



Oregon Fish and Wildlife Commission Minutes

Meeting:
February 5, 2010 - 8:00 am
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue NE
Salem, OR 97303

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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:
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Marla Rae, Chair	Roy Elicker, Director
Dan Edge, Vice-Chair	Curt Melcher, Deputy Director
Zane Smith, Commissioner	Debbie Colbert, Deputy Director
Jon Englund, Commissioner	Steve Sanders, Assistant Attorney General
Skip Klarquist, Commissioner	Teri Kucera, Executive Assistant
Carter Kerns, Commissioner	
Excused: Bobby Levy, Commissioner	

8
9 **MEETING**

10 On Friday, February 5, 2010 at 8:00 a.m., Chair Marla Rae called the Oregon Fish and
11 Wildlife Commission (the Commission) meeting to order.

12
13 Chair Rae thanked Commissioner Zane Smith for his service on the Commission.
14 Today is his final meeting. Commissioner Smith said it has been a pleasure working on
15 the Commission. Chair Rae introduced his successor, Bob Webber, who will begin
16 officially in March, upon confirmation by the Oregon Senate. She announced five-year
17 awards for Commissioners Jon Englund, Skip Klarquist and Dan Edge. She also said
18 the Governor has asked her to stay on for awhile; she is happy to continue working with
19 the Commission until her successor is appointed.

20
21 **DIRECTOR'S REPORT**

22
23 **Field Reports (Written report is part of the Commission's official record.)**

24
25 Northeast Region

26 Craig Ely, Region Manager, said the Department adopted the Wolf Conservation and
27 Management Plan in December 2005. Every five years the Plan calls for an evaluation;
28 staff will provide an overview to the Commission in March. Ely reported that the
29 Department provided field experiences in the fish, wildlife and environmental
30 professions for youth and at-risk-youth interested in pursuing these professions. Over
31 100 youth have been involved, and a number have pursued fish and wildlife careers.

32
33 Chair Rae asked if staff had any outlines and parameters on proceeding with the wolf
34 plan after staff's report at the March Commission meeting.

1
2 Ely said staff will make a few changes and recommendations on how they'll proceed
3 with the plan. The process includes steps for public input in the review of the plan.
4

5 Chair Rae said the past planning process was open and involved the public; she hopes
6 that open process will be included this time in the review. When staff first put the plan
7 together, it was with the knowledge that wolves would be crossing the border and
8 coming into Oregon. The professionals alerted us to plan ahead so that we were not
9 reactive - that's an important aspect to keep in mind. With that experience and now with
10 wolves in Oregon, I hope that the landowners and the other interested groups view this
11 as an opportunity to make the plan better, and not start from scratch and start all over.
12

13 High Desert Region

14 Chip Dale, Region Manager, discussed a new fish trap constructed on Trout Creek in
15 the Deschutes River Basin, and a recent high water event on January 7 that rendered
16 the trap inoperable; staff removed the debris and minimized any damage. He said a
17 temporary rule opened a sport harvest opportunity for Chinook salmon on the
18 Deschutes River this spring; he anticipates a good fishing season. He thanked
19 Commissioner's Smith for his work and help; he will be missed.
20

21 Southwest Region

22 Steve Denney, Region Manager, said staff is monitoring a confirmation of rabies
23 detected in a fox, a dead skunk, and a goat on a landowner's property in Josephine
24 County. Final testing on these animals determined this to be the common strain of
25 rabies; so it is not as serious as the other strain. He discussed staff's mountain quail
26 trap and transport program in the Douglas Wildlife District in an effort to re-establish
27 mountain quail to its former range. Denney said he has appreciated working with
28 Commissioner Smith; he will be missed.
29

30 Northwest Region

31 Manny Farinas, reporting for Chris Wheaton, spoke about the Oregon Conservation
32 Strategy. A workshop to discuss science team responses and recommendations is
33 scheduled for February 24. Farinas said testing for pile driving began on January 22 in
34 preparation for construction of the NOAA wharf later this year.
35

36 Commissioner Smith asked if the NOAA project is still coming to Newport. Chair Rae
37 said the State of Washington Congressional delegation continues to oppose the
38 transfer. She believes Director Cantwell has asked for a United States Department of
39 the Interior review of the process. Director Elicker said there is ongoing controversy
40 over the siting of the fleet to Newport, but Don Mann, Manager of Port of Newport, said
41 they are proceeding ahead despite the controversy.
42

43 Information and Education

44 Roger Fuhrman, Administrator, said James Reed of Lewiston, Idaho, has been hired as
45 the new Statewide Hunter Education Coordinator, beginning Feb. 16. Fuhrman said the
46 Sportsman Show is scheduled for February 10-14 at the Portland Expo Center.

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2 Chair Rae said this outreach is excellent; good luck at the show. Commissioner Kerns
3 praised Fuhrman and Michelle Denney for their article on the Mule Deer Initiative.
4

5 Marine Resources Program

6 Caren Braby, Manager, confirmed that the NOAA project is underway, despite
7 questions about the selection process. She announced the release of the Oceans
8 Information website, <http://www.OregonOcean.info>. Regarding Nearshore strategy,
9 Braby said staff will increase knowledge about habitats and species that live there. Staff
10 is working with the Oregon Department of Land Conservation and Development to help
11 them develop ecological maps for use in the permits decision-making process. She
12 reported on harmful algae blooms in the ocean that produce toxins; effects are passed
13 up the food chain. Braby thanked Commissioner Smith for his service and support of
14 the Marine Program.
15

16 Oregon State Police

17 Walt Markee, Captain, Oregon State Police Fish and Wildlife Division, said on January
18 21, 2010, State Trooper Aaron Baimbridge from Roseburg, and Sutherlin Police
19 Department Officer Troy Mills, were honored for rescuing a man from a burning home in
20 March 2008. They received the Silver Star for Bravery, the highest award available.
21

22 Conservation Strategy

23 Holly Michael, Conservation Policy Coordinator, said on March 11 a half-day workshop
24 will be held on Landscape Connectivity. Speakers from all over the country will talk to
25 the Commission about this emerging issue. It is part of the work that ODFW is doing
26 with the Wildlife Corridors Initiative through the Western Governors Association. Michael
27 talked about staff's work with the Association of Oregon Counties (AOC) and the
28 Oregon Department of Energy (DOE) (see "AOC Wind Energy Task Force Report and
29 Recommendations, December 14, 2009").
30

31 **Wind Energy Program Coordination by Association of Oregon Counties (AOC)** 32 **Wind Energy Task Force**

33 Steve McClure, Union County Commissioner and Chair of the Wind Energy Taskforce,
34 provided a background of the process. He said there are two processes for siting
35 energy: 1) under 105 megawatts (Mw); and 2) over 105 Mw. Different counties use the
36 processes in different ways. In November 2008, the AOC created the Wind Energy
37 Task Force, which reviewed the wind siting process. McClure said it met six times in
38 2009, and did the in-depth analysis, which is now being presented to the Commission.
39

40 Hanley Jenkins, Union County Planner, said Oregon Revised Statutes (ORS) divide
41 the responsibility for reviewing wind projects into two parts based on the size of the
42 projects. Projects greater than a 105 Mw in size are the responsibility of the Oregon
43 Energy Facilities Siting Council (EFSC). He highlighted three sections in AOC report:
44

- 1 1. Transmittal letter from Chair Steve McClure, Chair, Wind Energy Task Force, to
2 the Association of Oregon Counties Board of Directors, regarding the transmittal of
3 the AOC Wind Energy Task Force Report and Recommendations.
4
- 5 2. Background information. The task force was created to provide guidelines for
6 siting, to identify issues to consider when permitting a commercial wind
7 development project, and to create consistency among counties.
8
- 9 3. Guidelines for counties: Jenkins discussed the Elements of Siting Large (less than
10 105 MW) Wind Projects. He discussed the Met Tower siting process and the
11 importance of a pre-application conference.
12

13 Jenkins asked the Commission to review the list of participants on the last page of the
14 Guidelines. He said some counties are starting to see applications for forest lands so
15 the Task Force will deal with those applications. We believe that the Land
16 Conservation and Development Commission will take up administrative rules related
17 to forestlands and wind energy projects.
18

19 Tom Stoops, Assistant Director, DOE Energy Facility Siting, said in 2007 there was
20 concern about impacts to wildlife and habitat that led to counties developing the
21 Columbia Basin Guidelines (CBGs) last year. When the CBGs were finished, AOC
22 took on the task of talking to 36 counties with 36 different approaches. The CBGs are
23 a good framework on how to analyze the project. If the counties can get the resources
24 that they need they can have the rigorous type of process that is anticipated.
25

26 Chair Rae said the Commission has long urged the local department biologists to get
27 involved into this process early, and not raise red flags after all the engineering is
28 done. She thanked McClure for his leadership role and said in the AOC this is a
29 tremendous service to it's' members. She said some of the counties in the rural areas
30 do not have the resources to take this on.
31

32 Commissioner Edge said this is a substantial improvement over the piecemeal
33 approach. He thanked the speakers for their inclusion of the opportunity for
34 developers to reimburse state agencies for their time.
35

36 Chair Rae thanked McClure, Jenkins and Stoop. She said Bob Sallinger from the
37 Portland Audubon will comment on this same issue later under the Public Forum.
38

39 **Expenditure Report:**

40 Debbie Colbert, Deputy Director for Administration, presented the Commission Financial
41 Report for the month ending December 31, 2009. She said the expenditures and
42 revenues are all within the budgeted expectations for the end of the first quarter of the
43 biennium. She noted, there is a slight difference between the legislatively adopted
44 beginning balances vs. actual. That is because the legislatively budget is estimated, and
45 we have until December to reconcile the 2007-09 budget.
46

1 **Adopt Temporary Rules**

2 Roy Elicker, Director, requested the Commission to ratify the following four temporary
3 rules. The first three temporary rules were previously adopted under his emergency
4 action authority. He noted that a Memorandum from Ed Bowles, Fish Division
5 Administrator, had been distributed to the Commission today that added an additional
6 rule, 635-042-0130, the fourth rule not listed in the Commission's final agenda.

7
8 **635-065-0765**

9 **Tagging, Possession, Transportation and Evidence of Sex**

10 Adopted: January 25, 2010; effective January 25, 2010 through July 24, 2010

11 In June 2003, the Fish and Wildlife Commission adopted rules banning the importation
12 of certain cervid parts from those states with documented cases of Chronic Wasting
13 Disease (CWD). The rules noted that the Department would add additional states to the
14 rules as new cases of CWD were documented. Based on new information, the Director
15 amends the rule to add Virginia to the list of states from which cervid parts may not be
16 imported.

17
18 **635-018-0090**

19 **2010 Spring Chinook Season on the Deschutes River**

20 Adopted January 25, 2010; effective April 1, 2010 through July 31, 2010.

21 Amended rule allows the sport harvest of spring Chinook salmon in the lower Deschutes
22 River from April 1 through July 31, 2010. The open area will extend from Sherars Falls
23 downstream to the mouth of the river. During the open period, the proposed bag limit
24 will be two adipose fin-clipped Chinook salmon per day and five adipose fin-clipped jack
25 salmon per day. All unmarked Chinook salmon must be released unharmed and it will
26 be unlawful to angle from Sherars Falls downstream to the upper railroad trestle after
27 taking a daily bag limit of two Chinook salmon.

28
29 **635-041-0065**

30 **White Sturgeon Legal Size Determined Using Fork Length Measuring Method in
31 Treaty Winter Fisheries**

32 Adopted February 3, 2010; effective February 3, 2010 through August 1, 2010.

33 Amended rule changes the measurement method used to determine if white sturgeon
34 are of legal length for retention in winter Treaty Indian fisheries above Bonneville Dam.

35
36 **635-042-0130**

37 **Commercial Smelt Fishing Area Boundaries Modified in Zone Two of the
38 Columbia River**

39 Adopted February 4, 2010; effective February 8, 2010 through March 31, 2010.

40 Amended rule modifies the boundaries within Zone 2 of the Columbia River Mainstem
41 authorized for the commercial harvest of smelt. Modifications close those waters of
42 Zone 2 upstream of the markers at USCG navigation marker #16 in Deep River; those
43 waters upstream of the outer most uplands at the mouth of the Grays River; and those
44 waters upstream of the outer most uplands at the mouth of the Elochoman River. This
45 modification will prohibit harvest in these Washington tributaries and align recreational

1 and commercial area regulations. Revisions are consistent with the action taken
2 February 4, 2010 by the Columbia River Compact agencies of Oregon and Washington.

3
4 Commissioner Edge asked about the legal size of sturgeon. Steve Williams responded,
5 the size has been modified, and 635-041-0065 corrects an omission.

6
7 *Action: Commissioner Edge moved to ratify the four temporary rules as written in*
8 *the agenda and the supplement memorandum. Commissioner Smith seconded*
9 *the motion, and the motion carried unanimously.*

10
11 Director Elicker thanked the AOC Wind Task Force. He said the energy issue is very
12 difficult, and we are understaffed but will try to get additional funds from the Legislature.

13
14 The Commission took a break at 9:25 a.m. and reconvened at 9:38 a.m.

15 **PUBLIC FORUM**

16
17 *Note: This part of the agenda is for comments on topics not scheduled elsewhere on the*
18 *agenda. The Commission is unable to take action on items brought to their attention in*
19 *this forum.*

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Craig Starr Lebanon, OR	Craig Starr, a hunter, distributed a letter concerning big game regulations. He proposed that the Commission change the controlled hunt process so those who buy point savers are not locked out of the process. He also proposed that the Commission eliminate the current regulatory prohibition on hunting coyotes, cougars and bears with a .22 caliber rifle, statewide, during elk seasons. Hunters are concerned about the lack of control on predation of big game species. Current efforts to address these issues are inadequate. Chair Rae suggested that Mr.Starr meet with Tom Thornton from the Wildlife Division.
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21 **Exhibit A: COMMISSION MINUTES**

22 The Commission considered approval of the January 8, 2010 Commission minutes.

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25 *Action: Commissioner Englund moved to approve the January 8, 2010 minutes.*
26 *Commissioner Klarquist seconded the motion, and the motion carried*
27 *unanimously.*

28 **Exhibit B: MID-COLUMBIA STEELHEAD CONSERVATION AND RECOVERY PLAN APPROVAL**

29 Rich Carmichael, Research Program Director and Recovery Plan Coordinator, provided
30 background on the development of the Oregon Mid-Columbia Steelhead Plan (the Mid-
31 C). The Mid-C includes biological organization and strategies to achieve recovery of
32 steelhead to a healthier status. He said staff presented the plan to the Commission in
33
34

1 November 2008. The federal Endangered Species Act (ESA) Plan adopted the plan in
2 September 2009. He discussed the major additions and changes made to the Mid-C,
3 and discussed the Climate Change Related Elements. He said GIS maps have been
4 developed for each population, and show high, moderate, and low priority areas for
5 restoration actions, as well as protection actions as proposed in the recovery plan.
6

7 Suzanne Knapp, Governor's Natural Resources Policy Advisor, discussed the
8 Implementation and Adaptive Management Processes. She said effective
9 implementation for the long-term will require an effective government structure. What
10 was changed in the plan, in the interim, was an expanded explanation of the adaptive
11 management process and mechanisms that are going on throughout the region.
12

13 Carmichael said the Proposed Rules were developed to be consistent with the Native
14 Fish Conservation Policy and to guide implementation of the Mid-C Plan.
15

16 **Public Testimony:** No public testimony was given.
17

18 Chair Rae said there was no public correspondence nor did anyone sign up to testify,
19 which suggests that the team has done a wonderful job. She said this vote ends Rick's
20 three-year special assignment on this project; it has been a massive effort of involving
21 the various publics. She thanked him for his efforts, and asked for a motion.
22

23 *Action: Commissioner Edge moved to adopt the principles and the Oregon*
24 *Administrative Rules for the Conservation and Recovery Plan for Oregon*
25 *Steelhead Populations in the Mid-Columbia River Steelhead District Population*
26 *Segment as shown in Attachment 3 related to the Department's commitments in*
27 *said plan. Commissioner Smith seconded the motion and the motion was carried*
28 *unanimously.*
29

30 Suzanne Knapp expressed appreciation for Carmichael's work on behalf of the
31 Governor and the State of Oregon.
32

33 **Exhibit C: MANAGEMENT OF SPRING CHINOOK AND WHITE STURGEON**
34 **FISHERIES IN THE MAINSTEM COLUMBIA RIVER AND**
35 **ESTABLISHMENT OF A WHITE STURGEON SPAWING SANCTUARY**
36 **IN THE WILLAMETTE RIVER**

37 Steve Williams, Deputy Administrator for Fish Division, said staff was asking the
38 Commission for guidance on the following issues:

- 39 a) Management of Spring Chinook Non-Treaty fisheries in the Mainstem Columbia
40 River;
41 b) Management of Summer Chinook Fisheries Management;
42 c) Adoption of a one-year White Sturgeon Management Accord for 2010;
43 d) Establishing a White Sturgeon spawning sanctuary in the Willamette River; and
44 e) Closure of the east bank of the Willamette River in Oregon City – the "Wall".
45

1 **Commissioner Englund declared a potential conflict of interest, as his company**
2 **sells boats and fishing gear to the recreational and commercial industries.**

3
4 Chair Rae noted, for the record, Commissioner Englund's declaration of a potential
5 conflict of interest and said it does not prevent him from discussing the issue or
6 participating in the vote

7
8 Spring Chinook and Summer Chinook Fisheries Management

9 Tony Nigro, Manager of the Ocean Salmon and Columbia River Program, discussed
10 planning issues for the 2010 Spring Chinook fisheries for the Mainstem Columbia River.
11 In a PowerPoint presentation, he listed objectives for sport fisheries and commercial
12 fisheries for Spring Chinook, and discussed how to accomplish those objectives. He
13 said the Commission had provided guidance on how to manage risk; and on how to
14 manage fisheries after the run-size update. He discussed catch balancing under the
15 2008-2017 U.S. v Oregon Management Agreement, and presented a number of harvest
16 scenarios below Bonneville Dam and their estimated results.

17
18 Chair Rae said each of these four scenarios is dependent on the run size forecast being
19 somewhat accurate. Nigro said she was correct, these are general estimates. It
20 assumes catches based on historic experiences.

21
22 Nigro discussed staff's Recommended Actions:

- 23 • Reaffirm spring Chinook policy guidance adopted by the Commission in
24 December 2008;
- 25 • Endorse the approach used in 2009 by Oregon and Washington staff to allocate
26 allowable ESA impacts; and
- 27 • Provide guidance on run-size buffer and season structure.

28
29 Mark Selective Summer Chinook Fisheries

30 Nigro noted that the 2010 Summer Chinook sport fishery was not included in the
31 agenda as staff isn't seeking additional policy guidance at this time. The Washington
32 Department of Fish and Wildlife asked staff to set aside time at the North-of-Falcon
33 meeting in March to discuss mark-selective summer Chinook sport fisheries for 2010.
34 Staff has not met with Washington staff but is willing to discuss options in that process.

35
36 2010 Sturgeon Management Accord and Conservation Planning

37 Williams said Oregon is developing a conservation plan for sturgeon downstream from
38 Bonneville Dam. He discussed key elements of the existing accord. Population has
39 been relatively stable for a number of years, although the goal is to grow the population.
40 Catch rates of sub-legal-sized fish is cause for concern. He discussed fisheries options
41 for 2010:

- 42 • Reduce Columbia River harvest guideline;
- 43 • Expand broodstock protections;
- 44 • Extend downstream boundary of the sanctuary; and
- 45 • Establish a separate harvest guideline for Willamette River.

1
2 He said staff recommendations are:

- 3 • Provide policy guidance on key elements of a one-year Sturgeon Accord: harvest
4 guideline that includes; size of the sanctuary; period when fishing is closed in the
5 sanctuary; and a Willamette River harvest guideline.
- 6 • Delegate authority to the Director to negotiate and adopt a one-year Accord for
7 2010.

8
9 Willamette River Sturgeon Spawning Sanctuary

10 Williams said catches of broodstock-sized sturgeon downstream from Willamette Falls
11 have increased significantly in the past few years, and that sturgeon eggs were
12 collected there in mid-May 2009. He recommended establishing a sturgeon spawning
13 sanctuary from the base of Willamette Falls downstream to the I-205 Bridge. He
14 recommended annually closing recreational fishing for white sturgeon in the sanctuary
15 from May through July, and possibly August in 2010.

16
17 Oregon City "Wall" Fishery

18 Williams said the "Wall" is located on the east bank downstream from Willamette Falls
19 and sits atop a bluff about 45-60 feet high. He said anglers lift any sturgeon caught up
20 the 45-foot wall. Fish not kept are often thrown back into the river. This activity tears the
21 internal organs and cartilage of the sturgeon as they are thrown back into the water
22 from that height. Staff has worked with OSP to educate the anglers and the best
23 possible way to release these fish from the Wall. The Department is working with others
24 to improve bank angling on the west bank in 2010. Staff recommends closing the east
25 bank of the Willamette River to angling in the vicinity of the "Wall" for the entire year.

26
27 Next Steps

28 Williams discussed upcoming meetings:

- 29 • February 9: Recreational Advisory Group
- 30 • February 11: Commercial Advisory Group
- 31 • February 18: Oregon and Washington Compact
- 32 • March 12: Oregon Fish and Wildlife Commission – Sturgeon & Shad Permanent
33 Rules

34
35 Chair Rae asked if Jeff Breithbarth was in the audience. She said the Commission will
36 take up the issue of denial of his petition after lunch. She asked for questions.

37
38 Commissioners Edge and Englund asked about the status of the five percent buffer.
39 Nigro said there have been discussions with Washington on whether we were double-
40 buffering. There is not an issue in the context of catch-balancing.

41
42 Commissioner Englund asked whether the negotiation of the percentage is still to be
43 determined. Williams said yes; because it is a shared resource, Oregon has an
44 obligation to work with Washington. His first and foremost objective is to provide Oregon
45 as much opportunity as possible in the Willamette.

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Commissioner Klarquist said with regard to the proposed increase in the geographic limit on the spawning sanctuary area, Washington must feel that there will be a positive effect. He asked why they are arguing for it and what is your hesitation? Williams said he couldn't speak to Washington's position, which is more conservative than Oregon's. He said the handle of oversized fish is unclear to staff; establishment of the spawning sanctuary is effective in reducing the handle in those upper reaches.

Public Testimony:

<p>Dennis Richey West Linn, OR</p>	<p>Dennis Richey, Executive Director for Oregon Anglers (OA), has witnessed the fishery at the "Wall", and recommends permanent closure. He said anglers take a lasso and put it around their line and then wrap it around the sturgeon; it takes about 15 minutes. The bigger the fish the more times the sturgeon bumps down the rocks. Regarding the impact of sea lions on the sturgeon population, we need to be more cautious than in the past. OA is concerned about the sturgeons' gradual decline, and support extending the sanctuary season. He likes the idea of a sanctuary on the Willamette, and would not oppose permanently closing sturgeon fishing there. He said the West Linn Trails Committee is looking at other opportunities for bank fishing.</p>
<p>Dale Ballard Molalla, OR</p>	<p>Dale Ballard, for the Coastal Conservation Association (CCA), distributed written testimony supporting: 1) the adoption of reasonable buffers to ensure conservation and recovery goals are met for Spring Chinook; and 2) increased conservation measures to maintain and increase healthy sturgeon populations, including significant reductions in harvest. CCA was disappointed last year that the Compact failed to act and continued to exploit sturgeon at maximum rates by allowing directed commercial sturgeon gillnet seasons; despite the recreational fishery giving up 2,000 fish from its quota last year as a conservation measure. He commended William's plan to remove the estuary below the "Wall" but hoped those anglers would be provided with other fishing opportunities.</p> <p>Commissioner Englund asked where the recreational fishery gave up 2,000 fish last year. Ballard said he didn't know. Commissioner Englund said he believed they went over the year before, and there was a cutback. He asked Ballard if he could support a 40% buffer. Ballard said yes.</p>
<p>Trey Carskadon Tualatin, OR</p>	<p>Trey Carskadon, Northwest Sportfishing Industry Association (NSIA), supports the spring Chinook season, in hope that it will provide relief to the industry. He said the Agency's</p>

	<p>recommendation to close the river in early April, and a proposed increase of the buffer standard to 40%, is troubling. Tribes and other stakeholders have agreed to a 30% buffer, and there is no reason to increase that. He requested a season through the end of April, 7 days a week, with a 30% buffer in place.</p> <p>Chair Rae said in the past, NSIA urged the Commission not to engage in in-season changes. Why the change now? Carskadon said staff is nervous that the forecast of 470,000 is unachievable. NSIA wants to get guidelines in place so we can get to work in promoting this. The 2009 season was very poor. Chair Rae asked if NSIA had any comments on the recommendations for the estuary or the closure of the Wall. Carskadon said NSIA is concerned with the treatment of these fish, which are being harmed as they are dragged up the wall and then released.</p> <p>Commissioner Edge asked Carskadon if he is willing to accept in-season changes. Carskadon said yes, there are a number of ways to manage this.</p>
<p>Bruce Buckmaster Astoria, OR</p>	<p>Bruce Buckmaster, Salmon For All (SFA), said as a citizen he served on the federal Pinniped Task Force, which focused on spring salmon and steelhead and the impact of sturgeon. Our states have done a good job with removal of problem sea lions at the dam. He supports the precautionary actions on sturgeon, extending the sanctuary in the Willamette, and closing the "Wall". He urged the Commission to consider splitting the buffer equally between the sport and commercial fishery. Lastly, a percentage of the impact given to the commercial fleet is for our Select areas. We can accept that, but it's time for the staff to look at the bubble fisheries outside the Willamette that are not given any debit for their ESA impact. On behalf of SFA, he thanked Commissioner Smith for listening. Although Smith has not always agreed, he has been fair.</p>
<p>Steve Fick Astoria, OR</p>	<p>Steve Fick, SFA, said when you look at a hooking mortality in the summer Chinook season, fin clipping vs. wild fish, there is a healthy stock of natural spawning fish returning to that area, and you have no data for a hooking mortality for recreational fishery on the Columbia River for summer Chinook. He doesn't know where the percentage of hooking mortality is arrived at. Fick said he's in the fish processing business and fires people for handling a fish by the tail; for a sturgeon it causes internal hemorrhaging. SFA supports the staff's recommendation of a 40% buffer zone. He recommended working within the staff recommendations: keep the</p>

	catch balances as agreed to with the Tribes, and work closely with partnerships so everyone has meaningful opportunities.
Tom Wolf Hillsboro, OR	Tom Wolf, Trout Unlimited, expressed concerns about the sturgeon harvest in the Columbia River. We need to be very protective of these fish; we are seeing less young and old fish. We need to be aggressive in finding out what's causing the slow decline of these populations. We need to extend the sanctuaries in the Columbia River. The "Wall" fishery needs to go. They recommend a 30% buffer. He thanked Commissioner Smith for all that he has done; he has always listened to Trout Unlimited.

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Chair Rae asked for questions.

Referring to the Projected 2010 Upriver Spring Chinook Harvest Under Catch Balancing, Commissioner Klarquist asked how much flexibility there was if the Commission picked staff's Option 2 (Below I-205 Only) for fishing on the Columbia, which has an April 12 cutoff date. Do we have flexibility to take into account what we observe, and continue the season rather than cutting it off?

Chair Rae cautioned that the direction for bi-state negotiations that the Commission is asked to provide today does not require them to pick Scenarios 1, 2, 3 or 4. Nigro said the four scenarios were not staff proposals, but were intended to give a sense of the kinds of choices staff would be faced with.

Klarquist clarified that staff had asked the Commission to consider a 40% buffer. Wouldn't it be just as easy for you to extend the season during the month of April, as it would to cut off the season? Williams said staff does have the flexibility to do that but what measure do you use? Nigro said if managed at the 40% buffer, staff has 10% flexibility and can always change it. But if we manage it at the 30% buffer, we would have to sit down with the parties and jointly agree about what to do.

Chair Rae noted this was not an administrative rulemaking process requiring a motion, but time for the Commission to provide guidance to the staff. She said this is a bi-state, multi-jurisdictional, negotiated process, so the Director has flexibility in a very complicated process called "*U.S. vs. Oregon*", to negotiate consistent with the direction that we provide here today. She summarized the Commission's discussion.

Management of Spring Chinook Non-Treaty fisheries in the Mainstem. The Commission affirmed its directions from last year: no dramatic change; consistency with the run sizes; get as much opportunity for the sports fisheries early on and as long as possible, with stability. She said some of the testimony asked to plan for in-season changes, and suggested a buffer. I'm not seeing any dissent from that, consistent with the staff recommendation of around 40%.

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2 *Willamette River Sturgeon Spawning Sanctuary*. Steve Williams emphasized that this is
3 for one year – the Commission agrees with the staff recommendation.

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5 *Oregon City “Wall” Fishery*. The Commission agrees to close the “Wall” at Oregon City.

6
7 Commissioner Smith agreed with what Chair Rae had laid out as the general goal for
8 the sports fishery. He assumed she meant the commercial fishery as well.

9
10 Chair Rae said, I do. She was grateful the Commission had engaged in catch balancing
11 and gotten the percentage split on impacts and are now talking about real catch rates.

12
13 Commissioner Edge clarified that there were two sanctuary issues: establishing a new
14 sanctuary on the Willamette, and the spatial issue associated with the size of the
15 sanctuary below Bonneville Dam.

16
17 Chair Rae noted Commissioner Edge’s clarification.

18
19 Director Elicker clarified that the Commission would like staff to take a hard look at a
20 Willamette sanctuary, but he wasn’t sure of their direction on extending or taking
21 additional sanctuary measures on the Columbia.

22
23 Chair Rae said that the Commission wants staff to move forward with that too.

24
25 Commissioner Edge said extending the time is logical. He’s not clear how much larger
26 the sanctuary should be, and if there was any evidence where that would be. He said
27 Washington has some concerns, so staff should consider those as well.

28
29 Chair Rae said she was okay with either the time or boundaries. She told Williams to do
30 whatever you can do best, consistent with protecting the fish.

31
32 Commissioner Smith said to note what Oregon is giving up versus what we’re getting.

33
34 Williams said they could move forward and bring some seasons to fruition.

35
36 Chair Rae said very well; we will be optimistic about the Compact process. At least the
37 preseason forecasts are healthy, and that is a good thing. She recessed the
38 Commission for lunch at 12:30 p.m., at which time the following awards were presented.

39
40 **Fish and Wildlife Steward Award Presentation**

41 Chair Rae said the Department and the Oregon Department of Forestry (DOF) started
42 this cooperative program in 1996. The purpose is to publicly recognize the efforts of
43 forest landowners to fish and wildlife, through forest stewardship with the state and
44 federal lands. The awards are categorized by industrial, non-industrial and special forest
45 lands for DOF regions throughout the state. She introduced John Blackwell, Chair,

1 Oregon Board of Forestry, and Jim Paul, Chief of the Private Forest Division, who
2 helped announce the 2009 award winners:

- 3
- 4 1) Bud Henderson, Astoria, for habitat improvements and innovative forestry
5 practices that benefit fish and wildlife on lands managed by Hampton Resources.
6
 - 7 2) Tom Hoesly, Menasha Forest Products Corporation, North Bend; and Joel
8 Nelson, Plum Creek, Coos Bay for in-stream restoration that provides important
9 spawning and rearing habitat for coho and Chinook salmon, steelhead trout and
10 resident cutthroat trout.
11
 - 12 3) Paul Stell, Ben Park and Recreation District, for restoration work in Shevlin Park
13 to provide pool habitat for fish and other wildlife and forest management
14 practices that support a diversity of wildlife.
15

16 Chair Rae reconvened the Commission meeting at 1:18 p.m. She noted for the record
17 that Commissioner Bobby Levy has been excused all day, and that Commissioner
18 Kerns left the meeting at 1:15 p.m. for the remainder of the meeting.
19

20 **Exhibit D: GAFF HOOK PETITION**

21 Rhine Messmer, Recreational Fisheries Program Manager, said the Commission is
22 being asked to decide whether to initiate rulemaking as requested by a petition received
23 on December 4, 2009 from Jeff Breithbarth and Wayne Riley that would amend the
24 current rule prohibiting use of gaffs to land hooked salmon and steelhead. The
25 proposed rule would allow gaffs to be used to land game fish which are legal to retain.
26

27 Messmer showed a slide illustrating different types of fish gaffs. He said the petitioners
28 assert that the current gaff rule as adopted by the Commission is arbitrary and
29 capricious, unfair, unsafe, and will impose a significant adverse economic effect on
30 Oregon-based fishing communities and personal safety. He said the current gaff rule,
31 modified in August 2009, provides clarity on legal use of gaffs, has no negative impact
32 on businesses, and reduces the mortality of released native game fish in selective
33 fisheries. Staff recommendation is to deny this petition.
34

35 **Public Testimony:**

36
Jeff Breithbarth
Klamath Falls, OR

Jeff Breithbarth, the Petitioner, has had a fishing license for 45-
years and grew up using a gaff, and knows the distinction between
legal and illegal fish. He uses needle nose pliers and never nets
the fish. He fishes the Rogue River and has seen many fishers
taking fish illegally with a net. He asked Messmer in 2009 if he had
any statistics on how many fish were taken illegally with a gaff, so
he could base his decision on logic and facts. Messmer didn't
know. He believes the decision is based on political correctness,
and not on the facts. Breithbarth said he gaffs only legal fish. If

	you have ever fished the bar with a net, it is hazardous. With a gaff, he can bring the fish in quickly and safely. He would like Messmer to provide the facts from OSP on how many people they ticket who illegally take fish. He has never had a ticket from gaffing, is very professional, and feels that the Department has pointed the finger at him alone.
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1
2 Chair Rae said this is not any criticism, but this is the process that the Commission goes
3 through, to hold public meetings to discuss regulations.
4

5 Breithbarth said until 2008 gaffing was fine. He wanted to know why the ruling change
6 that he believes is politically incorrect. He does not touch the gaff until the fish is belly
7 up. He sits down and never stands up; you have to stand up with a net, which is
8 perilous, especially if you fish by yourself. The fish get up to 40 pounds.
9

10 Commissioner Edge asked what Breithbarth thinks is the general skill level of a
11 fisherman if they weren't familiar with a gaff; would fish be injured. Breithbarth said
12 people are afraid of using gaffs and don't want to see a hole in the fish. He has
13 witnessed fishers catching fish and bleeding them before they are dead. There should
14 be a law against it. Isn't that the same thing as gaffing? Commissioner Edge said the
15 rule's purpose, in a case where a fish is landed that must be released, if you used a
16 gaff, you have injured it and reduced its likelihood of survival.
17

18 Commissioner Smith noted that Breithbarth was exceptionally confident in using a gaff.
19 He did disagree that a net is as lethal as a gaff and asked what kind of gaff Breithbarth
20 uses. Breithbarth said a pick gaff; one motion and they are in the boat. Commissioner
21 Smith said so in that one motion the fish is probably killed. Breithbarth said he examines
22 the fish and if it is questionable, he cuts it off with pliers and lets it go.
23

24 Commissioner Englund said he understands his peril; but if the Commission opens this
25 up again, people who don't know how to use the gaff will start using it.
26

27 Chair Rae asked Messmer to summarize how this regulation was presented to the
28 Commission during the 2008 regulation setting process.
29

30 Messmer said he submitted this regulation after looking at the different records of
31 angling questions regarding the proper use of gaff. Washington went through a similar
32 process in 2005. Staff held public meetings, including one in Klamath Falls and along
33 the coast. People don't use gaffs anymore; there was no opposition during this process.
34

35 Commissioner Smith asked OSP Steve Lane if he has observed the practices with nets
36 and gaffs. Steve Lane said he is not aware of people using gaffs. He handles the area
37 from Florence north. Commissioner Smith asked if he had observed a lot of mortality
38 with nets. Lane said netting can knock scales off a fish, but it is the lesser of two evils.

1
2 Commissioner Edge said he is always concerned about changing the regulation after
3 the Commission has already gone through the regulation setting process.

4
5 Chair Rae said she is persuaded to stay with the current rule as it is. She agreed with
6 Commissioners Englund and Smith that not everyone is as skilled as Mr. Breithbarth is.
7 She supports denying the petition.

8
9 *Action: Commissioner Edge moved to deny the petition submitted by Mr. Jeff*
10 *Breithbarth and Mr. Wayne Riley and direct the Director to notify the petitioner of*
11 *the Commission's decision in writing. Commissioner Smith seconded the motion,*
12 *and the motion carried unanimously.*

13
14 Chair Rae thanked Mr. Breithbarth for his time and passion.

15
16 Breithbarth said he still thinks the Commission missed the point.

17
18 **OTHER BUSINESS**

19 Chair Rae moved to Upland Artwork Selection. She said the Commission had to publicly
20 disclose how they voted on the artwork.

21
22 **Upland Artwork Selection**

23 Brandon Reishus, Upland Game Bird and Water Fowl Assistant, said the 2010 winner of
24 the Upland Game Bird Stamp art contest was Jon Rehn of Princeton, West Virginia,
25 who will receive \$3,000. He said ODFW will retain exclusive rights to his artwork.
26 Reishus said Entry #5 received four votes from Commissioners Englund, Edge, Kerns
27 and Chair Rae. Commissioner Klarquist's first choice was Entry # 3 but changed his
28 vote to Entry #5 to his first choice. Commissioner Smith voted for #3 and #9.

29
30 Chair Rae asked Larry Cooper to come forward; the Commission wished him a happy
31 birthday.

32
33 Chair Rae said that she considered Commissioner Zane Smith released from his duties.
34 She thanked him for his years of service on the Commission.

35
36 **ADJOURN**

37 Chair Marla Rae adjourned the meeting at 1:52 p.m.