

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Southwest Region

Steve Denney, Region Manager, said biologists spent most of the fall implementing portions of the Black Tailed Deer Plan. Summer spotlight routes are being conducted to obtain pre-harvest buck information; hunters were asked to submit teeth from harvested deer. Camera surveys of migratory deer in the Rogue are continuing, as is Chronic Wasting Disease surveillance. Roseburg biologists are still conducting over-snow track counts. He invited commissioners to attend a survey with him or the biologists.

Northwest Region

Steve Marx, Acting Region Manager, talked about two permanent conservation easements that were acquired by the Greenbelt Land Trust with funding through the Bonneville Power Administration (BPA); local staff will help with restoration plans for the property. Marx also discussed upgrades at the Minto Fish Collection Facility on the North Santiam River, which will help hatchery programs and handling of fish above Detroit Dam. He said construction will start early in 2010.

Conservation Strategy

Holly Michael, Conservation Policy Coordinator, discussed staff's work through the Western Governor's Association Council on developing Wildlife Corridors. She offered to hold a workshop on landscape connectivity issues and opportunities, and would invite staff from Montana. Michael said the Oregon Watershed Enhancement Board (OWEB) offered to help fund a position to develop the climate change revision for the conservation strategy. OWEB and Department of Environmental Quality (DEQ) want to incorporate their work and restoration priorities into the strategy. She said the Governor mandated there be one statewide Climate Change Adaptation Strategy. The Department of Land Conservation and Development (DLCDD) has the lead and our staff assists with the natural resources component. A meeting will be held here on Monday, January 11, at 3:00 p.m.; a report should be out by the end of December.

Chair Rae said that is all very positive news. Commissioner Edge supported the idea of a workshop on connectivity. Chair Rae asked Holly to go ahead and plan the workshop.

Information and Education

Roger Fuhrman, Administrator, said the Portland Boat Show 2010 will be held January 13-17 at the Portland Expo Center. ODFW will participate for the first time, and will join other state agencies in promoting the idea of a "stay-cation"—vacationing closer to home. Staff is also preparing for the Portland Sports Show, scheduled in February at the Expo Center.

Commissioner Kerns said after reading the Big Game Regulations recently, he thinks the section on ATV use and the prohibition of loaded firearms is unnecessarily obtuse. He asked staff to further explain why we have that restriction, and when a person can and cannot have a loaded firearm on a motorized vehicle. Lately, he's been getting comments about that, and also complaints from people not getting their Upland Bird Stamps. He asked staff to improve that process, so when people fill in the form for their stamps, they will be sure to get the right stamps in a timely fashion.

1
2 Oregon State Police Fish and Wildlife Division

3 Captain Walt Markee, Division Director, said a Columbian White-tail deer was dumped
4 in the woods with other trash. Near the deer, a state trooper recruit found a receipt from
5 an electronic store and was able to find the suspect. The subject was cited on charges
6 of unlawful take and wasting wildlife. He also discussed a Springfield man facing
7 multiple fish and wildlife charges in Lake County. The man was arrested for possessing
8 a deer that was shot illegally. At the house they found a number of other deer and elk.
9

10 **Oregon's Integrated Water Resources Strategy**

11 Phil Ward, Director of the Water Resources Department (WRD), said WRD and the
12 Department enjoy a great working relationship. He referred to handout, *2009 Instream*
13 *Accomplishments*, and said Oregon leads the country in formal flow restoration of water
14 legally protected in streams. He noted that the removal of Savage Rapids Dam was not
15 represented on the graph. The dam was converted to an instream right, so there is a
16 significant amount of new water protected in-stream. More than 70% of the water
17 regulated in Oregon was regulated to protect instream water rights. A few years ago,
18 WRD did a survey regarding how many states have a comprehensive plan to meet their
19 water needs. Out of 18 western states only 2 didn't have a long term strategy: Alaska
20 and Oregon. The WRD Commission is building the foundation to develop that strategy.
21

22 John Jackson, Chair of the WRD Commission, represents the Northwest Region of
23 Oregon. He said the WRD Commission held workshops and retreats, and discovered
24 that many of the existing laws protected the water, but did not help it. Last year, Oregon
25 State University (OSU) hosted a series of statewide workshops to ask, where do we go
26 from here? Three common themes emerged: 1) definite need for a long-range strategy;
27 2) there are more issues than just water quantity; and 3) solutions have to be locally
28 driven. Jackson said HB 3369 (2009 Legislature) reaffirmed the WRD Commission's
29 role. This effort is not intended to overhaul Oregon's water or water quality laws, but
30 define water quantity, quality and ecosystem needs; how to use it, manage it and save
31 it. We've developed a preliminary work plan and drafted issue papers to create a
32 baseline of information to work from.
33

34 Brenda Bateman, Senior Policy Coordinator and the Integrated Water Resources
35 Strategy Project Manager, said their strategy is to help understand and meet Oregon's
36 water resource needs. The Project Team (see handout *October 14, 2009 Briefer*) will
37 develop the Integrated Water Resources Strategy. It includes staff from WRD, DEQ, the
38 Department of Agriculture (DOA), and Bruce McIntosh and Rick Kepler from ODFW.
39 Bateman said directors from WRD, DEQ, ODFW and DOA appointed 18 citizens
40 members to the Policy Advisory Group to provide feedback and recommendations on
41 the strategy. WRD is in Phase 2 of its strategy, and hopes to host 10 information open
42 houses throughout the spring and summer.
43

44 Discussion followed about water issues specific to different areas in the state. Chair
45 Rae said to count the Commission in as enthusiastic partners in this integrated strategy.
46

47 The Commission took a break at 9:13 a.m., and reconvened at 9:24 a.m.

1
2 **Columbia River Sturgeon and Spring Chinook**

3 Steve Williams, Deputy Administrator for Fish Division, referred to handout *2010 Spring*
4 *Chinook Fisheries in the Mainstream Columbia River*, and said in the next 30 days there
5 will be public meetings to narrow down the options for the Commission's consideration.
6 He discussed how the "catch balancing" agreement between Oregon, Washington and
7 the Treaty Tribes under *U.S. vs. Oregon* will affect the Mainstem Columbia River spring
8 Chinook fisheries in 2010. He discussed run-size buffers and their effects on fish runs.
9 He said he would evaluate fish allocation models below I-5 and above I-5.

10
11 Commissioner Klarquist asked whether the buffer would affect the application of the
12 matrix that the Commission gave last year in regard to sharing impacts between Sport
13 and Commercial Fisheries.

14
15 Tony Nigro, Manager, Ocean Salmon and Columbia River Program, said, given the
16 Commission's matrix guidance and the 470,000 fish forecast, staff will use the matrix to
17 determine what proportion of the available catch should go to the sport and commercial
18 fisheries, and the buffers on those impact allocations.

19
20 Williams said staff will bring forward a recommendation to extend the White Sturgeon
21 Management Accord between Oregon and Washington, for one more year, to allow
22 more time to complete conservation planning efforts. Staff will look also at the overall
23 harvest guideline numbers and overall reductions in those numbers in order to move
24 forward to a long-term approach. He noted several upcoming meetings, and said staff
25 will come before the Commission again at their February 5 meeting for further guidance.
26 He pointed out that the Commercial Advisory group will meet February 11 in Vancouver,
27 WA, and that a Compact meeting is scheduled for February 18, 2010.

28
29 Chair Rae stated that she sent the Commission an email about a prospective citizen's
30 initiative concerning nets in the Columbia. The Commission is restricted from political
31 campaigning because they are public employees. She said Director Elicker has
32 designated Deputy Director Curt Melcher as the single point of contact for anyone
33 concerning the effects of a measure to be voted upon. She asked the Commission to
34 refer any and all inquiries to Melcher.

35
36 **Expenditure Report**

37 Chris Wheaton, Northwest Region Manager, Acting Deputy Director for Administration,
38 gave a Financial Report for the 2009-11 Biennium ending November 30, 1009. In
39 general, revenue is ahead of expectations. More documents were sold in 2009 than in
40 2008. Expenditures are within limitation and running as expected in all categories.

41
42 Deputy Director Melcher thanked Wheaton for filling in as the Acting Deputy Director.

43
44 **Adopt Temporary Rules**

45 Deputy Director Melcher asked the Commission to ratify the following four temporary
46 administrative rules found in the final agenda.

1 **635-023-0090; 635-042-0130; and 635-042-0135**

2 **Set Early 2010 Sturgeon and Smelt Seasons for the Columbia below Bonneville**
3 **Dam**

4 Adopted December 17, 2009; effective January 1, 2010 through March 31, 2010.

5 Amended rules set early 2010 sport and commercial fishing seasons for smelt and white
6 sturgeon in the Columbia River below Bonneville Dam. Modifications also reduced the
7 daily sport bag limit for smelt from 25 to 10 pounds. Revisions are consistent with
8 action taken December 17, 2009 by the Columbia River Compact agencies of Oregon
9 and Washington.

10
11 **635-004-0027**

12 **Set the 2010 Harvest Quota for the Commercial Roe Herring Fishery in Yaquina**
13 **Bay**

14 Adopted December 23, 2009; effective January 1, 2010 through April 15, 2010.

15 Amended rule sets the 2010 harvest quota for the Yaquina Bay commercial roe herring
16 fishery. Under OAR 635-004-0027, this harvest quota shall not exceed 20% of the
17 available spawning biomass, as established in the Yaquina Bay Basin Fish
18 Management Operating Principles and Objectives found in OAR 635-500-0665(2) and
19 as determined by the Marine Resources Program (MRP). MRP has determined that
20 20% of the available spawning biomass yields a harvest quota of 117 tons for the 2010
21 Yaquina Bay commercial roe herring fishery.

22
23 **635-044-0051**

24 **Holding Wolves in Captivity**

25 Adopted: December 23, 2009. Effective Dates: January 1, 2010 through June 29, 2010.

26 This temporary rule is needed as a result of SB 391(Oregon Laws 2009, Chapter 492),
27 enacted by the 2009 Legislative Assembly. Because the legislature removed wolves
28 from the definition of "exotic species", the Oregon Department of Agriculture will no
29 longer regulate captive held wolves. By default, the Oregon Fish and Wildlife
30 Commission will be responsible for developing rules to regulate the holding of wolves in
31 captivity.

32
33 **635-004-0016**

34 **Adopt Management Measures for the 2010 Sardine Fishery**

35 Adopted December 28, 2009; effective January 1, 2010 through June 29, 2010.

36 Amended rule adopts management measures for the 2010 commercial sardine fishery,
37 as approved by the Pacific Fishery Management Council in November 2009. For the
38 purposes of permit renewal in OAR 635-006-1075 the federal coast wide maximum
39 harvest guideline is 72,039 metric tons.

40
41 *Action: Commissioner Englund moved to ratify the temporary administrative*
42 *rules. Commissioner Levy seconded the motion. The motion passed*
43 *unanimously*

44
45 **PUBLIC FORUM.** Chair Rae said no one had signed up for public testimony.
46
47

1 **Exhibit A: COMMISSION MINUTES**

2 Chair Rae said all references to "Council" should be changed to "Counsel".

3
4 *Action: Commissioner Edge moved to adopt the December 10, 2009 and*
5 *December 11, 2009 minutes, as amended. Commissioner Smith seconded the*
6 *motion. The motion passed unanimously.*

7
8 **Exhibit B: FISH RESTORATION AND ENHANCEMENT PROGRAM BOARD**
9 **MEMBER APPOINTMENTS**

10 Laura Tesler, Restoration and Enhancement (R&E) Program Coordinator, said two
11 positions were vacant on the R&E Board: 1) Sport Fishing; and 2) Public At Large. She
12 presented a list of 10 applicants that were interviewed by staff. Tesler said staff
13 recommends Robert Bumstead and Dave Grosjacques for the Sport Fishing position,
14 and William Lovelace and Richard Berry for the Public At Large position.

15
16 **Public Testimony:**

| | |
|------------------------------------|--|
| <p>Bob Bumstead Eugene, OR</p> | <p>Bob Bumstead, candidate for the Sport Fishing position, wants to give back to the State of Oregon. An educator for 33 years in Eugene Public Schools and 13 years at Pacific University College of Education, he has a lifelong interest in conservation. He fishes statewide and is the two-time president of McKenzie Fishers and their conservation chair for 35 years. A former fishing guide in Montana, Bumstead has worked with ODFW in many capacities, including serving on the McKenzie Watershed Council. He has a reputation for listening to all viewpoints and proposing a compromise solution.</p> |
|------------------------------------|--|

17
18 Both Commissioners Kerns and Smith supported Bob Bumstead, and spoke of their
19 past professional experiences with him: very competent, well informed and a great guy.
20 Chair Rae took Commissioner Kerns' comment as a motion to appoint Mr. Bumstead.

21
22 *Action: Commissioner Kerns moved to appoint Bob Bumstead to a four-year term*
23 *as a Sport Fishing representative on the Fish Restoration and Enhancement*
24 *Board. Commissioner Smith seconded the motion. The motion passed*
25 *unanimously.*

26
27 Chair Rae said the Commission looks forward to working with him. For the Public At
28 Large position both she and Commissioner Edge support Bill Lovelace from Baker City.

29
30 *Action: Commissioner Englund moved to appoint Bill Lovelace to a four-year*
31 *term as a Public At Large representative on the Fish Restoration and*
32 *Enhancement Board. Commissioner Levy seconded the motion.*

33
34 Commissioner Klarquist noted that Richard Berry, a retired fish biologist residing in
35 Portland, is a very well qualified candidate as well. Chair Rae agreed and said she
36 hopes the Commission continues to keep Mr. Berry coming to this table.

1
2 *The motion passed unanimously.*

3
4 **Exhibit C: FISH RESTORATION AND ENHANCEMENT PROJECT APPROVALS**

5 Laura Tesler, R&E Program Coordinator, said the R&E Board recommended for
6 funding, 14 projects at their November 20 meeting. She referred to a map that shows
7 the location of recommended projects, illustrating the distribution of projects across the
8 state. She said Project No. 09-160, Big Butte Creek Spring Chinook Habitat
9 Enhancement, is located on private land, but it would contribute important habitat
10 benefits to the entire watershed. It does not provide fishing or angling access.

11
12 **Public Testimony:** None.

13
14 *Action: Commissioner Smith moved to approve the recommendations of the Fish*
15 *Restoration and Enhancement Board. Commissioner Edge seconded the motion.*
16 *The motion passed unanimously.*

17
18 **EXHIBIT D: LIMITED ENTRY ANCHOVY PETITION**

19 Gway Kirchner, Assistant Program Manager for Marine Resources Program, introduced
20 a petition received in October 2009, which seeks to develop a limited entry fishery (one
21 permit) to be issued to a licensed bait dealer using a purse seine, lampara net, or hook
22 and line to harvest anchovies in Yaquina Bay, and sell as live bait (May 15 through
23 October 31). The charge before the Commission is to either accept the Petition and
24 initiate rulemaking, or deny the Petition as submitted. She said on page one of the
25 Agenda Item Summary, analysis is available regarding the OAR requirements for the
26 petition. This activity primarily impacts juvenile Coho and Chinook within their peak out-
27 migration period.

28
29 **Public Testimony:**

| | |
|---------------------------------|--|
| Richard Wood South Beach, OR | Richard Wood, the Petitioner, discussed the data in several handouts to help support his request: <ul style="list-style-type: none">• Kirchner's Agenda Item Summary (Attachment 1), page 3: "Current anchovy harvest regulations allow for some limited harvest..." He said there would only be one other permit to be concerned about, and that is in Winchester Bay. Tillamook Bay may not be interested and in other fisheries there are single issued permit with no big issue about that. In regard to the catch method, using a lampara net is a gentle way to harvest anchovies, and any unintended byproducts (salmonoids) are easily released.• Exhibit B, "Fish Commission Research Briefs, August 1951", page 3, fourth paragraph under Lampara Net Fishery: "The catch when viewed in the bag of the net appeared to be almost 100 percent anchovies." Also page 5, sixth paragraph, "The net was set just outside the surf in the cove south of Cape Falcon." |
|---------------------------------|--|

| | |
|----------------------------|---|
| | <ul style="list-style-type: none"> • Exhibit C – <i>The Anchovy Resources of the California Current Region off California and Baja California</i>, clarifies the technology. Wood referred to page 37 and said this called an “Echogram” showing the density of schools of fish. We have a pretty good opportunity to identify every fish we want to see. The point is anything in the net we don’t want - we can release. • Exhibit C, chart on page 35, Relative Abundance of Anchovy Larvae, regarding biomass. We can determine how many animals are out there. We don’t interrupt anything as far as the food chain. • Exhibit G, page 2, that was submitted at the August 7, 2009 Commission meeting In this Exhibit, this fishery was acknowledged and accepted; there was no negative input. <p>Wood said if salmonoids get in the net, they get out. We have correspondence from fisherman and some commercial industries all in favor of this. He referred to his signed petition of support for his request. Oregon needs anchovy bait; it would double the tuna industry. It would increase ODFW’s income.</p> |
| Bret Hamrick Toledo, OR | <p>Bret Hamrick has fished 17 years in Alaska and Oregon. Currently, Washington and California manage this fishery. He said when numbers declined; ODFW took action and managed the fishery well. Numbers are increasing now because the proper changes were made. He would like to see a fishery like this given a chance. Hamrick said Oregon fishers are sitting out almost 5 million pounds on landings of tuna, because they don’t have live bait in order to productively fish. They can’t get bait because there’s not enough to go around. Hamrick said tuna fishermen prefer bait that is 4-5 inches long, which allows smaller anchovies to live longer.</p> |

1
2 Chair Rae noted that there is written testimony on this issue in the Commission packet.

3
4 Commissioner Edge said the potential for salmonoids being caught in these nets is
5 critical. He asked Kirchner to review the biology and distribution of the salmonoids
6 relative to anchovies or the likely place that fishermen would set nets in the bay.

7
8 Kirchner explained that Coho migrate down into the lower estuaries earlier; their use of
9 the bay peaks in May and June. On their way out they stick to the edges for shelter, and
10 forage out in mid-channel areas and along the edges. She said Chinook migrate to the
11 bay in June, and rear in the lower estuaries, feeding and growing prior to leaving for the
12 ocean later in the summer or fall (June through September).

1
2 Commissioner Englund said if the Commission gives permission to Mr. Wood the issue
3 of expanding will eventually go into the other estuaries. He's not a strong supporter of
4 limited entry. If the Commission opens this up, how tight does the Commission regulate
5 that to other operators? Developing criteria would be another issue.

6
7 Commissioner Klarquist said at the Commission's August meeting, it was noted then
8 that anchovies were an important food source for the juvenile salmonids. We just
9 opened a fishery for the vessels that will use the fish they capture. It would it be wise to
10 first monitor the effect of that fishery before the Commission opens it up even further.

11
12 Kirchner said staff doesn't know yet what the impacts are from the actions taken in
13 August.

14
15 Deputy Director Melcher said in August, the Commission adopted permanent rules
16 which permit commercial fishing vessels to use this gear to harvest anchovies in the
17 course of their own operations. The Commission did not limit entry on that—it's open for
18 any vessel that wants to participate with that gear type, recognizing some vessels may
19 not be able to, due to vessel size. In December, the Commission officially suspended
20 the Developmental Fisheries Program. He said this fishery is tailor-made for the
21 Developmental Fisheries Program. He also said there was much debate in December
22 over what to with the ocean anchovy fishery. The Commission moved it into a non-
23 limited entry fishery. It did not limit entry; there were only a couple of participants in the
24 limited entry discussion. In addition to not having the Developmental Fisheries Program
25 to carry on the discussion, there is very little history to use to determine who the limited
26 entry winner is.

27
28 Deputy Director Melcher said this situation is very similar. If you direct us to accept this
29 petition and we move forward with rulemaking, we will have to come up with some
30 criteria for who qualifies, and right now there are no participants. It would be a difficult
31 discussion; it may end up just being a random lottery, which is how we give out our
32 other available permits.

33
34 Commissioner Smith asked where other tuna boats get their bait, other than the 16 to
35 19 participating in that bay. Kirchner said they get bait in California and Washington.

36
37 Commissioner Smith said if other boats had the equipment and incentive, they could
38 move in there too. True? Kirchner said, if you are asking if other boats could equip
39 themselves with lampara nets and catch their own, they can. Commissioner Smith said
40 so, if Mr. Wood decided that he would be a tuna fisherman, he could collect all he
41 wanted in there, and move out and fish for tuna. Kirchner said correct, he could catch
42 his own bait to be used on his vessel.

43
44 Commissioner Smith asked if the Commission has the discretion to discontinue limited
45 permits. Kirchner said her experience has been with Developmental Fisheries permits; it
46 would much more difficult to rescind a permanent issued permit.

1 Further discussion followed regarding eliminating Developmental Fisheries.

2
3 Chair Rae said the Commission did not have much choice given that the Legislature
4 clearly knew that if they didn't provide the funding, the program would go away. I'm not
5 persuaded that we should do this at this point, and I don't know if saying "go study this
6 some more" just prolongs the agony for Richard and his colleagues. She supports
7 staff's recommendation to deny the petition. She has never been a fan of the limited
8 entry program; it just doesn't feel equitable. She asked if there was a motion.

9
10 *Action: Commissioner Edge moved to deny the petition submitted by Mr. Richard*
11 *Wood and direct the Director to notify the petitioner of the Commission's decision*
12 *in writing. Commissioner Klarquist seconded the motion.*

13
14 Chair Rae asked if there was further discussion. Commissioner Englund asked if R&E
15 program money used to develop an Oregon fishery could be used since they've lost
16 funding for developmental fisheries. Chair Rae said, from my own experience in
17 preparing and presenting budgets to the Oregon Legislature, if the Legislature tells us,
18 "this program goes away when the funding goes away", if we were to find other funds
19 for that program, we'd best go back to the Legislature with our request.

20
21 *Action: The motion passed by a yes vote of 5 to 2. Voting yes were*
22 *Commissioners Levy, Klarquist, Englund, Edge and Chair Rae. Voting no were*
23 *Commissioners Kerns and Smith.*

24
25 **EXHIBIT E: SCHEDULE OF DAMAGES FOR COMMERCIAL FISHING VIOLATIONS**

26 Christine Broniak, Staff Economist, presented the schedule of prices for commercial fish
27 damages. She said overall prices for fish are slightly down, based on 2009 fish tickets.
28 She noted on page 2, Revised Attachment 3, under (LL) (A) Crabs: the price per pound
29 of ocean crab has changed from \$2.73 to \$1.96, to reflect the December landings. Staff
30 recommends adoption of the schedule of damages used in assessing commercial
31 fishing violations during 2010.

32
33 Chair Rae discussed whether this issue is necessary for the Commission to deal with in
34 the future.

35
36 **Public Testimony:** None.

37
38 *Action: Commissioner Edge moved to amend the Schedule of Damages for*
39 *Commercial Fishing Violations contained in OAR 635-006-0232 as proposed by*
40 *staff in Revised Attachment 3. Commissioner Smith seconded the motion. The*
41 *motion passed unanimously.*

42
43 **EXHIBIT F: ACCESS AND HABITAT LANDOWNER REPRESENTATIVE**
44 **APPOINTMENT**

45 Chair Marla Rae publicly declared that Douglas "Sparky" Lisle is her husband's first
46 cousin's husband; however, this is *not* a declaration of a potential conflict of interest.

1 Matthew Keenan, Access and Habitat (A&H) Program Coordinator, recommended the
2 Commission make an appointment to the position of Landowner Representative, which
3 is currently vacant. The five candidates are: Charles L. Boyer of Eagle Point, Robert
4 Jaeger of Condon (incumbent), Douglas Lisle of Halfway, Charles Moyer of Portland,
5 and Morgan Olson of Cove.

6
7 **Public Testimony:**

| | |
|---------------------------|--|
| Mike Dykzeul Salem, OR | Mike Dykzeul, Oregon Forest Industries Council, recognized that Robert Jaeger was interested in serving a second term, but he recommended Charles Boyer. All candidates are outstanding. |
|---------------------------|--|

8
9 Commissioners Edge and Smith recommended Mr. Jaeger. Commissioner Kerns spoke
10 also in favor of Mr. Jaeger because his farming voice needs to be heard.

11
12 *Action: Commissioner Kerns moved to reappoint Robert H. Jaeger to the position*
13 *of Landowner Representative on the Access and Habitat Board through*
14 *December 31, 2013. Commissioner Edge seconded the motion. The motion*
15 *passed unanimously.*

16
17 Chair Rae asked Keenan to let the other four candidates know of the volunteer
18 opportunities within the Department, and that the Commission appreciates their interest
19 in the A&H Program.

20
21 **EXHIBIT G: AQUATIC INVASIVE SPECIES PREVENTION PROGRAM**

22 Rick Boatner, Invasive Species Wildlife Integrity Coordinator, reported on two pieces of
23 legislation passed by the 2009 Legislature:

- 24
25
- 26 • HB 2220 authorizes the Department, the Oregon State Marine Board, and the
27 ODOA to operate check stations for the purpose of inspecting watercraft to
28 detect the presence of aquatic invasive species and decontaminate watercraft.
 - 29 • HB 2583 prohibits the launch of a boat if the boat has any visible aquatic species
30 on its hull, motor, trailer or other device used to transport the boat; or if the boat
31 has any aquatic invasive species within the interior of the boat.
- 32

33 Commissioner Klarquist asked how many invasive species are on the two separate lists
34 mentioned by Boatner in his report. Boatner said there are 1,600 different species on
35 the "56 Rule" list; and several hundred on the non-indigenous list.

36
37 Commissioner Klarquist said the OAR list will be amended from time to time as new
38 species are found. The amendment to the U.S. list is specific. It would be good for the
39 Department to say, not only that list dated June 4, but as amended, so we don't have to
40 update it; it would be self-updating.

41
42 Chair Rae asked legal counsel to comment.

1 Counsel Bill Cook advised staff to write in a non-ODFW list that automatically evolves,
2 in order to avoid a delegation problem.

3
4 **Public Testimony:** None.

5
6 *Action: Commissioner Edge moved to adopt OAR 635 Division 059, as proposed*
7 *by staff. Commissioner Smith seconded the motion. The motion passed*
8 *unanimously.*
9

10 **EXHIBIT H: REMOVAL OF FERAL SWINE**

11 Rick Boatner, Invasive Species Coordinator, said Feral Swine is defined by the DOA
12 (OAR 603-010-0055) as free roaming pigs on public or private lands. There is no
13 notification to other landowners, managers or occupants in regard to escaped swine. He
14 said the proposed changes bring the administrative rules in line with House Bill 2221
15 passed by the 2009 Legislative Session, which does three things:

- 16 1. Prohibits a person to offer feral swine hunts on public or private lands;
- 17 2. Makes it illegal to allow feral swine to roam on land a person owns or controls;
18 and;
- 19 3. Must notify ODFW within ten days after discovering the presence of feral swine.
20

21 The proposed rules require landowners who discover feral swine on their property to
22 seek ODFW approval and then implement removal plans. This could include hunting or
23 trapping. Boatner said feral swine cause a great deal of damage for ecosystems, and
24 will eat just about anything.
25

26 Commissioner Smith questioned the requirement that a landowner develop a timeline to
27 remove the swine; they are difficult to remove. Is there any grant assistance available or
28 can United States Wildlife Services (USDA) get involved? Boatner said the USDA can
29 assist a landowner, and the Department loans traps to landowners, and provides
30 technical knowledge. Commissioner Smith asked for leniency with landowners in
31 regard to how long it takes them to catch the swine.
32

33 **Public Testimony:**

| | |
|-----------------------------|---|
| Rodger Huffman Union, OR | Rodger Huffman, Oregon DOA, said ODOA has dealt with feral swine for many years before they became a wildlife issue. ODOA continues to help landowners in removing these animals. If this rule is adopted today, ODOA would no longer be involved, but would refer people to ODFW. He has hundreds of names of people willing to help eradicate the swine. He said they put a high priority on taking action on predation issues caused by feral animals. He thanked the Commission for its proactive stance. |
|-----------------------------|---|

34
35 Commissioner Klarquist asked what an appropriate time period would be for a
36 reasonable expiration date. Boatner said it has to be on a case-by-case basis, based
37 on an estimated population.
38

1 Commissioner Klarquist said the statute says that the landowner will be held
2 accountable to completely remove feral swine. We have them being held accountable
3 and maybe one extension is granted, and beyond the statutory authority they are only
4 given so much time. Then what? If feral swine are so hard to eradicate, and someone is
5 implementing a plan and we extend it, and they're still in good faith attempting to
6 implement the plan, do we stop there?
7

8 Boatner said there would be a one-time extension that would be granted longer if
9 conditions warranted, and again it would be on a case-by-case basis.
10

11 Ron Anglin, Wildlife Division Administrator, said during the 2009 Session, legislators
12 and landowners were concerned about setting an established timeline. Staff was asked
13 to define that in rulemaking to maximize the flexibility in working with the landowners. If
14 landowners are unwilling to work with staff, we need to have the ability to take action.
15

16 Commissioner Klarquist said he wondered if we unnecessarily tie the Department's
17 hands if we say you have the authority to give *only one* extension, rather than say you
18 have the authority to give *an* extension. He meant by the words "an extension" to mean
19 only one extension, just put a time limit on a case-by-case basis.
20

21 Anglin said good; he could live with that.
22

23 Commissioner Kerns said in Eastern Oregon some ranches are owned by absentee
24 owners where feral swine is a growing problem. He asked if there was any way to
25 encourage hunters to hunt feral swine. He asked also that the hunt be publicized more
26 in Eastern Oregon so more people would respond to it.
27

28 Boatner said staff is encouraging hunters to go after feral swine. All they need is a
29 license and to follow normal hunting regulations; the take is unlimited.
30

31 Chair Rae stated in Exhibit H, Attachment 4, under Division 635-058-0010 – Removal of
32 feral swine, Section (3), change the phrase "The Department may grant a one-time
33 extension of the expiration date..." to read, "The Department may grant an extension of
34 the expiration date..." She asked if Commissioner Klarquist was okay with that change.
35

36 Commissioner Klarquist asked Counsel, does the word "an" limit it to one extension.
37

38 Counsel Bill Cook said no, that allows an extension every time you've got a deadline.
39

40 Chair Rae noted that change would be incorporated in a motion.
41

42 *Action: Commissioner Edge moved to adopt OAR 635 Division 058, as proposed*
43 *by staff with the revised Division Rule in Attachment 4. Commissioner Levy*
44 *seconded the motion. The motion passed unanimously.*
45

46 EXHIBIT I: RULES RELATING TO HARRASSMENT OF GAME BIRDS

1 Brandon Reishus, Assistant Game Bird Biologist, discussed amendments to the wildlife
2 harassment rule. Over the past year, two temporary rules have been adopted and staff
3 is looking to make these permanent with a few modifications. He said the current rule in
4 the Wildlife Harassing permit would not change, and most species of protected wildlife
5 would require a permit from the Department. The current rule exempts bobcat, red fox,
6 cougar, bear, and migratory birds. This clarifies that it's "non-threatened and non-
7 endangered migratory birds", except when using a dog during April through July. It also
8 clarifies that harassment must not result in take.

9
10 **Public Testimony:** None.

11
12 Chair Rae noted the Revised Draft OAR in Corrected Attachment 4 and asked for a
13 motion.

14
15 *Action: Commissioner Edge moved to amend OAR 635 Division 043, as*
16 *proposed by staff in the corrected Attachment 4. Commissioner Smith seconded*
17 *the motion. The motion passed unanimously.*

18
19 **OTHER BUSINESS**

20 Commissioner Smith noted that a workshop called "Early Seral Forest – We know we
21 need it – How do we get it?" is scheduled April 28 at the La Sells Steward Center in
22 Corvallis. He said Central Cascades Adaptive Management Partnership and Northwest
23 Oregon Ecology Group were representing the sponsors: OSU, the U.S. Forest Service,
24 National Forest System, HJ Andrews Experiments, Pacific Northwest Forest Service
25 Research, and BLM. He noted that the Department is not part of planning this
26 workshop, and that there were no department speakers on the tentative list.

27
28 Ron Anglin said staff was not aware of the workshop. Staff wants to participate and will
29 contact the group. He will also ask Commissioner Edge about how best to get involved.

30
31 **ADJOURN**

32
33 Chair Rae adjourned the meeting at 12:07 p.m.