

## Agenda Item Summary

### BACKGROUND

Through HB 2538, the 1993 Oregon Legislative Assembly created the seven-member Access and Habitat (A&H) Board to review and recommend to the Oregon Fish and Wildlife Commission (Commission) projects designed to improve wildlife habitat and public hunting access in Oregon. The Oregon Fish and Wildlife Commission (Commission) appoints three board members to represent the broad spectrum of hunters, three to represent the broad spectrum of landowners, and one to represent the public and serve as Board Chair. The A&H Board subsequently appoints representatives to six Regional Advisory Councils, which provide a preliminary review of project proposals. Grant requests are typically submitted by landowners, corporations, organizations, and agencies. The 2009 Oregon Legislative Assembly reauthorized program funding through December 2019.

### PUBLIC INVOLVEMENT

The A&H Program provides for public involvement through the regional advisory councils and A&H Board meetings. The meetings are advertised in advance, notices are published on the department's website and in the program's newsletter, and agendas are mailed to interested citizens. There is an opportunity for interested parties to provide public comment during these meetings. The A&H Board most recently met on October 20, 2009 in Bend, Oregon.

### ISSUE 1

#### ADOPTION OF PROPOSED RULES

#### ANALYSIS

ORS 496.228 and OAR 635-090-0030 state that Landowner Representatives to the A&H Board must be appointed from a list of candidates submitted to the Commission from the State Forester (ODF) and the Director of Agriculture (ODA). House Bill 2218 (2009 Oregon Legislature) reduced the number of required applicants from 15 to five. This change was enacted because it was often difficult for ODF and ODA to populate a list of 15 applicants, creating an undue burden to these departments and to landowner groups. The requested rule change would reflect this statute revision by also reducing the required number of Landowner Representative applicants from 15 to five.

Current OAR also requires that the A&H Board Chair must be appointed from a list of 15 candidates submitted by ODF and ODA. Oregon Revised Statute has no such requirement and simply states, "One member of the board shall be appointed to represent the public and shall serve as the board chairperson". We request a rule change to remove the requirement that a list be submitted from ODF and ODA to fill the Board Chair position.

### ISSUE 2

#### ADOPTION OF PROPOSED RULES

#### ANALYSIS

The acquisition of deeded easements to provide public hunting access to

or across private lands in perpetuity has been an option long desired by the A&H Board. The primary use of these easements would be to provide right-of-way access to public land that is completely surrounded by private land. The legal interpretation of ORS 496.232 and OAR 635-090-0050 was that they did not allow A&H to purchase access easements. House Bill 3089 (2009 Oregon Legislature) provided A&H the specific authority to acquire easements that provide public hunting access. The requested rule change would mirror this new statutory authority.

**OPTIONS**

1. Adopt the rules as proposed
2. Adopt the rules in some amended form
3. Not adopt any rules on this subject

**DRAFT MOTION**

I move to amend OAR 635-090, as presented by staff.

**EFFECTIVE DATE:**

December 10, 2009