

MEMO

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TO: Ty Gray, Director

FROM: Jim deVos, Assistant Director, Wildlife Management Division 

PRESENTER: Josh Avey, Terrestrial Wildlife Branch Chief

TITLE: Consideration of Proposed Commission Orders 25, 41, 42, and 43 for the 2021-2025 Hunting Seasons.

DESCRIPTION: The Commission will consider and may vote to approve Commission Order 25 (raptors), Commission Order 41 (amphibians), Commission Order 42 (crustaceans and mollusks) and Commission Order 43 (reptiles) establishing seasons and season dates, bag and possession limits, and open-closed areas.

Date: June 26, 2020

Summary:

The Department is recommending seasons, season dates, bag and possession limits, and open-closed areas for Commission Orders 25 (Raptors), Commission Order 41 (amphibians), Commission Order 42 (crustaceans and mollusks), and Commission Order 43 (reptiles) for 2021-2025 hunting seasons, provided in the attached Commission orders.

From April through May 2020, the Department received comments from stakeholders, other government agencies, and Department employees for proposed changes to Commission Orders 25 (raptors), 41 (amphibians), 42 (crustaceans and mollusks), and 43 (reptiles). We evaluated all comments with regard to current rules, regulations, and Department conservation priorities. Individual Orders are addressed separately below.

Commission Order 25 – Raptors

In May 2020, the Department brought forward two recommendations for public comment:

1. Update all the dates accordingly.
2. Approve Commission Order 25 on a five-year cycle.

During the 30-day comment period, the Department received nine public comments on Commission Order 25.

One comment expressed concern for repeated harvest of peregrine falcon eyas (nestlings) and increased coordination: “The Apache-Sitgreaves National Forest (NF) is the only NF that has comments/or concerns associated with raptors in the Commission Orders. As a Forest Sensitive Species the Peregrine falcon is monitored and has protections for this species on the Apache-Sitgreaves. The NF feels that increased coordination is needed in monitoring and protection efforts. The NF also has biological concerns related to the collection of Peregrine falcons from the same nest year after year. If you have any questions please email or call my cell phone. Jack Williams, Assistant TES Program Leader.”

Two comments were against authorization of any raptor harvest for use in falconry: (1) “Please don’t allow any hunting of these birds. We need our wildlife to flourish. This was their land, not ours. Thank You, Barbara Cannon; (2) “I cannot fathom the taking of chicks from the wild, of our Arizona predators, for sport or recreation. I am appalled by such a program and will be looking into social media campaigns in the future, to limit your retail exploitation of the assets that make Arizona Great. James Fiemann.”

The Arizona Falconer’s Association (AFA) drafted a seven page document requesting thirteen additional changes to Commission Order 25: (1) Year round eyas season; (2) Year round passage (raptor capable of flight and hunting, but less than one year of age) season; (3) To maintain the status quo for passage and adult kestrels, great horned owls, and western screech owls; (4) To maintain the status quo for peregrine falcons pending any changes in federal restrictions; (5) AFA requests that the starting date for eyas goshawks be changed to align with other eyas take in Arizona; (6) The AFA requests the geographic restrictions to the harvest of goshawks be removed; (7) The AFA requests the AZGFD do a population assessment on whiskered screech owls in Arizona, and consider lifting this restriction if the assessment warrants such a move; (8) The AFA requests the geographic restriction to the harvest of passage ferruginous hawks be lifted. We suggest a quota of 5 ferruginous hawks a year, provided the take numbers are assessed after 5 years. If at that time average annual take is below the quota, then the quota should be lifted and take should be monitored for the foreseeable future; (9) The AFA requests the geographic restriction on the harvest of Harris’s hawks be removed; (10) The AFA requests that the resident quota of 30 Harris’ hawks be lifted at this time, and that the Department monitor take each year to ascertain whether the quota needs to be reinstated in the future; (11) The AFA requests the Department allow a take of eyas ferruginous hawks. We suggest a quota of 5 ferruginous hawks a year, provided the take numbers are assessed after 5 years. If at that time average annual take is below the quota, then the quota should be lifted and take should be monitored for the foreseeable future; (12) AFA requests the Department allow a resident take of passage and eyas gray hawks and crested caracaras. We suggest a quota of 5 a year for each species, provided the take numbers are assessed after 5 years. If at that time average annual take is below the quota, then the quota should be lifted and take should be monitored for the foreseeable future; and (13) The AFA requests the addition of a passage peregrine falcon take.

Four comments supported the AFA requested changes and/or mirrored specific requests made by the AFA: (1) As part of a three page comment on Article 4, Charlie Kaiser commented that “The quota system should be removed for the Harris’ hawk. It provides no benefit to the wild resource and inappropriately increases Department costs and resource utilization. There is no biological

justification to keep this system in place. If, at some point in the future, populations or take levels change, CO25 can be modified to reflect any required restrictions, the same way that it can be modified for any other species. Allowing unnecessary restrictions without biological justification is bad “science” and bad management. It is time to remove this unnecessary restriction.”; (2) “I am writing concerning the proposed Order 25: taking raptors for falconry. I encourage the Commission members to follow the research and reduce the unnecessary, plus costly restrictions on the take of raptors in our state. I support the Arizona Falconer’s proposal on Commission Order 25 submitted May 19, 2020. Thank you, Harry McElroy”; (3) “I am writing to comment on the proposed Commission Order 25 that governs raptor take in Arizona. As a licensed Arizona falconer I would like to see biologically appropriate raptor take that allows greater access at appropriate times of the year. The USFWS has three times reached a “Finding of No Significant Impact” regarding raptor take by falconers. To that end I strongly support the Commission Order 25 proposal submitted by the Arizona Falconer’s Association on May 19, 2020. Regards, Kenneth Kowalski”; (4) “There are a couple items in commission order 25 that should change. The first thing is the capture season for eyas take. There is no biological reason for restricting take on any eyas raptors that is legal for falconry. The restriction is meritless and results in falconers not obtaining an eyas at an age they want for reasons they deem important. As most biologist would agree an eyas is an eyas is an eyas, it matters little the date they are harvested. An example would be a pair of cooper’s hawk that had young in the nest in February No reason whatsoever that these should not be available to falconers. Year round eyas take should be the new rule. Passage Goshawks, Harris Hawks should also be made available year round ... for the same reason. One other nonsensical rule is the setting up of a banding appointment prior to capturing a bird. It seems a bit of waste of time for all involved when the falconer, in a lot of cases, doesn’t really know the outcome of the pursuit. A lot more sense would be to wait until the raptor is in hand. Thanks for reviewing these ... hopefully changes will be made. Mike Marks”.

The final comment was a one page email from Joan Morrison; “As a research biologist who has studied the Northern Crested Caracara for more than 25 years in both Florida and Arizona, I wish to strongly oppose any take of this species by falconers in Arizona.”

The first three comments did not provide any specific recommendations that would improve or enhance this Commission Order. Falconry harvest levels are regulated through Commission Order 25 and monitored to ensure that negative impacts to wild populations are avoided. There were no comments opposing Department proposed changes to Commission Order 25. Additional recommendations are discussed below.

No requests for formal public meetings were received by the Department; however, staff scheduled meetings with the AFA on June 22 and June 26 to review AFA requested changes and the Department’s recommendations for addressing the AFA’s requests, where feasible.

Additional Recommendations from the Public Comment Period

Request 1: Year round eyas season.

The Department discussed the purpose for an eyas take season was to guide falconers to the season start date when eyas birds would be available on the landscape. The Department acknowledges that some harvestable raptor species or individual pairs may already have or in the future shift their nesting cycle to earlier in the year. Without continually evaluating and shifting eyas take windows within Commission Order 25 to match changing nesting chronologies, eyas harvest opportunities may be unnecessarily and unintentionally restricted. The Department agrees that a year-round eyas season is appropriate as the nesting chronology of nesting pairs will determine when eyas raptors are available.

The Department recommends approval of this request with the exception of eyas peregrine falcons as limited by federal regulation.

Request 2: Year round passage season.

The Department discussed the purpose of the passage take season was to limit the potential for take of passage raptor species in their first year during the breeding season. This is important as some raptor species may breed in the first year [prairie falcons, Cooper's hawks, American kestrels, Northern Goshawks (1-4 yrs, usually beyond year 1)]. Harris' hawks hunt as family units with previous year's young assisting with provisioning for subsequent broods. Species such as red-tailed hawks (2-3 years) and sharp-shinned hawks (2-years) may be viable for year-round passage take as they do not breed or participate in breeding activities as they approach 1 year of age.

Due to the ethical and biological concerns with the potential for harvest of species that may be actively breeding at age one and could result in the loss of an active nest with young, the Department recommends limited expansion of passage season to year-round for red-tailed hawks and sharp-shinned hawks which do not breed at age 1.

Request 3: To maintain the status quo for passage and adult kestrels, great horned owls, and western screech owls.

The Department agrees.

Request 4: To maintain the status quo for peregrine falcons pending any changes in federal restrictions.

The Department agrees.

Request 5: AFA requests that the starting date for eyas goshawks be changed to align with other eyas take in Arizona.

With the approval of Request 1 to transition to year-round eyas harvest, this request has been addressed.

Request 6: The AFA requests the geographic restrictions to the harvest of goshawks be removed.

The Department discussed the purpose for the geographic restrictions on harvest of Northern goshawks south of the Gila River as being in place for a variety of reasons. The Northern goshawks in the sky island habitats south of the Gila River are part of a continued and unresolved debate on if they should be considered a subspecies (Apache goshawk). A 2008 dissertation on Northern goshawk genetics found the following: “As noted above, it has been suggested that goshawk populations in Mexico and Southeast Arizona constitute a unique subspecies, the Apache Goshawk (*A. g. apache*). Our data do not support or reject sub-specific status; however, our data point to geographic isolation of goshawks in the Arizona Sky Islands from sympatric populations to the North.” Given the unresolved subspecies status and apparent genetic isolation from populations to the north of the Sky Islands, available biological information supports treatment of the Northern goshawk population south of the Gila River as isolated. As such, this population would need to be documented as large enough to support falconry harvest. The Department funded a Heritage Grant Project to evaluate the Northern Goshawk population in Southeastern Arizona from 1993-1994. That 2-year study (Snyder 1995) surveyed 28,722 acres while assessing status of all known historical northern goshawk territories. Of known historical territories (62), 39% were occupied during at least one of the two years with average productivity of 1.0-1.2 fledglings/occupied territory (14 occupied in 1993, 15 occupied in 1994). Millsap and Allen (2006) identified recommended maximum harvest as 5% of productivity for Northern goshawks. Based on this information, the Department would need to identify that there are currently 20 occupied territories with a productivity rate of at least 1.0 fledglings/occupied territory south of the Gila River to support the harvest of 1 eyas annually (1 falconry eyas harvest/5% harvest rate/1.0 Productivity rate=20 Occupied territories). The Northern goshawk breeding population in southeastern Arizona would need to have increased by 25% over the last 25 years in spite of the major wildfires in Northern goshawk habitats during that time. In order to approve limited falconry harvest of eyas Northern goshawks south of the Gila River, the Department would need to assess the current Northern goshawk population status south of the Gila River. Demand for Northern goshawk take is currently low at 1.3 per year and fully supported by harvest opportunities north of the Gila River.

The Department recommends maintaining the geographic restriction for Northern goshawk harvest.

Request 7: The AFA requests the AZGFD do a population assessment on whiskered screech owls in Arizona, and consider lifting this restriction if the assessment warrants such a move.

The Department discussed the purpose of the geographical restriction on harvest of Western screech owls is to protect falconers from unintentional and unauthorized harvest of the physically similar whiskered screech owl. Distinction between the two species can only be made through differing calls as opposed to physical differences. There is geographic overlap between these two species distribution limited to Sonoran Desert habitats above 2,500 ft elevation in Pima, Pinal, Graham, Santa Cruz, and Cochise counties. Outside of this geographic overlap, Western screech owls have broad distribution across Arizona providing ample opportunity for falconry harvest across the state. Current demand for Western screech owls for use in falconry is exceedingly low at ~0.5 owls harvested per year.

In order to lift this geographical restriction, the Commission would need to approve harvest of both whiskered and Western screech owl species. Harvest of whiskered or western screech owls within those counties (harvest is reported at the county scale) would need to be limited by the number of individuals that the whiskered screech owl population could support at 1% of annual productivity (derived from Millsap and Allen, 2006). The end result would be a potentially significant restriction on Western screech owl harvest opportunity in Pima, Pinal, Graham, Santa Cruz, and Cochise counties as allowable harvest would be limited by the less abundant whiskered screech owl populations. It is estimated that 53 occupied whiskered screech owl territories would be needed to allow for the harvest of 1 eyas screech owl within those counties.

The Department recommends maintaining the geographic restriction for harvest of Western screech owls.

Request 8: The AFA requests the geographic restriction to the harvest of passage ferruginous hawks be lifted. We suggest a quota of 5 ferruginous hawks a year, provided the take numbers are assessed after 5 years. If at that time average annual take is below the quota, then the quota should be lifted and take should be monitored for the foreseeable future.

The Department discussed the purpose of the geographic restriction on harvest of ferruginous hawks being in place to minimize the potential for harvest of Arizona origin passage individuals and maximize the potential for harvest of individuals migrating to and through Arizona from more abundant breeding populations to the north. Only 16 ferruginous hawk territories have been documented in the history of HDMS data compilation. Harvest from Arizona origin eyas and/or passage ferruginous hawks (within AZ breeding range) would be limited to 1% of annual productivity (Millsap and Allen, 2006). The productivity rate of ferruginous hawks in Arizona is undocumented, but studies in Utah indicate productivity rates of 0.5-0.6 fledglings/occupied territory. Studies in Colorado similarly indicated productivity rates of 0.5-0.8, although a 1991 study documented productivity as high as 3.5 in Colorado. Optimistically using a 1.5 productivity rate estimate, the Department would need to document an estimated 67 occupied ferruginous hawk territories in Arizona with a minimum average productivity rate of 1.5 fledglings per occupied territory to allow for the harvest of 1 Arizona origin eyas or passage ferruginous hawk. By restricting passage harvest to areas geographically outside the breeding range in Arizona, the Department is minimizing, but not eliminating, the risk of overharvesting Arizona origin ferruginous hawks. The Department has historically been willing to accept this reduced risk in order to provide some opportunity for ferruginous hawk passage harvest in Arizona.

The Department recommends maintaining the geographic restriction for passage ferruginous hawk harvest.

Request 9: The AFA requests the geographic restriction on the harvest of Harris's hawks be removed.

The Department discussed the purpose of the geographic restrictions for harvest of Harris' hawks in Yuma and La Paz counties due to a small breeding population. The population of Harris' hawks in Yuma and La Paz counties was regionally extirpated by 1961. In 1978, a ten year reintroduction effort released over 100 individuals back into the area, but populations quickly

declined once that effort ended. Today, breeding Harris' hawks in those counties are likely remnants of those earlier reintroduction efforts. In order to authorize harvest of Harris' hawks in Yuma and La Paz counties, the Department would need to assess the breeding population size and productivity rates within that region and set a regional harvest limit accordingly. Currently, the Department is meeting the demand for Harris' hawks in the more abundant population elsewhere in the state.

The Department recommends maintaining the geographic restriction for Harris's hawk harvest.

Request 10: The AFA requests that the resident quota of 30 Harris' hawks be lifted at this time, and that the Department monitor take each year to ascertain whether the quota needs to be reinstated in the future.

The Department discussed the utilization of a quota system to manage the harvest rates of Harris's hawks for resident falconers (30 quota limit) and a permit system for non-residents (10 permits). The Department conducted a 2-year population assessment for Harris's hawks in 2013-2014, excluding Yuma and La Paz counties. The results of that study supported a maximum annual harvest of 37 Harris's hawks annually. In 2019, combined resident/non-resident Harris's hawk harvest reached the highest levels to date with 34 Harris' hawks harvested (92% of maximum allowable harvest). With falconry harvest approaching the maximum harvest limits, it remains prudent for the Department to maintain the resident quota and non-resident permit systems to ensure that over harvest of Arizona's Harris' hawk population does not occur.

The Department recommends maintaining the current quota/draw system for the Harris's hawk harvest.

Request 11: The AFA requests the Department allow a take of eyas ferruginous hawks. We suggest a quota of 5 ferruginous hawks a year, provided the take numbers are assessed after 5 years. If at that time average annual take is below the quota, then the quota should be lifted and take should be monitored for the foreseeable future.

Refer to comments on item 8 above. It is important to recognize that the FONSI for falconry is based on passage and eyas harvest rates being below the maximum sustained harvest rates identified for each species within Millsap and Allen, 2006. For ferruginous hawks, the maximum sustainable harvest rate is 1% of annual productivity.

The Department recommends maintaining the restriction of eyas ferruginous hawk harvest.

Request 12: AFA requests the Department allow a resident take of passage and eyas gray hawks and crested caracaras. We suggest a quota of 5 a year for each species, provided the take numbers are assessed after 5 years. If at that time average annual take is below the quota, then the quota should be lifted and take should be monitored for the foreseeable future.

Commission Order 25 does not include an open season for harvest of grey hawks or crested caracaras. These are two species without a history of falconry harvest in Arizona and were not evaluated for demographic ability to sustain falconry harvest (Millsap and Allen, 2006). For both

of these species, the northern extent of their range includes southern Arizona. As is common at the extreme of a species' range, the breeding population numbers have been historically low in Arizona.

For grey hawks, sightings of the species and breeding records have indicated continued expansion of species distribution across south-central Arizona. There has not, however, been a concerted effort to quantify current distribution, breeding densities, and population size for this species across its range in Arizona. A recent study of gray hawks along the San Pedro River documented 70 individual territories with an average productivity of 1.37 nestlings/occupied territory. With productivity rates of 1.37 and a 1% harvest threshold, the known breeding gray hawk population would need to contain 365 occupied breeding territories to allow for the harvest of 5 eyas or passage individuals annually. A search of available Department data for recent gray hawk breeding activity (within last 10 years) yielded an additional 5 territories outside of the San Pedro study area. The total documented breeding population of 75 territories with a productivity rate of 1.37 nestlings/occupied territory supports harvest of 1 eyas or passage gray hawk annually.

The Department recommends providing the opportunity for falconry harvest of 1 eyas or passage gray hawk annually.

For crested caracara, a public comment argued against inclusion of crested caracara for use in falconry. There is also a question of the suitability of this species for use in falconry. In Arizona, the breeding and migratory populations in Arizona inhabit geographically overlapping areas (unlike ferruginous hawks). With this overlap, the Department would need to authorize harvest based on the documented Arizona breeding population and associated productivity rates. Assuming productivity rates similar to the Florida population (1.71 fledglings/occupied territory) and a 1% annual productivity harvest threshold (derived from Millsap and Allen, 2006), the Department would need to identify 59 occupied territories with a minimum productivity of 1.71 fledglings/occupied territory prior to authorizing falconry harvest of 1 eyas or passage crested caracara (293 occupied territories for a harvest threshold of 5 annually). There are only ~11 crested caracara territories documented within the Department's Heritage Data Management System on non-tribal lands.

The Department recommends not opening falconry harvest to include crested caracaras.

Request 13: The AFA requests the addition of a passage peregrine falcon take.

The Department agreed that the addition of passage peregrine falcon take is a desired harvest opportunity that the Department will evaluate if the Federal restrictions on passage peregrine harvest allows.

Remove the requirement to "contact one of the Department's Regional Falconry Permit Coordinators prior to your hunt to schedule an appointment for banding."

The Department discussed the purpose of this note is to ensure that Department staff are available for banding of Harris's hawks, northern goshawks, and peregrine falcons during normal

business hours. This is particularly important when these species are harvested by non-resident falconers with limited time in Arizona.

The Department recommends specifying that non-residents falconers are to schedule an appointment prior to their hunt.

The Department recommends the following with regard to Commission Order 25 for 2021-2025:

1. Update the dates accordingly.
2. Approve Commission Order 25 on a five-year cycle.
3. Move falconry draw to the Spring draw cycle to accommodate year-round eyas harvest.
4. Expand eyas harvest for all species to year round, except for peregrine falcons.
5. Expand passage harvest to year round for red-tailed hawks and sharp-shinned hawks.
6. Add harvest of 1 eyas or passage gray hawk annually.
7. Amend Note 5 to specifically request that non-resident falconers schedule a banding appointment prior to their hunt.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE COMMISSION ORDER 25 – RAPTORS FOR 2021 THROUGH 2025 SEASONS AS PROPOSED.**

Commission Order 41 – Amphibians

During the 30-day public comment period, three external comments were received on recommended changes for the 2021 Commission Order 41: (1) “Please don’t let reptiles or any wildlife be killed. This is their land. Thank you, Barbara Cannon.” (2) “There are no comments/or concerns for any National Forests associated with the Commission Orders associated with amphibians or reptiles.” (Jack Williams, Assistant TES Program Leader, Forest Service, Southwestern Regional Office). (3) “I am responding to proposed commission order change for amphibian/reptile regulations. There is this wording in the current regs. Is this still needed? I think it ties back to the days when Gila trout were stocked in Gap Creek. Your thoughts to remove. Also, is this regulation appropriate for Grapevine Creek?” (Albert Sillas, Fishery Biologist, Prescott National Forest).

The first comment does not provide any specific recommendations that would improve or enhance this Commission Order. Mr. Sillas’ question referred to Note 7 “Amphibians may not be taken at any time (or during periods specified) within the following areas:” part (6), closure of Gap Creek to take of amphibians. Note 7 is linked to fishing regulations (CO 40) and cannot be changed at this time.

The Department recommends the following with regard to Commission Order 41 for 2021-2025:

1. Update the dates accordingly.
2. Approve Commission Order 41 on a five-year cycle.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE COMMISSION ORDER 41 – AMPHIBIANS FOR 2021 THROUGH 2025 SEASONS AS PROPOSED.**

Commission Order 42 – Crustaceans and Mollusks

During the 30-day public comment period, two external comments were received on recommended changes for the 2021 Commission Order 42: (1) “Please do not allow hunting/fishing of crustaceans and mollusks. Surely they provide food for other creatures. We need our wildlife. Let's not kill them off. This was their land, not ours. Let them live and thrive. Thank you, Barbara Cannon.” (2) “There are no comments/or concerns for any National Forests associated with the Commission Orders associated with crustaceans and mollusks.” (Jack Williams, Assistant TES Program Leader, Forest Service, Southwestern Regional Office).

The first comment does not provide any specific recommendations that would improve or enhance this Commission Order. The general opinion provided in this comment is counter to appropriate wildlife management goals for crustaceans and mollusks in Arizona. Rare and at-risk species of mollusks are still managed and protected by closed seasons within this Commission Order. Without allowing the public to harvest crayfish under valid State fishing licenses we would lose the contributions of the public to help reduce these invasive species within many of our waters.

The Department recommends the following with regard to Commission Order 42 for 2021-2025:

1. Update the dates accordingly.
2. Approve Commission Order 42 on a five-year cycle.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE COMMISSION ORDER 42 – CRUSTACEANS AND MOLLUSKS FOR 2021 THROUGH 2025 SEASONS AS PROPOSED.**

Commission Order 43 – Reptiles

During the 30-day public comment period, three external comments were received on recommended changes for the 2021 Commission Order 43: (1) “Please don’t let reptiles or any wildlife be killed. This is their land. Thank you, Barbara Cannon.” (2) “There are no comments/or concerns for any National Forests associated with the Commission Orders associated with amphibians or reptiles.” (Jack Williams, Assistant TES Program Leader, Forest Service, Southwestern Regional Office). (3) “I am responding to proposed commission order change for amphibian/reptile regulations. There is this wording in the current regs. Is this still needed? I think it ties back to the days when Gila trout were stocked in Gap Creek. Your

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thoughts to remove. Also, is this regulation appropriate for Grapevine Creek?” (Albert Sillas, Fishery Biologist, Prescott National Forest).

The first comment does not provide any specific recommendations that would improve or enhance this Commission Order. Mr. Sillas’ question referred to Note 7 “Turtles may not be taken at any time (or during periods specified) within the following areas:” part (6), closure of Gap Creek to take of turtles. Note 7 is linked to fishing regulations (CO 40) and cannot be changed at this time.

The Department recommends the following with regard to Commission Order 43 for 2021-2025:

1. Update the dates accordingly.
2. Approve Commission Order 43 on a five year cycle.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE COMMISSION ORDER 43 – REPTILES FOR 2021 THROUGH 2025 SEASONS AS PROPOSED.**