



Oregon Fish and Wildlife Commission Minutes

Climate Change Workshop:
October 9, 2008 9:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue NE
Salem, OR 97303

Meeting:
October 10, 2008 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue NE
Salem, OR 97303

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	Roy Elicker, Director
Dan Edge, Vice-Chair	Curt Melcher, Deputy Director
Jon Englund, Commissioner	Tom Ruddiman, Deputy Director
Skip Klarquist, Commissioner	Bill Cook, Assistant Attorney General
Carter Kerns, Commissioner	Teri Kucera, Executive Assistant
Bobby Levy, Commissioner	
Zane Smith, Commissioner	

MEETING

On Friday, October 10, 2008 at 8:00 a.m., Chair Marla Rae called the Oregon Fish and Wildlife Commission (the Commission) meeting to order. She commended the hard work of Holly Michael and the Director's Office for the Climate Change Workshop held the day before.

DIRECTOR'S REPORT

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

Northeast Region

Bruce Eddy, Northeast Region District Manager, said a partnership between the Oregon Department of Fish and Wildlife (ODFW), the Umatilla National Forest and the Confederated Tribes of the Umatilla Indian Reservation received financial support from Oregon Wildlife Heritage Foundation, Oregon Hunters Association and Blue Mountain Habitat Restoration Council to monitor moose in northeastern Oregon.

The Commission took a break at 8:05 a.m. until 8:15 a.m. to reboot the sound system.

Bruce Eddy said the deer opener success was below average. He also talked about bird hunting and six youth hunts. He said the Hatchery Scientific Review Group is reviewing all hatcheries in the Columbia River Basin, and that Northeast Region hatcheries came out very well from that review.

1 High Desert Region

2 Chip Dale, High Desert Region Manager, reported that staff from a variety of agencies
3 successfully implemented the second year of a multi-year Lahontan cutthroat truck
4 restoration effort in McDermitt Creek. He talked about several youth hunts, and said
5 staff conducted shooting skills clinics. Dale also talked about a 30-acre controlled burn
6 set September 25 by the Deschutes National Forest in the Metolius River Basin.
7

8 Director Elicker asked Dale to report on the status of the Klamath hydro negotiations.
9 Dale said the agency has worked in a collaborative effort to come up with the Klamath
10 Basin Restoration Agreement and that negotiations have been on-going with the various
11 groups over the last four months on what the Klamath restoration is seeking.
12

13 Southwest Region

14 Steve Denney, Southwest Region Manager, said the Denman Wildlife Management
15 Area hosted two special pheasant hunts for women and youth in September. He
16 reported on staff's use of video and trail-cam cameras to track the migration and herd
17 composition of black tailed deer. He said the majority of bucks and does migrate at
18 night, in response to the hunting season.
19

20 Northwest Region

21 Steve Marx, South Willamette Watershed District Manager, Northwest Region, said
22 there are good Coho returns in the Portland Metro area. He said staff pursued
23 collection of 132 brood stock on the Sandy after the removal of Marmot Dam. Marx said
24 ODFW biologists, the Oregon State Police (OSP) and the USDA Wildlife Services staff
25 presented a public training session on bear and cougar attacks.
26

27 Oregon State Police

28 Walt Markee, Captain, Oregon State Police Fish and Wildlife Division, said that a
29 commercial skipper was charged with theft, criminal mischief, and waste of crab after
30 the skipper admitted he took 30 crab pots from another fishing vessel about a year and
31 half ago. OSP are working on the case. Captain Markee invited the Commission to tour
32 OSP's "Trailer of Shame" of poachers on display in the agency's parking lot.
33

34 Information and Education

35 Roger Fuhrman, Information and Education Administrator, said staff has stepped up
36 efforts to inform the public on hunter safety. So far there have not been any shooting
37 accidents this year. He said Oregon is one of 16 states that will participate in a National
38 Shooting Sports Foundation hunter recruitment and hunter project that will gather data
39 to help states identify profiles on hunter trends. He said the economic downturn has not
40 yet affected hunting and fishing.
41

42 Marine Resources Program

43 Bill Herber, Interim Program Manager, said in September, the Marine Habitat Project
44 conducted five days of remotely operated vehicle (ROV) surveys of seafloor habitat and
45 biological communities at the Siletz Reef complex. Staff also conducted a Recreational
46 Bay Crab Survey by interviewing bay crabbers in Tillamook Bay, Netarts Bay, Yaquina

1 Bay, Alsea Bay and Coos Bay. Herber said this information is used in-house to analyze
2 trends and patterns.

3
4 Oregon Conservation Strategy

5 Holly Michael, Conservation Strategy Leader, said ODFW is co-hosting the Pacific
6 Northwest Wildlife Connections Conference in mid-October. In November, ODFW and
7 Oregon Chapter of the Wildlife Society are co-hosting a workshop on wind energy
8 impacts to wildlife. She said Portland General Electric and Iberdrola Renewables are
9 hosting a field tour of their facilities at Bigelow Canyon and Klondike Wind Projects.
10 Michael said Renewable Northwest led a coalition to create guidelines for wind
11 development in the Columbia Plateau Ecoregion. At Chair Rae's request, she will email
12 these guidelines to the Commission.

13
14 Updates

15
16 Mule Deer Action Plans. Ron Anglin, Administrator for Wildlife Division, talked about
17 the Mule Deer Initiative. He said staff is moving forward with mule deer action plans,
18 and has identified five units – Heppner, Murders Creek, Malheur, Steens and Warner.
19 These action plans will be presented to public workgroups before final implementation.
20 Anglin said the plans will focus on: general background information, limiting factors,
21 potential objectives, monitoring and evaluation, resource needs, and the pros and cons
22 of using those units. He said the next step is to put together a local implementation
23 team that will develop final strategies for doing work on private and public lands.

24
25 Marine Reserves. Ed Bowles, Administrator for Fish Division, distributed a handout
26 *Marine Reserves Update*. He said the State of Oregon was considering 20 proposed
27 sites for potential designations as marine reserves in Oregon's Territorial Sea. The
28 Ocean Policy Advisory Council (OPAC) will make recommendations by December 1,
29 2008. Bowles said the Governor asked for less than ten proposals that might be
30 included in the Governor's budget request to the 2009 Oregon Legislature. There is a
31 provision for a couple of vetted sites that could move forward as pilot projects next
32 spring or summer, if funded by the legislature.

33
34 Chair Rae asked Bowles to explain the term "coarse review" criteria written in his
35 handout. Bowles said course review is part of the two-step process and is a way of
36 narrowing down to specific sites for potential designation. Chair Rae asked how
37 valuable Bill Herber's ROV survey will be in this process. Bowles said all nearshore
38 information is vital, which is why scientists and fishing communities were adamant that
39 ODFW gather information before finalizing these boundaries.

40
41 Bowles distributed a *Memorandum of Understanding (MOU) between the Port Orford*
42 *Ocean Resource Team and the Oregon Department of Fish and Wildlife*. He said
43 through this MOU, staff has had an opportunity to develop a community based pilot
44 project that will provide a model for implementing recommendations of the Oregon
45 Nearshore Strategy, implement community and eco-based management in the
46 nearshore area around Port Orford, and enable the parties to cooperate on fisheries

1 research, such as monitoring and management. He said if this model works, staff will
2 consider other pilot projects along the coast.

3
4 Chair Rae said this was exactly what she hoped the process would be.

5
6 Director Elicker said there was a lot of community support for this project. About 100
7 people attended a signing ceremony last month. He commended Anglin and Bowles for
8 their work on these two issues.

9
10 Commissioner Edge said the MOU is a wonderful way to approach community-based,
11 nearshore management.

12 **Expenditure Report**

13 Tom Ruddiman, Deputy Director of Administration, gave a revenue and expenditure
14 report for the 2007-09 biennium ending August 31, 2008. He reported that revenues are
15 at or above projections, and expenditures are in line. Preliminary numbers indicate
16 hunting tag sales remain strong despite the poor economy. Ruddiman said staff has
17 submitted the 2009-11 Agency Request Budget, and received information that suggests
18 all agencies are being denied packages. He said staff is working on an appeals
19 document at this time.

20 **Adopt Temporary Rules**

21
22 Director Elicker requested the Commission ratify the following temporary rules. The 20
23 temporary rules were previously adopted by the director under his emergency action
24 authority. He said that 635-060-0046, Reinstating Preference Points under Certain
25 Circumstances, would allow him to handle situations rather than having the Commission
26 deal with them.

27
28
29 Chair Rae said an additional agenda item is included in the same motion to adopt
30 temporary rules. She said 635-003-0085 closes the Chetco River Terminal Area
31 commercial fishery for Chinook salmon effective October 12, 2008 at 11:59 p.m.

32 **635-041-0075**

33 **Treaty Indian Fall Salmon Seasons On the Columbia River and Tributaries**

34 Adopted September 18, 2008; effective September 22, 2008 through October 31, 2008.
35 Amended rule extended the Tribal Indian fall commercial gill net salmon season in the
36 Columbia River and tributaries by 4.5 days (108 hours) beginning at 6:00 a.m. on
37 Monday, September 22 and ending at 6:00 p.m. Friday, September 26, 2008.
38 Modifications were consistent with action taken September 18, 2008 by the Columbia
39 River Compact agencies of Oregon and Washington in concert with the Columbia River
40 Inter-Tribal Fish Commission.

41 **635-004-0016**

42 **Commercial Directed Sardine Fishery Closed Until January 1, 2009**

43 Adopted September 22, 2008; effective September 22, 2008 through December 31,
44 2008. Amended rule adopts management measures for the 2008 commercial sardine
45 fishery that are consistent with federal regulations, as approved by the Pacific Fishery
46 Management Council in November 2007 and closes the commercial directed fishery for
47 Pacific sardines until January 1, 2009.

1 **635-023-0130**

2 **Columbia River Recreational Chinook Salmon Daily Limit Increased in Area from**
3 **Warrior Rock to Bonneville Dam**

4 Adopted September 23, 2008; effective September 25, 2008 through December 31,
5 2008. Amended rule allows retention of two adult Chinook salmon, beginning
6 September 25, 2008 and until further notice, in the mainstem Columbia River
7 recreational fishery from the Warrior Rock-Bachelor Island line (located above the
8 mouth of the Lewis River) upstream to Bonneville Dam. The area from the Warrior
9 Rock-Bachelor Island line downstream to the Tongue Point-Rocky Point line remained
10 closed to retention of Chinook. The combined bag limit for adult salmon and/or
11 steelhead remained at two fish, of which both may be a Chinook. Modifications were
12 consistent with action taken September 23, 2008 by the Columbia River Compact
13 agencies of Oregon and Washington.

14
15 **635-042-0060**

16 **Late Fall Commercial Chinook Salmon Gill Net Season in the Columbia River**
17 **Extended**

18 Adopted September 23, 2008; effective September 24, 2008 through December 31,
19 2008. Amended rule adds seven new fishing periods to the late fall Columbia River
20 commercial gill net Chinook salmon season in Zones 4 & 5 beginning September 24,
21 2008. Revisions were consistent with action taken September 23, 2008 by the
22 Columbia River Compact agencies of Oregon and Washington.

23
24 **635-039-0085**

25 **Sport Pacific Halibut All-depth Fishery Reopened from Cape Falcon to Humbug**
26 **Mountain**

27 Adopted September 25, 2008; effective September 27, 2008 through December 31,
28 2008. Amended rule re-opened the Pacific halibut recreational all-depth fishery in the
29 area between Cape Falcon and Humbug Mountain, Oregon from 12:01 a.m. through
30 11:59 p.m. Saturday, September 27, 2008 with a daily bag limit of one fish. Revisions
31 are consistent with regulations implemented by the federal government and the
32 International Pacific Halibut Commission for the 2008 Oregon recreational fishery for
33 Pacific halibut.

34
35 **635-041-0075**

36 **Treaty Indian Fall Salmon Season In the Columbia River and Tributaries Extended**

37 Adopted September 29, 2008; effective September 29, 2008 through October 31, 2008.
38 Amended rule extended the Tribal Indian fall commercial gill net salmon season in the
39 Columbia River and tributaries by 3.5 days (84 hours) beginning at 6:00 a.m. Tuesday,
40 September 30 and ending at 6:00 p.m. Friday, October 3, 2008. Modifications were
41 consistent with action taken September 29, 2008 by the Columbia River Compact
42 agencies of Oregon and Washington in concert with the Columbia River Inter-Tribal Fish
43 Commission.

44
45 **635-004-0033**

46 **Nearshore Species Cumulative Trip Limits for the Commercial Nearshore Fishery**
47 **Revised**

48 Adopted September 30, 2008; effective October 2, 2008 through December 31, 2008.
49 Amended rule adjusts the cumulative trip limits for Black/Blue Rockfish permitted
50 vessels, with or without a Nearshore Limited Entry endorsement, downward from 1200
51 to 1000 pounds with a 15 pound daily trip limit beginning October 2, 2008; and in fishing
52 period six (November through December) from 800 to 200 pounds with a daily trip limit
53 of 15 pounds in an effort to immediately impact Black/Blue rockfish harvest rates.
54 Projections based on previously established harvest rates indicated a possible early

1 attainment of commercial harvest caps and possible early closure of the entire
2 Nearshore fishery.

3
4 **635-017-0090**

5 **Chinook Salmon Retention in the Willamette River and Tributaries Allowed**

6 Adopted October 1, 2008; effective October 2, 2008 through December 31, 2008.

7 Amended rule removed the temporary closure to retention of sport caught Chinook
8 salmon in the Willamette River and tributaries upon acquiring adequate broodstock from
9 hatchery returns. Permanent regulations are once again in effect.

10
11 **635-013-0007**

12 **Chetco River Special South Coast Salmon Season Amended to Include October
13 11, 2008.**

14 Adopted October 2, 2008; effective October 2, 2008 through December 31, 2008.

15 Amended rule extends the open season dates for Chinook salmon sport angling to
16 include October 11, 2008 in the Chetco River area south of the north shore of Twin
17 Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and
18 seaward three nautical miles offshore.

19
20 **635-041-0075**

21 **Treaty Indian Fall Salmon Season In the Columbia River and Tributaries Extended**

22 Adopted October 6, 2008; effective October 7, 2008 through October 31, 2008.

23 Amended rule extended the Tribal Indian fall commercial gill net salmon season in the
24 Columbia River and tributaries by 3.5 days (84 hours) beginning at 6:00 a.m. Tuesday,
25 October 7 and ending at 6:00 p.m. Friday, October 10, 2008. Modifications were
26 consistent with action taken October 6, 2008 by the Columbia River Compact agencies
27 of Oregon and Washington in concert with the Columbia River Inter-Tribal Fish
28 Commission.

29
30 **635-060-0046**

31 **Reinstating Preference Points under Certain Circumstances**

32 Adopted October 6, 2008; effective October 6, 2008 through April 7, 2009.

33 Amended rule allows reinstating preference points under certain circumstances. The
34 Director may reinstate the preference points of a person who the Director determines
35 did not or will not participate in a controlled hunt because of circumstances beyond the
36 person's control; or tragic personal circumstances.

37
38 **635-042-0060**

39 **Columbia River Late Fall Commercial Gill Net Chinook Salmon Fishery Extended**

40 Adopted October 7, 2008; effective October 8, 2008 through December 31, 2008.

41 Amended rule implements two new fishing periods in the Columbia River for the
42 commercial gill net harvest, retention and sales of Chinook salmon and white sturgeon
43 in Zones 4 & 5 beginning October 8, 2008. Modifications were consistent with action
44 taken October 7, 2008 by the Columbia River Compact agencies of Oregon and
45 Washington.

46
47 **635-003-0085**

48 **Chetco River Terminal Area Commercial Chinook Salmon Fisheries**

49 Adopted October 9, 2008; effective October 12, 2008 through December 31, 2008.

50 Amended rule closes the Chetco River Terminal Area commercial fishery for Chinook
51 salmon effective at 11:59 p.m. Sunday, October 12, 2008, when attainment of the pre-
52 season quota is projected to have been met. This action is consistent with guidelines

1 established by the Pacific Fishery Management Council and enacted by Federal
2 Regulations.

3
4 *Action:*

5 Commissioner Edge moved to ratify the temporary rules in the brown agenda and in the
6 supplemental Memorandum dated October 10, 2008. Commissioner Smith seconded
7 the motion, and the motion carried unanimously.

8
9 **PUBLIC FORUM**

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

13

Bill Shake
On file

Mr. Shake, retired assistant regional director for the U.S. Fish & Wildlife Services, talked about "SAFE for Salmon". He said that SAFE (Select Area Fisheries Enhancement) proposes to expand commercial fishing in off-mainstem sloughs and bay. Now is a critical time to modernize this fishery and plan for the future, with tighter ESA constraints and hatchery reform. He said their concept is to permanently move the non-tribal commercial gill nets off the river and into safe areas and out of the path of returning wild salmon. Shake said they could harvest the same number of fish, and there will be more flexibility in handling sport fishing. Plus, it will reduce waste on the spawning ground. He also talked about Youngs Bay, Grays River and other locations along the lower Columbia.

Jim Martin
On file

Mr. Martin, retired chief of fisheries for ODFW, asked the Commission to compare SAFE's strategy to any other strategy on the table, and then compare it to the status quo. He talked about changes based on public interest criteria: 1) is it politically doable right now; 2) is it practical; 3) is it better economics during a recession; better for the state and funding base; 4) is this better for conservation and easier to enforce; and 5) is it fair to everybody? He said modernizing the fishery will resolve conflicts (hatchery reform is coming).

Bill Shake
On file

Mr. Shake said there will be gill netters who insist on fishing in their traditional way regardless of the cost to the economy or the resources. The SAFE proposal is a win-win concept. He said ODFW staff

is beginning to see this idea as having merit and that his group would like to work with Deputy Director Curt Melcher and staff to flush out how this vision might meld with Melcher's proposal to make a huge improvement in the fishery.

1 Commissioner Edge said he appreciates this proposal, and at the October 15 Columbia
2 River Fisheries Working Group meeting one of the sport fishing advisor may present the
3 white paper.

4
5 Commissioner Smith asked what is the difference between Martin and Melcher's
6 proposals. Martin said the Melcher proposal takes over a period of five years to shift
7 the Spring Chinook allocation from 65/35 to 80/20. He agreed that is the right direction,
8 but the entire fishery should move into there. He said SAFE's version also relates to
9 sturgeon, sockeye, etc.

10
11 Chair Rae said the Commission should not refer to this as the "Melcher proposal" since
12 it wasn't just Curt Melcher who devised this, it was a collaborative effort with others in
13 the department.

14
15 Commissioner Edge suggested calling the proposal the Oregon Framework.

16
17 Chair Rae said the Commission asked Director Elicker to work with his counterpart Jeff
18 Koenigs in Washington State, independent of any particular group, for an independent
19 economic analysis of the Columbia River fisheries. She said she appreciated the
20 acknowledgement from Martin and Shake that this was not an "either or" proposition.

21 22 **Exhibit A: COMMISSION MINUTES**

23
24 The Commission considered approval of the September 19, 2008 Commission meeting
25 minutes. Commissioner Klarquist referred to page 7, line 23, and said his name should
26 replace Commissioners Kerns' name. He also referred to page 16 and said Walt Weber
27 from Chinook, Washington, actually opposed regulation 150P.

28 29 *Action:*

30 Commissioner Klarquist moved to approve the September 19 minutes as amended.
31 Commissioner Bobby Levy seconded the motion, and the motion passed unanimously.

32
33 The Commission took a break at 10:10 a.m. and reconvened at 10:25 a.m.

34 35 **Exhibit B: 2009 BIG GAME REGULATIONS**

36 37 *Staff Presentation:*

38
39 Tom Thornton, Game Program Manager, presented the proposed 2009 Big Game
40 Regulations that included 2009 season dates, bag limits, open areas, and youth hunting
41 opportunities. He discussed boundary clarifications, such as between Sumpter and

1 Desolation and between Pine Creek and Keating. Thornton also talked about area
2 regulation changes, tag sale deadlines and proposed calendar adjustments.

3
4 Thornton discussed scopes on muzzleloaders for visually impaired hunters, and
5 described some muzzleloader projectiles that are not legal in Oregon. He explained a
6 Kraft paper patch wrap that is attached to the bullet that functions the same as a plastic
7 wrapped bullet. Staff recommends two clarifications in the regulations: 1) Modify
8 regulation so it is clear that round balls are the only projectile that can be used with
9 patches. 2) Insert a definition of Sabot: keep smaller caliber bullets from being fired in a
10 larger caliber weapon. Clarify that patches are not considered sabots.

11
12 Thornton also gave a brief overview of Species Highlights and said there was a
13 correction on page 3 of Attachment 3, Big Game Regulation Proposal Overview. The
14 last sentence of paragraph 2 should read, "... annual banquet in Canyonville...", and not
15 Redmond. Also, the date has not been determined yet. Thornton said the system for
16 Mandatory Reporting is operational for all 2008 hunts. He said that staff will provide a
17 2008 telephone surveys update at the June 2009 Commission meeting.

18
19 *Public Testimony:*

20
Ken Hand
Klamath Falls, OR

Mr. Hand, regional director for Mule Deer Foundation, said the cut-off date on the second cougar is the day before deer season. He said if you are successful, you cannot purchase your second tag. He would like to see the cutoff date to purchase the second tag be removed.

Chair Rae asked Thornton to address Mr. Hand's comments. Thornton said he would talk with Ken Hand and investigate internally how to make that happen.

21
22 Chair Rae said the Commission would consider the specific proposals and referred to
23 the packet write up, Supplemental, Draft OAR 635-45-0002(66), Defines Sabot. She
24 said on page 7-Div 045, (66), to insert "is" and lower-case "a", to read: "Sabot" is a
25 carrier ...", and to remove the hyphen in "larger-caliber" to read "larger caliber". She
26 said to move this sentence to become item (61) and renumber the other items
27 accordingly.

28
29 Ron Anglin recommended that the Commission give staff the authority to move forward,
30 pending working out the details with the Point of Sales (POS) system.

31
32 Chair Marla Rae asked Counsel Bill Cook if this direction was clear. Cook said yes, it
33 was. Chair Rae noted that Anglin said it would be staff's discretion to drop the deadline
34 for the second cougar tag, if administratively feasible.

1 *Action:*

2 Commissioner Smith moved to adopt the administrative rules for the 2009 Big Game
3 Regulations as amended. Commissioner Edge seconded the motion, and the motion
4 passed unanimously.

5
6 **Exhibit C: FINAL DRAFT E.E. WILSON AND COLUMBIA BASIN WILDLIFE AREA**
7 **MANAGEMENT PLANS**

8
9 *Staff Presentation:*

10
11 Nancy Breuner, Habitat Biologist, High Desert Region, said the public review process
12 was held July through October 10. She said key issues involve maintaining the current
13 safety zone in the Columbia Basin Wildlife Areas; and concerns about the adequacy of
14 funding for the E.E. Wilson Wildlife Area. Comments in the public hearings resulted in
15 no changes to the draft goals and objectives presented last July; however, there are
16 some housekeeping edits. She discussed Columbia Basin Wildlife Area Goal 1 and the
17 six associated objectives, and changes made to Goal 2 and Goal 3 objectives.

18
19 *Public Testimony:*

20
21 No public testimony was given.

22 Commissioner Smith said he supports the plans. He noted there is a large population of
23 new residents who do not speak English, and asked staff to consider reaching out to
24 them to educate them on fish and wildlife laws. Commissioner Levy agreed.

25
26 *Action:*

27 Commissioner Edge moved to adopt the goals and objectives for the 2008 Columbia
28 Basin and E.E. Wilson Wildlife Area Management plans as amended. Commissioner
29 Smith seconded the motion, and the motion passed unanimously.

30
31 **Exhibit D: WILDLIFE AREA PLANNING UPDATE: SAUVIE ISLAND WILDLIFE**
32 **AREA**

33
34 *Staff Presentation:*

35
36 Nancy Breuner, Habitat Biologist, talked about the proposed timeline to complete the
37 Sauvie Island Wildlife Area (SIWA) management plan. Staff will give an informational
38 briefing of the draft plan at the Commission's March 20, 2009 meeting. She said after
39 public meetings scheduled in April – July, a final draft will be developed in September
40 2009. Staff will ask the Commission to adopt the Final Draft Plan at their October 2,
41 2009 meeting.

42
43 Mark Nebeker, Manager for Sauvie Island Wildlife Area, said SIWA was officially
44 recognized in 1947 and consists of 12,000 acres in Multnomah and Columbia counties.
45 He talked about the number of visitors to SIWA since 1993 and the many different
46 public recreational opportunities. Nebeker reported on the different types of habitat at

1 SIWA and the various stakeholders, including legislators, federal agencies, etc. He said
2 a section of Sauvie Island closes October 1 to April 15, to reduce damage to cackling
3 Canada geese that winter there. He proposed lengthening the closure period to May.
4

5 Public Testimony:
6

Bruce Hansen
Portland, OR

Mr. Hansen has lived on Sauvie Island for 35 years, hunting with his son and grandson. He said it could be a better hunting area and a number of issues need to be addressed. All hunters are required to have a parking permit; years ago they paid a \$2 per day fee. He said he has talked to hunters who support reinstating a fee to fix boat ramps and blinds. The availability of water this year was limited. When he put decoys out there was only 1-2 inches of water and about 12-inches of mud. He does not oppose a fee for hunters as long as that money is used for improving the boat ramps.

7
8 Chair Rae thanked Mr. Hansen and said the Commission welcomed his comments. She
9 asked him to work with Mark Nebeker.
10

11 **Exhibit E: SAUVIE ISLAND WILDLIFE AREA CLOSURE DATE.** Exhibit E has been
12 deferred and a date still to be determined.
13

14 **Exhibit F: LANDOWNER PREFERENCE PROGRAM REVIEW**
15

16 ***Chair Rae said that because her mother is enrolled in the Landowner Preference***
17 ***Program (LOP), she is declaring a potential conflict of interest. Commissioner***
18 ***Kerns said he is currently enrolled in this program and declared a potential***
19 ***conflict of interest. Commissioner Levy said her husband is enrolled in the***
20 ***Landowner Preference Program and she declared a potential conflict of interest.***
21

22 *Staff Presentation:*
23

24 Steve Denney, Southwest Region Manager, said the Landowner Preference Program
25 (LOP) Review Committee met between December 2007 – March 2008, and developed
26 three categories of recommendations: internal actions, Commission actions requiring
27 OARs, and legislative actions.
28

29 Tom Thornton, Game Program Manager, gave a slide show, “Landowner Preference
30 (LOP) Provisions,” and discussed the number of Eastern Oregon LOP properties and
31 acres, and the number of buck deer tags registered in 2006, and three issues.
32
33

- 1 • Issue 1, Options (page 6). Thornton discussed four options including increasing
2 minimum acreage to 320 acres; to 480 acres; to 640 acres (staff recommendation);
3 or 1 tag for properties of 160 to 640 acres.
- 4 • Issue 2a, New Tag Allocation Tables for acreages larger than 20,000 acres. He said
5 Option 2 would provide more options to landowners.
- 6 • Issue 2b, New Draw Process for larger acreages and Hunts with Limited LOP Tags.
7 He said the process would be specific to a few hunts with limited landowner tags.
8 Thornton said under a proposed alternative, a property may receive consecutive
9 tags.
- 10 • Issue 3, Suspension from LOP Program. Thornton said this provision asked the
11 Commission to adopt OARs suspending landowners convicted of violating program
12 regulations for the remainder of the current year plus two more years. It would also
13 suspend the properties involved in the program, so another family member would
14 not be eligible to continue in the program.
- 15

16 Chair Rae referred to the Suspension Proposal and asked Counsel Bill Cook to
17 reconsider the language about a landowner being “convicted” that presumes the person
18 had to be tried and convicted of a crime before receiving a suspension. She said that
19 attorneys need to consider whether there is something short of a criminal conviction,
20 where the individual is provided due process. Prosecutors and courts are getting
21 increasingly selective about criminal prosecution in game violations. She asked Cook to
22 consider what could trigger a suspension, other than a criminal conviction.

23

24 Public Testimony:

25 Jeff Miller
Bandon, OR

Mr. Miller, a private landowner, said last year he planned to hunt the second hunt but his cousin was unable to do so because of the September 15 deadline for a new tag. He suggested that preference points be given to the district to make up the decision rather than a statewide rule, possibly a fee.

Chair Rae said counsel will talk about the prospects of transferring one hunt deadline to another.

Bob Webber
Central Point, OR

Mr. Webber, represents the Oregon Hunters Association (OHA), and said he sat on the LOP Review Committee. He said OHA supports staff’s recommendation, and that he supports an increased number of tags for larger properties. He said in May, the Commission decided to increase transferability of tags; but the LOP group did not agree. Webber said the Committee came to an agreement that they felt was reasonable - to raise the minimum on the bottom. Small landowners will object to this. He said LOP is not the appropriate vehicle in which to deal with damage and compensation; there needs to be a

different process for that.

Drew Hansen
Portland, OR

Mr. Hansen lives on Sauvie Island and has 318 acres near John Day. He opposes staff's recommendation to move the minimum acreage to 640. He talked about his enhancements to his property and feels it is not fair to take tags from the small landowner and give them to the large landowners. He said a small landowner more likely is a family than a corporation, and asked ODFW to look at the small properties and see if they support wildlife in those areas. If they do, they deserve to keep their tags.

Bruce Hansen
Portland, OR

Mr. Hansen said he does not support the staff recommendation of 640 acres. Many small landowners had very little notification about the meeting today. He asked the Commission to consider the acreage and small acreage landowners who support wildlife on their property. His family owns Rudio Meadow on Rudio Mountain in Grant County. He said a creek runs through the property that supports a lot of wildlife. He asked for leeway as to how many tags are available, and believes two landowner tags are not enough.

Steve Corey
Pendleton, OR

Mr. Corey testified before the Commission in LaGrande, and served on the LOP Review Committee. His family is large landowners, and they support the staff recommendation of 640 acres as a compromise. He said OSP reported that more than 30% of small landowners were not on their own land when they were hunting. He talked about how complicated the tag draw is, and suggested that every landowner be given an equal chance, perhaps in a drawing.

Forrest Reinhardt
Portland, OR

Mr. Reinhardt, a partner on the Antone Ranch near Mitchell in Wheeler County, distributed written testimony. They support staff recommendations with respect to landowner preference tags, and believe large landowners are subject to discrimination. He said it was appropriate that minimum eligibility for buck and bull tags in eastern Oregon be raised to 640 acres. He said that Antone Ranch is about 36,000 acres.

Jim Welsh
Elmira, OR

Mr. Welsh, represents the Oregon Cattlemen's Association (OCA), and distributed a letter. He said OCA opposes Issue 1, and said that this is a big hammer approach. OCA supports Issue 2, and generally supports Issue 3 but wants to see cautions to avoid a big hammer effect. He said suspension is too serious, and would likely reduce overall opportunities for hunters on private property. He suggested a fine instead.

Katie Fast
Salem, OR

Ms. Fast represents the Oregon Farm Bureau Federation (OFBF). She said OFBF opposes the staff recommendation for Issue 1, and supports maintaining 160 acres for bull and buck tags. By increasing the acreage, small landowners will be harmed. This impacts orchards and vineyards in the Gorge region, seed growers in Jefferson County and irrigated pastures throughout Eastern Oregon. She said these folks are experiencing wildlife depredation and a high value loss of crops. She said this change would not address the issue of hunting off your property. Ms. Fast said the OFBF is committed to continuing discussions on this issue.

Mike Dykzeul
Salem, OR

Mr. Dykzeul did not testify, but submitted a letter on behalf of the Oregon Forest Industries Council (OFIC) for the record.

1
2 Chair Rae asked staff to respond to Jeff Miller's question about the prospects of
3 transferring an LOP without the September 15 deadline. Thornton said that provision
4 has been in there for some time, and limits what can occur after September 15 for buck
5 and bull tags. He said he would talk with Mr. Miller about the problem, and also with
6 Deanna Erickson, ODFW Licensing Manager.

7
8 Commissioner Levy asked for clarification in Issue 1, the difference between options 3
9 and 4 in regard to antlerless permits. Thornton said antlerless permits would not be
10 affected by either option, but would remain at the 40 acre minimum. He said these tags
11 would be in addition to the two antlerless permits. He said buck and bull tags are not
12 currently available to landowners with less than 160 acres; that would remain in place.
13 Option 4 would reduce the number of tags from two to one.

14
15 Steve Denney said the groups were split on this issue. He said this is meant to be a
16 compromise alternative if they're under 640 acres; they could still get one tag.
17 Commissioner Smith said that was new today. Chair Rae said yes, it was an attempt for
18 middle ground between the 160 and 640 acreage landowners. Commissioner Smith
19 asked what was being given up to the small landowners. Denney said most of the
20 violations of people not hunting on their property came from small acreage landowners.

1 He said staff looked at several options to get around this and considered inspections.
2 They came up with the third alternative as different options for the Commission to
3 consider. Commissioner Smith said he didn't see how the Commission could possibly
4 deal with the certification at this point.

5
6 Chair Rae asked how many landowners would be eliminated from the program if the
7 Commission went from a minimum of 160 acres to 640 acres. Thornton said
8 approximately 1,950 properties would not be eligible for the antlered tags.

9
10 Commissioner Edge said under the current and proposed program the LOP tags are for
11 use on the property only, is that correct? Thornton said that is correct.

12
13 Chair Rae asked Counsel to comment on whether a criminal conviction was necessary.
14 Counsel Cook said conviction is what you want for violations of wildlife laws. The only
15 enforceable mechanism now is criminal charges.

16
17 Capt. Walt Markee said if a person was to be cited for a violation of the LOP laws, such
18 as hunting on the wrong property, that person would negotiate with the District Attorney
19 to be cited for something else, such as trespassing or unlawful take.

20
21 Cook summarized, the Commission wants to make it discretionary on behalf of the
22 department. He asked, in terms of the bad act, is it any violation of wildlife laws arising
23 from participation in the LOP Program? If we say "any wildlife violation," that will mean,
24 who knows what, if they're not using an LOP tag. Chair Rae said if they are violating our
25 laws, why are we giving them anything? Cook responded, that is fine by me.

26
27 Commissioner Kerns asked who would be punished, the person with the tag or the
28 landowner. Chair Rae said the tags go to the property, not the person. She said if the
29 property owner allows someone to take advantage of the program, I would hold the
30 landowner responsible. Commissioner Kerns disagreed, and said some properties are
31 large and the landowner should not be responsible for supervising the hunters; the
32 individual should. Commissioner Edge disagreed. He said the Commission should
33 retain the discretionary capability.

34
35 Ron Anglin suggested going back to the original intent in looking at the LOP rules and
36 what the Committee discussed, which was holding the landowners accountable for
37 people hunting on the landowner's LOP tags, for registering properly, and giving the
38 Commission the teeth, along with OSP, to hold those owners accountable.

39
40 Chair Rae said she goes along with the landowner participation, and believes the right
41 thing will be done if they violate other wildlife laws.

42
43 Counsel Cook asked for clarification from the Commission. Does it include all wildlife
44 violations, or just violations relating to the LOP Program? Chair Rae said those relating
45 to the LOP Program; it is discretionary. Cook asked if discretionary meant picking out
46 the willful violators. Chair Rae said if the director determines that this does not pass the
47 smell test, she is comfortable going that way.

1 Chair Rae asked the Commission if there was dissention on Issue 2, from the staff
2 recommendation of 1a, the 20,000-plus acres.

3
4 Commissioner Levy asked Steve Denney to explain the draw process for
5 Recommendation 2b. Denney said both systems essentially say the same thing. It is
6 basically a second draw. Commissioner Levy said she wanted to make the draw
7 process fair for small and large landowners alike.

8
9 Chair Rae asked if the Commission had any sentiment toward changing this. She
10 objected to eliminating so many people from this program, when the most compelling
11 case is an enforcement issue. She said saying that their contribution to caring and
12 feeding the wildlife doesn't matter anymore at a time when we are asking landowners
13 for assistance in many programs, this message is a tough one to send to them. She
14 said she cannot support changing the ground rules at this point.

15
16 Commissioner Edge said he concurred with Chair Rae's perception. He said it is a
17 mistake to take away privileges from landowners who provide habitat for wildlife.
18 Commissioner Englund concurred with maintaining the 160-acre minimum.

19
20 Chair Rae said ODFW will have to go before the 2009 legislature when the program
21 sunsets. She asked for a motion.

22
23 *Action:*

24 Commissioner Levy made a motion to accept Issue 1, Option 1, Maintain the current
25 160 acre minimum. Commissioners Kerns and Klarquist co-seconded the motion, and
26 the motion passed unanimously.

27
28 *Action:*

29 Commissioner Levy made a motion to for Issue 2, to accept Option 1(a), and (b), as
30 proposed by staff. Commissioner Smith seconded the motion, and the motion passed
31 unanimously.

32
33 Bill Cook submitted new language in Issue 3, Provisions for Suspending, referring to
34 635-075-0003 and said to look at 0003 (1), second line. He said delete the phrase,
35 "violating any LOP rule" and insert "any violation of wildlife laws arising from
36 participation in the LOP Program..." He said next line, delete "will" and insert "may".

37
38 Commissioner Klarquist said this is addressed to the landowner, and does not
39 necessarily address a violation by one of the landowner preference holders.

40
41 Chair Rae said the Commission would recess for lunch, and deal with Issue 3 when the
42 meeting reconvened. She said OSP's Wall of Shame was available for viewing.

43
44 Chair Rae reconvened the Commission meeting at 2:10 p.m. to conclude discussions
45 on Issue 3 of the Landowner Preference Program review. She said on the Suspension
46 from LOP Program, Item (1) line 2, correct the spelling of "violation", and in Subsection
47 2, correct to read "any landowner whose LOP program participation..."

1 Counsel Bill Cook referred to his handout on Division 75, Landowner Hunting
2 Preference and Outfitters and Guides Tag Allocation. The new language reads:
3 635-075-0003

4 Decision Standard for suspension and revocation from the LOP program

5 (1) If a landowner as defined in OAR 635-045-0002 (or the landowner's partner, member,
6 manager, employee, or any person using an LOP tag provided by the landowner) is convicted of
7 violation of the wildlife laws arising from participating in the LOP program, the Department may
8 suspend that landowner from participating in the LOP program for the remainder of the current
9 year plus two additional years.

10 (a) When the Department suspends a landowner pursuant to paragraph (1), that suspension will
11 include any and all properties associated with that landowner, including properties registered to
12 the individual, as a partnership, or as a corporation, and the suspension will run for the same
13 period of time as for the landowner.

14 (b) When the Department suspends a landowner pursuant to paragraph (1), the Department will
15 also revoke any unused LOP tags previously issued for the landowner's properties.

16 (2) Any landowner whose LOP program participation the Department proposes to suspend may
17 request a contested case hearing within 14 days of notice of the proposed decision.

18
19 Chair Rae told the Commission to remember that the tags themselves are issued to the
20 landowner. She said the revised language is an attempt to have the landowner
21 accountable for the activities on their properties, and that presumably the criminal courts
22 would have gotten to the alleged violator.

23
24 Commissioner Kerns disagreed and said the landowner should not be held responsible.

25
26 *Action:*

27 Commissioner Edge moved to adopt Division 75 as revised by Counsel. Commissioner
28 Levy seconded the motion. Voting aye were Commissioners Levy, Klarquist, Englund,
29 Smith, Edge and Chair Rae. Opposed by Commissioner Kerns.

30 31 **Exhibit G: FISH PASSAGE WAIVER – SMITH DAM**

32
33 *Staff Presentation:*

34
35 Ken Homolka, Hydropower Program Leader, said the Eugene Water and Electric Board
36 (EWEB) is seeking to waive fish passage requirements at Smith Dam. The main
37 species of concern is cutthroat trout. EWEB is requesting a new operating license for
38 Carmen Smith Hydroelectric Project from the Federal Energy Regulatory Commission
39 (FERC). They submitted an application for a fish passage waiver to ODFW for Smith
40 Dam which is based on the negotiated alternatives to fish passage. Homolka talked
41 about artificial barriers on three dams, and discussed proposed mitigation on four other
42 sites. He said staff conducted a benefit analysis and concluded the net benefit would be
43 provided by the mitigation. ODFW received one favorable public comment (see letter in
44 the packet). He said staff recommends approval of EWEB's request.

45
46 Chair Rae said staff briefed the Commission at their September 19 meeting on EWEB.

47
48 Commissioner Smith said he missed that meeting. In relation to climate change, he

1 asked, what would happen if the Carmen Bypass reservoir were eliminated? He
2 suggested that staff consider staying away from long-term licenses in the face of climate
3 change, and push for shorter term licensing.

4
5 Public Testimony:

6
7 No public testimony was given.

8 Chair Rae said she could not sign the waiver agreement in front of her until the
9 Commission approved EWEB's request for a waiver. She asked for a motion.

10
11 *Action:*

12 Commissioner Edge moved to approve a waiver of fish passage at Smith Dam, and to
13 approve the waiver agreement for the mitigation measures described by EWEB in its
14 application. Commissioner Englund seconded the motion, and the motion passed
15 unanimously.

16
17 **Exhibit H: FISH RESTORATION & ENHANCEMENT (R&E) PROJECT APPROVAL**

18
19 *Staff Presentation:*

20
21 Laura Tesler, R&E Program Coordinator, presented eight projects recommended by the
22 R&E Board for review and approval that totaled \$829,000. She gave a brief overview of
23 two access projects, three miscellaneous projects, and three research and monitoring
24 projects.

25
26 ***Commissioner Edge declared a potential conflict of interest. He said two of the
27 research projects are at Oregon State University where he works.***

28
29 Chair Rae noted that funding was almost gone by Cycle 6. Tessler said that is correct.
30 She said the R&E Board is on target for spending. It has received 15 projects for the
31 Cycle 7 totaling \$250,000, more than the board can fund.

32
33 Shawn Clements, project sponsor, ODFW in Corvallis, spoke on 07-132, Effects of
34 Cured Eggs on Juvenile Salmon. He said last April a member of the public expressed
35 concern that these products were causing mortality in fish. He conducted studies with
36 rainbow trout, spring Chinook and steelhead, and found significant mortality rates. This
37 is a proposal to see if there is a problem, whether it is an issue in the wild, and if so,
38 what should be done. The first phase will be completed by March, 2009.

39
40 Chair Rae asked for a motion.

41
42 *Action:*

43 Commissioner Smith moved to approve the recommendations of the Fish Restoration
44 and Enhancement Board. Commissioner Edge seconded the motion, and the motion
45 passed unanimously.

1 **Exhibit I: PROOF OF RESIDENCY REQUIREMENTS**

2
3 *Staff Presentation:*

4
5 Tom Ruddiman, Deputy Director for Administration, said staff is recommending a
6 change to the proof of residency requirements in response to ODFW'S Online License
7 Sales over the Internet. The change from showing an indicator of residency to signing
8 an affidavit will outline the procedure ODFW license agents must follow when issuing a
9 resident license document. He said OSP helped craft the language for this change.

10
11 *Public Testimony:*

12 No public testimony was given.

13
14 *Action:*

15 Commissioner Englund moved to amend and adopt rules related to department
16 requirements for the proof of residency. Commissioner Edge seconded the motion, and
17 the motion passed unanimously.

18
19 **Exhibit J: INTERNET LICENSE AND TAG SALES**

20
21 *Staff Presentation:*

22
23 Tom Ruddiman, Deputy Director for Administration, said adoption of the rules proposed
24 by staff in relation to ODFW's new Online License Sales (iPOS) would implement online
25 license and tag sales, and reduce potential fraud in relation to online sales. Ruddiman
26 said since all angling and hunting tags will be mailed to the applicant, a \$2.00 fee will be
27 charged to recover mailing costs. He said ODFW has received approval from the
28 Department of Administrative Services to establish this fee.

29
30 *Public Testimony:*

31 No public testimony was given.

32
33 Bill Cook noted Attachment 3, License Agents Division 10, and said on page 3-Div. 010,
34 paragraph 2), to insert "a" between "charge shipping..."

35
36 *Action:*

37 Commissioner Klarquist moved to adopt rules related to allowing License and Tag sales
38 over the Internet. Commissioner Smith seconded the motion, and the motion passed
39 unanimously.

40
41 Ruddiman also projected that Internet sales will begin about November 15, 2008. Staff
42 will try it out first before it is rolled out externally. He thanked Doug Juergeson, Meg
43 Kenagy, Tom Thornton, John Seaborne, Dave Enfield, Deanna Erickson, Nancy Foley,
44 and OSP for their efforts.

1 Chair Rae thanked Ruddiman and his staff for their hard work.

2
3 She recommended that the Commission view the new bronze statute of Governor Tom
4 McCall in Riverfront Park in Salem. She said the artist is Rip Caswell from Troutdale.

5
6 **EXECUTIVE SESSION**

7
8 At 2:55 p.m., Chair Rae said the Commission would adjourn into Executive Session
9 pursuant to ORS 192.660 (2) (i), and solely for the purpose of evaluating Executive
10 Director Roy Elicker. She said the Commission will return into public session only for the
11 purpose of adjourning the public meeting.

12
13 Chair Marla Rae reconvened the Commission's public meeting at 3:52 p.m. and
14 adjourned the meeting at 3:52 p.m.

DRAFT

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