inch inside spread.

The one unbranched antler will allow harvest of -- at the sort of lower end of the antler quality continuum and provide continued hunter opportunity for new and young hunters and those hunters principally interested in the consumption of meat.

The six point condition would allow harvest of deer that are unusual or non-typical and
are between the ages -- or at least three-and-a-half years old or older.

The 13-inch spread for deer will also allow the harvest or -- or -- or protect the harvest of deer that are three-and-a-half years old or older, and also that 13-inch spread is the distance between the tips of the ears and -- and a three-and-a-half year old deer. And so that's going to help a hunter identify the proper antler spread.

The proposal will protect 65 percent of the bucks and -- and consequently will also reduce the harvest in the area by two-thirds. We propose to maintain this definition for at least three years during which we will measure the results. And since I've been in this position, this is the most thoroughly researched proposal that I've received. And Bob Carroll, who's here today, deserves extra credit for the effort he has put into developing this. He's worked a large amount with the people in the area. It is supported by the Texas Sportsman's Association and -- and they are -- you may recall submitted a petition last year that was very similar to this, and they support this proposal as indicated by a newsletter they -- they published in December and it's also supported by all of the wildlife
management associations in these six counties ment. What we don't know is how well the -- the rest of the landowners and hunters in the area support it. And if this is accepted I -- I will propose that we have public hearings in each of those six counties to measure all of the input from those particular constituents.

Currently up to two dogs can be used to trail wounded deer in all of Texas, except for the far east where any use of dogs to hunt deer is prohibited. Our staff are confident that the prohibition is no longer needed in the 11 counties up in the northeast corner there, and we will -- we propose that we allow the use of no more than two dogs to trail wounded deer in northeast Texas.

When we revised the managed leer Managed Land Deer permits last year we created two unintended and undesirable conditions on Level 2 properties ment.

First, we made it illegal to harvest spikes with guns in the early season, and we made it illegal for archers to harvest any buck during the early season, which is the archery only season in this -- in the surrounding properties. Not being able to harvest spikes is a -- an issue because some
spikes are always mistakenly taken when your -- when your intent is to harvest does, and this proposal would allow spikes to be legally harvested.

Allowing bucks to be harvested on properties during -- allowing archers to harvest bucks on these properties would make those properties consistent with the surrounding properties.

Current regs for those 17 highlighted counties here allow the harvest of does for 16 days starting with the beginning of the general season. Doe harvest, however, in this area remains fairly conservative and our staff think that the population there could sustain more harvest. Consequently, we propose to extend the number of doe days by establishing the season to -- to begin from the opening day through the Sunday following Thanksgiving, and this could create up to, I think, about 25 days on -- during some years.

When we created the Youth-Only Season last year we incorrectly allowed unrestricted antlerless harvest during the late Youth-Only Season in some counties where the antlerless harvest had been and should continue to be restricted by the issuance of deer permits. By deleting the phrase "and no TPWD-issued permit is required" from the proper
section of the code we can correct that oversight. We would like to remove the requirement that an unskinned head be retained for white-tailed deer. This regulation was created to be consistent with antelope regulations where it is required in order to distinguish the -- the sex of an antelope. Males in antelope have a black cheek patch that's -- it makes it easy to determine the sex of the harvested animal. We want to remove the requirement because no such pellage difference exists for whitetail deer. Some of the hunters are concerned about contamination of meat from pellage, and some hunters want to be able to tape their deer in camp and avoid the possibility of hair slippage, and -- and therefore, preserve the cape for taxidermy. I want to note that a skinned head would continue to be required for whitetail deerment.

I have two turkey proposals: The first one is to provide a fall season in -- in Hill County where a spring season is currently open. And the second is to provide a spring season for eastern wild turkey in these four highlighted coastal counties where the populations are strong and probably as healthy as they're going to be.
The last proposal is from law enforcement. And this would require hunters to fill out a tag log on the back of the -- of the new license that's going to be coming up. And this requirement is to help law enforcement enforce deer bag limits and to simplify the language on the deer tags that are going to be on this new and improved and hopefully simplified license.

These com -- This completes wildlife proposals, and I'd be happy to try and answer any of your questions.

COMMISSIONER FITZSIMONS: Gary, on the definition of buck deer for the six counties, would you name those six counties for the --

MR. GRAHAM: Let's see if I can --


COMMISSIONER FITZSIMONS: There's a high number of wildlife management areas in that area, as I remember. I remember going down there and -- and I've been very impressed with the work that the wildlife management areas -- or wildlife management co-ops -- I misspoke -- have done there.

These proposed regulations are not unlike the -- the -- the private regulations or the --
or the co-op regulations that are in effect; is that right?

MR. GRAHAM: Many of the co-ops do, in fact, try to manage their herd using similar types of regulations, and -- and consequently that's why they're supportive of this particular proposal.

COMMISSIONER FITZSIMONS: Yeah. Well then, it would seem to me that they can do this now without the Department mandating it.

MR. GRAHAM: Those -- those -- those individuals. While any landowner could should they choose to. Part of the problem is, this part of the country is -- is very fragmented as well as heavily hunted, so you have a lot of landowners. Many -- many of them have small parcel sizes, and although, the wildlife co-ops are very strong in those counties and -- and growing there's still a lot of landowners out there who aren't participating in wildlife co-ops.

COMMISSIONER FITZSIMONS: Well, I'm not sure that -- that this regulation wouldn't deter them from joining the co-op if you -- if the only way to get the management you want is to join the co-op or to have the state do it for you.

MR. GRAHAM: Well, perhaps. But what -- what our biologists and -- and what I'm thinking is
that if we -- if we want to affect the herd at that scale, this large six-county scales, we can't -- we haven't been able to do it effectively with the wildlife co-ops and -- and they're regulations for their properties. It's going to -- it's going to take something stronger or at least a more expansive and include more of the landowners in order for it to really affect the herd at that -- at that larger scale.

VICE-CHAIRMAN ANGELO: What percentage -- what percentage of the counties are in the co-ops? I mean, it can't be that big; I wouldn't think.

MR. GRAHAM: I don't know. Bob, do you know?

MR. CARROLL: Each of the counties in that six area.

COMMISSIONER FITZSIMONS: Bob, come on up. You -- you know more about this than anybody.

MR. CARROLL: Each of the six counties in the -- that area is broken into five to seven co-ops per county. And it covers all of the area. Of course, all landowners within that co-op don't belong, but it is -- they have the opportunity to belong. They can't say, well, there's not a co-op in my area.
COMMISSIONER FITZSIMONS: Any indication of --

VICE-CHAIRMAN ANGELO: The whole -- the whole counties could be covered, but they're not because all the people don't belong.

MR. CARROLL: Yes, sir. Yes, sir. It's just --

VICE-CHAIRMAN ANGELO: What percentage do belong?

MR. CARROLL: That's hard to say.

VICE-CHAIRMAN ANGELO: And these are not high fenced, obviously, either.

MR. CARROLL: No, sir.

VICE-CHAIRMAN ANGELO: You know, we may -- when we had -- when they -- when we had this discussion a year or so. Ag their concern then was that while they could control it on their property the migration of the deer back and forth was such that they weren't actually being able to effect -- effectively manage it, and that -- that's why we needed to do something more. And I think that it makes sense that if you're looking at it from an overall biological standpoint if you're going to improve the herd they can't do it the way it's -- the way it now exists, is that -- is that what --
COMMISSIONER FITZSIMONS: Unless they get more members.

MR. GRAHAM: Right. With the public hearing process we propose, we'll find out, you know, how many of those people really and -- would like to participate and like to see this type of regulation.

COMMISSIONER FITZSIMONS: I'm -- I'm just -- for policy reasons concerned by micromanagement of every --

VICE-CHAIRMAN ANGELO: I have the same thing you do, I mean --

COMMISSIONER FITZSIMONS: -- every corner of the state. First of all, I'm not sure I could follow the regs if I went to -- to kill a buck in those six counties.

VICE-CHAIRMAN ANGELO: I like the one where you have to have six points on the side now; that's pretty tough.

MR. GRAHAM: Well, no question about it, it's going to force the hunter to be more observant and -- and.

VICE-CHAIRMAN ANGELO: Very -- very selective.

MR. GRAHAM: -- in the animals they harvest.
COMMISSIONER RAMOS: In line with that,
Gary, are you satisfied that the 13-inch spread is
going to convert to a three-and-a-half-year-old buck
or older?

MR. GRAHAM: Very satisfied. Bob has --
has huge amounts of data that show the age of the deer
and antlers that are -- that are measured and it's --
it's -- you know, I can't remember -- 86 percent of
the three-and-a-half-year-old deer have an antler
spread that's 13 inches or greater.

COMMISSIONER RAMOS: Because I was
thinking if you were mentioning that, I said, what if
we would go from tip to tip of the ears? It would be
easier for the hunter to satisfy that requirement, but
you could end up with a two-and-a-half year old. In
other words, you would end up shooting some younger
deer under that -- if you go tip to tip.

MR. CARROLL: We -- we sat down with law
enforcement when we first came up with this regulation
and talked to the staff in that six-county area, and
we -- that same subject came up. And law enforcement
felt that it would be better if rather than just using
outside the tip of the ears that an inch -- it would
be easier for them to enforce if we put an inch limit
on it.
COMMISSIONER RAMOS: It's going to be easier to enforce, but it's going to be harder I think for a hunter perhaps.

MR. CARROLL: Well, the -- the average tips of the ears in that country on those deer is approximately 13 inches. And the average age of that -- on a three-and-a-half-year-old deer the average spread is 13.2 inches. So by using that as a guideline, the tips of the ears as 13 inches and that inside spread as 13.2 inches, that gives that hunter something to go by. You're not shooting in the dark.

COMMISSIONER FITZSIMONS: You'd better not be shooting in the dark.

MR. CARROLL: Yeah. Literally.

MR. GRAHAM: I forgot to also mention that Bob has surveyed eight different regions in the southeast law enforcement agencies there and -- and have found where they have similar types of specialized antler regulations and asked the same set of nine questions and got uniformed support for how it's working in those regions from Florida to Mississippi.

COMMISSIONER FITZSIMONS: I -- I don't doubt that at all. And I commend -- Bob, I commend you for your work. Mine is a threshold question
here. Not whether or not the criteria is correct, but
whether or not every time a region in the state is not
getting exactly the deer they want they come to us to
do it for them, rather than -- I mean, you didn't get
to those age structures south Texas by having these
sort of regulations for south Texas; you did it by
landowners -- granted much larger tracts -- saying
we're going to kill -- you know, you have control on
your property of what's killed. And I'm --

MR. GRAHAM: Well, it's a --

COMMISSIONER FITZSIMONS: I understand
the fragmentation issue, but join the co-op.

MR. GRAHAM: It's -- Bob and -- and
staff have been struggling with this issue, I think,
before TSA came to us with -- with the petition to do
it. And in fact, there are at least three other areas
of the state that -- that staff have those same kind
of concerns; that the age structure and the harvest
pressure are problems. And if this is accepted and --
and we can monitor it and see what happens, it may be
that we would proactively go and -- and try to do this
in -- in at least two of the other areas of the state
for the same reasons.

MR. COOK: I think that's a real
important point, Commissioner, is that, you know,
the -- in general, the does are getting bred. There's
no question about that; we never argue that. But we
see such intense hunting pressure in some of these
areas of the state that the age structure of buck herd
is so young that over the long term we have some
concerns about deer behavior and -- and how those
deer -- the timing of the breeding season -- instead
of having a good sharp peak in the breeding season
like we would normally see in a deer herd that
contains adult deer, adult bucks, therefore real
compact fawning season early in the year, it -- this
doesn't solve all problems. No question. And in
fact, it may create some. But it's -- it's a proposal
that I -- I don't know, Bob. You -- I know that since
I've been in Austin in the '90s, these folks have come
to us every year requesting some way help us, you
know. Can you work with us? And -- and we have
not -- we have not gone that route and --

COMMISSIONER FITZSIMONS: Well, I'm just
concerned about the precedent. I want to learn more
and, maybe, now I've opened my big mouth I need to go
to some of these scoping meetings and learn a little
bit about them -- about it. Any other -- and Bob's
worked hard on this. Any other questions with regard
to that one?
MR. GRAHAM: Thank you.

COMMISSIONER FITZSIMONS: Thank you,

Gary, Bob. Any other questions on the proclamation?

If there are no further questions to
discuss, without objection, I authorize staff to
publish this item in the Texas Register for the
required public comment period.

Madame Chair, with your direction we'll
either go ahead and take up public liens with -- with
Herb or -- and then adjourn for lunch or do them both.

CHAIRMANS IDSAL: Well, I think we have
Item 7 for after lunch.

COMMISSIONER FITZSIMONS: Yes, ma'am.

CHAIRMANS IDSAL: I think we should do --
go ahead and do Item 6 and then we will go into
executive session.

COMMISSIONER FITZSIMONS: As you wish.

Herb?

MR. KOTHMANN: Mr. Chairman and Members
of the Regulations Committee: My name is Herb
Kothmann, I'm the director of public hunts. This is a
briefing and I'll try to emphasize the brief part of
that.

The two items will concern proposed
amendments to the public lands proclamation, and our
candidate state parks for next years 2002-2003 public
hunts.

The first proposed proclamation change
would be to eliminate duplication of regulations.
Currently, our public hunt fees appear in two separate
proclamations of the Texas Administrative Code. We're
proposing to remove them from the Public Lands
Proclamation, Chapter 65, and keep them in Chapter 53,
the fee schedules where all of our departmental fees
appear.

Second proposed proclamation change
would be to standardize our permit requirements for
hunting by annual permit. Currently we have a
provision that allows hunting of small game under a
$10 lend permit on our five National
Forest Wildlife Management areas. This provision was
put in when those forest service areas joined our
public hunting program because, at that time, it was
thought there was a large number of people who only
hunted small game and we didn't want them to have to
purchase the more expensive $40 permit.

However, the sale of annual permits, the
$10 permit, have remained stable at about 2000 per
year since before those forest lands came into the
program; therefore, it appears that very few people
are using that $10 permit to hunt on the forest
service lands. And a survey of our permittees
indicates that about 40 percent of the hunting
activity reported by those $10 permittees is actually
done on areas where it's not authorized on some of the
other 252 areas that allow access under that permit.

This change would standardize the permit
requirements for hunting by annual permit on all of
our public hunting lands by requiring a $40 permit and
this proposed change is supported by U.S. Forest
Service.

The Candidate State Parks for the
2002-2003 public hunts we are considering basically a
re-run of this past season's hunt. The Commission
this last year recommended hunting on 45 units of the
state park. We are again recommending hunting on
those 45 tracts of land; however, this year one of
those tracts will be within our wildlife management
area program. The Arroyo Colorado Unit has since been
transferred to the wildlife division and will be
hunted as a state park this coming year.

I have a three quick slides showing the
names of those 44 units of the state park that we --
system that we're considering as candidates for the
2002-2003 public hunts. And again, this is -- these
are all parks that were hunted under our system this past year.

Mr. Chairman, that concludes my presentation. Do you have any questions?

COMMISSIONER FITZSIMONS: How many hunters participate in public lands hunts last --

MR. KOTHMANN: Well, the drawn hunts where we have computer drawings though application on state parks and wildlife areas -- we have a little over six thousand hunters that hunt through our drawn hunts, and about one-third of those positions are on our state park hunts, about two-thirds are our wildlife management area hunts. In addition to that, under the annual permit we have about 43,000 people that purchase the $40 annual public hunting permit to hunt on lands that are open. And that includes some of our wildlife management areas, a few of the state parks for limited periods of times, primarily small game, and some of our leased lands such as the cooperative agreements with U.S. Forest Service, the timber companies, our 137 dove leases that we had this past year. So it's a -- say 43,000 of the annual permit holders. Some of those, I'm sure, also were drawn among those six thousand permittees. In addition to that, we have some daily permittees,
regular permit hunts, available by $10 that we may
pick up an additional 10,000 maximum folks on those.
There's a lot of duplication. The same people hunting
under different permit formats because we have such a
wide variety of offerings.

COMMISSIONER FITZSIMONS: The six
thousand included in the 43,000 as they're going to
have a --

MR. KOTHMANN: Many of those people who
are drawn, for example, on a Kerr Wildlife Area deer
hunt may also purchase the annual permit to hunt dove
around, or go to some of these East Texas areas to
hunt deer under that annual permit.

COMMISSIONER FITZSIMONS: The 137 dove
leases, I --

MR. KOTHMANN: This past season.

COMMISSIONER FITZSIMONS: -- I had no --
I didn't realize that since that program had started
it had gotten that big. That's -- that is great. Any
idea how many hunters on those 137 that's --

MR. KOTHMANN: You caught me a little
flat footed. I believe that about 22 to 23 percent of
all activity done by those 43,000 permittees is done
on those public dove leases.

COMMISSIONER MONTGOMERY: I went out and
checked a couple of them out this year; they were full of people.

COMMISSIONER FITZSIMONS: They were full of people.

COMMISSION MONTGOMERY: It's a very popular program obviously.

COMMISSIONER FITZSIMONS: That is great. And things are going will with the landowners, good relations there, that program is --

MR. KOTHMANN: By and large it's going very good. We -- we -- we do have some misunderstandings that occur. One --

COMMISSIONER FITZSIMONS: I'm shocked.

MR. KOTHMANN: We -- we -- we are wanting land -- people from whom we lease land to be sure that they have the right to lease us that land.

COMMISSIONER FITZSIMONS: I'm shocked again. I thought that was only in oil the patch days.

MR. KOTHMANN: When -- we require that individual to sign a lease agreement underneath a statement whereby he -- he makes a -- he testifies that he auth -- he is authorized to issue us that hunting rights. That has not totally insulated us from a few misunderstandings out there. But it -- it is going quite well.
MR. COOK: It's going very good.

COMMISSIONER MONTGOMERY: It's a good program.

COMMISSIONER FITZSIMONS: Great. It's a good program. When that started that was something that -- that I thought a lot of and I'm glad that that's doing well. That's a pet project.

CHAIRMAN IDSAL: It's an important thing for us, that we view dove hunting as an -- sort of an entry level for our youth and -- and that's gratifying.

MR. KOTHMANN: Thank you.

COMMISSIONER MONTGOMERY: Herb, thank you.

COMMISSIONER MONTGOMERY: I have a question. I want to be sure our policy is that -- that the peak use periods that the state parks that receive a lot of use are not closed just for hunting for a few people. In other words, it seems to me I -- I noticed over the holidays that one particular one that it was not open on New Year's Day because of the hunting. And I -- to me that's going too far to pull them out of the park system at peak times. So I -- I don't know how we balance that. I know it's going to be different in a lot of places, but --
MR. KOTHMANN: Our guidance in the past from the Commission on park hunts on developed parks that have a format of public visitation is to, number one, not hunt them on weekends is -- if that requires excluding general visitation. Sometimes you can geographically separate hunting activity from the general visitation and -- and do both. But guidance is one not to pre-empt general visitation by hunting on weekends, to hunt on major holiday periods. Now, I should say major holidays. In order to hunt -- have had some youth hunts -- we have to hold hunts when kids are out of school. So if we have taken weekends off the table, that leaves a precious few days during the Thanksgiving and Christmas Holiday period outside of the actual holiday that we try to schedule a few hunts during those weekday holiday periods, but not on Christmas Day and not on Thanksgiving Day. And also we try to conduct these hunts later in the year. Most of these hunts are either late December or January hunts when our park visitation has historically been at its lowest point. But we do continue to get some complaints about closure of the parks for hunting. We do post this information on our internet home page very prominently. If you'll go to the internet and look almost anywhere under parks you'll see in red
letters "Restricted Access for Hunting" that leads you to that listing. But we are certainly trying to avoid impacting visitation by the general park users out there.

COMMISSIONER MONTGOMERY: Can you look at Enchanted Rock's schedule? I got a lot of complaints over the holidays about the days of restrictions? And the complaints seemed to be meritorious to me.

MR. KOTHMANN: Enchanted Rock, Pedernales Falls, and Inks Lake is the -- sort of the Bermuda Triangle up there for us on --

COMMISSIONER MONTGOMERY: I'm sure you've heard of this one before, but I -- I got a bunch of phone calls on that.

MR. KOTHMANN: Yes.

COMMISSIONER FITZSIMONS: Yeah. You'll get them when it goes the other way too, and they're not -- and they're not out there hunting. Thank you, Herb.

MR. KOTHMANN: We would like to publish the proposed regulations in the Register, if possible, and take these to public hearings for public comment.

COMMISSIONER FITZSIMONS: Well, if there's no further questions or discussion, I
authorize the staff to publish the item in the 
Register for the required public comment period.
Thank you, Herb.

CHAIRMAN IDSAL: We had planned on
having Item 7 taken up after lunch, but I understand
Mr. Turner and representative -- Representatives
Turner and Alexander are both here now; is that
correct? And if it's okay, we can proceed. I would
like to go ahead and finish the Regulations
Committee. And since our guys are here, I think we
should go ahead and wrap it up.

COMMISSIONER FITZSIMONS: Reconvening
the Regulations Committee. Our final agenda item of
the day, reviewing the Standards for Qualification of
Open Space Land Use Used for Wildlife Management. And
Kirby Brown has two special guests, Representative
Alexander and Turner, who I've had the opportunity to
work with on this issue.

And, Kirby, if you'll give us a little
background and --

MR. BROWN: Yes, sir. Thank you. For
the record, my name is Kirby Brown, Branch Chief for
Private Lands and Habitat for about two more weeks.
Senioritis is setting in so excuse me if that's a
problem.
House Bill 3123, there we go, was passed in the 77th Legislature. That was authored by Representative Alexander and Representative Turner, and it provides that Texas Parks & Wildlife Department with the assistance of the comptroller will develop standards for wildlife management use in open space regulations. There we go.

The comptroller will actually adopt the rules. But we started this process right after the bill was signed. The law took effect September 1st and was set up to go into effect January 1 of this year. So we had to have a very compressed process on a very complicated complex subject in a very short time frame.

We established public input the first meeting with people that had been talking to us about this during the session and previously and after the session. So we used a large number of people and we used them to set up an Advisory Committee.

The Advisory Committee was a broad representation, including tax appraisers to landowner groups, biologists who were working in the field, and other conservation organizations. We met four more times after that. So it's been pretty compressed and -- and going pretty quick, but we've managed to do
a lot in a short time.

Basically, under this process we
developed rules. And in these rules it would require
that all qualifying tracts of land must have a
Wildlife Management Plan. And we're going to provide
that format for those plans from Texas Parks &
Wildlife, and those will be available. Also, we
provided a reporting format to those landowners who
are looking to have this Wildlife Management Use
Valuation for their property taxes, and that reporting
form will be very helpful to the appraisers and to the
landowner and know what they're required to do.

We wanted the rules to parallel Ag. So
these new rules parallel what they do in terms of
intensity requirements for Ag. And most counties have
established some type of minimum standards for new
tracts walking in, and we'll -- as we walk through
this process you'll see that parallel as to how those
standards actually apply now.

There are two situations possible when
someone seeks a Wildlife Management Use. They have to
have Ag, first of all. And so if they are qualified
for Ag and they walk in and the tract has not been
reduced in size, that's one issue. The other issue,
if a tract has been reduced in size and has that Ag
history when they walk in.

So for those tracts that have not been reduced in size -- they've had Ag, it's been in there continuously, they can still go to wildlife management, whether it's a thousand acres, a hundred acres, or five acres, those tracts that have that can walk in today with that Ag process and get the wildlife management with no problem at all, which is the way the legislation originally had thought of when we went through this process back with House Bill 1358.

So those other folks who walk in and have a piece of a former property -- I don't want to call it subdivided, because people get confused with subdivisions, but reduced from that smaller size -- we'll require that the county designate a minimum ratio devoted to wildlife management use. The ratios are determined by geographic area; we used a biological basis to assess those. And the ratios only apply when that tract is reduced in size.

Those ratios -- as we set them up with our -- our staff and reviewed by a -- a group of people that are part of the advisory board and then others that we've been able to review this with -- in East Texas, the ratios would be a minimum of
92 percent to a maximum of 94 percent. When you use a formula that will come out to a -- kind of a minimum acreage, and I'll discuss that in just a minute.

In Central Texas, it would be 93 percent to a maximum of 95 percent. In southwest part of Texas with the Panhandle, that's 96 to 98 percent. And in the Trans-Pecos 97 to 99 percent.

So the ratio is determined by the Appraisal District Board of Directors. Now, that's a body that's appointed by elected officials. So they're -- they're accountable to those elected officials. They will designate a ratio from a per -- that percentage range that -- of the -- from maps that I just showed you. So if the county is in Central Texas they would designate a percentage from that range that they were given.

In calculating the eligible ratio, it's based on the total tract size minus 1 divided by the total tract size. For example, if a percentage selected in the county is 95 percent and the total tract size minus 1 over the total tract size is the formula, let's take a 20-acre tract, 20 minus 1 is 19 divided by 20, and that's 95 percent. So any tract 20 acres or larger would qualify for wildlife management under this scenario with that 95 percent ratio.
There are two exceptions: Tracts within a Wildlife Management Property Association. Now, we wanted to separate the idea of a wildlife co-op or a wildlife management association from the tax requirement, so we used a name Wildlife Management Property Association so people would understand the difference. Although, it -- it's slight we think it will work okay.

All properties within an area that have deed restrictions, property-owner agreements, or conversation easements, something that's tied to that deed, legally obligating the landowner to perform those wildlife management activities then those properties can be a Wildlife Management Property Association. The county must then select one percent or two percent below the designated minimum. I mentioned Central Texas. It was 93 to 95 percent, so they would select one or two percent below the 93 percent, the minimum, in that ratio process.

Tracts within a Wildlife Management Property Association would have to have a general Wildlife Management Plan, but each individual tract would also have to have a plan stating what they were going to do, and then perform their three of seven activities as -- as designed in the legislation.
For counties that have species of concerns is the second exception: Whether they're candidate, threatened, or endangered species, these would be species listed by the Department then the county would do the same method of determination for these types of species. They too would be one or two percent below the -- the minimum qualifying ratio and a biologist or other qualified individual would have to determine that the habitat for that species was present. And like I said, TPW will list those species for those counties.

Grandfathering: We wanted to make sure that people who are qualified now that may not meet these ratios but are qualified as of last year were grandfathered into this. So someone that already was qualified during the last year will be able to move over into this without any problem.

There are a few outstanding process issues, but overall the comptroller as a key issue does not have enforcement authority. There is an interim committee of the Legislature that will be looking at this, and we'll probably take that to them to see how they want to deal with that.

Secondly, just a part of that -- the counties are only accountable to the courts. So a
landowner, if he is going to have the county do this
properly, has to go to court, and the landowner is
legally obli -- legally obligated for all court costs
and expenses, you know, and his own legal expenses.
So -- so it is difficult and it is an outstanding
issue.

Basically, that concludes my comments.
And I would like for Representative Alexander and
Representative Turner, the authors of the bill, to
make any other additional comments before we close.
And I would like to recognize members of the
comptroller's staff that are here. Where are you
guys? Right over here. Buddy Brievogel, who is the
manager of the property tax division; Bernie Little
and Dan Wilson, who have been tremendous help to me as
we've gone through this process; and also I'd be
remiss if I didn't mention Brandy Browning and Trent
Thomas of the representative's staff who have been on
this ever since day one, since last really, I guess,
March -- January, March, somewhere in there when we
started talking about this. So up to you guys.

Representative Alexander?

REPRESENTATIVE ALEXANDER:

Chairman Idsal and -- and Commissioners: Thank you
for this opportunity. We have a letter with
Legislative intent. I want to echo my appreciation for the comptroller's office and for this man sitting right next to me and to Joseph Fitzsimons for all the time they spent on this and Chairman Turner for his -- for his help.

This is a very difficult complex subject, but I think we made a win-win situation out of this, and I'm just here to answer questions if y'all have -- have anything? I -- I do know I'm going to be serving on an interim committee with -- with Edmund Kumple to address any further concerns any of you have with this subject matter. And Commissioner Fitzsimons, thanks for all your hard work on this.

COMMISSIONER FITZSIMONS: Thank you for the original legislation. And there's a little background here for -- I know that we've been inundated with everything from deer diseases to seatrout today, now we're on property taxes, but this started if -- if you remember with Prop 11, which was an idea whose time had come and -- and you gentlemen made it happen, which essentially allowed people to choose wildlife as an alternative or as a subset of agriculture. The reality was that there were some -- if I may speak frankly, some appraisal districts that chose to discriminate, and the -- the Chairman here
made sure that in this last session that 3123 made it
clear that the people of Texas meant what they said
when they passed the Constitutional Amendment. So I
want to thank you. Are there any questions about the
details of this, because it is --

COMMISSIONER RAMOS: Kirby made a
comment that people would have to end up in the court
system and I -- what's the what logic behind that? I
missed that.

REPRESENTATIVE ALEXANDER: Well, you
have to wind up there today anyway. This is going to
eliminate a lot of going to court, because we're
telling --

COMMISSIONER FITZSIMONS: There's some
pending lawsuits.

REPRESENTATIVE ALEXANDER: Yeah.
There's some pending lawsuits.

REPRESENTATIVE ALEXANDER: And it
doesn't remove your option.

COMMISSIONER RAMOS: Right. But don't
you go to your Appraisal District?

MR. BROWN: Your -- your review process
is you go to the appraiser then to the Appraisal
Review Board, and if you're not satisfied then you go
to the district court. Where you have the Appraisal
Review Board backing the appraiser -- one county
requires it for wildlife management -- you must have
1200 acres. We think that's not logical, and we have
advised the county but the county has continued in
that process. Those landowners who do go to the
courts then -- you know, they have to pay their way,
pay their legal fees and go through the whole process.

COMMISSIONER RAMOS: Yeah. I guess what
you're trying to do, you're trying to create some
uniformity throughout the state with an objective
standard as compared to each county doing their own
thing, as you might say.

MR. BROWN: Exactly.

REPRESENTATIVE ALEXANDER: With the --
the biology being the driving force on what's fair in
each region.

COMMISSIONER RAMOS: Sure.

REPRESENTATIVE ALEXANDER: And Chairman
Turner, do you --

REPRESENTATIVE TURNER: Well, you had a
question and then I'll -- I'll make a comment or two.

COMMISSIONER MONTGOMERY: Just a quick
question. Just wondering about the politics as well
as the legal position. Would it help -- could we get
and would it help to seek approval or -- or support of
this from the Texas Association of Counties? Would they take that on or would that help? Are there a political or legal position?

REPRESENTATIVE ALEXANDER: Were they involved in the process, Kirby?

MR. BROWN: No, they were not. They were invited, but -- but --

COMMISSIONER MONTGOMERY: They may not take it. I don't know.

REPRESENTATIVE ALEXANDER: I can sure call them and see. That -- that would be helpful.

MR. BROWN: Their request during the legislative session was, they just wanted to see some fair standards that would be applied fairly across all counties.

COMMISSIONER MONTGOMERY: That may make it hard for a renegade county to be against the associations for them.

REPRESENTATIVE TURNER: I -- I don't desire to go to the Texas Association of Counties and tell them they have renegade counties really.

COMMISSIONER MONTGOMERY: Counties of different opinions.

COMMISSIONER FITZSIMONS: Which ones?

REPRESENTATIVE TURNER: Maybe in mine
and Commissioner Angelo's area there may be a few
renegade counties.

Let -- let me say that, first, I would
like to commend Parks and the comptroller for the
methodology you're using here in establishing and
approving the rules and determining the rule.
Chairman Alexander and I have had years of experience
now in introducing legislation in which the agencies
never ask our Legislative intent. So this is a real
treat; I want you to know that. And we appreciate
that -- that, and I wanted to share that with both you
and the comptroller.

This has been a very open process.
There has been all the room for participation by
everyone, including the Association of Counties to
participate in the process. Needless to say the ones
who usually don't go to the school board meeting are
the ones that have a problem on Saturday morning at
Dairy Queen.

I think there's one thing that I
would -- some of you caught on. There's -- there's
one thing, I think, that we need to think about and
that is some people have talked about adding
requirements or subtracting requirements for
qualification. Prop 11 did that in a previous session
of the Legislature established the three out of seven
things that you had to do to comply. So when we talk
about changing those kind of things, it's in statute
and -- and it would take law. It would take another
piece of legislation in a subsequent session to change
those things. So I think this -- I think this set of
rules adequately covers, as -- as Chairman Alexander
said, it provides assurance that biology -- good sound
wildlife biology will be driving the rules. And --
and I think that's a must. And as Chairman Alexander
said, we're here to answer any questions you might
have. And -- and we have our staff people here who
really know the answers so -- Thank you.

COMMISSIONER FITZSIMONS: I -- I have
one question on the -- the Wildlife Management Plans
are very popular and this is more staffing for the
wildlife division, I guess, of Parks & Wildlife. Did
the Wildlife Management Plan will include necessarily,
as you say, the three out of seven that was in the
original.

MR. BROWN: That's correct. The
Wildlife Management Plan that is provided to the
counties for this tax appraisal can be developed by
the landowner. They can get assistance from -- from
any number of sources, including consulting biologists
and our biologist. We -- we'll provide that if we the
time as we go through this. But it is a process that
we've created so that the landowner can do it
themselves, and it's very understandable and we have
about a 190-page book -- you always hate to tell
someone that -- on how to do this. But it's a process
where they can pick and choose from that book, so it's
really not that complicated, and -- and it hasn't been
a burden to staff as this point, but --

COMMISSIONER RAMOS: Who -- who
determines teh adequacy of the Wildlife Management
Plan?

MR. BROWN: In -- in truth the appraiser
does, and the appraiser will -- will continue to do
that. And what we're trying to provide them is
clearer guidelines on what is adequate and what is
not, because they are all over the board, and we think
we'll be able to do that.

COMMISSIONER RAMOS: And then what will
happen in the -- in the second year? Okay. So you
qualify year one, what happens in the second year, you
have a new management plan every year as a
prerequisite for maintaining the -- the valuation or
not?

MR. BROWN: No. You're really looking
at your activities -- three of the seven activities
being performed in that year as -- as part of your
management plan. As long as that appraiser is aware
that you are performing those then -- then similar to
Ag you just have to prove that you are doing that.

COMMISSIONER RAMOS: What -- what I'm
saying is, like with an Ag use valuation you qualify
in the -- in the first year at any given point the
appraiser can say "I want you to satisfy me." What
I'm asking is, is there a system in place to where you
insure that that landowner will comply with the
management plan and perpetuate it into the future?

MR. BROWN: Like Ag that is the way it
should be. And the -- and the appraiser will make
those determinations, but they will request that the
landowner provide receipts, photographs, go out on
site and look at what is going on. So we do -- you
know, from the counties we found that there is -- they
are doing that.

COMMISSIONER FITZSIMONS: But that's no
different from Ag.

CHAIRMAN IDSAL: That's no different
from Ag.

COMMISSIONER RAMOS: Well, but -- Yeah.

But theoretically Ag is a little bit different. The
way I see it is, if you have a management plan you've
got certain objectives. If you're running a cattle
operation you don't have to give an objective to the
taxing agency for a cattle operation. Here, you have
a management plan in hopes that you're going to
improve your deer population. So what I'm saying is,
if that's the goal of the plan are we going to
somehow -- or I guess it's going to be up to the
district to insure that those goals are accomplished.

Because if they -- if they blow off the plan, for
example, okay -- in the second year, let's say, you
say I'm going to shoot 20 does and the guy shoots 5,
does then that give the Appraisal District the right
to suspend a --

REPRESENTATIVE TURNER: I don't think
any of the plans are going to be that detailed and
that minute in how they control such as a number of --
of doe that are going to be harvested. I think we're
talking about controlling the population within
biological rationale or reasoning.

COMMISSIONER RAMOS: But without a
survey or --

REPRESENTATIVE TURNER: If any of the
plans are that -- are that detailed and that -- that
pointed it would be difficult, but I -- I don't see
any of these plans. Primarily, they're going to
comply with three of those seven prerequisites and --
and there has to be proof that they did that. And I
would that in -- at the second or third year if you
wanted to substitute one of the other issues instead
of one of the original three you had picked, you could
do that with the approval of -- of the Appraisal
District.

COMMISSIONER RAMOS: Well, it -- it
sounds to me like the plan is county wide as compared
to ranch specific.

MR. BROWN: Oh, no, sir. It is -- it is
ranch specific. And -- and if they do as part of
their plan they say they are going to kill about 20
deer a year, usually they put a plus or minus in
there, we know some years it's very tough to -- to
harvest your deer. And we've talked to counties
through educational programs that have been put on by
us, consulting biologists and others that give them an
idea of -- of what we're looking for is that long-term
process.

COMMISSIONER RAMOS: I think it's a
great program, but I -- I'm just wondering if someone
may not want to qualify just to get the -- the benefit
and then not follow through. That's my concern.
MR. BROWN: There are those; and the counties of course do follow up on that.

COMMISSIONER FITZSIMONS: Commissioner, it's not unlike the way we've use Wildlife Management Plans already, which has been a very successful program that -- that Kirby's had a lot to do with the success. And integrating that with the MLDs, and the different levels of MLD, and you're required to have a Wildlife Management Plan in order to be an MLD. And so at the beginning there's going to be a determination, first of all, if there's a legitimate habitat, so that you don't have the problem of somebody claiming a parking lot or a caliche pit as -- as a -- as wildlife management. So I think the -- we've got a good program and, you know, what I'm concerned about is being able to staff now on the wildlife side all the demand that we'll have for Wildlife Management Plans. That's been the problem. Which is a good problem to have.

COMMISSIONER RAMOS: It won't necessarily require a biologist.

MR. BROWN: That is correct.

COMMISSIONER RAMOS: Theoretically, the landowner could say "I'm qualified and here's my plan."
COMMISSIONER FITZSIMONS: Right. Well,
it's got to be approved.

CHAIRMAN IDSAL: Is it a fair
observation to say that the incentive to make sure
that --

REPRESENTATIVE ALEXANDER: It's got to
be approved.

CHAIRMAN IDSAL: -- people are abiding
by the three requirements that they choose is that the
Appraisal District will put you back on the tax rolls
if you don't?

COMMISSIONER FITZSIMONS: Yes, ma'am.

MR. BROWN: And -- and pay rollback.

COMMISSIONER FITZSIMONS: There are a
lot of incentives on both sides to make sure people
are doing what they're supposed to be doing. That's
one of the great things about the way you've designed
it.

REPRESENTATIVE TURNER: And just like Ag
the -- the -- the enforcement responsibility comes
back to the locally-appointed board and that's the way
it should be.

COMMISSIONER RAMOS: The only point I
was making is that you could establish a plan year one
and maintain that same plan for ten years or twenty
years as compared to having an annual plan consistent
with the habitat, the rainfall for each specific year.

MR. BROWN: And -- and that is true.

Most of them will do a single plan, and the only
changes is -- will be when they modify the activities
they're going to do at a later date.

COMMISSIONER RAMOS: In year two you may
start supplement feeding deer.

MR. BROWN: Right.

COMMISSIONER RAMOS: And you might be
able to -- to expand it.

REPRESENTATIVE TURNER: Some years you
don't need to supplement feed as much and, you know,
there's a lot of --

COMMISSIONER FITZSIMONS: Thank you very
much for all your work. I -- I -- this presentation
doesn't -- certainly belies the fact all the -- and
the year of work that's gone into this, and Kirby's
hard work and tolerance and long very -- no one can
say that these meetings weren't public. And I -- like
the Chairman pointed to some people that didn't show
up to the meeting that seemed to have the most
comments later. Thank you. And this is a briefing
item so it requires no action or --

REPRESENTATIVE TURNER: I'd like to make
one comment here. And -- and first, I would like to
thank the staff, as -- as Kirby did, I would like
thank the staff at comptroller for what they did in
helping make this possible. That was a necessity.

But Kirby has been a major player. And I want you to
know that those of us in the Legislature are going to
miss Kirby Brown being at Texas Parks. And I -- I
would say that it -- it -- it's going to be a loss for
the state. I don't know who's going to take the job,
it's -- it's -- but it's going to be hard shoes to
fill, and we'd like to thank you for the ability and
the efforts you've given him the opportunity to help
us with this project. And he's going to pay me for
this after we leave.

MR. COOK: Mr. Turner, obviously, you --
you don't know all of the Kirby stories.

REPRESENTATIVE TURNER: You know, it
reminds me a little of in the Army when we were
overseas, we often said, "he who sees and knows and
says nothing will be richly rewarded afterwards."

CHAIRMAN IDSAL: Thank you all very
much.

REPRESENTATIVE ALEXANDER: Thank y'all.

COMMISSIONER FITZSIMONS: Thank you very
much.
1 REPRESENTATIVE TURNER: Thank you.
2 COMMISSIONER FITZSIMONS: Thank you very
3 much. Anything else before the Regulations Committee,
4 mindful of the fact that it is not the only
5 committee? We stand adjourned with a motion.
6 COMMISSIONER RAMOS: So moved.
7 COMMISSIONER FITZSIMONS: Second.
8 CHAIRMAN IDSAL: Do we need a motion to
9 recess?
10 COMMISSIONER FITZSIMONS: No. This is
11 adjourning the Regs.
12 COMMISSIONER MONTGOMERY: We're done.
13 Second?
14 COMMISSIONER MONTGOMERY: Second.
15 COMMISSIONER FITZSIMONS: All in favor,
16 Aye.
17 ALL COMMISSIONERS: Aye.
18 COMMISSIONER FITZSIMONS: All opposed,
19 same sign.
20 (No Response.)
21 COMMISSIONER FITZSIMONS: We're
22 adjourned.
23 CHAIRMAN IDSAL: At this time, I would
24 like to announce that pursuant to the requirements of
25 Chapter 551 Government Code referred to as the Open
Meetings Law an Executive Session will be held at this
time for the purpose of consideration of
Section 551.071 of the Texas Open Meetings Act
regarding pending litigation and legal advice and
section -- is that right? -- and Section 551.072 of
the Texas Open Meetings Act regarding real estate
matters. Thank you.

(WHEREUPON, an Executive Session was
held.)
THE STATE OF TEXAS  
COUNTY OF BEXAR  

I, DICIE LEE EYTCHESON, a Certified Court Reporter in and for the State of Texas, do hereby certify that the above and foregoing 111 pages constitute a full, true, and correct transcript of the minutes of the Texas Parks and Wildlife Commission on JANUARY 16, 2002, in the Commission Hearing Room of the Texas Parks and Wildlife Headquarters Complex, Austin, Travis County, Texas.

I FURTHER CERTIFY that a stenographic record was made by me at the time of the public meeting and said stenographic notes were thereafter reduced to computerized transcription under my supervision and control.

WITNESS MY HAND this the 28th day of March, 2002.

[Signature]

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