



Oregon Fish and Wildlife Commission Minutes

Meeting:

July 16, 2010 1:00 p.m.

Oregon Department of Fish and Wildlife
Commission Room

3406 Cherry Ave. NE

Salem, Oregon 97303

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

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

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

Roy Elicker, Director
Debbie Colbert, Deputy Director for
Administration
Teri Kucera, Executive Assistant

8 **MEETING**

9 On Friday, July 16, 2010 at 1:03 p.m., Chair Marla Rae called the Oregon Fish and
10 Wildlife Commission meeting to order. She said people had signed up for the Public
11 Forum.
12

13 **DIRECTOR'S REPORT**

14 Director Roy Elicker thanked the Commission for coming to Salem to hear about the
15 Department's 2011-2013 Agency Requested Budget. At the end of this biennium we will
16 be in an economic situation and will not be doing all of the programs that we do now.
17

18 **Administrative Temporary Rules**

19 He directed the Commission's attention to the twenty-one administrative temporary
20 rules, and in particular OAR 635-110-0010 Harassment and Take of Wolves during
21 Phase I (Conservation). He asked Ron Anglin, Wildlife Division Administrator, and Craig
22 Ely, Northeast Region Manager, to discuss this issue. We are in the midst of a five-year
23 review of the Oregon Wolf Conservation and Management Plan (Plan), and intend to
24 make changes on the basis of that review. Director Elicker said because of recent
25 testimony, we feel it is important to make this change now. Anglin said the change is
26 related to the meaning of "adjacent"; whether the department can take action.
27

28 **Wolf Update**

29 Craig Ely reported that staff located a pack of wolves; four were radio-collared. Staff
30 documented that this pack was causing recent depredation. But none of it occurred
31 adjacent to one another, so we could not meet the intent and spirit of the rules, and
32 therefore could not take action. He said OAR 635-110-0010 would resolve that.
33

1 Commissioner Edge asked if staff had defined what a specific area is. Ely said the rules
2 state "in the area" but do not say a specific area. This proposed change will give more
3 flexibility. He said staff has four documented puppies but the alpha male is missing. The
4 pack is growing and splitting. Livestock owners have radios to track them. We haven't
5 had any depredations confirmed for six or seven weeks.

6
7 Chair Rae said the Commission learned yesterday that this is a subject of a lawsuit,
8 which is not surprising. In addition, the Wallowa County Board of Commissioners asked
9 the Governor to declare Wallowa County a state of emergency, and the other end of the
10 spectrum was a clemency action.

11
12 Anglin said the Department had a copy of that petition, which was filed in Multnomah
13 County District Court. The Department's legal counsel is evaluating it.

14
15 Director Elicker asked Ely to talk about meetings with various groups concerned about
16 wolves. He said that Commissioner Bobby Levy has done a tremendous job in attending
17 all those meetings with Department staff. This sends a strong message to stakeholders
18 that the Commission is taking the issue seriously. He thanked her for her time.

19
20 Ely also thanked Commissioner Levy. He said in March staff laid a process out before
21 the Commission and proposed how they might approach the review. As Chair Rae said
22 this is a review of the Plan and not a rewrite. He said through June, staff met with 14
23 different stakeholder groups. Yesterday he met with Dave Williams, Executive Director
24 of USDA APHIS Wildlife Services. Williams had some excellent suggestions on how we
25 might change and update some documents; he'll finish his review.

26
27 Ely distributed a packet of information that included stakeholder issues. He said staff
28 will analyze those issues and report at the August 6 Commission meeting. At the
29 Commission's September 2 meeting, staff will present a draft set of rules and a redlined
30 version of the draft Plan and ask the Commission for direction. After the Commission
31 gives staff direction, the draft Plan will be presented to the Commission on October 1 for
32 final adoption. Ely said the public will have two more opportunities to weigh in.

33
34 Chair Rae said good and thanked Ely for his report.

35
36 Director Elicker said with the testimony being completed, he would ask for the
37 Commission to move to adopt the twenty-one temporary administrative rules contained
38 on pages 1 through 5 in the tan agenda before the Commission.

39
40 **635-021-0090**

41 **Thief Valley Reservoir Sport Game Fish Harvest Opportunity Rescinded**

42 Adopted June 4, 2010; effective June 11, 2010 through September 1, 2010.

43 Amended rule rescinds the liberalized catch limits implemented by previous temporary
44 rule action and reinstates length requirements for trout in Thief Valley Reservoir. Due to
45 above average rainfall in recent weeks, Lower Powder River Irrigation District managers
46 now forecast sufficient water in the reservoir will be maintained over the summer for a
47 very good trout fishery. Continuation of the liberalized bag limit would lead to

1 unnecessary depletion of the large trout (over 18 inches) that anglers prize.

2
3 **635-004-0017**

4 **Directed Commercial Sardine Fishery First Allocation Period Closes June 12,**
5 **2010**

6 Adopted June 10, 2010; effective June 12, 2010 through June 30, 2010.

7 Amended rule closes the first period of the directed commercial sardine fishery effective
8 June 12, 2010. The directed commercial sardine fishery will remain closed through
9 June 30, 2010. These modifications conform to federal (National Oceanic and
10 Atmospheric Administration) rule changes posted for public inspection, by means of
11 Docket No. 0912281446-011-02 on 6/10/10, and scheduled to be published in the
12 Federal Register on June 15, 2010.

13
14 **635-041-0076**

15 **Columbia River Treaty Tribes Summer Salmon Commercial Fisheries Open**

16 Adopted June 10, 2010; effective June 16, 2010 through July 31, 2010.

17 Amended rule allows the sales of fish caught in the Columbia River summer Treaty Indian
18 commercial fisheries, both above and below Bonneville Dam, which began at 6:00 a.m.
19 Wednesday, June 16, 2010. Allowable sales include: Chinook, coho, and sockeye
20 salmon; steelhead; walleye; carp; yellow perch; catfish; bass; and shad. White sturgeon
21 may be kept for subsistence in all fisheries except the platform and hook-and-line fisheries
22 conducted below Bonneville Dam, where sturgeon may not be retained. Revisions are
23 consistent with action taken by the Columbia River Compact agencies of Oregon and
24 Washington, in cooperation with the Yakama Nation, Warm Springs Tribes, and
25 Umatilla Tribes on June 10, 2010.

26
27 **635-042-0027**

28 **Implementation of Columbia River Summer Chinook Commercial Gillnet Fishery**

29 Adopted June 10, 2010; effective June 17, 2010 through July 31, 2010.

30 Amended rule implements the summer Chinook salmon commercial gillnet fishery in the
31 Columbia River mainstem beginning 7:00 p.m. June 17, 2010, consistent with
32 provisions of the *US v Oregon* management agreement. Implementation is consistent
33 with action taken June 10, 2010 by the Columbia River Compact agencies of Oregon
34 and Washington.

35
36 **635-017-0090**

37 **Bag Limit for Adipose Fin-Clipped Steelhead Increased On the Clackamas and**
38 **Sandy Rivers**

39 Adopted June 16, 2010; effective June 18, 2010 through October 31, 2010.

40 Amended rule allows recreational fishers increased opportunities to harvest the excess
41 hatchery summer steelhead that are returning to the Clackamas Fish Hatchery on the
42 Clackamas River and the Sandy Hatchery on the Sandy River. These increased
43 opportunities in the Clackamas and Sandy rivers will begin June 18 and extend through
44 October 31, 2010.

1 **635-018-0090**

2 **Lower Deschutes River Sport Fall Chinook Fishery Opens July 1st**

3 Adopted June 17, 2010; effective July 1, 2010 through October 31, 2010.

4 Amended rule allows the sport harvest of fall Chinook salmon in the Lower Deschutes
5 River starting July 1, 2010.

6
7 **635-067-0000**

8 **Pronghorn Antelope, Cougar, Rocky Mountain Goat, Bighorn Sheep Regulations**

9 Adopted June 21, 2010; effective June 21, 2010 through December 17, 2010.

10 This rule establishes the 2010 controlled hunt tag numbers for hunting of Rocky
11 Mountain goat. The table that includes the Rocky Mountain goat controlled hunt tag
12 numbers for 2010 was inadvertently deleted from the rules that were adopted for the
13 2010 big game controlled hunt tag numbers.

14
15 **635-041-0076**

16 **Columbia River Treaty Tribes Summer Salmon Gillnet Fisheries Above Bonneville
17 Dam**

18 Adopted June 24, 2010; effective June 29, 2010 through July 31, 2010.

19 Amended rule allows the sales of fish caught in the Columbia River summer Treaty
20 Indian gillnet fisheries above Bonneville Dam. Allowable sales include: Chinook, coho,
21 and sockeye salmon; steelhead; walleye; carp; yellow perch; catfish; bass; and shad.
22 White sturgeon may be kept for subsistence in all fisheries except the platform and
23 hook-and-line fisheries conducted below Bonneville Dam, where sturgeon may not be
24 retained. Revisions are consistent with action taken by the Columbia River Compact
25 agencies of Oregon and Washington, in cooperation with the Yakama Nation, Warm
26 Springs Tribes, and Umatilla Tribes on June 24, 2010.

27
28 **635-023-0095 and 635-023-0128**

29 **Recreational Sturgeon and Sockeye Salmon Fisheries In the Columbia River
30 Mainstem**

31 Adopted June 24, 2010; effective June 26, 2010 through July 31, 2010.

32 These amended rules extend the date until which sturgeon may be retained in the area
33 from the Wauna power lines (River Mile 40) downstream to the mouth at Buoy 10, including
34 Youngs Bay, from June 26 to July 11. And, rule modifications also allow the retention of
35 sockeye salmon in the mainstem Columbia River from the Astoria-Megler Bridge upstream
36 to Priest Rapids Dam from June 26 through July 31, 2010. Revisions are consistent with
37 action taken June 24, 2010 by the Columbia River Compact agencies of Oregon and
38 Washington.

39
40 **635-014-0090**

41 **Three Rivers Closure Delayed From July 1 Until July 12, 2010**

42 Adopted June 25, 2010; effective July 1, 2010 through September 30, 2010.

43 Amended rule delays the closure of Three Rivers in the area from the mouth upstream
44 to the hatchery weir deadline from July 1 until July 12, 2010. All signs are pointing to a
45 robust return of hatchery spring Chinook into the Nestucca basin. In order to allow
46 anglers this opportunity to harvest hatchery spring Chinook, we needed to extend the
47 angling season in Three Rivers.

1
2 **635-110-0010**

3 **Harassment and Take of Wolves during Phase I (Conservation)**

4 Adopted June 29, 2010; effective June 29, 2010 through December 25, 2010.

5 This rule describes the harassment and take of wolves allowed during the Phase 1
6 (Conservation) of the Oregon Wolf Conservation and Management Plan. This
7 temporary rule amends the existing rule regarding the lethal take of wolves to focus on
8 affecting wolves or a pack that is causing a problem in a specific area.

9
10 **635-023-0095**

11 **Recreational Sturgeon Fisheries In the Columbia River Mainstem Above
12 Bonneville Dam**

13 Adopted June 29, 2010; effective August 1, 2010 through December 31, 2010.

14 Amended rule prohibits retention of white sturgeon in the Columbia River from McNary
15 Dam upstream to the Oregon/Washington border beginning August 1 through December
16 31, 2010. These modifications make Oregon's rules concurrent with the State of
17 Washington's. Revisions are consistent with action taken June 29, 2010 by the state of
18 Oregon.

19
20 **635-017-0095**

21 **Recreational Sturgeon Fisheries In Multnomah Channel and the Gilbert River**

22 Adopted June 29, 2010; effective July 5, 2010 through December 31, 2010.

23 Amended rule allows inclusion of the Multnomah Channel and Gilbert River into the
24 recreational white sturgeon season for the Willamette River in the area downstream
25 from Willamette Falls. Revisions are consistent with action taken June 29, 2010 by the
26 State of Oregon.

27
28 **635-017-0090**

29 **Additional Opportunity for Personal Use Harvest of Pacific Lamprey at Willamette Falls
30 Allowed**

31 Adopted June 30, 2010; effective July 1, 2010 through October 31, 2010.

32 Amended rule allows for one additional day for personal use harvest of Pacific lamprey
33 by individuals with the required permit. The season modification provides opportunity
34 for harvest of lamprey that may become stranded due to the scheduled installation of
35 water flow devices at Willamette Falls.

36
37 **635-001-0410**

38 **Confidentiality and Inadmissibility of Mediation Communications**

39 Adopted June 30, 2010; effective July 1, 2010 through December 26, 2010.

40 The Oregon Fish and Wildlife Commission needs temporary mediation rules in order to
41 begin the mediation process with a litigant. Temporarily adopting this rule will
42 encourage mediation by limiting the discovery and admissibility of mediation
43 communications in subsequent proceedings. There is currently a matter pending for
44 which mediation is scheduled. The Commission finds that failure to act promptly in
45 adopting this temporary rule will result in serious prejudice to the interests of the State
46 and the litigant by impeding the use of mediation as a dispute resolution process. The
47 temporary rule to be adopted is the Attorney General's rule on confidentiality of

1 mediation communications, developed pursuant to ORS 36.224(2). The rule must be
2 adopted to enable the parties to the proposed mediation to communicate openly in the
3 mediation.

- 4 a) These rules regarding confidentiality need to be in place so that the Commission can
5 enter into mediation with the litigant knowing that its communications will be
6 confidential and inadmissible in future adjudicatory proceedings;
7 b) Mediation provides a mutually acceptable resolution process and encourages
8 cooperation between the Commission and the litigant.
9 c) Without the confidentiality rule in place, both the Commission and the litigant may
10 jeopardize their legal position by participating in mediation.

11
12 **635-019-0090**

13 **Sport Chinook Fisheries On the Imnaha and Wallowa Rivers Extended**

14 Adopted July 1, 2010; effective July 11, 2010 through September 1, 2010.

15 Amended rule extends, until further notice, the opportunity for sport anglers to harvest
16 adipose fin-clipped adult and jack Chinook salmon which are in excess of the
17 Department's hatchery production needs, in the Imnaha and Wallowa rivers. The original
18 ending date for this fishery was Sunday, July 11, 2010.

19
20 **635-017-0090**

21 **Additional Opportunity for Personal Use Harvest of Pacific Lamprey at Willamette
22 Falls Allowed**

23 Adopted July 7, 2010; effective July 8, 2010 through October 31, 2010.

24 Amended rule allows for one additional day, Thursday, July 8, 2010, for personal use
25 harvest of Pacific lamprey by individuals with the required permit. The season
26 modifications provide opportunities for harvest of lamprey that may become stranded
27 due to the scheduled installation of water flow devices at Willamette Falls.
28 ending date for this fishery was Sunday, July 11, 2010.

29
30 **635-043-0051**

31 **Authority to Take or Harass Wildlife**

32 Adopted July 8, 2010; effective July 9, 2010 through January 3, 2011.

33 Clarification is needed to define the authority of law enforcement officers to take or
34 harass wildlife while carrying out law enforcement activities.

35
36 **635-041-0076**

37 **Columbia River Treaty Tribes Summer Salmon Gillnet Fisheries Above Bonneville
38 Dam Continued**

39 Adopted July 8, 2010; effective July 13, 2010 through July 31, 2010.

40 Amended rule allows the continuation of sales of fish caught in the Columbia River
41 summer Treaty Indian gillnet fisheries above Bonneville Dam. Allowable sales include:
42 Chinook and sockeye salmon; steelhead; walleye; carp; yellow perch; bass; and shad.
43 White sturgeon may be kept for subsistence in all fisheries except the platform and
44 hook-and-line fisheries conducted below Bonneville Dam, where sturgeon may not be
45 retained. Revisions are consistent with action taken by the Columbia River Compact
46 agencies of Oregon and Washington, in cooperation with the Columbia River Treaty
47 Tribes on July 8, 2010.

1
2 **635-023-0095**

3 **Recreational Sturgeon Fishery In the Columbia River Mainstem Below Wauna**
4 **Powerlines**

5 Adopted July 13, 2010; effective July 15, 2010 through December 31, 2010.

6 Amended rule allows the recreational harvest of white sturgeon, seven days per week
7 from Thursday, July 15 through Sunday, August 1, 2010, in the Columbia River from the
8 Wauna powerlines downstream to the mouth at Buoy 10, including Youngs Bay and all
9 adjacent Washington tributaries. These rule modifications are consistent with action
10 taken July 13, 2010 by the Columbia River Compact agencies of Oregon and
11 Washington.

12
13 **635-039-0085**

14 **Ocean Sport Pacific Halibut Nearshore Fishery Closed from Cape Falcon to**
15 **Humbug Mountain**

16 Adopted July 14, 2010; effective July 17, 2010 through October 31, 2010.

17 Amended rule closes the nearshore (inside 40 fathoms) sport fishery for Pacific halibut, in
18 the area between Cape Falcon and Humbug Mountain, at 11:59 p.m. on Saturday,
19 July 17, 2010 when the nearshore quota of 12,284 pounds is projected to have been met.
20 This rule is consistent with regulations that have been implemented by the federal
21 government and the International Pacific Halibut Commission for the 2010 Oregon
22 recreational fishery for Pacific halibut.

23
24 Chair Rae said prior to taking the motion to ratify, the Commission has some questions.

25
26 Commissioner Edge asked Legal Counsel Steve Sanders to explain OAR 635-001-0410
27 - Confidentiality and Inadmissibility of Mediation Communications. Counselor Sanders
28 said this rule relates to mediation or a settlement process we are entering into that
29 relates to an easement and also part of the FERC settlement on the North Umpqua. As
30 is common with mediators, they frequently request that the agencies adopt basically
31 standard language to keep the settlement discussions confidential. As they are
32 otherwise allowed under typical civil law systems, but under the public records law
33 might otherwise be exposed to the public. The concept here is that people will mediate
34 more to their actual interests if they can do it confidentially.

35
36 Commissioner Kerns asked about OAR 635-043-0051 - Authority to Take or Harass
37 Wildlife. Anglin said the agency did not have authority to do some certain things, either
38 by statute or by rule. In rulemaking it gave ODFW authority to do "normal wildlife
39 management and activities; the taking of wildlife out of a season." Staff discovered that
40 Oregon State Police (OSP) does not have the same clear authority to conduct those
41 same activities. After discussions with OSP, we want to insert them into the language, in
42 conjunction with the Department's authority to take wildlife.

43
44 *Action: Commissioner Edge moved to ratify the twenty one temporary*
45 *administrative rules as written in the agenda. Commissioner Levy seconded the*
46 *motion and the motion passed unanimously.*
47

1 **PUBLIC FORUM**

<p>Renee Arnold Hubbard, OR</p>	<p>Renee Arnold said for years she has applied for tags and licenses for her boys to hunt with her father. This year she applied in the same way, but was turned down. She called her father, who said he had been successful in receiving tags, as had her brother. He found out that the gentleman who put in her information for the draw had done the opposite of what she had asked for. She is asking that the decision be reversed.</p> <p>Chair Rae asked where this occurred. Arnold said it happened at Bi-Mart with a Point of Sale (POS) agent.</p>
<p>John Moore Hubbard, OR</p>	<p>John Moore, Ms. Arnold's father, said it was an unfortunate human error. He said, maybe it's my fault not to press her to check the application. But this was all brought up as soon as she got her card back saying he was unsuccessful. I understand that someone from Bi-Mart called the Department to say he made an honest mistake. I believe this was brought to your attention with plenty of time to correct it. He asked the Commission to do what is right, in order to pass along the hunting heritage. Someone has the authority to say this was a simple, honest mistake that must be corrected.</p> <p>Chair Rae referred the Arnolds' request to Director Elicker. She said the Commission typically turns these types of requests down because of the slippery slope involving others that may be in a similar situation. This one sounded different, so the Commission is referring it back to the Director in order to take action today. Director Elicker asked Deputy Director Curt Melcher to meet with the family today.</p>
<p>Paul Smull Independence, OR</p>	<p>Paul Smull said he's hunted all of his life. He has brought things before the Commission before and was met with a deaf ear. He discussed two key issues:</p> <ol style="list-style-type: none">1. He said regarding BLM land, we read in the paper all the time about horses eating the feed. They are on federal and state land, and the ranchers should pay for their cattle to run there. For instance, Eastern Oregon in Murderers Creek, BLM land is allotted to them. I can take you over to look at some of that stuff where the fences are neglected, cattle are messing in the creek, and the vegetation for the game animals is completely gone. You need to pay attention to what's going on.2. Smull said he has a disability. I have a card in my pocket

	<p>that says "Permit" right across it for hunting and fishing. I have to renew it every year, and have it signed by a doctor. I'm on a fixed income and can't afford it.</p> <p>Chair Rae said she would ask Director Elicker to revisit the rules and come back to the Commission with proposed language to clarify that we want to help those who are disabled. After more comments, Commissioner Edge clarified to Smull that the Chair just proposed that we take care of your problem.</p> <p>Smull said the other issue is to look at permits given to the ranchers. They should be for the handicapped. Chair Rae said the Commission will deal with these issues as rapidly as state law allows.</p>
<p>Heath Sewell Lebanon, OR</p>	<p>Heath Sewell said he turned in his Furbearers report form too late and was denied his license. He asked the Commission to give him another chance. He doesn't have any excuse; he just got busy.</p> <p>Chair Rae asked what we typically do in a case like this. Director Elicker said we typically tell people they are out of luck. Staff is currently discussing how to put into place an option for people to pay a late penalty fine; then Mr. Sewell could get his furbearers' license.</p> <p>Anglin added that staff is talking with the Oregon Department of Justice as to whether the Department needs to do this legislatively or if it can be done by rule. He said if we can do it by rule, we can put it in place this fall.</p> <p>Commissioner Klarquist warned that this could open the door to other exceptions. Director Elicker said opening the door is not our intent. Staff currently spends considerable time and effort to obtain a high compliance rate. This way we would do away with all that work and possibly reduce the cost of compliance.</p> <p>Chair Rae said staff would follow up on this. Director Elicker asked Anglin to get Mr. Sewell's contact information.</p>

1
2 **Exhibit B: DELEGATION OF SIGNATURE AUTHORITY TO THE DIRECTOR TO**
3 **MANAGE THE NORTH UMPQUA RELICENSING SETTLEMENT AGREEMENT**
4 Bruce McIntosh, Fish Division Deputy Administrator, asked the Commission to delegate
5 authority to the Director and his designee (see Attachment A) to manage the relicensing

1 settlement agreement. He gave a background of this issue beginning in 2001. Over the
2 last six months staff has worked with funding partners to get construction of the Rock
3 Creek Fish Passage facility going. They broke ground a couple of weeks ago and
4 expect to be finished by the end of September. The PacifiCorp North Umpqua
5 Hydroelectric facility is providing a large portion of the funding.

6
7 **Public Testimony:** No one signed up for public testimony.

8
9 *Action: Commissioner Edge moved to delegate authority to the Director to*
10 *manage the Fish Passage Waiver MOU as specified in Attachment A.*
11 *Commissioner Englund seconded, and the motion passed unanimously.*

12
13 Chair Rae recessed the meeting for a break and reconvened at 2:05 p.m.

14
15 **Exhibit A: 2011-2013 Agency Request Budget**

16 Director Elicker said the Commission will be asked to approve a proposed \$311 million,
17 two-year budget. The State of Oregon is entering a very difficult budget cycle that could
18 last a decade unless state government does some things differently. He said the focus
19 today is on how the Department will make the decisions about what it will and will not
20 do. The focus will be on core programs.

21
22 During a slide presentation “Preparing for the 2011-13 Biennium,” Deputy Director
23 Debbie Colbert said the Department is primarily funded by federal funds and gets
24 approximately seven percent of its revenue from General Fund (GF) or Lottery Funds
25 (LF). The bulk of its operating revenues come from the sale of hunting and fishing
26 licenses and tags, and from federal programs. The proposed budget will be submitted to
27 the Governor and Department of Administrative Services (DAS) on or before September
28 1. Then the Governor will make the final budget recommendation to the legislature.

29
30 She said the budget being considered by the Commission was developed with
31 significant public input. A 40-member External Budget Advisory Committee, comprised
32 of members of the public who have been engaged in agency issues, met frequently with
33 agency leaders. ODFW hosted a series of 11 town hall meetings throughout the state.

34
35 Deputy Director Colbert said staff researched trends in the agency’s Legislatively
36 Approved Budget over the last 10 years. Federal funds, GF and LF have remained
37 relatively flat resulting in less buying power. She said available funds and expenditures
38 are relatively stable in Recreational Hunting & Fishing Dollars and the Commercial Fish
39 Fund. Regarding Full Time Equivalent (FTE), she said agency staffing has been
40 steady, although for 2011 there is a significant bump up if we get the POP (Policy
41 Option Packages) that are included in Exhibit A.

42
43 Director Elicker briefed the Commission on the 2011-13 Agency Requested Budget
44 (ARB) Public Process during the Town Hall meetings and the key issues discussed at
45 those meetings:

- 46 • Need for Wildlife Services

- 1 • Support for core programs: field staff, landowner services, OSP field presence,
2 and hatcheries
- 3 • Support for making fee increase last six years
- 4 • Enthusiasm for juvenile sportpac and reduced fees
- 5 • Concern about wolves and cormorants
- 6 • Concern about non-resident fees
- 7 • Protect GF

8
9 Director Elicker discussed the 2011-2013 Budget Environment:

- 10 • Recession & loss of federal stimulus funding
- 11 • \$2.6 billion shortfall in GF and LF
- 12 • Governor's Reset Cabinet
 - 13 ○ Shortfall could persist over next decade
 - 14 ○ Few options for rebalancing
 - 15 ○ Recommendations for "resetting" state government

16
17 Deputy Director Colbert discussed building the Department's 2011-2013 Budget.

- 18 • Current service level (CSL); base programs, inflation
- 19 • Additions/Subtractions: POPs
- 20 • Start with CSL; expect reductions in LF/GF given statewide budget
- 21 • Agency Requested Budget Estimated Revenue totals \$345.53 million total funds
- 22 • Estimated Expenditures total \$311.14 million.

23
24 Director Elicker discussed Program Priorities. He said for criteria staff used core
25 statutory obligations, feedback from Town Hall meetings and EBAC, and a six year
26 commitment to stretch the fee increase and not focus on funding source.

- 27 • Core fish and wildlife management programs
- 28 • Maintaining regional operations
- 29 • Enforcement
- 30 • Hatchery production
- 31 • Surveys and monitoring programs. Director Elicker noted that the word
32 "conservation" is not on the slide, but it's essentially built in throughout this.

33
34 Deputy Director Colbert discussed LF Reductions (a 19% revenue shortfall; \$1.2 million):

- 35 • Reductions would flow from the priority list beginning from the bottom.
- 36 • Staff started with the program priority list and cut \$1 million and nine positions
37 from the Western Oregon Stream Restoration Program (WOSRP). They also cut
38 \$160,000 from Conservation and Recovery.
- 39 • Staff had to include 5, 10, and 25% reductions in LF. She said a 25% reduction
40 would eliminate \$1.334 million from Fish Screens and Passage Programs
41 (eliminate one position at John Day Screen Shop).

42
43 Chair Rae asked how staff decided which screen shop would be affected. Colbert said
44 staff worked with program managers to find places where they could accommodate loss
45 of position with the least impact. Chair Rae said for some of those rural communities

1 those jobs are very tough to replace. Director Elicker agreed and said staff took into
2 account less impact on landowners services in rural Oregon during these discussions.

3
4 Deputy Director Colbert also discussed targeted GF Reductions:

- 5 • Western Oregon Streams Restoration Program (WOSRP)
- 6 • Watershed Council Liaison Program
- 7 • Willamette Valley Grasslands Program
- 8 • Butte Falls Hatchery

9
10 Chair Rae said people are already weighing in against closing Butte Falls. We need to
11 be prepared for such things, because these are not pleasant choices.

12
13 Deputy Director Colbert noted two corrections to the slide “General Fund Reductions”
14 (see page 13 of PowerPoint handout): 1) for 25% reductions, the Recreation Shellfish
15 Fund should read \$300,000 and not \$153,509; and 2) Carcass & Egg should read
16 \$600,000 and not \$558,182.

17
18 Director Elicker and Deputy Director Colbert discussed Ending Fund Balances:

- 19 • Commercial Fish Fund; approximately \$7 million of revenue
- 20 • Recreation Shellfish Fund: very stable, well into the future.
- 21 • Carcass & Egg Ending Balances: staff proposes to take it down \$1 million.
- 22 • General License Dollars

23
24 Deputy Director Colbert said the only new expenditure of License Funds is for staff to
25 participate in a Department of Justice billing pilot program to try new billing methods,
26 e.g. a flat fee budget. This pilot program would be based on actual costs. She discussed
27 Other Fund/Federal Fund Reductions, and noted that the Legislature typically doesn't
28 take funds from these scenarios. She also discussed 40 Policy Option Packages.

29
30 **Public Testimony:**

April Olbrich Hillsboro, OR	April Olbrich, coordinator for the Tualatin River Watershed Council (TRWC), distributed written testimony. TRWC supports and depends upon the WOSRP's biologist as an essential partner in their restoration work; they oppose eliminating the position. The position serves eight major watersheds (Sandy, Clackamas, Molalla, Pudding, Yamhill, Tualatin, Scappoose, and Clatskanie) in a 1.2 million acre area. Olbrich said Denise Lofman, coordinator of Tillamook Bay Watershed Council, was not able to be here today. Olbrich conveyed Lofman's concern about diminishing or elimination the watershed council liaison positions. She suggests licensing fees to support these programs.
George Houston Sandy, OR	George Houston, Immediate past president for the Oregon Foundation National Association Wildlife Sheep and EBAC member, complimented ODFW for their methodology and

	<p>well done package. He had several concerns: 1) Wolf Coordinator position is on cut list. We have a tsunami of wolf problems coming; the stakeholder group is an excellent idea. 2) Staff position for wind power projects in Oregon. If those people don't work then local ODFW staff do, and that takes away from other projects. 3) Predators don't go away because budgets are cut. Bears and cougars multiply and present more challenges. 4) He invited the Commission to the 6th Annual Bighorn Sheep and Mountain Goat Workshop at The Dalles Discovery Center on July 17.</p>
<p>Jim Myron Canby, OR</p>	<p>Jim Myron, Native Fish Society (NFS), distributed written testimony (duplicate in Supplemental Correspondence attachment). He said declining GF dollars should be allocated to programs within ODFW that benefit the public at large, not any specific user group. Those programs include: Oregon Conservation Strategy, Wildlife Diversity Program, and other conservation programs in Fish and Wildlife Divisions. He said NFS has proposed the Oregon Hatchery Accountability Project that would improve the fiscal and environmental accountability of the Propagation Program while making it more sustainable in the long term.</p>
<p>Tom Wolf Hillsboro, OR</p>	<p>Tom Wolf, Trout Unlimited and EBAC chair, distributed written testimony and elaborated on three points:</p> <ol style="list-style-type: none"> 1) ODFW needs to focus more on key staff positions that will benefit stream restoration and recovery of wild salmon. 2) Limited GF should be used for programs that benefit the public at large: Oregon Conservation Strategy; Wildlife Diversity Program; and other conservation programs. 3) Take a serious look at the NFS proposed Oregon Hatchery Accountability Project. <p>Wolf said a huge problem is the breakdown of our infrastructure over the next 20 years, and that includes hatcheries. We should look more seriously into expanding wild populations of salmon to allow harvest.</p>
<p>Angel White Corvallis, OR</p>	<p>Angel White, Assistant Professor at Oregon State University, expressed concern over harmful algal bloom along the Oregon coast, and monitoring it to ensure human health. A NOAA grant runs out in 2012, and we're lobbying to have one trained technician at ODFW to continue monitoring. This would allow continuation of: 1) Monitoring a serious risk to human health; 2) effectively monitoring the health of the shellfish; and 3) minimizing potential economic losses of about \$31 million to coastal communities.</p>

	<p>Commissioner Edge asked if the algae blooms occur year round. White said yes, they do occur year round. In order to acquire federal funds we need matching funds from ODFW.</p> <p>Commissioner Kerns referred to shellfish license fees and asked what the \$5 is used for - monitoring? Deputy Director Melcher said from shellfish license dollars the Oregon Department of Agriculture (ODA) gets a portion to test animals for toxin levels, OSP gets a portion for enforcement, and ODFW gets a portion for population assessments.</p> <p>Commissioner Kerns asked if it's sufficient to sustain the program, or should we ask for an increase. Deputy Director Melcher said staff has taken a very conservation approach with the Shellfish Fund in case of funding cuts. We have a number of policy packages related to shellfish. We have not used license dollars to backfill cuts in federal funds. Commissioner Kerns said in Eastern Oregon, counties provide funds for predator control. Is this the case elsewhere? Melcher said no, there is no direct contribution from local governments for shellfish management or population assessment. Commissioner Kerns said perhaps we should suggest it.</p> <p>Chair Rae said local governments will have interesting budget discussions as well. She speculated about the collective reaction from the League of Oregon Cities and the Association of Oregon Counties. Do we know about the likelihood of the federal grant being renewed? White said there is no process to renew it; we'll be applying for other grants but would be more successful with some commitment from ODFW.</p>
<p>Rod Moore Portland, OR</p>	<p>Rod Moore, Executive Director of West Coast Seafood Processors and EBAC member, said ODFW's budget process is one of the best he's seen regarding transparency and keeping people informed. He said his members pay into the Commercial Fish Fund; it's in fairly good shape and used primarily to fund the programs that affect the commercial seafood industry. He supports ODFW's proposal to shift some costs into the Commercial Fish Fund where GF dollars are being lost. In regard to the two POPs, he agreed with deleting aviation predation. The Maine Log Book Program is more important to managing fisheries. But if we don't have the money, then drop all POPs. Regarding wave energy, all the work that ODFW does for basic fish monitoring is paid for by ODFW and not wave energy project applicants – this</p>

	should be corrected.
Dale Ballard Molalla, OR	Dale Ballard, Vice President for the Coastal Conservation Association Oregon (CCA), distributed written testimony. CCA believes the POPs are well thought out and prioritized appropriately. CCA supports ongoing fisheries studies, evaluations, and hands-on projects to benefit fisheries, in particular wild fish. Also important is ongoing testing of alternative gear for the commercial gillnet fishery. CCA does not want to see cuts to OSP Game Officers. Regarding GF and hatcheries, further cuts will erode ODFW's license and tag sales.
Joe Rohleder Waldport, OR	Joe Rohleder, board member Alsea Watershed Council, said the budget process has been transparent. The priorities have been very clear, and make their job easier. He asked to keep staff working on the Cormorant predator control program (has the potential to increase the production of returns to the river) and to continue depredation on double-crested cormorant. He supports: <ul style="list-style-type: none"> • Fish & Wildlife Services' program to control raven and crow predation on the nesting snowy plover. • WOSRP returns real dollars back to communities and creates real jobs. The Alsea Watershed Council spent \$1 million in federal stimulus money for restoration of streams. • Review of hatchery operations in order to plan for the future. One third of habitat is inaccessible because of poor infrastructure. Hatcheries are good for local economies. • The Trout Purchase Program.
Mitsu Takahashi Portland, O	Mitsu Takahashi, Lewis & Clark Law School, did not testify.

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Commissioner Edge declared a potential conflict of interest. This budget partially supports two facility positions and a number of research projects in the program that he manages. Chair Rae noted his potential conflict for the record.

Commissioner Edge asked if the proposed budget for Wildlife Services has increased from the last biennium. Director Elicker asked Ron Anglin and Lt. Mike Dingeman, OSP Fish and Wildlife Division, to come forward. He said OSP faces significant budget cuts.

Commissioner Edge asked Anglin to comment on where the budget is, relative to the 2009-11 biennium. Anglin said ODFW had \$220,000 in GF for Wildlife Services. In the 2009 Legislative Session, \$100,000 was cut from our GF. In addition, ODA had over \$400,000 in GF for Wildlife Services that was reduced to \$120,000. This puts Wildlife

1 Services in a real bind. Anglin said the intent is to increase ODFW and ODA to the
2 same as the 2009-11 biennium. The number of the proposed budget relies on the POP.

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4 Commissioner Kerns asked if Oregon Cattlemen's Association had contributed anything
5 into Wildlife Services. Anglin said he didn't know but Dave Williams could answer that.
6 Anglin said individual landowners participate. Kerns asked if ODA gets their funding
7 from state and federal governments. Deputy Director Colbert said in the last session
8 ODA's GF funding was cut back even with ODFW's. Director Elicker said ODA has a
9 mix of GF, federal, and funds from charging for various services. Deputy Director
10 Colbert promised to follow up on Commissioner Kerns' questions.

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12 Commissioner Klarquist noted people testified about WOSRP and the watersheds. He
13 understood that monitoring totally goes away. Is there absolutely no support? Director
14 Elicker said if the Commission directs, staff will take a second look at shellfish
15 monitoring. It is a federal program and it's impossible to replace federal funds with state
16 money. For Watershed Council support, we have specific personnel responsible for
17 attending all Watershed Council meetings and following up with landowners. For the
18 agency to continue funding that with GF would result in either cutting hatchery programs
19 or funding them out of Ending Balance. That means we may not last three biennia in the
20 fee increases.

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22 Commissioner Webber said when he went through the various programs; there was a
23 concept that there are statutorily required programs. Is there a list of those and are
24 there costs associated with those? Elicker said no, we don't have a list of things that are
25 essentially unfunded. He did ask Deputy Director Melcher to put together a list. He said
26 staff is spending a tremendous amount of time on wind power energy projects and
27 power transmission lines. We have not budgeted to do this; nobody is paying us for our
28 efforts. We hope to find a way to recoup our costs this Session.

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30 Chair Rae asked Colbert to provide a list of unfunded programs that the Department is
31 mandated to do.

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33 Commissioner Edge asked if the Commission had a limitation on the number of POPs it
34 can request. Colbert said there is no limitation, but staff has to demonstrate they have
35 the revenue to support any POPs that they include. Commissioner Kerns said the
36 Governor's Reset Committee should look at that; we have the right to recover our costs.

37
38 Chair Rae said we've had several opportunities for the Natural Resource agency heads
39 and Commission chairs to get together in an effort to coordinate. We had an opportunity
40 to work with key legislators and show that Natural Resources collectively is a small and
41 diminishing portion of the state's GF. She said legislators were pretty receptive. One of
42 the results was to look for opportunities for shared services among the respective
43 agencies. She said Director Elicker and the leadership team have done a yeoman's job
44 of putting this list together. Chair Rae said there is no other agency that puts together
45 this kind of outreach and product. She asked Lt. Mike Dingeman to comment.

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47 Lt. Mike Dingeman said there is not a lot of information with regard to agency budget

1 requests because it's still in process. Of the 120 positions assigned, eight are GF and
2 29 are LF. He said some of these may be eliminated. DAS has asked OSP to make LF
3 cuts in terms of CSL. Our Agency Request Budget will be \$777,000 less than this
4 current biennium, which means loss of two positions and loss of capital outlay on trucks.
5 Our need for next biennium for trucks is \$1.2 million.

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7 Chair Rae thanked Dingeman and said she was convinced that the Superintendent is
8 aware of the importance that we place on OSP. It is a high priority for the public as well.

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10 Commissioner Edge reiterated that he appreciated the process and approach staff took
11 to develop the priority list. We need to protect those ending balances as much as
12 possible. Chair Rae added, as well as the funds that exist that are not dedicated in
13 statute. Commissioner Edge said he was ready to go with the motion as written.

14
15 Commissioner Kerns asked if it was the Chair's intention for the Commission to vote on
16 the 5, 10, 15, and 20 percent reductions. Chair Rae said no, the final decision will be
17 up to the Oregon Legislature. She said this is not the only time we will be able to weigh
18 in on this budget. It is not my intention to go through it line-by-line.

19
20 Commissioner Englund said he thought it was well done but has a watchful eye over the
21 dedicated funds, which are a reflection of inventory. We ought to use caution as we go.

22
23 Commissioner Klarquist said we are being forced to do more with less. He thanked staff
24 for the way they laid out the budget and for their hard. He supports what they do.

25
26 Commissioner Levy echoed her colleagues' comments. The spreadsheet made it a lot
27 easier to understand. We need to hang onto that little bit of extra money as long as
28 possible.

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30 Commissioner Webber commended staff on their work. The information provided and
31 priorities make him think he understands what's going on.

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33 Chair Rae said she does not see any anxiety about reshuffling the deck. Hearing no
34 more comments, she asked for a motion.

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36 *Commission Edge moved to approve the Department's 2011-2013 Agency*
37 *Request Budget for submission to the Governor's Office by September 1, 2010.*
38 *Commissioner Klarquist seconded the motion. The motion passed unanimously.*
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40 Director Elicker thanked the Commission for their compliments. He commended Debbie
41 Colbert and her staff, Cameron Smith, Shirlene Gonzalez, the Executive Leadership
42 Team and Curt Melcher. He noted that Debbie had only been in the agency for six
43 months.

44
45 **ADJOURN**

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47 Chair Rae adjourned the meeting at 4:30 p.m.