



Oregon Fish and Wildlife Commission Minutes

Tour:
May 8, 2008 8:00 a.m.

Reception:
May 8, 2008 5:30 p.m.
Blue Mountain Conference
Center
404 Twelfth Street
La Grande, Oregon 97850

Meeting:
May 9, 2008 8:00 a.m.
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404 Twelfth Street
La Grande, Oregon 97850

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Commission minutes are considered draft until approved by the Commission at its next 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
Zane Smith, Commissioner
Jon Englund, Commissioner
Carter Kerns, Commissioner
Skip Klarquist, Commissioner

Bobby Levy, Commissioner
Bill Cook, Assistant Attorney General
Curt Melcher, Deputy Director
Liz Bueffel, Administrative Support Manager

On Thursday, May 8, 2008 the Oregon Fish and Wildlife Commission, department staff and members of the public toured Starkey Research Area. At Starkey the group discussed the history, the start of the project in the 1980's, the traffic study and the predation/nutrition study. The group then went to the elk holding facility to discuss scale, landmarks, ATV study, herbivory study, archery study and fuel reduction.

The Commission then traveled to Ladd Marsh Wildlife Area to discuss the Elkhorn Wind Project, Grande Ronde Model Watershed and the Ladd Marsh Wetland Creation.

The Commission held a public reception at the Blue Mountain Conference Center on May 8, 2008, at 5:30 p.m.

On Friday, May 9, 2008, at 8:03 a.m., Chair Marla Rae convened the Oregon Fish and Wildlife Commission (Commission). Commissioner Edge was excused from the meeting.

DIRECTOR'S REPORT

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

Northeast Region

Craig Ely, Northeast Region Manager, reported on the Aldrich Mountain closure in the Murderer's Creek Unit as well as limited hunter access in the Malheur National Forest.

33 High Desert Region
34 Chip Dale, High Desert Region Manager, reported on the opening weekend of fishing
35 season in Central Oregon. He also reported on steelhead fry releases above the Pelton
36 Round Butte Hydroelectric project.
37

38 Northwest Region
39 Chris Wheaton, Northwest Region Manager, reported on the 2007 bald eagle nest
40 survey, Chinook fry outmigrant numbers for the Little North Fork Wilson River and the
41 Siletz water development.
42

43 Southwest Region
44 Steve Denney, Southwest Region Manager, reported on Rock Creek Outdoor
45 Conservation Education and Rogue District wildlife damage complaints.
46

47 Ocean Salmon and Columbia River Program
48 Bruce McIntosh, Fish Division Deputy Administrator, updated the Commission on white
49 sturgeon tagging activities.
50

51 Information and Education
52 Rick Hargrave, Information Manager, reported on the California sea lion trapping
53 activities.
54

55 Conservation Strategy
56 Holly Michael, Conservation Strategy Leader, updated the Commission on Conservation
57 Strategy efforts, including plant species.
58

59 Oregon State Police
60 Walt Markee, Captain, Oregon State Police Fish and Wildlife Division, reported on a
61 multi-state investigation dubbed "Operation Fish and Chips". Numerous fish dealer
62 checks were conducted.
63

64 **Coastal Coho Conservation Update**
65 Bruce McIntosh, Fish Division Deputy Administrator, updated the Commission on the
66 Coastal Coho Conservation plan.
67

68 **Blue Mountain Elk Initiative**
69 Mark Henjum, Blue Mountain Elk Initiative Coordinator, gave a history on the Blue
70 Mountain Elk Initiative (BMEI). BMEI was a formed in 1990 and is a cooperative
71 partnership to manage elk and habitat in the Blue Mountains.
72

73 **Adopt Temporary Rules**
74 Curt Melcher, Deputy Director for Natural Resources, requested the Commission ratify
75 the following six temporary rules. The temporary rules were previously adopted by the
76 director under his emergency action authority.
77

78 **635-004-0019**

79 **Adopt In-season Actions Implemented by the Federal Government for**
80 **Commercial Fisheries**

81 Adopted April 23, 2008; effective May 1 through October 27, 2008
82 Amended rule adopts the in-season actions implemented by the National Oceanic and
83 Atmospheric Administration (NOAA) for commercial fisheries including: adjustments
84 governing the limited entry non-whiting trawl fishery, including changes to trip limits and
85 Rockfish Conservation Area (RCA) boundaries; and trip limit adjustments to the open
86 access sablefish daily trip limit fishery north of 36 degrees N.

87
88 **635-023-0134**

89 **Open Spring Chinook Sport Fishery on the Snake River below Hells Canyon Dam**

90 Adopted April 24, 2008; effective April 26 through July 20, 2008
91 Amended rule opens a hatchery spring Chinook fishery from the Dug Bar Boat Ramp
92 upstream to the deadline below Hells Canyon Dam on the Snake River beginning April
93 26, 2008 to coincide with the state of Idaho's regulations for this fishery.

94
95 **635-042-0170**

96 **Commercial Gill Net Spring Salmon Fisheries for Tongue Point Basin and South**
97 **Channel Select Areas**

98 Adopted April 24, 2008; effective April 28 through October 24, 2008
99 Amended rule implements the commercial gill net spring salmon season in the Tongue
100 Point Basin and South Channel Select Areas and allows retention and sales of salmon,
101 white sturgeon and shad. Revisions are consistent with action taken April 24, 2008 by
102 the Columbia River Compact agencies of Oregon and Washington.

103
104 **635-041-0176**

105 **Allowable Sales of Fish Caught During Columbia River Treaty Tribal Spring-**
106 **Summer Salmon Fisheries**

107 Adopted May 1, 2008; effective May 5 through July 31, 2008
108 Amended rule allows sales of fish caught in Treaty Tribal spring Chinook salmon
109 fisheries in the Columbia River mainstem and Washington tributaries beginning May 5,
110 2008. Allowable sales include Chinook salmon, steelhead, walleye, carp, shad and fish
111 caught in Yakama Nation tributary fisheries in the Klickitat River, Wind River, Drano
112 Lake/Little White Salmon River and Big White Salmon River during those days and
113 hours when the tributaries are open under lawfully enacted tribal fishing periods.
114 Revisions are consistent with action taken May 1, 2008 by the Columbia River Compact
115 agencies of Oregon and Washington.

116
117 **635-051-0048**

118 **Take of Wild Birds Including Nests and Eggs**

119 Adopted April 21, 2008; effective April 21 through October 17, 2008
120 Allow the continuation of control methods currently allowed under Federal permits for all
121 migratory birds and to implement the Nest and Egg Depredation Order for resident
122 Canada geese. The department may allow the destruction of nests and/or eggs by
123 authorized federal agencies and their permittees for the purposes of public health and
124 safety, nuisance and depredation control.

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635-017-0090

Inclusions and Modifications

Adopted May 8, 2008; effective May 12 through July 29, 2008
Close the recreational fishery in the Willamette River below the Willamette Falls, including the Multnomah Channel, to retention of spring Chinook salmon. Steelhead, shad and other species will remain open, as will Chinook retention above Willamette Falls and in the Clackamas River, with previously adopted seasons and bag limits still in effect.

Action:

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

Revisions were made to OAR 635-017-0090 to reflect the original intent of the temporary rule. A revised temporary rule was provided with the correct language.

Commission Smith moved to rescind the temporary rule motion for 635-017-0090. Commission Levy seconded the motion and the motion carried unanimously.

Commissioner Smith moved to ratify the temporary rule 635-017-0090. 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 March 31, 2008. She also gave an update on the 2009-11 budget process.

Chair Rae provided some of the comments received from the Town Hall meetings around the state.

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.

Ben Boswell Wallowa County Commissioner	Mr. Boswell provided comments regarding turkey populations in Wallowa County. He also provided the Commission with another copy of his minority report for the Draft Wolf Conservation and Management Plan from October 2004. He reviewed it to see if he would change anything and he stated he would not. Mr. Boswell also provided what he considers to be the management objectives for predators. He would like the department to distribute more information on wolves.
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162 **Exhibit A: COMMISSION MINUTES**

163 The Commission considered approval of the April 2008 Commission minutes.

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165 *Action:*

166 Commissioner Smith moved to approve the minutes of April 17 and 18 as amended.

167 Commissioner Kerns seconded the motion and the motion carried unanimously.

168

169 **Exhibit B: RESTORATION AND ENHANCEMENT PROJECT APPROVALS**

170 *Staff Presentation:*

171 Laura Tesler, Restoration and Enhancement Program Coordinator, asked the
172 Commission to review and approve 19 Restoration and Enhancement (R&E) projects
173 recommended by the R&E Board at their February 29, 2008 meeting.

174

175 Commissioner Smith inquired about the cost of the bathrooms at Bowman pond. He had
176 concern about the cost and felt there must be a better way to construct a toilet.

177

178 Laura Tesler provided the Commission with information on bathroom units and prices.
179 She also reported that the landowner has been very generous in the past allowing
180 disabled groups and senior citizens to visit the site and felt the project was worth the
181 price for access it provides.

182

183 Commissioner Smith inquired about the suggestion the Board had for a local fee for the
184 sea lion deterrent project.

185

186 Laura Tesler reported that she looked into the possible fee for the boat ramp. It is a
187 Sport Fish Resoration funded boat ramp so a fee cannot be charged. Steve Denney
188 added that a different method might be used such as a hotel tax or port charges to help
189 defray the cost.

190

191 Commissioner Smith asked about the Salem 4-H pond aerator project. He felt the
192 project was marginal and asked for highlights of the benefits.

193

194 Laura Tesler reported that it is a warm water fishery program and there are lots of
195 fishing events through the 4-H program. It was felt the project would give another
196 component to a kid's fishery.

197

198 Chair Rae expressed continued concern on unpredictable money being used to fund
199 positions that the department needs.

200

201 Commissioner Kerns expressed his support for the land purchase along the Grand
202 Ronde River.

203

204 *Public Testimony:*

205

No members of the public were present to testify

206

207 *Action:*
208 Commissioner Smith moved to approve the recommendations of the Fish Restoration
209 and Enhancement Board. Commissioner Englund seconded the motion and the motion
210 carried unanimously.

211

212 **Exhibit C: KLAMATH BASIN FISH MANAGEMENT PLAN BRIEFING**

213 *Staff Presentation:*

214 Chip Dale, High Desert Region Manger and Roger Smith, District Fish Biologist for the
215 Klamath Watershed District, briefed the Commission on proposed amendments to
216 introduce anadromous fish to the upper Klamath Basin.

217

218 Public Testimony:

Joe Kirk (Klamath Tribes) Chiloquin, OR	Mr. Kirk is the Chairman for the Klamath Tribes. He reported that salmon have been gone from his homeland for almost 100 years. They are trying to bring fisheries back and he believes they will come back. He would like to see the Commission approve the Plan.
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John Hamilton (USFWS) Yreka, CA	Mr. Hamilton provided U.S. Fish and Wildlife's comments on the proposed Plan. He provided historical information and appreciated ODFW's efforts. He looks forward to working together as partners to restore anadromous fish to the area.
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219

220 Commissioner Smith complimented everyone on their remarkable efforts.

221

222 Commissioner Kerns echoed Commissioner Smith's comments and is pleased to see
223 the Plan.

224

225 Commissioner Englund stated that he is delighted to see the Plan. He went over his
226 concerns with portions of the Plan and stated he endorsed it.

227

228 Deputy Melcher reported that the issues will be difficult and every solution comes with
229 problems but the department will work through them. He felt the department is taking a
230 good approach and it is very exciting.

231

232 *Action:*

233 No Commission action at this time. Specific proposed rulemaking will be presented in
234 July 2008.

235

236 **Exhibit D: LANDOWNER PREFERENCE BRIEFING**

237 *Staff Presentation:*

238 Craig Ely, Northeast Region Manager, and Steve Denney, Southwest Region Manager,
239 briefed the Commission on potential changes to the Landowner Preference Program
240 (LOP).

241
242 Chair Rae, Commissioner Levy and Commissioner Kerns declared a potential conflict of
243 interest. They and/or their family members participate in the Landowner Preference
244 Program. Commissioner Levy is also related to a member of the LOP review committee.
245

246 Public Testimony:

Steve Mathers Bend, OR	Mr. Mathers recommended adopting the recommendations from the committee. He would like to see landowners given much more flexibility to use the tags.
George Houston Sandy, OR	Mr. Houston served on the LOP review committee. He felt the program is well balanced. He would like the Commission to look at the original intent of the program and gather a vision for future. He would like the department to try to balance the issues and make partnerships work.
Gordon Larson Canyon City, OR	Mr. Larson stated that it is the landowner that will be affected by changes. He supports the bulk of the recommendations except the increase in acreage from 160 to 640. He feels it will impact smaller landowners like him.
Jim Welsh Elmira, OR	Mr. Welsh represents the Oregon Cattleman's Association. He felt compensation is needed for the loss of livestock. Mr. Welsh went over portions of the staff recommendations that he supported. He would like to see the sunset extended for five years, review the program then and then place another sunset.
Steven Hammond Diamond, OR	Mr. Hammond served on LOP review committee and represents the Oregon Farm Bureau. He supported a review of the program every five years. He felt department staff needs to help the committee through that. He utilizes the LOP program and is still learning things. He feels there is no reasoning behind the issue regarding transferring of tags.
Bob Webber Central Point, OR	Mr. Webber also served on the LOP review committee. He supported the staff options. He felt a five-year review might be too quick and that ten years may be better. Mr. Webber felt that if all tags were transferable it would decrease hunter access to private lands because it would exclude the public. The program was designed for property owners to hunt on their own property. He would support a damage program that can prove damage. The

program would have to deal with specific identifiable damage with individual landowners. Solutions could entail hazing, special hunts, fencing, etc.

Steve Corey
Pendleton, OR

Mr. Corey served on the LOP committee. He spoke on behalf of the Cunningham Sheep Company. He provided the Commission with a request for a special drawing in certain units for landowners to draw bull elk tags. This would be a special drawing that would occur only in the LOP limited draw units.

247
248 Chair Rae noted the comments received from Mike Dykzeul, Oregon Forest Industry
249 Council.

250
251 Staff reported there are currently 6,379 landowners currently registered in the
252 landowner preference program. Deanna Erickson gave a briefing on the limited
253 landowner draw which started in 2000.

254
255 Commissioner Smith inquired about if rules were adopted regarding a charity issue how
256 would the landowner determine the value for tax purposes. It was determined that the
257 amount would probably be very small since the actual cost of the tag is minimal.

258
259 Commissioner Smith inquired about the requirement for damage tags. Craig Ely
260 explained the tag exchange process for damage. This process came about in the
261 1990's. Tag exchanges for damage can occur between August 1 and March 31.

262
263 Administrative rules regarding the issues discussed will be brought forward in October
264 for proposed adoption.

265
266 *Action:*
267 The Commission discussed the internal actions provided by staff and agreed with the
268 actions provided.

269
270 The Commission discussed the potential administrative rule changes that would be
271 implemented in 2009. They agreed with the recommendations but would like more ideas
272 brought forward in October regarding the drawing process for acreage larger than
273 20,000.

274
275 The Commission discussed the acreage proposal changing the minimum acreage
276 requirement for deer and elk from 160 to 640. This would affect 1,079 landowners. Staff
277 will provide the Commission with a range of options when they bring this issue forward
278 in October for proposed adoption.

279
280 The Commission discussed the proposed legislative actions. They supported to extend
281 the sunset an additional 15 years and have an internal review at least every five years.

282 A majority of the Commission supported the harvest of buck antelope under the
283 Landowner Preference Program. The Commission supported to add “spouse and
284 domestic partner” to the definition of “immediate family” and the majority supported to
285 allow up to 50 percent of the tags to go to anyone the landowner chooses. Numbers will
286 be rounded up for odd numbered tags.
287 The Commission supported staff to work with Legislative Counsel to develop a pilot
288 program for landowners who provide hunter access.
289

290 **Lunch Award Presentation**

291 Craig Ely, Northeast Region Manager, presented an award of appreciation to Mr. Bill
292 Brown. Mr. Brown was the first Region Supervisor in the Northeast Region. Mr. Brown
293 recently donated \$4,000 to ODFW to build an informational kiosk at Ladd Marsh Wildlife
294 Area. Mr. Brown and his family were present for the award.
295

296 **Exhibit E: CERVID RULE ADOPTION**

297 *Staff Presentation:*

298 Bruce Eddy, Grande Ronde Watershed Manager, asked the Commission to adopt
299 Oregon Administrative Rules related to Cervid Propagation.
300

301 Chair Rae went over the issues that were before the Commission for the cervid rule
302 proposed adoption.
303

304 Bill Cook explained to the Commission that the law requires the impact of small
305 businesses to be considered when writing the rules. If there is an economic impact on
306 small businesses, changes in the rules would need to be made that would ease the
307 impact on small businesses.
308

309 The Commission reviewed the proposed Oregon Administrative Rules related to
310 cervids:
311

312 **Exports, 635-049-0025(6):**

313 Commissioner Smith agreed with the export rules but had concern for those licensees
314 who want to dispose of their license. He stated that the Commission might need to
315 broaden the rules for this situation because it may be difficult for the licensee to market
316 their bulls in this case. An option for this may be adding a grace period before
317 implementation.
318

319 Commissioner Englund stated that he is concerned about financial effect of the issue
320 and also concerned about the knowing sale of shooter bulls. He yielded to endorse the
321 rules even though it is a stretch. He agreed with Commissioner Smith’s comments that it
322 may make it difficult for those who want to get out of the business.
323

324 Commissioner Kerns agreed with Commissioner Englund’s comments.
325

326 A majority of the Commission agreed to leave the language as proposed.
327

328 **Lottery versus merit process, 635-049-0175:**

329 There was concern over the Commission's direction from the last meeting in regards to
330 when a license becomes available and how that license is offered to another individual.
331 The previous direction from the Commission was to issue these new licenses based on
332 merit and not to go through a lottery process. Chair Rae felt that the information
333 provided by the applicant when they first apply is what they were trying to achieve
334 through the merit process. She discussed options for the lottery process for new
335 licenses.

336
337 Commission Smith still supported the merit process but agreed that the department
338 should not issue a written test. He felt that the department should solicit applications
339 similar to a Request for Proposal (RFP). The RFP would prescribe the minimum
340 conditions in which the department would issue a permit. The permittee can elaborate
341 on how they can meet the conditions on security, disease control, etc. Then, the
342 selection for the license would be based on a judgment call. Commissioner Smith is
343 okay with the lottery draw but would prefer the merit process.

344
345 Changes would need to be made to 635-049-0185 if a lottery process would be put in
346 place.

347
348 **Fencing, 635-049-0245:**

349 Department veterinarian Colin Gillin reported on his findings on fencing for cervids. He
350 discussed the different options for fencing requirements, including single woven wire
351 fencing and double woven wire fencing.

352
353 Chair Rae reminded the Commission that the fencing rules discussed apply to existing
354 licensees. New or transferred licenses would be required to be double fenced.

355
356 Commissioner Klarquist supported the recommendations regarding fencing. He
357 commented on Representative Whisnant's letter in which he suggested working with the
358 Legislature on financial help for double fencing and to postpone the effective date for a
359 year.

360
361 Commissioner Englund reported he is against double fencing because of the cost. He
362 believes there is a bigger concern of disease coming into a ranch than disease coming
363 out of a ranch. He is now leaning toward double fencing after listening to the testimony
364 from last month. He would like to see a phase in time of at least three years and a cost
365 share program to assist with the price. He agreed that new operations should be double
366 fenced. He also believed that a person buying a transfer license should be
367 grandfathered in and have a three year grace period to be double fenced.

368
369 Chair Rae reported that the cost share would be for existing licenses only. Existing type
370 1 licensee would not be required to double fence unless there was detected disease
371 that we are concerned about in one of their animals. Transferred and new licenses
372 would be required to be double fencing, even if it's an existing facility. Partners would be
373 sought to help fund double fencing for existing operations when necessary.

374 Administrative rules or policy would need to be adopted in the future to implement cost
375 sharing.

376

377 **Implementation dates/grace periods:**

378 Commissioner Kerns would like to see grace period for all the issues that would go
379 through the next legislative session.

380 Chair Rae did not support all the issues being put on a grace period through the next
381 legislative session because some issue could be dealt with immediately. The process of
382 a surveillance list, testing and reporting, genetics, etc. can be done immediately
383 because they would not require legislative action. The only one that is dependent on
384 legislative action is cost sharing for double fencing for existing operations.

385

386 Ron Anglin had concern with the timeframe for marking requirements for cervids. This
387 might not physically be able to be done within the next few months, specifically for bulls,
388 so he suggested a delayed implementation date so it would not cause harm to their
389 animals.

390

391 The Commission made amendments to the proposed Division 049 in regards to the
392 lottery process, fencing requirements and implementation/phase in process along with
393 some wordsmithing changes.

394

395 Commissioner Kerns and Commissioner Smith continue to favor merit over a lottery
396 process for available elk licenses for commercial or exhibition purposes.

397

398 Commissioner Klarquist and Commissioner Kerns were not in favor of taking the
399 wording out in lines 443-447 in 635-049-0245(2)(b) in regards to fencing requirements.

400

401 Bill Cook stated that the law requires that the Commission make changes to rules to
402 ease the economic impact on small businesses. He identified two ways the rules have
403 eased the economic impact on small businesses; (1) implemented a less costly
404 alternative for fencing because it is scaled back from the original recommendation and
405 (2) simplified the compliance requirements in that cervid marking requirements have
406 been simplified and phased in.

407

408 Public Testimony: No public testimony on the cervid rule adoption was taken.

409

410 *Action:*

411 Chair Rae moved to adopt the amendments to Oregon Administrative Rule 635
412 Divisions 045 and 049 as proposed by staff and amended by the Commission on May 9,
413 2008. Commissioner Smith seconded the motion and the motion passed with a 5-1
414 vote. Commissioner Klarquist opposed to the motion and Commissioner Edge was
415 excused.

416

417 The Department will work toward a cost-sharing program to help the existing cervid
418 licensees with double fencing.

419

420 Chair Rae stated that there is an expectation that these regulations will be strictly
421 enforced.

422

423 Chair Rae would like staff to look into the repeated statement regarding CWD resistant
424 herds. It is not known if it is possible to have that claim without having one of the
425 animals exposed to CWD. Staff will follow up to prove or deny the statement and report
426 back to the Commission.

427

428 **Adjournment**

429 Chair Marla Rae adjourned the meeting at 4:26 p.m.

DRAFT