



Oregon Fish and Wildlife Commission Minutes

Tour:
April 16, 2009 – 8:00 a.m.
Depart Salbasgeon Suites
1730 N.W. 9th Street
Corvallis, OR 97330

Meeting:
April 17, 2009 – 8:00 a.m.
Salbasgeon Suites and Conference Center
McKenzie Center
1730 N.W. 9th Street
Corvallis, OR 97330

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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 | Roy Elicker, Director |
| Dan Edge, Vice-Chair | Manny Farinas, Interim Deputy Director |
| Bobby Levy, Commissioner | Steve Sanders, Assistant Attorney General |
| Carter Kerns, Commissioner | Teri Kucera, Executive Assistant |
| Jon Englund, Commissioner | |
| Skip Klarquist, Commissioner | |

Chair Marla Rae opened the Friday, April 17, 2009 Oregon Department of Fish and Wildlife (ODFW) Commission meeting at 8:00 a.m.

DIRECTOR'S REPORT

Field Reports

Northeast Region

Craig Ely, Region Manager, reported that the U.S. Fish and Wildlife Service (USFWS) conducted trapping efforts to radio sage grouse at lek sites in Baker County this spring. Currently, 16 radioed birds are being monitored to determine home range distribution. He said the addition of windmills is an ongoing concern in the region.

Chair Rae said staff had briefed the Commission before on wind energy and sage grouse. Her hope is that ODFW staff be more proactive with developers earlier in the process, in order for the mitigation ideas to occur earlier. She asked whether getting the word out of staff's early availability is worth pursuing. Ely said yes. He said some counties have moved along in their own internal planning processes, before ODFW was aware of the projects. Chair Rae suggested sending letters to the county commissions asking them to notify ODFW early in the process, so staff can be better able to advise and assist. Ely agreed to do so. Commissioner Kerns said staff should also coordinate with the State Energy Facility Siteing Council at the Oregon Department of Energy.

Ely continued that staff investigated 14 wolf reports. He said the Northern Rocky District Population Segment of gray wolves will be delisted as an endangered species on May 4, 2009. He discussed two wolf related bills in the Oregon Legislature: Senate Bill 391 and House Bill 3383.

1 High Desert Region

2 Chip Dale, Region Manager, reported that staff completed the spring inventory for deer,
3 elk and bighorn sheep. He said staff is in the third year of restoring Lahontan cutthroat
4 trout and removing non-native trout from the McDermitt Creek watershed. Together with
5 the Nevada Department of Wildlife, USFWS, and other agencies, staff will apply
6 rotenone to 21 miles of lower McDermitt Creek and tributaries in April 2009. He said
7 ODFW is seeking to develop a Safe Harbor Agreement with USFWS, followed by
8 specific conservation agreements with landowners. Dale said for the third consecutive
9 year, the region received slightly above normal precipitation this winter that should
10 result in excellent angling opportunities.

11
12 Northwest Region

13 Chris Wheaton, Region Manager, said ODFW biologists captured a sick raccoon in
14 Washington County late March and that signs point to Canine Distemper. He said
15 Goodwill Industries asked ODFW biologists in Springfield to examine about 20 donated
16 animal products to determine their origin and the legality of selling them. He said a
17 caller recently reported the sighting of a Northern Elephant Seal stranded on the beach
18 at Neskowin; an investigation revealed the seal was undergoing a molt. Wheaton
19 announced that Jerry Ronne will retire from ODFW after 45 years of outstanding
20 service; effective June 30, 2009.

21
22 Southwest Region

23 Russ Stauff, Acting Region Manager, discussed the Bob Mace Watchable Wildlife
24 Programs. Mace was a former Deputy Director for Field Operations. Upon his retirement
25 in the early 1980s, Mace and his wife Phyllis bequeathed \$2.5 million for two separate
26 watchable wildlife programs and established a trust fund to benefit wildlife and fisheries
27 habitat and public opportunity. He died in 2006. Stauff said the Maces provided a \$1.5
28 million endowment and scholarship fund at Oregon State University. They also provided
29 \$1 million to the Jackson County Expo Park to build a watchable wildlife center, and
30 created a trust fund for 150 acres near the Rogue River.

31
32 Chair Rae gave the Commission's and ODFW's profound thanks to the Mace family.
33 Commissioner Edge said the Mace Endowment provides two scholarships each year;
34 he and Director Elicker will make a decision in the next few weeks on those two
35 scholarships.

36
37 Marine Resources Program

38 Caren Braby, Program Manager, said the Sport Groundfish staff would conduct open
39 houses in Newport, Brookings and Garibaldi in May 2009. She said the format will allow
40 anglers to interact with ODFW staff and to view slide shows, displays and other
41 information.

42
43 Oregon State Police Fish and Wildlife Division

44 Captain Walt Markee, Division Director, said in March a clammer in Netarts Bay was
45 observed and cited for Exceeding the Daily Limit of Bay Clams. The Tillamook County
46 Justice Court found the clammer guilty and fined him \$500. Capt. Markee gave an
47 update on a 23-year-old commercial skipper sentenced in Lincoln County, who stole

1 175 crab pots. Police recovered the pots, as well as 610 pounds of wasted Dungeness
2 crab on the suspect's vessel. The fisherman pled guilty and was sentenced to several
3 charges of felony theft. He was sentenced to probation, 120 days in jail, fines and
4 restitution.

5
6 Chair Rae told the Commission they would probably have an action item for
7 consideration at their May meeting regarding the Commission's discretionary authority
8 on permitting and licensing matters with this individual, and potentially others.

9
10 Information and Education

11 Holly Michael, Conservation Strategy Special Projects Coordinator, said staff spoke with
12 Susan Sahnaw, Oregon State University Extension's Natural Resource Education
13 Program Coordinator, who is interested in using the Oregon Conservation Strategy as a
14 tool for teaching science teachers for use in the classroom. She said the first annual
15 "Oregon Connect" meeting was sponsored by the Oregon Conservation of Special
16 Districts. She talked about three funding initiatives before the Oregon Legislature.
17 Michael reported that State Wildlife Grants, a federal program, awarded \$320,000 to 22
18 external partners for projects this year, which leveraged \$1.1 million in matching funds.
19 ODFW provided \$800,000 to internal projects and staff that leveraged another
20 \$630,000. She said funding through the Oregon 150 Grants Program at the Oregon
21 Watershed Enhancement Board (OWEB) got 16 projects on the ground for habitat
22 restoration.

23
24 Michael reported on recent wind energy meetings attended by Director Elicker and her
25 with external partners to develop and build long-term stakeholder relationships and
26 partnerships. She said the Oregon Wildlife Heritage Foundation Project Committee
27 adopted the Oregon Conservation Strategy as part of their review criteria for all new
28 projects. She referred to the Bob Mace Award and noted that two years ago the Wildlife
29 Society presented his family with the David B. Marshall Lifetime Achievement Award.

30
31 Chair Rae acknowledged the tireless work of external partners Warren Aney, Steve
32 Kafoury, Sue Marshall and others to promote funding for the Oregon Conservation
33 Strategy. She said this group promoted an excise tax on bird seed and garnered the
34 support of bird seed producers. The bill will probably go nowhere this session, but they
35 are already planning ahead for next session. She asked Michael to thank them for their
36 assistance in elevating the Conservation Strategy statewide.

37
38 Information and Education

39 Roger Fuhrman, Administrator, said ODFW website visits have increased 282 percent
40 over the last year and over 35 percent of the 2.6 million visitors were new users. He
41 said results of the joint ODFW and Travel Oregon economic survey will be presented by
42 Dean Runyan and Associates at the Governor's Conference on Tourism April 20 in
43 Salem. He also talked about several very popular and well-attended youth hunting and
44 fishing events that have been held in Oregon.

45
46 **Expenditure Report**

47 Chair Rae said Tom Ruddiman will provide an expenditure report in May.

1
2
3 **Annual Reports for the North Umpqua Fish Passage**

4 Russ Stauff, Acting Southwest Region Manager, said the Commission approved the fish
5 passage waiver in 2001. He discussed waiver requirements for Slide Creek Dam and
6 Upper North Umpqua Basin Dams. Stauff reported on the accomplishments between
7 2004 and 2008 for projects at Rock Creek Diversion Dam; East Fork Rock Creek
8 Habitat Enhancement; riparian easements for Rock Creek and Upper Canton Creek; the
9 Clearwater Reconnect project; Brook Trout Removal from Lava and Bear Creek, and
10 the Upper Canton Restoration project.

11
12 Chair Rae thanked Steve Marx and his staff for coordinating the tour of the Oregon
13 Hatchery Research Center the day before, and asked him to present his report.

14
15 **American Recovery and Reinvestment Act (ARRA) – Oregon Economic Recovery**
16 **Efforts**

17 Steven Marx, South Willamette Watershed District Manager, said ODFW received \$2.5
18 million through Senate Bill 338, the “Go Oregon” stimulus bill that authorized and
19 approved 24 projects statewide. He said ARRA funding came through NOAA Coastal
20 and Marine Habitat Restoration Project Grants. ODFW’s first application asked for
21 funding to implement nine screening and barrier removal projects. The second
22 application was to restore marine habitat off the Oregon Coast by removing lost
23 commercial Dungeness crab fishing gear from state and federal waters; which should
24 create 70 jobs and retain 8 jobs. He discussed other projects; particularly, the removal
25 of two cargo ships in Yaquina Bay. Staff is also working through the Oregon Department
26 of Energy on energy efficiency grants statewide. He said a big factor in receiving these
27 funds is tracking the number of jobs created and retained, and how dollars are spent.

28
29 Chair Rae thanked Steve Marx and staff for their coordinating efforts. Commissioner
30 Kerns thanked staff for the Eastbridge work outside of Pilot Rock; it will make many of
31 his constituents happy. Commissioner Englund suggested that funding be directed
32 toward coastal estuaries due to the loss in the estuaries from predation by birds. He
33 said a lot of money has been spent on restoration, but fish transition in those estuaries
34 has become very vulnerable. Marx said that issue is a focus of several targeted
35 projects; one of those came under OWEB.

36
37 **Mitchell Act Funds Update**

38 Bruce McIntosh, Fish Division Deputy Administrator, said the Mitchell Act Program
39 funds most of the hatcheries in the Lower Columbia; it is also the base funding for
40 screen shops in Eastern Oregon. When McIntosh briefed the Commission last year, he
41 talked about proposed Mitchell Act funding cuts, closures, and layoffs. He said the focus
42 has been on maintaining Mitchell Act obligations with tribal treaties, and meeting
43 conservation obligations under ESA. Last month, the U.S. Department of Commerce
44 budget was passed, with a slight increase in funding that will enable ODFW to keep
45 screen shops open and put funding back into annual maintenance costs. He said the
46 Mitchell Act sits in a fairly favorable place with budget projections about the same as

1 current projections; a lot of focus will go into selective fisheries. McIntosh said funding
2 for the next few years will be stable, with no further cuts in staff.

3
4 Chair Rae thanked McIntosh and said this was welcome news.

5
6 **Adopt Temporary Rules**

7 Acting Deputy Director Manny Farinas announced the number and titles of temporary
8 rules and requested that the Commission ratify the following six temporary rules that
9 were previously adopted by the director under his emergency action authority.

10
11 **635-042-0022**

12 **2009 Commercial Spring Chinook Fishery in the Columbia River**

13 Adopted March 20, 2009; effective March 27, 2009 through April 30, 2009.

14 Amended rule allows the non-Indian commercial spring Chinook fishery in the mainstem
15 Columbia River to commence on March 29, 2009 from the west powerlines on Hayden
16 Island upstream to Beacon Rock (Zones 4 and 5). Modifications are consistent with
17 Joint State Action taken March 20, 2009 by the Columbia River Compact agencies of
18 Oregon and Washington.

19
20 **635-023-0095**

21 **Sport Sturgeon Fishery Closes In The Dalles and John Day Pools**

22 Adopted April 1, 2009; effective April 13, 2009 through October 9, 2009.

23 Amended rule prohibits retention of sturgeon in the Columbia River and tributaries from
24 John Day Dam upstream to McNary Dam effective at 12:01 a.m. Monday, April 13,
25 2009; and from The Dalles Dam upstream to John Day Dam effective at 12:01 a.m. on
26 Sunday, April 19, 2009. Revisions are consistent with Joint State Action taken April 1,
27 2009 by the Columbia River Compact agencies of Oregon and Washington.

28
29 **635-042-0022**

30 **Extension of Commercial Tangle-net Fishery in the Columbia River**

31 Adopted April 6, 2009; effective April 7, 2009 through April 30, 2009.

32 Amended rule allows the non-Indian commercial tangle-net Chinook fishery in the
33 mainstem Columbia River to continue with an additional 10-hour fishing period from
34 1:00 p.m. to 11:00 p.m. on Tuesday, April 7, 2009 in the area from the west powerlines
35 on Hayden Island upstream to Beacon Rock (Zones 4 and 5). Modifications are
36 consistent with Joint State Action taken April 6, 2009 by the Columbia River Compact
37 agencies of Oregon and Washington.

38
39 **635-042-0180**

40 **Extension of Commercial Salmon and Sturgeon Fishery for the Deep River Select
41 Area**

42 Adopted April 6, 2009; effective April 8, 2009 through April 30, 2009.

43 Amended rule adds a 12-hour fishing period (7:00 p.m. Wednesday, April 9, 2009) to
44 the Chinook salmon fishery in the Deep River Select Area of the Columbia River.
45 Modifications are consistent with the action taken April 6, 2009 by the Columbia River
46 Compact agencies of Oregon and Washington.

1 **635-042-0022**

2 **Commercial Tangle-net Fishery in the Columbia River Extended**

3 Adopted April 13, 2009; effective April 14, 2009 through April 30, 2009.

4 Amended rule allows the non-Indian commercial tangle-net Chinook salmon fishery in
5 the mainstem Columbia River to continue with an additional 4-hour fishing period from
6 9:00 a.m. to 1:00 p.m. on Tuesday, April 14, 2009 in the area from the west powerlines
7 on Hayden Island upstream to Beacon Rock (Zones 4 and 5). Modifications are
8 consistent with Joint State Action taken April 13, 2009 by the Columbia River Compact
9 agencies of Oregon and Washington.

10
11 **635-043-0105**

12 **Permit Required to Harass Wildlife**

13 Adopted April 13, 2009; effective April 13, 2009 through August 31, 2009.

14 Amended rules relating to running dogs at large in game bird habitat from April 1 – July
15 31. This rule allows the running of dogs in game bird habitat during those periods with a
16 permit from the department to assist with depredation issues.

17
18 Commissioner Edge asked staff to explain temporary rule 635-043-0105.

19
20 Eric Rickerson, Wildlife Habitat Program Manager, said that temporary rule relates to
21 current Oregon Administrative Rules that prohibit the running of dogs in game bird
22 nesting habitat between April 1 and August 31. He said staff became aware of an
23 individual in southwest Oregon who has a business using border collies to harass geese
24 off agricultural lands; there is no permit required to do that. He said it does come into
25 conflict with the running of dogs in gamebird nesting habitat after April 1, so in order to
26 bring that person into compliance, ODFW is seeking approval of this temporary rule to
27 allow him to conduct those activities.

28
29 Commissioner Kerns said in Eastern Oregon there has a been a desire by Game Bird
30 Reserves to allow them to train bird dogs in that nesting habitat in late spring. He asked
31 if this temporary rule allows that or not. Rickerson said 635-043-0105 would not allow it
32 because the rule specifically allows the use of dogs in that nesting habitat for
33 depredation-related issues. He said the Wildlife Division has been working on rewriting
34 the dog training rules to address those types of concerns because staff has heard from
35 private landowners, dog trainers and such.

36
37 Chair Rae asked for a motion.

38
39 *Action: Commissioner Edge moved to ratify the six temporary administrative*
40 *rules. Commissioner Levy seconded the motion. The motion passed*
41 *unanimously.*

42
43 **PUBLIC FORUM**

44 *Note: This part of the agenda is for comments on topics not scheduled elsewhere on the*
45 *agenda. Please contact the Oregon Department of Fish and Wildlife Office of the*
46 *Director at least 24 hours prior to the meeting to be included in the public forum. If you*
47 *bring written summaries or other materials to the meeting please provide the*

1 Commission Assistant with 20 copies prior to your testimony. The Commission is unable
2 to take action on items brought to their attention in this forum.

3
4 Chair Rae said there were no public comments and moved to Exhibit A.

5
6 **Exhibit A: COMMISSION MINUTES**

7 Chair Rae asked if there were any questions or edits to the March 20, 2009 minutes.
8 Hearing none, she asked for a motion.

9
10 *Action: Commissioner Englund moved to adopt the minutes of the March 20,*
11 *2009 Commission minutes as amended. Commissioner Levy seconded the*
12 *motion. The motion passed unanimously.*

13
14 Chair Rae recessed the Commission meeting at 9:28 a.m., and reconvened at 9:38 a.m.

15
16 **Exhibit B: WILDLIFE AREA PLAN ADOPTION: LOWER DESCHUTES, RIVERSIDE,**
17 **AND BRIDGE CREEK WILDLIFE AREAS**

18 Nancy Breuner, Habitat Biologist, High Desert Region, said four draft plans were
19 presented to the Commission in January 2009. The review of the Fern Ridge Wildlife
20 Area draft plan has been delayed until the Commission's May meeting so she can
21 revise text. She discussed the three wildlife areas. Breuner said the key public issues
22 for Bridge Creek dealt with access for firefighting and fire prevention. For the Lower
23 Deschutes, questions were asked on the preservation of historic buildings, controlling
24 noxious weeds, and activities that occur on the river. She said Riverside concerns
25 included identifying boundaries, ATVs that mistakenly enter the wildlife area, and
26 interest in designated camping areas. She said Riverside received two public comments
27 regarding the grazing allotment of public wildlife area, and culturally significant plants.
28 After over viewing the Proposed Goals and Objectives, Breuner said nothing had
29 changed due to the public review process. She said wildlife area managers Cameron
30 Sponseller, Keith Cole, and Dan Gonzalez were present to answer questions.

31
32 Chair Rae said the changes were good. Commissioner Edge clarified that the action
33 was to approve the goals and objectives, and not the text. Chair Rae said that was
34 correct. She noted for the record, for purposes of Commission votes, that Commissioner
35 Zane Smith was excused from the meeting. She asked for a motion.

36
37 *Action: Commissioner Edge moved to adopt the Goals and Objectives of the*
38 *2009 Bridge Creek, Lower Deschutes and Riverside Wildlife Area Management*
39 *Plans and amend OAR Chapter 635, Division 008, as proposed by staff.*
40 *Commissioner Levy seconded the motion. The motion passed unanimously.*

41
42
43 **Exhibit C: ADOPT ANNUAL REGULATIONS FOR SARDINE FISHERY AND**
44 **CONSIDER CHANGES TO STATE PERMITTING REQUIREMENTS AND FISHERY**
45 **PRACTICES**

1 **Commissioner Jon Englund declared a potential conflict of interest because his**
2 **family's company does business with the sardine industry. Chair Rae said**
3 **Commissioner Englund was not prohibited from participating in the discussion or**
4 **for voting on the matter.**

5 Gway Rogers-Kirchner (Kirchner), Assistant Program Manager, Marine Resources
6 Program, discussed sardine fishery regulation issues and staff's recommended options.
7

8 **Issue 1 - Adopt the 2009 Annual Harvest specifications and management**
9 **measures.** Kirchner said federal and state regulations are managed under the Coastal
10 Pelagic Species Fishery Management Plan. On February 20, the Maximum Harvest
11 Guideline was set at 69,932 metric tons (MT) for Washington, Oregon and California.
12 She said staff recommends Option 1.
13

14 **Issue 2 - Modifications to Permit Requirements.** Kirchner discussed industry
15 concerns to: 1) landing requirements for permit renewal; 2) owner/operator; and 3) the
16 landing requirement waiver for 2008 due to market conditions. She explained permit
17 renewal requirements (Oregon sardine permit holder are required to make a minimum
18 of 10 landings of at least five MT each) and the landing numbers by 21 qualifying
19 vessels. While discussing the coastwide Maximum Harvest Guideline, Kirchner said the
20 figure fell below 100,000 MT and the landing requirement was waived. Also linked to the
21 100,000 MT is the owner/operator requirement. She said to legally participate in the
22 fishery, permits are only transferable twice per year to vessels capable of operating the
23 gear and to vessels owned or operated by the permit holder. She said public input was
24 unanimous in eliminate this provision; staff recommends Option 2.
25

26 **Issue 3- Whether to institute a permit lottery system.** Kirchner said staff heard there
27 is no mechanism for issuing new permits if permits are not renewed and the number of
28 available permits declines. Oregon has a lottery system in place for many other limited-
29 entry fisheries. She said staff recommends Option 1.
30

31 **Issue 4 - Tendering.** Kirchner said historically, vessels have shared catch out of a net.
32 Currently, a permitted vessel can land sardines caught by another permitted catching
33 vessel without carrying a net on board or ever actually catching any fish. She said staff
34 worked with OSP and the industry to dissuade this activity of vessels transporting fish
35 back to port. She said the proposed regulations require a vessel to have gear and allow
36 a limited amount of sharing out of a net. Kirchner said staff recommends Option 1 that
37 adopts a new OAR that defines a catching vessel, allows limited sharing of fish caught
38 by catching vessels and requires documentation of shared catches in logbooks.
39

40 Chair Rae said it had been a while since the Commission had heard about the cyclical
41 sardine fishery. She asked for a forecast beyond 2008. Kirchner said the industry is
42 working on a new research project to develop a new survey that would feed into that
43 assessment. Chair Rae asked if the fishery is on the incline or the decline.
44

45 Greg Krutzikowsky, Nearshore and Coastal Pelagic Fisheries Project Leader, said he
46 doesn't think anyone knows. Assessments are based on surveys for eggs that are in the
47 water, primarily in southern California. Scientist can only survey down to the Mexican

1 border. He said the sardine fishery appears to be on a downward trend, but many in the
 2 industry say there are more fish than are being accounted for in the current technique.
 3
 4 Commissioner Levy asked if the sardine harvest is tied to the processing of other fish
 5 runs, such as whittings. Krutzikowsky said there are a number of processors, primarily
 6 in Astoria, that if they are geared up to do the processing of whiting, then the sardines
 7 have to wait. Commissioner Levy asked whether the number of sardines or the timing
 8 of the processing is causing the downward trend. Kirchner said the estimated biomass
 9 of what's out there is what is causing the decline. Commissioner Levy asked if vessels
 10 do both fisheries. Kirchner said often they are different vessels.

11 **Public Testimony**

Dana Ferguson Astoria, OR	Mr. Ferguson said he agreed with everything that was presented to the Commission. He supports dropping the transferability permits over 100,000 metric tons, and thinks the Southwest Science Center is low by 10%. He said you can't go to Mexico to count, and he thinks that is where they are missing the count. He is glad to see all witnesses in agreement.
Gene Law Toledo, OR	Mr. Law, Commissioner for the Dungeness Crab Commission, would like to see the landing requirements removed entirely. He hasn't seen any other limited entry permit in the state that has landing requirements like this. Regarding tendering, he supports Option 1. He thanked OSP for convicting the crab pot thief.
Dan MacDonald Bellingham, WA	Mr. MacDonald said this is an opportunity for everyone to get something of what they want. He wrote a letter to the Commission. His biggest concern is transferability; the landings are fine. He would eliminate the owner on-board provisions. With regard to removing the landing requirements, he concurs with the state's position to have renewal requirements over and above 100,000 MT.
Tom Libby Astoria, OR	Mr. Libby supports suspending the landing requirement for under 100,000 MT. He wants to eliminate the owner/operator requirement, allow the 2008 waiver, and maintain the status quo of two transfers per year. He supports the lottery system and a new OAR to allow limited sharing that has gone on in the fishery, with language sufficient to prevent tendering. Mr. Libby has to process both whiting and sardine, but hopes that will change. He said the quota allowed last year was taken in total, even though some people processed whiting instead of sardine. The harvest guideline is limiting the amount of sardine coming in. He said the industry funded an aerial survey, which could have some affect by 2010. Also, he is for transferability.

Mike Okoniewski Woodland, WA	Mr. Okoniewski, Vice-Chair of Pacific Coast Seafood Advisory Council, has been involved in sardines for nine years. It was his idea to get this research project started in the Northwest. He said scientists told him that sardines go through cycles. He believes the ocean is colder than usual. Anecdotal information points to a much different conclusion than the scientists are seeing. He believes there are 10 times the numbers of sardines that scientists are claiming. He supports ODFW's recommendations with one exception; he supports the same transferability provisions over or under 100,000 MT.
Robert Glenovich Bellingham, WA	Mr. Glenovich, a fisherman, agreed with all previous witnesses. He had some mechanical problems with his boat and didn't feel it was safe so he took it back to Seattle and incurred about \$170,000 in shaft repairs. He said the landing requirements made him do it. He is against landing requirements, so setting the number at 100,000 MT and below makes a lot more sense.

1
2 Chair Rae asked the Commission for questions; hearing none, she clarified the issues.
3
4 **Issue 1 – Annual harvest specifications and management measures.** Chair Rae
5 said staff recommends that the Commission adopt the federal plan that includes harvest
6 guidelines with set-asides. Hearing no comments, she continued.
7
8 **Issue 2 – Modification to the permit requirements.** Chair Rae said there are three
9 elements: 1) landing requirements; 2) an owner/operator requirement; and 3) an
10 industry-wide waiver. She said for the landing requirements, the recommendation is the
11 two-tier system. She asked for comments.
12
13 Commissioner Englund said he would like to see the owner/operator requirements
14 eliminated entirely. Commissioners Levy and Kerns agreed. Commissioner Klarquist
15 asked someone to review why the requirements existed. Kirchner said this requirement
16 ensures that the permits were held by people who wanted to fish them, and to reduce
17 buying permits for purposes of speculation.
18
19 Chair Rae noted that the packet had revised rules in Attachment 6 regarding this issue.
20
21 **Issue 3 – Whether to institute a permit lottery system.** Chair Rae said the
22 recommendation is to implement the lottery when the number of permits drops below
23 24, as the agency does for other limited-entry fisheries.
24
25 Discussion followed after Commissioner Klarquist asked why the number 24 was
26 chosen. Kirchner and Steve Williams both said it was a compromise between 26 and
27 something less, in an attempt not to hold a lottery every year. Williams noted that both
28 the industry and staff were comfortable with the limit of 26 permits.
29

1
2 **Issue 4 - Tendering.** Chair Rae said the recommendation is to adopt a rule that defines
3 a catching vessel, that allows limited sharing of the fish caught by the catchers, and
4 requires documentation in log books as recommended in concert with OSP.

5
6 Commissioner Klarquist said the rule states for the tendering vessel that no more than
7 20% of its landings may contain fish pumped from the other vessel. He asked if that's
8 not 20% over the season, is that 20% as of that date. Kirchner said it is 20% over the
9 season. She said after the season, staff will analyze the vessel's log books where the
10 overall total will be recorded.

11
12 Commissioner Klarquist said under that scenario, you could have a vessel tendering
13 fish before having any landings of its own that would become permitted if the vessel had
14 other landings later. He asked about enforcement problems and how staff would
15 monitor that. Kirchner said staff worked with OSP to develop this regulation in order to
16 allow an activity to occur, and to dissuade abuse of that activity. She said staff will
17 collect the log books and look at the information that feeds into management.

18
19 Commissioner Levy said how she looked at it was if somebody owned two boats, they
20 could fill the first one and sent it back to port, then load the second boat and send it
21 back to port. So, one vessel did all the catching but they owned two boats. Kirchner
22 said last year, staff saw one vessel catching and a second vessel, with no gear on-
23 board, pumping out of that net, filling its hold completely and just returning to port. She
24 said that type of activity is what staff is trying to not allow, yet allow some limited amount
25 of pumping out of another net.

26
27 Commissioner Levy asked if the agency had permittees that owned more than one
28 vessel. Deanna Erickson, Licenses Services Manager, apologized to the Commission
29 for not having that information with her.

30
31 Chair Rae asked Commissioner Levy if that response held her up. Commissioner Levy
32 said she needed a minute to work it through. She said she was okay with it if OSP says
33 they can take care of it. Chair Rae asked OSP Captain Walt Markee to comment.

34
35 Capt. Walt Markee said he was filling in for Lt. Dave Cleary and noted that while he
36 didn't work through this issue, he had confidence in Cleary. Markee noted that the
37 same questions came to his mind and that those kinds of issues could occur. He said
38 you would want to make sure enforcement had some leeway of using good judgment.

39
40 Chair Rae said based on the conversation and questions today, and with ODFW
41 Licensing, the Marine Program and OSP watching the fishery and looking at log books,
42 the industry knows they will be on it and that the Commission asked these kinds of
43 questions, so there will be some follow-up by staff.

44
45 Kirchner added it is not a common practice to fill up an entire hold out of a net of fish.
46 She said often, when a vessel is so full of what they've caught themselves, it's not worth
47 putting another net out, so they just simply top it off. She said there is not a big

1 occurrence of people running boats in and out. The occurrence last year was new and
2 staff wants to get on it before it expands any.

3
4 Commissioner Levy said she was okay with it then.

5
6 Chair Rae referred to Attachment 6 (she referred to it as Attachment "C"), and said the
7 only change is highlighted on page 3. She said for the record, this is OAR 635-006-
8 1015, Requirement for Permit, Subsection (1) (m) (E), where the proposal before us
9 was to read, "By January 1, 2008, vessels permitted under section (1) (m) (A) of this
10 rule shall be operated or owned by the permit holder..." with the new proposed language
11 "If the federal coastwide maximum harvest guideline referenced in OAR 536-004-0016
12 is greater than 100,000 metric tons."

13
14 Chair Rae said based on today's testimony, and the Commission's questions and
15 discussions, the recommendation now is **the complete elimination of subsection (1)**
16 **(m) (E); the effect of which is to eliminate any owner/operator requirement.**
17 Hearing no further comments, she asked for a motion.

18
19 *Action: Commissioner Edge moved to adopt the recommendations for the 2009*
20 *sardine fishery as proposed by staff in the revised Attachment 6 just discussed.*
21 *Commissioner Kerns seconded the motion. The motion passed unanimously.*
22

23 Chair Rae commended the fishers, processors, and industry for their unity on this issue.

24
25 **Exhibit D: 2009 REGULATIONS FOR GROUND FISH, HALIBUT, AND OCEAN**
26 **STURGEON FISHERIES; REVIEW OF THE 2008 NEARSHORE LOGBOOK REPORT**

27
28 ***Commissioner Jon Englund noted for the record, a potential conflict of interest***
29 ***due to his family business involvement with the groundfish, recreation and sport***
30 ***industry. Chair Rae noted his declared potential conflict of interest for the record.***
31

32 Gway Rogers-Kirchner talked about the Review of the 2007 Commercial Nearshore
33 Logbook Data report. She said 131 black and blue nearshore permits were issued, and
34 the Log book compliance was 70.5%. Kirchner said the process is different this year for
35 the 2009 Groundfish, Halibut, and Sturgeon Management Measures. Federal and
36 marine regulations are adopted two years at a time, so were rolled over from 2008. The
37 Commission has the authority to take concurrent regulations with those adopted
38 federally, or be more conservative. She said the Federal Commercial Fisheries include
39 troll, limited entry, open access fisheries, etc. Most fisheries with the exception of
40 whiting are constrained by yelloweye rockfish in 2009. She talked about tools to reduce
41 impacts focus on Rockfish Conservation area adjustments, and said they also used trip
42 limit adjustments.

43
44 Kirchner discussed state regulations and the 2009 Sport/Commercial, Harvest, and
45 Landing Caps. She explained the Harvest Cap is the total mortality cap, meaning
46 landings plus anything not expected for anything to survive after release. She discussed
47 Sports Caps on black rockfish, yelloweye rockfish, canary rockfish, and other nearshore

1 rockfish, and staff recommendations. She said the Oregon Sport Harvest and Caps
2 gives an overall picture of Oregon since the cap was implemented. These caps have
3 been fairly successful. Kirchner said the Commercial Caps for 2009 recommend
4 adjustments to black rockfish, black/blue commercial, and other nearshore rockfish.
5 Commercial harvest and caps have been very successful.

6
7 Kirchner said the numbers for the Sport Groundfish Regulation Changes for 2009 reflect
8 what was adopted in federal regulations. She noted that the adopted bag limits were
9 higher than what was proposed in state regulations to give flexibility to make in-season
10 adjustments without having to go through the federal process. She discussed staff
11 recommendations for daily bag limits. For Commercial Nearshore Regulation Changes
12 for 2009, Kirchner said staff is recommending two month period trip limits. The trip limits
13 are fairly similar to what staff has seen the last two years.

14
15 Kirchner said there are two changes to the Pacific Halibut Catch Sharing Plan: 1)
16 adjustment for Columbia River Spring Fishery from 7 days per week to 3 days per week;
17 and 2) allowing retention of Pacific cod in addition to sable fish on all depth halibut days
18 in the Central coast. She said there is a clarification in the no fishing 72-hours prior to
19 an opening rule in the commercial fishery. Kirchner noted the final federal rule has not
20 yet been re-published correctly (see Attachment 5, Draft OARs).

21
22 Chair Rae asked legal counsel if the Commission could do this under the rulemaking
23 process. Assistant Attorney General Steve Sanders said yes the Commission could
24 because it was simply a ministerial act.

25 Kirchner concluded by noting that changes in ocean Sturgeon Measurement is just
26 simply a change in measuring the legal length of sturgeon. She briefly overviewed
27 staff's recommendations in the packet write up for Exhibit D.

28
29 Chair Rae said there was no public testimony. Hearing no questions, she asked for a
30 motion.

31
32 *Action: Commissioner Kerns moved to accept all of staff recommendations the*
33 *recommended 2009 sport and commercial Groundfish, Pacific halibut, and*
34 *commercial sturgeon regulations as proposed by staff in Attachment 5.*
35 *Commissioner Levy seconded the motion. The motion passed unanimously.*

36 37 **OTHER BUSINESS**

38
39 Chair Rae welcomed former ODFW Commissioner Jane Capizzi who served between
40 1982 and 1990.

41 42 **ADJOURN**

43
44 Chair Marla Rae adjourned the meeting at 11:20 a.m.