



Oregon Fish and Wildlife Commission Minutes

Special Meeting by conference call:
March 17, 2011
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue
Salem, Oregon 97303

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Commission minutes are considered draft until approved by the Commission at its next meeting.

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

- | | |
|----------------------------|--|
| Marla Rae, Chair | Kevin Blakely, Acting Deputy Director |
| Jon Englund, Commissioner | Steve Sanders, Assistant Attorney General |
| Carter Kerns, Commissioner | Teri Kucera, Supervising Executive Assistant |
| Bobby Levy, Commissioner | |
| Bob Webber, Commissioner | |

SPECIAL MEETING

On Thursday, March 17, 2011 at 9:00 a.m., Chair Marla Rae called the Oregon Fish and Wildlife Commission (the Commission) special meeting by teleconference due to the cancellation of last week's meeting in Florence, Oregon to order. Chair Rae did an oral roll call. Present: Commissioners Webber, Levy, Englund, Kerns, Chair Rae. She said Commissioner Klarquist was excused due to a conflict, and that Commissioner Dan Edge was delayed.

Chair Rae said public listening posts were set up in the Department's Newport, Clackamas, Bend, LaGrande and Roseburg offices. The agenda was abbreviated; the Commission would take up that what was necessary and defer the rest to their April 22 meeting. She thanked all for getting to high ground safely last Friday at 3:15 a.m. She thanked Acting Deputy Director Kevin Blakely and the department for assisting the Governor at the South Coast last Saturday to survey the coast damage from the Tsunami waves. She noted a special temporary rule today. She asked Acting Deputy Director Blakely to report on the special Cabinet that was formed to survey the damage and help out the local communities down there.

Acting Deputy Director Blakely said Oregon Department of Fish and Wildlife (ODFW) is one of 11 agencies on a special Cabinet through the Governor's Office working with federal agencies to address the immediate need to the affected communities and individuals, as the result of a Tsunami last Friday. The Cabinet is gathering information to assure the long-term viability in those communities. He thanked the Marine Program and Southwest Region staff for their participation and involvement with that Cabinet.

DIRECTOR'S REPORT

Adopt Temporary Rules

1 Acting Deputy Director Blakely said on the original agenda there were nine temporary
2 rules. In the last week two additional rules have been added. Rule 10., **635-005-0055**
3 **Emergency Commercial Crab Pot Retrieval Regulations for Natural Disasters**,
4 allows fishermen other than the owners to retrieve commercial crab pot gear due to the
5 recent natural disaster on the Oregon Coast; in place for thirty days; effective March 15,
6 2011. For rule No. 11, **635-017-0095 Recreational Sturgeon Fisheries Close in the**
7 **Willamette River Downstream of Willamette Falls**, a news release was issued with
8 regard to the closure of the recreational white sturgeon fishery downstream of the
9 Willamette Falls areas; effective March 17, 2011 through June 29, 2011.

10
11 Commissioner Englund asked, at the end of thirty days if a boat is put out of commission
12 what will be the format? Steve Williams, Fish Division Deputy Administrator, said at the
13 end of thirty days if they have a mechanical failure or the boat is impacted; our current
14 rule allows for a one-time provision that will allow another boat to go pick up that gear.
15 The change in this temporary rule only added that we had a natural disaster.

16
17 Chair Rae asked, wouldn't we be advised to make this a permanent rule to always
18 include natural disasters. Williams said that staff looked at that scenario over the course
19 of several years. The challenge is to clearly define a natural disaster; we've had issues
20 with winds and waves but it's hard to define that with a lot of different opinions.

21
22 **1. 635-018-0090**

23 **2011 Spring Chinook Season On the Deschutes River**

24 Adopted February 3, 2011; effective April 15, 2011 through July 31, 2011.

25 Amended rule allows the sport harvest of spring Chinook salmon in the Lower Deschutes
26 River from April 15 through July 31, 2011. The open area would extend from Sherars
27 Falls downstream to the mouth of the river. During the open period, the proposed bag
28 limit would be one adipose fin-clipped Chinook salmon per day, and five adipose fin-
29 clipped jack salmon per day. All unmarked Chinook salmon must be released unharmed
30 and it will be unlawful to angle from Sherars Falls downstream to the upper railroad
31 trestle after taking a daily bag limit of one adult Chinook salmon.

32
33 **2. 635-041-0065**

34 **Treaty Indian Winter Fisheries In Bonneville Pool Continue Seven Days a Week**

35 Adopted February 8, 2011; effective February 10, 2011 through April 1, 2011.

36 Amended rule expands the ongoing Treaty winter gillnet fishery in the Bonneville Pool
37 from four to seven days per week. The fishery is set to run through March 21, 2011.
38 Allowable sales include: Chinook salmon, steelhead, walleye, shad, yellow perch,
39 catfish, bass, and carp. White sturgeon between 38 and 54 inches in fork length, caught
40 in the Bonneville Pool, may also be sold.

41
42 **3. 635-023-0095**

43 **Columbia River Mainstem Recreational Sturgeon Fisheries Modified**

44 Adopted February 8, 2011; effective February 11, 2011 through July 31, 2011.

45 Amended rule modifies recreational sturgeon seasons and regulations in the Columbia
46 River mainstem from the mouth at Buoy 10 upstream to The Dalles Dam effective
47 February 11, 2011. Further rule modifications close a known sturgeon concentration
48 area (below Bonneville Dam) to angling for all species in-order-to protect the resource
49 and to provide regulations concurrent with the State of Washington.

1
2 **4. 635-042-0145, 635-042-0160, 635-042-0170, and 635-042-0180**
3 **2011 Commercial Winter-Summer Fisheries for Columbia River Select Areas**
4 Adopted February 8, 2011; effective February 13, 2011 through July 29, 2011.
5 Amended rules to set seasons, area boundaries and catch restrictions for Chinook
6 salmon and sturgeon winter, spring and summer commercial fisheries in the Columbia
7 River Select Areas. Modifications are consistent with the action taken February 8, 2011
8 by the Columbia River Compact agencies of Oregon and Washington.

9
10 **5. 635-023-0125**
11 **2011 Recreational Spring Chinook Seasons In the Columbia River**
12 Adopted February 8, 2011; effective February 14, 2011 through June 15, 2011.
13 Amended rule to set the 2011 Columbia River spring Chinook season regulations with a
14 description of areas, dates, and bag limits for recreational harvest of adipose fin-clipped
15 Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with action
16 taken February 8, 2011 by the Columbia River Compact agencies of Oregon and
17 Washington.

18
19 **6. 635-017-0095**
20 **Recreational Sturgeon Fisheries In the Willamette River Downstream of Willamette**
21 **Falls Re-Open**
22 Adopted February 8, 2011; effective February 17, 2011 through June 29, 2011.
23 Amended rule re-opens the recreational white sturgeon fishery in the lower Willamette
24 River downstream of Willamette Falls, including Multnomah Channel and the Gilbert
25 River. Revisions are consistent with action taken February 8, 2011 by the State of
26 Oregon.

27
28 **7. 635-018-0090**
29 **Hood River Spring Chinook Sport Fishery**
30 Adopted February 16, 2011; effective April 15, 2011 through July 31, 2011.
31 Amended rule allows the sport harvest of adipose fin-clipped spring Chinook salmon in
32 the Hood River from April 15 through July 31, 2011. The catch limit is two adult adipose
33 fin-clipped Chinook salmon per day, and five adipose fin-clipped jack Chinook salmon
34 per day. All salmon and steelhead that have not been adipose fin-clipped must be
35 released unharmed.

36
37 **8. 635-004-0017**
38 **Directed Commercial Sardine Fishery First Allocation Period Closes March 5, 2011**
39 Adopted March 2, 2011; effective March 4, 2011 through June 30, 2011.
40 Amended rule closes the first allocation period of the directed commercial sardine fishery
41 effective 12:01 a.m. March 5 through June 30, 2011. This modification conforms to
42 federal rule changes announced March 1, 2011 to be published in the Federal Register
43 on March 4, 2011.

44
45 **9. 635-004-0019**
46 **Federal In-season Actions: Adjustments to Fishery Management Measures for**
47 **Commercial Groundfish Fisheries**
48 Adopted March 3, 2011; effective March 3, 2011 through August 29, 2011.
49 Amended rule adopts in-season management measures adopted by the federal

1 government for Pacific ocean commercial groundfish fisheries, including but not limited
2 to: (a) changes in cumulative trip limits and RCA boundaries for commercial fixed gear
3 fisheries; and (b) the annual tier limits for the limited entry fixed gear sablefish primary
4 fishery north of 36 degrees N. Latitude.

5
6 **10. 635-005-0055**

7 **Emergency Commercial Crab Pot Retrieval Regulations for Natural Disasters**

8 Adopted March 14, 2011; effective March 15, 2011 through April 15, 2011.

9 Amended rule allows the retrieval of derelict commercial crab pot gear that was lost or
10 unable to be retrieved, due to the recent natural disaster (tsunami) on the Oregon coast,
11 by fishermen other than the owners as required by permanent rule, for up to one month
12 from the effective date of the rule.

13
14 **11. 635-017-0095**

15 **Recreational Sturgeon Fisheries Close In the Willamette River Downstream of**
16 **Willamette Falls**

17 Adopted March 15, 2011; effective March 17, 2011 through June 29, 2011.

18 Amended rule closes the recreational white sturgeon fishery in the lower Willamette
19 River downstream of Willamette Falls, including Multnomah Channel and the Gilbert
20 River, effective March 17, 2011. Revisions are consistent with action taken March 15,
21 2011 by the State of Oregon.

22
23 *Action: Commissioner Webber moved to approve the eleven administrative*
24 *temporary rules. Commissioner Levy seconded the motion. Chair Rae did a roll*
25 *call and the motion carried by an aye vote from Commissioners Webber, Levy,*
26 *Englund, Kerns and Chair Rae.*

27
28 **PUBLIC FORUM**

29 Chair Rae acknowledged for the record the correspondence received by the Florence
30 Salmon & Trout Enhancement Program (STEP) participants that had intended to testify
31 before the Commission last Friday. She thanked them for their continued support.

32
33 **Exhibit B: ACCESS AND HABITAT PROJECTS**

34 Matt Keenan, Access and Habitat (A&H) Program Coordinator, presented ten projects
35 recommended for funding by the A&H Board at their January 20 meeting. He said the
36 applicants for the Morgrass Access Area (Project #2011-08) had recently withdrawn their
37 application due to changes in their business situation. Seven projects would provide
38 public hunting opportunities and two would improve wildlife habitat. All of the projects
39 are three to five year agreements that reflect the Commission's recommendations that
40 ODFW sign landowners up for more than one year at a time. For the Troy Ranches and
41 Iron Mountain Access Areas the payment to landowners reflects the value of access
42 provided to the adjacent public land. In total these nine projects would provide access to
43 74,414 acres of private land and improved wildlife habitat on 1, 518 acres. The total cost
44 is under \$1 million dollars; the total cost to A&H is \$835,402.

45
46 **Public Testimony:** Chair Rae noted that no one had signed up for public testimony in
47 Salem, Newport, Clackamas, Bend, LaGrande and Roseburg.

1 Chair Rae asked for a motion for the projects except for the Morgrass Access Area.

2
3 *Action: Commissioner Englund moved to approve the recommendations of the*
4 *Access and Habitat Board for project funding. Commissioner Webber seconded*
5 *the motion. Chair Rae did a roll call and the motion carried by an aye vote from*
6 *Commissioners Webber, Levy, Englund, Kerns and Chair Rae.*

7
8 Chair Rae announced that **Exhibit C: WILDLIFE MANAGEMENT PLAN FIVE-YEAR**
9 **REVIEW PERIOD** and **Exhibit D: AUTHORITY TO TAKE OR HARASS WILDLIFE** had
10 both been set over to the Commission's April 22, 2011 meeting.

11
12 **Exhibit E: RESTORATION AND ENHANCEMENT PROJECT**

13 Josie Thompson, Acting Restoration and Enhancement (R&E) Program, presented 34
14 (16 restoration and 18 enhancement) projects recommended for funding by the R&E
15 Board at their February 3 and 4 meeting. She said most of the available funding was
16 recommended for projects sponsored by ODFW fish districts and hatcheries; it can be
17 easier for ODFW employees to qualify for cycle eight grants because the allowable
18 spending window is so short. The majority of the internal funding would be used for
19 equipment maintenance and replacement and would enhance the feasibility to carry out
20 population and fishery monitoring and hatchery production activities; funding was also
21 recommended for three projects sponsored by external groups. The R&E Board
22 recommended funding totals \$706,000; leaving \$3,000 at the end of the biennium.

23
24 **Public Testimony:** Chair Rae asked if anyone had signed up for public testimony at the
25 listening posts. Southwest Region Manager Larry Cooper said yes.

26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41	Lonnie Johnson, R&E Board, said he was here less to testify than willing to answer any questions that the Commission may have about the last go around they had. Chair Rae thanked him for his continued work with ODFW.
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27
28 Chair Rae asked how a Hydrolab DS5 multiparameter water sampler works (see page 7,
29 Attachment 2). Thompson said she could not tell exactly how it works, but that it
30 measures all different characteristics of water like oxygen and conductivity. The one staff
31 wants to purchase measures chlorophyll-a concentrations, temperature, etc.

32
33 *Action: Commissioner Kerns moved to approve the recommendations of the Fish*
34 *Restoration and Enhancement Board. Commissioner Levy seconded the motion.*
35 *Chair Rae did a roll call and the motion carried by an aye vote from*
36 *Commissioners Webber, Levy, Englund, Kerns and Chair Rae.*

37
38 **Exhibit F: 2011 REGULATIONS FOR SARDINE AND PACIFIC HALIBUT**
39 **FISHERIES**

40 Gway Kirchner, Marine Resources Program Assistant Manager, said she would ask the
41 Commission to adopt concurrent regulations with those already adopted federally for:

1
2 *Annual Harvest Specifications and Management Measures for the Commercial Pacific*
3 *Sardine Fishery*. Kirchner said on page 2, Attachment 1- Agenda Item Summary, is a
4 table of seasonal allocations. She said the numbers set by the Pacific Fishery
5 Management Council (PFMC) have been reduced about 30% from last year. The
6 biomass is estimated to be on a continuing downward trend.

7
8 **Commissioner Jon Englund stated that he does business with the sardine fishery;**
9 **he has a potential conflict of interest. Chair Rae noted it for the record.**

10
11 *Annual Catch Limits and Management Measures for Sport and Commercial Pacific*
12 *Halibut Fisheries*. Kirchner referred to Attachment 7, map of the sport season, and said:

- 13 • For Pacific halibut, Washington, Oregon and Northern California received a 12%
14 increase in harvest quota over last year.
- 15 • Central coast spring fishery is set for twelve six-days; opens May 5. Staff is
16 skipping one weekend due to extreme low tides.
- 17 • One change to the Pacific Halibut Catch Sharing Plan shifted two percent of the
18 allocation from the spring central coast fishery into the summer central coast
19 fishery in an effort to ensure that we have at least one weekend available in the
20 summer fishery.

21
22 Kirchner noted Attachment 5, page 2, line 49, “(b) Federal Register (insert citation when
23 available).”, and said staff will insert the Sardine Fishery date when available as the
24 federal references are not yet published. In consultation with Counsel, staff thought that
25 this was appropriate to look ahead and insert those dates into the regulations. The
26 halibut federal rule did publish yesterday and staff will insert the appropriate reference
27 into the regulations on: page 1, line 15; page 2, line 34; page 4, lines 95 and 114.
28 Kirchner referenced Volume 76, No. 51, dated March 16, 2011.

29
30 **Public Testimony:** There was no public testimony from the listening posts in Salem,
31 Newport, Clackamas, Bend, LaGrande, and Roseburg.

32
33 *Action: Commissioner Englund moved to adopt the recommendations for*
34 *the 2011 Pacific sardine and Pacific halibut fisheries as proposed in*
35 *Attachment 5. Commissioner Kerns seconded the motion.*

36
37 Commissioner Webber asked if we need to insert the federal regulation somewhere in
38 here; to try and include it. Counselor Steve Sanders said no we will not. We’re taking the
39 view this year that the insertion of the citation to the Federal Register is merely an
40 administrable action done by the staff to reflect the Commission’s policy choice; we’ve
41 laid out what we believe that to be. If the Federal Register for some reason were to come
42 out differently than what we explained, we would have to come back to you.
43 Commissioner Webber said thank you.

44
45 *Chair Rae did a roll call and the motion carried by an aye vote from*
46 *Commissioners Webber, Levy, Englund, Kerns and Chair Rae.*

1 **Exhibit G: 2011 REGULATIONS FOR COLUMBIA AND LOWER WILLAMETTE**
2 **RIVER FISHERIES**

3
4 ***Commissioner Jon Englund declared a potential conflict of interest. Chair Rae***
5 ***noted it for the record because Commissioner Englund does business with both***
6 ***sports and commercial fisheries.***

7
8 John North, Columbia River Fisheries Manager for the Ocean Salmon/Columbia River
9 Program, reported on proposed rule changes in Attachment 4:

10
11 Commercial Recreation Sturgeon fisheries:

- 12 • Lower Willamette. Staff opened that fishery by temporary rule on February 17 with
13 a 25,750 fish quota. Rule was written to allow the fishery to remain open three
14 days a week until the guidelines was met, but due to high effort and catch rates
15 that quota was reached this past Saturday. A temporary rule was recently filed to
16 close that fishery which the Commission reviewed earlier; the rule change
17 presented here is outdated, so we will need to adopt a temporary rule next year to
18 get the fishery started correctly.
- 19 • Columbia River white sturgeon retention fishery. Under the 2011-2013 Joint State
20 Accord the harvest guideline for the next three years will be 17,000 fish or 22.5%
21 of the legal abundance; whichever is less. The retention seasons recommended
22 by the Joint State staff in both the estuary and the above Wauna areas are similar
23 in structure to 2010. The rule language details spawning and fishing sanctuaries
24 and establishes a six-month retention season upstream of McNary Dam.
- 25 • Treaty Commercial fisheries:
 - 26 ➤ Commercial sales. Language is outdated with the recent development of the
 - 27 Yakima, Umatilla and Warm Springs Treaty fisheries occurring under
 - 28 agreement with the states downstream from Bonneville Dam.
 - 29 ➤ Allow the commercial sale of fish caught in platform hook-and-line fisheries
 - 30 occurring from the Bridge of the Gods downstream.
 - 31 ➤ Winter Treaty fisheries. Update rule to reflect the fork length measurement
 - 32 requirement for white sturgeon; mistakenly left out in past rule changes.
- 33 • Non-Treaty Commercial fisheries - commercial fishing gear regulations.
 - 34 ➤ Lighted buoys be required on nets fished at night; supported by industry and
 - 35 enforcement; currently standard practice in the fishery but it isn't a permanent
 - 36 regulation. We've required it by temporary rule for about one year now.
 - 37 ➤ Allow the use of a chafing strip panel on the bottom of drift nets; a four to five
 - 38 foot strip of heavy webbing that helps prevent wear on the lower margin of the
 - 39 net as it drifts along the bottom. Not all of the fishermen use this but it would
 - 40 be helpful in certain areas to avoid gear damage. Washington Fish and Wildlife
 - 41 is working to adopt the same rule for concurrency,
- 42 • Coho Target Fishery and Late Fall Salmon Season. Language needs to be
43 updated to remove reference to some sanctuaries no longer needed.
- 44 • Mainstem Columbia River Commercial Smelt Fishery. In 2007 a southern distinct
45 population segment of the Eulachon smelt was partitioned as a listing and
46 subsequently listed as threatened last May. This past November, the states
47 adopted a temporary rule to close the Mainstem Commercial Smelt fishery similar

1 to action taken for other smelt fisheries. The modifications to the smelt rule on
2 page 5 would make this permanent.

- 3 • 2011 Winter, Spring and Summer Seasons for Select Area Commercial fisheries
4 (pages 5-9) were adopted by the Compact in February. The fisheries structure is
5 more conservative than recent years due to the limited number of upper river fish
6 to work with. The predicted return to the Select Area this year is 13,000 Spring
7 Chinook, which would be the second highest return ever; but only half of last
8 year's record returns.

9
10 North said staff recommends that the Commission adopt the rules pertaining to 2011
11 Columbia River Recreational and Commercial fisheries as described in Attachment 4.

12
13 Chair Rae said the record will show that in this Exhibit the Commission is using **Revised**
14 **Attachment 3** - the updated **Statement of Need and Fiscal Impact Statement** that was
15 sent to the Commission after the packet went out prior to the March 11 meeting. She
16 wanted to make sure that with the proposed rules before the Commission whether North
17 had precise changes to those that the Commission needed to reflect with Counselor
18 Sanders.

19
20 North said the packet the Commission had should be the latest rules with the update as
21 needed other than the Willamette rule being already outdated because of our recent
22 action.

23
24 Chair Rae asked Counselor Sanders if that could be clarified with a temporary rule as
25 the season changes. Counselor Sanders said yes. As he understands because it's
26 outdated it basically would be mute. Even if the Commission adopted it because we have
27 already hit the quota it wouldn't actually have any affect. There is no reason it has to be
28 deleted from the rule set now. Steve Williams, Fish Division Deputy Administrator,
29 added that was his understanding of the approach here. We will have to address this
30 depending on how we set up seasons next year.

31
32 **Public Testimony:** There was no public testimony in the Salem, Newport, Clackamas,
33 Bend, LaGrande, and Roseburg listening posts.

34
35 Commissioner Kerns clarified that the Treaty fishing below Bonneville will be applied to
36 the allocation and not in addition to. North said correct; all those fish go towards any
37 quotas. The rule as written prohibited any sales, which does not agree with how we are
38 operating the fishery right now, so we wanted to make that change so we didn't have a
39 conflict. Commissioner Kerns asked will any of these rule changes affect our upriver
40 spring Chinook season. North said no, staff omitted any of the Spring Chinook fisheries;
41 we thought those could best be covered under temporary rule this year.

42
43 Chair Webber referred to the sturgeon season in the Willamette and asked, are we
44 adopting that rule that is already obsolete or not. Chair Rae said we are going to leave it
45 in the administrative rules based on the conversation between Williams and Counselor
46 Sanders. Even though it is here it is already mute because we have already exceeded

1 the catch limit. Our Counselor is telling us because it has no affect that there is no need
2 for the Commission to go through and muddy the proposed rule changes right now.

3
4 *Action: Commissioner Rae moved to adopt 635-017-0095, 635-023-0095, 635-*
5 *041-0045, 635-041-0065, 635-042-0010, 635-042-0032, 635-042-0060, 635-042-*
6 *0130, 635-042-0145, 635-042-0160, 635-042-0170, and 635-042-0180 as*
7 *proposed by staff in Revised Attachment 4. Commissioner Englund seconded the*
8 *motion. Chair Rae did a roll call and the motion carried by an aye vote from*
9 *Commissioners Webber, Levy, Englund, Kerns and Chair Rae.*

10
11 Chair Rae said that completes everything the Commission needs to do prior to the April
12 meeting; everything else will be set over to April. She said staff is working to get the
13 April agenda to one day; the Commission should plan a full day for that meeting. In
14 working with the Director's Office, she asked the Commission to hold, until further notice,
15 Thursday afternoon of April 21 in the event that the Commission can't meet in one day.

16
17 **ADJOURN**

18 After she wished Commissioner Kerns a happy birthday, Chair Rae adjourned the
19 Commission meeting at 9:35 a.m.