



Oregon Fish and Wildlife Commission Minutes

Meeting:
April 17, 2008, 1:00 p.m.
Oregon Department of Fish and Wildlife HQ
3406 Cherry Ave. NE
Salem, Oregon 97303

Meeting:
April 18, 2008, 8:00 a.m.
Oregon Department of Fish and Wildlife HQ
3406 Cherry Ave. NE
Salem, Oregon 97303

Minutes were approved at the Commission's May 9, 2008 Commission Meeting

Notice of these meetings had been made by press release of statewide media circulation. Those attending part or all of the meeting included:

Marla Rae, Chair
Dan Edge, Vice-Chair
Jon Englund, Commissioner
Zane Smith, Commissioner
Roy Elicker, Director
Curt Melcher, Deputy Director
Bill Cook, Assistant Attorney General

Bobby Levy, Commissioner
Carter Kerns, Commissioner
Skip Klarquist, Commissioner
Laurie Byerly, Deputy Director
Steve Sanders, Assistant Attorney General
Casaria Tuttle, Executive Assistant

MEETING April 17, 2008

On Thursday, April 17, 2008 at 1:00 p.m., Chair Marla Rae called the Oregon Fish and Wildlife Commission (Commission) meeting to order.

DIRECTOR'S REPORT

Field Reports (Written report is part of the Commission's official record.)

Northeast Region

Bruce Eddy, Grande Ronde Watershed Manager, reported on big game season and tag recommendation discussions and the third annual Ladd Marsh Birdathon.

High Desert Region

Chip Dale, High Desert Region Manager, reported on snowpack and reservoir conditions, Klamath late white-fronted goose season and waterfowl migration.

Northwest Region

Chris Wheaton, Northwest Region Manager, reported on STEP classroom incubator projects in the region and upcoming youth angling events.

Southwest Region

Steve Denney, Southwest Region Manager, reported on Rogue spring Chinook telemetry project and the Prospect hydro power re-licensing.

Conservation Strategy

Holly Michael, Conservation Strategy Leader, updated the Commission on ODFW's participation in the Global Warming Commission's Natural Resources Committee, the upcoming strategy workshop in eastern Oregon, an Oregon Public Broadcasting documentary that will air on April 22 on amphibians in crisis workshop with the Portland Zoo.

Information and Education

Roger Fuhrman, Information and Education Administrator, reported on current marketing campaign with the Recreational Boating and Fishing Foundation and salmon closure outreach work being done by ODFW with Travel Oregon. Commissioner Kerns would like Eastern Oregon residents and Boise, Idaho residents included in the agency's outreach efforts.

Oregon State Police

Walt Markee, Captain, Oregon State Police Fish and Wildlife Division, reported on an illegal sturgeon take case and an illegally taken buck in the Prineville area.

Ocean Salmon and Columbia River Program

Steve Williams, Fish Division Assistant Administrator, briefed the Commission on City of Portland fish distribution and habitat use studies.

Sport and Commercial Fishing on the Columbia River – Update

Steve Williams, Fish Division Assistant Administrator, updated the Commission on sport and commercial fishing on the Columbia River. During his presentation he referred to Joint Staff Report Winter Fact Sheet No. 14. He stated that staff believes the fish run is very late this year as it has been in previous years.

Chair Rae asked about the outreach being used to keep interested persons updated. Steve Williams said he has some key constituents contacts, with whom he stays in touch. He further said the sport fishing groups that participates are very good at anticipating what is coming.

Director Elicker said Oregon has a very educated and sophisticated sport fishing public. Director Elicker asked Steve Williams about the effort shift to the Willamette River and how the agency will manage that additional effort. Steve Williams said staff will stay on top of the catch amounts and utilize the same outreach to keep the sport fishing public informed.

Commissioner Edge asked if the current catch rates are due to water conditions or due to the effort being above the I-5 Bridge. Steve Williams responded that water condition is a factor as is the density of the fish population in the area above the I-5 Bridge.

Commissioner Klarquist asked how the effort was on the lower river and what the catch numbers were. Steve Williams said the first fishery had very low participation. He said there were 84 fishermen in the April 15 fishery. Commissioner Klarquist also asked

about the 12 day sport fishery downriver. Steve Williams said there were times when the fishery was good and at other times the fish were hard to catch. There was inclement weather during part of that fishery, which may have hampered the catch rate.

Commissioner Englund complimented both Oregon State Police and the department on succeeding at the fishery this year. He said the fishery was managed very well with positive thinking from both the sport fishing community and the commercial fishing community.

Commissioner Smith asked if there would have been a possibility to have adjusted the days of the week with any confidence to continue the fishery to the April 30 objective date. Steve Williams said that was discussed. He explained that the bulk of the catch was caught in the last two weeks. He said it would have been a challenge to have met the timing through the end of the month. Commissioner Smith said the Commission did make the objective to get the fishery through April. Commissioner Smith asked about the catch rates. Steve Williams said the success was spread across the recreational fleet.

Commissioner Edge asked about the buffer that is being held. Steve Williams said the plan was to fish the commercial fishery and hold 25 percent back in case of run size error and to try and get the sport fishery to its objective of April 30. A portion of the buffer has been used to get the recreational fishery to where it is.

Adopt Temporary Rules

Roy Elicker, Director, requested the Commission ratify the following nine temporary rules. The temporary rules were previously adopted by the director under his emergency action authority.

635-018-0090

Removal of Lake Billy Chinook Bonus Bag Limit for Kokanee

Adopted March 24, 2008; effective May 1 through October 27, 2008

Amended rule suspends the 25 fish bonus bag limit for kokanee trout in Lake Billy Chinook from May 1 through October 27, 2008. There is a critical conservation issue arising from: 1) the present low level of kokanee in the reservoir; 2) the importance of kokanee as forage for the federally listed "threatened" bull trout species; and 3) impact on annual kokanee spawning escapement under current harvest conditions.

635-023-0095

Sport Sturgeon Fishery Closed in the John Day Pool

Adopted March 24, 2008; effective March 26 through September 10, 2008

Amended rule prohibits the retention of sturgeon in the Columbia River and tributaries from John Day Dam upstream to McNary Dam. Revisions are consistent with Joint State Action taken March 19, 2008 by the Columbia River Compact agencies of Oregon and Washington.

635-005-0055**Limited Experiment to Retrieve Derelict Ocean Dungeness Crab Gear In-season**

Adopted March 25, 2008; effective March 25 through August 31, 2008

Amended rule specifies conditions allowing a limited experiment to retrieve derelict commercial ocean Dungeness crab fishing gear in-season and transport it to shore.

This rule was needed to allow a limited, federally sponsored experiment to test methods to retrieve commercial ocean Dungeness crab gear that is lost, damaged, abandoned or otherwise derelict in the ocean.

635-042-0145**Modified Boundaries for 2008 Youngs Bay Select Area Commercial Salmon and Sturgeon Fisheries**

Adopted March 27, 2008; effective March 30 through August 28, 2008

Amended rule expands the boundaries of previously adopted commercial fishing seasons for salmon and white sturgeon in Youngs Bay Select Area fisheries.

Modifications are consistent with Oregon State Action taken at the March 27, 2008 meeting of the Columbia River Compact.

635-042-0022**2008 Commercial Spring Chinook Tangle Net Fishery in the Columbia River**

Adopted March 31, 2008; effective April 1 through September 27, 2008

Amended rule allows the commercial spring Chinook fishery in the Columbia River from the west powerlines on Hayden Island upstream to Beacon Rock (Zones 4 and 5).

Revisions are consistent with Joint State Action taken March 31, 2008 by the Columbia River Compact agencies of Oregon and Washington.

635-006-0225 and 635-006-0230**Sales of Steelhead and Walleye by Fish Dealers, Cannerymen, Buyers and Retailers**

Adopted April 1, 2008; effective April 1 through September 27, 2008

Amended rules clarify existing restrictions on possession and sales of tribal-caught steelhead trout and walleye taken legally by Treaty Indian fishers in commercial fisheries within the Columbia River Basin. And, modifications allow the possession and sales by any wholesale fish dealer, canneryman, buyer or retailer in Oregon, of legally purchased steelhead trout or walleye taken from outside the Columbia River Basin, consistent with reporting requirements contained within OAR 635-006-0020.

635-042-0022**2008 Commercial Spring Chinook Tangle Net Fishery Continued in the Columbia River**

Adopted April 7, 2008; effective April 8 through September 27, 2008

Amended rule extends the commercial spring Chinook tangle net fishery in the mainstem Columbia River from the west powerlines on Hayden Island upstream to Beacon Rock (Zones 4 and 5) by adding a 16-hour fishing period on April 8, 2008. Modifications are consistent with action taken April 7, 2008 by the Columbia River Compact agencies of Oregon and Washington.

635-042-0022**2008 Columbia River Commercial Spring Chinook Tangle Net Fishery Extended by 12 Hours**

Adopted April 14, 2008; effective April 15 through September 27, 2008

Amended rule extends the commercial spring Chinook tangle net fishery in the mainstem Columbia River from the west powerlines on Hayden Island upstream to beacon Rock (Zones 4 and 5) by adding a 12-hour fishing period on April 15, 2008. Modifications are consistent with Action taken April 14, 2008 by the Columbia River Compact agencies of Oregon and Washington.

635-023-0125**Recreational Spring Chinook Fishery Closure in Mainstem Columbia River Below Bonneville Dam**

Adopted April 16, 2008; effective April 21 through August 22, 2008

Amended rule closes the recreational spring Chinook fishery in the mainstem Columbia River below Bonneville Dam effective at 12:01 a.m. on April 21, 2008. Modifications are consistent with action taken April 16, 2008 by the Columbia River compact agencies of Oregon and Washington.

Action:

Commissioner Edge moved to ratify the nine temporary rules. Commissioner Levy seconded the motion, and the motion carried unanimously.

Expenditure Report:

Laurie Byerly, Deputy Director for Administration, presented the financial report for the month ended February 29, 2008.

Director Elicker updated the Commission on the Town Hall process. Deputy Director Laurie Byerly, Director Roy Elicker and Captain Walt Markee have been traveling around the state holding Town Hall meetings to discuss the budget with the public. He said there has been good attendance at each meeting with approximately 10 – 20 people attending. With the 2009 – 2011 budget cycle the agency is at a crossroads. The agency needs a moderate license increase at this time to ward off a “train wreck” effect in 2011 – 2013. Most of the public is in favor of a modest fee increase at this time.

Commissioner Kerns, on behalf of a constituent, would like the agency to adopt a sportspac reflecting the senior discount. Director Elicker said the agency will look at that.

Commissioner Smith asked if there was any discussion on resident versus non-resident fees. Director Elicker stated the agency has looked at its western neighbors. He explained the agency is not trying to be the most expensive or the least expensive state to hunt or fish. He also stated that what a fair fee to charge for non-resident permits has been discussed.

Commissioner Levy said that the rigs ODFW staff drive has been brought up at meetings. She asked if the agency could alleviate some of the issues regarding fuel prices and operation of state vehicles. Director Elicker said fleet costs are always an issue, especially now with the high fuel costs. The agency does take that to heart. The agency needs to do the best it can to manage the fleet, but staff also need to be safe and have the equipment that will help them safely get their job done. Commissioner Levy asked if the agency can trade in its vehicles for more fuel efficient four wheel drive vehicles. Director Elicker said the agency does not have a lot of control by the agency since it gave up its own fleet. The agency will continue to explore its options.

Commissioner Smith said all natural resource agencies tend to drive vehicles that are “too big”. The agency should look at more economical four wheel drive vehicles. Director Elicker said the agency can give a better briefing to the Commission on fleet management if the Commission requests it.

Commissioner Klarquist asked what kind of reaction was brought by the two-pole license proposal and if there will be a fair charge for the license. Director Elicker said the two-rod license will be used to raise some additional revenue for the agency. There has been a mixed reaction to the concept. The cost has been discussed internally, again with a mixed message on the cost issue.

PUBLIC FORUM

Note: This part of the agenda is for comments on topics not scheduled elsewhere on the agenda. The Commission is unable to take action on items brought to their attention in this forum.

Richard Hoyer
Corvallis, Oregon

Mr. Hoyer testified that he is concerned with the manner in which the Wildlife Diversity Section administers Scientific Taking Permits. He would like the Commission to consider making changes in order to rectify this problem. Mr. Hoyer provided written documents that include a series of considerations for the Commission to change the way Scientific Take Permit applications are processed.

Chair Rae said the Commission will visit with the Wildlife Division staff and the Director’s Office. She said Mr. Hoyer will get a response.

Commissioner Edge asked that staff consider the contributions that citizen science can make to the Conservation Strategy.

Victor Kuhns

Mr. Kuhns testified that disabled hunters are not considered in the discussions of the agency. He said the agency takes away hunting opportunities for disabled hunters. He said one of the areas disabled hunters have been put into is the Desolation Unit. The areas are closed down to ATVs, which does not allow him to access the areas for hunting. He feels the fish and wildlife

agency has discriminated against disabled hunters. He asked the Commissioners to design a system that will help the truly disabled hunters. He said if a disabled hunter wants to go into another area to hunt, a disabled hunter should have a process to go into fish and wildlife and challenge the rule.

Commissioner Smith recommended establishing an advisory group to help review the process. Char Rae noted that the department, within the last few years, convened an advisory group to review disabled permits and related issues.

Exhibit A: COMMISSION MINUTES

The Commission considered approval of the February 2008 and March 2008 Commission minutes. Commissioner Edge provided amendments to Casaria Tuttle.

Action:

Commissioner Edge moved to approve the minutes of February 7 as written, February 8 and March 21 as amended. Commissioner Smith seconded the motion and the motion carried unanimously.

Exhibit B: BLACK-TAILED DEER MANAGEMENT PLAN

Staff Presentation:

Pete Test, Deer and Elk Coordinator briefed the Commission on the Oregon Black-tailed Deer Management Plan.

Public Testimony:

No members of the public were present to testify

Commissioner Smith said he was left feeling uncomfortable with restoration as described on page one in the goals and objectives. He wants an objective to focus on a position objective to restore public and private lands. He explained that habitat have degraded on both types of land. The department can work with federal partners to restore the lands. He further stated on page two, the second paragraph "review committee" he would like some other level of Forest Service management who deals with overall planning, not just biologists. Page 32, bottom of page, "...however the department routinely discusses...", Commissioner Smith would like the department to do more than just have discussions. He would like active participation rather than just discussion.

Commissioner Edge, on page i, suggested the goals and objectives be specifically stated in the text. He suggested adding more detail to the objectives. On page 42, he said the term "critical habitat" has connotations with the Endangered Species Act, he would recommend the use of a different term. On the proposed strategies, #4 prioritize for use of the Access and Habitat Funds. He would like to see dates in the timeline for items that have occurred in the past. Finally, he would like to see in all of the

department's plans that the department give thought to climate change and its effects on the species.

Commissioner Smith suggested the Access and Habitat program provide incentive for private landowners to avoid the use of complete removal of shrubs and other materials the deer utilize in their habitat.

Action:

No action, informational presentation.

Exhibit C: COMMERCIAL FISHERY PERMIT BOARD AND DEVELOPMENTAL FISHERY BOARD MEMBER APPOINTMENTS

Staff Presentation:

DeAnna Erickson, License Services Manager and Gway Kirchner, Interim Assistant Program Manager, asked the Commission to appoint Commercial Fishery Permit Board and Developmental Fisheries members.

Gway Kirchner noted for the Commission that Mr. Brett Hamrick did not submit his application by the deadline; staff recommended the removal of Mr. Hamrick from consideration.

Public Testimony:

No members of the public were present to testify

Commissioner Smith would like to be sure that any qualified Washington State applicants be considered for board appointments and not disqualified because of their residency.

Action:

Chair Rae moved to appoint Jeff Salo and Dan Hyduchak for the at large; Frank Tarabochia, Gary Soderstrom and Dan Marvin for Columbia River Gillnet Salmon Fishing Industry; John Alto, Mark Newell and Barry Nelson for Ocean Troll Salmon Fishing Industry; Rex Leach, Ted Gibson and Brian Peterson for Ocean Pink Shrimp/Scallop Fishing Industry; Robert Schones, Ira Koker and Ted Gibson for Yaquina Bay Roe-Herring Fishing Industry; Thomas Nowlin, Eugene Law and Doug Westerlund for Ocean Dungeness Crab Fishing Industry; Craig Wenrick, Paul Meyer and Jeffrey Miles for Blue/Black Rockfish and Nearshore Fishing Industry; Nick Jerkovich, Jr., Ryan Kapp and Dana Furgeson for Sardine Fishing Industry; Duane Edward for Bay Clam Dive Fishery; Tim Foley, Tom Butterbaugh and Kevin Hiersche for Sea Urchin Fishery; Paul Meyer, Duane Edwards and Leonard VanCurler for Developmental Fisheries. Commissioner Edge seconded the motion. The motion carried unanimously.

Chair Rae moved to appoint Duane Edwards and Eric Hooper for Small Vessel Operator; Scott Hartzell and Stan Schones for Large Vessel Operator; Leesa Cobb for Commercial fishing interest in general; Mike Erdman for Fish processor with greater than 50 employees; Patty Burke for Oregon Department of Fish and Wildlife; Dalton

Hobbs for Oregon Department of Agriculture and Brad Pettinger and Nick Furman for Ex-officio – non-voting member. Commissioner Englund seconded the motion. The motion carried unanimously.

Exhibit D: CALAPOOYA FALL CHINOOK STEP PROPOSAL

Staff Presentation:

Laura Jackson, Umpqua Fish District Biologist and Rhine Messmer, Recreational Fisheries Program Manager, and Greg Hutchco, Umpqua District STEP Biologist, asked the Commission to approve a propagation request from the Umpqua Fishermen's Association for 300,000 fall Chinook salmon (modifies an existing program).

Public Testimony:

Darrell Tufly
Umpqua Fishermen's
Association
302 Buckhorn Rd.
Roseburg, Oregon
541-673-8749

Mr. Tufly testified as the program sponsor for the Calapooya fall Chinook STEP proposal. He asked for the Commission's approval and support for the fishery.

Action:

Commissioner Smith moved to authorize the Umpqua Fishermen's Association, under the guidance of the department's Salmon and Trout Enhancement Program, to annually release more than 100,000 juvenile fall Chinook salmon for fishery enhancement. Annual releases are not to exceed 300,000 fish. Commissioner Edge seconded the motion. The motion carried unanimously.

The Chair recessed the Oregon Fish and Wildlife Commission at 4:47 p.m.

MEETING April 18, 2008

On Friday, April 18, 2008 at 8:00 a.m., Chair Marla Rae reconvened the Oregon Fish and Wildlife Commission (Commission) meeting.

Exhibit E: STEWARDSHIP OF TRIBAL LANDS AND CEREMONIAL HARVEST OF BIG GAME ANIMALS BY THE CONFEDERATED TRIBES OF THE GRAND RONDE INDIAN RESERVATION

Staff Presentation:

Chris Wheaton, Northwest Region Manager, asked the Commission to adopt a proposed resolution recognizing Tribal stewardship of lands that they own and manage. The Commission will also adopt administrative rules allowing ceremonial harvest of deer, elk and bear by Tribal members under specified conditions.

Staff presented a change to Oregon Administrative Rules: name clarification replacing "Indian Reservation" with "Community of Oregon" to the Confederated Tribes of Grand Ronde name.

Chris Wheaton introduced David Lewis, The Tribe's cultural coordinator, and Kelly Dirkson, wildlife biologist for the Grand Ronde. Both outlined the work of the Tribes in wildlife management and cultural importance.

Commissioner Kerns said he though this was a great proposal and he certainly wants to support it. He asked about the recently-received letter from the Siletz tribe. Chair Rae said an attorney for the Siletz was here to discuss it.

Public Testimony:

Cheryle Kennedy
Confederated Tribes of
Grand Ronde
9675 Grand Ronde Rd.
Grand Ronde, Oregon
503-879-5211

Ms. Kennedy testified in support of the request. She thanked the Commission for entertaining the Tribe's request and working with the Tribe.

Jack Giffin, Jr.
Confederated Tribes of
Grand Ronde
9615 Grand Ronde Rd
Grand Ronde, Oregon
503-876-7402

Mr. Giffin testified in support of the request. He said the Tribe is here to protect and enhance the wildlife. He commended the Governor and the Commission for bringing the process together.

Reynold L. Leno
Confederated Tribes of
Grand Ronde
PO Box 11
Willamina, Oregon
503-876-7402

Mr. Leno testified in support of the request.

Catherin E. Tufts
Siletz Indians of Oregon
PO Box 549
Siletz, Oregon

Ms. Tufts presented a map and read a letter from the Siletz Chair in opposition of the request. The Tribe asked that the Commission delay making a decision in the process until the Siletz and Grand Ronde Tribes have met to discuss the regulations. They also asked that the Commission consider hosting a Government to Government meeting.

Rob Green

Mr. Green testified on the Oregon Administrative Rules. He recommended corrections to the language of the rule, section 2 delete the deadline, and on page two (d) change "each tribal member" to "a tribal member"

Chair Rae responded to Ms. Tufts by saying that throughout the process it was agreed that the Consent Decree would not be reopened. She said the Commission will welcome the Siletz Tribe sit down with the Commission, on a separate standing, discuss their issues and interests.

Chair Rae restated that the Commission is not creating a treaty right with the adoption of the resolution and administrative rules. She recommended the two Tribes get together for a discussion as well as with Chris Wheaton and his staff from ODFW would be available for the meeting.

Commissioner Kerns said he was disturbed by the conflict and feels we should have seen it coming. He stated that he will abstain from voting.

Commissioner Smith commended the Tribe for their stewardship. He recommended an agreed consultation each year prior to readoption of the agreement.

Chair Rae stated she will recommend removal from the administrative rules of the yearly review because it is inconsistent with the work toward a permanent plan as contemplated in the resolution.

Action:

Commissioner Edge moved to adopt the Resolution, as proposed by staff recognizing the outstanding stewardship by the Grand Ronde Tribe of the lands that they manage and directing staff to work with the Tribe to complete a permanent fish and wildlife management plan for the Tribe's land. Commissioner Smith seconded the motion. The motion passed with Commissioner Kerns abstaining from the vote.

Chair Rae moved to amend Oregon Administrative Rule 635-043-0120 as proposed by staff in Supplemental Attachment 5 dated April 18, 2008 and striking the last sentence from (2) relating to the annual requirement as well as the recommended changes by the Grand Ronde Tribal council. Commissioner Smith seconded the motion and the motion passed with Commissioner Kerns abstaining from the vote.

Exhibit F: REVISION OF OREGON ADMINISTRATIVE RULES GOVERNING PRIVATE HOLDING OF CERVIDS

Staff Presentation:

Ron Anglin, Wildlife Division Administrator, Colin Gillin, Veterinarian, and Bruce Eddy, Grand Ronde Watershed Manager, asked the Commission to adopt Oregon Administrative Rules related to Cervid propagation.

Bill Cook, Assistant Attorney General, explained that the Commission has the authority to set these regulations according to two Oregon Revised Statutes: State wildlife policy, ORS 496.012 "...prevent serious depletion of any indigenous species..." and Propagation licenses, ORS 497.228, which states 1) May refuse license if operation "would tend to be harmful to existing wildlife populations" and 2) Any license must "insure that the propagation activities are conducted in such a manner as will not be harmful to existing wildlife populations."

Bill Cook further reminded the Commission of the rulemaking process they entered. He said rulemaking notices were issued in late February 2008 and early March 2008; staff proposed rule amendments were sent out for public comment; and once verbal testimony is taken at this meeting (April 18, 2008), the Commission may consider final action.

Public Testimony:

Al Elkins
Oregon Hunters Association
30490 SW Rogue Lane
#3112
Wilsonville, Oregon
503-780-6824

Mr. Elkins testified that the Oregon Hunters Association has agreed to the concept of a license surcharge to provide a portion up to 50 percent of funding to assist in paying for double fencing.

Director Elicker asked the Commission to keep in mind that implementing a cost share, such as Mr. Elkins suggested, takes time and requires legislative approval.

Dave Wiley
Cervid Rule Advisory Group
1430 NW Hartmann Ave.
Sublimity, Oregon
503-767-4901

Mr. Wiley testified in support of the recommended revision of the cervid rules proposed by staff. He feels double fencing is very important. He would like the program made fully self supporting through increased cervid license fees and the establishment of fees for license applications, new facility inspection and transportation permits.

Chuck Woosley
PO Box 487
Corvallis, Oregon

Mr. Woosley testified in support of the staff recommendations with the exception of the proposed policy statement and not including transfer of Type 1 licenses. He asked the Commission and department to protect the health and integrity of Oregon's native deer, native elk, the livestock industry and the public trust doctrine for wildlife.

Kelly Smith
Backcountry Hunters
18700 Bull Springs Rd.
Bend, Oregon
541-382-7969

Mr. Smith testified that there continues to be problems with elk ranches. He urged the Commission to reduce the number of elk ranches immediately.

Karen Smith
MAD Elk
18700 Bull Springs Rd.
Bend, Oregon
541-382-7969

Ms. Smith testified in favor of tighter rules and enforcement of the rules. She suggested that elk ranchers pay a larger fee for the license to fund the cost of the program.

Warren Aney
Oregon Chapter of the
Wildlife Society
9403 SW 74th Ave.
Tigard, Oregon
503-246-8613

Mr. Aney testified in support of the majority of the staff proposed revisions. He stated the scientific uncertainty related to many of the issues addressed in the rules warrants a conservative approach in favor of protecting and conserving Oregon's native wildlife. The Wildlife Society offered several recommendations in writing to the Commission.

Alan Ross
Oregon Elk Breeders
Association
PO Box 333
Molalla, Oregon
503-829-7107

Mr. Ross testified that the cervid ranchers are already self regulating. He asked the Commission exclude the owner from damage when an escape is caused by vandalism.

Kathy Simpson
Oregon Elk Breeders
Association
16600 SW Lower Bridge
Terrebone, Oregon
541-548-5800

Ms. Simpson testified that the Commission should make their decision based on research. She asked that the Commission delay their decision and do more research.

Richard Patterson
Oregon Elk Breeders
Association
PO Box 220
Sisters, Oregon
541-549-3831

Mr. Patterson testified that the rules in place right now are very good. He said breeders have been CWD disease testing their animals for 5 – 10 years.

Mike Kilpatrick North American Elk Breeders PO Box 13 Mt. Vernon, Oregon 541-932-4455	Mr. Kilpatrick testified in opposition to the proposed rules. He also stated the rules need to apply to Starkey Wildlife Area.
Wayne Endicott 392 Q Street Springfield, Oregon 541-746-9711	Mr. Endicott testified from a sportsman perspective. He said many states owe their prize bulls to specific cervid ranches.
Lonnie Woosley Oregon Elk Breeders Association 90420 Upper North Fork Florence, Oregon 541-997-6573	Mr. Woosley testified that his major concern is with double fencing.
Steve Simpson Oregon Elk Breeders Association 16600 SW Lower Bridge Rd. Terrabone, Oregon 541-548-5800	Mr. Simpson testified that captive animals are very healthy. He said that recommendations made by elk ranchers during the Cervid Rule Advisory Group meetings did not make it into the packet before the Commission. He asked the Commission to keep in mind the private property rights of the elk ranchers.
Sheldon C. Kirk Oregon Elk Breeders Association PO Box 239 Weston, Oregon 541-566-3755	Mr. Kirk testified that ranchers should take care of their own property
William McCamman PO Box 2500 Clackamas, Oregon 503-657-3657	Mr. McCamman asked the Commission to use common sense when making a decision. He said there is a problem with elk coming over the state's borders. He asked that the department protect all wildlife.
Robert Tenney West Coast Game Park 46914 Hwy 101 Bandon, Oregon	Mr. Tenney testified on behalf of West Coast Game Park. He said elk ranchers have gone to great lengths to preserve the species.
Alan Christensen 6023 SW Texas Ct. Portland, Oregon 503-246-0002	Mr. Christensen testified that elk and deer are classified as wildlife and are held in trust for the public. Cervid ranchers should be cognizant that they hold wildlife. He thinks the Commission should regulate, vigorously, the cervid ranching industry.

Dan Edwards
150 SE 10th Ave.
Canby, Oregon
503-263-2737

Mr. Edwards testified that the private holding and propagating of cervids is incompatible with the department's mission statement and the wildlife policy (ORS 496.012). He stated his support for all of the staff's recommendations except a series he listed in his written testimony.

Jan Wilson
Oregon Wild
Eugene, Oregon

Ms. Wilson testified that MAD Elk would like to see a phase out of cervid ranches. She said the proposed transfer rules still leave a private market for licenses.

Kelly Peterson
Humane Society of the
United States
1414 SE 36th Ave.
Portland, Oregon
503-230-0270

Ms. Peterson testified that the Humane Society of the United States recommends phasing out elk ranches in Oregon, including: issuing no additional cervid licenses; transferring no existing cervid licenses; permitting no relocation of elk facilities; and vacating a permit if no cervids are held at the facility for 180 consecutive days. She also said the sale and export of "shooter bulls" should be prohibited.

Cindy Kilpatrick
Oregon Elk Breeders
Association
PO Box 13
Mt. Vernon, Oregon
541-932-4767

Ms. Kilpatrick testified that if Oregon Fish and Wildlife wants to have the cervid ranches double fenced, the department needs to pay in full.

Mark Rubbert
Elk Rancher
915 SW Rimrock Way
#201-166
Redmond, Oregon
541-408-7826

Mr. Rubbert testified that the department should continue disease testing the state's elk to ensure they are as healthy as the domestic elk. He also said a necropsy should be done on any animal that dies from something other than a broken leg or slaughter.

Don Schellenberg
Oregon Farm Bureau
3415 Commercial St. SE
Salem, Oregon
503-399-1701

Mr. Schellenberg testified that these rules create unnecessary political barriers to Oregon's cervid operations.

Chair Rae recommended the decision points be made today, and then staff can finalize the rules. The final rules would be given to the Commission for final adoption at the May 2008 meeting.

Lt. Cleary gave an enforcement briefing by Oregon State Police of the cervid ranching community.

Commissioner Smith feels double fencing would be nice to have but everything he hears indicates there is very low probability of nose to nose disease transmission. He suggests either double fencing or fencing with electric weaving through the fence.

Commissioner Edge would support a double fencing standard or, if sufficient, an electric fence.

Commissioner Smith and Commissioner Levy would like to leave the electric fencing length up to staff.

Commissioner Kerns supports double fencing and would like to see the state pay for it. He would like a year or two moratorium for the industry to seek funding from the state.

Commissioner Englund is not for imposing double fencing.

Chair Rae said the Commission shouldn't be dictating electric wire fencing, etc but should set minimum requirements and explore cost sharing with the Oregon Hunters Association and other legislative possibilities.

Commissioner Edge stated that he is on board with Chair Rae's statement. He stated he is supportive of what works.

Ron Anglin, Wildlife Administrator, said the department will need to go back and talk with the Oregon Hunters Association to confirm that a lesser standard would still be incorporated in the proposed memorandum of understanding for cost sharing the fencing.

Commissioner Levy wants to ensure the ranches' acreage is not lessened.

Commissioner Smith wants to ensure the ranches are not put out of business with an excessively expensive fencing requirement.

Chair Rae said this Commission is not in any way, shape or form trying to put anyone out of business. The Oregon Legislature has already said the private holding of cervids is lawful. She continued to say that it is up to the Commission to uphold that statute but at the same time not let any harm come to wildlife in the state. The Commission is not trying to eliminate the industry. She further said, pretty consistent and enhanced enforcement will be a strong recommendation. She also said there will be no more grandfathering of ranches. The ranches must meet the standard of operation to be licensed.

635-049-0015: Requirement to Hold Cervids

Commissioner Klarquist and Commissioner Smith requested alternative two, that a license be relinquished if the licensee does not hold cervids for more than 180 consecutive days. A majority of the Commission agreed.

635-049-0015(2)(c): Requirements for Starkey Experimental Forest

Commissioner Levy said specifically about the tame animals held at Starkey, she does not support their release, into the wild or moved to another area of the state.

Chair Rae stated a distinction can be made between the wild animals at Starkey and the tame animals. She does not want to limit the research that can be done with any of the animals at Starkey.

Commissioner Levy wants to be sure the animals at Starkey are tested before being moved to another place.

A majority of the Commission agreed to staff's proposed revision; the Director may exempt public agencies holding cervids from the rule's requirements upon a finding that the operation would not tend to be harmful to existing wildlife populations and would significantly benefit the public.

635-049-0025(2): Import of Cervids

A majority of the Commission agreed to staff's proposed revision that importation of fetuses and embryos be allowed after department approval. Establishment of disease testing and prohibitions are included in the proposed changes. The ban on importing live cervids is maintained.

635-049-0025: Export of Cervids

Commissioner Edge supported alternative 2, prohibiting the export of bulls over three years of age. He would specifically like to see "shooter bulls" in the rule language.

Commissioner Klarquist supported Commissioner Edge's suggestion.

Commissioner Smith would like to not see any shooter bulls exported. He suggested language to prohibit exporting to state's where shooter bulls are prohibited.

Commissioner Englund stated the Commission is out of its jurisdiction, and he believes the Commission can't limit the exportation of bulls.

Commissioner Kerns finds shooting captive bulls appalling. He said limiting the sale of shooter bulls is against interstate commerce.

Commissioner Levy agreed with Commissioner Englund and Commissioner Kerns.

Bill Cook, Assistant Attorney General, said if the Commission adopts a ban of the export of shooter bulls, it would be defensible. He said that Oregon already has export bans on some plants and animals.

Commissioner Edge recommended banning shooter bulls as a threat to the fraternity of hunting. He said it won't be long before the public perception is seen as shooting animals in closed-in areas.

Commissioner Klarquist said the Commission has a duty imposed to make a decision such as this. The decisions affect the value of wildlife; we devalue the principle of fair chase the more we see elk as livestock.

Commissioner Smith doesn't want to allow the export of shooter bulls in any manner. He said by adopting alternative two, it may relieve adverse affects on the cervid industry.

Richard Patterson asked that the Commission allow the breeder the ability to get out of business if necessary, which could include exporting animals of any age or size.

Commissioner Klarquist suggested restricting the knowing sale of shooter bulls.

Chair Rae recommended a rule to state "prohibit the knowing sale and export to an out of state shooter bull operation" be included in alternative two. A majority of the Commission agreed.

635-049-0035: Hunting of Privately Held Cervids in Oregon

The Commission agreed with the staff recommendation to continue the prohibition of hunting captive cervids in this state.

635-049-0045: Release or Escape of Held Cervids

Commissioner Kerns believes there should be an exception made when the ranch is the victim of vandalism. He said ranchers are an easy target for eco-terrorism.

Bill Cook, Assistant Attorney General, said there is a statute that makes it a crime to interfere with an agricultural institute.

Commissioner Smith supports the current rule. He feels it gives the department the latitude to seek reimbursement if necessary.

Commissioner Klarquist said alternative two seeks to give the department discretion on whether or not to seek damages.

Commissioner Edge supports alternative two.

Commissioner Smith and Commissioner Levy support alternative two.

Commissioner Kerns supports the current rule.

A majority of the Commission supported the proposed Alternative 2, which allows the state to recover costs from licensees and gives the department discretion to consider the nature, scope and environmental impact of the release or escape, as well as the promptness and cooperation of the licensee.

635-049-0065: Requirements upon Death of Held Cervids

Commissioner Smith asked if alternative two is added to the proposed rule. Bruce Eddy responded by saying that coming up with a definition of “non-disease related death” could not be reached. Colin Gillin said you would be back to the current rule. Commissioner Smith asked if there is a way to tighten up that definition.

The Commission agreed with the proposed revision that all deaths be reported to the department and Oregon Department of Agriculture within 24 hours of discovery. This proposal also incorporates the Chronic Disease Surveillance List to be developed.

635-049-0065: Requirements Upon Death of Held Cervids

Following discussion of bone piles and disease testing requirements, the Commission agreed with the proposed revision to impose no additional requirements upon the death of held cervids.

635-049-0075: Genetic Requirements

The Commission agreed with the proposed revision that the license specify the species, subspecies and/or hybrid that can be held and that the licensee, upon demand, must verify genetics of calves and fawns. The proposal allows the department to test the genetics of any captive cervid.

635-049-0085: License Term and Renewal

Commissioner Smith said if there is a stable industry the ranches should be offered some kind of term. If the ranches breach the terms of their permit then they relinquish their permit, otherwise they keep it.

Chair Rae said the ranches could operate as long as they stayed in compliance with the law.

Commissioner Smith would like to have strict enforcement. If someone is a repeat offender then their license should be pulled.

The Commission agreed with the proposed revision that licenses must be renewed annually and is valid as long as the licensee complies with the requirements of Division 049.

635-049-0085: Relating to Licensee

Commissioner Kerns preferred the permit be issued to an individual.

Commissioner Klarquist is concerned with the aspect of transferability.

A majority of the Commission agreed with the proposed revision that a license holder can be an individual, partnership, corporation or other legal entity and that a license is specific to a holder and facility.

635-049-0135: Herd Density

The Commission agreed with the proposed revision that the rules need not address herd density.

635-049-0145: Meat and By-Products

The Commission agreed with the proposed revision and chose to adopt OAR 635-049-0145 at the April 18, 2008 meeting.

635-049-0165(3)(a): Number of Type 1 Licenses Available

Bill Cook, Assistant Attorney General, said the number of commercial and exhibition licenses is limited at 16. The Commission is not obligated to issue all 16 licenses.

Commissioner Smith said that he understood that if a license were terminated or vacated it would be up to the discretion of the director whether or not to reissue it.

Chair Rae asked if “non-elk Type 1 licenses...” are the three zoo licenses? Bruce Eddy said they belong to other facilities. The zoo licenses would fall under scientific licenses.

Commissioner Klarquist asked that alternative three be added to whatever the Commission chose to adopt, retiring the license when it becomes available.

Commissioner Smith said the retirement of Type 1 licenses should be left to the discretion of the director.

Chair Rae stated that with the proposed revision, the Commission is trying to maintain the status quo. As long as the Oregon Legislature says propagation licenses are allowed in Oregon, it is the Commission’s responsibility to implement the statute.

Commissioner Kerns supports alternative two, increasing the number of licenses available.

A majority of the Commission agreed with the proposed revision allowing 16 Type 1 licenses.

635-049-0185: Lottery for Licenses for Commercial or Exhibition Purposes

Bill Cook, AAG, explained the difference between the current rule and the proposed revision. He explained that the staff revision is limited to the commercial and exhibition license.

The Commission agreed to remove alternative four as a possibility.

Commissioner Smith stated that he is against lottery systems. He said people should be invited to apply and be chosen on merit.

Commissioner Klarquist would support alternative two.

The Commission agreed that the department will decide on merit requirements.

635-049-0255: Cervid Marking

Commissioner Smith stated that he would like to give field staff discretion on tagging elk.

Commissioner Levy supports the requirements in the current rule.

The Commission agreed to clean up the current rule.

635-049-0265: Transport of Cervids among Licensed Facilities

The Commission agreed with the proposed revision that moving captive cervids between licensed facilities requires a permit be issued by the department.

635-049-0275: Requesting Changes to a License

Commissioner Levy supports the current rule

Commissioner Klarquist stated his concern that the business would be transferred rather than just the license.

Bill Cook, Assistant Attorney General, said, in response to Commissioner Klarquist, the transfer of business rather than the license currently happens.

Commissioner Klarquist said it would be in the department's interest to restrict the transfer of a license or revoke the license in the event of a transfer.

Chair Rae suggested that a substantive transfer, if a change in the business ownership occurred, would require approval by the department.

The proposed revision will incorporate the change in ownership or facility location requiring department approval.

635-049-0285: Decommissioning

Commissioner Levy suggests allowing the licensee to petition the department to remove perimeter fencing after a certain amount of time.

Commissioner Levy suggesting adding the language "on a case by case basis".

Chair Rae said site specific conditions will be incorporated in the rule change.

635-049-0295: Security Requirement

Commissioner Edge is in favor of the proposed revision to require bonding, business insurance or some other form of security. He is not clear if bonding is available or what the "other form of security" is.

Bill Cook, Assistant Attorney General, stated that other state agencies require some form of financial security. It is open ended; the department needs proof of financial security.

Bruce Eddy stated the applicant lays out what they think needs to be done, that is the basis for acquiring the bond.

Chair Rae stated she is not comfortable making a bonding requirement at this time.

Commissioner Klarquist is concerned the department may not know what is available. Before adopting a rule, he said the Commission and department need to know what is available.

The Commission agreed not to take action at this time but to further explore the availability of financial securities available.

635-049-0001: Policy Statement-

Commissioner Klarquist is not concerned about the way the current licensees are conducting their operations except for the fencing. He is concerned with having wild animals held as livestock.

Commissioner Edge is in agreement with the current rule stating the Commission's opposition to private ownership and commercial use of native cervids.

Commissioner Smith suggested tweaking the proposed revision to remove the word "unregulated".

Commissioners Levy, Englund, Smith and Rae were in favor of changing the language to include the word "concerned".

Commissioners Klarquist and Edge were in favor of leaving the language with the word "opposed".

Commissioner Kerns is in favor of adding the word "promote".

Commissioner Levy asked about the license fees. She proposed basing a fee on the number of animals the ranch holds their license for. Commissioner Smith concurred.

Chair Rae said the fee issue will be taken up in the Town Hall process and the Budget process.

Director Elicker noted Commissioners Levy and Smith's fee comment as official public comments.

Chair Rae noted that Commissioner Klarquist has concerns with the specific proposed rules before the Commission today. Moreover, she said, the precise proposed rules in the Commission packet does not incorporate today's decisions. The Chair closed the public comment period.

The rules as the Commission has asked will come to the Commission at their May meeting. The Commissioners will work with counsel to ensure the rule language incorporates today's direction.

Sale of Elk Meat

Action:

Chair Rae moved to amend Oregon Administrative Rule 635-200-0090. Commissioner Edge seconded the motion and the motion carried unanimously.

Exhibit G: FINAL DRAFTS OF THE 2008 KLAMATH AND LADD MARSH WILDLIFE AREA MANAGEMENT PLANS

Staff Presentation:

Nancy Breuner, Habitat Biologist, asked the Commission to adopt goals and objectives of the 2008 Klamath and Ladd Marsh Wildlife Area plans and amend goals and objectives in the Oregon Administrative Rules.

Public Testimony:

No members of the public were present to testify

Commissioner Smith stated his pleasure with the final drafts and hopes that action plans come out of the goals.

Commissioner Edge suggested since in Goal 3 for both plans the same format is used add "and habitat management objectives" to 3.2 on each plan. Also specifically list the Ladd Marsh Birdathon as a specific partnership.

Action:

Commissioner Edge moved as amended to adopt the goals and objectives of the 2008 Klamath and Ladd Marsh Wildlife Area Management plans and amend Oregon Administrative Rule Chapter 635 Division 008 as proposed by staff in attachment 6. Commissioner Smith seconded the motion and the motion carried unanimously.

Exhibit H: TAKE OF WILD BIRDS INCLUDING NESTS AND EGGS

This item will be rescheduled at a future meeting.

Exhibit I: 2008 OCEAN SALMON REGULATIONS FOR NEARSHORE WATERS AND COLUMBIA RIVER AREAS

Commissioner Englund declared a potential conflict of interest in that his business has dealings with both the commercial and sport salmon fisheries.

Staff Presentation:

Ron Boyce, Ocean Salmon and Columbia River Program Manager, asked the Commission to adopt Oregon Administrative Rules establishing regulations for sport and commercial salmon seasons in the Pacific Ocean and Columbia River.

Public Testimony:

No members of the public were present to testify

Action:

Commissioner Edge moved to adopt 2008 ocean sport and commercial salmon seasons as proposed by staff in the revised attachment 5. He also moved to adopt the Chinook bag limit, season structure and closed areas for the Buoy 10 and lower Columbia River recreational fisheries as proposed by staff in the revised attachment 5. Commissioner Levy seconded the motion. The motion carried unanimously.

Exhibit J: CRIMINAL HISTORY BACKGROUND CHECKS

Staff Presentation:

Roxie Burns, Human Resources Administrator, asked the commission to adopt rules relating to the criminal history background checks in compliance with House Bill 2157 (2005 Legislative Assembly).

Public Testimony:

No members of the public were present to testify

Action:

Commissioner Edge moved to adopt Oregon Administrative Rule Chapter 635, Division 600 as proposed in Attachment 3. Commissioner Smith seconded the motion and the motion passed unanimously.

Adjournment

Chair Marla Rae adjourned the meeting at 5:55 p.m.