

1 Power Administration's (BPA) wildlife mitigation responsibilities under the Northwest
2 Power Act of 1980. In return ODFW has agreed to lead a collaborative process to
3 develop criteria by which habitat acquisition proposals will be evaluated. BPA has also
4 agreed to increase its commitment to the existing Willamette Wildlife program.
5

6 Chair Rae said this settlement is profoundly important. She will speak a lot today on the
7 issues and consequences of the \$3.5 billion funding gap that the upcoming Legislative
8 session will have to deal with. What is our assurance that this money from the BPA will
9 go toward its intended purposes and not be subject to fund sweeps for other state
10 programs? Wheaton said the bulk of the money will never go through the state budgetary
11 process. They will be directed from the BPA to the various third parties.
12

13 Wheaton also reported on cougar issues in the Northwest Region over the past month.
14 Lastly, he reported on the Gold Lake Trout project to reduce the brook trout population.
15

16 Deputy Director Melcher said the increase in encounters with cougars has generated
17 interest by legislators. He expects it to be an issue in the upcoming session.
18

19 Information & Education

20 Roger Fuhrman, Administrator, discussed the purchase of 75 sets of training firearms
21 (not real) to be used in hunter education. Also, a Winter Steelhead Fishing Guide is
22 available on the department's Website for novice and experienced anglers.
23

24 Conservation Strategy

25 Art Martin, Interim Conservation Program Manager, gave an update on the Oregon
26 Conservation Strategy (OCS). He said due to budget constraints, staff changes and
27 vacancies, the Department has reprioritized efforts associated with the Oregon
28 Conservation Strategy. Staff is taking a three pronged approach: 1) update Nearshore
29 Strategy document and new chapter; 2) climate change revision; and 3) integrate aquatic
30 conservation priorities into the OCS.
31

32 Commissioner Levy said she believes this is the most important document that the state
33 has. It is a living document and the state needs to adopt it.
34

35 Marine Reserves Program

36 Gway Kirchner, Fishery Management, talked about the derelict gear program for gear
37 that has been lost at sea. Funds came from stimulus dollars. The second season was
38 more successful than the first. The ultimate goal is to have industry take over this project.
39

40 Chair Rae said she represented the Commission in attending the memorial service for
41 deceased employee Tami Wagner. Kirchner said staff raised \$2,600 in donations to go
42 toward the Casey Deckart Fund. Casey was in an automobile accident almost a year to
43 the day from Wagner's accident.
44

45 Oregon State Police, Fish and Wildlife Division

46 Captain Jeff Samuels introduced his new boss, Major Maureen Bedell. He also
47 introduced Lieutenant Dave Anderson, the new fisheries lieutenant. He discussed

1 Oregon State Police (OSP) efforts to curb mule deer poaching. He said ODFW and OSP
2 work well together, although they couldn't be as successful without tips from the public.
3 He gave an example of illegal salmon angling on Siltcoos Lake.
4

5 **Marine Reserves Program Update**

6 Ed Bowles, Fish Division Administrator, provided background on Executive Order 08-07
7 and said two pilot sites have been recommended for immediate designation: Otter Rock
8 and Pilot Rock. He gave specifics for the Cape Perpetua, Cascade Head and Cape
9 Falcon sites. Bowles said a meeting is scheduled with OPAC on December 6 and 7;
10 staff will report to interim legislative committees in mid-December. Bowles said Director
11 Elicker and he will brief the Governor on December 14, and staff will take the final
12 package to the Legislature in February to pursue funding package since they don't
13 anticipate receiving General Funds. Rulemaking will occur next winter if all goes well.
14

15 Chair Rae asked how do the Department and community teams define who is affected
16 socially and economically. Bowles said that is deferred primarily to the comfort within the
17 Community Team. A social effect doesn't have to affect a lot of people or have a huge
18 economic burden. Chair Rae asked about the distinction between economic side and
19 the social side. Is the economic side the fishers? Bowles said it's the fishers and the
20 effects of it on the communities. The Department has a socio-economic analyst and
21 economic experts working on this; OPAC has scientists who are also advising the
22 Department.
23

24 Chair Rae asked the Commission to use caution in making any changes to the plan
25 when it returns for rulemaking because of the delegate balance in negotiations and
26 compromises that has occurred.
27

28 **Cougar Management Plan Update**

29 Eric Rickerson, Wildlife Division Deputy Administrator, said the Cougar Management
30 Plan (updated in 2006) has one provision that requires ODFW to revise and update the
31 plan and bring it before the Commission by April 2011. He asked to remove the five-year
32 timeframe commitment; a self-imposed deadline (by staff). Deferring it would allow staff
33 time to incorporate information from their cougar target area implementation work, as
34 well as, conclusion of cougar research work on cougar predation impacts on deer and
35 elk that staff is doing with Oregon State University (OSU) and the Mt. Emily Wildlife
36 Management Unit. If the Commission is receptive, staff proposes to come back in
37 February or March with a Revised Rule related to the Cougar Plan.
38

39 Rickerson said another benefit to a five-year deferral would give staff time to utilize
40 existing staff resources to revise the Bear Plan. A Notice of Intent to Sue was received
41 from a group called Big Wildlife, because ODFW did not update the Bear Plan according
42 to what was in rule. It would be helpful if staff could focus on the Bear Plan before the
43 Cougar Plan adoption. Staff proposes to develop a public review process and timeline,
44 and bring a draft plan before the Commission by December 2011. This would allow staff
45 time to incorporate new biological information, conduct stakeholder work and a public
46 review process; such as, public opinion survey work to help frame policy discussions in

1 development of that plan. He said a group of responsive management has done this
2 type of work all over the country.

3
4 Chair Rae said she supported any of our Administrative Rules not having a self-imposed
5 deadline for action; different if it's a statutory directive, it's quite another if it is an
6 adoption at the request of staff. In the future this Department is going to look a lot
7 different because of the squeeze on resources. There will be different issues that the
8 career professionals need the latitude to work on; what is "hot" at the time and based on
9 adaptive management, predators, or anything else, rather than going back and reviewing
10 plans because we told ourselves we're going to review it every five years and revise it.

11
12 Chair Rae recessed the Commission at 9:33 a.m., and reconvened at 9:45 a.m.

13 14 **Greater Sage-Grouse Conservation Plan Process Update**

15 Chair Rae announced that she was making a non-precedent-setting action because of
16 the confusion that surrounded this (item) initially being on the agenda from the
17 Commission's last meeting as an "action item"; today it's under the "Director's Report".
18 Because of that and the distance that folks have come and those who have signed up for
19 Public Forum, in order to address the Sage Grouse Conservation Plan Update, she'll call
20 on those who have signed up to testify immediately following Rickerson's presentation so
21 there isn't a big gap. Chair Rae said she did not intend this to open up future Director's
22 Reports for public comment on every item.

23
24 Rickerson distributed a handout, *Status of Greater Sage-Grouse Conservation*
25 *Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and*
26 *Habitat*. He gave an update on the strategy planning process of the revision and talked
27 about key 2010 dates and meetings leading up to his report today.

- 28 • September 30 Commission meeting. Interested stakeholders testified they have
29 additional information for ODFW to consider. Based on those discussions and the
30 established time for December 3 adoption, staff recommended deferring plan
31 adoption to a later date, and after meeting with stakeholders in order to review
32 additional information.
- 33 • October 28. Oregon Sage-Grouse and Sagebrush Habitat Conservation Planning
34 Team and stakeholder meeting to receive data to consider in the plan and map
35 refinement. No data received; stakeholders asked to provide by November 24.
- 36 • October 29. Staff conference call with Judge Grasty, AOC and USFWS state
37 office staff around what constituted the lack of regulatory mechanisms.
- 38 • November 9. Director Elicker, on behalf of Governor's Office, co-hosts Renewable
39 Energy and Eastern Oregon Landscape Conservation Symposium. Three themes
40 emerge: 1) expand partnership to fully include all of the affected users; 2) develop
41 mitigation framework or strategy; and 3) continue collaborative efforts.
- 42 • November 24 deadline. Staff receives biological data from Horizon Wind, and a
43 list of GIS layers from AOC. After review, staff doesn't feel data would challenge
44 the scope or the biological framework of the plan.

45
46 Rickerson discussed staff's proposed next steps:

- 47 1. Adopt into rule:

- 1 • Population objectives;
 - 2 • Habitat and management objectives;
 - 3 • Criteria or methods for defining sage-grouse Core areas
 - 4 • Recommended conservation guidelines are referenced in Rule.
- 5
- 6 2. Proposed schedule for Plan adoption:
 - 7 • January 3, 2011. Release draft for public review.
 - 8 • Informational briefing on new draft plan at Commission's February meeting.
 - 9 • Staff proposes plan adoption at March 2011 Commission meeting; consistent with
 - 10 the September 13 timeframe that AOC sent to staff; prior to the September 30
 - 11 Commission meeting in which they asked that additional data be reviewed, and an
 - 12 adoption date be deferred to early 2011.
 - 13
 - 14 3. Revision of core area maps as a separate process (but parallel to Plan adoption)
 - 15 using Local Implementation Teams. He noted that Core Area maps would not be
 - 16 adopted into rule to allow modification as new information becomes available. He
 - 17 discussed six draft criteria staff proposes to use; used by State of Wyoming.
 - 18
 - 19 4. Ask AOC representative to sit on statewide Technical Team, and invite a
 - 20 representative from each affected county to sit on Local Implementation Teams.
 - 21

22 **Public Testimony:**

<p>Judge Steve Grasty Harney County, OR</p>	<p>Judge Steve Grasty of Harney County distributed written testimony and a handout <i>Types of County Data (availability varies by county)</i>. He also submitted a CD and several maps, which he explained. He said we have all focused on having a result that prevents a listing of Sage Grouse. This is the correct direction for the state. He demonstrated how county data might be incorporated into the strategy.</p>
<p>Matt Little</p>	<p>Matt Little, Conservation Director for Oregon Natural Desert Association, submitted written testimony in support of the strong science and methods used by ODFW to come up with the Sage Grouse Plan. They support immediate adoption of the plan. He expressed concerns about whether the core areas and conservation guidelines are protecting enough of the sage grouse habitat. In response to Commissioner Kerns, Little said the compromises must be scientific, and not political. He encouraged flexibility with the mapping, but also consistency in types of development allowed.</p>

- 23
- 24 Chair Rae summarized Rickerson's two issues:
- 25 1) Core area refinement with Local Implementation Teams as separate. Do we want
 - 26 the maps themselves in Administrative Rules?
 - 27 2) Is the proposed schedule for plan adoption in March satisfactory?

1
2 Commissioner Edge asked Counsel to explain the issue of removing electives from
3 rulemaking.
4

5 Counselor Bill Cook said depending upon the particular plan and the level of controversy,
6 we make recommendations as to how much you put in or keep out. Sometimes we
7 recommend that you only put in Rule, things such as policy statements or objectives.
8 Other times, such as the Wolf Plan, our recommendation was to put the entire thing in
9 Rule. Sometimes it's a strategic matter. If you expect legal challenges where someone's
10 going to say you have to put that into Rule and therefore we're going to sue you over
11 that, it can be wise to go ahead and just err on the side of inclusion and put it in. Our
12 advice so far has been that the Core Area Strategy and the Conservation Guidelines, at
13 least, ought to go into Rule, because we've already gotten some shots across the bow
14 from certain groups that it had better be in Rule. As to the maps, that's in the gray area.
15 If you wanted to be very conservative as a legal matter to defend yourselves against any
16 possible challenge, you could go ahead and put them in. Counselor Cook noted he
17 hadn't looked at that issue in detail.
18

19 Chair Rae said we have other statutes and management plans that talk about
20 conservation matters and mitigation, in terms of guidelines, that don't set out actual
21 mitigation measures. The advice we received related to that from the career
22 professionals in the past is it doesn't help us much with Adaptive Management if you drill
23 down that far in an administrative rule. So I have examples of mitigation definitions;
24 they're not mitigation measures, precisely. Do this; move this, avoid this, do good and
25 avoid evil. Is that where you wanted to go?
26

27 Commissioner Edge said yes. He referred to staff's conference call with the U.S. Fish
28 and Wildlife Service and asked what their read is now. Rickerson said State Supervisor
29 Paul Henson asked Judge Grasty and AOC members would the counties be willing to
30 formally adopt those advisory siting guidelines that AOC put together. From a services
31 standpoint, that gives them a level of assurance that the counties will follow those.
32

33 Commissioner Edge said BLM was notably absent at the presentation at their last
34 meeting. What has BLM done since then? Rickerson said Secretary of Interior Salazar
35 made an announcement about the layout of the Core Approach on a national scale for
36 BLM, and stated it was a well-grounded, scientific approach designed to provide enough
37 conservation measures and identify where those critical habitats were so they could
38 sustain sage grouse and preclude a listing. The state BLM folks have started developing
39 stipulations and how they would go forward with allowing development of any kind to
40 occur within those sage grouse habitats or the lands that they manage.
41

42 Chair Rae said that with the Sage Grouse Plan it's not just wind energy that is
43 implicated. She asked the Commission if they were comfortable with the core area and
44 maps being parallel but outside the Administrative Rule process, and with targeting
45 March 2011 as the next action date. The Commission unanimously agreed.
46

47 **Oregon Goose Control Task Force Update**

1 Eric Rickerson distributed a handout *Goose Depredation Task Force – SB 622, Final*
2 *Recommendations*. He talked about key issues, and the Goose Control Task Force’s 14
3 recommendations and actions taken (see pages 2-5).

4
5 Chair Rae said when Senator Johnson and Representative Schaufler were before the
6 Commission as the two legislative representatives on the Task Force, they
7 acknowledged the difficulty with one of our recommendations, which is that state
8 legislation should be drafted that would compensate landowners for damage. Many of us
9 mentioned and acknowledged it at the time that the timing for such a request could not
10 be worse. In the upcoming Legislative session, I doubt that this recommendation will be
11 given any traction, given the competing issues that will be going on for precious state
12 resources. She said while the federal government isn’t necessarily in any better shape
13 they might have different kinds of resources available that the Department, instead of
14 seeking state funds, should focus on securing because this is a co-management issue,
15 it’s not related solely to state issues. Moreover, it does begin us down a very slippery
16 slope about compensation to landowners with damages generally.

17 **Expenditure Report**

18 Debbie Colbert, Deputy Director for Administration, referred to the *ODFW Monthly*
19 *Report for 2009-11 Biennium as of October 31, 2010*. She said Department-wide, we are
20 within budgeted revenues and expenditures. This week was the release of the state
21 economist’s December revenue forecast. It was short-term good news, so we do not
22 expect further General Fund reductions. She briefed the Commission on the status of the
23 agency’s 2011-2013 budget development process, and said the Governor’s Reset
24 Cabinet released its latest shortfalls estimate at \$3.5 billion. Latest recommendations in
25 the 47-page report would get us two-thirds of the way toward addressing that shortfall.

26
27
28 Commissioner Edge said there were a number of E-Board adjustments, and he wanted
29 to be clear that current expenditures include those reductions. Colbert said yes it does.

30
31 Commissioner Edge noted the issue of fleet reduction. Chair Rae said speaking of
32 fleets, since the Commission last met, the Secretary of State’s Office released an audit
33 of the State Marine Board (MB). It caught her attention because ODFW shares
34 responsibility with the Marine Board on the relatively new Invasive Species fees. The
35 audit was perfectly awful for the MB, because of very lax standards of contracting and
36 expenditure authorization.

37
38 Chair Rae said that Deputy Director Colbert had reviewed that audit. She asked for
39 assurance to the Commission and for the public that nobody could get away with that
40 kind of laxness in public funds and public trusts within ODFW.

41
42 Deputy Director Colbert said she reviewed that report along with other ODFW staff. The
43 number one recommendation of the audit was that MB needed to have a higher level of
44 fiscal integrity across the board internally. She discussed the emphasis that ODFW puts
45 on fiscal integrity – one of five core principles for ODFW. For instance:

- 46 • About 4,000 travel claims are processed every year; each one is signed by the
47 supervisor and reviewed by accounting staff for compliance with state rules.

- 1 • ODFW uses a statewide credit card - the "SPOTS" card (also mentioned in the
2 MB audit). For ODFW, the monthly charge logs are reviewed and signed by
3 supervisors; then two different systems of accounting checks review every log.
4

5 Chair Rae asked, for assurance on the agency's contracting process, what do we do.
6

7 Deputy Director Colbert said the agency has a very vigorous contracting process, and
8 uses the Oregon Department of Justice in how to manage contracts within ODFW. Staff
9 will roll out a new contract management tool after the first of the year. The Director's
10 Office recently brought in Bill Herber who is working on a number of fiscal management
11 tools that will make every contract within ODFW more transparent for internal tracking.
12 The data will be better for managing contracts and how they are processed internally.
13

14 Chair Rae asked how often the Department of Fish and Wildlife gets audited.
15

16 Deputy Director Colbert said ODFW is subject to several different audits. For instance:
17

- 18 • Secretary of State biennial audit along with other Measure 66 State Agency
19 recipients, are audited for that purpose.
- 20 • Annual statewide audits – total expenditures and revenues.
- 21 • U.S. Department of Interior audit every five years because of the funding that we
22 get through the federal government.
- 23 • Two change of Director audits in the last 10 years.
- 24 • A number of other audits.

25 Chair Rae said okay, good for the Department. Thank you very much.
26

27 **Adopt Temporary Rules**

28 Deputy Director Melcher asked the Commission to adopt the 19 temporary rules on page
29 1 through the upper part of page 5 of the agenda.
30

31 **1. 635-054-0005**

32 **Oregon Game Bird Regulations**

33 Adopted: September 13, 2010; effective September 13, 2010 through March 2, 2011

34 This rule will change the open season for goose hunting dates for the Kirk Park and Fern
35 Ridge Dam Unit. Not implementing this temporary rule would reduce hunting
36 opportunities for goose hunters. Failure to amend the rule before the hunt ends would
37 result in serious prejudice to the hunters participating in this opportunity to hunt geese,
38 because without an expansion the hunt area would be closed.
39

40 **2. 635-045-0000 and 635-060-0000**

41 **Oregon Game Bird and Big Game Regulations**

42 Adopted: October 4, 2010; effective October 4, 2010 through December 31, 2010

43 Due to an error in filing, an unintended date change has occurred. The timeframe does
44 not allow us to follow the regular permanent rule making process because the 2010 hunt
45 seasons have already begun. Not adopting this temporary rule and going through the
46 regular rule making process would result in serious prejudice to the hunters by

1 referencing the need to abide by regulations of a publication that does not yet exist. This
2 amendment would avoid the prejudice by correcting the date referenced.

3
4 **3. 635-004-0019**

5 **Inseason Actions for Commercial Groundfish Fisheries Implemented by the**
6 **Federal Government on October 4, 2010**

7 Adopted October 4, 2010; effective October 4, 2010 through December 31, 2010.
8 Amended rule adopts in-season actions implemented by the federal government for
9 Pacific ocean commercial groundfish fisheries, including changes to cumulative trip limits
10 for the limited entry non-whiting trawl fishery.

11
12 **4. 635-042-0060**

13 **Fall Commercial Drift Gill Net Seasons Set for October In the Columbia River**
14 **Mainstem**

15 Adopted October 4, 2010; effective October 5, 2010 through November 30, 2010.
16 Amended rule implements three fall non-Indian commercial salmon drift gill net fishing
17 periods in Columbia River zones 1 through 5 using 8 inch minimum and 9.75 inch
18 maximum mesh sizes. The fishing periods adopted are: 7:00 p.m. Tuesday, October 5
19 to 7:00 a.m. Wednesday, October 6, 2010 (12 hours); 7:00 p.m. Thursday, October 7 to
20 7:00 a.m. Friday, October 8, 2010 (12 hours); and 7:00 p.m. Sunday, October 10 to
21 7:00 a.m. Monday, October 11, 2010 (12 hours). Amendments also implement a 12-
22 hour non-Indian commercial drift gill net fishing period in zones 1 through 3 from
23 6:00 a.m. through 6:00 p.m. on Tuesday, October 12, 2010.

24
25 **5. 635-005-0020**

26 **Tillamook Bay Commercial Cockle Clam Dive Fishery Closure**

27 Adopted October 6, 2010; effective October 7, 2010 through December 31, 2010.
28 Amended rule closes the commercial Tillamook Bay clam dive fishery for cockle clams at
29 12:01 a.m. Thursday October 7, 2010 due to attainment of the 90,000 pound annual
30 harvest quota, under bay clam dive permits. Modifications are consistent with
31 requirements of OAR 635-005-0032 sections (2) and (3).

32
33 **6. 635-041-0075**

34 **Treaty Indian Fall Commercial Gill Net Fishery Authorized In Columbia River**
35 **Above Bonneville Dam**

36 Adopted October 8, 2010; effective October 9, 2010 through October 31, 2010.
37 Amended rule allows the commercial sales of fish caught during the Treaty Indian fall
38 commercial gill net fishery in the Columbia River above Bonneville Dam (Zone 6). Rule
39 modifications authorize a new 2.5 day fishery which begins at 6:00 a.m. Monday,
40 October 11 and runs through 6:00 p.m. Wednesday, October 13, 2010. Amendments
41 also restrict sales of platform and hook-and-line caught fish to those harvested prior to
42 6:00 p.m. Sunday, October 17, 2010. Modifications are consistent with action taken
43 October 8, 2010 by the Columbia River Compact agencies of Oregon and Washington in
44 concert with the Columbia River Treaty Tribes.

1 **7. 635-016-0090**

2 **Closure of the Non fin-clipped Coho Fishery In the Coquille River and Bay**

3 Adopted October 7, 2010; effective October 10, 2010 through December 31, 2010.
4 Amended rule closes the Coquille River and Bay non fin-clipped coho fishery which
5 opened on September 1 due to the expected attainment of the 1,200 non fin-clipped
6 adult coho allocation.
7

8 **8. 635-042-0060**

9 **Additional Fall Commercial Drift Gill Net Fishing Periods Set for the Columbia**
10 **River**

11 Adopted October 13, 2010; effective October 14, 2010 through November 30, 2010.
12 Amended rule implements one fall non-Indian commercial salmon drift gill net fishing
13 period in Columbia River zones 1 through 3 using 6 inch maximum mesh size.
14 Amendments adopted also implement two fall non-Indian commercial salmon drift gill net
15 fishing periods in Columbia River zones 4 through 5 using an 8 inch minimum mesh size.
16

17 **9. 635-023-0130**

18 **Columbia River Recreational Chinook Fishery Opens From Buoy 10 Upstream to**
19 **Bonneville Dam**

20 Adopted October 13, 2010; effective October 15, 2010 through December 31, 2010.
21 Amended rule allows the retention of adult Chinook salmon in the Columbia River
22 mainstem recreational fishery in the area from Buoy 10 upstream to Bonneville Dam until
23 further notice. Modifications make the combined bag limit for adult Chinook salmon,
24 adipose fin-clipped steelhead, and adipose fin-clipped coho two fish per day.
25

26 **10. 635-003-0085**

27 **Commercial Chetco River Terminal Area Chinook Salmon Fishery Closes**

28 Adopted October 14, 2010; effective October 15, 2010 through October 31, 2010.
29 Amended rule closes the commercial Chetco River terminal area Chinook salmon fishery
30 effective 11:59 p.m. October 15, 2010 due to the anticipated attainment of the allocation
31 for this valuable resource.
32

33 **11. 635-004-0033**

34 **Changes to Cumulative Trip Limits for Black and Blue Rockfish, Cabezon and**
35 **Greenling Species**

36 Adopted October 15, 2010; effective October 15, 2010 through December 31, 2010.
37 Amended rule increases the cumulative trip limits for black rockfish and blue rockfish
38 combined by 200 pounds in period 4 and 400 pounds in periods 5 and 6; for cabezon by
39 100 pounds in periods 5 and 6; and for greenling species by 50 pounds in period 4 and
40 by 100 pounds in periods 5 and 6.
41

42 **12. 635-041-0075**

43 **Treaty Indian Fall Commercial Gill Net and Hook-and-line Fisheries Authorized In**
44 **Columbia River**

45 Adopted October 18, 2010; effective October 19, 2010 through October 31, 2010.
46 Amended rule allows the commercial sales of fish caught during the Treaty Indian fall
47 commercial gill net fishery in the Columbia River above Bonneville Dam (Zone 6). Rule

1 modifications authorize a new 3.5 day fishery which begins at 6:00 a.m. Tuesday,
2 October 19 and runs through 6:00 p.m. Friday, October 22, 2010. Amendments also
3 restrict sales of platform and hook-and-line caught fish to those harvested prior to 6:00
4 p.m. Friday, October 22, 2010. Modifications are consistent with action taken
5 October 18, 2010 by the Columbia River Compact agencies of Oregon and Washington
6 in concert with the Columbia River Treaty Tribes.

7
8 **13. 635-042-0060**

9 **Additional Fall Commercial Drift Gill Net Fishing Periods Authorized for the**
10 **Columbia River**

11 Adopted October 18, 2010; effective October 19, 2010 through November 30, 2010.
12 Amended rule implements one fall non-Indian commercial salmon drift gill net fishing
13 period in Columbia River zones 1 through 3 using nets with no minimum mesh size
14 restriction. Amendments adopted also implement two fall non-Indian commercial salmon
15 drift gill net fishing periods in Columbia River zones 4 through 5 using an 8 inch minimum
16 mesh size.

17
18 **14. 635-003-0085**

19 **Commercial Chetco River Terminal Area Chinook Salmon Fishery Reopens**

20 Adopted October 18, 2010; effective October 20, 2010 through October 31, 2010.
21 Amended rule to reopen the commercial Chetco River terminal area Chinook salmon fishery
22 effective 12:01 a.m. October 20, 2010 with a landing and possession limit of 10 Chinook per
23 vessel due to remaining quota from the preseason allocation for this valuable resource.

24
25 **15. 635-016-0090**

26 **Modifications to Southwest Zone Sport Chinook Salmon Regulations for the**
27 **Chetco River**

28 Adopted October 26, 2010; effective October 30, 2010 through December 31, 2010.
29 Amended rule opens a sport Chinook salmon season in the Chetco River that had been
30 temporarily closed to protect Chinook stacked up at the head-of-tide due to early season
31 low flows. These modifications allow opportunity for harvest of both naturally and
32 hatchery produced fall Chinook in the Chetco River mainstem.

33
34 **16. 635-003-0085**

35 **Elk River Commercial Terminal Area Chinook Salmon Fishery Closes**

36 Adopted October 28, 2010; effective October 29, 2010 through October 31, 2010.
37 Amended rule closes the commercial Elk River terminal area Chinook salmon fishery
38 effective 11:59 p.m. October 29, 2010 due to the anticipated attainment of the allocation for
39 this valuable resource.

40
41 **17. 635-017-0095**

42 **Recreational Sturgeon Fisheries in the Willamette River Below the Falls Close**

43 Adopted November 8, 2010; effective November 8, 2010 through December 31, 2010.
44 Amended rule closes the recreational white sturgeon fishery in the Willamette River
45 below the Falls, including Multnomah Channel and the Gilbert River. Due to increased
46 angler effort, the pre-season allocation for this valuable resource is projected to have
47 been met.

1
2 **18. 635-006-1075**

3 **Prior Year 5,000 Pound Landing Requirement Temporarily Removed from Brine**
4 **Shrimp Permit Renewal Rule**

5 Adopted November 22, 2010; effective November 23, 2010 through May 21, 2011.

6 Amended rule allows the renewal of Brine Shrimp permits without the previously required
7 5,000 pound landing from the previous year. Due to low water in Lake Abert, in 2010,
8 harvesters were unable to use their boats and harvest enough Brine Shrimp to satisfy
9 the 5,000 pounds in landings required for permit renewal.

10
11 **19. 635-042-0130**

12 **Commercial Smelt Seasons Are Rescinded for the Columbia River**

13 Adopted November 23, 2010; effective December 1, 2010 through March 31, 2011.

14 Amended rule rescinds the commercial smelt fishing season in the Columbia River that
15 was scheduled by permanent rule to start December 1, 2010 and continue until
16 March 31, 2011. These modifications are consistent with the action taken November 23,
17 2010 by the Columbia River Compact agencies of Oregon and Washington.

18
19 *Action: Commissioner Edge moved to approve the administrative temporary rules.*
20 *Commissioner Levy seconded the motion, and the motion carried unanimously.*

21
22 **PUBLIC FORUM**

Ms. Leslie Like Hillsboro, OR	Ms. Leslie Like, Secretary of Willamette Weimaraner Club and Northwest Pointing Dog Association, distributed written testimony. She said a statute, 498.052, was written 37 years ago and has never been reinforced. This year ODFW wrote rules with almost no public input. She said none of the people writing the new rules has any idea of the impact on the users. She urged the Commission to form an advisory committee and include dog trainers, bird propagators, falconers, houndsmen, etc., in the process.
David Illias Sauvie Island, OR	David Illias, hunter, dog trainer distributed written testimony. He recommended that ODFW and the Commission consider the following: <ol style="list-style-type: none">1) Establish an advisory committee to provide input into development of the Subject Rules; and2) Remove the approval of the draft rules from the Commission meeting agenda on Feb. 4, 2011. Chair Rae asked if Dave had a sense of how many dog trainers live in Oregon. Illias said there are probably thousands. Chair Rae said there is no way for ODFW to find these trainers; she asked for Illias' help in contacting them.
Phil Sperr Sauvie Island, OR	Phil Sperr, a dog trainer and resident of Sauvie Island, distributed written testimony. He said the current dog training

	<p>rules have worked for 50 years, and he sees no reason to change them. He asked if these changes are so good, why the dog trainers are so upset. He requested that the presentation of new ODFW training rules for dogs be postponed from the February 2011 meeting until the users can be at the table while ODFW is casting rules.</p>
<p>Ann Rauth</p>	<p>Ann Rauth, Secretary of Oregon Retriever Trial Club, testified in support of the remarks of the previous three people. She said dogs are a conservation resource in and of themselves. They help retrieve game, and they save game. Training of them is an important part of hunting. She commented that there has been no stakeholder involvement in the plan, and she would like to see this changed.</p>

1
2 Commissioner Englund asked Sperr if he testified that the rules are fine as written. Sperr
3 clarified, we have no problem with the way they are interpreted right now. Commissioner
4 Englund asked how they would foresee helping put together an advisory group. Sperr
5 said they just want to be able to come to the table. Much of what could be done in an
6 advisory group the stakeholders could do themselves.

7
8 Chair Rae asked Rickerson to clarify what the Department is doing and why.

9
10 Rickerson said today there are individuals releasing and shooting game birds without a
11 permit from ODFW, and outside the season. A number of illegal activities are occurring,
12 so staff is crafting rules to address these issues. We are also concerned about year-
13 round hunting. We want to bring folks into compliance, and not penalize them. He said in
14 six of the seven public meetings held so far, about 130 people attended.

15
16 Commissioner Edge asked what outreach mechanism has there been in reaching folks.
17 Rickerson said staff has a list of organizations and trainers they contacted. Based on
18 their comments, staff drafted the new draft rules and also sent draft rules to other lists of
19 people for comment.

20
21 Commissioner Klarquist was concerned about adopting the new rules without any more
22 input. Rickerson said there were comments disagreeing with the rules. We certainly
23 need to look at an expanded process. It will ultimately be the Director's decision.

24
25 Chair Rae said it's clear that there needs to be some greater understanding of the
26 reasons that the Department is taking this on. We have three different statutes. Folks
27 are talking about one in particular without taking into account the other two that you're
28 trying to juggle and make certain everybody understands what the rules are so they're
29 not unwilling violators.

30
31 Chair Rae said to staff, as you continue with the public process, you got a sense of the
32 Commission's concerns today; and because the Director is not here, we'll let this

1 process continue. The Wildlife Division has yet to make a recommendation to the
2 Director's Office about whether it's an expanded process. Staff also has a sense of the
3 greater number of interested user groups, not just the dog trainers, based on the
4 comments you got so far; relying on the user groups themselves to get the word out to
5 the broad world, encouraging them to take advantage of that. We can only do with what
6 we know is out there.

7
8 Chair Rae said to the user groups that it's not just the public meetings that afford people
9 an opportunity to comment and to be involved. They can submit comments directly to the
10 Department that gets in the record and gets considered. Those comments that we've
11 already received to date are public record, and available to the user groups so they can
12 see what others who may be in agreement; where you have disagreements.

13
14 Deputy Director Melcher said it's clear that if the Wildlife Division feels they need to
15 delay, they'll make that recommendation and we will take that very seriously; this is not a
16 simple issue. One thing not discussed yet is that a number of individuals and/or trainers
17 are operating outside the law right now; maybe because they don't know what the
18 current rules are. But the difficulty is going to come down to a long continuum between a
19 hunting preserve and training and hunting. How you define dog training has a bearing on
20 some hunting preserve folks and/or we know in other states there are de facto hunting
21 preserves that occur on public land because there is no limit on – with all respect to
22 legitimate dog trainers – to dog training.

23
24 Commissioner Edge said there are significant biological issues associated with this; the
25 disease issue that we talked about. These species are almost invariably non-native
26 species that are being released. From a biological standpoint, that would be a concern.
27 We need to think about it carefully.

28 29 **Exhibit A: COMMISSION MINUTES**

30 Chair Rae asked the Commission for any edits to the September 2, 2010 Commission
31 minutes. She said the September 30 and October 1, 2010 draft Commission minutes
32 were deferred to the January 7, 2011 Commission meeting.

33
34 *Action: Commissioner Kerns moved to adopt the September 2, 2010 Commission*
35 *minutes as submitted. Commissioner Webber seconded the motion, and the*
36 *motion carried unanimously.*

37 38 **Exhibit B: 2011 GROUND FISH AND SMELT FISHERIES REGULATIONS; 2009** 39 **NEARSHORE LOGBOOK REPORT**

40 Gway Kirchner, Marine Fisheries Section Manager, gave a slide presentation of the 2009
41 Commercial Nearshore Logbook. She said the number of permits was down by one from
42 the prior year. Logbook compliance was 74%. Citations have been issued and
43 compliance for 2010 could reach 90%. There are no proposed changes. Kirchner said
44 not included in this year's presentation is adopting regulations concurrent with those
45 adopted federally. We expect them sometime before April 29, 2011. The regs that were
46 in place January 1, 2010 will roll over to January 1, 2011. Also not included is the

1 commercial nearshore regulations; no changes are proposed. Nor will she discuss the
2 2011 sport groundfish regs with one exception. She discussed:

- 3 • Commercial Groundfish Regulations;
- 4 • Recreational Groundfish Regulations Cabezon 2011; and
- 5 • Recreational Groundfish Regulations Housekeeping; remove carnary and yellow
6 harvest.

7
8 **Public Testimony:** There was no public testimony.

9
10 Commissioner Edge asked why the federal regulations are delayed. Kirchner said earlier
11 this year federal courts reviewed the harvest allowances set for 2009-2010 for over-
12 fished species and said the yellow eye allowances were not set legally. They reduced
13 the annual catch from 17 metric tons to 14 metric tons. We reset it at the higher amount,
14 and now we have to provide justification.

15
16 *Action: Commissioner Webber moved to adopt the recommended 2011*
17 *commercial groundfish, sport groundfish, and commercial smelt regulations as*
18 *proposed by staff in Attachment 4. Commissioner Edge seconded the motion, and*
19 *the motion passed unanimously.*

20
21 **Exhibit C: BYCATCH REDUCTION DEVICES FOR PINK SHRIMP FISHERY**

22
23 ***Commissioner Jon Englund declared a potential conflict of interest, as we do***
24 ***business with the shrimp industry.***

25
26 Chair Rae acknowledged Commissioner's Englund's potential conflict of interest and
27 said it did not prevent him from participating in discussion or voting on the issue.

28
29 Troy Buell, State Fisheries Management Program Leader, introduced Bob Hannah, Pink
30 Shrimp Project Leader. They gave a slide presentation on Changes to Regulations
31 Governing Bycatch Reduction Devices (BRDs) in the Pink Shrimp Trawl Fishery.

- 32 • The issue before the Commission is the reduction of eulachon bycatch in the pink
33 shrimp fishery. Current rules do not minimize bycatch of eulachon. Quote from the
34 ESA listing document: "Future declines in abundance are likely to occur as a
35 result of climate change and continued bycatch in the shrimp fishery."
- 36 • BRDs have greatly reduced bycatch in Oregon shrimp trawls. However, the
37 standards for bycatch reduction for an ESA "threatened" species are going to be
38 very high.
- 39 • Schematics of typical BRDs.
- 40 • BRD use has shifted to more efficient designs. But BRDS currently don't minimize
41 bycatch.

42
43 Buell said the proposed rule is to completely disallow most of the soft-paneled BRDs.
44 The proposal has support of the pink fishery. Staff recommends adoption of Option 1.

45
46 **Public Testimony:**

Jeff Boardman	Jeff Boardman, owner of Fishing Vessel Miss Yvonne,
---------------	---

Newport, OR	Option 1 but it could go further. He supports pushing through a ¾-inch grate in 2011. There is no reason to wait. He has done “excluder” work (of adult fish) in the past. We want to be proactive, and the ¾ grade is definitely the future of the industry. There is no way to tell the impact on smelt, but we can exclude the adults, which is important for spawning. He suggested a reciprocal rule for a tri-state agreement.
-------------	--

1
2 Commissioner Englund asked if the 2011 change date is supported by the Trawler
3 Commission or is that your suggestion. Boardman said it was his suggestion. The
4 biggest threat to the shrimp fishery will be the smelt. The sooner we start excluding them
5 the better the shrimp fishery will be.

6
7 Chair Rae said the Economic Impact Statement prefers change sooner rather than later.
8 We could encourage folks to change sooner, but not require it.

9
10 Commissioner Englund said he hopes everyone understands how lucky they are to have
11 people like Bob Hannah involved in the pink shrimp industry.

12
13 Chair Rae asked, what is the answer to the issue of reciprocity in the tri-state agreement.
14 Hannah responded, he will contact Washington and California after the Commission
15 takes action today. California has some particular problems with enacting BRD rules.
16 Chair Rae asked the Commission if they are interested in encouraging Hannah to pursue
17 tri-state reciprocity. (All nodded “yes”.) She said to Hannah, you are so directed.

18
19 *Action: Commissioner Edge moved to adopt the recommended changes to rules*
20 *governing bycatch reduction devices in the pink shrimp trawl fishery as proposed*
21 *by staff in Attachment 4. Commissioner Levy seconded the motion, and the*
22 *motion carried unanimously.*

23
24 The Commission recessed for a lunch break at 12:05 p.m., and reconvened at 1:02 p.m.

25
26 **Exhibit D: SURPLUS EGGS AND FISH IN ODFW HATCHERY PROGRAMS**

27 John Thorpe, Assistant Fish Propagation Program Manager, presented a proposal for
28 rule changes to allow the Fish Hatchery Management Policy to minimize surplus eggs
29 and fish (see paper copy of PowerPoint slide show.) He reported that:

- 30
- 31 • The disposition of egg, fry, sub-yearling and smolt surplus to production goals has raised public concern.
 - 32 • The objective is to adopt rules which formalize existing policy.
 - 33 • Repealed Rules: Fish hatchery management Policy will address this subject
 - 34 matter: 635-007-0825 (When salmon eggs are surplus); and 635-007-0830
 - 35 (General priority for use of salmon eggs and fingerlings).

36
37 Thorpe said staff recommends Option 1 – Amend and adopt OAR 635-007-545 as
38 proposed by staff in Attachment 4.

1
2 **Public Testimony:** There was no public testimony.

3
4 Chair Rae said in Attachment 4 on page 5, third line down, where sentence ends
5 “consistent with direction *on* “. Note for you records that should be “consistent with
6 direction *in*”. She asked for a motion.

7
8 *Action: Commissioner Edge moved to amend and adopt OAR 635-007-0545 as*
9 *proposed by staff in Attachment 4 including the above change. Commissioner*
10 *Webber seconded the motion, and the motion carried unanimously.*

11
12 **Exhibit E: RESTORATION AND ENHANCEMENT PROGRAM PROJECT**
13 **APPROVALS**

14
15 ***Commissioner Edge declared a potential conflict of interest, in the event that***
16 ***some of the resources delegated today might potentially be used by OSU faculty***
17 ***or students.***

18
19 Kevin Herkamp, Acting Restoration and Enhancement (R&E) Program Coordinator,
20 introduced Josie Thompson, the new acting R&E coordinator for the next four months on
21 job rotation. During a slide show presentation, Herkamp presented 18 projects that were
22 reviewed and recommended for funding by the R&E Board during their November 5
23 meeting. He drew Commissioners’ attention to Revised Attachment 3 and said total
24 funding is actually \$463,393.

25
26 **Public Testimony:** There was no public testimony.

27
28 *Action: Commissioner Edge moved to approve the recommendations of the Fish*
29 *Restoration and Enhancement Board as presented in staff’s presentations.*
30 *Commissioner Levy seconded the motion, and the motion carried unanimously.*

31
32 **Exhibit F: RESTORATION AND ENHANCEMENT BOARD MEMBER APPROVALS**

33 Chair Rae said there are two vacancies for consideration. The two recommended
34 applicants are incumbents seeking reappointment – Lonnie Johnson and Gary
35 Soderstrom. She encouraged a third applicant, Michael Culver, to continue his
36 involvement in the R&E process.

37
38 Commissioner Webber said he was very impressed with Mr. Johnson and the other
39 board members. Commissioner Edge agreed. Lonnie Johnson talked about his terrific
40 experience with the R&E Board the past 4 years.

41
42 *Action: Commissioner Webber moved to appoint Gary Soderstrom to a four year*
43 *term as a Gillnetting representative on the Fish Restoration and Enhancement*
44 *Board. Commissioner Levy seconded the motion and the motion carried*
45 *unanimously.*

1 *Action: Commissioner Webber moved to appoint Lonnie Johnson to a four year*
2 *term as a Sport Fishing representative on the Fish Restoration and Enhancement*
3 *Board. Commissioner Levy seconded the motion, and the motion carried*
4 *unanimously.*
5

6 **Exhibit G: UPPER WILLAMETTE RIVER CONSERVATION AND RECOVERY PLAN**
7 **REVIEW**
8

9 Chair Rae acknowledged the Commission's great admiration and affection for Susanne
10 Knapp, as the representative for the Governor's Natural Resources Office, and now his
11 Chief Policy Advisor; post Mike Carrier. She said, Sue, you have been a remarkable
12 partner with us, whether it was the Conservation Strategy, Marine Reserves, this plan or
13 the Columbia River. You have worked admirably and unselfishly with our staff, and we
14 are grateful. We wish you well and hope you land where you want to land. And we
15 dramatically appreciate your service. So thank you very much.
16

17 David Jepsen, Conservation Plan and Implementation Specialist, introduced Knapp, Rob
18 Walton, and Gail Achterman, who will overview the plan and process. See Agenda Item
19 Summary, Attachment 1.
20

21 Suzanne Knapp thanked the Chair and the Commission for their comments. She said
22 this Plan is being presented as a conservation plan under the Native Fish Conservation
23 Policy; and as a recovery plan under the Federal Endangered Species Act. She thanked
24 all of the people who helped during this process.
25

26 Jepsen said a basic element of the plan is biological species recovery. It assesses the
27 current and desired status of these populations. It assesses limiting factors and threats.
28 It has strategies to address those key and secondary limiting factors. It has a strong R&E
29 component, and an action implementation plan. He talked about two goals: 1) to delist
30 from endangered species; 2) to provide benefits, both economic and cultural.
31

32 Rob Walton, NOAA Fisheries, discussed their partnership with the Governor's Office and
33 the state in developing this plan for the Willamette, as we have also on the Columbia and
34 Lower Columbia. We will maintain this partnership through to the final plan and
35 implementation. There will be difficult issues and many challenges in the Willamette, but
36 we're committed to working with the state and local R&E Board interests. We certainly
37 appreciate the leadership of the state, and Gail and others in helping get us this far.
38

39 Gail Achterman, Chair of Stakeholders Group, commended the work of Bill Blosser who
40 facilitated the stakeholder teams and meetings. There were 31 stakeholders, who gave
41 feedback to ODFW staff on the scenarios and action strategies. Members unanimously
42 agreed that the project is ready for public comment. They met with AOC, city and county
43 officials, and legislators. She discussed: 1) the concern citizens have about making sure
44 the fish they are trying to protect are not eaten by other animals, making it impossible to
45 recover; and 2) the heavy lift that it will take to implement this plan.
46

47 **Public Testimony:** There was no public testimony.

1
2 Commissioner Levy read from the plan: “For this conservation recovery plan to be
3 successful, management agencies and other entities will not only implement the
4 strategies and actions called for, but they should learn as they implement.” She said if
5 everyone did this we would have to revise our plans every five years.

6
7 Commissioner Edge said this is a high-quality plan; the fact that nobody is here to testify
8 shows what a good job was done. He was pleased that the conservation community said
9 that fishing is not the problem, but there are other issues.

10
11 Chair Rae said this has been a massive undertaking for a long period of time. It is
12 evidence that a lot of the issues that may have been concerns earlier have been
13 accounted for as it gets through this process. We’ll leave it to Dave and the rest of the
14 team on when to bring this back, and how to accommodate the comments made in the
15 public process. It still goes through the federal public process. Perhaps the Commission
16 will get it back when it’s ready for prime time. She said kudos to you all with this specific
17 plan. She noted for the Director’s Office and others that our successes are also our
18 greatest challenges. What we have done as a department and with its stakeholders is an
19 unbelievable job over the years of engaging folks in our work, and learning from them
20 and in getting their advice and counsel. We will be challenged in the future to come up
21 with funds to implement this.

22
23 Chair Rae noted to Deputy Director Melcher the comments today that want us to engage
24 in an extensive process on near everything the Department and the Commission do. She
25 encouraged him and other staff to use good judgment on when that is appropriate and
26 how to do that; it’s a costly and time-consuming process. We aren’t going to enjoy either
27 of those as much in the future, and you will be asked to replicate the past as to how
28 everybody’s looped in for every issue. She said that doesn’t diminish what this group has
29 gone through; the work product reflects that kind of outreach.

30
31 Walton referred to Chair Rae’s comment that there is still a federal public process. He
32 said this is the federal process; there is going to be no more after this; we’re in sync.

33
34 Chair Rae thanked Walton for his clarification.

35
36 **Exhibit H: ACCESS AND HABITAT PROGRAM PROJECT APPROVALS**

37 Matt Keenan, Access and Habitat (A&H) Program Coordinator, presented nine A&H
38 projects recently approved by the Board (see Attachment 3. He said some of the projects
39 provide both access and habitat benefits; some provide habitat only. See Project Map in
40 Attachment 4.

41
42 Keenan noted the Micke Ranch Wildlife Enhancement Project; includes juniper removal
43 on 3,000 acres and provides hunting access to 9,000 acres. Two counselors had
44 concerns about the costs, and advised the applicant to revise the budget and resubmit
45 the proposal for Counsel to review. The Counsel has since reviewed the proposal and
46 expressed unanimous support. He noted the Murderers Creek Winter Range
47 Enhancement Project, which asks for three years of funding for juniper and seedlings; in

1 and around the wildlife area. Half will be spent on wildlife area; the other half will be
2 spent on private land ownership.

3
4 Keenan said in total, the projects will provide hunting access in over 65,000 acres and
5 habitat improvement for 113,000 acres. It will cost over \$11.5 million; over 90% is funded
6 by cooperators. Total A&H grant request is \$904,403

7
8 Commissioner Edge acknowledged the emails the Commission received from Jim Myron
9 expressing concerns over the removal of juniper. We are not at risk of having a problem,
10 but Myron makes a good point that treatments are scattered throughout the eastern part
11 of the state, in an attempt to control a pretty invasive plant. I support those treatments,
12 but want to acknowledge his concerns.

13
14 Keenan said we are not cutting the old growth juniper. The juniper efforts are occurring in
15 areas where it has increased tenfold in the past 130 years and has invaded the entire
16 area, where historically fires have kept it in check.

17
18 *Action: Commissioner Webber moved to approve the recommendations of the*
19 *Access and Habitat Board for project funding. Commissioner Edge seconded the*
20 *motion, and the motion carried unanimously.*

21
22 **Exhibit I: AMEND RULES RELATED TO WILDLIFE TAXONOMY AND WILDLIFE**
23 **INTEGRITY RULES**

24 Chair Rae announced that Exhibit I was deferred to the Commission's February 4, 2011
25 meeting in Salem.

26
27 **Exhibit J: WILDLIFE AREA PARKING PERMIT**

28 Nancy Breuner, Wildlife Area Operations Coordinator, discussed expansion of the
29 Sauvie Island Wildlife Area parking permit program in a three-year phased approach
30 statewide. The first phase would include Sauvie Island, E.E. Wilson, Ken Denman, Ladd
31 Marsh and Summer Lake wildlife areas. She discussed staff's public outreach process
32 with the hunting and conservation communities and OSP; all were supportive. The new
33 program will provide funding for infrastructure and habitat restoration activities and
34 enhance wildlife viewing opportunities. She discussed the proposed time for the
35 proposed program if approved by the Commission:

- 36 • December 3, 2010. Today's testimony begins the public outreach campaign.
37 Signs will be posted warning that permits will be required in the future.
- 38 • December 1, 2011. Annual permits will be available.
- 39 • January 1, 2012: Official start of first phase.
- 40 • January 1, 2013. Second phase to include four additional wildlife areas.
- 41 • January 1, 2014. Third phase to include three more wildlife areas.

42
43 Breuner distributed **Attachment 5 – Supplemental DRAFT OAR**, a revised version of
44 Attachment 3 that clarified the intent of the program; to specify that it would require a
45 designated fee parking area at specific designated wildlife areas. The draft OAR is a
46 revision of the current Sauvie Island (SI) OAR, explaining that it applies to additional
47 wildlife areas. The permits will be available through ODFW's website and regular Point of

1 Sale outlets, and must be visible from the outside of the vehicle. Free administrative
2 parking permits will be provided for private vehicles when they are being used for
3 Department-related activities. An annual permit will be free to hunters with initial license
4 purchase (general, combination or Sports Pac). An annual permit may be purchased for
5 \$22; or a daily permit for \$7. She said the ticketing process by police officers will be the
6 same as their current practice at SI.

7
8 Commissioner Kerns said he supported the idea because it allows the non-hunting and
9 non-fishing public to support wildlife management. He said if we could advertise it in that
10 vein, it might receive public acceptance. Breuner said staff intends to promote the
11 positive aspects of the program to the wildlife viewing public.

12
13 Commissioner Webber asked if the draft OAR talks about a parking permit coming with a
14 hunting license. Counselor Cook said the Rule provides the Department the authority to
15 sell these, and then leaves it on a logistical level for the Department to decide how
16 they're going to do it. They can fold it into hunting licenses, for example. Commissioner
17 Webber said there's been a lot of discussion about hunting licenses. He didn't feel
18 comfortable with it not being included and hunters being charged for it. He said some of
19 us have reached a status that we don't purchase hunting licenses; the Department gives
20 them to us. Is that also covered? Chair Rae said the status he was talking about was
21 age. Commissioner Webber said age and residency. Breuner said a receipt of a license
22 would include the annual parking permit.

23
24 **Public Testimony:**

Al Elkins Wilsonville, OR	Al Elkins, Oregon Hunters Association (OHA), had questions of which two were asked by Commissioner Webber. He expressed concern that there is no language in draft OARs that gives authority to issue special permits; and 2) how the permit was going to be enforced, in regard to a hunter versus a non-hunter.
------------------------------	---

25
26 Deputy Director Melcher said staff had talked many times over the years with
27 stakeholders and had strong support for expansion of non-hunting parking permits.

28
29 Commissioner Webber asked if these permits would go with fishing licenses too.

30
31 Chair Rae said no, what Nancy just presented was hunting, combination or Sports Pac
32 licenses; Counsel is working on the wording to this. She cited the statutory authority in
33 ORS 496.146 subsection (10), where the Fish and Wildlife Commission may by Rule
34 "prescribe fees for licenses, tags, permits and applications issued or required, pursuant
35 to the Wildlife Laws and user charges for angling, hunting, or other recreational uses of
36 land owned or managed by the Commission. Such fees or other charges are prescribed
37 by law." She said we couldn't do it if fees are above \$100.

38
39 Chair Rae referred to new *Attachment 5 – Supplemental DRAFT OAR* and said it
40 contained different language for the previous Attachment 3. The intent is to allow the

1 language shaded in 635-008-0149 - Definition. Chair Rae asked staff to listen carefully
2 because Counsel hadn't had an opportunity to have staff look at this language yet. She
3 noted subsection (7), and said where the present rule states "No parking permits will be
4 required for those vehicles which are owned or operated by government agencies.
5 Notwithstanding paragraph (5)", see the new language added there " , the Department
6 reserves a right to issue free administrative parking permits for private vehicles used by
7 volunteers while participating in official Department-related activities." Chair Rae said
8 this would be new language, "*A hunting combination or a Sports Pac license will include
9 an annual parking permit.*", and so that makes it clear. And, to accommodate, Counselor,
10 do you want to describe that?

11
12 Counselor Cook responded, as you said, this is to be crystal clear, to be very up-front
13 about what the expectation is for provision of those licenses.

14
15 Chair Rae asked Rickerson and Breuner if they were okay with that. Both said yes.

16
17 Chair Rae asked Commissioner Klarquist how does this work on Sauvie Island?

18
19 Commissioner Klarquist said some of the residents were concerned that we might have
20 to expand to Collins Beach. He didn't see how the effective date would be 2012, if we
21 started issuing permits with the Sports Pac. Are they already on sale or about to go on
22 sale? Deputy Director Melcher said this new requirement would not be effective until
23 January 1, 2012.

24
25 Counselor Cook noted that all the revisions distributed to the Commission today are not
26 the most recent; but they talk in terms of designated fee parking. He said the reason we
27 added that was to accommodate the phase-in, so we think we've already built that in.
28 You can go ahead and approve these rules; they can be put into the OARs. Then it's up
29 to the Department to start designating places. So the parking permit requirement doesn't
30 kick in until they designate and start putting up the signs.

31
32 Commissioner Klarquist said, but the sale of a permit along with a hunting combo or a
33 Sports Pac goes into effect now for 2011. Then that part should be specified here, if
34 we're amending these here. Counselor Cook said it depends on what you want to do.

35
36 Chair Rae recommended to the Commission that they talk about what they wanted to do
37 and then take a brief recess; so, Counselor Cook and staff could propose language to
38 then take into account that we're not doing this on the fly.

39
40 Commissioner Klarquist said on SI, the Volunteer Fire Department responds to calls that
41 are within the wildlife area as well as otherwise. A lot of the volunteer firefighters drive
42 their personal cars, not fire department-issued rigs. I'm sure we wouldn't get a ticket from
43 the sergeant, but we'd be technically violating the rule out there if we didn't have a permit
44 in our car; responding to an incident.

45
46 Chair Rae asked Rickerson and Breuner what they wanted the Commission to do if the
47 rules were not to be effective until January 2012. Did the Commission need to do this

1 rule today or could it be set over to January when staff and Counsel had time to come
2 back and make clear those concerns that have been raised by the Commission today?
3

4 Deputy Director Melcher said the only issue with adopting these rules was that staff
5 wanted to adopt these rules and have them replace far in advance of any program so
6 that staff could start the public education effort, recognizing that with most of these
7 constituents, if they don't already buy a hunting or fishing license, staff had no way of
8 identifying them prior to the program implementation. He said staff wanted to spend a
9 year working that out.

10
11 Chair Rae asked the Commission what their preference was; she didn't detect opposition
12 to the program itself; it's the details that we need to accommodate in the language.
13

14 Commissioner Webber asked if there is already is a parking program on SI. Chair Rae
15 said yes. Commissioner Webber asked if the hunting combo or Sports Pac with a permit
16 would affect that one. Rickerson said currently on SI, hunters are required to buy a
17 permit. This new program proposes that hunters buying one of those types of licenses
18 will get a free permit. Staff will have to educate the hunters as well, because they'll need
19 to display that permit in the window, to ensure that they are there lawfully.
20

21 Commissioner Webber asked if the Commission adopts this today would it be effective
22 for SI immediately, or next year. Rickerson said it's not the Department's intent to
23 change the SI Parking Permit Program for the next year. That will change in January
24 2012, along with the other four wildlife areas where hunters will be issued a free permit.
25 Commissioner Webber said if we actually did it today, we've taken SI out of this permit
26 and made it more generic. And we are now putting in that these licenses will create a
27 right to park. What you're telling me you want to accomplish; you'd be messing it up, if
28 we pass this OAR now.
29

30 Chair Rae proposed the following motion.
31

32 *Action: Chair Rae proposed and recommended that the Commission take action*
33 *to direct the Department to design and implement a Parking Permit Program in all*
34 *of the five wildlife areas and beyond SI, to be effective January 2012, and to*
35 *further direct the Department to draft the appropriate administrative rules that*
36 *would say the parking permit is included in hunting, combination and Sports Pac*
37 *licenses, effective January 2012. She said until January 2012, that the existing SI*
38 *Parking Permit program remains status quo. That the Commission also directs the*
39 *Department staff to accommodate beyond government officials and agencies, as*
40 *the current rules do, that those volunteer responders, whether in their official or*
41 *personal vehicles be exempt from the parking permit.*
42

43 Commissioner Klarquist said that would be helpful. Chair Rae said this is the road the
44 Commission is going down. We've contemplated it in terms of how it's going to be
45 implemented and the precise, clear Administrative Rule language. Commissioner
46 Webber suggested that we just say that a permit will be issued with a hunting license.
47

1 *Chair Rae said under the pending motion, I would say that those of you who do*
2 *confer with Counsel, do so.*

3
4 Commissioner Edge said the motion seems to imply that we're going to start January 1,
5 2012, and the plan that was presented had a phase in for next year.

6
7 Chair Rae said she did not intent by the motion to require it in all of them. We're going to
8 require it where the career professionals say it's appropriate for designation. I don't
9 intend to disrupt that part of the plan that is recommended to us. Is that clear to
10 everybody? Counselor Cook gave a "thumbs up".

11
12 Commissioner Edge asked if the Commission would have to vote on this again. Chair
13 Rae said if this motion passes, we will approve a plan as we just directed to the staff and
14 they will prepare the appropriate language for the Administrative Rule to come back to
15 the Commission in January 2011.

16
17 Counselor Cook clarified that the Commission is closing the public comment period
18 today; the only thing the Commission would do in January is take action on the Rule.
19 Chair Rae asked, the public comment period would be closed today. Counselor Cook
20 said yes. Chair Rae said I know legally we can do that, but the Commission has been
21 reluctant, when someone comes in and says they want to talk to us about something on
22 the agenda, we don't say oops, you missed the opportunity - that's not really our style.
23 Counselor Cook said he didn't have a preference; he just wanted to be clear.

24
25 Chair Rae hearing no further comments took an oral vote.

26
27 *All in favor of the directional motion, rather than the adoption of the Administrative*
28 *Rule, please signify by saying "aye". Motion passed unanimously.*

29
30 **EXECUTIVE SESSION**

31 The Chair said the Commission will go into Executive Session to confer with Legal
32 Counsel, in regard to our rights and duties in regard to current litigation likely to be filed
33 pursuant to ORS 192-660(2)(h); and to confer on attorney-client privileged information
34 pursuant to ORS 192-660-(2)(f). Representatives of news media are allowed to attend
35 but not to report on deliberation except to state the general subject. The time is 2:40
36 p.m.

37
38 **ADJOURN**

39 Chair Rae reconvened the meeting at 2:55 p.m. to announce its adjournment.