



Oregon Fish and Wildlife Commission Minutes

Meeting:
May 15, 2009 – 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue N.E.
Salem, OR 97303

1
2 *Commission minutes are considered draft until approved by the*
3 *Commission at its next meeting.*
4

5 Notice of these meetings had been made by press release of statewide media
6 circulation. Those attending part or all of the meeting included:
7

Marla Rae, Chair	Roy Elicker, Director
Dan Edge, Vice-Chair	Tom Ruddiman, Deputy Director for Administration
Bobby Levy, Commissioner	Manny Farinas, Interim Deputy Director
Carter Kerns, Commissioner	Bill Cook, Assistant Attorney General
Jon Englund, Commissioner	Teri Kucera, Executive Assistant
Skip Klarquist, Commissioner	
Zane Smith, Commissioner	

8
9 Chair Marla Rae opened the Friday, May 15, 2009 Oregon Department of Fish and
10 Wildlife (ODFW) Commission meeting at 8:00 a.m. She said yesterday she attended the
11 Tribal Government Day at the Capitol. She also referred to an ODFW flyer,
12 “Summertime and the Fishing is Easy”, that promotes fishing.
13

14 **DIRECTOR’S REPORT**
Field Reports

15
16 *Northeast Region*

17 Bruce Eddy, Grande Ronde Watershed District Manager, reported on recent wolf
18 attacks that killed 24 lambs and one calf in the Keating Valley. One wolf were captured
19 and radio collared by staff and the U.S. Fish and Wildlife Service (USFW). He talked
20 about the trapping and removal of 46,000 yellow perch from Phillips Reservoir by
21 Grande Ronde Watershed District and Baker County staff. Eddy reported on catches of
22 summer steelhead fisheries in the Grande Ronde, Wallowa and Imnaha basin.
23

24 *High Desert Region*

25 Chip Dale, Region Manager, said April 25 saw the trout season opening on Central
26 Oregon lakes with a pretty good turnout. He discussed the Deschutes River steelhead.
27 He said the Mid-Columbia Fishery District has been operating weirs to capture migrating
28 adult summer steelhead and conduct spawning surveys on key tributaries. This is the
29 first year traps were operated on Bakeoven and Buck Hollow creeks. Staff captured 356
30 wild fish on Buck Hollow Creek. Spawning surveys were conducted.
31

32 Director Elicker stated that Steve Denney was filling in for Russ Stauff. He noted also
33 that Chris Wheaton was in the Clackamas office working on recent Point of Sale issues.
34

1 Southwest Region

2 Steve Denney, Region Manager, said 98 Columbia White-tail deer had been trapped
3 and transplanted in Douglas County. He said plans call for removal of Savage Rapids
4 Dam during Fall 2009 by the Bureau of Reclamation. The new pump station has been
5 completed and tested. He said river flows were low to moderate, but some fish passed
6 through the radial gates. Part of the Coffey dam collapsed, but it didn't shut down the
7 fish passage.

8
9 Ocean Salmon and Columbia River Program

10 John North, Columbia River Fisheries Program Manager, reported on the 2009
11 preseason forecast of 353,700 Spring Chinook fisheries on the Columbia and
12 Willamette rivers. He discussed forecast percentages of the fishery seasons in the
13 Willamette, lower Willamette, Bonneville and McNary Dams, and mainstem Columbia.
14 He said Treaty fisheries have caught 9,600 spring Chinook so far. North said passage
15 at Bonneville Dam is well below expectations.

16
17 Director Elicker noted that Holly Michael was in Washington, D.C., working on climate
18 change issues and seeking federal funds.

19
20 Information and Education

21 Roger Fuhrman, Administrator, said the 2009 Oregon Spring Fishing Forecast is
22 available on the ODFW website as part of marketing efforts to encourage fishing. He
23 said ODFW secured a \$80,000 grant from the Hunting Heritage Partnership and
24 National Shooting Sports Foundation that will enhance online mapping services. He
25 said he just received the final Dean Runyan & Associates economic survey, which is
26 available on the website. Staff will work with Runyan on developing an interactive site.

27
28 Oregon State Police Fish and Wildlife Division

29 Captain Walt Markee, Division Director, said several Senior Troopers and volunteers
30 conducted a weekend patrol of razor clam harvesters on Clatsop County beaches. More
31 than 200 clam diggers were seized, resulting in 25 citations and 42 verbal warnings.
32 The clams were donated to a local shelter. Capt. Markee discussed a 2006 disposition
33 on a poaching case where a trophy bull was shot illegally. U.S. District Judge Ancer
34 Haggerty sentenced a California man to three years' probation, a \$50,000 penalty, and
35 a lifetime ban from hunting and fishing in Oregon. Capt. Markee said Lt. Dave Cleary
36 was retiring, effective June 30. Chair Rae said the Commission would recognize Lt.
37 Cleary at their June 5 meeting. Capt. Markee introduced Trooper Marc Boyd from
38 Springfield, recipient of the division's 2008 Fish and Wildlife Officer of the Year Award,
39 and talked about Trooper Boyd's many accomplishments, including criminal work and
40 fish and wildlife enforcement. Capt. Markee also introduced recruit Ed Imholt who
41 attended Oregon State University.

42
43 Chair Rae congratulated Trooper Marc Boyd and said she hopes that he will become
44 the mentor for Trooper Imholt. Commissioner Edge congratulated the two troopers.

45
46 Chair Rae announced that U.S. Attorney Karin J. Immergut will become a Multnomah
47 County Circuit Court judge in the near future.

1
2 **Expenditure Report**

3 Tom Ruddiman, Deputy Director of Administration, reviewed the monthly Financial
4 Report, ending March 31, 2009. He said revenues and expenditures are within
5 budgeted projections. Hunting and fishing license sales continue to hold. More
6 information will be available in September after the control hunt process.
7

8 Commissioner Smith asked about the status of federal funds for Total Wildlife and
9 Habitat. Ruddiman said the funds have been requested and most are already
10 obligated. Staff requested to carry forward in the 2009-2011 budget any funds not spent
11 in the current biennium. Smith said it would be useful to report the percentage of funds
12 that are obligated, and funds that are carried over.
13

14 Chair Rae said Deanna Erickson and her staff have been working around the clock to
15 repair the online Point of Sales (POS) hunting and fishing system. Director Elicker
16 commended Ruddiman and staff for their work on how best to provide good customer
17 service despite the delays with the POS and controlled hunt application process. He
18 acknowledged the angst experienced by agency customers.
19

20 Ruddiman said May 11, staff became aware the POS system was down. On May 12,
21 the Controlled Hunt application was extended to May 19, and the tag sale deadline was
22 moved to June 1. He said the draw will be held June 15; and results will be mailed out
23 on or before July 1, 2009. Staff has been in contact with the vendor Outdoor Central,
24 and staff called over 500 POS agents to assure them that staff was working on the
25 problem and to advise them of the extended deadlines. A news release was issued and
26 Internet terminals were set up in the agency lobby to assist walk-in customers.
27

28 Commissioners Smith and Edge thanked Ruddiman and staff for their great response to
29 this situation. Discussion followed about why the online system continues to work well,
30 as opposed to the POS system.
31

32 Ruddiman said the Oregon Legislature will release the Quarterly Budget Forecast by
33 noon. He said ODFW received sufficient Mitchell Act Program funding to maintain Tule
34 production at Big Creek, and is short \$150,000 of funding the Sandy Hatchery. Staff is
35 meeting with the Legislative Fiscal Office and OSP to help them with their budget crisis
36 based on today's forecast. Ruddiman said ODFW has received funding for 24 "Go
37 Oregon" projects.
38

39 A lengthy discussion followed regarding General Fund and Lottery Fund and how to
40 bridge through GF cuts using federal stimulus money. Director Elicker thanked the
41 conservation and sporting groups for their support of the Agency's budget, including the
42 fee increase package.
43

44 Commissioner Kerns asked Director Elicker to give an update on the various bills in the
45 Legislature. Elicker responded that Deputy Director Curt Melcher was on furlough, but
46 he would give the Commission an update during lunch.
47

1 **Adopt Temporary Rules**

2 Chair Rae said a new temporary Administrative Rule just came in that would implement
3 actions taken at yesterday's Columbia River Compact (Compact) in terms of sales of
4 fish in Treaty Tribal Spring Chinook fisheries in the Columbia River Mainstem and
5 Tributaries. The temporary rule becomes effective at 6:00 a.m., tomorrow morning.

6
7 Director Elicker said, for the record, the tenth rule is **635-041-0076, Allow Sales of Fish**
8 **Caught during Columbia River Treaty Tribal Spring-Summer Salmon Fisheries,**
9 and is in addition to the nine temporary rules currently listed in the agenda starting with
10 635-004-0019 through 635-060-0008. He requested the Commission ratify the following
11 ten temporary rules. The temporary rules were previously adopted by the director under
12 his emergency action authority.

13
14 Commissioner Klarquist noted there were two temporary regulations (**635-060-0008**)
15 that deal with extending the license period. He asked if the Commission needed to note
16 that the latter regulation supersedes the former one to avoid a conflict on the May 19 or
17 June 1 dates.

18
19 Assistant Attorney General Bill Cook said the temporary rules are going to be serial and
20 that was a good thing to know, but the Commission had to ratify them both.

21
22 **635-004-0019**

23 **In-season Actions Implemented by the Federal Government for Commercial**
24 **Groundfish Fisheries**

25 Adopted April 29, 2009; effective May 1, 2009 through October 27, 2009.

26 Amended rule adopts in-season actions implemented by the federal government for
27 Pacific Ocean commercial groundfish fisheries, including changes to cumulative trip
28 limits.

29
30 **635-014-0090**

31 **Retention of Trout Allowed at Fishhawk Lake after May 22, 2009**

32 Adopted May 1, 2009; effective May 22, 2009 through October 31, 2009.

33 Amended rule allows retention of trout caught in Fishhawk Lake. Current permanent
34 rule allows catch-and-release only. Rule modifications make trout regulations for
35 Fishhawk Lake consistent with new 2009 stream rules for trout retention on the north
36 coast. Fishhawk Lake is managed under the stream rule for fisheries, not the lake rule,
37 because it impounds Fishhawk Creek which is a productive salmon, steelhead and trout
38 stream, both above and below the lake.

39
40 **635-075-0005**

41 **Registration, Application and Tag Issuance Procedures and Limits for All**
42 **Controlled Hunts**

43 Adopted: May 4, 2009; effective May 5, 2009 through October 31, 2009.

44 Amend rules related to Landowner preference tags for the hunting of deer or elk that are
45 transferred to a person of the landowner's choosing who is not a member of the
46 landowner's immediate family.

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635-048-0080

Hunter Education

Adopted: May 6, 2009; effective May 6, 2009 through November 4, 2009.
The Master Hunter program has a significant effect on improving hunter/ landowner relations and it makes a major contribution to improving the public image of the hunter. The Department has worked with private landowners to provide hunting access for Master Hunters on lands that are otherwise closed to the public. Ethical hunter behavior is critical for continuance of these hunts. A check for wildlife violations is done before an award is made and no individual with any violation in the past five years will be allowed to graduate. Over the past year there have been Master Hunter program participants that have been convicted of, or have pleaded guilty to violations of wildlife laws. This rule is needed to provide the department with the tools necessary to suspend hunters from participation in the program for a set number of years if they are convicted of violation of wildlife laws. Suspension of violators from the program is necessary to preserve the integrity of the program.

635-004-0042

Promulgation of Inland Waters Anchovy Season

Adopted May 6, 2009; effective June 1, 2009 through November 1, 2009.
Adopted rule promulgates the commercial Inland Waters Anchovy season. This rule also sets the season dates; defines the types of gear authorized for the taking of anchovies; methods to be employed in estimating total weight of fish taken; and recording and reporting requirements for the fishery.

635-060-0008

Application Deadline Dates

Adopted: May 12, 2009; effective May 15 through May 20, 2009.
Rules were amended to change the application deadline date for pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk from May 15 to May 19, 2009. The new iPOS system has had intermittent periods of slow-down which has not allowed ODFW customers to purchase applications in a timely manner.

635-023-0125

Columbia River Recreational Spring Chinook Closure, Tongue-Rocky Point to I-5 Bridge

Adopted May 13, 2009; effective May 15, 2009 through June 16, 2009.
Amended rule rescinds the recreational salmonid fishery (jack salmon and steelhead) in the mainstem Columbia River from Tongue Point/Rocky Point upstream to the I-5 Bridge, implemented by permanent rule, from 12:01 a.m., May 15, 2009 until further notice. Revisions are consistent with Joint State Action taken May 13, 2009 by the Columbia River Compact agencies of Oregon and Washington.

635-042-0145, 635-042-0160 and 635-042-0180

Amended Commercial Columbia River Select Area Fisheries

Adopted May 13, 2009; effective May 17, 2009 through July 31, 2009.
Amended rules add new fishing periods between May 17 and June 12, 2009 to the

1 Columbia River Select Area commercial fisheries in Youngs Bay; Blind and Knappa
2 sloughs; and Deep River. Revisions are consistent with Joint State Action taken May
3 13, 2009 by the Columbia River Compact agencies of Oregon and Washington.
4

5 **635-060-0008**

6 **Application Deadline Dates**

7 Adopted: May 14, 2009; effective May 14 through June 1, 2009.

8 Rules were amended to change the controlled hunt application deadline date for
9 pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk from May 15 to
10 June 1, 2009. Amend rule to waive the shipping and handling fees for purchases via
11 mail-order through June 1, 2009.
12

13 **635-041-0076**

14 **Allow Sales of Fish Caught During Columbia River Treaty Tribal Spring-Summer**
15 **Salmon Fisheries**

16 Adopted May 14, 2009; effective May 16, 2009 through July 31, 2009.

17 Amended rule allows the sales of fish caught in the Treaty Tribal spring Chinook
18 fisheries in the Columbia River mainstem and tributaries beginning at 6:00 a.m.
19 Saturday, May 16, 2009. Revisions are consistent with Joint State Action taken May 14,
20 2009 by the Columbia River Compact agencies of Oregon and Washington.
21

22 *Action: Commissioner Smith moved to adopt the ten temporary administrative*
23 *rules as outlined by the Director and in our agenda. Commissioner Levy*
24 *seconded the motion. The motion passed unanimously.*
25

26 **Exhibit A: COMMISSION MINUTES**

27 Hearing no edits to the April 17 Commission minutes, Chair Rae asked for a motion.
28

29 *Action: Commissioner Englund moved to adopt the minutes of the April 17, 2009*
30 *Commission as submitted. Commissioner Smith seconded the motion. The*
31 *motion passed unanimously.*
32

33 Chair Rae recessed the Commission at 9:35 a.m., and reconvened at 9:50 a.m.
34

35 **PUBLIC FORUM.** There were no public comments.
36

37 **Exhibit B: DIAMOND LAKE MANAGEMENT PLAN**

38 Steve Denney, Southwest Region Manager, gave brief remarks on the Diamond Lake
39 restocking process. He introduced Laura Jackson, the Umpqua District Fish Biologist.
40

41 Jackson said the draft Diamond Lake Management Plan (the Plan) retains the Basic
42 Yield Option of the Oregon Trout Management Plan, and provides specific management
43 direction for fishery monitoring in order to assess the condition of the lake's ecosystem
44 and adaptively manage fish stocking numbers and the fishery to avoid stressing the
45 lake's ecosystem. The plan has an accounting type model to track the number of fish
46 stocked, harvest, and surpluses that could impact the lake's ecosystem.
47

1 Jackson discussed past management practices and the use of Rotenone to eradicate
 2 tui chub in 1954 and again in 2006. She said there has been an increase in trout growth
 3 rates, an increase in larger zooplankton species and benthic organisms. Water quality
 4 has increased three-fold, allowing vegetation to reestablish. Jackson said in 2007,
 5 visiting anglers generated \$3.8 million in sales and \$2.6 million in labor income.
 6 Jackson talked about the Plan goals which also provide invasive species education,
 7 prevention and control. Implementation would include stocking up to 400,000
 8 fingerlings, and adjust stocking rates based on conditions. Jackson said public
 9 comments will be accepted through the summer; staff will present plan revisions to the
 10 Commission on September 4, 2009.

11
 12 Chair Rae announced three individuals had signed up to testify.
 13

<p>Susan Morgan Roseburg, OR</p>	<p>Susan Morgan, Douglas County Commissioner, former Oregon state legislator and former leader of the Diamond Lake Working Group, supports the draft stocking plan. Many Oregonians spent \$6 million over six years to eradicate tui chub and restore the quality of Diamond Lake’s water. She said adaptive management will provide an important economic benefit for Douglas County, whose unemployment is 18% and increasing. The lake restoration is important to tourism. She said the plan is solid, and stressed the importance of controlling invasive species. She asked that the stocking proposal be moved forward, despite testimony that would be presented later today that would seek to discredit it.</p>
<p>Diana Wales Roseburg, OR</p>	<p>Diana Wales, an attorney, submitted a letter on behalf of the Umpqua Valley Audubon Society Conservation Committee, with three recommendations:</p> <ol style="list-style-type: none"> 1. Diamond Lake fish stocking should continue to be driven by actual lake ecology rather than hypothetical methods. 2. Given the sharp decline in water quality between 2007-2008, fish stocking for 2009 and subsequent years should revert to the low end of programmatic 2007 levels. 3. In light of the detection of a significant bait fish population in the lake, the Final Environmental Impact Statement (FEIS) Appendix BB contingency plan should be fully implemented. <p>She referred to Joseph Eilers’ letter (see Attachment 5 – Public Correspondence), and concurred with his concerns including a delay in 2008 data analysis. She senses it is premature to move away from the stocking strategy set forth by the FEIS, and is concerned about the fingerling-only stocking strategy. She said studies suggest golden shiners might pose a similar situation in Diamond Lake. A decline in the water quality between 2007 and</p>

	2008 is being ignored, as well as the problem of invasive species.
Joe Rohleder Waldport, OR	Joe Rohleder represents Desert Springs Trout Farm in Eastern Oregon, which has provided larger fish since Diamond Lake was rehabilitated. He said Desert Springs participated in the FEIS. The new plan relies on fingerlings rather than a mix of predacious and smaller fish. He urged the Commission to use caution in this all-fingerling approach. There should be a large fish component, first to protect against the possibility of another invasion, and second, to provide a jump-start on those fish. He said fish only live so long.

1
2 Chair Rae thanked the speakers and asked the Commission for questions.
3
4 Commissioner Smith asked staff to talk about adaptive management. Denney said
5 adaptive management is one method among many being used; including the accounting
6 method, the fish measuring index, and using some of the information from Eilers' model
7 to get a full-rounded look at the lake, from a fishery standpoint and water quality issue.
8
9 Jackson discussed her graph (not available), and said staff is monitoring 11 different
10 factors to keep track of the lake's health, water chemistry, and primary and secondary
11 production of the lake. She explained that the accounting model says there is a surplus
12 of fish, which could produce a problem. This gives a guideline and allows staff to
13 change their course of action. The graph gives the overall ranking for the lake. She said
14 the Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental
15 Protection Agency (EPA) are in the process of creating a more complete model of this,
16 in order to continue Dr. Eilers' contract. The agencies are measuring those parameters
17 through 2011. She said there will not be a lot of decrease in the phosphorous.
18
19 Denney apologized that the graph was not in the PowerPoint presentation, and
20 promised to include it with the public comments. He said staff is working closely with
21 Eilers to develop biological parameters that give a basic look at the water quality of the
22 lake. DEQ did a similar thing through its Total Maximum Daily Load (TMDL) process.
23
24 Commissioner Smith didn't think the plan lists all the different things that could trigger
25 adaptability. He suggested that staff be more specific about the monitoring procedure;
26 maybe this will diffuse the anxiety over relying on the accounting method. Denney said
27 there are six different entities monitoring parts of Diamond Lake, and that staff is using
28 all of those parameters; there are at least three different methods to use.
29
30 Commissioner Klarquist asked if staff is working with Eilers to get these parameters,
31 would they incorporate them in the plan to have goals as a measure of success.
32 Denney said yes, but it may take an amendment. Klarquist said it would help satisfy the
33 critics who focus on putting fish in, but don't put an equal value on the health of the lake.
34
35 Commissioner Edge agreed. He said the DEQ model was not in the plan, and
36 suggested that staff describe this model, give a description of each parameter, and what

1 might be an acceptable level. That would help explain what is going on and what might
2 be a trigger of concern related to the environmental quality of the lake. Denney said he
3 could include DEQ's TMDL plan for Diamond Lake as an attachment to the plan.
4

5 Commissioner Edge said nothing in the OARs causes him concern, but how the plan is
6 written should have more clarity. He suggested posting the data on the agency website.
7 He asked Denney to explain the difference between possible stocking rates and the
8 FEIS.
9

10 Denney said when the FEIS was developed there was concern over fish stocking levels.
11 If you read the FEIS, it says these are approximate and will be based on the biological
12 parameters and the public process. Stocking was left up to the Commission. Projecting
13 out stocking rates, Denney and staff did not know where the lake would land after
14 treatment. Staff is asking the Commission to give them guidance to operate within that
15 based on the monitoring data. He said the TMDL has a higher potential stocking rate at
16 440,000, but staff didn't think it needed to go that high; that's the adaptive management
17 part of it, and it may change through time.
18

19 Commissioner Edge said there is a lot of history in the FEIS. He said the answer
20 Denney just provided should be in the plan because this is a learn-as-we go process.
21

22 Chair Rae said the Commission would hear more about the invasive species effort in
23 the very near future. Director Elicker said he would talk about potential invasive species
24 legislation during his report to the Commission at lunch time.
25

26 **Exhibit C: 2009 REGULATIONS FOR OCEAN SALMON SEASON FOR STATE** 27 **WATERS AND COLUMBIA RIVER AREAS** 28

29 ***Commissioner Jon Englund declared a potential conflict of interest due to his***
30 ***business involvement with recreational and commercial fisheries along the coast.***
31 ***Chair Rae said this does not prevent him from being in the discussion or voting***
32 ***on the issue.***
33

34 Ron Boyce, Technical Resource Program Manager, presented the proposed regulations
35 for the Pacific Fishery Management Council (PFMC) ocean salmon fisheries. Boyce
36 said in March he reported things were not looking good for ocean salmon fisheries 2009
37 due directly to the collapse of Sacramento Fall Chinook - that forecast has improved
38 slightly. He said ocean salmon Chinook fisheries are completely closed south of Cape
39 Falcon except for a 10-day recreational fishery off of Brookings. Boyce said the good
40 news for 2009 is there will be a robust marked Coho fishery.
41

42 Boyce summarized the 2009 adopted commercial regulations for seasons and quotas in
43 the areas North of Falcon and South of Cape Falcon. He also summarized the 2009
44 Adopted Ocean Sport regulations seasons and quotas for the North of Falcon, Falcon to
45 Humburg, and South of Humburg areas.
46

1 Boyce said staff is evaluating different regulations for the ocean terminal areas and river
2 Chinook areas in response to continued declines in Oregon Coastal Chinook. Staff is
3 looking at new wild Coho fisheries in four river areas up and down the coast. He said
4 public meetings were held last month along the coast to discuss proposed regulations.
5 He will give a report to the Commission at their June 5 meeting in Salem.

6
7 John North, Fisheries Management Program Manager, said the recommendations for
8 the Columbia River summer and fall fisheries were also developed concurrent with the
9 Pacific Fishery Management Council process during a series of meetings referred to as
10 "North of Falcon". He said this process establishes a harvest sharing between the in
11 river sport and commercial groups, and develops a basic fishing plan. He said the
12 commercial seasons will be set by the Columbia River Compact (Compact) starting in
13 July. North summarized regulations for the Columbia River Recreational Fisheries for
14 Summer Chinook, Sockeye, and Fall Chinook and Coho.

15
16 North said for the Columbia River Commercial Fisheries the general fishing plan was
17 developed at the North of Falcon meetings. The actual seasons will be adopted by the
18 Compact. He summarized regulations for the Columbia River Recreational Fisheries for
19 Summer Chinook and Sockeye, and Fall Chinook and Coho, and he summarized the
20 commercial plans for the fall on Summer Chinook and Sockeye. He said 4,000 fish are
21 available for commercial fishery; a significant improvement from last year. He also
22 discussed Fall Chinook and Coho and said it would be a good season for fall Chinook.

23
24 *Action: Commissioner Kerns moved to adopt the 2009 ocean sport and*
25 *commercial salmon seasons and the summer and fall Columbia River and Buoy*
26 *10 recreational fisheries as proposed by staff in Revised Attachment 5.*
27 *Commissioner Levy seconded the motion. The motion passed unanimously.*

28
29 **Exhibit D: WILDLIFE AREA MANAGEMENT PLAN: FERN RIDGE WILDLIFE AREA**
30 **has been deferred to the June 5 meeting of the Commission.**

31
32 **Exhibit E: COMMERCIAL FISHING LICENSE REVOCATIONS**

33
34 ***Commissioner Englund stated for the record that he recused himself from this***
35 ***issue because he is a long time acquaintance of Dennis Sturgell who is also a***
36 ***customer of his family business. For these reasons, he recused himself from any***
37 ***consideration or participation in this matter due to a conflict of interest.***

38
39 ***Chair Rae noted for the record that Commissioner Englund is recusing himself***
40 ***from any consideration of this matter. She said provided this motion is***
41 ***successful today, that will need to be stated in future records as well, when and if***
42 ***this issue comes back to the Commission.***

43
44 Bill Cook said the rules state when a person is convicted of three commercial fishing
45 violations within a three-year period, the Commission must initiate contested case
46 proceedings to revoke their commercial fishing licenses. If the Commission votes to do
47 this, the next step is to send out the notices that tell them what is being proposed in

1 terms of revocation of licenses and the opportunity to request hearings. If they request
2 hearings, they are turned over to the administrative law judges. Cook said the cases will
3 return to the Commission for final order in a number of months. He said staff needs
4 direction from the Commission to begin the process of considering license revocation.
5

6 Cook said the second issue is the Commission has the choice to appoint a License
7 Revocation Board (LRB), who would participate in the hearing and advise the
8 Commission on the issues and the remedy. He said staff has selected people for such a
9 board. He said there are two action items in the motion: 1) initiating the contested case
10 proceedings; and 2) appointing a LRB.
11

12 Chair Rae asked the Commission to keep in mind that under the State Administrative
13 Procedures Act, this is not the time to get into the underlying details of either case.
14

15 Commissioner Klarquist clarified that the LRB would only make recommendations, and
16 the Commission is not under an obligation to support them. Cook said that is right.
17

18 Commissioner Edge asked about the duration of the license revocation. Cook said it is
19 for this year and two additional years. Edge expressed concern the LRB would be an
20 additional layer and slow the process. Cook said he didn't think it would slow things
21 down.
22

23 Commissioner Klarquist stated to Chair Rae that given Commissioner Englund's recusal
24 (for Sturgell) the Commission should bifurcate the motions.
25

26 Commissioner Kerns asked if the licenses were revoked in Oregon, would that include
27 Washington and California. Cook stated yes, since all are part of the Compact. Kerns
28 asked if Sturgell would be barred from fishing for three years in all states. Cook said
29 potentially, yes. Chair Rae noted that Sturgell has other commercial permits, and the
30 Commission is only talking about his crabbing permit.
31

32 Lt. Dave Cleary said the Council discussed this issue. Under Compact, Washington can
33 address commercial, although it is not clear about Canada or Alaska.
34

35 Commissioner Smith asked if the three-year period is mandatory, and whether the
36 Commission has discretion. Cook said staff is not at that point yet, there is a lot that
37 has to happen before the final decision.
38

39 Cook clarified for the record that he misspoke about the revocation period. He said it
40 would be for one year and suspend what the commercial fisherman has now and then
41 no reapplication for a year.
42

43 Chair Rae said the Commission would bifurcate and take the two issues up separately.
44 She asked for a motion on the Dennis Sturgell matter first, so Commissioner Englund
45 could vote on the Perry Kanury issue.
46

1 *Action: Commissioner Edge moved to initiate contested case proceedings to*
2 *revoke the commercial fishing license of Mr. Dennis Lee Sturgell based on*
3 *convictions of three or more commercial fishing violations in three years, and to*
4 *appoint a License Revocation Board consisting of three commercial crabbers on*
5 *the Commercial Fishery Permit Board, to advise the Commission on this case.*
6 *Commissioner Klarquist seconded the motion. Motion passed. Voting aye were*
7 *Commissioners Edge, Klarquist, Levy, Kerns, and Chair Rae. Commissioner Jon*
8 *Englund was recused from the vote, and abstained.*

9
10 *Action: Commissioner Edge moved to initiate contested case proceedings to*
11 *revoke the commercial fishing license of Mr. Perry Kanury based on convictions*
12 *of three or more commercial fishing violations in three years, and to appoint a*
13 *License Revocation Board consisting of three commercial crabbers on the*
14 *Commercial Fishery Permit Board to advise the Commission on this case.*
15 *Commissioner Klarquist seconded the motion.*

16
17 Commissioner Englund asked for clarification that his recusal applied only to the
18 Dennis Sturgell vote. Chair Rae asked Counselor Cook that the Commission is
19 clear that it is proceeding on both of these cases, and that Englund's conflict of
20 interest is for the Sturgell case only. Cook said yes.

21
22 Hearing no further discussion Chair Rae asked for a verbal vote.

23
24 *The motion passed unanimously.*

25
26 Chair Rae asked Cook if it was clear that the Commission was proceeding on both
27 motions, and that the actual conflict with Commissioner Englund was on one matter and
28 not the other. Cook said yes.

29
30 **OTHER BUSINESS.** None.

31
32 **ADJOURN**

33
34 Chair Marla Rae adjourned the meeting at 11:42 p.m.