

UTAH WILDLIFE BOARD MEETING
March 7-8, 2007, 9:00 a.m. DNR Auditorium
1594 West North Temple
Salt Lake City, Utah

AGENDA

Wednesday, March 7, 2007 - 9:00 AM - 5:00 PM: Board Appeals

Thursday, March 8, 2007

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| 1. Approval of Agenda
- Dr. Jim Bowns, Chairman | ACTION |
| 2. Approval of Minutes
- Dr. Bowns | ACTION |
| 3. Old Business/Action Log
- Dick Diamond, Vice-Chair | CONTINGENT |
| 4. DWR Update
- Jim Karpowitz, DWR Director | INFORMATION |
| 5. Emergency Rule - R657-57 Quagga and Zebra Mussel
- Martin Bushman, Assistant Attorney General | INFORMATION |
| 6. Adjudicative Proceedings Rule R657-02 (5-yr review)
- Kenny Johnson, Information Analyst | ACTION |
| 7. Error Remedy Rule R657-50 (5-yr review)
- Kenny Johnson, Information Analyst | ACTION |
| 8. Terminally Ill Fishing License Rule R657-30 (5-yr review)
- Kenny Johnson, Information Analyst | ACTION |
| 9. License Agent Procedures Rule R657-27 (5-yr review)
- Kenny Johnson, Information Analyst | ACTION |
| 10. Hunting and Fishing Accommodations for Disabled People Rule R957-12
- Kenny Johnson, Information Analyst | ACTION |
| 11. Possession of Live Game Birds Rule R657-04 (5-yr review)
- Dean Mitchell, Upland Game Program Coordinator | ACTION |

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| 12. Big Game Depredation Rule R657-44 (5-yr review)
- Boyde Blackwell, Private Lands Public Wildlife Program Coordinator | ACTION |
| 13. CHA Rule R957 -22 (5-yr review)
- Boyde Blackwell, Private Lands Public Wildlife Program Coordinator | ACTION |
| 14. Landowner Permits Rule R657-43 (5-yr review)
- Boyde Blackwell, Private Lands Public Wildlife Program Coordinator | ACTION |
| 15. Amphibian/Reptile CIP Proclamation and Rule R657-53
- Krissy Wilson, Native Aquatics Program Coordinator | ACTION |
| 16. Wasatch Mountain Late hunt season change
- Alan Clark, Assistant Director | ACTION |
| 17. Variances
- Todd Newby presenting for Ida Ann Newby
- Paul Havens
- James Bell
- Judi Tutorow, Licensing Coordinator | ACTION |
| 18. Other Business
- Dr. Bowns | CONTINGENT |

UTAH WILDLIFE BOARD MOTIONS
March 7-8, 2007, 9:00 a.m. DNR Auditorium
1594 West North Temple
Salt Lake City, Utah

Wednesday, March 7, 2007 - 9:00 AM - 5:00 PM: Board Appeals

Thursday, March 8, 2007

1. Approval of Agenda **ACTION**

MOTION: I move that we approve the agenda as amended.
Passed unanimously

2. Approval of Minutes **ACTION**

MOTION: I move that we accept the minutes of the January 10, 2007 Wildlife Board meeting with the noted corrections.
Passed unanimously

6. Adjudicative Proceedings Rule R657-02 (5-yr review) **ACTION**

7. Error Remedy Rule R657-50 (5-yr review) **ACTION**

8. Terminally Ill Fishing License Rule R657-30 (5-yr review) **ACTION**

9. License Agent Procedures Rule R657-27 (5-yr review) **ACTION**

10. Hunting and Fishing Accommodations for Disabled People Rule R957-12 **ACTION**

MOTION: I move that we approve the five year review proposals on the Adjudicative Proceeding Rule R657-02, Error Remedy Rule R657-50, Terminally Ill Fishing Licenses Rule R657-30, License Agent Procedures Rule R657-27 and Hunting and Fishing Accommodations for Disabled People Rule R957-12 as presented by the Division.
Passed unanimously

11. Possession of Live Game Birds Rule R657-04 (5-yr review) **ACTION**

MOTION: I move that we accept the 5 year review proposal on Possession of Live Game Birds Rule R657-04 as presented by the Division.

Passed unanimously

12. Big Game Depredation Rule R657-44 (5-yr review) **ACTION**

13. CHA Rule R957-22 (5-yr review) **ACTION**

14. Landowner Permits Rule R657-43 (5-yr review) **ACTION**

MOTION: I move that we put the directive on the action log, that at the next RAC/Board orientation, formulas will be presented on landowner tags, CWMUs, depredation tags and a way to better educate those receiving these permits will also be presented.

Passed unanimously

MOTION: I move that we accept the 5 year review proposals for Big Game Depredation Rule R657-44, CHA Rule R957-43 and Landowner Permits Rule R657-43 as presented by the Division.

Passed unanimously

15. Amphibian/Reptile CIP Proclamation and Rule R657-53 **ACTION**

MOTION: I move that if a Great Basin rattlesnake is killed for safety purposes or found dead, you can possess the Great Basin rattlesnake without penalty.

Passed three to two

MOTION: I move to allow individuals photographing reptiles and amphibians to contain the animal in the safest manner for the animal and retaining the regulation requiring them to stay within 60 feet of where they capture it and releasing it within 15 minutes.

Passed unanimously

MOTION: I move that we accept the remainder of the Amphibian/Reptile CIP Proclamation and Rule R657-53 as presented by the Division.

Passed unanimously

16. Wasatch Mountain Late hunt season change

ACTION

MOTION: I move that we move two late season permits on the Wasatch Mountains to the early season.

Passed unanimously

17. Variances

ACTION

MOTION: I move that we deny Paul Haven's request for a variance.

Passed unanimously

MOTION: I move that we deny the variance of James Bell.

Passed three to one

MOTION: I move that we deny the variance request of Jesse T Bullock.

Passed unanimously

MOTION: I move that we deny the variance request of Shawn Heward.

Passed unanimously

MOTION: I move that we grant the variance request for Cory R. McNeill.

Passed unanimously

MOTION: I move that we grant the variance request for Ida Ann Newby.

Passed - Chairman Bowns broke the tie in favor of the motion.

UTAH WILDLIFE BOARD MEETING

March 7-8, 2007, 9:00 a.m.
DNR Auditorium, 1594 W. No Temple
Salt Lake City, Utah

Board Members Present

Chairman Jim Bowns
Allan Smith
Paul Niemeyer
Lee Howard
Rick Woodard
Keele Johnson
Jim Karpowitz - Executive Sec
Dick Diamond (excused)

RAC Chairs Present

Clay Hamann - Northeastern
Jim Gilson - Southeastern
Ernie Perkins - Northern
Fred Oswald - Central
Mike Small - Southern

Public Present

Todd Newby
Heather Newby
Bill Hales
Paul Havens
Kathy Havens
Jay Tripp
Ryan Hoyer
Mark Hazel
Brian Eagar

Division of Wildlife Resources

John Fairchild
Staci Coons
LuAnn Petrovich
Judi Tutorow
Craig McLaughlin
Justin Dolling
Boyde Blackwell
Cindee Jensen
Mike Fowlkes
Robin Thomas
Alan Clark
Marty Bushman
Doug Messerly
Mark Hadley
Krissy Wilson

Chairman Bowns welcomed the audience and introduced the Wildlife Board members and RAC Chairs. The agenda was then reviewed.

1) Approval of Agenda (Action)

Director Karpowitz said that item number five on Quagga and Zebra Mussels will be informational only. They will not be asking for an emergency rule today. Mr. Howard asked about adding an informational item concerning aerial surveys, at the end of the agenda. Chairman Bowns said it can be discussed under "other business."

The following motion was made by Allan Smith, seconded by Paul Niemeyer and passed unanimously.

MOTION: I move that we approve the agenda as amended.

2) Approval of Minutes (Action)

On p. 6, 1st paragraph, 4th line, eliminate “of Utah.” P. 7, last line, add “document” after 30,000 and “in our fishing sales” after increase. P. 8, 6th paragraph, change “Bureau” to “Bill.”

The following motion was made by Paul Niemeyer, seconded by Rick Woodard and passed unanimously.

MOTION: I move that we accept the minutes of the January 10, 2007 Wildlife Board meeting with the noted corrections.

3) Old Business/Action Log (Contingent)

Mr. Diamond, who normally addresses this item is unable to attend the meeting today. We will discuss it at our next meeting.

4) DWR Update (Information)

Director Karpowitz introduced the new RAC/Board Coordinator, Staci Coons. He then went on to discuss the legislative session. Robin Thomas and Mike Canning did a great job coordinating all the issues that were being considered there. The Division will benefit greatly due to the decisions made by the legislature. Director Karpowitz went on to highlight some of the important issues.

Senate Bill 161 is the license restructuring bill which now requires a basic hunting license before applying for a permit, and also has the twelve and thirteen year old fishing license in it. This bill passed. Associated revenue should carry the Division for several years. We had lots of support from key legislators, including Alan Christensen and Mike Noel who sponsored the bill.

The Legislature voted the Capitol Facilities Committee a 2.25 million dollar payment to get the Springville Hatchery back on line. The Land and Water Reinvestment Act is very important for wildlife habitat in the state. It passed and provides two million dollars of ongoing funds to the DNR for watershed, two million to the Department of Agriculture and two million dollars of one time money to the Lee Ray McCallister Fund. This bill will secure our watershed initiative for the future.

The DNR Horse Sense Bill passed. This is a clean up bill of the code sections in the Division. A section of the bill had to do with suspensions. It will give the hearing officer more flexibility,

rather than making suspensions mandatory. The bill that lowered big game hunting age from 14 years to 12 years passed. We will implement that right away, beginning with antlerless permits.

The Bill to establish accounts for conservation easements passed. House Bill 428 has to do with roads, that all Class D county roads on Division lands would be 60 feet wide easements. This did not pass. We worked with the sponsor on this bill, but it did not ever come up for a vote.

House Bill 195, which is the whirling disease bill did two things. It allows for a retest of private aquaculture facilities that have tested positive in the past, and it allows for an appeal process for aquaculture facilities that have been put under quarantine. The bill passed.

One other issue that came up right in the middle of the legislative session was the SITLA Access agreement. Because of things that were happening in the U.S. Congress with the Land Exchange Bill, it became clear that it would benefit everyone to find some resolve to this access issue. The DWR met with SITLA, negotiated and came up with an agreement that will be very good for the people of Utah. It is a \$500,000 per year payment to SITLA that increases 5% per year for 10 years. The legislature funded the first year, \$500,000 out of the general fund. There was a comment that if we bring this back to the legislature next year, they would consider making this ongoing. We have been getting that 5% out of the Habitat Fund. This secures access for sportsmen and wildlife watchers on about three and one half million acres of SITLA land. The Division had some things put back into that agreement that we have wanted over the years. SITLA cannot get permits for CWMUs, landowner permits, or elk shooting parks. It also provides for a reduction in payment if any of the large land blocks are sold or traded. The lands that SITLA will acquire in the Book Cliffs will have a perpetual access easement on them. If the exchange goes through, the BLM will pick up a lot of valuable property that will work well for wildlife.

Relative to employee compensation, the legislature approved a 3.5% cost of living increase for all state employees. They also allocated 1.5% additional funds to be used at the discretion of the agency to address specific employees that are underpaid. We also received some general funding to help specifically with law enforcement. We are optimistic that we will be able to offer a good compensation package to employees come July 1. The Wildlife Board's letter was heard and was helpful on this issue.

Mr. Howard asked if the legislature did anything with the bonus system on the SITLA executives.

Director Karpowitz said no. It is listed as one of the interim items and there will be discussion on this during the year.

Mr. Perkins asked if considering the funding and the projected increase in licenses, is it possible to get some indication where Walk In Access may go in 2008?

Director Karpowitz said in the appropriation's bill, the Division committed to put \$450,000 into Walk In Access. That was approved as a building block, although it is only for one year. If we can show that we can spend that kind of money, the legislature will look to making it ongoing in the future. We are ready to really start working on this across the entire state, creating a bigger Walk In Access Program. We will get this going on July 1.

Also there is \$200,000 for Phragmites on the Great Salt Lake. This is also a one year funding and we need to make that an ongoing appropriation. The Wildlife Management Areas maintenance did not get any funding, but with the license increase, we can direct some additional funding for that.

Overall, this is really a windfall for habitat. We do not have to pay the \$500,000 to SITLA and the new license fees will create a half of million to go directly into the Habitat Council. We will provide more funding for those important projects.

Director Karpowitz said they had 25,000 new applications for big game permits. That is up to about 178,000 applications for 1,800 elk permits, and about 1,000 others.

We have lost 60 employees in the last 15 months. We have had to replace them and probably doubled the job changes. Craig McLaughlin is now the Wildlife Section Chief. Boyde Blackwell is the Private Land/Public Wildlife Coordinator. Anis Aoude is the Big Game Coordinator on a one-year career mobility. Jim Parrish is the Avian Coordinator. Drew Cushing is the new Warm Water/ Community Fisheries Coordinator. Our people have done a remarkable job with this kind of turnover. They are high quality people who pick up the ball and run with it.

Director Karpowitz said the last of big horn sheep transplants for the year occurred this morning with 18 sheep from Colorado released on Mt. Timpanogoes.

5) Emergency Rule - R657-57 Quagga and Zebra Mussel (Information)

Walt Donaldson, Chief of Fisheries for DWR, gave information on the Quagga mussel. (See Attachment #1) The Quagga mussel is a very serious invasive species. He went over a brief history and the biology of this mussel, and what we are trying to do with it. In the 1980's, they found the Zebra mussel in Lake St Clair, in the St Lawrence seaway. It is suspected that Zebra mussels hitched a ride in ballast water tanks of commercial ships or on anchor chains. They originally came from southwest Russia, in or around the Black or Caspian Seas. The mussels are native to that area and a lot of transport ships use these seas, going into the Mediterranean and onward to transatlantic shipping. Quagga mussels invaded North American later than Zebra mussels and have been confirmed in fewer waters. These species are very prolific. They have extreme productive potential. A one inch Quagga can produce up to 1 million eggs. In twenty years it has spread throughout the Great Lakes basin, the St. Lawrence Seaway, and much of the Mississippi River drainage system.

The Zebra mussels are more adaptable to the top 20 feet of water. The Quagga can exist clear down to 250 feet under the water. It is free floating until it forms the shell then it drops to the sub strait. They will attach to any hard surface they can find. In one year they grow to ½" and become reproductively mature. They usually live two or so years. The 100th Meridian Initiative has drawn a line in the sand at the 100th meridian, just west of the Mississippi and made every effort to keep these species from spreading.

The Quagga mussel was found in Lake Meade and Havasu in 2007. At this point they went south in the various drainage systems and found the Quagga in all of Lake Meade and south to the Gulf of Mexico. They are being very aggressive in fighting this mussel in Arizona. With this finding there are several concerns, including the water intake systems, power plants and culinary systems. The mussels tend to go into smaller systems, in slower water. They clog the systems and large amounts of flooding and chemicals must be used to get rid of them. Another issue is public safety. They tend to grow on each other, five or six of them stacking up to seven inches high. They are very sharp and swimmers can get cut on them. From a wildlife perspective, a single Quagga mussel will filter up to a liter of water per day. When they filter, they have a process where they bring in the nutrients and cast off pseudo feces which is high in phosphorus and nitrogen. This pseudo feces drops to the bottom and reduces the reproductive capability of the lake. We do not want these mussels in our state. Mr. Donaldson referred to the handout relative to lakes in Utah that would be particularly at risk.

The DWR has met with various state agencies, looking to cooperate in keeping these species out of Utah. This issue has been presented to the DNR leadership team and they are looking to write policy. We are also looking to reactivate the State Aquatics Species Nuisance team and get them working on the prevention factors. We will also address this issue through the Conservation Outreach Program for prevention and monitoring. The team will also coordinate with the National Park Service. Mr. Donaldson concluded at this point and asked if there were any questions.

Chairman Bowns asked if it is realistic to think this might not end up in Lake Powell.

Mr. Donaldson said the Quagga mussel was in Lake Meade for two years before they knew it. With the boating traffic, there is a high probability that it is already in Lake Powell. They have found dead Zebra mussels on boats at Bull Frog. The National Park Service employees are checking their ropes and docks weekly at this point. They have not found anything at this point. We do not know if these areas might already be infected. We have to keep drawing a concentric circle around the infected areas and try our best to keep it from becoming a complete endemic situation. We did the same thing with whirling disease and have been able to hold it off. Mr. Donaldson said that a lot of the industries are lining pipes with copper or brass, because they cannot attach to these substances. They know for a fact that 140 degree water will kill them instantly. The issue becomes, how do we do that? The National Park Service is looking into this. Chlorine or euratic acid will kill them. It is very expensive to use a 15% chlorine solution and this might create problems with boat parts.

Mr. Howard asked if there is anything in place to get boaters to clean off their boats as they go back and forth between Lake Meade and Lake Powell.

Mr. Donaldson said the mussel does like water. They can establish in moving water also. We will make efforts to have boaters keep their boats clean and look for ways to disinfect between waters. If they got established in the Virgin River, it would do terrible things to our recovery efforts there.

Director Karpowitz said the reason this is on the agenda today, it became clear to us that boats are moving from Lake Meade to St. George. We asked what authority we have in this situation and after discussion we think we have a lot of authority. In the next few weeks we may need an emergency board meeting to move on this. We will have Mr. Bushman tell us what we can do legally, at this point. The enforcement part is only one part of it. We will do a massive public outreach effort to make people aware of how much we need their cooperation. There will be a lot of information on our website, and we will do everything we can to make the public aware of how serious this problem is and how much we need their help.

Mr. Bushman said we have spent a lot of time these last few days trying to address this problem. As we discussed this we became aware that there will be other agencies that would have concerns on this issue, such as the Health Department and UDOT. We decided, rather than write an emergency rule, it would be better to take more time and consider all the aspects of this problem. We do have some law enforcement authority right now. We can do administrative checkpoints, at key locations, on all vessels coming from an endemic area and tell them they cannot launch in Utah waters. We would ask them if they have had their boats moored at any of the infected waters. If we found any evidence of the mussel, it would be a violation. They would have to clean them up and disinfect. We might be able to disinfect on sight. If we cannot see them, we would not be able to look into the bilge waters or see them if they were microscopic. These situations will take more thought and discussion before we write statute.

Mike Fowlkes, Law Enforcement for the DWR, addressed the Board. He said they can station themselves on the boat ramps where they can readily identify boats that are coming in. They could do individual inspections there and it would not be limited to administrative checkpoints. We are training officers on how to spot and identify these mussels presently. On boats that are coming from endemic areas, it would be ideal to have statutory authority to stop and quarantine them to make sure they are not infected. Right now we are limited to visually inspecting boats.

Mr. Howard asked what the Division can really do if they find boats infected with the mussels.

Mr. Fowlkes said we believe we can stop them, and if we can see the mussels, they could not proceed until they are decontaminated. We could also utilize weigh stations, and having legislative authority would be the best way to go. There may be some remedies with rule making also. As an example, Minnesota has the authority to stop them and hold them until they are

decontaminated.

Mr. Niemeyer asked if they could ask people to stop voluntarily and disinfect their boats.

Mr. Donaldson said there was a lot of discussion in Arizona and Nevada on voluntary washing. They have already put in hot washes for these purposes.

6) Adjudicative Proceedings Rule R657-02 (5-yr review) (Action)

Kenny Johnson, Information Analyst presented this item. He said there are five rules up for five year reviews. There are only minor changes on these. Mr. Johnson said he could present all five of these and they will vote on all of them in one motion. That is how the RAC addressed them. The first rule, Adjudicative Proceedings Rule sets forth standards governing all adjudicative proceedings before the Wildlife Board and the Division. There are no proposed changes to this rule at this time.

7) Error Remedy Rule R657-50 (5-yr review) (Action)

Kenny Johnson said the proposed revisions to this rule are: 1) change “Division” to lower-case “division” in order to be consistent with other rules and rule writing guidelines from the Division of Administrative Rules. There are no substantive changes to the rule.

8) Terminally Ill Fishing Licenses Rule R657-30 (5-yr review) (Action)

Mr. Johnson said this is the rule that allows the Division to offer a free fishing license to persons who are terminally ill. There are no proposed changes to this rule at this time.

9) License Agent Procedure Rule R657-27 (5-yr review) (Action)

Mr. Johnson said the proposed revisions to this rule are: 1) to allow the Division to consider providing hardware assistance for locations as it determines it will help serve the public; 2) Remove the distinction between electronic license agent and manual license agent; 3) make technical corrections

10) Hunting and Fishing Accommodations for Disabled People Rule R-957-12 (5-yr review) (Action)

Mr. Johnson said the proposed revisions to this rule are: 1) bring the rule in line with the amendment the legislature made two years ago to Utah code that expanded companion hunting to all protected wildlife and defined the requisite disability necessary to qualify for companion hunting, and 2) make technical corrections.

RAC Recommendations

All the RACs unanimously accepted the Division's recommendations as presented.

Chairman Bowns asked for public comment and there was none.

The following motion was made by Keele Johnson, seconded by Allan Smith and passed unanimously.

MOTION: I move that we approve the five year review proposals on the Adjudicative Proceeding Rule R657-02, Error Remedy Rule R657-50, Terminally Ill Fishing Licenses Rule R657-30, License Agent Procedures Rule R657-27, and Hunting and Fishing Accommodations for Disabled People Rule R957-12 as presented by the Division.

11) Possession of Live Game Birds Rule R657-04 (5-yr review) (Action)

Dean Mitchell, Upland Game Program Coordinator presented this item to the Board. This rule establishes the standards for the possession, importation, purchase, propagation, sale, barter, trade, or disposal of live game birds. There are no proposed changes to this rule at this time.

RAC Recommendations

All the RACs unanimously accepted the Division's recommendations as presented.

Chairman Bowns asked for public comment and there was none.

The following motion was made by Rick Woodard, seconded by Keele Johnson and passed unanimously.

MOTION: I move that we accept the 5-year review proposal on Possession of Live Game Birds Rule R657-04 as presented by the Division.

12) Big Game Depredation Rule R657-44 (5-yr review) (Action)

Boyde Blackwell, Private Lands/Public Wildlife Program Coordinator presented agenda items #12, #13 and #14. The proposed revision to this rule, Big Game Depredation Rule is: 1) allow for more than 20 mitigation permits per landowner on management units where estimated populations are significantly over objective.

13) CHA Rule R657-22 (5 yr review) (Action)

Mr. Blackwell said the proposed revision to this rule is: 1) clarify that Commercial Hunting Area Certificate of Registration fees must be paid annually.

14) Landowner Permits Rule R657-43 (5 yr review) (Action)

Mr. Blackwell said the proposed revision to this rule is: 1) change “Division” to lower-case ‘division’ in order to be consistent with other rules and rule writing guidelines from the Division of Administrative Rules. There are no substantive changes to the rule.

RAC Recommendations

Northern - Mr. Perkins said they adopted the Division’s recommendations unanimously on all three rules. He added that on the big game depredation rule, to allow more than 20 permits, will be a great tool for biologists.

Central - Mr. Oswald said there was some discussion on the big game depredation rule, with two votes against it, but it did pass. They accepted the other two rules unanimously.

Southern - Mr. Small said they adopted the Division’s recommendations unanimously on all three rules. On the big game depredation rule they asked what is meant by numbers being significantly over objective?

Southeastern - Mr. Gilson said they adopted the Division’s recommendations unanimously on all three rules. They had some discussion on the fact that they could receive over 20 permits, and there was no cap. It was indicated that they could not receive more tags than 10% of the number of animals that were on the property. There was the question as to what the maximum amount of tags was.

Mr. Blackwell said it is in rule that we cannot provide permits for more than 10% of the animals on the property. This is a tool that will provide biologists and regional managers the ability to deal with situations. It is capped right now at 20.

Mr. Howard said the 10% only applies beyond the 20 animals.

Mr. Blackwell said that is correct.

Northeastern - Mr. Hamann said this was handled with the other motions and it passed unanimously.

Chairman Bowns asked for public comment and there was none.

Mr. Smith said yesterday we spent four to five hours on appeals. A lot of that came about because of a lack of understanding on the part of the recipients of some of these depredation tags. The landowners who received these need as much information as possible up front. When information is not passed on to those who hunt with these permits, problems occur. It is important to educate these landowners and hunters. In the near future, several of the Board and RAC Chairs will be replaced and consequently there will be an orientation meeting. Hopefully, during that period of time, it would be appropriate to educate the Board and RAC members as to the process of how landowner and CWMU permits are issued.

Mr. Niemeyer said that in his area, many of the landowners are happy with the wildlife on their property and then a sportsman approaches them and talks them into getting permits that they might use. The landowner does get the permits and has no clue what to do with them. There is a lot of abuse of the system by the sportsmen in these situations. The landowner does not really benefit from them and might not even want them. Mr. Niemeyer blames the sportsman for this. The landowner needs to be educated before they receive the tags.

Mr. Woodard said an instruction letter from the Division on these tags would be very helpful. They could explain who can use them and define the boundaries.

Mr. Perkins asked for a clarification on the 10% on the depredation rule. He read from the rule, "antlerless permits shall not exceed 10% of the animals on private land where maximum of 20 permits per landowner or lessee, except where the estimated population for the unit is significantly over objective." Mr. Perkins said that says to him that the biologist can issue more than 10%, or more than 20 where it is significantly over objective. That is exactly the tool we need. We have herds that biologists have been working on for five years, trying to get them back down. He is getting multiple complaints from landowners that their deer herds are disappearing, because the elk are running them out. In some cases where there are large private land holdings and very few public areas to get into, this is the tool that we need. We do not want to define what is significantly over objective, just give the tools necessary to get the elk where they need to be.

Director Karpowitz said if we want to make this official we should put it on the action log.

The following Allan Smith, seconded by Keele Johnson and passed unanimously.

MOTION: I move that we put the directive on the action log, that at the next RAC/Board orientation, formulas will be presented on landowner tags, CWMUs, and depredation tags. A better way to educate those receiving these permits will also be presented.

Mr. Johnson said we dealt with two cases yesterday during the appeals just because they did not understand how the permits were to be used. He felt that a letter explaining the details on these

permits would help immensely.

Mr. Blackwell said a letter explaining the guidelines is provided to the landowners receiving permits in the Northeastern Region. He is quite sure that the other regions try to do this also. In spite of this, those receiving the permits do not follow the guidelines.

Mr. Johnson said it might be helpful if someone from the Division would go out and discuss the guidelines with them.

Chairman Bowns said we will now go back to the 5 year reviews as presented by Mr. Blackwell.

The following motion was made by Keele Johnson, seconded by Paul Niemeyer and passed unanimously.

MOTION: I move that we accept the 5 year review proposals for Big Game Depredation Rule R657-44, CHA Rule R957-43 and Landowner Permits Rule R657-43 as presented by the Division.

15) Amphibian/Reptile CIP Proclamation and Rule R657-53 (Action)

Krissy Wilson, Native Aquatics Program Coordinator presented this agenda item to the Board. She explained the various documents in the Board packet.

Ms. Wilson went on to discuss the six year process that the group went through for this rule. This was a cooperative effort between the UDWR biologists, conservation officers, Utah Attorney General's Office, the Utah Herpetological Association and herpetological experts from academia. The process has been very labor intensive. There has been more public involvement and more time spent on this rule than any other rule to this point.

Major changes include reorganization of the various sections. All of the general provisions are grouped together. There are 28 subsections to this rule. There are four new definitions: "COR", "pre-authorized COR", "propagation" and "wild population." There are two revised definitions, "captive bred" and "den".

In subsection 5, under threatened and endangered species, they have added the ability to possess a captive bred Eastern Indigo snake without a COR. See the rule for further details.

In subsection 13 a preauthorized COR for personal use is outlined with specifics. This is for controlled species only, including the creation criteria and issuance, limitations and reporting requirements. If there are more applicants than CORs, it would go to a draw. They anticipate that within two years they will bring the preauthorized COR table back for approval. In subsection 10, retroactive effect on possession is outlined, including provisions for issuing a COR when there are classification changes and reporting requirements. In subsection 17, the

Chief of the law enforcement section was added to the Certification Review Committee.

In subsections 21 and 22 collection methods are outlined. Prohibited collection methods include lethal methods and methods causing destruction of habitats. In subsection 22 collection and possession, or importation and possession of alive or dead amphibian or reptile for personal use is outlined. Imported species will not count toward possession limit. In subsection 22-2 salvage provisions for controlled and noncontrolled species is outlined and in subsection 22-3 handling provisions for controlled and noncontrolled species is outlined.

Section 26- Propagation of amphibians or reptiles, classification and specific rules for amphibians and reptiles, current possession limit, and the new rule implementation was discussed at length. (See Board packet for details)

Mr. Small asked if he needs a license to take bull frogs.

Ms. Wilson said no, but they must be dead when you take them from the location of collection.

Mr. Hamann asked about rattlesnake skin and rattles.

Ms. Wilson said all parts of the snake are prohibited for possession. On p. 31 of the rule, it does say carcass and parts may not be retained for personal use.

Ryan Hoyer asked if other rattlesnake species can be killed for human safety, or only the Great Basin.

Ms. Wilson said in rule, all other rattlesnakes are prohibited, so they are already prohibited from collection. The only exception to the rule is the Great Basin rattlesnake.

Mr. Smith said the same question about safety came up in the Northeastern RAC.

Mr. Bushman said the way the rule is written is that all rattlesnakes are prohibited for collection. Only the Great Basin rattler can be killed for safety reasons. If someone is looking at a self defense situation, they could not be prosecuted. Most of us know that anyone who wanders across a rattlesnake can go around it. If a rattlesnake is killed for any reason, you cannot keep any part of it.

RAC Recommendations

Southern - Mr. Small said they had a lot of discussion on this issue. The Division's recommendation passed 5 to 4 with the exception of removal of any penalty when in possession of dead rattlesnake parts. Most of the discussion centered around rattlesnakes, killing them and keeping their rattles. In general, the rule is quite technical and detailed, so there was discussion on the UTM requirements and playing with horned lizards verses keeping horned lizards.

Southeastern - Mr. Gilson said they voted unanimously in favor of the presentation.

Northeastern - Mr. Hamann said he is concerned about allowing protected wildlife to be taken and used for personal financial gain. This might not serve the wildlife or the people of the state very well. The rule is well thought out. They wanted to change the self defense part of the rule to include "any rattlesnake" and this was written in their motion which passed unanimously, including approval of the Division's recommendations.

Northern - Mr. Perkins said they had a substitute motion. They had public who was concerned about the same thing as the Northeastern RAC. A motion was made to this matter and it failed 6 to 3. The original motion carried 8 to 1, accepted as presented.

Central - Mr. Oswald said they had a lot of discussion. They passed four amendments to the proposed rule. (See RAC Motions) They passed the remainder of the proclamation and rule as presented unanimously.

Lunch break

Public Comment

Mark Hazel, a member of the Utah Herpetological Association addressed the Board. At their last meeting in October, they agreed that there would be more interaction before the Division came up with the final draft of the rule. The Division came up with the draft rule changes and gave them to UHA on January 15th. This did not give time for more interaction. They have eight points that they still would like addressed. Four of those need explanation and on the other five, they have difference of opinion on policy. They decided to try to awaken the RACs to the issues that still need attention. Several of the motions that were made by the Central RAC to amend the rule came from the eight points made by the UHA. (See Central RAC Motions) Mr. Hazel is in favor of the DWR's proposal to shift tricolor king snakes from prohibited to controlled for collection.

Ryan Hoyer, a member of the Utah Herpetological Association addressed the Board. He thanked Director Karpowitz for getting this process started and Mr. Donaldson keeping it going. He said it is a good rule and he is giving it his recommendation. This rule and all previous rules prohibit commercial collection of wild caught animals. We support this prohibition. The academies were involved in the first two discussions, but not thereafter. They would have been a great benefit. His largest reservation is regarding a new restriction on possession limits of wild caught snakes. Previous rules did not have possession limits. This is the first rule with possession limits. He does not know why, but it might be for enforcement issues. There was one discussion where this was discussed, but no decision was reached. Several regional biologists thought there should be a possession limit with no further explanation as to why. A law enforcement individual said he would like to have a possession limit, not for any biological reason, but for recreational purposes. Mr. Hoyer continued to quote from the minutes from the various discussions, pointing out that

there was no justification for these statements on possession limits.

Ray Tripp, a member of UHA addressed the Board. He has been keeping herps for 25 years. Commercialization is allowed in other states and countries. There is a need to bring in fresh genes from time to time when propagating snakes. Live collection is also necessary for research. When they are talking about keeping track and marking the off spring, the rule does not define how this should be done. If they use paint, the skin will shed off. If they break off the tail, it will grow back. Are there regulations for this subject?

Brian Eager with the UHA spoke to the Board. He said he appreciates the time and effort that has been put into the rule. He spoke in favor of limited take of these various species. Other states allow for much more liberal take than what is being proposed here. He discussed controlled species verses prohibitive species. In the controlled species, CORs could give the Division an idea of how much interest there is. All CORs go through the Salt Lake office, law enforcement and the regional supervisor of the specific region. The UHA wanted to go with the purchase of a license instead of the pre approved CORs. The COR limits those who can participate. The COR costs \$55 and that is what it would cost someone to take one animal. There is no commercialization of wild caught animals, only captive bred. On Tri-colored snakes, the primary survey method is road cruising late at night. This activity is highly subjective and very limited. 70 milk snakes were found from 2005-2006, 25 of them dead. He went on to discuss the areas where they were documented. The main benefits to the rule change are the handling clause and the salvage clause.

Board Discussion

Chairman Bowns summarized the RAC motions.

Mr. Howard said he is leaning towards allowing possession of dead rattlesnake parts. If there is a violation, it should be in the form of a warning.

Chairman Bowns said one RAC voted to allow keeping the carcass and another to remove the penalty.

The following motion was made by Lee Howard, seconded by Keele Johnson and passed three to two with Allan Smith and Rick Woodard opposed.

MOTION: I move that if a Great Basin rattlesnake is killed for safety purposes or found dead, you can possess the Great Basin rattlesnake without penalty.

Mr. Smith asked law enforcement how they would differentiate between safety situations and just blatantly killing snakes for parts. He suggested that this rule be applied to all rattlesnakes.

Mr. Fowlkes said it would be very difficult to enforce. It would have to be investigated in order to provide proof.

Mr. Smith said if it is going to be difficult to enforce, maybe we should remove the penalty.

Mr. Johnson said another problem is if you are bitten by a poisonous reptile, you want to take it into the doctor for identification.

Mr. Hamann said they proposed changing “Great Basin rattlesnake” to “rattlesnake” for situations where self defense is involved.

The following motion was made by Allan Smith, and seconded by Keele Johnson.

MOTION: I move that we change “Great Basin rattlesnake” to just “rattlesnake.”

No vote was taken.

Mr. Niemeyer said we should limit this to Great Basin rattlesnakes.

Ms. Wilson said there are six species of rattlesnakes in Utah. Five of these are found in Southern region. The Great Basin or the Diamondback is found all over Utah. The reason the Great Basin rattlesnake was listed as the snake you could kill for reasons of safety and keep it’s carcass is because that was the snake most people would encounter. What we are trying to do in this rule is change it that you could no longer keep the parts, which would then be consistent with the rule for all the other rattlesnakes. Northeast region made the motion that being able to kill them in self defense was the rule for all the rattlesnakes.

Mr. Howard said he does not believe that was their intent.

Mr. Hamann said the intent of the RAC was to go with the Division’s recommendation and make possession of the snake prohibited. Basically, by allowing the possession of a dead rattlesnake, you create a situation where people can go out and indiscriminately find rattlesnakes and kill and possess them. He explained that by the motion that the Board passed, they have made it legal to kill whatever snake you want. All they have to do is get a snake mad and they can kill it. Mr. Hamann said he is very concerned about this motion.

Mr. Hoyer asked what is the purpose of prohibiting take of the Great Basin rattlesnakes? Is there a reason that rattlesnakes can’t sustain some type of take? He referenced Pinker and Fitzgerald in a study published in 1998 regarding rattlesnake round ups and the massive harvests that occurred. The conclusion was that even with these massive round ups, the wild populations could sustain it.

Mr. Johnson said we need to educate the public on reasons not to kill snakes, instead of penalizing them for keeping rattlesnake parts. Most people do not interfere with rattlesnakes. He does not feel this is a serious problem. Rural minded people will not take to being told what to do with a rattlesnake. They will do whatever they want.

Chairman Bowns said they are dealing with the terminology of “Great Basin” versus “rattlesnake.”

Mr. Howard said we need to review Mr. Smith’s motion. Two of the RACs are in agreement with the Division.

Director Karpowitz clarified that there was a second to the motion, but no vote has been taken. This inadvertently came out of Northeastern RAC and Mr. Hamann made it clear that this was not their intent.

At this point Mr. Smith withdrew his motion.

Chairman Bowns then reviewed the amendments proposed by the Central RAC.

The following motion was made by Keele Johnson, seconded by Allan Smith and passed unanimously.

MOTION: I move to allow individuals photographing reptiles and amphibians to contain the animal in the safest manner for the animal and retaining the regulation requiring them to stay within 60 feet of where they capture it and releasing it within 15 minutes.

Mr. Howard asked Ms. Wilson about the Central RAC’s second amendment, relative to replacement of habitat.

Ms. Wilson read from the rule. “Destruction of habitat such as breaking apart rocks, logs or other shelters in or under the amphibian or reptile is prohibited.”

Chairman Bowns said what the Central RAC is proposing is that we encourage the above statement, but do not want it made mandatory.

The following motion was made by Lee Howard, seconded by Paul Niemeyer and passed unanimously.

MOTION: I move that we accept the remainder of the Amphibian/Reptile CIP Proclamation and Rule R657-53 as presented by the Division.

Mr. Woodard asked if this is a five-year rule.

Ms. Wilson said yes.

16) Wasatch Mountain Late hunt season change (Action)

Alan Clark, Assistant Director presented this issue on two convention permits. Last year we had this late Wasatch Mountain elk hunt, but now the Division has eliminated that late hunt. After talking to the hunters, we want to move these rifle permits to the early hunt. That is the only rifle hunt on the Wasatch Mountain. Both hunters were okay with this.

The following motion was made by Keele Johnson, seconded by Lee Howard and passed unanimously.

MOTION: I move that we move two late season permits on the Wasatch Mountains to the early season.

17) Variances (Action)

Request for Ida Ann Newby

Todd Newby presented the variance request for his mother, Ida Ann Newby. In 2002 she drew a limited entry elk permit on Mt. Dutton. She hunted the opening morning of the hunt. Later that same day her husband passed away due to a heart attack. Because of the sudden death of her spouse on the morning of September 14th, 2002, Mrs. Newby was unable to continue her hunt. She would like to extend this hunt to 2007. They have since then been made aware of the management bull hunt permits that are being made available.

Chairman Bowns pointed out that this was over four years ago.

Mr. Newby said his Mom is 63 years old. By the time she comes off the waiting period and gets enough points to draw a tag, she will most likely be too old to hunt. They were unaware of the variance process.

Ms. Tutorow said when this hunt took place, they had to contact the Division before the hunt starts. Since then, the Division has changed that to contacting the Division by the end of the hunt.

Mr. Smith said he would like to grant this variance, but is nervous about the fact that this occurred over four years ago. Would we be setting a precedence that could work against us in the future?

Mr. Howard said she did get the opportunity to hunt.

Chairman Bowns asked if there was an option to reinstate her bonus points.

Mr. Bushman said no.

The following motion was made by Keele Johnson and died for a lack of a second.

MOTION: I move that we approve this variance.

Request for Paul Havens

Paul Havens presented the variance request for himself. Because of illness/surgery, he did not recuperate in time to hunt. He explained the various difficulties he has had with his illness. He did go on the hunt, but was unable to get more than 20 feet from the jeep. He would like to request a variance to extend his hunt to 2007.

Chairman Bowns said his hunt was in 2005, back two years.

Mr. Niemeyer said that realizing the quality of the hunt was not very good, he still did hunt.

The following motion was made by Lee Howard, seconded by Paul Niemeyer and passed unanimously.

MOTION: I move that we deny Paul Haven's request for a variance.

Request for James R. Bell

James R. Bell presented his variance request to extend his West Desert/Deep Creek limited entry archery elk permit to 2007. Because of health issues James was unable to hunt on this permit. He explained his health problems that included a stroke and some recovery. Through therapy he is now hoping to be able to draw back 50 lbs by the 2007 archery elk season.

Mr. Howard asked Mr. Bell if he returned his tag.

Mr. Bell said no, but he does have it.

Mr. Niemeyer said he is going to recuse himself on this vote.

Mr. Smith said this truly was a medical problem in this case.

The following motion was made by Allan Smith and died for a lack of a second.

MOTION: I move that we grant the variance of James Bell.

Mr. Howard said we should consider the fact that we do not have the tag available and it has not been turned in.

The following motion was made by Lee Howard, seconded by Rick Woodard and passed three to one, with Allan Smith opposed.

MOTION: I move that we deny the variance of James Bell.

Request for Jesse T. Bullock

Ms. Tutorow presented the remaining three variances. First was the variance request of Jesse T Bullock. Jesse had a terrible experience with his hunt because of the severity of the fire. It was impossible to get to areas that he intended to hunt. He would like to request a variance to extend his Fillmore, Oak Creek archery buck deer hunt to 2007. (See his e-mail in Board packet for further details)

The following motion was made by Keele Johnson, seconded by Paul Niemeyer and passed unanimously.

MOTION: I move that we deny the variance request of Jesse T Bullock.

Request for Shawn Heward

Next was the variance request of Shawn Heward. There were several complicating factors in trying to gain access for this hunt unit because of misunderstanding with landowners. Ms. Tutorow read from his letter. Shaun would like to request a variance to extend this hunt for Chalk Creek/Private Lands Antlerless Moose to 2007.

Mr. Howard said if you read the proclamation it states that you should not apply for the Chalk Creek hunt if you do not have prior permission.

The following motion was made by Lee Howard, seconded by Keele Johnson and passed unanimously.

MOTION: I move that we deny the variance request of Shawn Heward.

Request for Cory R. McNeill

Next was the variance of Cory R. McNeill. He was unable to hunt on his permit due to a medical emergency. His son was in an automobile accident that resulted in multiple injuries, including severe head trauma. His son needed 24 hour supervision and more surgery on September 25th. His hunt started on September 27th. He would like to request a variance to extend his hunt to 2007. The permit was surrendered before the hunt.

The following motion was made by Allan Smith, seconded by Lee Howard and passed unanimously.

MOTION: I move that we grant the variance request for Cory R. McNeill.

This concluded the variance requests. Ms. Tutorow reported that the Division got through the bear application drawing. They received a few calls from bear hunters requesting help with the online application, and the Division employees gave them instructions over the phone. They are up 1,800 bear applications this year. They did take two applications over the phone who could not get access to a computer.

18) Other Business (Contingent)

A) Aerial surveys

Mr. Howard said he wanted some information on GRAMA requests and how survey information is handled.

Director Karpowitz commented on aerial surveys. He said that through the years they have received many requests for our aerial survey information on big game proclamations. If someone fills out a GRAMA request, we provide that information. Information falls into two categories, protected and unprotected. Virtually all of our wild game animals are unprotected except for big horn sheep ages of the rams. The reason for that is we feel it is important to maintain technical hunting and not provide hunters the exact age and location of a ram. We have protected just that one piece of information. If someone wants to see our big game survey data and there is not a season in progress, we are open to share this information. One thing we request is that they sign a GRAMA request form. It is a one page form and only takes a few minutes fill out. It gives us a record to protect the agency. Director Karpowitz said he would like to see the Division put this form on the website.

Mr. Howard asked for the specifics on the information that is given on these request forms.

Mr. Clark said state law makes it so we cannot share age class of rams. He showed these specifics to Mr. Howard from written statute.

Director Karpowitz said the reason for this is to protect hunters, since Boone and Crockett will not accept animals hunted with electronic devices or by aerial means. Giving age information of rams and location calls ethics into question.

Chairman Bowns asked Mr. Howard if he was satisfied with this explanation.

Mr. Howard said no. He would like to discuss this issue further at another meeting.

Mr. Johnson said rams on the San Juan move in about a 40 mile triangle. This probably has a lot to do with when the hunt is. During the rut they come into specific areas and a GPS would be more helpful then.

Director Karpowitz said that is all true. The hunt extends into mid-November when they settle into the rut areas. We fly these areas within a week or two of this time period. We do not want to provide information to direct a hunter specifically where an older age class ram is. We do not have any problem with general information, only on specifics.

Mr. Clark said he has samples of reports that are sent out to hunters. These reports have everything in them except the age of the rams.

Mr. Howard said another factor that plays into it, is the reports are not consistent. He wants to shorten the process and make it fair for everyone.

Director Karpowitz said the process takes three minutes to fill out a GRAMA request and after a reasonable amount of time and all the survey information is in, the state has ten business days to get the information out. He has had guides demand this information as he is stepping out of the helicopter. That is just not possible.

Mr. Woodard asked Mr. Howard what is his intent on this line of questioning. Is he trying to make it fair for all, or does he feel big rams should be published and not protected?

Mr. Howard said his theory is if individuals are only going to take a sheep once, in a lifetime, it does not make a lot of sense to restrict information.

Director Karpowitz said it is not a biological issue as much as an ethical issue. They look to help the general public remain ethical.

Ms. Tutorow said we need to revisit the Newby variance.

Bill Hales, a friend of the Newby family, addressed the Board. He said he does not know if four years is a lot of time to recover from the loss of a lifetime companion. Two years ago there was another law put in place to turn permits in by the end of the hunt. Ms. Newby is now ready to go out and hunt. She is unaware of the fact that her son is trying to obtain this variance. This needs to be taken care of with a motion. These situations need to be approached on a case-by-case basis.

Mr. Howard asked if we can give her the points back.

Ms. Tutorow said no, the only thing they can do is extend the permit.

Heather Newby said Mrs. Newby had the maximum points and put in for 22 years. She is never

going to draw a tag. Until she attended a recent RAC meeting, they did not know variances were even an option.

Mr. Niemeyer recused himself from the vote.

The following motion was made by Allan Smith, seconded by Keele Johnson with Keele Johnson, and Allan Smith in favor and Rick Woodard and Lee Howard opposed, 2 to 2 tie vote. Chairman Bowns broke the tie in favor of the motion.

MOTION: I move that we grant the variance request for Ida Ann Newby.

Mr. Niemeyer asked if there is a record of bonus points history and when hunts were applied for.

Director Karpowitz said the burden of proof on bonus points and applications should be with the hunter.

Ms. Tutorow said they have created bonus point files on every hunter that calls. What that has led to is every hunter wants their bonus points reviewed and they do not have enough time to do this. We have an online system where a hunter can look up their history.

The meeting was then adjourned.