

Exhibit 1

Table E-5, Executive Summary, Arkansas River Navigation Study Final Feasibility Study.
(August 2005)

Table E-5. Components of Decision Alternatives				
	Navigation Channel Maintenance*	Flow Management Operations Only	Navigation Channel Deepening 11 Ft.	Navigation Channel Deepening 12 Ft.
Alternative A No Action (Dredge disposal sites approved in 1974)	X			
Alternative B Maintenance Only (New dredge disposal sites including those in-stream)	X			
Alternative C Maintenance & Ops Only Flow Management	X	X		
Alternative D Maintenance & Ops Only Flow Management & 11 Foot Navigation Channel	X	X	X	
Alternative E Maintenance & Ops Only Flow Management & 12 Foot Navigation Channel	X	X		X
<p>* Navigation channel maintenance activities would occur in the same manner under Alternatives B, C, D, and E. The Navigation channel depth to be maintained would be 9 feet for Alternatives A, B and C, 11 feet for Alternative D, and 12 feet for Alternative E. <i>Source: USACE 2005</i></p>				

Exhibit 2

Table E-7, Executive Summary, Arkansas River Navigation Study Final Feasibility Study.
(August 2005)

Table E-7. Summary of Incremental Net Benefits and Costs			
Alternative D			
Average Annual Equivalent Values (July 2004 \$)			
5.375% Discount Rate, 50-year Period of Analysis			
	Flow Management Operations	Channel Deepening 11'	Alternative D
Period of Analysis (years)	50	50	
Construction Period (years)	1	4	
Interest Rate (percent)	5.375%	5.375%	
Project First Costs¹	\$0	\$123,356,100	\$123,356,100
Interest During Construction	0	13,568,500	\$13,568,500
Associated Non-Federal Requirements:			
Local Facilities	0	530,000	\$530,000
Local Facilities IDC	0	58,300	\$58,300
Total Project Cost	\$0	\$137,512,900	\$137,512,900
Annual Costs:			
Interest	0	\$7,391,300	\$7,391,300
Amortization	0	581,800	\$581,800
Operations & Maintenance	0	2,234,100	\$2,234,100
Total Annual Costs	\$0	\$10,207,200	\$10,207,200
Annual Benefits²:			
Navigation	8,372,100	10,173,500	\$18,545,600
Recreation	0	0	\$0
Hydropower	466,000	0	\$466,000
Non-Ag. Property Damage			
Oklahoma	0	0	\$0
Arkansas	(\$17,100)	0	(\$17,100)
Recreation Facilities OK	(\$5,500)	0	(\$5,500)
Recreation Facilities AR	4,000	0	\$4,000
Ag. Property Damages			
Oklahoma	0	0	\$0
Arkansas	(\$18,800)	0	(\$18,800)
Total Annual Benefits	\$8,800,700	\$10,173,500	\$18,974,200
Incremental Net Benefits for Components	\$8,800,700	(\$33,700)	
Incremental Net Benefits for Alt. D over Alt. B			\$8,767,000
Incremental Benefit-to-Cost Ratio for Components	incalculable	0.99	
Benefit-to-Cost Ratio for Alt. D over Alt. B			1.9
¹ Incremental Costs - costs in addition to those existing under Alternative B.			
² Incremental Benefits - benefits in addition to those existing under Alternative B.			
Source: USACE, Tulsa and Little Rock Districts, Hydropower Analysis Center, Parsons.			

Exhibit 3

Table E-8, Executive Summary, Arkansas River Navigation Study Final Feasibility Study.
(August 2005)

Table E-8. Summary of Incremental Net Benefits and Costs			
Alternative E			
Average Annual Equivalent Values (July 2004 \$)			
5.375% Discount Rate, 50-year Period of Analysis			
	Flow Management Operations	Channel Deepening 12'	Alternative E
Period of Analysis (years)	50	50	
Construction Period (years)	1	4	
Interest Rate (percent)	5.375%	5.375%	
Project First Costs¹	\$0	\$148,966,200	\$148,966,200
Interest During Construction	0	16,385,400	\$16,385,400
Associated Non-Federal Requirements:			
Local Facilities	0	961,200	\$961,200
Local Facilities IDC	0	105,700	\$105,700
Total Project Cost	\$0	\$166,418,500	\$166,418,500
Annual Costs:			
Interest	0	\$8,945,000	\$8,945,000
Amortization	0	704,100	\$704,100
Operations & Maintenance	0	2,823,700	\$2,823,700
Total Annual Costs	\$0	\$12,472,800	\$12,472,800
Annual Benefits²:			
Navigation	8,372,100	\$13,482,600	\$21,854,700
Recreation	0	0	\$0
Hydropower	466,000	0	\$466,000
Non-Ag. Property Damage			
Oklahoma	0	0	\$0
Arkansas	(\$17,100)	0	(\$17,100)
Recreation Facilities OK	(\$5,500)	0	(\$5,500)
Recreation Facilities AR	4,000	0	\$4,000
Ag. Property Damages			
Oklahoma	0	0	\$0
Arkansas	(\$18,800)	0	(\$18,800)
Total Annual Benefits	\$8,800,700	\$13,482,600	\$22,283,300
Incremental Net Benefits for Components	\$8,800,700	\$1,009,800	
Incremental Net Benefits for Alt. E over Alt. B			\$9,810,500
Incremental Benefit-to-Cost Ratio for Components	incalculable	1.08	
Benefit-to-Cost Ratio for Alt. E over Alt. B			1.8
¹ Incremental Costs - costs in addition to those existing under Alternative B.			
² Incremental Benefits - benefits in addition to those existing under Alternative B.			
Source: USACE, Tulsa and Little Rock Districts, Hydropower Analysis Center, Parsons.			



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June 16, 2006

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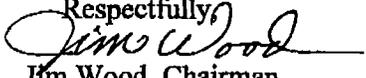
Re: Data Quality Act Petition
AR River Navigation Study, McClellan-Kerr AR River Navigation System
Arkansas and Oklahoma.

Dear General Strock,

Please find enclosed a "Petition for Correction of Information" filed pursuant to the Data Quality Act of 2000. The Arkansas Wildlife Federation is challenging US Army Corps of Engineer findings, accounting methodology, NEPA compliance, narrative conclusions and accuracy of data relied upon to develop an Environmental Impact Statement, Feasibility Study and 9-27-05 Record of Decision on the above Navigation Study. This Study began as an effort to solve AR River flow regime/flood related problems and a later separate parallel Study would search out solutions for improving low Navigation demand problems. But through pre study authorization in 2003, produced by special navigation interest lobbying and key political donations, COE chose to combine both unrelated Studies into justifying the already made 12' channel authorization through employing an analysis that screened out equal consideration of non structural solutions.

AWF does not lightly or casually challenge results or methods used in this Study that cost taxpayers \$9.4 million, consumed 5 years, and affects resource trade-offs on 445 miles of MKARNS and numerous tributary projects. However, we conclude that strategy for developing documentation for this Study fails compliance with NEPA, Agency's own Engineering Planning Regulations and Data Quality Act, while COE declares otherwise.

The Petition seeks various information correction and cost/benefit reanalysis of specific accounting methods. Thank you for giving this your serious consideration. We look forward to your response.

Respectfully,

Jim Wood, Chairman
AR River Study Committee

Encls.

Cc Dr. Linton Wells
Chief Information Officer
Department of Defense

Dr. John Graham, OMB
Office of Information and Regulatory Affairs

James L. Connaughton, Chairman
Council on Environmental Quality

Data Quality Act Petition
McClellan-Kerr AR River Study

February 10, 2003, *Ensuring Quality of Information Disseminated to the Public by the Department of Defense*, Arkansas Wildlife Federation hereby requests corrections to specific information, data and conclusions included in the documents entitled *McClellan-Kerr Arkansas River Navigation Study Final Environmental Impact Statement* and *McClellan-Kerr Arkansas River Navigation System Final Feasibility Report and Record of Decision Arkansas River Navigation Study McClellan-Kerr Arkansas River Navigation System Arkansas and Oklahoma*, and Record of Decision signed September 27, 2005 by MG Don Riley, Director of Civil Works.

BACKGROUND INTRODUCTION

Some property owners adjacent to the Arkansas River near Ft. Smith successfully prosecuted flood damage claims against the US Army Corps of Engineers in the 1980's, alleging that the Agency's McClellan-Kerr AR River Navigation System water management regime for controlling upstream flows out of Oklahoma created flooding downstream to lands in AR which resulted in a "takings without compensation" situation to their property in violation of Amendment 5 of the US Constitution. COE responded by developing a AR River Land Impact Study and EA in January 1990 which found operation of MKARNS was impacting to flood more lands and for longer duration than pre project (Enc 1), and 49,410 acres of private lands were being impacted for which COE did not have rights to flood. Barge and Port interests then asked that navigation improvement also be included in the study, primarily limited to analyzing deepening the existing 9' channel to 12'. September 1999 a Reconnaissance Study was completed and Congress appropriated \$1 million to begin the study. Corps concluded that solving

Data Quality Act Petition
McClellan-Kerr AR River Study

flooding problems called for non-structural flow modifications, which was unrelated to channel depth, and for which COE already had management authority and need not seek additional Congressional approval or authorization. Navigation channel deepening to 12' though was a new structural proposal, thus requiring congressional authorization. Flow Regime and Navigation improvement were to be NEPA documented concurrently as unrelated separate, stand-alone actions, each Phase having it's own EIS and ROD (Enc 2). Flow Regime studies began with a August 23, 2000 NOI (Enc 3) and Navigation Study had a 5-31-02 NOI with the first Navigation Phase scoping meeting in May 2003. Through paid lobbyist (Enc 4), and purchasing congressional influence (Enc 5), navigation interests got earmarked into PL 108-137 (Enc 6) "authorization for construction" of a 3' deeper 12' channel throughout MKARNS while NEPA Process scoping was barely underway. Early modeling and cost accounting working documents reflected unfavorable B/C ratios (ENC 7) while separate flow regime studies were showing \$8.8 million annual benefits at "0" cost. COE declared "lower MS River's authorized 12' channel to be the industry standard" but produces no data evidence to support this assumption. On July 16, 2004 COE issued a Revision of the Scope NOI (Enc 8) combining both studies in a strategy to shift unrelated no-cost flow regime benefits over to improve channel deepening B/C ratios. **On several occasions, during the 5 year Study, AWF formally requested COE institute external independent peer review of MKARNS analysis and also evaluate non-structural navigation improvement alternatives. COE declined both (Enc 9).**

Amendment 5 Constitutional "takings" problem, which Congress originally directed be reviewed, was abandoned. Through cooking/manipulating the NEPA Process, on 7-9-

Data Quality Act Petition
McClellan-Kerr AR River Study

04, COE combined both flow regime and navigation improvement into a single MKARNS/ Feasibility/EIS Study, and reformulated their analysis under revised alternative screening criteria, that would eliminate all alternative solutions except the already pre study “authorized” 12’ deeper channel, structural alternative, without objectively considering non-structural solutions. COE’s reformulating/combining/ assumption of “0” cost flow regime modification/shifting non related flow regime benefits over to cover channel deepening cost, etc. constitutes a “cook the books” accounting scheme to shift unrelated flow benefits over to justify the already made 12’ channel “authorization.” NEPA/CEQ regulations clarify that Agencies are not to use the NEPA Process to “rationalize or justify decisions already made”, regardless what legal or illegal schemes get worked to produce pre study decisions or authorization. COE manipulation of the NEPA Process fails DQA’s “unbiased” test. Agency’s claim, that “This EIS was prepared in accordance with NEPA” and Engineering Regulations is inaccurate disseminated information that should be withdrawn and corrected.

STANDING

Arkansas Wildlife Federation (AWF) is a non-profit, non-partisan, public interest, activist sportsmen resource organization formed in 1936, and State affiliate of National Wildlife Federation, with a mission to protect and enhance fish and wildlife related resources through citizen action and legal defense. AWF members are users of the AR River resource being affected, and have actively participated in both flow regime and navigation related studies since Reconnaissance Report release and NOI publishing in the Federal Register. AWF and other sportsmen users of MKARNS have been impacted through COE’s public involvement plan that fails to timely and affirmatively involve the

Data Quality Act Petition
McClellan-Kerr AR River Study

affected public by providing free NEPA and other printed documents. They pursued a strategy to restrict participation by sportsmen users likely to disagree with the Agency by imposing exorbitant \$700 fees for providing essential printed Draft and Final documents for our Committee Members and other sportsmen requesting the same. COE chose to apply the NEPA Process, in a deliberate biased fashion directed toward limiting alternative solutions analyzed to only those that favor navigation/channel deepening interests, while failing to objectively quantify and develop transparent, enforceable fish and wildlife mitigation plans. Charging exorbitant fees for hard copies, they forced those without computers to rely upon CD's, a violation of NEPA/public involvement mandate. COE Conclusion that "This EIS was prepared in accordance with requirements of NEPA" as regards to public involvement review and comment on documents, is inaccurate information and should be corrected.

REQUIREMENTS OF DATA QUALITY ACT

The Data Quality Act of 2000 (DQA) was passed by Congress with the objective of "ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated by Federal Agencies." The Department of Defense guidelines for implementing the Data Quality Act require that information disseminated by DOD components meet quality criteria in three areas: utility, objectivity and integrity. Guidelines explain that in terms of "utility" the government component disseminating the information "must consider the usefulness of the information for its reasonable and expected application." Objectivity means that the information should be "presented in an accurate, clear, complete, and unbiased manner and as a matter of substance, is accurate, reliable and unbiased."

REQUEST FOR CORRECTED INFORMATION

AR Wildlife Federation requests that the Department of Defense withdraw and correct their AR River Navigation Study FEIS, ES.7 Conclusions (Enc 10), at page ES-32 which disseminates false information of fact that “This EIS was prepared in accordance with the requirements of the National Environmental Policy Act, regulations promulgated by President’s Council on Environmental Quality (40 CFR 1500-1508) and US Army Corps of Engineer Regulations at ER 1105-2-100.” And that this corrected information replace language in the FEIS/Final Feasibility Report (Enc 11) and ROD where COE declares MKARNS Navigation Study was developed in compliance with NEPA, Presidents Council on Environmental Quality (40 CFR 1500-1508) Corps of Engineer Policy and Army Regulations. In addition AWF requests that COE issue a letter supplement to their 9-27-05 Record of Decision (Enc 16) declaring that MKARNS Studies were conducted in a manner that failed to comply with NEPA and CEQ’s Public Involvement procedural requirements, and that accounting methodology finding of “0” cost to produce \$8.8 million in flow regime benefits, \$1.08 navigation cost/benefit ratio, and postponing aquatic fish and wildlife habitat mitigation to some unknown/unfunded future process is in non compliance with NEPA, Engineering Regulations and DQA’s “accurate, clear, complete and unbiased” requirement. AWF requests that this letter supplement be provided to all Study participants, Ex Office of the President, Office of Management and Budget, Government Accountability Office and Presidents Council on Env. Quality.

I. The National Environmental Policy Act at Sec. 102(2)(C)(i), and CEQ regulations at 40 CFR 1502.5 regarding EIS’s state, “The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made.” On 2-6-03, when studies were underway, MKARNS navigation interests

Data Quality Act Petition
McClellan-Kerr AR River Study

employed lobbyist and purchased congressional influence to securing congressional “authorization to construct” a 12’ channel throughout the System. COE followed by modifying and combining two separate stand-alone, previously declared unrelated flow regime/navigation studies (Enc 8). COE engages in a strategy to lead and bias the NEPA Process towards an analysis that favors only the already “authorized” 12’ channel deepening alternative, reversing their 8-23-2000 NOI that combining these non related studies into a single action would violate NEPA. “Cooking” the NEPA Process to justify the “authorized” decision violates NEPA, DQA “objectivity” requirement, and COE Conclusion that the Study was conducted in accordance with NEPA, is inaccurate information and should be corrected.

The process of deciding to choose MKARNS 12’ channel deepening structural alternative through seeking congressional authorization for the same began before the Navigation Study was even scoped. COE combined and limited alternatives in applying NEPA Process through a biased screening formula designed to develop and limit their finding to justifying a congressionally “authorized” already made decision. The largest barge shipper on MKARNS hired a lobbyist in 2003, and through financial contributions to key House and Senate committee members, interfered to secure Congressional authorization to “construct” a 12’ channel throughout 445 miles of the System, before completion of EIS/Feasibility Studies. Although under no obligation to modify the study, COE arbitrarily decided to combine non-related flow regime study with navigation channel deepening studies, and screen out non-structural solutions, solely to satisfy political and navigation interest “earmark”, and 2003 political interference authorization through PL 108-137. COE’s response to this interference, by biasing the Study to favor special navigation interest, fails DQA “objectivity” test as well as NEPA. Thus, COE declaration that MKARNS studies were developed in compliance with NEPA and Engineering Regulations is inaccurate information, and violates DQA as well. AWF requests that COE correct their Conclusion and ROD information with supplemental language acknowledging that MKARNS NEPA documentation was **not** developed in

accordance with CEQ procedural regulations at 40 CFR 1500-1508, Engineering Regulations or DQA, and that this corrected information be circulated to Study participants, Executive Office of the President, and Office of Management and Budget.

II. ES.7 Conclusions and ROD states that the Decision was based on consideration of applicable laws, regulations and USACE Policy. USACE ER 1105-2-100, 2-3 The Planning Process, requires 6 consecutive steps be followed (Enc 12), and the last step #6, is Selecting a Recommended Plan. Selecting only the pre study authorized 12' channel Plan/alternative at beginning of MKARNS studies, shifted step #6 of COE Planning Principles up to front of the Study. Regardless how and who bought influence, lobbied or worked unethical schemes to pull off the trick, COE failed DQA "objectivity" test by arbitrarily responding to accommodate special navigation lobby interference by inserting step #6 (selecting a plan) at head of the process and before steps 1-5 are completed. ER 1105-2-100, Chapter 2, f. Step-6 Selecting a Plan states, "The culmination of the planning process is the selection of the recommended plan or the decision to take no action", not COE's strategy to select a plan followed by building a alternative screening analysis/EIS to justify the already made decision. Clearly COE derails "objectivity" and violates their own Planning Principles by pre study "selecting a recommended plan", solely to please lobbyist and political influence purchased by MKARNS navigation interests. EIS Conclusion that these unethical schemes comply with NEPA and Engineering Regulations is inaccurate narrative information that fail DQA's "unbiased, objective" test and should be corrected.

The Final EIS and ROD claim, that the Study was prepared in accordance with Engineering Regulations (1105-2-100, Chapter 2, Planning Principles), fails DEQ's "accurate, reliable and unbiased" test. Regardless on what basis COE decided to deviate from their Planning Principles, declaration that the Study was prepared in accordance with Engineering Regulations is inaccurate information. AWF requests that MKARNS Final EIS, Feasibility Study and ROD be supplemented with corrected language stating that "the Study was not developed in accordance with Engineering Regulations" or Planning Principle step procedures at EP 1105-2-100, Chapter 2, 2-3 and this correction be circulated to Study participants, Ex Office of the President, and OMB.

Data Quality Act Petition
McClellan-Kerr AR River Study

incremental net flow management benefits and further correct this information by acknowledging that total annual cost to produce \$8.8 million in flow management benefits is **not “0”**. Additionally, in order for COE to claim heavier 12’ barge benefits for projected tonnage handled, the MKARNS EIS/Feasibility Study must be supplemented with corrected information listing that each owner has entered into a legal enforceable commitment with COE agreeing to modify their ports to handle the 3’ deeper barges. To correct accounting accuracy, tonnage at 9’ ports, where owners decline to commit to such port deepening agreement, channel deepening benefits attributed to that port must be removed from COE’s benefit/cost accounting formula through a reanalysis. We further request that this corrected accounting information be circulated to study participants, Ex Office of President, and OMB.

IV. The Conclusion narrative declaration that the Study was conducted in accordance with NEPA is inaccurate, in regards to COE releasing Study documents for public review and comment followed by imposing a fee charge (Enc 15) biased and discouraged public participation by sportsmen and other MKARNS users most likely to disagree with COE trade-off of recreation, fish and wildlife resources. COE released DEIS/FEIS and Feasibility Study soliciting public comment and review, while requiring a \$700 fee charge for providing printed copies, deciding to short change public access to documents by substituting a CD to participants without computers or internet access and placing NEPA copies in selected AR River libraries with 9-5 hours, closed on weekends. Hours that fail to fit most working schedules. MKARNS has broad regional interests to sportsmen far outside the narrow river corridor or libraries. Notwithstanding, participants timely alerted COE that these printed documents were absolutely essential to in-depth review and comment, the Agency continued their exorbitant \$700 charge. COE’s “narrative representation” claim that these NEPA documents were developed in accordance with NEPA Public Involvement and Engineering Regulations is inaccurate and fails DQA accuracy of disseminated information test.

40 CFR 1502.19 Circulation of EIS provides that “the entire statement shall be furnished to:” (c) Any person, organization, or agency requesting the entire environmental impact statement.” And (d) “In the case of a Final EIS any person,

Data Quality Act Petition
McClellan-Kerr AR River Study

organization, or agency which submitted substantive comments on the draft.” COE uses an exorbitant \$700 fee charge for these documents as a strategy to discourage and bias public involvement, while including narrative information claiming these NEPA documents were developed in accordance with the NEPA Process. With regard to Public Involvement, COE’s decision to impose high fees for requested documents fails the 40 CFR1503.1 test of “affirmatively soliciting comments”, and makes it impossible for some reviewers to meet the “Specificity of comments” test at 40 CFR 1503.3. ER 1105-2-100 Public Involvement and Coordination, guidance states, “It is important to develop a strategy that creates relevant, quality public involvement opportunities for those who have, or may have, an interest in the study.” COE strategy is to bias and discourage public involvement through fee charges while declaring in the EIS to have developed the Study in accordance with NEPA. COE’s narrative declaration fails DQA test for information accuracy and should be corrected and revised through a supplemental statement declaring that Public Involvement was not conducted in accordance with the NEPA Process or Engineering Regulations, and this corrected information provided to all Study participants, OMB and Presidents Council on Environmental Quality.

V. COE’s aquatic habitat mitigation plan for MKARNS EIS fails DQA transparency test, as it relies not upon quantifying existing baseline data from which to measure change, and avoiding or correcting adverse impacts created by 12’ channel deepening, channel scouring and filling off channel wetlands. But instead substitutes for mitigation a confusing, after the fact, unknown, yet to be determined, future monitoring and adaptive management plan (Enc 16). COE fails to produce transparent mitigation data and methods that could be reproduced by a 3rd party, under excuse they don’t have time to gather readily available baseline aquatic data. While claiming to meet NEPA mitigation requirements, COE fails to fully develop quantifiable criteria that is “clear, objective and transparent” and with sufficient “completeness” to produce a legally enforceable mitigation plan, as required by NEPA. COE chose to rush past and short-change mitigation in favor of accelerating the Study to a ROD. In addition, they chose to circulate the Draft EIS and

Data Quality Act Petition
McClellan-Kerr AR River Study

Feasibility Study for public review and comment, while acknowledging aquatic mitigation plans were incomplete, an action that fails NEPA's requirement, that the Draft meet the same level of sufficiency and completeness as the Final EIS at 40 CFR 1502.9(a). Thus, declaration that the EIS was developed in accordance with the NEPA Process fails DQA, and further constitutes disseminating information COE knows is inaccurate.

COE acknowledges their application of NEPA shortchanges aquatic habitat mitigation alleging an exemption under excuse that they don't have time to gather data. Their claim does not excuse DQA compliance. COE established their own study schedule and chose to trade off mitigation, an option for which they are not legally entitled. COE chose to compromise developing a "objective, clear, transparent, 3rd party reproducible" aquatic resource mitigation plan, substituting an unknown long-range, after-the-fact, future monitoring/adaptive management process over 50 year life of the project. COE's plan for mitigating adverse impacts fails NEPA's premier requirement that impacts first be avoided where possible. AWF requests COE provide corrected information through a letter supplement to MKARNS ROD, that the aquatic resource mitigation plan was not developed in accordance with the NEPA Process and that copies of this supplemental letter be provided to all Study participants, Ex Office of President, and OMB.

CONCLUSION

COE pursued a public involvement strategy that created difficulty for MKARNS sportsmen and recreation users to secure printed NEPA documents needed to fully participate in this \$9.4 million, 5 year Study. Regardless, over this time period AWF timely raised our numerous concerns regarding Agency favoritism toward navigation interference, biased alternative screening processes, accounting methodology, short-changing aquatic mitigation, and had our request for Independent Peer Review rejected. We respectfully submit for review the above five actions AR Wildlife Federation alleges