



Oregon Fish and Wildlife Commission Minutes

Meeting:
June 2, 2011 – 1:00 p.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue
Salem, Oregon 97303

Meeting:
June 3, 2011 – 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue
Salem, Oregon 97303

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

4
5 Notice of these meetings had been made by press release of statewide media
6 circulation. Those attending part or all of the meeting included:
7

Marla Rae, Chair	Kevin Blakely, Acting Deputy Director
Dan Edge, Vice-Chair	Debbie Colbert, Deputy Director
Jon Englund, Commissioner	Bill Cook, Assistant Attorney General
Skip Klarquist, Commissioner	Teri Kucera, Executive Assistant
Carter Kerns, Commissioner	
Bobby Levy, Commissioner	
Bob Webber, Commissioner	

8 9 **MEETING**

10 On Thursday, June 2, 2011 at 1:00 p.m., Chair Marla Rae called the Oregon Fish and
11 Wildlife Commission (Commission) meeting to order. She said the Governor's new
12 Commission nominees, Holly Akenson and Michael Finley, were approved by the Senate
13 Rules Committee yesterday; the Oregon Senate will vote next week. The Governor will
14 announce his appointment of the new Commission chair (to be effective July 1, 2011).
15

16 **DIRECTOR'S REPORT** 17 **Field Reports**

18 19 Northeast Region

20 Bruce Eddy, Grande Ronde Watershed District Manager, said the 6th Annual Ladd Marsh
21 Bird-a-thon was held in May; over 300 attended. He discussed a video produced by
22 Grant's Getaway segment for Travel Oregon. The Department has partnered with
23 county, state and federal agencies, and private landowners to conduct a large-scale
24 juniper removal project in southern Baker County. Eddy reported on depredation of two
25 calves by the Imnaha wolf pack on May 5. The U.S. Fish and Wildlife Service (USFWS)
26 delisted wolves from the endangered species list, leaving the state responsible for lethal
27 control on two wolves.
28

29 High Desert Region

30 Chip Dale, Region Manager, discussed Spring Chinook fishing on the Lower Deschutes
31 River that started April 15. Most of the successful angling didn't get underway until May
32 10; it ends June 15. Staff is seeing a later start in this fishery than historically. The Hood
33 River winter steelhead fishery ended mid-May; anglers were happy with the change
34 when the angling deadline was moved several miles upstream after the removal of

1 Powerdale Dam. Dale said staff completed sage grouse lek counts by late April; there
2 was an increase in lek populations across the region.

3 4 Southwest Region

5 Larry Cooper, Region Manager, said thanks to volunteers and students, this year's Fall
6 Chinook fin marking in the Coos Basin has gone very well. For 2009 and 2010, ODFW
7 marked almost 40% of the total fish released. Cooper said staff released about 1.2
8 million fish out of that basin.

9 10 Northwest Region

11 Steve Marx, Watershed Manager, provided an update on the Fern Ridge habitat
12 improvement project and the Willamette Valley Grassland Program to restore about 20
13 acres of upland prairie habitat on Gibson Island. Marx said more than 40 volunteers
14 worked this spring to capture and tag wild rainbow and cutthroat trout in an effort to
15 obtain a trout population in the McKenzie. Lastly, he reported on sea lion hazing at
16 Willamette Falls that ended the last week of April.

17 18 Conservation Strategy

19 Holly Michael, Conservation Policy Coordinator, reported that the Decision Support
20 System (DSS) pilot projects are being developed by 17 western states, as part of the
21 Western Governor's Association's (WGA) Wildlife Corridors Initiative. Director Roy
22 Elicker and she recently provided a briefing to the Governor's Office. Michael introduced
23 Miranda Wood, Oregon Conservation Strategy GIS Analyst.

24
25 Miranda Wood reported on Phase 1 of DSS pilot projects. Using WGA funds, staff hired
26 four data technicians who have compiled and entered 50,000 non-game records. Staff
27 hopes to have a GIS map-able product to field biologists by the end of June. Phase 1
28 targeted 8 pilot species; placeholder maps will be provided. Staff created a catalog so
29 fish and wildlife biologists could record their data collection efforts. Staff also created a
30 Data Management Oversight Group to take the data and move it into this system for
31 public use. Wood said, for Phase 2, WGA and pilot project state leads are working to
32 develop a consistent methodology to create mapping of critical habitat.

33 34 Information & Education

35 Roger Fuhrman, Division Administrator, said early this year staff worked with retail and
36 industry partners on several projects. For instance, a website hosted by Travel Oregon
37 (steelheadsummer.com) highlighting bank fishing and boat launches on the Columbia
38 River; promotional inserts in boat registration reminders by Oregon State Marine Board;
39 promotional material distributed by Fred Meyer stores; articles in NW Sportsman
40 magazine; segments on Grant's Getaways, Outdoor GPS; and postcards sent to current
41 and lapsed anglers. The online Oregon Hunting Access Map has proven to be a good
42 tool to get the public hunting; hunters are spending more time in the field and license and
43 tag sales have increased.

44 45 Marine Resources Program

46 Gway Kirchner, Assistant Project Program Manager, said staff is revising the Territorial
47 Sea Plan process for siting renewable energy development. There are many information

1 sources, which will be put into GIS format on the Web. She said that 20 million pounds
2 were landed in the Commercial Dungeness Crab Fishery. A tri-state meeting was held
3 among Oregon, Washington and California that resulted in a change in pre-testing
4 protocol. Staff has been working with Oregon Department of Transportation on their
5 Hwy. 20 project into Newport, to avoid closure of the highway during an all-depth halibut
6 weekend. Lastly, the hag fish fishery last year took in over 1.8 million pounds. Staff
7 recently held a public meeting with fishers and processors; a guidelines requirement if
8 the fishery exceeds 1.6 million pounds. Staff is looking to a possible increase in the hag
9 fish market this year due to the Tsunami in Japan.

10 Oregon State Police, Fish and Wildlife Division

11 Lieutenant Dave Anderson said Oregon State Police (OSP) Troopers have been working
12 hard to enforce Oregon's clamming regulations along the coast. On May 18, a large
13 saturation patrol of clammers was conducted in Tillamook County. The group seized 68
14 clams and issued citations for failure to retain gaper clams and exceeding the daily bag
15 limit of bay clams. In May, Troopers logged 1,700 hours and seized 264 illegally
16 harvested shellfish.

17 **Expenditure Report**

18
19 Debbie Colbert, Deputy Director for Administration, referred to the *ODFW Monthly*
20 *Report for 2009-11 Biennium as of April 30, 2011*. In terms of 2009-11 financial
21 struggles, revenues are flowing in behind projections; typical because of contract work
22 and billing; expenditures are within projections. The Joint Ways and Means Natural
23 Resources Subcommittee passed the Department's 2011-2013 budget out of
24 subcommittee May 26; it moves to the Full Joint Committee on Ways and Means
25 tomorrow. Colbert discussed the four changes to the budget (see Memorandum, page
26 2). Regarding the new headquarters building, the top ranked building selected was sold
27 to another buyer; a new Request for Proposals opens on June 6.

28 **Adopt Temporary Rules**

29
30 Acting Deputy Director Kevin Blakely asked the Commission to adopt the twenty-one
31 (21) temporary rules on pages 1 through 6 of the agenda.

32 **1. 635-042-0145**

33 **Youngs Bay Select Area Commercial Chinook Fisheries Modified**

34 Adopted April 27, 2011; effective April 28, 2011 through July 29, 2011.

35 Amended rule reduces the amount of fishing time for two previously authorized
36 commercial fishing periods scheduled to occur on April 28 and May 1, 2011 in the
37 Youngs Bay select area fishery. Modifications changed the start times from 6:00 p.m. to
38 4:00 p.m. and reduced the duration of the fisheries from 18 to 5 hours. Revisions are
39 consistent with action taken April 27, 2011 by the State of Oregon.

40 **2. 635-041-0005, 635-041-0015, 635-041-0020, 635-041-0025 and 635-041-0045**

41 **Subsistence Fishing by Nez Perce Tribe Permitted In Columbia River Below**

42 **Bonneville Dam**

43 Adopted May 3, 2011; effective May 5, 2011 through October 31, 2011.

44 Amended rules permit certain treaty Indian subsistence fisheries in the mainstem of the

1 Columbia River immediately below Bonneville Dam. The modifications are consistent
2 with *Memoranda of Understanding* between the Nez Perce tribe and the Oregon
3 Department of Fish & Wildlife, signed May 3, 2011.
4

5 **3. 635-018-0090**

6 **Hood River Open All Year for Adipose Fin-clipped Coho Salmon and Steelhead**

7 Adopted May 3, 2011; effective May 10, 2011 through October 31, 2011.

8 Amended rule allows sport harvest of adipose fin-clipped spring Chinook in the Hood
9 River through June 30; and harvest of adipose fin-clipped coho salmon and adipose fin-
10 clipped steelhead in the Hood River through October 31, 2011. Catch limit is two adult
11 adipose fin-clipped Chinook salmon per day, and five adipose fin-clipped jack Chinook
12 salmon per day. The Oregon Fish and Wildlife Commission is scheduled to consider
13 these modifications to permanent rule at its August 5, 2011 hearing.
14

15 **4. 635-023-0125**

16 **Additional Columbia River Recreational Spring Chinook Season Above Bonneville
17 Dam**

18 Adopted May 4, 2011; effective May 7, 2011 through June 15, 2011.

19 This amended rule provides recreational fishers with four (4) additional days of fishing,
20 from May 7 through May 10, 2011, for adipose fin-clipped Chinook salmon or adipose
21 fin-clipped steelhead in the Columbia River upstream of the Bonneville Dam. This action
22 affects the area from the Tower Island power lines (approximately 6 miles below The
23 Dalles Dam) upstream to the Oregon/Washington border; plus the Oregon and
24 Washington banks between Bonneville Dam and the Tower Island power lines.
25 Revisions are consistent with action taken May 4, 2011 by the Columbia River Compact
26 agencies of Oregon and Washington.
27

28 **5. 635-042-0110 and 635-042-0115**

29 **Camas-Washougal Reef Commercial Shad Season Opens May 10, 2011**

30 Adopted May 4, 2011; effective May 10, 2011 through June 20, 2011.

31 Amended rules open a commercial shad season in the Columbia River in the area of
32 Camas-Washougal Reef. The fishery is from 8:00 p.m. to 12:00 Midnight, Mondays
33 through Fridays (except on the observed Memorial Day holiday) beginning May 10
34 through June 20, 2011. All salmon, steelhead, walleye, and sturgeon taken in shad nets
35 must be immediately returned unharmed to the water. Further modifications allow
36 harvest using experimental gear when purchasing an *Experimental Fishing Gear Permit*
37 as described in OAR 635-006-0020. Revisions are consistent with action taken on May
38 4, 2011 by the Columbia River Compact agencies of Oregon and Washington.
39

40 **6. 635-019-0090**

41 **Sport Chinook Fisheries on the Imnaha and Wallowa Rivers and Lookingglass
42 Creek**

43 Adopted May 6, 2011; effective May 28, 2011 through September 1, 2011.

44 Amended rule allows recreational anglers opportunities to harvest adipose fin-clipped
45 adult and jack Chinook salmon, which are in excess of the Department's hatchery
46 production needs, in the Imnaha and Wallowa rivers and Lookingglass Creek. These

1 fisheries are scheduled for the period from Saturday, May 28, 2011 until further notice.

2
3 **7. 635-041-0045 and 635-041-0076**

4 **Columbia River Treaty Indian Spring Commercial Salmon Seasons Implemented**

5 Adopted May 10, 2011; effective May 10, 2011 through October 31, 2011.

6 Amended rule allows the sales of fish caught in the Treaty Indian spring Chinook salmon
7 commercial platform hook-and-line fisheries in the Columbia River mainstem and
8 tributaries above Bonneville Dam beginning at 6:00 p.m. Tuesday, May 10, 2011 until
9 further notice. The amended rule also closes sales of Treaty fisheries downstream of
10 Bonneville Dam effective May 15 through June 16, 2011. Revisions are consistent with
11 action taken May 10, 2011 by the Columbia River Compact agencies of Oregon and
12 Washington in cooperation with the Columbia River Treaty Tribes.

13
14 **8. 635-042-0160 and 635-042-0170**

15 **2011 Select Area Seasons for Tongue Point/South Channel and Blind/Knappa**
16 **Sloughs Modified**

17 Adopted May 11, 2011; effective May 11, 2011 through June 10, 2011.

18 Amended rules rescind Columbia River Select Area commercial fishing periods
19 previously scheduled to begin Thursday, May 12 from 7:00 p.m. to 7:00 a.m. the
20 following morning. Modifications rescheduled these fishing periods for the same time
21 beginning May 11, 2011. Modifications are consistent with the action taken May 11,
22 2011 by the Columbia River Compact agencies of Oregon and Washington.

23
24 **9. 635-042-0022**

25 **Commercial Drift Net Fishing Period for Spring Chinook In the Columbia River**
26 **Mainstem**

27 Adopted May 11, 2011; effective May 12, 2011 through June 30, 2011.

28 Amended rule allows a 14-hour non-Indian commercial spring Chinook fishing period in
29 the mainstem Columbia River beginning at 3:00 p.m. Thursday, May 12 though 5:00 a.m.
30 Friday, May 13, 2011. Fishing is authorized in Zones 1 through 4, from the river mouth
31 upstream to Kelly Point. Modifications are consistent with joint state action taken
32 May 11, 2011 by the Columbia River Compact agencies of Oregon and Washington.

33
34 **10. 635-042-0145**

35 **Retention of Non-adipose Fin-clipped Chinook Salmon Prohibited for 81-Hours in**
36 **Youngs Bay**

37 Adopted May 11, 2011; effective May 12, 2011 through July 29, 2011.

38 Amended rule prohibits the commercial harvest of non-adipose fin-clipped spring
39 Chinook for an 81-hour period in the Youngs Bay Select Area fishery beginning at 3:00
40 p.m. Thursday, May 12 through midnight Sunday, May 15, 2011. Modifications are
41 consistent with joint state action taken May 11, 2011 by the Columbia River Compact
42 agencies of Oregon and Washington.

43
44 **11. 635-021-0090**

45 **Powder River Recreational Spring Chinook Fishery Opens May 28, 2011**

46 Adopted May 11, 2011; effective May 28, 2011 through September 1, 2011.

1 Amended rule implements a recreational spring Chinook salmon fishery in the Powder
2 River from Saturday, May 28 through Thursday, September 1, 2011. Modifications allow
3 recreational anglers opportunities to harvest spring Chinook which have been out-
4 planted specifically for this purpose.
5

6 **12. 635-004-0019**
7 **2011-2012 Harvest Specifications and Management Measures for Pacific Ocean**
8 **Commercial Groundfish Fisheries**

9 Adopted May 12, 2011; effective May 13, 2011 through November 8, 2011.
10 This amended rule adopts 2011-2012 harvest specifications and management measures
11 adopted by the federal government for Pacific Ocean commercial groundfish fisheries,
12 including but not limited to: (a) changes in cumulative trip limits and RCA boundaries for
13 commercial groundfish fisheries; (b) changes in annual catch limits and allocations of
14 groundfish for the various commercial groundfish fisheries, and (c) changes to other
15 management measures.
16

17 **13. 635-023-0125**
18 **Columbia River Recreational Spring Chinook Season Opens From Rocky/Tongue**
19 **Point to Beacon Rock**

20 Adopted May 13, 2011; effective May 15, 2011 through June 15, 2011.
21 This amended rule opens the Columbia River from the Rocky Point/Tongue Point line
22 upstream to Beacon Rock (boat and bank fishing) plus bank angling only from Beacon
23 Rock upstream to Bonneville Dam beginning on May 15, 2011. Retention of sockeye
24 adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead is allowed. Daily
25 bag limit includes up to two adult salmon (including sockeye) or steelhead in
26 combination, but only one may be a Chinook. Revisions are consistent with action taken
27 May 13, 2011 by the Columbia River Compact agencies of Oregon and Washington.
28

29 **14. 635-042-0022**
30 **Additional Commercial Drift Net Fishing Period for Spring Chinook In the**
31 **Columbia River Mainstem**

32 Adopted May 17, 2011; effective May 18, 2011 through June 30, 2011.
33 Amended rule allows a 12-hour non-Indian commercial spring Chinook fishing period in
34 the mainstem Columbia River beginning at 5:00 p.m. Wednesday, May 18 through 5:00
35 a.m. Thursday, May 19, 2011. Fishing is authorized in Zones 1 through 4, from the river
36 mouth upstream to Kelly Point. Modifications are consistent with joint state action taken
37 May 17, 2011 by the Columbia River Compact agencies of Oregon and Washington.
38

39 **15. 635-042-0145**
40 **Retention of Non-adipose Fin-clipped Chinook Salmon Prohibited for 104-Hours in**
41 **Youngs Bay**

42 Adopted May 17, 2011; effective May 18, 2011 through July 29, 2011.
43 Amended rule prohibits the commercial harvest of non-adipose fin-clipped spring
44 Chinook for a 104-hour period in the Youngs Bay Select Area fishery beginning at 4:00
45 p.m., Wednesday, May 18 through midnight Sunday, May 22, 2011. Modifications are
46 consistent with joint state action taken May 17, 2011 by the Columbia River Compact

1 agencies of Oregon and Washington.

2
3 **16. 635-042-0180**

4 **2011 Spring Season for Deep River Select Area Fishery Modified**

5 Adopted May 17, 2011; effective May 18, 2011 through June 10, 2011.

6 Amended rule rescinds the Deep River Select Area commercial fishing period previously
7 scheduled to begin Wednesday, May 18 from 7:00 p.m. to 7:00 a.m. the following
8 morning. Further revisions schedule additional fishing periods for Mondays and
9 Thursdays, at the same time of day, beginning May 19 through June 10, 2011.
10 Modifications are consistent with the action taken May 17, 2011 by the Columbia River
11 Compact agencies of Oregon and Washington.

12
13 **17. 635-023-0125**

14 **Columbia River Recreational Spring Chinook Season Opens Above Beacon Rock**

15 Adopted May 25, 2011; effective May 27, 2011 through June 15, 2011.

16 This amended rule opens the Columbia River: 1) from the Rocky Point/Tongue Point line
17 upstream to Bonneville Dam from May 27 through June 15, 2011; and 2) from the Tower
18 Island power lines upstream to the Oregon/Washington border plus bank angling
19 between Bonneville Dam and the Tower Island power lines from May 28 through June 2,
20 2011. Retention of sockeye, adipose fin-clipped Chinook salmon and adipose fin-clipped
21 steelhead is allowed. Daily bag limit includes up to two adult salmonids (including
22 sockeye). Revisions are consistent with action taken May 25, 2011 by the Columbia
23 River Compact agencies of Oregon and Washington.

24
25 **18. 635-014-0090**

26 **Trask River Closure From Gold Creek, at Hatchery, Delayed Until July 1, 2011**

27 Adopted May 26, 2011; effective June 1, 2011 through June 30, 2011.

28 These rule modifications delay the closure of the Trask River from Gold Creek, at the
29 hatchery, from June 1, 2011 until July 1, 2011. Angling for spring Chinook in the Trask
30 River has been especially productive during the early part of the run this year. In order
31 to allow anglers this opportunity to harvest hatchery spring Chinook, we need to extend
32 the angling season at the hatchery 200 feet upstream and 900 feet downstream.

33
34 **19. 635-039-0085**

35 **Ocean Sport Pacific Halibut Closure from Leadbetter Point, Washington to Cape
36 Falcon, Oregon**

37 Adopted May 27, 2011; effective June 4, 2011 through August 4, 2011.

38 Amended rule closes the sport fishery for Pacific halibut in the area between Leadbetter
39 Point, Washington and Cape Falcon, Oregon at 11:59 p.m. on Saturday, June 4, 2011
40 when the quota of 10,793 pounds is projected to have been taken. This rule is
41 consistent with regulations that have been implemented by the federal government and
42 the International Pacific Halibut Commission for the 2011 Oregon recreational fishery for
43 Pacific halibut.

1 **20. 635-023-0125**

2 **Columbia River Recreational Spring Chinook Season Above Bonneville Dam**
3 **Extended**

4 Adopted June 1, 2011; effective June 2, 2011 through June 15, 2011.

5 Amended rule extends the recreational spring Chinook fishery in the Columbia River
6 from the Tower Island power lines (above Bonneville Dam) upstream to the

7 Oregon/Washington border, plus bank angling between Bonneville Dam and the Tower
8 Island power lines, from the original closure date of June 2 through June 15, 2011.

9 Retention of sockeye, adipose fin-clipped Chinook salmon and adipose fin-clipped
10 steelhead is allowed. Daily bag limit includes up to two adult salmonids (including
11 sockeye). Revisions are consistent with action taken June 1, 2011 by the Columbia
12 River Compact agencies of Oregon and Washington.
13

14 **21. 635-041-0045**

15 **Columbia River Treaty Indian Spring Commercial Salmon Season Re-opens**

16 Adopted June 1, 2011; effective June 6, 2011 through October 31, 2011.

17 Amended rule allows the sales of fish caught in the Treaty Indian fisheries in the
18 Columbia River downstream of Bonneville Dam effective June 6 through June 15, 2011.

19 Revisions are consistent with action taken June 1, 2011 by the Columbia River Compact
20 agencies of Oregon and Washington in cooperation with the Columbia River Treaty
21 Tribes.
22

23 *Action: Commissioner Englund moved to approve the 21 administrative temporary*
24 *rules as presented in the agenda. Commissioner Levy seconded the motion, and*
25 *the motion carried unanimously.*
26

27 **Exhibit A: COMMISSION MINUTES.**

28 Chair Rae deferred the February 4 and April 22 draft minutes to the August meeting.
29

30 **Exhibit B: NEW HEADQUARTERS ACQUISITION AND REPORT.**

31 Chair Rae said Exhibit B was pulled from the agenda for the reasons just given in Deputy
32 Director Debbie Colbert's report.
33

34 The Commission took a break at 2:04 p.m., and reconvened at 2:15 p.m. Chair Rae
35 rearranged the agenda: Exhibit D: Tami Wagner Wildlife Area; Exhibit C: Big Game
36 Regulations; Exhibit F: Wildlife Rehabilitation Rules; Exhibit I: Hunting Dog and Falconry
37 Training Rules; Exhibit E: Raffle Auction Tags; Exhibit G: Definitions for Department Use
38 of Aircraft; and Exhibit H: Access and Habitat Project Approvals. She said the
39 Commission would carry over any agenda not completed today, into tomorrow.
40

41 **Exhibit D: TAMI WAGNER WILDLIFE AREA**

42 Doug Cottam, North Coast District Wildlife Biologist, asked the Commission to approve
43 the formal name, *Tami Wagner Wildlife Area*, for two parcels of land along the Yachats
44 River in the North Coast Watershed. The land was originally purchased to provide elk
45 forage and alleviate damage to adjacent properties. Cottam said that Tami spent much
46 of her time improving this area, and organizing ODFW volunteers and sporting groups.
47 She was on her way to the area when she was killed in a traffic accident last fall.

1
2 Chair Rae directed the Commissioners' attention to two letters in their packets in support
3 of naming this area for Tami: 1) Wayne Hill, President, Longview Hills Fishing Club; and
4 2) ODFW master volunteer Charles Woosley and Gail Woosley.
5

6 **Public Testimony:**

Mike Dykzeul Salem, Oregon	Mike Dykzeul, Director of Forest Protection for Oregon Forest Industries Council, spoke in favor of the memorial on behalf of foresters and others who had the privilege to work with Tami Wagner.
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7
8 Chair Rae presented Tami's husband, David, a framed and signed photograph of Tami,
9 on behalf of the Department. The photo was taken by Doug Cottam in April 2005.

10
11 Dave Wagner thanked the Commission; this means a lot to his family. ODFW was more
12 than just a job to Tami; she was very excited about that property.

13
14 *Action: Commissioner Edge moved to amend OAR Chapter 635, Division 008, as*
15 *proposed by staff. Commissioner Webber seconded the motion, and the motion*
16 *passed unanimously.*

17
18 **Exhibit C: BIG GAME REGULATIONS 2011-2012**

19
20 ***Chair Rae declared a potential conflict of interest because her mother is enrolled***
21 ***in the Landowner Preference (LOP) program and some of these recommendations***
22 ***could affect her. Commissioner Carter Kerns and Commissioner Bobby Levy also***
23 ***declared potential conflicts of interest due to family members participating in the***
24 ***LOP.***

25
26 Tom Thornton, Game Program Manager, noted that 21 public meetings were held during
27 May; attended by 255 people. Staff received 130 pieces of correspondence; major topics
28 included mandatory reporting; too many predators and too few deer and elk, and ideas
29 for season changes. He proposed that the Commission adopt rules to:

- 30 • Add Maryland as the 19th state with Chronic Wasting Disease (CWD).
- 31 • Clarify wording for LOP program suspension standards; suspend landowner from
32 participating for three years beginning upon issuance of a final order.
- 33 • Hunting area expansion. Add Lower Owyhee Hunt Area to Upper Owyhee Hunt
34 Area for bighorn hunts (568A1 and 568A2); and add South Snake River Hunt
35 Area to Cusick Mountain Hunt Area for Rocky Mountain Goat.
- 36 • Allow fallow deer from Oregon to return to the state after being taken out for
37 educational and entertainment purposes; turn temporary rule into permanent.

38
39 Thornton discussed Mandatory Harvest Reporting rates and gave an update on the
40 Mandatory Harvest Survey. He said the Department is seeking legislative authority for a
41 financial penalty for hunters who do not report their hunting activity for tags.
42

1 Don Whittaker, Ungulate Game Coordinator, presented the species specific 2011 tag
2 number proposals. He discussed 2012 season concepts for:

- 3 • General Bear. No change to General Season dates; continue mandatory check-in.
- 4 • Spring Bear. 4,403 total Controlled tags. Changes for hunts: Saddle Mtn. Tag
5 number decreased – high leftover tags, low hunter success. White River & Hood
6 units, tags increased; season length increased. Heppner and Fossil units shift
7 from West Blue Mtns. hunt to South Blue Mtns. Hunt.
- 8 • Draft Bear Management Plan. Staff will provide an update to Commission in
9 October and submit for Commission approval in December.
- 10 • Cougar. No season/quota changes; year round season.

11
12 Whittaker gave a Target Area update for elk and mule deer, and reported on current
13 cougar Target Area objectives and removals. Proposed 2011 tag numbers are:

- 14 • Bighorn Sheep: 10 Rocky Mountain Bighorn tags; 83 California Bighorn tags.
- 15 • Rocky Mountain Goat: 11 tags; calendar shift for 2012; delete Cusick Mountain;
16 new S. Snake River hunt.
- 17 • Pronghorn Antelope: 2,642 tags; one new youth hunt for 2012 in Thief Valley;
18 one bag limit change for E. Fort Rock (Silver Lake Hunt).
- 19 • 2011 Controlled Deer: 72,054 tags for 2011. Changes for 2012 hunts: Delete Mill
20 Creek hunt in McKenzie; split W. Santiam into NW Santiam and SW Santiam;
21 expand Malheur County Youth hunt area; and add new hunts: Mill Creek
22 Watershed; Heppner muzzleloader; and Paisley Youth.

23
24 Whittaker said the Oregon Mule Deer Initiative (MDI) is in high gear. Staff has treated
25 41,000 acres, and 42 cougars have been taken in the Steens and Warner areas.
26 Regarding implementation of the Black-tailed Deer Plan, staff will initiate a process this
27 summer working with local workings groups to identify issues and develop actions. Staff
28 will provide periodic reviews. Whittaker discussed:

- 29 • 2011 Controlled Elk Tags. Increase to 56,946. For 2012 Elk Season, delete
30 Steamboat and Tokatee; add three rifle hunts and muzzleloader hunt in Heppner.
- 31 • 2010 Extended Youth Elk Hunts. 46 hunts with 646 tags; out of 98% tags
32 purchased, 93% hunted. Success rate was 57%, or 313 elk were taken by 548
33 hunters. 97% enjoyed the experience and 96% of youths said they would hunt
34 again next year. Youth had concerns regarding overlap with other seasons.
- 35 • 2012 Western Gray Squirrel Season; standard calendar shifts proposed.

36
37 **Public Testimony:**

Craig Starr Lebanon, Oregon	Craig Starr, President of Oregon Bow Hunters (OBH), distributed written testimony and asked the Commission to: 1) Legalize lighted nocks for archery hunting; could assist in recovery of game after a shot. 2) Oppose rifle cow elk tags and/or muzzleloader either-sex tags in Central and Eastern Oregon units where archery either-sex elk hunting has been eliminated. End this disparity; provide bowhunters an equitable portion of antlerless elk harvest opportunity
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	<p>in all units where any rifle and/or muzzleloader cow or either-sex tags are to be offered.</p> <p>3) Change season schedule for the late archery Black-tail Deer season in Northwest Oregon so that it runs one (1) week earlier than it is now scheduled.</p>
Rich Thompson Newberg, Oregon	Rich Thompson, Traditional Archers of Oregon, testified in opposition to allowing lighted nocks on arrows. He said once you allow one thing, somebody is going to want something else and there will be no end to it.
John Stone Lebanon, Oregon	John Stone, a bow hunter, testified against allowing lighted nocks. Stone recommended that the Commission move Black-tail season up one week and take it off the back.

1
2 Commissioner Webber asked if tags that are under-subscribed will be sold on a first-
3 come-first-served basis. Thornton said staff plans to put them out in the leftover tag
4 sales. Commissioner Webber said selling tags at 10:00 a.m. is unfair to people who work
5 days and can't get to the tags. He suggested creating a supplemental drawing. Thornton
6 agreed that could be problematic; he said staff could look at how to improve the process.

7
8 Commissioner Englund asked for clarification of the Department's position on the black-
9 tail issue; two people testified about this. Thornton said in 1996 that there was one late
10 archery deer hunt; two units were added in 1997 and split into the Northwest and
11 Southwest sections. The Northwest section was moved to later; by one week. There was
12 an additional muzzle loader hunt that year. He offered to look back and find the history.

13
14 Commissioner Englund asked about the impact on antlerless deer in the far Northeast
15 corner. Thornton said the only direct impact would be in the Saddle Mtn. Unit which has
16 a late archery hunt. He noted that with the proposed reductions, staff will likely return in
17 October to recommend that those units be dropped from an area where an antlerless
18 animal is allowed.

19
20 Commissioner Edge said that Craig Starr had suggested moving the late season up a
21 week. How would that affect the Northwest black-tail hunt? Thornton said other things
22 have gone on since that hunt was moved later one week. We've taken away the five best
23 days of the rifle buck season; other shifts have occurred. The reason for interest in this
24 shift is that it would likely result in increased harvest of black-tail deer bucks.

25
26 Commissioner Edge asked about the archery cow elk tag and the equity issue
27 associated with that. Thornton said he was part of the Archery Hunter Review proposals
28 seven years ago. The concept of "Restricted Equally" is found in the Summary of
29 Recommendations and Concepts. Part of the determination is not only the number of elk
30 tags in a unit, but also the distribution of those units. He said staff can look for ways to
31 modify that or make adjustments in the future, but what we're doing now is consistent
32 with what the archery hunting review group found at that time.

1
2 Commissioner Edge referred to Table 15, page 27, in *Attachment 3 – State Proposals*
3 *Table of Contents*. Under “Number of Mortalities by Sources” see the “Other” column. He
4 suggested that there be a separate column for administrative removals.
5

6 Commissioner Klarquist referred to correspondence where a gentleman suggested
7 making it easier for those that don’t get to hunt at all to have one opportunity just to
8 check the box saying “I didn’t get to hunt at all,” rather than having to go through
9 species-by-species. He said that might increase your return of the survey a little bit.
10 Thornton said that’s a good point; it’s something that staff can certainly consider.
11

12 Chair Rae noted that the draft motion needed to make an additional reference in to
13 **include Division 049** (see Attachment 1, page 2, Draft Motion).
14

15 Commissioner Edge referred to *Attachment 4 – Division 49*, page 20, line 6, and said it
16 should read “Import, Export, **or** Transport...” rather than “Import, Export, of Transport...”
17

18 *Action: Commissioner Edge moved to amend OAR Chapter 635, Divisions 008,*
19 *045, 049, 060, 065, 066, 067, 068, 069, 070, 071, 072, 073, 075, 078, and 080 as*
20 *proposed by staff; and approve in concept the staff proposals for the 2012*
21 *General and Controlled Big Game and Western Gray Squirrel seasons, and*
22 *including the typographical change in the Division 49 rules. Commissioner Levy*
23 *seconded the motion, and the motion passed unanimously.*
24

25 **Exhibit F: WILDLIFE REHABILITATION RULES**

26 Keith Kohl, Terrestrial Invasive Species/Wildlife Integrity Coordinator, said the Wildlife
27 Rehabilitation rules were adopted in 1983. An external working group attempted to
28 update these rules in 2001, and the process was reinitiated in May 2010. Kohl discussed
29 major areas of change:

- 30 • Removed the word “Holding” from Wildlife Rehabilitation Holding Permit; it deals
31 with rehabilitation and does not pertain to the holding of wildlife.
- 32 • Permit requirements and conditions:
 - 33 ○ Local biologist will approve applicant and rehabilitation facility.
 - 34 ○ Continuing education requirement for permit renewal.
 - 35 ○ Defined “subpermittee” role in rehabilitation activities.
 - 36 ○ Department reserves right to deny permit; disapprove a subpermittee.
- 37 • Restricted Species; consistency with other statutes, rules, policies and guidelines.
- 38 • Department notification:
 - 39 ○ For state or federally Threatened, Endangered, Candidate or Sensitive
40 species - notify ODFW within 24-hours.
 - 41 ○ Wildlife crimes – notify OSP within 24-hours.
 - 42 ○ Deceased wildlife - notify Department veterinarian at wildlife health lab in
43 Corvallis within 24-hours.
- 44 • Disposition of Wildlife; obtain local District Wildlife Biologist authorization.
- 45 • Facility Requirements. Staff referred to Minimum Standard guidelines set by The
46 International Wildlife Rehabilitation Council (IWRC) and National Wildlife
47 Rehabilitators Association (NWRA).

- 1 • Permit holder and subpermittee must maintain records for three years of
- 2 rehabilitation activities. Semi-annual reports must include information of person
- 3 picking up and delivering wildlife. Staff developing a web-based reporting system.
- 4 • Cancellation or non-renewal of Permit. Clarifies conditions and identifies an
- 5 Appeal process – Contested Case Hearing.
- 6 • Division 44 – Wildlife Rehabilitation Rules. The change pertains to an Oregon
- 7 Department of Agriculture (ODA) rule. At the request of the Advisory Group and
- 8 ODFW staff, Dr. Colin Gillin worked with State Veterinarian Dr. Don Hanson at
- 9 ODA to look at revising the importation requirements for migratory birds.
- 10 • Implementation of Wildlife Rehabilitation Web page for the wildlife community.
- 11 • Division 56 – Wildlife Integrity Rules. Changes will remove inconsistencies
- 12 between the proposed Division 44 rules and existing Wildlife Integrity Rules.
- 13
- 14

Public Testimony:

<p>Ms. Marnie Allbritten Roseburg, Oregon</p>	<p>Marnie Allbritten testified as a private citizen. She read written testimony in opposition to the document. She served as an ODFW assistant field biologist for 15 years in the Douglas District, and for 18 years doing wildlife rehabilitation. This committee has done some valuable work; however, efforts to revise these rules has resulted in yet another set of OARs with muddy language that can only lead to misunderstandings between volunteers and the district biologists. She said clear, practical guidelines need to be established and followed. Instead of following euthanasia standards outlined by the American Veterinary Medical Association (AVMA), rehabilitators must now purchase the Association’s zoo guidelines for \$85 per copy. A new set of inspections has been assigned to the district biologists. This will generate a stack of paper and unfunded mandates. This policy of euthanasia does nothing to control wildlife populations. All it does is offend people who think they are contributing money to save lives. Allbritten emphasized that wildlife rehabilitators can be real agents for change by educating the public. To expect them to euthanize animals is nothing short of cruel.</p>
<p>Bob Sallinger Portland, Oregon</p>	<p>Bob Sallinger, Portland Audubon Society Conservation Director, distributed written testimony supporting the regulation revisions. He did raise five areas of concern:</p> <ol style="list-style-type: none"> 1) Importation of wildlife for rehabilitation is prohibited and we get many animals from Washington. He asked ODFW to create a taskforce with ODA to look at revising their regulations prohibiting importation for the purpose of rehabilitation. 2) Circumstances Requiring Reporting to or Approval from ODFW Biologists: would have preferred that the proposed rules set clear written standards rather

	<p>than deferring so many decisions to local biologists.</p> <ol style="list-style-type: none"> 3) He asked ODFW to consider and understand the fiscal impacts and overhead of the new requirements on rehabilitators. 4) Bear and Cougar Regulations: urged Commission to return to prior language which provided more clarity and certainty. 5) Urged ODFW to revisit outright prohibition on rehabilitation of coyotes as mandates under existing statute and allow for coyotes to be rehabilitated with approval of district biologists.
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1
2 Commissioner Edge asked for information on sick animals coming into the facility from a
3 rehabilitator. Dr. Colin Gillin said the rules as written now is that if an animal comes in ill
4 or diseased or possibly poisoned, they'll call the health lab and one of the veterinary staff
5 will discuss the case with the contact within 24 hours. He said a poisoning case could be
6 accidental or secondary toxicity from previous euthanasia from a horse or animal that
7 wasn't buried. With disease testing or infectious diseases, we have to know relatively
8 soon if we have something going on in within a community or the state. ODFW can also
9 use that contact, if something serious, to act as a Department or notify wildlife rehabbers.

10
11 Commissioner Edge asked about the differences between IWRC and NWRA guidelines
12 versus Ms. Allbritten's suggestion to use AVMA's zoo standards. Dr. Gillin said most
13 people wouldn't use the 2000 AVMA guidelines for wildlife because they are set up for
14 domestic species: dogs; cats and livestock. In 2006 the American Association of Wildlife
15 Veterinarians and other groups began improving the AVMA guidelines; they address
16 non-domestic animals, including major families of wildlife and zoo animals.

17
18 Chair Rae recommended that the Commission take a reality check in the future on how
19 this new reporting system is working. She was sensitive to the fiscal impact issue raised
20 by Bob Sallinger. As a volunteer for a local non-profit, anytime recordkeeping increases
21 are changed by the Oregon Department of Justice Charitable Activity Section it does
22 decrease the purchasing power in the non-profits. She asked that folks be sensitive to
23 that aspect in the future.

24
25 Commissioner Klarquist had two technical changes in Attachment 3 – Division 44:
26 1. Page 9, lines 10-11, for the phrase “Nonnative wildlife listed as game animals in
27 OAR 635 Division 45 do not apply to these rules.”, after “...OAR 635 Division
28 45..”, insert “..***not affected by these rules.***” On line 11 delete “...these rules.”
29
30 2. Page 6, line 26, the phrase “...protected by federal law and provide a current valid
31 copy of the federal permit to the Department.”, change to read “*protected by*
32 *federal law **and provide a copy of a current valid federal permit to the***
33 ***Department.***”
34

1 Commissioner Englund said any wildlife carcass reports that the wildlife remains the
2 property of the State of Oregon. He asked how does liability shift and how is that used.
3 Counselor Bill Cook said the statute says, generally, that all wildlife in the state is the
4 property of the State. Certainly we are in the Court of Appeals on that issue; the courts
5 are saying that it's not property or ownership that would stick the State with any kind of
6 liability; it's more of a sovereign regulatory interest that the State has. He said just
7 because these animals are property of the State in this sense, what it means is that the
8 Department is looking out for the public's interest. It doesn't mean that the State is going
9 to be liable in any monetary way with these animals.

10
11 Chair Rae told Kohl and Blakely they had direction of some of the issues to be alert to in
12 the future. She noted the changes on Page 6 at line 26, and page 9 at lines 10 and 11.

13
14 *Action: Commissioner Englund moved to amend OAR Chapter 635, Divisions 044*
15 *and 056, as proposed by staff and as amended. Commissioner Edge seconded*
16 *the motion, and the motion carried unanimously.*

17
18 **Exhibit I: HUNTING DOG AND FALCONRY TRAINING RULES**

19 Brandon Reishus, Assistant Game Biologist, Wildlife Division, gave a slide presentation
20 on "Competitive Hunting Dog Trials and the Use of Wildlife when Training Hunting Dogs
21 and Raptors", better known as the dog training rules. In 1993, the Commission directed
22 staff to review current competitive hunting dog trial rules and draft new rules for the use
23 of wildlife for hunting dog training. Staff drafted rules in 1994, 2002 and 2008 but those
24 drafts were never proposed to the Commission.

25
26 Reishus said Oregon is the only western state that does not have a formal hunting dog
27 training rule process; but does have several rules that directly or indirectly prohibit the
28 training of hunting dogs. He said there is a public demand for training rules that allow
29 certain practices to take place.

30
31 *Current Trial Rules.* Reishus said Oregon Statute gives the Commission the ability to
32 regulate trials. Current rules within Division 46 only apply to hunting dog trials. To hold a
33 competitive hunting dog trial anywhere in the state and release domestically-raised game
34 birds during April 1 – August 14, a person must apply for a Competitive Hunting Dog
35 Trial Permit from the Department by submitting a letter of application to ODFW's District
36 Wildlife Biologist where the trial will be held; or the local Wildlife Area Manager if held on
37 an ODFW Wildlife Management Areas.

38
39 *Historical Dog Training Rules.* During the months of April through July no person shall
40 train a dog or let a dog run at large in game bird nesting habitat, regardless of property
41 ownership if it could be considered game bird nesting habitat. He said, in the very
42 strictest sense you couldn't have a dog off a leash in that area. OAR Division 43-100
43 said that during those four months if you were in productive wildlife habit that dog training
44 is considered wildlife harassment.

45
46 *Temporary Dog Training Rules.* Reishus discussed the adopted in late January 2011
47 with regard to: 1) a self issuing release permit for release of domestically-raised game

1 birds certain species specifically for hunting dog and raptor training. 2) People could
 2 take, shoot or take by falconry those same birds released under one of those permits on
 3 private lands or on identified dog training areas on public lands. The training of dogs was
 4 allowed year round on those same areas. The intent was to minimize the impact to small
 5 businesses while permanent rule was being developed.

6
 7 *Dog Training Advisory Group (DTAG).* After public meetings in late 2010, DTAG was
 8 formed and tasked with recommending rule revisions to ODFW. Staff recommendations
 9 are:

- 10 • Division 43 and 50, Hunting Regulations. Remove current language to end
 11 prohibitions on running or training dogs during April-July. There are current ORS
 12 that prohibit the unauthorized harassment of wildlife year round.
- 13 • Division 46, Use of Wildlife in Competitive Hunting Dog Trials and the Training of
 14 Hunting Dogs and Raptors. Reishus noted definitions could be found in
 15 Attachment 4 of the Proposed Rules. The proposed rules fall into five sections:
 16 1. Purpose.
 17 2. Definitions.
 18 3. General Regulations common to training and trials.
 19 4. Use of wildlife for training hunting dogs and raptors.
 20 5. Competitive Hunting Dog Trials.

21
 22 ***Chair Rae referred to a letter in Public Correspondence from an individual in***
 23 ***Jefferson County who leases property from her cousins; who lease that property***
 24 ***from her mother. They have a bird preserve on the property. Chair Rae declared a***
 25 ***potential conflict of interest in the oft chance that this ever implicates preserves***
 26 ***and specifically that one in Jefferson County.***

27
 28 **Public Testimony:**

Phil Sperr Sauvie Island, Oregon	Phil Sperr, DTAG member, read written testimony verbatim. His comments strongly supported the rules despite some reservations. He announced the four-day Hunt Test on Sauvie Island which took place Memorial Day weekend. Participants from out of state spent money and enjoyed themselves.
Janet Johnson Sheridan, Oregon	Janet Johnson, DTAG member, trains, competes and hunts with English Springer Spaniels, and AKC hunt and field trial judge. She said "ditto" on everything that Mr. Sperr said. See her one-page presentation. We are putting a lot of trust in land area managers and wildlife biologists.
Phil Carlson Heppner, Oregon	Phil Carlson, Treo Ranches and DTAG member, talked on behalf of the shooting preserve portion. He said dog training in the spring and summer months, on land not occupied by wildlife, is acceptable. They not only talk about it but associations enhance and protect wildlife. My first dog's training session was last Saturday. We did not disturb the

	birds flying around.
Howard Meyer Corvallis, Oregon	Howard Meyer, DTAG member and President of Willamette Valley Chapter of North American Versatile Hunting Dog Association, distributed written testimony and said he breeds and trains bird dogs and trains others. He said bird dog training requires use of pen-reared birds strategically positioned in the field relative to habitat and wind conditions. Training is achieved by the success of the dog in finding and handling these planted birds. Under these conditions if we encountered wild birds it would be a detriment. Encountering wild birds would create an uncontrolled situation and be a detriment to training, especially for a young dog. He deliberately avoids areas of cover likely to hold wild birds. He said good dog training cover is hard to find in Western Oregon. In 40 years of training he has never seen a dog find the nest of a ground-nesting bird. Wild birds are a detriment to his training and he avoids these areas.
Dr. Bob Bullard Hillsboro, Oregon	Dr. Bob Bullard of Cornelius Veterinary Clinic and DTAG member, distributed written testimony. He made reference to a letter accompanying DTAG's report that questioned the disease prevention policies as they pertain to the production and release of game birds versus the requirements for wildlife rehab facilities. He said Avian diseases differ from mammalian diseases inasmuch as most avian diseases we deal with enjoy worldwide distribution. At this time there is no evidence to support a need for change in the current health certificate and inspection requirements for transport, propagation, or release of game birds in Oregon.
Jerry Ray Corvallis, Oregon	Jerry Ray, Secretary of Mary's Peak Hound Club and member of DTAG, distributed written testimony and asked the Commission to adopt the Dog and Raptor Training rule, which represents the consensus of the DTAG committee. He encouraged the Commission to attend a dog training session to better understand their activities.
Scott Linden Bend, Oregon	Scott Linden, DTAG member, in written testimony, asked, "Where were the Audubon Society and other "conservation" groups when this important conservation work was being done?" He said the rule that the committee put together is sound and scientifically based, and if others wanted to make it better, they should have attended the meetings.

<p>Don Gilbert Roseburg, Oregon</p>	<p>Don Gilbert, President of Oregon United Sporting Dog Association, said he and his constituents support the rules. He worked with the DTAG group. There are a number of flags, but it's a sound rule.</p>
<p>Jane Hartline Sauvie Island, Oregon</p>	<p>Jane Hartline, DTAG member, is the only member that was not associated with the industry. She was designated to care about the birds. She was in consensus on everything except for the discussions on closure of training dogs due to disturbance during the bird nesting season. The group extended longer than she expected, and she was out of the country when this issue was decided. She encouraged the Commission to adopt the rules except for the nesting bird seasons on ODFW land.</p>
<p>Bob Sallinger Portland, Oregon</p>	<p>Bob Sallinger, Conservation Director for Audubon Society of Portland, distributed written testimony and thanked Chair Rae for her service on the Commission. He said the Audubon declined to participate on DTAG. Their concerns:</p> <ul style="list-style-type: none"> • Decision to postpone adoption of Sauvie Island Management Plan to accommodate a single user group was inconsistent with treatment provided to other user groups. • DTAG was stacked with dog trainers and others with interest to see dog training opportunities expanded. • Decision to adopt interim rules expanding dog training interests.
<p>Ms. Leslie Like Hillsboro, Oregon</p>	<p>Leslie Like, DTAG member, distributed written testimony in support of approval of the new and revised rules. She said everything that that two previous testifiers brought up were addressed by DTAG. A lot of people that were invited didn't participate. Others were excluded, and a lot of valuable information was lost. She thanked Kevin Blakely and Brandon Reishus for doing an exemplary job of maintaining their composure in the face of passionate and sometimes impetuous participation from some Committee members.</p>
<p>Larry Porter Portland, Oregon</p>	<p>Larry Porter, Vice President of Oregon Brittany Club. Ditto to everyone except the two previous testifiers. He urged the Commission to adopt these rules.</p>
<p>Dennis Leis Oregon City, Oregon</p>	<p>Dennis Leis, Oregon Brittany Club, is an avid bird hunter who has trained Brittany Spaniels for pleasure for over 30 years. He urged Commission to adopt these rules. He thanked Leslie Like for her time and effort.</p>

<p>Steve Souder Roseburg, Oregon</p>	<p>Steve Souder, a native Oregonian and life-long hunter and fisherman, distributed and read from his written testimony. He attended and testified at several of the DTAG meetings, and commended them for their work. He objected to Exhibit I, Attachment 3, Background, last paragraph on page 1, last three sentences. I feel the Code of Federal Regulations, CFR Title 50, Migratory Bird Permits, Subpart B, General Requirements and Exceptions, Subsection 21.13, has always made it legal to release and take captive reared mallard ducks by a citizen for bona fide dog training. The bottom of page 9 (d) and top of page 10 states: "or they may be shot in any number, at any time or place, by any person for bona fide dog training or field trial purposes..." CFR Title 50, Part 20, Migratory Bird Hunting, Subpart A, Introduction 20.2, Relation to Other Provisions (a) Migratory Bird Permits. "...This provision gives states the authority to make laws more restrictive than federal law concerning protection of migratory birds but it also places restrictions on the states by language that assures that state laws may not be inconsistent with federal law." He is insulted by staff's inference that we have been breaking the law by training their dogs.</p>
<p>Larry Lee Bend, Oregon</p>	<p>Larry Lee, owner of BAR-LEE Setters, distributed written testimony. He's a professional gundog trainer and English Setter breeder for over 20 years. These rules would greatly improve training availability. With these new drafted rules, we will be able to train more dogs to completion, while creating a dog and owner team to be the best stewards of game management, lands, and conservation.</p>

1
2 Commissioner Webber asked Counselor Bill Cook whether the Commission has control
3 over private property in regard to ground nesting birds. Counselor Cook said in terms of
4 land management no, but you do have control over taking of wildlife. Commissioner
5 Webber said, but we cannot prohibit dog training that doesn't involve take of wildlife.
6 Cook said your authority extends to wildlife and essentially human interaction with
7 wildlife, but you don't have land management authority other than on your own land.
8
9 Commissioner Webber asked about the annual permits. If people don't renew their
10 permit, is there no report? Reishus said that is correct. The reporting requirement is
11 currently tied to permit renewal. Commissioner Webber said if they alternate years
12 getting permits, would it occur that they'd never have to report? Reishus said it could
13 slip by that way, but as with any kind of reporting we will never get 100%.
14
15

1 Commissioner Edge expressed concern about harassing wildlife during the nesting
2 season. He asked that OSP explain what this would look like with respect to dog training.
3 How could anyone ever consider that training dogs is harassing?
4

5 Acting Deputy Director Blakely said harassment, as defined by these rules, is currently
6 strictly under Oregon Revised Statute. In comparison to those nesting bird months,
7 harassment during those months is going to be the same; it could be take, and there's
8 going to be some burden of proof to show loss of wildlife.
9

10 Captain Jeff Samuels, OSP Fish & Wildlife Division, said with harassment you have to
11 prove there is some harassment of wildlife, not just dogs in an area that have wildlife.
12 Commissioner Edge clarified, so a training dog that caught an adult meadowlark would
13 be a harassment case, for example? Captain Samuels said yes, and we have that today.
14

15 Commissioner Edge asked on a state Wildlife Management Areas (WMA), for example
16 Sauvie Island, what is the process for an area manager or regional biologist to approve a
17 permit in a wildlife area for nesting ground birds. Acting Deputy Director Blakely said the
18 rules contain criteria to approve or deny a permit. One of the changes in these rules is
19 that staff recognizes that release of wildlife for training is prohibited unless it's adopted
20 for the particular WMA. Commissioner Edge said that's sufficient; but he didn't recall
21 dog training being in any of the approved plans. Acting Deputy Director Blakely said
22 they are generally included as part of the recreational use outlined under the strategies
23 in most of the plans.
24

25 Commissioner Klarquist made several suggestions to the draft proposed rules in
26 Attachment 4-Division 43, Miscellaneous Permits and Records:
27

- 28 1. On page 3, in the Definitions (line 19) of "Competitive Hunting Dog Trial" it states
29 "(a) is licensed, sanctioned or sponsored by an organization; and" (line 24), but it
30 doesn't say that the organization itself has to have any qualifications. Why do we
31 have a requirement in there unless you intend specifically to have some
32 requirements? He suggested refining that or just take it out.
33

34 Reishus explained that when staff drafted that definition and mentioned "licensed,
35 sanctioned or sponsored by an organization", they did not intend to have any check on
36 what type of organization that was. The term "organization" there was used to run all the
37 extremes from a group of folks that have a common breed and a common interest and
38 consider themselves a small club, e.g., rod and gun club, up to a very organized
39 organization such as a statewide or national club like the American Kennel Club.
40

- 41 2. Commissioner Klarquist asked that the definition on page 4, line 3, for "Raptor" be
42 moved to page 5 after the definition of "Pursue" so it's in alphabetical order, and to
43 reletter the other definitions on page 4.
44
- 45 3. Page 4, line 14. Dog training is supposed to be, among other things, to reinforce
46 that learned behavior, but it's also to teach that behavior in the first place. He
47 asked staff to expand the definition of "Hunting Dog Training", and insert "**teach**

1 **or**” on line 14, to read “.any lands or waters in the state for the purpose of training
2 to **teach or** reinforce learned behavior...”
3

4 4. Page 6, line 24. The sections dealing with the use of wildlife for Hunting Dog
5 Training requires somebody to get a permit and then say the permittee or
6 permittee’s designee can release the birds. We want to have only permittees
7 releasing birds. It’s easy to get a permit; anyone who’s going to be involved in the
8 process should get that permit. We’re careful about saying that the permittee can
9 designate someone to take the dead birds after the end of the show, but it’s got to
10 be in writing. He suggested that either ask them to hold a valid permit or have a
11 written note from a permittee to release live birds. We’ve got to be either more
12 careful or consistent with rules with who’s releasing the live birds.
13

14 5. Page 8, line 17 – “, the birds must be pursued or taken within four consecutive
15 days of release.” Commissioner Klarquist said the time period is four days. If it
16 were Monday, Friday is four days from today, but that consumes five calendar
17 days. So I’m assuming you mean the day of release plus three additional days for
18 a total of four days. To make enforcement easy, I would be very clear in the
19 regulations.
20

21 Reishus said it was staff’s intent that the fourth day included the initial day of release. In
22 regards to requiring everybody to have a permit, staff had a good discussion with DTAG.
23 In many cases, it may be in a commercial training situation; the commercial trainer has
24 his permit to release birds so he can train dogs. On any given day, he may just enlist a
25 volunteer or a friend to come out and literally be the person that opens the door on the
26 box; so, is actually releasing the birds. DTAG felt that since the trainer is going to be
27 there with their permit anyway, that we did not need to go through the process of having
28 that helper for the day also get one of those permits.
29

30 Commissioner Klarquist said we might not have the same written thing of when we
31 release the birds as we have for the people who are taking the dead birds. We should
32 have as much care for the release of live birds as we do for the disposition of the dead
33 ones. Reishus said that wasn’t thought of by the group; it certainly could fit in.
34

35 6. Page 10. Commissioner Klarquist said on line 4 there’s a provision in here that
36 says, “(4) The Department may approve, approve with conditions, or deny a
37 permit application.” On lines 6-7, it states, “When the Wildlife District Biologist or
38 their designee proposes to deny or place conditions on a Competitive Hunting
39 Dog Trial Permit, the Watershed District Manager for that district must review and
40 approve of that action.” He assumed that staff meant that the proposal to deny or
41 restrict is subject to review by the District Manager. It also says to require the
42 Watershed District Manager to approve, requiring the biologist to get the approval
43 – make that clear too.
44

45 7. Page 9, line 19. Commissioner Klarquist said in the regulations when we specify
46 one person, a Wildlife District Biologist, and then say “...their designee...”, in

1 English grammar we should say "**his or her**" designee or "**the biologist**
2 **designee**".

3
4 Chair Rae asked staff for their assurance that there is nothing in here that they object to.

5
6 Acting Deputy Director Blakely agreed with the suggested changes. He said, as staff
7 went through this process, there was a mutual commitment to continue to vet those
8 issues. From the DO's perspective as these rules move forward we know there will be
9 some adaptations, both for how they are implemented and what they mean.

10
11 Chair Rae asked Commissioner Klarquist to identify his requests by page and line
12 number. Commissioner Klarquist clarified:

- 13
14 1. Page 3, line 24 – Organization.
15 2. Page 4, line 3 – Raptor definition alphabetically.
16 3. Page 4, line 14 – Expand hunting and training to teaching the dog.
17 4. Page 6, line 24 – Dealing with permittees or their designees.
18 5. Page 8, line 17 – Defining the four-day period.
19 6. Page 10, lines 6 and 7 – Dealing with review by a manager.
20 7. Page 6, line 24, and page 9, line 19 – Change definition of "their designee".

21
22 Acting Deputy Director Blakely added that Commissioner Klarquist also directed staff to
23 reletter alphabetical sections (6) through (12) on page 4 after moving the definition of "(5)
24 Raptor" on line 5.

25
26 Chair Rae said the Commission would take final action on the revised draft of the
27 Administrative Rules in Attachment the next day at about 10:00 a.m.

28
29 **ADJOURN**

30 Chair Rae recessed the Commission at 6:07 p.m., to reconvene at 8:00 a.m. on Friday,
31 June 3, 2011.