

1 in Deschutes and Crook Counties. He reported on a recent fire at the base of Winter
2 Ridge caused by thunderstorms and lightening. With regard to dam operations on the
3 Deschutes River returning water temperatures to historic conditions, Bend operators are
4 using the "Blend 17" model which models the temperature regime if the dams were not in
5 place to determine the appropriate amount of water mix to meet the natural thermal
6 potential. An estimated run of 7,257 wild steelhead returned over Shears Fall last year;
7 temperatures were not extreme and there were no fish fatalities.

8 9 Southwest Region

10 Larry Cooper, Region Manager, reported on the Butte Falls Hatchery closure. Removal
11 of the diversion dam and fish ladder structure by staff is almost complete. ODFW
12 transferred the water right from a fish culture use to an instream water right to benefit
13 native fish. Another 20 miles has been opened up for spawning and rearing habitat for
14 coho salmon and winter steelhead. He discussed the Little Butte Creek restoration
15 project in the Denman Wildlife Area. It will reconnect a 3,500-foot historic meander
16 channel that was excluded by the natural system by manmade berms in the 1950's. The
17 project will increase overwintering habitat for juvenile salmonids; spawning habitat for fall
18 Chinook and winter steelhead, and reconnect the creek with its floodplain.

19 20 Northwest Region

21 Chris Wheaton, Region Manager, said the first Coho passed over Willamette Falls on
22 July 31, the earliest arrival since 2000. Staff is developing a presentation on the
23 evolution and current status of Willamette Coho for an upcoming American Fisheries
24 Society national meeting in Seattle. Staff saw the first male sea lion back in the
25 Willamette below the falls about mid-August. Wheaton reported on several bear
26 incidents with residents in the Florence area. Two young men were found trapped in a
27 bear trap; they were cited by OSP for criminal mischief and Theft II. Lastly, he said the
28 warmwater fisheries biologists are responding to public and private landowner questions
29 with regard to excessive aquatic vegetation in ponds and reservoirs.

30 31 Information & Education

32 Rick Hargrave, Deputy Administrator, said the Wildlife Viewing Map, a Google-based
33 interactive map with 225 viewing locations in Oregon; will go online shortly after Labor
34 Day. Long-term we are looking for grant funding to turn it into a database driven map
35 versus the Google. He said this week staff is answering questions at the ODFW booth at
36 the Oregon State Fair; staff is highlighting the Aquatic Invasive Species issue. Hargrave
37 said 20 Youth Pheasant Hunts and clinics are scheduled for September. He noted that
38 Hunter Orange hats would be distributed to field offices; a general reminder that safety is
39 first and the hats are required now.

40
41 Chair Edge asked how staff would market the Wildlife Viewing Map. Hargrave said it will
42 be put on Facebook and Twitter, and a press release will be issued. He said this would
43 be a good platform to highlight the Conservation Strategy stamp, or banners that the
44 Oregon Wildlife Heritage Foundation can use. Deputy Director Melcher added that
45 House Bill 2127 (2011) gives the Commission the authority to create and market a
46 Habitat Conservation stamp; a non-compulsory stamp, strictly volunteer. Staff is working

1 closely with the business community to help market that, and looking at the ability to
2 bundle the parking permit fee with the conservation stamp.

3 4 Conservation Strategy

5 Rick Boatner, Invasive Species Coordinator, reported on the Aquatic Invasive Species
6 Program. The program was started in 2010 with five roving team inspectors located in
7 Clackamas, Central Point, Salem, Madras and LaGrande. Staff inspected 2,852 boats;
8 did 19 decontaminations. On a volunteer basis, the compliance rate is very low: only
9 27% of the public stopped for inspection. He said so far this year, the roving teams have
10 conducted 3,032 inspections and over 50 decontaminations. The percentage of public
11 stopping for inspections has increased to 42%. The 2011 Legislative Session passed
12 HB 3399 that makes it mandatory for boat inspections at signed roadside check stations;
13 it starts tomorrow at the Ashland Port of Entry.

14 15 Marine Resources Program

16 Caren Braby, Marine Resources Program (MRP) Manager, said a facilitator helped staff
17 identify areas to improve communication with stakeholders:

- 18 1. Receive information electronically; balance with those that don't have email.
- 19 2. Consistent branding, format and viewing of different components of printed
20 materials and the website.
- 21 3. Public meetings: Coastal and valley stakeholders travel long distances. Interest in
22 either web-based meetings or ways to provide electronic comments.
- 23 4. Provide feedback to stakeholders that are clear on how we incorporate their
24 comments into our actions.

25
26 Braby reported on the completion of the two-year Derelict Gear project. The crab fishery
27 deploys about 150,000 pots annually; 10% are lost. Staff recovered about 3,000 pots;
28 98% were returned to their owners. The Oregon Dungeness Crab Commission led a
29 voluntary effort to bring in pots under the CRABPOT Initiative; a voluntary program with a
30 reward-based system for commercial license holders who retrieve and return gear to
31 their owners. A joint event was held August 20 at the Port of Newport to announce the
32 newly formed industry-led partnership and in conjunction with the dedication ceremony
33 for the new NOAA dock. Dr. Jane Lubchenko, Under Secretary of Commerce for Oceans
34 and Atmosphere, and Administrator of NOAA, attended both events.

35
36 Chair Edge said the printed materials that the MRP produces; there is a lot of information
37 out there. He said it is extremely important for the public to know that it is from our MRP
38 versus Oregon Sea Grant versus a NGO.

39 40 Oregon State Police, Fish and Wildlife Division

41 Captain Jeff Samuels, Division Director, thanked the Commission for attending the
42 Guardian tour so they could witness first hand their operations. He said the National
43 Fish and Wildlife Foundation's 2010 Guy Bradley Award was presented to Sr. Trooper
44 Prodzinski by Governor Kitzhaber on August 25; the first time an Oregon recipient has
45 received the award. Trooper Prodzinski has been involved in fish and wildlife
46 enforcement for over 30 years, and worked out of the Madras work site since 1993.

1 **Cormorant Briefing on Current Planning Efforts**

2 Ron Anglin, Wildlife Division Administrator, distributed written summary, and said 41% of
3 the Western Population of Double-crested Cormorants (Cormorants) are now nesting in
4 the lower Columbia River Estuary on East Sand Island (ESI). Research conducted on
5 behalf of U.S. Corp of Engineers (COE) through the Wildlife Co-op Unit at Oregon State
6 University (OSU) is showing a significant amount of predation on juvenile salmonids.
7 These suspected impacts in Oregon have not been experienced before. As a result,
8 there has been work required by NOAA Fisheries and COE on ESI that would address
9 impacts of Cormorant on listed fish and trying to minimize those impacts. Anglin
10 discussed the Columbia River Estuary and management objectives:

- 11 • Reduce the ESI colony by 50%.
- 12 • Allow for no new recruits from ESI to any Oregon coastal estuary.
- 13 • Allow for no new recruits from ESI up the main stem of Columbia River.
- 14 • Allow maximum of 10% of birds removed from ESI to establish at inland sites.
- 15 • Request external resource and partnership commitments for research, monitoring,
16 and management actions.
- 17 • OSU will conduct a research project next summer to determine where cormorants
18 may move to when displayed from ESI.

19
20 Anglin said the Pacific Flyway Council charged the Nongame Technical Committee with
21 developing a Flyway-Level Cormorant Management Plan; expected to go before the
22 Council for approval by March 2013. Staff's goal is to have a draft plan by next spring.
23 The Avian Predation Coordinator in Tillamook works with volunteers to disrupt foraging
24 attempts by Cormorants. Staff is working on an application for a Federal Migratory Bird
25 Depredation Permit from USFWS for the lethal take of Cormorants; the permit will
26 identify where we are lacking information in areas that we need to work on. If granted,
27 staff would look at some targeted removal of birds in some of the key critical estuaries.

28
29 Chair Edge clarified because the species is protected under the Migratory Bird Treaty
30 Act, working through the Pacific Flyway Council's Nongame Technical Committee and
31 then the EIS, is the approach for long-term solutions? Anglin said that is correct. We are
32 tied into a federal process in order to be moving forward on all this.

33
34 **Recognition of Frank Utah, Hunter Education Area Coordinator for Columbia**
35 **County**

36 Deputy Director Curt Melcher said, as a 1977 graduate of the Oregon Hunter Education
37 Program, he knows how important the volunteers' efforts are on behalf of the youth of
38 our state and their parents. He thanked Utah for what he does for ODFW.

39
40 Chris Willard, Education Services Manager, said volunteer instructors implement the
41 Hunter Education Program. Frank has been an instructor for 10 years and resides in
42 Washington County. Three years ago he became the Area Coordinator in Columbia
43 County. During significant program changes, Frank got the instructors to buy into
44 technological advances and the new direction of the program and an independent study
45 model. Willard presented Utah with the *2009 Area Coordinator of the Year* award; he
46 noted that Utah was unable attend the statewide conference last spring.

1 Frank Utah said those of us who volunteer don't do it for recognition. He said this
2 (award) feels really good. He referred to the 1983 movie the "Christmas Story" and said
3 his wife would be very pleased that this (award) was not a lamp.
4

5 **Adopt Temporary Rules**

6 Deputy Director Melcher asked the Commission to adopt the ten temporary rules on
7 pages 1-3 of the agenda. He noted that **No 4. OAR 635-067-0030 Controlled Bighorn**
8 **Sheep Hunts** extends the hunt season to September 28, 2011 to accommodate two
9 Bighorn tag holders currently deployed on active duty in Iraq, and whose return dates are
10 in September but perhaps too late to participate in the hunt. This rule extends the season
11 to allow them to participate upon their return; the date applies to all Bighorn tag holders.
12

13 **1. 635-042-0160, 635-042-0170 and 635-042-0180**

14 **2011 Fall Commercial Seasons Set for Columbia River Select Area Fisheries**

15 Adopted July 28, 2011, effective August 15, 2011 through October 31, 2011.

16 Amended rules to set 2011 Fall commercial gill net salmon seasons for the Columbia
17 River Select Areas including: Blind and Knappa sloughs, Tongue Point/South Channel
18 and Deep River. Modifications are consistent with action taken July 28, 2011 by the
19 Columbia River Compact agencies of Oregon and Washington.
20

21 **2. 635-039-0085**

22 **Oregon Ocean Sport Pacific Halibut Season Changes from Cape Falcon to Humbug** 23 **Mountain**

24 Adopted August 11, 2011, effective August 12, 2011 through October 31, 2011.

25 Amended rule closed the summer all-depth sport fishery for Pacific halibut in the area
26 between Cape Falcon and Humbug Mountain, Oregon at 11:59 p.m. on Friday, August
27 12, 2011. Insufficient quota remains for any additional all-depth days without the risk of
28 exceeding the quota. However, enough quotas remain to open the nearshore (i.e., 40-
29 fathom) fishery beginning at 12:01 a.m. on Saturday, August 13, 2011. Retention and
30 possession of groundfish with Pacific halibut will be prohibited. This rule is consistent
31 with regulations that have been implemented by the federal government and the
32 International Pacific Halibut Commission for the 2011 Oregon recreational fishery for
33 Pacific halibut.
34

35 **3. 635-067-0030**

36 **Controlled Bighorn Sheep Hunts**

37 Adopted August 16, 2011, effective August 16, 2011 through February 11, 2012.

38 The rule amendment clarifies the hunt boundary to allow this year's tag holders the
39 greatest opportunity for success. Amendment will expand the East Trout Creek sheep
40 hunt boundary to the following: That part of Unit 68 south of Whitehouse Ranch Road,
41 west of Hwy 95; and east of Fields-Denio Road.
42

43 **4. 635-067-0030**

44 **Controlled Bighorn Sheep Hunts**

1 Adopted August 19, 2011: effective August 19, 2011 through October 1, 2011.
2 This amendment extends the hunt season for bighorn sheep controlled hunts 567A2 and
3 569B. The current season is from September 6 to September 19, 2011. This
4 amendment would extend the season to September 28, 2011 to accommodate active
5 duty tag holders who are currently deployed. This extended season is open to all tag
6 holders.

7
8 **5. 635-051-0065**
9 **State Wildlife Area Regulations**

10 Adopted August 19, 2011: effective August 19, 2011 to September 19, 2011.
11 The current 2011-2012 Oregon Game Bird Regulations published this two-day Adult
12 Pheasant Hunting Clinic in the Klamath Wildlife Area for September 17 and 17, 2011.
13 The clinic dates should have been listed as September 17 and 18, 2011. This
14 amendment corrects the dates for this two-day pheasant hunt.
15

16 **6. 635-023-0134**
17 **Fall Chinook Sport Fishery In Snake River Below Hells Canyon Dam Opens**
18 **September 1, 2011**

19 Adopted August 22, 2011: effective September 1, 2011 through December 31, 2011.
20 Amended rule implements a fall Chinook fishery on the Snake River from the Oregon-
21 Washington border upstream to the deadline below Hells Canyon Dam beginning on
22 September 1, 2011 to coincide with the State of Idaho's regulations for this fishery.
23

24 **7. 635-042-0031**
25 **Fall Commercial Drift Gill Net Seasons Extended In Columbia River Mainstem**

26 Adopted August 25, 2011: effective August 28, 2011 through September 14, 2011.
27 Amended rule expands the 2011 fall commercial salmon drift gill net season for the
28 Columbia River mainstem in Zones 4 and 5. This ongoing fishery was expanded with
29 two new 9-hour fishing periods. Modifications are consistent with action taken
30 August 25, 2011 by the Columbia River Compact agencies of Oregon and Washington.
31

32 **8. 635-041-0045 and 635-041-0075**
33 **Treaty Indian Fall Commercial Fisheries for the Columbia River Modified**

34 Adopted August 25, 2011: effective August 29, 2011 through October 31, 2011.
35 Amended rules extends, by two additional days, the period in which commercial sales of
36 fish caught during Treaty Indian commercial fall fisheries in the Columbia River are
37 allowed. The first additional day of fishing occurs at 6:00 a.m. Monday, August 29, 2011.
38 Modifications are consistent with action taken August 25, 2011 by the Columbia River
39 Compact agencies of Oregon and Washington in cooperation with the Columbia River
40 Treaty Tribes.
41

42 **9. 635-042-0145**
43 **Fall Commercial Season for Youngs Bay Select Area of the Columbia River**
44 **Expanded**

45 Adopted August 25, 2011: effective September 5, 2011 through October 31, 2011.

1 This amended rule completes the setting of 2011 fall commercial salmon seasons for the
 2 Youngs Bay Select Area of the Columbia River. The fall fishing season, adopted by the
 3 State of Oregon on July 28 at a meeting of the Columbia River Compact, was set to
 4 begin August 3 and run through September 2, with understanding that additional fishing
 5 periods would be considered at the Compact meeting scheduled for August 25. Rule
 6 modifications expand the ongoing season to include a 57-day fishing period from 7:00
 7 p.m. Monday, September 5, through noon Sunday, October 31, 2011. Modifications are
 8 consistent with action taken August 25, 2011 by the State of Oregon.
 9

10 **10. 635-042-0170**

11 **2011 Fall Commercial Seasons for Tongue Point Select Area Fisheries Modified**

12 Adopted August 25, 2011: effective September 19, 2011 through October 31, 2011.

13 This amended rule modifies fishing periods previously set for the fall commercial gill net
 14 salmon seasons in the Tongue Point Select Area of the Columbia River. Periods
 15 previously set for 4:00 p.m. through 8:00 a.m. the following morning, on Mondays
 16 through Thursdays (four nights per week), beginning Monday, September 19, and
 17 running through Friday, October 28, were expanded by two hours each to run from
 18 4:00 p.m. through 10:00 a.m. the following morning. Modifications are consistent with
 19 action taken August 25, 2011 by the Columbia River Compact agencies of Oregon and
 20 Washington.

21
 22 *Action: Commissioner Englund moved to approve the ten administrative*
 23 *temporary rules submitted in the agenda. Commissioner Levy seconded the*
 24 *motion, and the motion carried unanimously by a vote of six.*
 25

26 **PUBLIC FORUM**

<p>Kay Teisl Salem, Oregon</p>	<p>Kay Teisl, Executive Director, Oregon Cattlemen's Association (OCA), distributed a letter for OCA and said in addition to significant above normal losses, ranchers who have lived for over 30 years in Northeast (NE) Oregon are seeing damage like never before to their livestock. Cattle refuse to go out to range; 100 heifers were chased through a fence and cornered at a cattle guard by a wolf. Cattle are literally being run to death; ranchers are finding cattle with broken legs; blood dripping from their mouths; bite marks and badly torn utters. Teisl said ranchers and Rod Childers, OCA Wolf Committee Chair, continue to put forth a good faith effort to work with ODFW to resolve these conflicts. These small operations cannot sustain these losses and stay in business. It is critical that a wolf kill is acknowledged when there is adequate evidence.</p> <p>Teisl asked the Commission to adopt an appeals process for when disagreements arise in wolf depredation investigations. OCA is suggesting a third party or perhaps a panel of experts, e.g., two veterinarians or the Washington</p>
------------------------------------	---

	State University (WSU) lab analysis, to be used to judiciously resolve disagreements on wolf depredation determinations. Teisl said OCA is suggesting this because of a calf kill (see paragraph four of letter) when Rick Williams, U.S. Fish and Wildlife Services retiree; responded to a kill site and called it a wolf kill; in this one circumstance ODFW changed their call to “a probable”. If there was a way for a rancher to at least appeal a decision that is one person’s opinion that ultimately affects their livelihood, this might be a step in the right direction to help resolve this contentious issue.
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Commissioner Levy declared a potential conflict of interest; we run cattle and sheep in the area where they have three wolves right now. She asked the Department to look at this request and suggest a report or have a conversation to see if it could be resolved, and then come back to the Commission to see if can be done. She asked what the legal stance on this is.

Chair Edge asked Legal Counsel Steve Sanders what the potential actions for the Commission are for an appeals process; noting the Oregon Wolf Conservation and Management Plan (Wolf Plan) already in place. He also pointed out the Governor had signed a new Wolf Depredation Compensation bill (HB 3560) this year as well.

Counselor Sanders said currently this has been set up by rule in the Wolf Plan. Procedural changes like this to incorporate an appeal process would require a rule change. It would be within the Commission’s authority to establish the process that you want to take that kind of activity. As a technical matter, this was not notified on the public notice, so you could not take formal action today, but certainly the Commission could ask the staff to work with OCA and other constituencies to come up with - to at least make it more transparent upon what basis we’re making these predation determinations.

Commissioner Finley said the Commission should look at some sort of appeals process.

Commissioner Webber said the identification of this being wolf predation is: 1) something that we might do in the short term as far as wolf management and 2) the compensation as wolf damage. Anything we were doing as far as hazing to lethal control would be in a fairly short term; so, we don’t have a lot of time to make those decisions. Eddy said staff tries to make a determination as quickly as they can.

Commissioner Webber said you have the determination of whether the Department is going to take some sort of management action that would be a fairly short-term; an appeal of that decision would seem not timely. If there is a request for compensation that is based on this decision that would not seem to have the time issues. If there could be an appeal process related to that, it would seem to be more reasonable.

1 Anglin said the Oregon Department of Agriculture (ODA) is adopting rules on the wolf
2 depredation compensation program. In discussions with ODA and from what OCA and
3 stock growers requested, compensation would be reviewed a couple of times during the
4 year; requests would be submitted to ODA. Yes, there is a length of time that an appeal
5 process would certainly fit within what ODA is laying out for their rules; for the counties
6 who participate they could wrap into that process. If staff investigates a depredation
7 where we are doing lethal removal that would occur quickly. Eddy and his region staff
8 conduct an Internal Review Process to review depredation appeals or questions.
9

10 Commissioner Webber said, so the appeal process on the compensation side would be
11 something that ODA would really be the appropriate agency? Anglin said no; the ORS
12 requires that it be confirmed by ODFW. Any appeal process would be through the
13 Commission; then staff would recommend a change in whatever that final decision was.
14

15 Commissioner Levy said if OCA disagrees with Morgan, it stands to reason that they are
16 going to disagree vehemently with biologists who have not been out in the field doing this
17 as long as Russ. How do we train them? Anglin referred to the OCA letter (paragraph
18 four), and said Russ made a determination but it is a Department decision. Field
19 biologists are trained in investigating what kills animals, doing wolf depredation
20 investigations and the protocols to follow. They rely on what's been identified by USWS
21 and use information from different publications.
22

23 Commissioner Levy asked if OCA needed to observe the 90-day timeframe and request
24 a rule change. Counselor Sanders said OCA can petition for a rule amendment; then the
25 Commission would have 90-days to decide to either enter rulemaking or not. Once you
26 enter into rulemaking, you are not committed to a particular result.
27

28 Commissioner Akenson referred to the data forms used for looking at each depredation
29 activity and asked if additional information could be attached to the forms even if it was
30 not part of that decision making. Anglin said staff has included that information with lab
31 reports. He did note that when staff has arrived at a kill site, they've encountered people
32 tromping all over the kill site and stock dogs running on the site, resulting in a comprised
33 site making it difficult for staff to make a determination. Eddy added that the landowners
34 and Wildlife Services receive copies of these reports.
35

36 Commissioner Finley referred back to when he worked at Yellowstone National Park. He
37 said one thing that deserves discussion between staff and OCA; he remembered visiting
38 carcass sites where the carcass was pretty old. The DNA is denatured by ultra-violet;
39 those are much more difficult to identify. He said some criteria for the landowners; much
40 like preserving a crime scene or an incident scene anywhere; come to common
41 agreement on not trampling the site; not letting dogs in; all the things you can do to
42 preserve the integrity of the evidence. He said that would be something you could work
43 with the Department to do that would facilitate everyone. What it also does then is help
44 the body of evidence and preserves the integrity for sure.
45

46 Deputy Director Melcher said the statute in HB 3560 specifically directs the responsibility
47 to ODFW; if there is going to be a Committee that can overturn ODFW it needs to be

1 reflected in the statute. If we gave away our authority now and rely on these three
2 individuals to do it; we would not be complying with the terms of the ORS. Staff will look
3 at upcoming Commission agendas; and under the Director's Report give a detailed
4 briefing on the steps they take when a rancher calls with an issue; do actual case studies
5 with the real information; and how we make our determinations internally. It's not just
6 Russ even though he's our agent and we fully support his determinations.

7
8 Anglin said staff would not have enough time to get it on the agenda for October and
9 OCA has their annual meeting in December; he suggested an overview in January.

10
11 Commissioner Levy said so OCA's suggestion of having a panel won't work. If they wish
12 to change anything, it has to go to rulemaking. Deputy Director Melcher said since the
13 statute was so specific in calling us out for making the determination, rulemaking cannot
14 supersede statutes. Counselor Sanders said the statute would not allow the
15 Commission to delegate the final authority to determine a predation call to anyone
16 outside the Department; like veterinarians or someone else. You could impose an
17 internal process though, by which the determination is first made and reviewed.

18
19 Commissioner Levy asked if that could be done without going to rulemaking. Counselor
20 Sanders said yes. He said that the Director of the Department has the current authority
21 to impose internal management guidelines, as they would technically be called, upon the
22 staff to make this determination in a particular way without rulemaking.

23
24 Commissioner Levy said to Anglin, could we review that and see if it is possible? Anglin
25 said yes; staff would work with OCA, and return in January and explain how the current
26 review process works. Commissioner Levy asked staff to report back to the
27 Commission, unless the other Commissioners did not agree.

28
29 Commissioner Webber said we place a fairly high level of burden of proof to make that
30 decision for our management and control actions. That decision by the Legislature was
31 imported over into the compensation. He wasn't sure that those two decisions fit
32 together; maybe a lower burden of proof might be appropriate for compensation. He
33 would not feel comfortable with a lower burden of proof for Department action. He sees
34 this as a statutory issue; because we are going to make our decision on the basis of
35 some hard evidence; that creates problems for the producers in terms of them getting
36 any compensation from this fund that was created.

37
38 Anglin said the confirmation process that staff goes through is actually the level that
39 came from USWS. He didn't recall if there were discussions on the legislation whether a
40 probable but unconfirmed would qualify for compensation. Some of the problem is we
41 think that a wolf may have been involved but we don't have the final hard evidence that
42 says definitely that it was a wolf

43
44 Chair Edge did not want two different standards: one allowing a compensation
45 designation and another on our management. We need to be consistent in our
46 determinations. We are stewards of the public funds and there will be other opinions
47 associated with each of these determinations. He said that Anglin offered to come to the

1 Commission in January with a comprehensive explanation of how the kill reporting is
2 done. He asked Anglin to roll in case studies where there have been disagreements
3 among the parties, and help the Commission to understand the nature of those
4 disagreements. Then the Commission can make a more informed decision about
5 whether they want to either direct staff to develop an internal policy or go to rulemaking
6 to develop a different process. The other Commissioners agreed.

7
8 **Exhibit A: COMMISSION MINUTES**

9 Chair Edge deferred the draft August 5, 2011 Commission minutes to October.

10
11 **Exhibit B: TERRITORIAL SEA PLAN INFORMATIONAL BRIEFING**

12 Caren Braby, Marines Resources Program Manager, said Oregon has world-class wave
13 energy resources for renewable energy harnessing. There is a strong developer interest
14 in starting projects in Oregon's nearshore and Oregon's Territorial Sea (OTS). She said
15 a buoy pilot project in Reedsport had been delayed to next summer. As a result of this
16 project, the State is defining where and how we want to invite wave energy and other
17 renewable energy developments. The state policy on how to document those resources
18 is in statewide planning Goal 19. Staff is undergoing a mapping process to identify the
19 three categories of Goal 19 protection for:

- 20 1. Ecological Atlas; e.g., kelp beds under ODFW jurisdiction.
- 21 2. Fishing grounds; a socio-economic component. Fishing industry is voluntarily
22 collaborating with the contractor Ecotrust to document those fishing grounds.
- 23 3. Current Uses; e.g., shipping lanes, dredging disposal sites and other types of
24 uses are being documented and developed with DLCD, the primary authority
25 for territorial sea planning.

26
27 The Territorial Sea Plan (TSP) outlines the state's policy and methods for planning land
28 use in the marine environment and implements the priorities stated in Goal 19. In 2009,
29 staff developed the policy component of Part 5 that addresses renewable energy
30 development; the Land Conservation and Development Commission (LCDC) adopted it
31 in 2009. This fall more public meetings will occur on mapping and areas of opportunity;
32 the mapping component will be presented to the Territorial Sea Plan Working Group
33 (part of Ocean Policy Advisory Council) and LCDC. Once adopted by LCDC, the plan
34 will be submitted to National Oceanic and Atmospheric Administration and Federal
35 Energy Regulatory Commission for federal adoption.

36
37 Braby said data sets are being collected in three areas: ecological, fishing, and current
38 use related. Staff and DLCD developed a web-based access portal visualizing the data
39 sets through the Oregon Marine Map at <http://oregon.marinemap.org/>.

40
41 Braby talked about the Bureau of Ocean Energy Management Regulation and
42 Enforcement who created task forces nationwide in locations where there is interest in
43 renewable energy development in offshore waters. Braby sits on the Oregon task force.
44 At the national level there is a lot of interest in coastal and marine spatial planning and
45 big bodies of water, e.g., Great Lakes, and how we're planning to use those collectively.
46 Next year staff expects to develop a regional planning body at the federal direction and

1 appointment of that body; and to include representatives from Oregon, California and
2 Washington to address marine spatial planning issues for the region.

3
4 Commissioner Levy said on page 3 of Attachment 3 – Oregon Territorial Sea Plan, you
5 listed (See appendix C map); we didn't get that one.

6
7 **Public Testimony:** There was no public testimony.

8
9 Commissioner Webber said on TSP mapping data set you have "Fishing Grounds
10 (interview-based)", but then you said later that you are using logbook correlation. He
11 asked what she was basing it on exactly.

12
13 Braby said there are two ways that fishing information is entering this planning process.
14 The "interview-based" mapping of fishing grounds was a voluntary action by the fishing
15 industry to document grounds that are important for their business and livelihoods. We
16 collect information on fisheries that are relevant to our management purposes and
17 documenting biological economical resources of the state. We have taken information
18 from logbooks and are working with an advisory committee of fishermen to determine
19 what aspects of that logbook information can be developed in an ecological sense and
20 brought into the planning process. Instead of documenting the fishing grounds and the
21 importance to the economy, this is taking the fishing grounds and understanding more
22 about the ecology of those so we can document the important ecological resources.

23
24 Commissioner Webber said in enforcing the log book regulations you always have the
25 feeling that they're not going to give you the accurate information because they don't
26 want anyone to know where they fish. But if they're not telling us or accurately
27 portraying where they fish it may get wave energy stuck right in the middle of their secret
28 spot. He suggested it would be good to let them know that.

29
30 Braby said Steve Williams provided her with reference to Commissioner Levy's question
31 about the Appendix C map in Attachment 3; the language should be deleted. Chair
32 Edge said the Commission would excuse that informational item from the record.

33
34 **Exhibit C: SALMON AND TROUT ENHANCEMENT BOARD (STEP) ANNUAL**
35 **PROGRESS REPORT, AND FISH RESTORATION AND**
36 **ENHANCEMENT PROGRAM PROJECT APPROVAL**

37 Kevin Herkamp, Salmon and Trout Enhancement Program (STEP) Coordinator,
38 introduced Bill Hastie, the Vice-Chair of the Salmon and Trout Advisory Committee
39 (STAC), and current mid-Willamette STAC advisor.

40
41 Bill Hastie provided a report on the 2010 STEP Annual Report and historical background
42 on STEP. He said there are nine full-time biologists and two half-time STEP biologists
43 statewide but only one STEP biologist for all of Eastern Oregon and one for the Portland
44 Metro area. The annual STEP budget of about \$2.1 million is funded 75% by Sport Fish
45 Restoration funds and 25% comes from a variety of sources including the Restoration
46 and Enhancement (R&E) Program. The STAC committee consists of 13 members who
47 award funds through a mini-grant program from R&E. STEP has four project categories:

- 1 1. Fish habitat inventory and monitoring;
- 2 2. Habitat enhancement and restoration;
- 3 3. Fish culture; and
- 4 4. Education, outreach and program development.

5
6 Hastie reported on volunteer hours by Project Type, and STEP accomplishments in the
7 four project categories. In the last biennium STEP awarded \$55,000 in Mini-Grants;
8 each approved grant has a \$2,000 maximum. Applications are reviewed by STAC and
9 brought before the Commission for approval. He discussed STAC recommendations:

- 10 • Improve recruitment and retention of new and younger volunteers.
- 11 • Encourage STEP involvement in reintroduction and recovery of listed stocks.
- 12 • Improve data collection and reporting (including use of the GIS).
- 13 • Support, and provide opportunities for aquatic resource education outside the
- 14 classroom to complement the new state education standards.
- 15 • Additional STEP biologists in Northeast, High Desert and Northwest Regions.

16
17 Hastie also discussed opportunities in the current economy:

- 18 • School budget cuts. STEP to provide low or no cost science education activities.
- 19 • No-child left inside legislation is pending but Oregon is set up to receive federal
- 20 funds proposed to fund state efforts to use the outdoors in K-12 schools as
- 21 learning sites. Last November an environmental literacy plan was put in place.
- 22 • New state science standards. STEP can be part of the school curriculum.
- 23 • Several STEP programs have well-developed curriculum and programming to
- 24 share with other programs; their models are used nationwide.

25
26 Commissioner Levy said this was her favorite program; she would love to see more
27 people involved in NE Oregon. She said there is a hatchery in Irrigon and asked how to
28 partner schools in her area to partner with the STEP program.

29
30 Hastie said most hatcheries are open to that kind of suggestion. They are presently
31 recruiting for a STAC member on the east side; that would be a great way to help them
32 learn the process there. He said STEP biologist Jennifer Luke in Bend is very innovative
33 and would be open to her suggestion. Herkamp suggested district and hatchery staff; a
34 lot of the hatcheries have developed their own educational programs and work directly
35 with schools. He promised to work with Commissioner Levy on her request.

36
37 Herkamp presented one of 14 projects and said due to South Twin Lake's timeline it
38 could not wait for the Commission's October 7 meeting for approval. The requested
39 \$65,000 will purchase 20,000-lbs. of rotenone powder and 30-lbs. of liquid to remove the
40 illegal introduction of bullhead catfish and restore the rainbow trout fishery; and will be
41 combined with the previous project of Cycle 8 of last biennium to order enough rotenone.
42 For the second cycle of the 2011-13 biennium the R&E Board recommended funding for
43 five restoration projects and nine enhancement projects totaling \$468,000. If this project
44 is approved today it leaves \$3.6 million in the R&E fund. He said if the other 13 projects
45 were approved in October it would leave about \$3.2 million.

46

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

2
3 Commissioner Webber said the description in Attachment 3 – Summary of Projects (see
4 Board Discussion, line 5) talks about treating "...bull head trout..." Herkamp apologized
5 and said he thought that error had been corrected.

6
7 *Action: Commissioner Finley moved to approve the recommendations of the Fish*
8 *Restoration and Enhancement Board. Commissioner Webber seconded the*
9 *motion, and the motion carried unanimously by a vote of six.*

10
11 **Exhibit D: OPTIONS TO ADDRESS USE OF SODIUM SULFITES IN CURED EGGS**

12 Ed Bowles, Fish Division Administrator, said the Commission directed staff last year to
13 move forward to develop a non-regulatory solution with manufacturers and the fishing
14 industry to information that was developed showing toxicity and unintended mortalities
15 associated to egg cures found in sodium sulfites. He said the manufacturers and fishing
16 industry did not ask for this but contributed willingly and voluntarily in the initial studies by
17 providing their "brew" and helped staff in working towards a solution.

18
19 Charlie Corrarino, Conservation and Program Manager, said cured bait is very popular
20 when used for adult salmon and steelhead. After a clump of eggs is casted repeatedly or
21 are nibbled repeatedly, little berries on the eggs start to pop off and that is where the
22 juvenile interaction occurs in most cases. In 2008 anglers concerned about cured eggs
23 being toxic to juvenile salmon and steelhead contacted staff. In Fall 2008, OSU and
24 ODFW conducted preliminary tests. In December 2009, staff issued a progress report
25 that demonstrated mortality up to thirty percent (30%); the isolated mechanism defined
26 was sodium sulfite. When sodium sulfite was removed from the cure the mortality was
27 significantly reduced to almost zero. Staff reported to the Commission in August 2010 on
28 an initial plan that was a phased non-regulatory approach to totally eliminate sodium
29 sulfites. In June 2011, final results of the study were published in a peer review journal
30 confirming the researchers' preliminary findings. The Commission directed staff to
31 continue working with the industry and report back in Fall 2011. The industry has
32 requested:

- 33 1. Independent review of Dr. Clements' work.
34 2. Develop "deminimis" level of sodium sulfite as a mold inhibitor.

35
36 Dr. Shaun Clements said in response to industry requests staff re-analyzed data from
37 the published study; an experiment in which the fish were given an inordinate amount of
38 sodium sulfites. Our analysis suggested that there was an exponential relationship
39 between mortality and the amount of sodium sulfite that they consumed. Using that
40 relationship based on criteria that we wanted single digit mortality consistent with the
41 way we manage other fisheries, indirect fishery impacts, we recommended that the final
42 concentration of sodium sulfite in the eggs not be more than 12 grams per kilogram of
43 eggs. During initial testing, the cures that staff tested resulted in 15 to 50 grams of
44 sodium sulfite in the eggs; slightly below the lowest level tested. He said staff is confident
45 that this will result in single digit mortality around five percent and likely a lot lower.

46
47 Corrarino discussed objectives developed from several public meetings:

- 1 • Develop non-regulatory and no cost solutions based on sound science.
- 2 • ODFW to supply transition labels that read “Meets Oregon Guidelines”.
- 3 • Staff will continue to work with manufacturers who may have missed this process.
- 4 • Certification of each product as meeting Oregon guidelines; to be web-based.
- 5 • Web-based list of certified producers; giving credit for their work.
- 6 • Revise the Public Service announcement in 2011 Sport Fishing Regulations and
- 7 publish in 2012 Sport Fishing Regulations to acknowledge the industry for finding
- 8 solutions based on sound science; advise anglers how to properly dispose eggs.
- 9 • Suggest that anglers consider using Borax, an effective cure.
- 10 • ODFW and Northwest Sport Fishing Industry Association will outreach to retailers.

11
12 Corrarino noted a memo from Bruce McIntosh, Fish Division Deputy Administrator, to the
13 major egg cure industry representatives; nine have expressed their intent to participate in
14 this voluntary program (Attachment 2). Staff is proposing two options:

- 15
16 1. Direct ODFW to seek agreement with the egg cure industry to adopt and
- 17 implement the non-regulatory “deminimis” approach to guide the quantity of
- 18 sodium sulfite used to produce egg cures.
- 19 2. In the absence of a non-regulatory solution, direct ODFW to develop Oregon
- 20 administrative rules to ban the sale and use of eggs cured with sodium sulfites for
- 21 bait in Oregon.

22
23 **Public Testimony:** There was no public testimony.

24
25 Webber said there were: 1) cured eggs; and 2) the cures that you can buy. Are they
26 equally at risk as far as causing the harm? Corrarino said they are both items that staff
27 are concerned with and have discussed with the industry; both of those products are
28 included in this non-regulatory approach. Commissioner Webber said the cure opposed
29 to the cured eggs might be more mom and pop operations than the cured eggs.
30 Corrarino said it’s a blend; some of the small operations just do one, some do the other
31 and some do both; the bigger operations do both. Commissioner Webber said to the
32 extent that we are successful staff did a great job of getting everybody to believe in the
33 science and agreeing to reduce the sodium sulfites.

34
35 Commissioner Finley believes that the chemicals should not be introduced into public
36 waters with 5-10% mortality. It is toxic to juvenile fish when you did your tests; it went
37 from 30% mortality to zero without the sulfite. There is nothing in the studies that shows
38 what the evidence is whether this is an endocrine disruptor for these fish or not. By your
39 own definition of deminimis you said that five has no effect, but then you say we are
40 going to have 5-10% mortality; so it’s not deminimis. The 12 grams per kilogram of eggs
41 will result in less than 10% of mortality. It is not acceptable for the State of Oregon to
42 accept mortality to juvenile salmon and steelhead that are already under stress from
43 other stressors. There are alternatives listed in this public document – Borax. In the write
44 up the reason to keep sodium sulfite in the mixture was to reduce mold. He said for
45 generation’s eggs have molded in the refrigerator; but you put them in the freezer and
46 they don’t mold. Borax is an excellent desiccant and all the evidence today shows that it
47 is not harmful. You cannot control the concentration when these are sold in packaged

1 units, when someone at home mixes it and decides not to follow the manufacturers'
2 directions. You won't have 12 grams per kilogram; you may have 24 or you may have
3 20; there's no control - it is out there.

4
5 Commissioner Finley asked the Commission to consider a third alternative: allow the
6 industry two years, under the negotiated 12 grams, and phase it out; go back to Borax.
7 We are imbedding in policy a known, harmful lethal chemical in concentrations that has
8 already been proven by the data.

9
10 Commissioner Englund said if these voluntary recommendations are not followed, what
11 is the recourse? Where are we with the smaller manufacturers if they don't follow the
12 guidelines set up? Counselor Sanders said you have the opportunity for progressive
13 discipline; you would not be able to enforce a voluntary requirement like this absent an
14 administrative rule that you could adopt, which would prescribe either no use of this
15 chemical or some small amount of this chemical in the bait. The Commission has
16 specific statutory authority to establish by regulation those parts of food fish, which can
17 be used for bait; as well as, some congenial authority on what types of gear and how
18 fish and wildlife can be taken. The Commission has the general authority that you would
19 have to fall back on; this would not rely on a legal hook.

20
21 Commissioner Englund clarified, so we are going to issue you a warning if you don't
22 follow this, or we get a violation; then we do a rule. Counselor Sanders said yes.

23
24 Chair Edge said staff proposed two options to the Commission; Commissioner Finley just
25 proposed a third alternative (a modification to Option 2).

26
27 Commissioner Webber said he heard Commissioner Finley recommend a grace period;
28 so deminimis may not be a good way to go. If we can reduce mortality by 10 % it would
29 seem like the appropriate thing to do. But certainly giving the manufacturers a period of
30 time, two years, to comply would also be reasonable. We are not trying to put them out
31 of business and are giving them time to develop alternatives.

32
33 Bowles said all of the mortalities that Dr. Clements talked about are relative to individual
34 fish that ingest these eggs. We have no knowledge of how many juveniles in the
35 population ingest these and at what rate. To transfer these mortality rates to a
36 population level would not be scientifically based right now. Staff's intent is not to
37 obviscate; the reason we were receptive to this concept was because all of our fisheries
38 have unintended consequences that do stress or potentially cause mortality to individual
39 fish.

40
41 Bowles said Commissioner Finley brings up some very good points about the unknown
42 aspects of this toxin. Most of our work focused on the direct affects of this toxin; delayed
43 affects but they're still associated with a caustic nature in the internal organs of the fish.
44 We did not look at endocrine disruption or any of those other aspects; we have not
45 looked at that relative to other fishery type methodologies.

1 Chair Edge said the studies are based upon fish in fish tanks. We have not done field
2 type studies? Clements said that is correct; we did this in a laboratory setting using
3 three-foot tanks.

4
5 Commissioner Finley said why is a known toxic material being agreed to be put into the
6 ecosystem? We don't know what else eats these eggs once they're loose with this toxic
7 material; precautionary principle is to do no harm. If there wasn't an alternative that is
8 something else; but there is an easy alternative and it's recognized by staff and well
9 known by fishermen - Borax. If this is a mold inhibitor, if that is the reason then every
10 fisherman I know has a freezer; that's where you put your eggs.

11
12 Chair Edge said before the Commission is Option 1 and a modified Option 2 with a
13 specific timeframe as Commissioner Finley proposed. He asked Commissioner Finley to
14 propose a modified Option 2.

15
16 *Action: Commissioner Finley moved and directed ODFW to develop or ban the*
17 *sale and use of eggs cured with sodium sulfites; providing a two-year opportunity*
18 *for the industry to research, develop or substitute alternatives. Commissioner*
19 *Webber seconded the motion.*

20
21 Chair Edge asked Dr. Clements for clarification. The estimates that you provided on the
22 deminimis approach assumed that fish would eat 10 eggs; assumed 100 % absorption of
23 the sodium sulfite into the cure and into the eggs; is that correct? Clements said that is
24 correct. Chair said, as a consequence you thought that those were really conservative
25 estimates; and that would be mortality in a fish tank? Dr. Clements said yes, his personal
26 opinion was that was a fairly conservative estimate.

27
28 Commissioner Akenson said she really valued working with industry on coming up with a
29 solution; that is a real positive thing for ODFW to be connecting with industry and users
30 so we're not just out there making our own decisions in the absence of connections and
31 making things work.

32
33 *Voting aye were Commissioners Finley, Webber and Levy. Voting nay were Chair*
34 *Edge and Commissioners Akenson and Englund. The motion failed for a lack of a*
35 *majority.*

36
37 Counselor Sanders said there is no action.

38
39 *Action: Chair Edge moved to approve Option 1: direct ODFW to continue*
40 *working with the egg cure industry to adopt and implement the non-regulatory*
41 *"deminimis" approach to guide the quantity of sodium sulfite used to produce egg*
42 *cures. Commissioner Akenson seconded the motion. Chair Edge looked at a*
43 *show of hands and said the vote would still be a tie.*

44
45 Chair Edge asked Counsel if the Commission would have to delay this until they had a
46 seventh Commissioner. Counselor Sanders said the Commission is not legally obligated
47 to take any action at all, and could defer the action until the Commission decided to take

1 it up again with an additional vote, or the staff would draw whatever conclusion it would
2 draw. We would evaluate the Commission's considerations and perhaps come back with
3 a different alternative yet.

4
5 Commissioner Englund said he falls into that category after listening to Commissioner
6 Finley, and thinking about the legal issues. He appreciates the industry coming together
7 on this. He asked that instead of making a decision at this point that the Commission
8 delay this, so he could take more time to really think this issue through again.

9
10 *Action: Chair Edge moved to vote on the alternative motion. Voting aye were*
11 *Commissioners Levy, Chair Edge, and Commissioner Akenson. Opposed were*
12 *Commissioners Finley, Webber and Englund. The motion failed for a lack of a*
13 *majority.*

14
15 Chair Edge said the Commission would leave this issue on the table; they have
16 continued concerns regarding the use of sodium sulfites. He directed staff to
17 communicate that to the industry and look for opportunities doing even better than what
18 we had proposed.

19
20 Deputy Director Melcher clarified that this agenda item is completed; we have no action;
21 it isn't open for rulemaking. He asked the Commission if they wanted staff to open this
22 for rulemaking next time they come back, or continue this item in the same form, which
23 would mean an informational briefing with the same procedure. If the Commission
24 directs staff to come back with rules that would be yet another process.

25
26 Commissioner Webber said the Commission did not tell staff to come back with OARs.
27 He voted against Option 1; that is what staff is doing already. Continuing doing what
28 they're doing is good in the interim, whether we do OARs in the future or not; but to
29 reduce the levels that currently exist would be a positive step.

30
31 Chair Edge said the Commission directed staff to prepare an approach for a non-
32 regulatory solution to what was a concern a year ago. Staff did that and came up with a
33 good solution from the industry; but half the Commission still has residual concerns. He
34 directed staff to proceed with rulemaking since we don't have a clear solution to the
35 options that were presented to go back and get additional input on this issue from
36 constituents. He asked Bowles to come back with more information on the other impacts
37 on the fisheries that he spoke of earlier.

38
39 Bowles asked for the opportunity to talk with both sides about the discussions today in
40 fairness to the year long process; perhaps, before receiving firm direction so that he can
41 explore options given that staff did meet the demand from a year ago. We heard a desire
42 to more fully explore alternatives and phase-outs. Staff would report back to the
43 Commission, in a non-rulemaking setting, on some of the response that we are
44 receiving; and do book work on the mechanisms for other impacts to these toxins
45 beyond just the caustic affect on the organs. He said when you have a full Commission
46 perhaps you can provide additional direction.

1 Chair Edge agreed and said in addition to the book work, he assumed there are studies
2 with other toxic materials where someone has done the risk analysis and expanded it out
3 from a tank study to a population level; some knowledge if there is ten percent mortality
4 in the tank, in a population level that is usually one percent. He asked Bowles to look
5 into literature about what a risk analysis might come out of in this kind of an approach.
6

7 Bowles expressed concern about conveying that either through an assumption driven
8 book type approach or through research that we can resolve or try to resolve the
9 population effects of this or other impacts that do not appear hugely egregious. These
10 are baits that are used in different bodies of water and different salinities, different times
11 when the juveniles are migrating. His preferred to use existing information and pursue
12 what is available in the literature. Dr. Clements has already exhausted that in his
13 analysis, the Peer Review Report already describing assumptions; staff will bring that.
14 He said the industry is ready to move forward with this approach with the labeling. I want
15 to be able to convey something to industry if this is going to be something that is durable.
16 He clarified that staff has no Commission direction per say; and to go to a full regulatory
17 route from the full Commission; but they have concerns expressed and would prefer
18 exploring potential for a phase out and alternatives.
19

20 Chair Edge said that sounds good.
21

22 Counselor Sanders said to be certain that our record is correct can I confirm that the yes
23 votes on the first motion Finley, Webber and Levy? And the yes votes on the second
24 motion were Levy, Edge and Akenson? Chair Edge said correct.
25

26 After lunch, Chair Edge reopened the last agenda item - **Exhibit D: OPTIONS TO**
27 **ADDRESS USE OF SODIUM SULFITES IN CURED EGGS.**
28

29 Chair Edge said he had not observed that Commissioner Englund had abstained on that
30 last motion.
31

32 *Vote: What staff had proposed as Option 1 the vote was actually three in favor –*
33 *Commissioners Levy and Akenson and Chair Edge; and two against –*
34 *Commissioners Finley and Webber; and one abstained – Commissioner Englund.*
35 *The record should indicate that the motion passed for Option 1 as proposed by*
36 *staff.*
37

38 **Exhibit E: RESCINDING PLAN FOR ROCKY MOUNTAIN GOATS IN THE**
39 **COLUMBIA RIVER GORGE**

40 Ron Anglin said when the Commission adopted the Sheep and Goat Plan last time, staff
41 was directed that they would coordinate with local agencies; primarily U.S. Forest
42 Service (USFS) before doing any of that work. Staff moved forward to reintroduce goats
43 into the Columbia River Gorge (CRG); but a legal challenge was filed against ODFW and
44 USFS that stopped the plan. After negotiations, the settlement agreement required us to
45 back out of the approvals we had on the original CRG Goat Reintroduction Plan. The
46 Judge agreed she would vacate her order and we would lose the precedent that legal
47 opinion then had established for the CRG.

1
2 The Hood River County Planning Commission, as part of the CRG Act, rescinded their
3 notification of approval. Staff is asking the Commission to take action to rescind their
4 approval of the CRG Reintroduction. He said this would not tie our hands in the future if
5 we wanted to reintroduce goats into the CRG. It would not tie the plaintiff's hands if they
6 wanted to take legal action; but it also does not bind us to any kind of a NEPA process.

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

9
10 *Action: Commissioner Webber moved to rescind the Commission's approval of*
11 *the Rocky Mountain Goat Columbia River Gorge Reintroduction Plan effective*
12 *immediately. Commissioner Levy seconded the motion, and the motion carried*
13 *unanimously by a vote of six.*

14
15 **Exhibit F: LICENSE REFUNDS AND EXCHANGES**

16 Deanna Erickson, License Services Manager, presented proposed amendments to
17 procedural rules for consideration on license refunds and exchanges. The proposed rule
18 amendment set out a process for issuing refunds for a customer who has been either
19 over-charged by the Department or has miscalculated their license fees and has
20 overpaid. If adopted this proposal would allow the Department a more cost-effective way
21 to approach refunds by only issuing refunds on over payments of five-dollars or less
22 upon written request. She said staff would continue to automatically refund
23 overpayments of five-dollars or greater. Additionally, the proposed rule amendments
24 would provide greater flexibility for exchanging licenses.

25
26 Erickson reported that at the October 2008 Commission meeting, Division rules were
27 amended to allow customers to purchase resident license documents for other
28 individuals; that opened the door to people purchasing licenses as gifts for other people.
29 ODFW started receiving requests from the people who are getting these gifts to
30 exchange them for either Combination licenses or SportPacs. In January 2009,
31 temporary rules were adopted that allowed staff to exchange those gift licenses for
32 Combinations or SportPacs. The temporary rule allowed staff to exchange licenses that
33 were purchased by mistake for another type of license. She said the temporary rule has
34 expired but there does continue to be a need for the Department to have the flexibility to
35 exchange licenses for customers. Lastly, the proposed rule amendment deletes
36 outdated language that is no longer utilized for Controlled Hunt procedures.

37
38 **Public Testimony:** There was no public testimony.

39
40 *Action: Commissioner Englund moved to amend OAR 635-001, as presented by*
41 *staff. Commissioner Levy seconded the motion, and the motion carried*
42 *unanimously by a vote of six.*

43
44 **ADJOURN**

45 Chair Edge adjourned the Commission meeting at 1:38 p.m.