



Oregon Fish and Wildlife Commission Minutes

Meeting:
September 30, 2010 - 10:00 a.m.
Deschutes County Services Building
Board of Commissioners Room
1300 N.W. Wall Street, Suite 200
Bend, Oregon 97701-1960

Meeting:
October 1, 2010 - 8:00 a.m.
Deschutes County Services Building
Board of Commissioners Room
1300 N.W. Wall Street, Suite 200
Bend, Oregon 97701-1960

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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:
7

Marla Rae, Chair
Dan Edge, Vice-Chair
Jon Englund, Commissioner
Skip Klarquist, Commissioner
Carter Kerns, Commissioner
Bobby Levy, Commissioner
Bob Webber, Commissioner

Roy Elicker, Director
Debbie Colbert, Deputy Director
Bill Cook, Assistant Attorney General
Teri Kucera, Executive Assistant

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9
10 **MEETING**

11 On Friday, October 1, 2010 at 8:00 a.m., Chair Marla Rae called the Oregon Fish and
12 Wildlife Commission (Commission) meeting to order. She said the Commission left off
13 yesterday at Exhibit D.

14
15 **Exhibit D: GREATER SAGE GROUSE CONSERVATION ASSESSMENT AND**
16 **STRATEGY FOR OREGON**

17 Chair Rae said staff gave their presentation and the Commission heard from the U.S.
18 Fish and Wildlife Service (USFWS) and we took testimony. The Commission will take up
19 with Public Testimony.
20

21 **Public Testimony:**

Al Elkins Wilsonville, OR	Al Elkins, Oregon Hunters Association (OHA), said they support the sage grouse conservation guidelines in the Plan. ODFW did a very good job. The Plan needs more emphasis on wild horses and burros; and on wind farm development. On August 2, OHA received a letter from Dave Budeau who said he would look at their concerns and how they fit into the Plan. They really appreciate his letter. Also, OHA would like to be included as recreational representatives.
Varner Seaman Portland, OR	Varner Seaman, Horizon Wind Energy, said Horizon was part of the Renewable Northwest Project. He discussed the potential role of wind energy developers in habitat restoration and conservation. Horizon has developed three projects in Oregon: Union County; and two outside of

	<p>Arlington. He discussed the Wildhorse Project in the Puget Sound area, in terms of conservation. They have two issues:</p> <ol style="list-style-type: none"> 1) Habitat fragmentation (subdividing of farmlands); and 2) Loss of habitat for sage grouse> <p>Farmers are concerned about the long-term viability of keeping their farms intact. A lot of restoration work has occurred, but it needs more work. He said wind energy can play an important role in financing and performing the work. Hunting is allowed in the Wildhorse Project area, and is compatible with wind energy and farming.</p> <p>Chair Rae said the Commission’s packet has a lot of comments about delaying consideration for updating the Sage Grouse Plan. What is Horizon’s view on that?</p> <p>Seaman said Horizon is concerned about getting the Plan done right. Our concern is either:</p> <ol style="list-style-type: none"> a) Development is driven through the county process, and these rules are ignored; or b) Wind development is driven outside the state. <p>We prefer to work together to responsibly site wind energy and come up with a more collaborative process. We’re opposed to implementation of the existing proposal.</p> <p>Chair Rae said the existing Plan has a five-mile radius and the update has more in-depth and better mapping. I’m struggling with why we need “better information.” Seaman said implementation of the Plan in Wyoming has been hostile toward development, and people are leaving. He fears the same will happen in Southeastern Oregon.</p>
<p>Liz Nysson Bend, OR</p>	<p>Liz Nysson, Oregon Natural Desert Association (ONDA), said ONDA doesn’t want to see an ESA listing or further decline (see written testimony). This Plan is based on best available science; the mythology was well done. We have a map that represents where those core areas are and where our priorities should be. USFWS said yesterday that if we don’t take these steps, it will lead to a listing. As a state, the next step is to look at CCAs and work with landowners to implement these policies. ONDA would like to see:</p> <ol style="list-style-type: none"> 1) Identify and address research gaps, including evaluating climate change and looking at additional data of nesting habitat; 2) Changes to core habitat map to make it more cohesive. There needs to be strong “no development zones” in the Plan; 3) Educate landowners about conservation and habitat; and address ways they can work with county officials;

	<p>obtain commitments from BLM to manage sage grouse in the way that is outlined in final Plan. She worries about the talk to slow down; this Plan was needed a year ago. We can learn a lot from processes in other states; too much stakeholder involvement can muddle science and distort an overall Plan.</p> <p>Chair Rae said in the joint letter from ONDA and the other organizations, they've asked that ODFW obtain a formal agreement with other agencies and regulatory bodies, that they will incorporate whatever guidelines are developed in their activities. Tell me how you contemplate that working? Nysson said BLM is taking steps to work with state agencies to make sure they are implementing state wildlife goals. She suggested a Memorandum of Understanding or agreement to assure that BLM will implement policies set by ODFW.</p>
Chris Crowley	Chris Crowley for Columbia Energy Partners had signed up the day before; not in the audience today.
Charley Otley Diamond, OR	<p>Charley Otley is concerned about a comment yesterday about the regrowth of sagebrush after a fire. Otley said the windmill towers should go on the top of the ridges, where there is almost all rock and very little vegetation; sage grass doesn't grow there. I'm dubious about the open hunting season on sage grouse when it might be listed. He said the population of the sage grouse has a lot to do with the different seasons. He asked why ODFW would set an open season to something in the limelight of being listed. If you wait, things come back.</p> <p>Chair Rae said she would have Christian Hagen address the rationale of hunting.</p>
Craig Miller Bend, OR	<p>Craig Miller, contracted GIS analyst, thanked ODFW for involving the public, and for the process being driven by science and not by development interests. The maps reflect the best available science, but the recommended measures are still too timid to stop the population decline and an eventual listing. It is important for ODFW to recognize that there has been an average three percent annual decline over the last 20 years. The plan's weakest links are:</p> <ol style="list-style-type: none"> 1) Lack of regulatory authority; 2) Lack of attention to preserving connectivity between Category 1 core habitats; and 3) Lack of specificity on how to prevent net loss of habitat in Category 2 areas.

	<p>Miller urged the Commission to provide mechanisms for regulatory authority. He asked ODFW to ensure adequate protection of habitat corridors to provide connectivity and retain enough flexibility so further protections can be provided if sage grouse numbers continue to decline.</p>
<p>Marilyn Miller Bend, OR</p>	<p>Marilyn Miller, a ranch owner in Lake County, submitted written testimony. Miller believes sage grouse should have full status as an endangered species. The biggest threats are development, off-road vehicle use, livestock grazing, energy development, and hunting. The Plan needs to take climate change, invasive weeds, drought and fires into account. She said 44% of habitat could be developed for various energy sources. The Plan doesn't take that under consideration; it needs to allow ODFW to implement the recommendations and a strategy to work with the counties. Hunting should stop immediately.</p>
<p>Foster Fell Bend, OR</p>	<p>Foster Fell, formerly a soil scientist, said he's seen some of the impacts of humans in the area. He is pleasantly surprised by the science-based method by which these recommendations have come about. He wishes the recommendations could be incorporated into the county and state siting processes, and would like to see a connection between these core areas. He supports the process.</p>
<p>Pam Hardy Bend, OR</p>	<p>Pam Hardy, 1000 Friends of Oregon, said land use issues in Central Oregon are: siting of utility scale, solar and wind and its effect on sage grouse. Part of the solution is land use; we want to work with you and landowners to resolve this problem. You have virtually no regulatory authority to do anything about it. She likes that the Plan is based on science, and recommended thinking about how to incorporate future science and anecdotal evidence as an opportunity to aggressively pursue additional science, and having a very robust education program. She said when a species is threatened; landowners fear that ESA regulations will be forced onto their property. She suggested creating incentives for landowners to create sage grouse habitat; reward them if they can show you how they did it.</p>
<p>John Audley Portland, OR</p>	<p>John Audley, Deputy Director of Renewable Northwest Project (RNP), distributed written testimony and said their members share the state's goal to enhance sage grouse and protect their habitat. RNP wants to work with ODFW and stakeholders to enhance the Plan. They believe:</p> <ul style="list-style-type: none"> • Curbing greenhouse emissions is good for

	<p>saving/improving habitat;</p> <ul style="list-style-type: none"> • Job creation helps landowners keep their land intact; • People and companies should mitigate the impact that energy has on the land; and • Broad community support is critical to success of any project. <p>He said ODFW's failure to include these key issues makes RNP suspicious of the Plan and they don't support the Draft Plan revision. He asked the Commission to instruct ODFW to work collaboratively with all interested stakeholders to redraft the proposal.</p>
Gaylord McLamb Prineville, OR	Gaylord McLamb has signed up the day before; not in the audience today.
Judge Steve Grasty Burns, OR	Judge Steve Grasty, Harney County Judge, lives outside Burns and has sage grouse 1,500 feet from his house. He is President of the Association of Oregon Counties (AOC). He noted his letters to the Commission and said all of the counties in the AOC Legislative Committee recently supported the Commission backing off from the sage grouse Plan. Your staff has done a good job, but our communities want to be part of the planning. No county in the state has better GIS data than Harney County; yet we didn't get contacted. Your staff's focus is biological, but we need more than that. You have the obligation to involve social and economic aspects. This agency has more impact on the economics of rural Oregon than any other one, and should participate in the Governor's Economic Revitalization Team.
Tim Lillebo Bend, OR	Tom Lillebo, Oregon Wild (OW), said OW supports the idea of the core areas; it is a sound, scientific principle. OW would like to couple that with education and cooperation with local communities and local interests. He said the overall strategy is good; but there needs to be strong provisions to reduce the habitat loss and fragmentation. Concerning wind farm development, there are lots of options for areas where it can be done. We need to do it in areas where we can protect the sage grouse, especially the core areas. He said "me too" on previous comments.
Bruce Taylor West Linn, OR	Bruce Taylor for Defenders of Wildlife had signed up the day before; not in the audience today.
Gilda Allison Hines, OR	Gilda Allison had signed up the day before; not in the audience today.

<p>Bill Golden Baker City, OR</p>	<p>Bill Golden, for OPS Desert Wind, said the best Plan is one that includes all stakeholders. Eight years ago he formed a renewable energy company to produce clean energy. He commented on the map, and said we are generating, with boots on the ground, more information. If you're going to see wind energy as a threat to habitat, why not go to those areas and get the newest information, and make a decision whether that is where the threat is. He said, in Wyoming, mitigation was worked out in great detail. Afterwards, the feds came back and said there will be no mitigation in any of the areas; they are all no-build areas. As a result, Wyoming is the only state that has implemented core protection areas in that fashion.</p> <p>Chair Rae asked if Golden's company has developed sites. Golden said no, we are working at sites in Oregon and have some net towers up. We could be great partners in figuring out this strategy, and making sure it has the resources to be implemented. A lot can be accomplished in six months.</p> <p>Chair Rae said the challenge that our Department faces is, spending biologists' time on a piece of property that you don't have any intention of developing. How do we make better use of our resources to help you and help the counties? Golden said use the resources of the developer, so he has to give you the best available information, and you will conserve your resources. Focus on the small pieces of land, to be developed, not on the whole region.</p> <p>Commissioner Edge commented on a map that John Audley presented; it looks like there are lots of good areas. Golden said those maps are being done on the basis of just showing wind velocity that is not even accurate, and does not take into consideration the economic viability of those sites. That is why he is asking for a seat at the table.</p>
<p>Al Waibel Hillsboro, OR</p>	<p>Al Waibel, Columbia Geosciences, has done exploration in the geothermal industry for 40 years. Geothermal is renewable energy, and puts money into the state coffers. Concerning the sage grouse area maps, he was reminded of the State Department of Geology's map on geothermal potential in Oregon. He said remove the volcanic area along the Cascades; there is a remarkable overlay. Not a lot of work has been done there, but technology is changing. You need to be ready for this development over the years. He asked where the sensitive areas that development would not likely occur are. He hopes the 2010 Plan is a work in</p>

	progress rather than a final product. Given Oregon's energy situation, don't let geothermal run your decisions, but at least have insight into its implications.
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2 The Commission recessed at 10:10 a.m. and reconvened at 10:22 a.m.

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4 Chair Rae asked Christian Hagen to come forward. She reminded the Commission that
5 this is an informational briefing and was scheduled on their calendar for December.

6
7 Commissioner Webber said a number of sources said that we should slow down and that
8 we could accomplish a lot in six short months. Is that reasonable? Christian Hagen,
9 Sage Grouse Conservation Coordinator, said that depends on what the vision is of what
10 we want to accomplish in that six months. The science and mathematical models have
11 delineated these maps as such. If there is a need and a desire to refine those maps on a
12 more local scale, I would anticipate a much longer time frame.

13
14 Chair Rae said the Commission had a lot of comments about whether this Plan is final.
15 She asked Eric Rickerson, Wildlife Division Deputy Administrator, to comment about
16 wildlife management plans, assessments and strategies.

17
18 Eric Rickerson said staff brings most of its species plans before the Commission every
19 five years for review. Plans are based on an adaptive management process; we do
20 further reviews as new information comes available. With sage grouse, if something
21 warranted further review, staff would bring that back to the Commission. He sits on the
22 Governor's statewide Eastern Oregon Landscape Conservation Partnership (EOLCP).
23 He believes BLM is going to adopt the Plan because they are faced with demands for
24 resources used on their lands.

25
26 Commissioner Webber said there were some questions about if sage grouse are
27 declining, how can we allow hunting them? My reading of the Plan is that hunting didn't
28 have any significant effect. Dave Budeau, Upland Gamebird Program, said hunting is
29 allowed in 12 of the 21 sage grouse management units. We have a policy not to harvest
30 more than five percent; yet harvest less than three percent. A Journal of Wildlife
31 Management article found that harvest could go up to 11% without a negative effect on
32 the subsequent population. If hunting was stopped in Oregon, there is no reason to
33 expect a population response.

34
35 Commissioner Webber asked do we have anything with regard to landowner education.
36 Hagen said we do not at this time have a brochure that point out the salient things that
37 landowners could do to benefit sage grouse.

38
39 Commissioner Levy quoted from a letter from Columbia Energy Partners who asked
40 about the scientific uncertainty and classifications. She asked how staff arrived at Class
41 1 and Class 2, and whether these guys are right or wrong in how we go about that.

42
43 Hagen said Class 1 and Class 2 were derived from our knowledge on the life history of

1 this bird and identifying those habitats that are most likely to provide those critical life
2 history stages: the breeding season including nesting and the rearing of young. Category
3 2 was identified in the context of areas that are likely important for other seasons of use,
4 but perhaps there's less risk to these populations with regard to what the impacts of that
5 life history may be.

6
7 Counselor Cook said we have looked at the legal issue raised in the letter from Columbia
8 Energy Partners. He said in Rule, at Division 140, you have Sage Grouse Habitat and
9 Population Objectives, and Habitat Mitigation Rules in Division 415. It's more of an art
10 than a science to decide how much of a Wildlife Management Plan has to go into Rule; at
11 a certain point you quit policymaking and start implementing. The cut that I've seen so
12 far by the staff is wise. The implementing doesn't necessarily have to be in Rule. What
13 I've seen to date has the right balance between what's in Rule and what isn't.

14
15 Commissioner Levy said people have said we haven't put enough climate change
16 information in the Plan. She thinks the Conservation Strategy (CS) is an important
17 document for the State of Oregon. As the lead agency on the CS and since staff is
18 working on adding Climate Change to the CS that might be how staff solidifies that
19 problem with people who want the climate change addressed within the Plan.

20
21 Commissioner Levy suggested that the Candidate Conservation Agreement as a way to
22 bring education to landowners that say they're not participating or there's not enough
23 education for them. She was also concerned about testimony from people who say
24 they've been left out. She'd like to see how staff could add more participation.

25
26 Chair Rae said this particular meeting and the Public Comment process leading up to it
27 has been a major factor in adding to that public process and public input. Christian and
28 others in the Wildlife Division haven't had an opportunity to tweak any of the Plan based
29 on those public comments. She asked staff to distill all the public comments received to
30 date and tell the Commission what needs to be modified, changed, enhanced, and
31 deleted, in the draft as a result of that Public Comment.

32
33 Hagen agreed.

34
35 Commissioner Klarquist talked about the recent public comments and said in order for us
36 to get the different communities to buy into this Plan and use it as a framework for
37 making decisions regarding development requires them to own it. He referred to Judge
38 Grasty and Bill Hoyt's comments and said we need to involve them in further refining this
39 Plan. Regarding the maps, staff and the counties and landowners have that expertise to
40 identify areas of their properties that are affected by this. He said one comment about
41 identifying the specific areas where wind power is likely to be developed is viable, and
42 tying those into the areas you've identified on your maps would help form a lot of
43 decision-making regarding what gets developed, preserved and protected, and could tie
44 this all together much better for everybody. Unless it's part of this Plan and unless we
45 have a bigger buy-in, then we're fragmenting our process.

46
47 Rickerson said the Governor convened EOLCP after he was approached by BLM. Staff

1 recognizes the lack of coherent and cohesive knowledge among agencies. EOLCP is
2 designed to pull those folks together and say where are the wind resources challenges
3 and opportunities? BLM has rolled out what they call the Opportunities Map, a landscape
4 scale map that fits nicely with the Federal Wind Advisory Guidelines. He said a
5 symposium will be held on November 9 in Bend to discuss industry perspectives, and
6 economic perspectives from the county, the biology of the bird and the ESA listing.

7
8 Commissioner Englund expressed concern about fire and habitat. Yesterday we learned
9 300,000 acres we burned, much of it prime habitat. Ms. Corbett talked about ESA listings
10 and the loss of habitat. How much habitat are we burning, and are we doing a good job
11 of back-burning and stopping the loss of habitat? He asked who's holding the federal
12 government agencies' feet to the fire when we're dealing with this species.

13
14 Hagen said not all fire is bad. Some of these higher elevation sites, we do anticipate
15 recovery. It's a lot of the lower elevation areas where we get into this vicious cycle of
16 annual grasses and a fire frequency interval, which sagebrush will not reestablish. We
17 can look at that 300,000 number—but some of that will come back into productive
18 grouse range. He said BLM has developed maps to provide to their fire folks in some
19 strategic locations, that suppression is the first tactic and sage grouse being one of the
20 resource values associated with that.

21
22 Commissioner Edge said the Plan is a wonderfully crafted, scientifically-based
23 document. He asked Rickerson to reaffirm that BLM is already moving forward to adopt
24 this core mapping approach to BLM lands throughout the Western United States.

25
26 Rickerson said BLM is using that to set their national policy. They're directing their state
27 offices to work implementing the actions that will come out of that national policy.
28 Wyoming is a leader in that effort; we're following closely behind.

29
30 Commissioner Edge asked Rickerson if he had a timeframe; since BLM is looking at this
31 and it's going to hit the ground anyway.

32
33 Rickerson said he did not. As with many federal processes, it's going to take awhile for
34 them to do it since they're dealing with multiple state fish and wildlife agencies.

35
36 Commissioner Edge asked Hagen to talk about the multiple implementation teams and
37 the process that Hagen envisions from the standpoint of evaluating projects in mitigation
38 strategies in Category 2 habitat. We heard we weren't using our implementation teams.

39
40 Chair Rae added that she was taking the request by many for more time, really, as a
41 request to jump-start that local implementation team process, to refine those maps.

42
43 Hagen said when the Draft Plan was kicked off in 2005; staff was under the gun with
44 pending listing decisions. It was the team's vision to develop a local or regional
45 implementation team. Each team would spend a year or two developing their own
46 conservation plan. We felt at the time, and based on what Wyoming was attempting to
47 do, that we could provide implementation at a regional level without these specific plans.

1 He said there weren't specific projects, tasks, and timelines for each implementation
2 team; the results have been mixed to what has been put on the ground in each team.
3 We've affected a large landscape despite that loose structure.

4
5 Hagen talked about the monitoring component with regard to how an implementation
6 team would fit into the mitigation; how would they fit into helping staff craft the maps. He
7 noted there weren't enough bodies to monitor the 30-to-50 projects currently on the
8 ground; something that staff is looking to sort out.

9
10 Chair Rae asked, is it that mechanism or something else that you'd use together, if we
11 go down the route of the core areas and the maps. We have testimony that there's
12 additional information out there - Harney County's GIS folks, Bill's biologists, Renewable
13 Northwest—any of those folks if they're willing to share that with us. What would be your
14 process for getting that information and incorporating it into the core area maps? How do
15 we make sure that its scientific information, not something else?

16
17 Hagen recommended looking to the model that Wyoming put forward in the update in
18 refinement of their maps, which in effect, empowered the local workgroups, with a very
19 specific set of guidelines of what they can or can't do with the maps. What resulted was
20 there is a larger area included after the local working groups were involved.

21
22 Commissioner Edge was disappointed in USFWS's testimony the day before because
23 they participated in this process and then apparently after providing input all along, they
24 reviewed the plan and said they had problems with it. He asked, from the standpoint of
25 USFWS's concerns about certainty and specificity, what was lacking in the Draft Plan.

26
27 Hagen said part of that dialogue has centered around a service centric view of recovery.
28 Some of that specificity comes from their desire to have a plan that's ready to go as a
29 recovery plan. We are still in a voluntary conservation mode. Hagen said he didn't want
30 to spend time and resources trying to detail out that level of specificity for recovery. If we
31 get a listing we'll be there at the table helping USFWS do that. He looks to the guidance
32 of the Commission and the Division as to how to proceed with that.

33
34 Commissioner Edge appreciated Hagen's perspective about the service centric idea and
35 his philosophy that this is a conservation plan. He expressed concern about the process;
36 if this species gets listed it's a bad deal for us. Your process for identifying core areas
37 has been used for a number of species; and the mathematical algorithm you used has
38 been used in wildlife studies and conservation biology studies for 20 years and is broadly
39 accepted. He supported Hagen's process to create the circles on the map. From the
40 standpoint of protecting the habitat of this species, that's what the Commission has to
41 do; it would be a mistake to think whether we're going to be chipping away from that.
42 Local implementation teams may provide us with on-the-ground acknowledgement that
43 that spot shouldn't have been mapped out at all; but, the conservation principles behind
44 drawing those lines on the map are certainly very well founded. He was very concerned
45 about delaying very long in this process.

46

1 Commissioner Edge said staff needs to add a very clear statement of the concerns about
2 climate change into the habitat section. He agreed that more acknowledgement of the
3 CS needs to be added. He said the current reviews of climate change and sagebrush
4 steppe is not very encouraging about what's going to happen to our Category 1 habitats.
5 We should at least highlight that the best science that we have currently suggests that
6 those areas are going to have problems in the future, and we *really* need to protect them.
7

8 Hagen said it would be a time-intensive process; he suggested using a model in working
9 with the Regional Implementation Teams, and maybe a subset thereof. He said staff met
10 with the Steens Mountain Advisory Council who wants to do something specific for sage
11 grouse; so, that specificity the USFWS is speaking to is more designed for a local-type
12 conservation approach. He said it needs to be on a fairly localized scale, just to get all
13 the parts in place, to have that level of specificity in terms of the monitoring component.
14

15 Chair Rae said the Commission was in a place with very compelling competing interests.
16 She noted the BLM information; and the focus on the bird and the factors of the wind
17 energy driven by the public comments. The Commission recognizes that there are
18 factors beyond wind energy that play into the hopeful non-listing of this bird. She noted
19 USFWS's public testimony the day before and said we want this to be voluntary; they
20 want it to be regulatory. She said if the Commission moves this out beyond December,
21 she wants it to be a productive use of everyone's time and not just pushing it out just to
22 delay it. She asked staff to account for the comments that we've received, and take folks
23 up on their offers of help and information sharing. She asked Rickerson what he thought
24 a reasonable timeframe is.
25

26 Rickerson said he was struggling with a timeframe and exactly, beyond the science of
27 the bird and what Hagen has put together, what the Commission would like staff to
28 address aside from the climate change aspect; and a better strategy. We would seek
29 direction from the Commission whether there are other areas that you feel that we
30 should look at and work with the counties. He suggested starting up the implementation
31 teams and having adequate and open representation with county folks and the users,
32 and how to then take those guidelines and start benefitting the bird.
33

34 Chair Rae asked about the purpose of the BLM sponsored workshop in November.
35 Rickerson said the November 9th symposium will get industry folks, the counties and
36 ODFW involved in sage grouse and wind energy issues to help with implementation of
37 plans, and to share information about the bird and the energy and economic concerns.
38

39 Chair Rae said Oregon statutes require the Commission to look at the science first in its
40 decisions. She noted the comments asking the Commission to hold this up for the next
41 administration, and said the maps aren't going to change based on November's
42 elections. As staff pointed out, it's been the science, or the process, for the last 20 years.
43 The Commission is being asked to take a look also at some community and economic
44 issues in our considerations (noted in our report). Chair Rae said this is a sage grouse
45 assessment plan and I don't intend it to go through all of the economics of the benefits
46 and downfalls of whether it's wind development, geothermal, off-road vehicles, or
47 transmission lines. This is not the place for those kinds of economics to be flushed out as

1 we take this into consideration. She asked the Commission, in order to keep folks
2 engaged in this and keep the pressure on, what is your interest in keeping this on the
3 agenda for December and doing an update then where we are and having everybody
4 that offered to help to be engaged.

5
6 Commissioner Edge supported an informational update by staff in December, so they
7 could process this new information and, once again, the Service information we've not
8 actually seen. He referred to comments made by the wind industry that the maps show
9 stuff all over the place where the wind blows is probably not even worth looking at; and
10 said have them identify the acres. It's time to put the future options on the board so that
11 we can actually see it. He is concerned over the timeline, and providing some guidance.
12 He suggested that staff work through an implementation team to lay data on the ground
13 in the Steens Mountains area. Staff could report back to the Commission and say, "This
14 is what we think it could look like", in a smaller area.

15
16 Chair Rae stated there was only one Hagen; he can't be cloned. She noted that a lot of
17 folks said they would help with the legislature, the budget package, and with mitigation.
18 So I want us to have a little dose of reality about what we can do and what we can't do.
19 She was not in favor of Commissioner Edge's idea of carving out one area that's already
20 got an application going on and is subject to a different process than ours. I think it's also
21 subject to litigation; let's accomplish what we can.

22
23 Commissioner Klarquist supported giving the various interest groups an opportunity to
24 meet with Hagen. If this could be productive and in four months we could have
25 something that would be more helpful, not only to the Department but to the rest of the
26 state that's dealing with these issues that would be good. But if he tells us this isn't going
27 anywhere, I'm not getting the help that I was led to believe might be coming; we could
28 make a decision then.

29
30 Rickerson agreed. He expressed concern over the demands on Dr. Hagen for his
31 expertise; one of the top sage grouse experts in the country. Rickerson said that's why
32 he keeps turning to the implementation teams.

33
34 Chair Rae said she understands that part. She asked Director Elicker if it required Hagen
35 to be the facilitator of pulling this group together, or Budea, Rickerson, or Craig Ely.

36
37 Director Elicker recommended that the Commission let staff go forward with the process
38 as described, meet with the public commentors and incorporate their comments, and
39 come forward with a plan for re-review and possible adoption by the Commission in
40 December. The Commission can decide at that time that more work is needed, or
41 conversely feel that we have done all we can do with our limited resources. He said it's
42 going to take more resources and other kinds of issues to be dealt with out of the
43 purview of the Commission. Director Elicker said we don't have anybody or anything to
44 look at the economic impacts to non-development of areas within Harney or Malheur
45 counties, wherever else; that's a larger state discussion that maybe the legislature or a
46 conjunction of natural resource agencies will have in conjunction with the federal land

1 resource agencies. He said you're looking at the resources: Rickerson, Budea, Hagen
2 and maybe Chip Dale and Bob Hooten.

3
4 Chair Rae said she was seeing thumbs-up on that recommendation.

5
6 Commissioner Levy asked the audience how many would work with staff between now
7 and December to see if you can have something go forward? (*Three people in the*
8 *audience raised their hands.*) Chair Rae noted them. Commissioner Levy was willing to
9 wait until December if those in the audience would diligently work with the Department.

10
11 Commissioner Webber supported scheduling a decision in December. If they don't work
12 with us, then it's a done deal, we move ahead. We can always delay it, but if we don't
13 advertise it as a decision-making meeting, then we're stuck with another meeting.
14 Commissioner Levy agreed.

15
16 Chair Rae said to staff, you know what you need to incorporate from these comments
17 and from the Commission's comments. We're going to be keenly tuned in to the
18 involvement. For those who are still critical of our public process, we can public-process
19 something to death; we've been known to do that; so stay involved with our folks, and be
20 keenly sensitive to the role of the Service and the BLM as we go forward in this. She
21 asked Director Elicker for a process check.

22
23 Director Elicker said he was committed to finding additional resources to work on the
24 Plan on a short-term deal for the next few months; to make it the best we can when we
25 come back in December. He would reassign current staff that meant other work in the
26 Department would be delayed. We know how important this is to many people.

27
28 Chair Rae said very good.

29
30 The Commission recessed for lunch at 11:38 a.m., and reconvened at 12:30 p.m.

31
32 **Exhibit E: OREGON WOLF CONSERVATION AND MANAGEMENT PLAN**

33 Craig Ely, Northeast Region Manager, in a PowerPoint presentation, provided
34 background on the Wolf Plan process and the Plan Evaluation Process including the
35 timeline. He gave an update on recent wolf depredations in Northeast Oregon and the
36 recent federal status change of wolves. At the Commission's September 2 meeting in
37 Hillsboro, staff presented 11 substantive changes. Today staff will present final
38 recommendation of the draft Wolf Plan.

39
40 Russ Morgan, Wolf Coordinator, discussed the 11 substantive changes, and presented
41 six additional proposed substantive changes from the last draft:

- 42 1. Wildlife carcasses as attractants. Related to change 5 above "identifying
43 circumstances" (see pg. 55). Commissioner Levy suggested adding text to those
44 circumstances in which wildlife carcasses might be an attractant to wolves;
45 focused more at disposal sites.

- 1 2. Recipient and location of harassment or lethal take permits. Area where
- 2 depredations occur as prerequisite for lethal take permits, "in the area" (pg. 59).
- 3 Intent of this chapter is to stop depredation.
- 4 3. Prerequisite for lethal take permits; "in the area" (pg. 59). New text: "In the area
- 5 means the area known to be used by the depredating wolves".
- 6 4. Include county officials as contact option (pgs. 62-63). Add county officials as a
- 7 contact option for landowners in the event of suspected depredation.
- 8 5. Definition of livestock (OAR 635-110-0010). Remove ratites (emu, ostrich, rhea)
- 9 and psittacines (parrots) from the definition of livestock.
- 10 6. Revised economic chapter (revised Chapter XI, Attachment 4). Additional text to
- 11 include actual indirect costs to ranching businesses associated with presence of
- 12 wolves. Morgan said the economic chapter had been revised within the last week
- 13 due to last minute comments coming in.
- 14

15 Morgan discussed Compensation for wolf-caused losses of livestock, working dogs, and
 16 sporting dogs. He noted it wasn't a change. Legislative approval is still required for any
 17 type of wolf compensation program in Oregon; funding will be the primary issue.

18 **Public Testimony:**

<p>Jennifer Shmikler Salem, OR</p>	<p>Jennifer Shmikler, Oregon Farm Bureau (OFB), said farmers have suffered considerably from wolves preying on their livestock. OFB supports the changes on pages 57, 59, 62, and 63, but members request the following changes:</p> <ul style="list-style-type: none"> • Wolf/livestock conflicts: OFB doesn't believe there are "suitable habitats" in Oregon for "conflict wolves". She asked that wolves be relocated outside Oregon's boundaries; remove Relocation section. • Lethal Take Phase 1: Request a permit be used to take a wolf caught in the act of chasing and harassing, in addition to biting, wounding or killing of livestock. The current wording ensures that livestock be wounded before action can be taken. • Support changes to expand issuance of a permit to livestock operators beyond the landowner. • OFB believes preventative measures should be added to "attempts to solve the situation by nonlethal means must be documented". We also support in addition of "in the area" for documenting depredation for use of lethal force. • Phase 2, remove permit requirement on public land. • We agree with Bill Hoyt, OCA, and do not support removal of USFWS as a lead agency that can make confirmations of potential wolf depredation in the early phases. This change would weaken the Plan.
<p>Mike Hayward Enterprise, OR</p>	<p>Mike Hayward, Wallowa County Commissioner, distributed written testimony and said part of our challenge is that</p>

	<p>ODFW has been involved in both issues; my constituent base is not happy with ODFW. We need a plan that allows us to coexist. Some of the suggested changes are good; including county officials. He'd like to see the sheriff in a peacekeeper role, and believes in a fair compensation program funded from a variety of sources; he hopes ODFW will assist in this in regard to the Legislature. He said 70% of Oregonians want wolves, so the whole state should participate in compensation. Regarding proximity of wolves to homes and outbuildings, as wolves become more common, you will need to address the issue of people being able to protect their families from immediate threat. With the federal relisting, he wasn't sure there is an imminent need to finish this rewrite.</p> <p>Commissioner Edge said, given the dispersal capability of this animal we could easily have a wolf outside the designated experimental population area. We need to move forward with the state Plan, so the state will have a role in responding.</p>
<p>Lynn Trupp Portland, OR</p>	<p>Lynn Trupp, past president of Oregon Sheep Growers (OSG), sits on the Predator Committee of the American Sheep Industry. The American Sheep Industry favors delisting of the wolves in all states as quickly as possible. He said the sheep industry opposes relocation and translocation. You take an animal prone to kill in one area and you move him to another area; he'll do that there too. OSG is disappointed in the way the Commission is trying to put USFWS aside and not give them more authority in this program. We've worked with Wildlife Services and feel they should be up front. Very few livestock producers are 100% against wolves in the area; but, we need the right to protect our animals, and to take action immediately. Waiting for permits is not acceptable to a livestock producer.</p> <p>Commissioner Edge said one thing that would be helpful is, if your group has any influence in Wyoming to help them understand that conservation of wolves outside of Yellowstone is something they might want to embrace. We knew Wyoming was going to create a problem for us three or four years ago, and that nothing could be done about it. Wyoming is the reason we got our delisting taken away.</p>
<p>Foster Fell Bend, OR</p>	<p>Forest Fell signed up for testimony; but left the meeting.</p>

<p>Roger Huffman Salem, OR</p>	<p>Roger Huffman, Oregon Dept. of Agriculture (ODA), distributed written testimony. He thanked the Commission for being open to making technical changes to the Wolf Plan that will help protect livestock and deal with predators, and for adding the disease section and bolstering the economic impact section. Concerning the change on definition of land to include “leased” or “owned”, he wants to include on the record that it applies to ORS 607, which ODA implements every day on stray livestock. It doesn’t mean that if my animal is put on my place and there’s no fence between me and you, that it may be on your place, but it is still lawfully there under the statute. It’s only unlawfully there if it goes through an inadequate fence. We have to determine by statute if it’s adequate. The animal may not be where you put it, but it still may be lawfully there under the Open Range Statutes.</p> <p>He asked the Commission to consider re-inclusion of USDA Wildlife Services as an agent of ODFW in Phases 1 and 2, for the purpose of confirming cause of predation in the event ODFW needs additional assistance to cover predation cases. He asked that the original language for where a wolf may be relocated be kept, to the nearest wilderness. And lastly, the ability for producers to take wolves “caught in the act” without a permit, and report it, may resolve the complicating factors after the fact.</p>
<p>Charlie Knox Cottage Grove, OR</p>	<p>Charlie Knox signed up for testimony; but left the meeting.</p>
<p>Ed Putnam Bend, OR</p>	<p>Ed Putnam signed up for testimony; but left the meeting.</p>
<p>Tim Lillebow Bend, OR</p>	<p>Tim Lillebow said Oregon Wild, a statewide nonprofit group, supports ODFW putting together this Plan and being the lead agency to deal with depredation. He said the language “in the area”; is too loose. Supports compensation fund.</p>
<p>Carter Niemeyer Boise, ID</p>	<p>Carter Niemeyer, private citizen and a veteran of wolf wars, distributed written testimony. He has worked with wolves in the Northern Rockies since the mid-1980s; and works seasonally for Idaho Fish and Game. ODFW should be the lead agency; you’re dealing with a federal and state listed animal. He supports the plan as it is being written. The livestock depredation has so much effect on whatever else you do while managing wolves. To have two lead agencies—one doing depredation and the other doing conservation management—is not workable. But they don’t have to be in contention with one another. He urged</p>

	<p>USFWS, ODFW and USDA Wildlife Services to work together. He said he was available to offer advice as you need it down the road. Livestock depredation will be the major factor that could derail wolf recovery and conservation efforts, so you cannot deal with it separately.</p> <p>Chair Rae said Niemeyer was involved in advising ODFW in Oregon's original wolf plan, with our Wolf Advisory Group, Craig Ely and others in training staff on how to do a wolf depredation. Do you do that with US Wildlife Services? Niemeyer said he would but hasn't been invited yet. Chair Rae said Niemeyer is correct in his comments on the coexistence of wolves, as well as the coexistence of state and federal agencies. She is not clear how the contention got to this point. She would like to take him up on his offer to help all the agencies.</p>
<p>Greg Dyson LaGrande, OR</p>	<p>Greg Dyson, Executive Director for Oregon Hells Canyon Preservation Council, distributed written testimony in support of the Plan, regarding "property or an adjacent property" vs. "in the area" language to OAR 635-110-0010. HCPC has submitted three sets of comments during this five-year process. Their key points are:</p> <ul style="list-style-type: none"> • "In the area" language: Proposed a bifurcated approach; if you know the wolves are doing the depredating, both the area and timeframe in which the permits could be issued would be fairly expansive; if we don't know the wolves, then a smaller geographic scope and shorter timeframe. • ODFW as lead agency: This is a state management Plan, not federal. Everybody should be on same page. • Redaction of Education language in the proposed plan. He suspects the justification is lack of funding. Hates seeing education redacted out of the plan. • Compensation: Reluctantly supported it after the original Plan was adopted. Tried to get legislation passed to no avail. It boils down to economics.
<p>Bill Gawlowski Bend, OR</p>	<p>Bill Gawlowski, Wolf Advisory Committee member, helped put together this Plan five years ago as a "citizen at large". He talked about how the Plan was put together over 13 months. He is pleased to see that the Plan has been tweaked a little bit, but not dramatically changed. He thanked Ely and Morgan for their hard work.</p>
<p>Tik Moore</p>	<p>Tik Moore, OCA, said as a rancher he needs to have the</p>

<p>Keating Valley, OR</p>	<p>tools to protect his livestock. If I can't go out to my herd when the wolves are 200 yards from my house, eventually the wolves are going to lose; 90% of ranchers or people in agricultural production will accept wolves, if they can protect their livestock or families. Relocation is not going to work in Oregon unless they are taken back to another state. In regard to economics, we are still dealing with the repercussions of what happened to us two years ago. I have to go with "control" vs. compensation. He urged the Commission to consider what you hear today, and think about ramifications to all the resources of Oregon, not just the cattle and wildlife. The resounding thing you hear from the agriculture community is that we want it to work because wolves are here to stay.</p> <p>Commissioner Englund asked, how do you go about defining the portion of compensation for animals that have been damaged? Moore said it's hard to quantify. As a rancher, compensate me for the value of the animal at the time I would have sold it, and for any animal injured, including the cost of vet or vaccine in trying to save the animal. If I have the option of protecting myself or trying to figure out who's going to pay for what, let me protect myself and my family.</p> <p>Commissioner Edge said he did not perceive the economic analysis that was prepared for OCA as a benchmark for where compensation should go; he perceived it as listing additional costs that are anticipated when having wolves.</p>
<p>Rod Childers Enterprise, OR</p>	<p>Rod Childers, OCA Wolf Committee Chair, distributed written testimony and recommended further changes:</p> <ul style="list-style-type: none"> • Wildlife Services needs to be recognized as the lead in identifying livestock depredation no matter how the wolf is listed. • Protection of your private property, family and pets in your home, including the area within a 500 feet radius. • Delisting rules: Change the definition of where four breeding pairs must exist; treat the state as a whole for purposes of delisting. • ODFW to remove problem wolves by whatever means necessary. • Fully and fairly compensate for all economic losses due to wolves in Oregon. • Leave the "in the area" language loose.

	<ul style="list-style-type: none"> • He referred to a letter from Wallowa County Sheriff Fred Steen, agreeing with OCA that Oregon sheriffs want to be the first notified of damage or destruction to property. <p>Chair Rae said this was the first time she had heard about OCA’s plans in its legislative concept. How did this evolve? Childers said by talking to ranchers in Montana and Idaho about losses to their herds.</p> <p>Chair Rae asked how does your legislative concept account for animal loss that is not related to wolves—stillbirths, etc.? Childers said in a lot of your areas the producers are bringing cattle in. They know how many cattle they have and what their normal loss is.</p> <p>Chair Rae said the sooner that Childers, Bill Hoyt and Jim Welsh can get that legislative concept language to Director Elicker and Deputy Director Curt Melcher, the sooner the Commission can decide if they can support it. Money for compensation is going to be hard to come by, and this is going to be an interesting legislative session.</p> <p>Childers said OCA dropped four legislative concepts on Monday; he will send them to the folks at ODFW.</p>
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Chair Rae asked the Commission for questions.

Commissioner Webber said you made the changes that added county officials as contact options; I’m hearing that they *want* to be contacted rather than *could* be contacted. Has that been considered? Morgan said that is correct; not every person contacted will be available. The Draft Plan doesn’t dictate who to call. Webber asked if it would be a problem if staff commits to calling that county that wants to be notified. Morgan said it’s important to remember this is a contact for a producer to call, not us.

Commissioner Kerns said he thinks the science and behavior of wolves is pretty well known but due to other factors and emotions, it’s moved into the political area. He asked to delay approval of the Draft Plan for two months so the new Governor and staff can work review it. The Governor’s term is four years and the Plan is reviewed every five years. Chair Rae did not agree. She said there is only one governor at a time, and given the economic crisis, she does not see this Wolf Plan as being a priority to the next administration. We’re ready to go; I’m ready to go. This won’t get up on their to-do list for another two years. Commissioner Kerns disagreed.

Commissioner Edge said he favors voting on this today. One issue is the compensation; we can’t fix that. He felt very strongly that this is a state plan and ODFW is responsible to

1 be the leader. It's the state's responsibility to manage these wolves. Finally, is there any
2 additional slack for "caught in the act" – doesn't see much leeway in Phase 1 of the Plan.

3
4 Commissioner Englund agreed.

5
6 Commissioner Klarquist is prepared to work on the plan today. He responded to
7 comments regarding tension between Wildlife Services and ODFW. The Plan clearly
8 states that the two would work together cooperatively; and in Phases 1 and 2 while it's
9 still a state-listed species, the state would have the responsibility for making the final
10 determination about whether a depredation occurred.

11
12 Ely referred to Bill Hoyt's comments the day before about the marginalization of Wildlife
13 Services in this Plan. Ely stated emphatically, that is not our intention at all. He considers
14 Wildlife Services to be a full partner in this. There will be times when the state cannot get
15 to a scene as fast as they can. When you're talking about making a decision of removal
16 of an endangered species, he wants his staff to be involved.

17
18 Chair Rae concurred with Commissioner Klarquist's comments. As I mentioned at our
19 last meeting, I don't see how a state or a commission can direct a federal agency to do
20 bananas in a state plan. I've always looked at this as a cooperative effort. I'm rejecting
21 categorically those that would try to drive a wedge between us and our cooperators,
22 whether it's Wildlife Services, ODA, or whomever else. She regretted the tenor of some
23 of the comments, where folks took that on. I'd leave it to Ely and Morgan, the Director
24 and others about the appropriate follow-up on potential joint training for our folks, Wildlife
25 Services, county sheriffs, OSP, involve ODA; any of those cooperators or so-called "first
26 responders" to a depredation situation. So we have no illusions, Russ that it's going to be
27 you on the ground every single time, anywhere in the state.

28
29 Chair Rae asked Ely and Morgan to talk about their view of the term "suitable habitat".

30
31 Morgan said "suitable habitat" is not defined specifically; there is a framework of how
32 we'd look at it. It's not predetermined, nor is there a predetermined place where wolves
33 would go. After a lot of discussion with folks who don't want to see wolves be relocated,
34 we found it's not as much a discussion about relocation; it's that they don't want the
35 wolves to come to where they are.

36
37 Chair Rae said the Plan states that relocation is not an option for a wolf that has harmed
38 livestock. She asked if "suitable habitat and relocation" could be outside the State of
39 Oregon. Morgan said no, not under state authority, but maybe under federal authority.
40 Human tolerance is really the most deciding factor of suitable habitat.

41
42 Chair Rae corrected page numbering errors in the Table of Contents: pages "ix" and "x".
43 On page 24, end New Comments with a period. She said the Commission will need to
44 see any legislative proposals and look at the actual language before they can weight in.
45 The Commission expects the Department to seek every opportunity for federal funding of
46 our work on this, particularly while the wolf is federally listed.

1 Ely strongly encouraged those who are proposing legislation to look beyond ODFW and
2 work with people in the conservation community and livestock industry.

3
4 Commissioner Edge asked for clarification on what is the most current document he
5 should refer to. Morgan referred to the amended Economics section and a one-page
6 addition to also be included in that amended Economics section.

7
8 *Commissioner Edge moved to adopt the Updated 2010 Wolf Conservation and*
9 *Management Plan, as proposed in Attachment 4, and amend OAR Chapter 635*
10 *Division 110 as proposed in Attachment 5, including the revised Attachment E and*
11 *the one page addition concerning the economics. Commissioner Klarquist*
12 *seconded the motion. The motion passed by a yea vote from Commissioners*
13 *Webber, Levy, Klarquist, Englund, Edge and Chair Rae. Commissioner Kerns*
14 *voted no. The motion passed by a vote of six to one.*

15 16 **OTHER BUSINESS**

17 18 **2011 Proposed Meeting Dates.**

19 Chair Rae called the Commission's attention to the Proposed 2011 meeting calendar.
20 The Commission approved the following dates: January 7, February 4, March 11, April
21 22, June 3, July 15, August 5, September 1 (Thursday), October 7, and December 2.

22
23 She announced that the December 3, 2010 meeting will be held in Portland at the
24 Ramada Inn on Northeast 82nd Avenue.

25 26 **EXECUTIVE SESSION**

27 Chair Rae announced that the Fish & Wildlife Commission will meet in Executive
28 Session for the purpose of evaluating Director Roy Elicker pursuant to ORS 192.660 (2)
29 (i). Representatives of the news media and designated staff should be allowed to attend
30 the executive session. All the members of the audience are asked to leave the room.
31 Representatives of the news media are specifically directed not to report on deliberations
32 during the executive session, except to state the general subject of the session as
33 previously announced. No decision may be made in executive session. At the end of the
34 executive session we will return to open session and welcome the audience back in the
35 room.

36 37 **ADJOURN**

38 Chair Rae reconvened the meeting into open session at 3:47 p.m. She said we note for
39 our record and our minutes that the Commission has received and accepted the report
40 from Deputy Director Colbert on the Director's Transactions Review that will go into our
41 record, and will go into the Director's personnel file. The Director got a favorable rating;
42 you will see him at work on Monday. With no other business coming before the
43 Commission, Chair Rae adjourned the meeting at 3:50 p.m.