

1 Southwest Region

2 Russ Stauff, Umpqua Watershed Manager, said 140 cubic yards of spawning gravel was
3 placed in two sections of Ferry Creek in late September above the Bandon Hatchery
4 weir; each year surplus returning salmon and steelhead are placed above the weir to
5 spawn. The spawning gravel will increase natural production of salmon and steelhead
6 and improve the opportunity for many visitors at Bandon Hatchery to view spawning fish.
7 He discussed the monitoring of spring Chinook in the Rogue River through carcass
8 surveys, and noted that fall Chinook are spawning in the former reservoirs at Savage
9 Rapids and Gold Ray dams and other areas for the first time.

10
11 Northwest Region

12 Chris Wheaton, Region Manager, said almost 5,500 brook trout were removed from Gold
13 Lake this year (most were placed into other Cascade lakes) as a Restoration and
14 Enhancement funded project designed to increase the percentage and overall average
15 size of rainbow trout through the removal of brook trout. In October 2012 staff will look
16 for brook trout spawning and monitor that for the next few years. He discussed
17 reintroduction of chum salmon in the Lower Columbia River. As part of reintroduction
18 efforts, ODFW gets 100,000 to 125,000 fertilized and eyed chum salmon from
19 Washington Department of Fish and Wildlife for incubation and rearing at Big Creek
20 Hatchery. In 2010, ODFW received 287 adults collected from the spawning grounds and
21 got 395,000 eggs, of which 116,000 eyed eggs were transferred to Big Creek. Survival
22 from this group was excellent; adults will begin to return in fall of 2012 or 2013.

23
24 Marine Reserves Program

25 Gway Kirchner, Marine Resources Program Assistant Program Manager, reported that
26 staff has developed the first on-line surveys for the 2012 recreational halibut and
27 bottomfish season so the public can learn about the options and provide input on their
28 recommendations. She discussed the unusual ocean conditions in 2011 and the impact
29 on various fisheries; staff anticipates another La Nina conditions for a second winter in a
30 row. Also, 2011 was the implementation of the Trawl Individual Quota system for the
31 commercial groundfish fishery. Lastly, she said recreational bay crabbing has been good
32 this year, especially in the Columbia River. A two-day ODFW crabbing workshop was
33 held in October in Newport. It was a huge success; staff hopes to offer this workshop in
34 future years to bring the fun of crabbing to newcomers.

35
36 Information & Education

37 Roger Fuhrman, Administrator, discussed recent improvements to ODFW's website and
38 dropdown menus to improve user navigability. The changes increase the visibility of the
39 department's social media efforts: Facebook, Twitter, and YouTube videos. He said staff
40 has heard from some successful hunters. One young lady wrote and thanked the
41 Department and the Commission for inventing the mentored youth hunter program; last
42 year the nine year old bagged her first deer. Staff also heard a first buck story and
43 received a photo from a participant in the *Becoming an Outdoors Women* program.
44 Fuhrman said there is still an opportunity to do Holiday shopping. Staff put out a news
45 release promoting the idea of purchasing licenses, parking permits and raffle tickets as
46 gifts, and announced the new parking permit requirements effective January 1, 2012.

1 Chair Edge asked Fuhrman to let the Commission know the how the sales go on the gift
2 buying at the end of the year.

3
4 Oregon State Police, Fish and Wildlife Division

5 Captain Jeff Samuels said Oregon State Police (OSP) has a joint share agreement with
6 the National Oceanic and Atmospheric Agency (NOAA) to do joint enforcement on the
7 coast. OSP is NOAA's National Marine Fisheries Services uniformed law enforcement
8 presence for fisheries on the coast. On catch shares, OSP recently found out that NOAA
9 has opened up job openings for two uniformed officers; one in Astoria and one in
10 Newport. There are a high percentage of the catch shares landings in Oregon. OSP has
11 the infrastructure, knowledge and skill base already on the ground to do that work.

12
13 Captain Samuels referred to his October report and said the gentleman arrested on
14 Eagle Creek tributary with coho salmon pleaded guilty to six misdemeanors. The judge
15 sentenced him to 45 days in jail, assessed three fines, and suspended his license for
16 three years. He talked about hunters from two separate groups who shot at and each
17 claimed to have killed a bull elk. OSP troopers were called to the dispute. All parties
18 agreed that the hunter who shot the elk in the neck was the rightful owner, but the hunter
19 claimed to have lost his wallet. He had actually filed his tag the day before and was cited
20 for Hunting Elk without a Valid Tag; the other hunter took possession of the bull elk.

21
22 **Habitat Conservation Stamp**

23 Deputy Director Curt Melcher said staff drafted a legislative concept to develop a habitat
24 conservation stamp to raise funds for conservation work and implementation of the
25 Conservation Strategy. House Bill 2127 (2011 Oregon Legislature) allows the
26 Commission flexibility to develop the program; but does not mandate that the
27 Commission develop the program. ODFW is partnering with conservation groups and
28 industry folks to get this program on the ground.

29
30 Eric Rickerson, Wildlife Division Deputy Administrator, discussed an art work contest
31 (see *ODFW Announces 2012 Art Contest to Benefit Habitat Conservation*) in which an
32 image will be selected to grace the new stamp; it is patterned after the Upland Game
33 Bird Arts contest program with the exception that any one of 286 native species and 11
34 habitats would be acceptable. Staff will return to the Commission in February 2012 for
35 permanent rulemaking consideration. If approved today, staff proposes to sell the stamp
36 for \$40 as early as February 6 at any Point of Sale agent or online. At the time of
37 purchase a buyer would receive a receipt or validation and then, after the artwork is
38 selected in mid-March, the buyer would receive:

- 39 • Habitat Conservation Stamp.
- 40 • Free ODFW Wildlife Area Parking Pass.
- 41 • Window decal with a logo (see upper left hand corner of flyer). Staff anticipates
42 changing the logo every year as staff rolls out a new art work competition.
- 43 • Information on how to purchase a limited edition print; some signed by the
44 Governor.
- 45 • Information on the Oregon Conservation Strategy; how it benefits Oregon's 256
46 native species and 11 habitats.

1 Director Elicker said agenda item **Recognition of Fish Passage Task Force Members**
2 would be presented right before the Commission's lunch.

3 4 **Expenditure Report**

5 Debbie Colbert, Deputy Director for Administration, distributed the Financial Report as of
6 October 31, 2011. She said Department-wide, revenues and expenditures are within
7 budgeted presentations. She noted that Administration is slightly over because the
8 Department has to pay government service fees in quarterly installments.

9
10 Deputy Director Colbert said the Governor is moving toward Outcome Based budgeting
11 for 2013-2015; staff will brief the Commission on that process in January and again in
12 March 2012 about ODFW's first round proposals due to the funding teams June 1, 2012;
13 the final round proposals are due September 2012. The Department of Administrative
14 Services (DAS) has identified seven different outcome areas for the state. The majority
15 of ODFW programs have been mapped to "healthy environments". Hatchery programs
16 and associated capital improvement work have been mapped to "economy and jobs";
17 and administration and capital construction to "good government". Staff will prepare
18 proposals for three different buying teams.

19
20 Director Elicker said staff met with ODFW's External Budget Advisory Committee
21 (EBAC) this week to discuss the current budget process and the timing involved. We
22 generally have a large public outreach on our budget process statewide. EBAC members
23 were very concerned about ODFW not going on that traditional public outreach.

24
25 Deputy Director Colbert said yesterday the internal Executive Leadership Team (ELT)
26 discussed the timing of holding town halls between March and before June, the same
27 time staff will be preparing budgets. ELT suggested hosting Webinars and using ODFW
28 field offices as listening posts in order to fit in several town hall meetings.

29
30 Both Chair Edge and Commissioner Levy supported using Webinars for public outreach.
31 Chair Edge said that the Town Hall meetings he attended; often the people were not
32 talking about the budget but giving feedback on our programs. There may be a way to
33 pick that kind of opportunity up in a different venue in addition to doing Webinars.

34 35 **Adopt Temporary Rules**

36 Director Roy Elicker asked the Commission to adopt the 12 temporary rules on pages
37 one through three of the agenda.

38 39 **1. 635-013-0007**

40 **Elk River Terminal Area Ocean Sport Chinook Fishery Opens November 1, 2011**

41 Adopted September 8, 2011: effective November 1, 2011 through November 30, 2011.

42 Amended rule implements a change to the daily bag limit for Chinook salmon from one to
43 two per day in the 2011 Elk River Terminal Area ocean recreational Chinook salmon
44 fishery. Housekeeping and technical corrections to the regulations were made to ensure
45 rule consistency with Southwest Zone Chinook salmon fisheries in the areas adjacent to
46 the Elk River Terminal Area.

1 **2. 635-014-0090**

2 **Closure of the Non-adipose Fin-clipped Adult Coho Fishery in the Alsea River**
3 **Basin**

4 Adopted October 7, 2011: effective October 11, 2011 through December 31, 2011.
5 Amended rule closes the Alsea River Basin non-adipose fin-clipped adult coho fishery
6 which opened on September 15 due to the expected attainment of the 675 non-adipose
7 fin-clipped adult coho allocation.

8
9 **3. 635-016-0090**

10 **Closure of the Non-finclipped Coho Fishery in the Coquille River and Bay**

11 Adopted October 10, 2011: effective October 12, 2011 through December 31, 2011.
12 Amended rule closes the Coquille River and Bay non fin-clipped coho fishery which
13 opened on September 15 due to the anticipated attainment of the preseason harvest
14 allocation for this fishery.

15
16 **4. 635-042-0031**

17 **Fall Commercial Drift Gill Net Season in Columbia River Mainstem Authorized**

18 Adopted October 11, 2011: effective October 13, 2011 through October 31, 2011.
19 Amended rule authorizes two 12-hour fishing periods for the 2011 commercial fall
20 salmon drift gill net season in the Columbia River mainstem. The first 12-hour period
21 begins at 6:00 a.m. Thursday, October 13, 2011 in the area of Zones 1-3; and the
22 second 12-hour period begins at 7:00 p.m. Thursday, October 13, 2011 in the area of
23 Zones 4 & 5. Modifications are consistent with action taken October 11, 2011 by the
24 Columbia River Compact agencies of Oregon and Washington.

25
26 **5. 635-042-0031**

27 **Additional Fall Commercial Drift Gill Net Season in Columbia River Mainstem**
28 **Authorized**

29 Adopted October 17, 2011: effective October 18, 2011 through October 31, 2011.
30 Amended rule authorizes three new fishing periods for the 2011 commercial fall salmon
31 drift gill net season in the Columbia River mainstem. The first period begins at 7:00 p.m.
32 Tuesday, October 18, 2011 in the area of Zones 4 and 5 (12 hours); the second fishing
33 period begins at 6:00 a.m. Wednesday, October 19, 2011 in the area of Zones 1-3 (14
34 hours); and the third and final period begins at 7:00 p.m. Wednesday, October 19, 2011
35 in the area of Zone 4 and 5 (12 hours). Modifications are consistent with action taken
36 October 17, 2011 by the Columbia River Compact agencies of Oregon and Washington.

37
38 **6. 635-014-0090**

39 **Closure of the Non-adipose Fin-clipped Adult Coho Fishery in Siletz River Basin**

40 Adopted October 19, 2011: effective October 21, 2011 through December 31, 2011.
41 Amended rule closes the Siletz River Basin non-adipose fin-clipped adult coho fishery
42 which opened on September 15 due to the expected attainment of the 700 non-adipose
43 fin-clipped adult coho allocation.

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

2 **Closure of the Non-Adipose Fin-clipped Coho Fishery in the Coos River Basin**

3 Adopted October 20, 2011: effective October 22, 2011 through December 31, 2011.
4 Amended rule closes the Coos River Basin non adipose fin-clipped adult coho fishery
5 which opened on September 15 due to the anticipated attainment of the preseason
6 harvest allocation for this fishery.
7

8 **8. 635-041-0063**

9 **Treaty Indian Fall Sturgeon Set-Line Fishery in Bonneville Pool Closes**

10 Adopted October 24, 2011: effective October 26, 2011 through November 30, 2011.
11 Amended rule closes the white sturgeon set-line fishery in the Bonneville Pool, effective
12 6:00 p.m. Wednesday, October 26, 2011. Fishing for subsistence purposes is allowed.
13 Modifications are consistent with action taken October 24, 2011 by the Columbia River
14 Compact agencies of Oregon and Washington in cooperation with the Columbia River
15 Treaty Tribes.
16

17 **9. 635-041-0063**

18 **Treaty Indian Fall Sturgeon Set-Line Fishery Extended In The Dalles Pool**

19 Adopted November 1, 2011: effective November 2, 2011 through December 31, 2011.
20 Amended rule extends the white sturgeon set-line fishery in The Dalles Pool, effective
21 6:00 a.m. Wednesday, November 2 through 6:00 p.m. Saturday, December 3, 2011.
22 Fishing for the purpose of commercial sales and subsistence is allowed. Modifications
23 are consistent with action taken November 1, 2011 by the Columbia River Compact
24 agencies of Oregon and Washington in cooperation with the Columbia River Treaty
25 Tribes.
26

27 **10. 635-011-0100**

28 **Radio-Tagged Hatchery Winter Steelhead May Be Retained in Northwest Zone**
29 **Streams**

30 Adopted November 3, 2011: effective November 15, 2011 through May 12, 2012.
31 Amended rule adds radio-tagged hatchery steelhead in *Northwest Zone* streams to the
32 existing exception to non-retention of radio-tagged fish (item 17, found on page 10 of the
33 **2011 Oregon Sport Fishing Regulations** and page 10 of the **2012 Oregon Sport**
34 **Fishing Regulations** (available around December 1, 2011)). Modifications allow
35 retention of radio-tagged fish in conjunction with a planned radio telemetry study in the
36 Alesa and Nehalem basins. This amended rule encompasses the entire *Northwest Zone*
37 due to the possibility that some radio-tagged hatchery winter steelhead may stray into
38 adjacent basins.
39

40 **11. 635-005-0055, 635-006-1010, 635-006-1015 and 635-006-1065**

41 **Regulations for the Commercial Dungeness Crab Fishery in the Pacific Ocean and**
42 **Columbia River**

43 Adopted November 17, 2011: effective December 1, 2011 through May 28, 2012.
44 Amended rules make two distinct regulatory changes or clarifications for the 2011/2012
45 commercial Dungeness crab fishery in the Pacific Ocean and Columbia River. The first
46 allows vessels to land crab found in recovered derelict gear during the regular ocean

1 Dungeness crab season if the recovering vessel holds a valid Dungeness crab permit,
2 rather than requiring that crab so taken be returned to the water. The second clarifies
3 that buoy tags are required on both crab pots and crab rings.
4

5 **12. 635-005-0045 and 635-039-0090**
6 **Season Openings for the Ocean Commercial and Recreational Dungeness Crab**
7 **Fisheries Delayed**

8 Adopted December 1, 2011: effective December 1, 2011 through December 31, 2011.
9 Amend rules to delay the openings of: 1) The 2011-2012 ocean commercial Dungeness
10 crab fishery; and 2) The recreational fishery for Dungeness crab in the ocean; until
11 further notice. Recreational fishing for Dungeness crab in bays and estuaries, including
12 the Columbia River, remains open.
13

14 *Action: Commissioner Englund moved to approve the 12 administrative temporary*
15 *rules. Commissioner Webber seconded the motion; and the motion passed*
16 *unanimously.*
17

18 **PUBLIC FORUM.** There was no Public Forum testimony.
19

20 **Exhibit A: COMMISSION MINUTES**

21 Chair Edge said the October 7 minutes were deferred to the Commission's January 6,
22 2012 meeting. He asked for edits to the September 1, 2011 minutes.
23

24 Commissioner Finley made two corrections to the draft September minutes:

- 25 1. Page 15, line 38, insert the word "endocrine" and delete "entrogen".
- 26 2. Page 16, line 43, insert the word "endocrine" and delete "entrogen".
27

28 Commissioner Finley said as he read the discourse and discussion he thought he had
29 asked a question about whether adopting the policy concerning sodium sulfide with
30 known mortality would actually constitute a taking under the federal Endangered Species
31 Act (ESA). He said staff had acknowledged and the Commission had accepted,
32 depending both testimony and the written documentation, a mortality rate from five
33 percent to ten percent for the continued use of sodium sulfite. The record also reflects
34 as both cured eggs and mixes that provide the mortality rate to juvenile steelhead and
35 salmon including listed species. He said there is no way to assure that the cure is used
36 in the 12-grams per kilogram formula recommended. If I do a quick cure and use twice
37 the dose, it's not 12-grams per kilogram but its 24-grams per kilogram.
38

39 Commissioner Finley said the Commission has recognized and adopted a known
40 mortality rate. He asked Legal Counsel, could this be argued that this action by the
41 Commission, which also affects listed fish, be construed as a taking under the Federal
42 ESA.
43

44 Legal Counsel Steve Sanders said that Commissioner Finley had identified an unsettled
45 area of the law, at least in the Ninth Circuit. He said it is true that in other federal circuits,
46 states have been held liable for a take under the Federal ESA for authorizing certain, for
47 example, use of gear. In Massachusetts the state was liable for authorizing lobster traps

1 in which white whales were then entangled; that was viewed as a take. The State of
2 Oregon has tried to avoid having a specific case on this point in District Court. We have
3 not definitely answered that case. Sanders said the trend has been to hold states liable
4 in those situations where it is clear that a take has occurred. We authorize many sorts of
5 take of salmonids as part of our fisheries; so, it is something that the federal government
6 who enforces those take prohibitions may have implicitly authorized in the approval of
7 the biological opinions associated with our fisheries. Counselor Sanders declined to
8 concede that the Commission had perpetrated a take; there are legal defenses. He said,
9 I do think that you have identified a legal issue.

10
11 Commissioner Finley said he brought it up because the Commission is going to further
12 establish a public record when we approve these minutes; the purpose of his comment.
13 Chair Edge asked Commissioner Finley if he wanted the minutes revised to reflect his
14 initial question or if he wanted it captured in the minutes for this meeting. Commissioner
15 Finley said he wanted to have an understanding from Counsel as to what we had really
16 done as a Commission, and whether prospectively we should revisit it down the line.

17
18 *Action: Commissioner Finley moved to adopt the September 1, 2011 Commission*
19 *minutes as corrected. Commissioner Webber seconded the motion, and the*
20 *motion passed unanimously.*

21
22 **Exhibit B: ADOPT 2012 REGULATIONS FOR GROUND FISH FISHERIES AND**
23 **MODIFY COMMERCIAL FISH TICKET REQUIREMENTS**

24 Gway Kirchner, Marine Resources Program Assistant Program Manager, reported on the
25 following issues:

26
27 *2010 Commercial Nearshore Logbook.* She said the number of permits issued was the
28 same as 2009. Logbook compliance increased by about 16% to about 90% overall;
29 primarily due to sending out a letter notifying noncompliant permittees of potential
30 enforcement action.

31
32 Kirchner noted an addition to the Commission packet, ***Revised Attachment 3, Exhibit***
33 ***B, Amendment to Rules for Commercial and Recreational Groundfish Fisheries***
34 ***and Fish Dealer Records and Reports.***

35
36 *Adoption of 2012 Federal Groundfish Regulations.* Kirchner said the (National Marine
37 Fisheries Service (NMFS) denied Pacific Fishery Management Council's (PFMC)
38 recommendations for yelloweye rockfish and cabezon and implemented more
39 conservative measures for those species through emergency rule. Because the final
40 rules and regulations for 2011-2012 were not published until May 11 (*Attachment 4,*
41 *Federal Register/Vol. 76, No. 91*), state regulations were adopted by Oregon through
42 temporary rule on May 13, 2011. NFMS recommended and PFMC agreed that federal
43 regulations for 2012 be adopted through a Secretarial Amendment process to expedite
44 the adoption. Staff expects the final rule to be published before 2013 (see *Attachment 5,*
45 *Federal Register/Vol. 76, No. 187/Tuesday, September 27, 2011/Proposed Rules*). She
46 said the Commission has the authority to take concurrent action to that adopted federally

1 or adopt a more conservative action. The Commission does not have the authority to
2 adopt anything more liberal than that already set federally.

3
4 *2012 Nearshore Harvest Specifications.* Kirchner said the recreational landing caps
5 apply to ocean boat landings and do not include shore and estuary landings. The
6 recreational harvest cap looks like an increase on paper; but now includes mortality from
7 shore and estuary fisheries. To access Black and Blue rockfish trip limits one must
8 possess a state limited entry black and blue rockfish permit. A Nearshore endorsement
9 is required to access cabezon and greenling limits.

10
11 *2012 Sport Groundfish Fishery Regulations.* Kirchner said proposed changes are:

- 12 1. Restrict harvest of groundfish to waters shallower than 30 fathoms April through
13 September 2012; to reduce the need for further in-season action.
- 14 2. Implement two in-season management lines; allow different depth restrictions for
15 in-season action only and not to be used to structure the fishery preseason or to
16 allocate impacts among areas: Cape Lookout and Cape Blanco.
- 17 3. Allow retention of cabezon from April 1 through September 30.

18
19 Kirchner noted a correction in **Attachment 1 – Agenda Item Summary**, page 6 under
20 Options. In Option 1, second line, change “October” to read “September.” She said it is
21 correct in the text and in the OARs.

22
23 *Fish Dealer Records and Reports.* Kirchner reported three proposed changes:

- 24 1. Amend language to clarify use of conversion factor when submitting commercial
25 fish tickets. She referred to information in *Attachment 7 – Sablefish Conversion*
26 *Factor Accuracy*, and said fish are landed round and dressed by the plant, the
27 dressed weight is recorded on the fish ticket and a conversion factor is applied
28 creating uncertainty in the actual round weight of fish landed.
- 29
30 2. Require fish dealers who initially submit fish receiving tickets through Pacific
31 States Marine Fisheries Commission electronic fish ticket system to submit all
32 amendments and corrections through that system. Dealers are submitting
33 amendments to ODFW that creates dual catch accounting systems. Staff sent
34 letters to processors (see *Supplemental Public Correspondence*); and received
35 nothing back.
- 36
37 3. Exempt some species from fish ticket requirements. Any species with harvest
38 levels that need to be tracked or managed were removed from the list.

39
40 Kirchner explained two proposed housekeeping actions:

- 41 1. Simplify scale requirements to reflect use of a certified scale to a landing. Current
42 rules require the use of either certified scale or a hopper scale to obtain the round
43 weight of species landed.
- 44
45 2. Amend rule language to reflect current landing fees for all other fish and shellfish
46 and albacore tuna. She noted **Revised Attachment 3, Exhibit B – Amendment**
47 **to Rules for Commercial and Recreational Groundfish Fisheries and Fish**

1 **Dealer Records and Reports.** These corrections were not included in the
2 Commission adopted rules reflecting the correct fees that had been adopted by
3 the Legislature; this was identified after the Commission packets were completed.
4

5 **Public Testimony:**

John Holloway Portland, OR	John Holloway, Co-chair for Recreational Fishing Alliance, Oregon State Chapter, said he supports all the recreational measures; in particular the management lines. Those will allow us greater flexibility. Last year when we went to 20 fathons on the North Coast it cut us out of the majority of our reefs; whereas in other areas that would not be the case. He said PFMC and the Oregon delegation from ODFW, Steve Williams, are always going to bat for for the stakeholders. Regarding the Advisory Groundfish panel for PFMC; he has been there for 10 years. The Marine Resources Program staff and others that are at PFMC have been amazing in their support for us and in helping and working with us.
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6
7 Commissioner Webber said he thought a line was used at Humbug Mountain a lot for
8 some regulations and now we're talking about using Cape Blanco, which are not a long
9 way apart. Is there a reason for that that you're aware of? Holloway said not that he was
10 aware of; he assumed that it coincides with other management lines with salmon rather
11 than have multiple management lines for different species.
12

13 Chair Edge asked Commissioner Englund if he had a potential conflict of interest.
14 **Commissioner Englund declared a potential conflict of interest because his**
15 **business deals both with commercial and recreational groundfish.**
16

17 Kirchner said staff looked at many different lines and settled on Cape Blanco. The
18 reason to lump Port Orford with Gold Beach/Brookings area is they tend to have similar
19 yelloweye impact rates and have people that can fish both Port Orford and Gold Beach.
20 Sometimes it is easier to get out of Port Orford than Gold Beach. It also corresponds with
21 the management line use in the commercial nearshore fishery.
22

23 Commissioner Levy referred to *Attachment 6 – ODFW: Marine Resources Program,*
24 *Summary of Public Input Regarding 2012 Commercial Nearshore Fishery Harvest*
25 *Specifications and Regulations*, page 2, Observer Program, and said the fishermen
26 talked about the National Observer Program (NOP) and the 24 hour notice rule. She
27 asked if there was a way to change that so that they would be more willing to have the
28 observers on their boats; to give them a lengthier notice.
29

30 Kirchner said ODFW did not have authority over NOP regulations; those are adopted
31 federally but staff has worked with NOP to bridge the gap between fishermen and NOP.
32

33 Commissioner Webber referred to the Logbook compliance; it bothers him that we issue
34 permits to individuals that are not in compliance. Is there a lot of that? Kirchner said

1 there are some fisheries, e.g. sardine, which require compliance for reissuance of a
2 permit. She said it is not wide spread throughout the programs. Staff is working to
3 provide more consistency among the logbook programs; that is definitely on the list for
4 the nearshore fishery. Commissioner Webber said you would get a little Commission
5 support for that concept. Commissioner Klarquist said more than a little.

6
7 Chair Edge said the amended rules include the correct dates for the cabezon season,
8 which were incorrect in the packet? Kirchner said correct.

9
10 *Action: Commissioner Akenson moved to adopt the recommended 2012*
11 *commercial groundfish, sport groundfish, and fish dealer records and reports*
12 *regulations, and make housekeeping changes as proposed by staff in Exhibit B in*
13 *the Revised Attachment 3. Commissioner Levy seconded the motion, and the*
14 *motion passed unanimously.*

15
16 Following a break, Chair Edge said staff had distributed a letter from William Carpenter
17 regarding the delay in the Bear Management Plan. He asked staff to brief the
18 Commission at their January 2012 meeting (see letter/email dated December 1, 2011).

19 **Exhibit C: RESTORATION AND ENHANCEMENT PROJECTS**

20
21
22 ***Chair Edge declared a potential conflict of interest because some of the project***
23 ***resources would be directed to students or faculty on his staff at Oregon State***
24 ***University.***

25
26 Josie Thompson, Restoration and Enhancement (R&E) Coordinator, announced that
27 after the Commission received their packet, ODFW made a change and requests that
28 the Commission not approve Project 11-053 Sandy Hatchery Replacement Liberation
29 Truck. An ODFW internal review has determined this project is not a high priority relative
30 to other liberation or hatchery maintenance needs at this time.

31
32 Thompson presented five restoration recommended projects totaling \$176,000; if Project
33 11-053 is included it would total \$316,297. She presented eight enhancement projects
34 totaling \$202,000, and noted that Project 11-069 St. Louis Ponds – Site Plan will include
35 facilities for a new angler education center and other improvements included in the plan
36 to improve fishing access at the site, especially for families and disabled persons.

37
38 Thompson said the Cycle 3 recommendations (if Project 11-053 is not approved) are
39 nearly \$379,000 with \$707,000 in match funding. If all of the projects except Project 11-
40 053 are approved, it will leave almost \$2.9 million in the R&E budget for the remainder of
41 the biennium. If Project 11-053 is included there would be more than \$2.7 million
42 remaining; assuming that the current Revenue Forecast does not decrease.

43
44 **Public Testimony:** There was no public testimony.

45
46 Commissioner Klarquist said the R&E Board had expressed some reservations
47 regarding the St. Louis Ponds funding, which the Oregon Wildlife Heritage Foundation

1 (OWHF) is asking for. He wants the R&E Board to understand that OWHF had a much
2 better chance of raising funding for a capital project; so asking for something like this
3 which is noncapital is really a big help. When OWHF can engage in a project like this or
4 similar projects it really multiplies the value of the small amount of money relative to the
5 capital funding they are putting in. He was really in favor of doing that.

6
7 Thompson said she would make sure that the R&E Board was reminded; they don't like
8 funding plans and tend to raise that issue every time a plan proposal comes before them.

9
10 Chair Edge referred to Project 11-068 Coastal Fish Management Public Survey and said
11 the actual R&E funding would be \$60,000 (see PowerPoint slide four); but the Funds
12 Requested said \$100,000 (see Attachment 2, page 9), and then the document reads that
13 R&E Board recommended reducing it by \$40,000. Did someone go back to the principal
14 investigator (PI) on that project to inquire if it is still a doable project?

15
16 Thompson had not talked to the PI personally but said she heard that they would make
17 do with \$60,000. The \$40,000 reduction was based on the fact that in the project
18 proposal budget they asked for \$40,000 to develop the survey questions; the R&E Board
19 didn't understand why that would cost that much money.

20
21 Chair Edge asked the Commission for consensus on removing Project 11-053.

22
23 Director Elicker said staff had voiced concerns about this project to R&E and
24 recommended that they not approve this project; it was not a high priority compared to
25 other liberation appropagation projects. The R&E Board felt Project 11-053 was a high
26 priority and wanted the Commission to approve it.

27
28 Commissioner Webber said he was first struck that ODFW would get a whole new truck
29 when the engine was the problem. Since it was suggested that was no longer on the
30 table, he didn't bring that up. He said motors are less costly than whole trucks.

31
32 Chair Edge asked for a motion to remove Project 11-053 Sandy Hatchery Replacement
33 Liberation Truck from consideration.

34
35 *Action: Commissioner Akenson moved to remove Project 11-053 Sandy*
36 *Hatchery Replacement Liberation Truck from consideration. Commissioner*
37 *Klarquist seconded the motion, and the motion passed unanimously.*

38
39 Commissioner Finley asked for discussion from the Commission about getting back to
40 the R&E Board (who felt strongly enough to recommend it) rather than just a note
41 coming back to say that the Commission disapproved it. He said Commissioner Webber
42 raised a good point; come back with an alternative – does it make sense to replace the
43 engine and does that extend the useful life of the vehicle at a lesser cost. So, we had
44 concerns that we didn't understand that all the viable alternatives had been discussed or
45 presented to the Commission in a manner that we could make a decision. He said, we
46 are deferring on it rather than just saying it is not a good idea.

1 Commissioner Levy said she was sure something has to do with the depreciation
2 schedule. The cost of the engine is probably less cost prohibitive than replacing it but
3 staff also needs to look at what the repairs are on the rest of the truck in order for it to be
4 feasible and continued to be used for the length of the new engine. She asked staff to
5 look at those things.

6
7 Chair Edge asked staff to inform the R&E Board that if they wanted to entertain the
8 project again to come back with the examination of the alternatives.

9
10 *Action: Commissioner Webber moved to approve the recommendations of the*
11 *Fish Restoration & Enhancement Board as amended, which was eliminating*
12 *Project 11-053 Sandy Hatchery Replacement Liberation Truck. Commissioner*
13 *Levy seconded the motion, and the motion carried unanimously.*

14 15 **Exhibit D: DISPOSAL OF BUTTE FALLS PROPERTY**

16 Russ Stauff, Rogue Watershed Manager, said ODFW closed Butte Falls Hatchery last
17 year. He discussed the process that staff took to prepare the portion of the facility owned
18 by the State for shutdown and disposal. The site is about 13 acres with 12 buildings; only
19 three acres and two of the buildings are in State ownership. The remaining has reverted
20 to the U.S Department of Interior (USDI); who will handle divestment of that piece
21 through their process. He also talked about the public outreach during this process.

22
23 Greg Parker, Special Projects Manager, said ODFW is what an exempt disposing
24 agency under ORS 270.100 (4); unless it is disposing of a property at less than fair
25 market value, as in this case. ODFW can do that if it obtains the approval of its governing
26 body – the Commission. He said typically an appraisal is required; but staff intends to
27 request an appraisal waiver from DAS; which has jurisdiction over this type of thing as
28 being unwarranted given that we're requesting that the Commission approve that we be
29 able to give it away in this circumstance. Staff followed DAS rules regarding the disposal
30 of real property by processing the disposal through the DAS clearinghouse process as
31 prescribed in Oregon Administrative Rules 125-450-225; by 1) offering it to othe state
32 agencies; 2) offering it to political subdivisions before offering it to the general public if
33 neither of those bodies were interested in the property.

34
35 Parker said after the Oregon Military Department National Guard and Jackson County
36 withdrew their letters of interest it left the Butte Falls School District (BFSD) as the sole
37 political subdivision of the State of Oregon interested in obtaining the property from
38 ODFW. Parker said staff proposes that ODFW deed the property to BFSD upon receipt
39 of the waiver from DAS with the following restrictions to the deed:

- 40 1. Property is for public use.
- 41 2. Property is transferred "as is" without warranties, representations or remedies to
42 the condition of the property
- 43 3. ODFW is not transferring any water rights or mineral rights; those belong to the
44 Common School Fund and under the jurisdiction of Department of State Lands.
- 45 4. Property be accepted subject to State Historic Preservation Office archaeological
46 requirements and preservation.

1 5. If ODFW is unable to successfully obtain a waiver of the appraisal that Butte Falls
 2 School District pay for that appraisal.
 3

4 Stauff added that ODFW would maintain or leave intact a small earthen pond originally
 5 used for aquaculture that could be used as an educational project. It would require 0.5
 6 cubic feet per second (CFS) to operate. The City has a water right on a tributary stream
 7 adjacent to the property; they could utilize part of that water right to operate that pond.
 8 As we move forward with our 15.5 CFS water right for fish culture from the south fork of
 9 Big Butte Creek, we transferred 15.0 CFS of that permanently to an instream right for
 10 fish benefit; and reserved 0.5 CFS in the Instream Lease Program at Water Resources
 11 Department. The City was concerned that over time if they fully utilize their 1.5 CFS on
 12 Ginger Creek they would not be able to continue utilizing the pond for BFSD. We
 13 reserved that 0.5 in the event the City's needs it in the future.
 14
 15

Public Testimony:

<p>Steve Nelson Butte Falls, Oregon</p>	<p>Steve Nelson, Butte Falls School Board, has lived in the community for 22 years. He expressed the school, the town, the community as well as the region's gratitude for the Commission considering this donation to the school. He said it is good for the kids, the education as well as tourism and other community activities. The recommendations from the staff are pretty much in line. He thanked everyone for all the hard work and effort that has gone into this.</p> <p>Commissioner Webber asked if they had any discussions with the federal government on their portion which is actually most of the housing portion. Nelson said yes, many ongoing discussions. Our Superintendent is taking care of that; it is part of our plan to utilize that also.</p> <p>Chair Edge said in the event DAS states that we have to have an appraisal is the School Board willing to pay for the appraisal? Nelson said yes, he would pay for it out of his own pocket; he used to be an appraiser.</p>
<p>Jim Myron Canby, Oregon</p>	<p>Jim Myron, representing WaterWatch of Oregon and Native Fish Society (NFS), said that WaterWatch does not take a position on the transfer of the property, but supports the transfer of the water right to an instream water right. Even with the .05 CFS reservation, WaterWatch would really like to see that 15 CFS dedicated instream. NFS supports the transfer of the water right and the property disposal. NFS's reservation is in some of the discussions we've seen that BFSD might be interested in using that pond for some kind of aquaculture activities; that would be problematic for us. NFS doesn't mind seeing that used as a place to put some hatchery trout for kids to catch or to use it for some kind of</p>

	biology classes; NFS doesn't want to see any aquaculture; any further fish propagation at that site.
--	--

1
2 Commissioner Finley said that Parker had said one of the restrictions was that the
3 property must be used for public use. Is that in the form of a deed restriction in
4 perpetuity? Or 25 years from now should the School District decide they want to dispose
5 of it to some private interest is there a reversion clause or anything?
6

7 Parker said no, there is no reversion clause; it is just a statement. Legal Counsel Steve
8 Sanders said it would constitute a right of re-entry; meaning that the Commission would
9 be authorized upon the failure of the contingency to remain in the public use, you could
10 basically sue to get the title back; it would not happen automatically.
11

12 Commissioner Webber asked if the ponds are just as they existed or are they filled in.
13 Stauff said the raceways on the state property which accounted for all the hatchery
14 production in recent years were eliminated and destroyed. Only the large earthen pond
15 was left intact with the idea that it could be used as an educational project for rainbow
16 trout; but only on the state side by itself or in combination with the other property.
17 Commissioner Webber said in regard to the half a cubic foot of water rights, we still hold
18 that and are not going to transfer that with the property; correct? Stauff said correct.
19

20 Commissioner Webber said he might have problems with what Mr. Myron said of giving
21 them that water to be used for propagation as opposed to just maintenance of a
22 community fishing pond; he had no problem with that. Stauff understood and said that
23 was the intent of our discussions with the Governor's Office and the City; if it is for an
24 educational purpose that ODFW would maintain, if need be, the 0.5 CFS in the future.
25

26 *Action: Commissioner Levy moved to approve the deposition of the Butte Falls*
27 *Hatchery real property at less than fair market value to the Butte Falls School*
28 *District, a political subdivision of the State of Oregon, subject to the conditions*
29 *described by staff, and notify the Director of DAS of our approval. Commissioner*
30 *Finley seconded the motion.*
31

32 Commissioner Klarquist asked for clarification that the conditions include getting the
33 appraisal or getting a waiver by DAS of having an appraisal. Is that implicit in here?
34 Parker said staff would make that a written requirement of the transfer.
35

36 *The motion carried unanimously.*
37

38 **Exhibit E: ACCESS AND HABITAT PROJECTS and REAPPOINTMENT OF TWO**
39 **BOARD MEMBERS**

40 Matt Keenan, Access and Habitat (A&H) Program Coordinator, presented three
41 proposed projects recommended for funding by the A&H Board in October.
42

43 *Project #2011-26 Alvord/Kueny Access Area* provides access to 10,000 acres of private
44 land and 28,000 acres of BLM land. He said this project was originally proposed to

1 provide five years of access. In an effort to reduce costs, A&H Board approved it for two
2 years and asked ODFW to seek additional sources of funding to help pay for the last
3 three years. Total cost is \$47,250.

4
5 *Projects #2011-25 Pine Creek Mule Deer Foliage Enhancement and #2011-28 Murphy*
6 *Ranch Well* would improve wildlife habitat on projects providing public hunting access.
7 These projects qualify for funding through Oregon Open Fields Program, a federal grant
8 A&H secured from the USDA's Farm Service agency in 2010. Keenan referred to
9 Attachment 3 – *A&H Project Summary December 2, 2011* and noted the access acres
10 that would be provided. He said the landowner would not be paid for that access through
11 the proposal; the proposal is only for habitat improvements but there is an access benefit
12 to the projects.

13
14 Keenan said these requests total 53,700 acres of access and improve over 15,000 acres
15 of wildlife habitat for a total cost of \$185,000; of which \$78,000 would be in match
16 funding. Staff is asking for \$47,250 to be approved from A&H funding and \$59,928 from
17 the Oregon Open Fields Program.

18
19 **Public Testimony:** There was no public testimony.

20
21 Keenan also asked the Commission to reappoint two current landowner representatives
22 to their second four-year term on the A&H Board: 1) Ronald Borisch from Keizer,
23 Oregon; and 2) Barry DelCurto from Halfway, Oregon.

24
25 *Action: Commissioner Webber moved to approve the recommendations of the*
26 *Access and Habitat Board for project funding and to re-appoint Ron Borisch and*
27 *Barry DelCurto to a second four-year term on the Access and Habitat Board as*
28 *Landowner Representatives. Commissioner Klarquist seconded the motion, and*
29 *the motion carried unanimously.*

30
31 **Exhibit F: LANDOWNER PREFERENCE PROGRAM PETITION**

32
33 ***Commissioner Bobby Levy declared a potential conflict of interest because she is***
34 ***a landowner that qualifies for Landowner Preference Program (LOP) tags.***

35
36 Jeff Mullins, Petitioner, distributed a brief History and response (see *Jeff Mullins LOP*
37 *Petition Contiguous Acreage Presentation*), and said he is a private landowner of 56
38 acres of designated forest land. The management practices he put in to place provide a
39 superior enhancement to wildlife habitat. He applied for a waiver to be included in a LOP
40 program because he does not have 40 contiguous acres. He has three parcels: two are
41 20-plus acres and one is 14 acres. He doesn't qualify for the program but he meets the
42 intent of the program. Mullins said he was told that the waiver was not possible due to
43 the rules. Deputy Director Curt Melcher explained the Petition process to him.

44
45 He said the staff write-up didn't capture the essence of what he was asking - that ODFW
46 be given latitude to individually evaluate landowners. He is not asking for a change in
47 the minimum requirement of contiguous acres; but asking for a common sense approach

1 so ODFW can review a request for a waiver, or whatever mechanism is put into place;
2 from someone who makes a positive contribution to wildlife and can be compensated by
3 including them in LOP. Mullins said ODFW would want to establish a minimum parcel
4 size and develop a process to evaluate whether those parcels could be safely hunted.
5 He already safely hunts on his three parcels; most are surrounded by other timber lands.
6 Mullins addressed staff's concern in the Commission write-up:
7

- 8 • This issue had been previously considered reducing the minimum acreage
9 requirement. He said the program has never been considered to allow some sort
10 of waiver to the contiguous acreage requirement.
11
- 12 • Will create a statewide issue. His request is for this side of the Mountains; it's
13 very small. Habitat is tight and vegetation is heavy so this request would only
14 apply to the west side. He doesn't see a great number of landowners affected.
15
- 16 • What is done in other states? Most of the Western states are much like the
17 eastern side of Oregon; hunting conditions are very much different.
18
- 19 • Increased antlerless harvest. LOP tags are giving preference to landowners for
20 already designated controlled hunts. It would not be an increase in the number of
21 tags issued; it would be a reassignment of a small number of tags to landowners
22 such as him.
23
- 24 • LOP enforcement of landowners hunting off of their own property. It is not a
25 concern that is particular focused on this decision. Either people are honest or
26 they are dishonest; this is a non-issue to his Petition.
27

28 Commissioner Finley asked, what is the nature of the intervening land that breaks up the
29 contiguous nature of your 36 acres. What separates the habitat value of a contiguous 40
30 acres - is it roads, intervening private property that has a different kind of use? One of
31 the things that game managers are always concerned with is habitat fragmentation. So,
32 is this fragmented and is that a cause for concern in this particular case? Mullins said
33 the fragmentation of the properties is the result of previous divisions. We purchased the
34 properties as forest land orphans; the properties were neglected and over harvested.
35 We have reforested those properties and are intensely managing them. Our home
36 property is not far out of Rainier, Oregon; another property is seven miles to the south;
37 and the other property is about equal distance to the west.
38

39 Commissioner Webber asked Mullin what was his motivation and why was this Petition a
40 benefit to him. Mullins said they like to hunt; and he likes to reduce the animal
41 population on one parcel where they have a large problem where the deer browse. He
42 has a large family with a moderate income and the game provides food for them.
43

44 Commissioner Webber referred to the regulations and said these are general season
45 tags; your family members can buy tags. Mullins said sure, and we do. The LOP
46 compensates landowners in a nonmonetary way for their contribution toward wildlife
47 habitat and the expense and labor associated with that. He wants to hunt on his land.

1
2 Deputy Director Melcher said Mullins' family members can purchase general season and
3 western Oregon buck tags, rifle or archery. If he wants to hunt antlerless animals on his
4 land, he has to apply for a controlled hunt; the antlerless tags are hard to get. Under the
5 LOP, Mullins would automatically qualify for those antlerless tags; so, there is some
6 additional antlerless hunting opportunities that would come with his request.
7

8 Commissioner Akenson felt that Mullen's proposal added a significant increase of
9 complexity to the LOP rules. She said landowners are not required to show how they
10 benefit wildlife, but you are proposing that people who have noncontiguous acreages
11 would demonstrate how they either have damage or provide habitat for wildlife; and
12 adding more work load to staff to verify acreages. Rather than just saying you have 40
13 acres or you don't, it's a judgment call which is difficult to have to address that way.
14

15 Chair Edge said the Commission would either deny his Petition or move forward with
16 rulemaking and a decision regarding future opportunity; a formal decision would not be
17 made today by the Commission. He thanked Mullins for his habitat stewardship.
18

19 Tom Thornton, Game Program Manager, said property must be located within a
20 controlled hunt area; the tags issued for those hunts vary in number and are based upon
21 a graduate scale based on the registered acres. The only acres that can be registered
22 have to meet the minimum. In 2008 during a LOP review staff looked at other western
23 states and found that deer were evenly divided; about half the states required 160 acres;
24 the other portion required 640 acres. In some states, LOP tags were based on damage
25 and/or the presence and number of animals on the property. He said Oregon is more
26 liberal with regard to statewide acreage requirements.

- 27 • Western Oregon: 40 acres - all controlled deer and elk hunts.
- 28 • Eastern Oregon: 40 acres – antlerless deer (600 Series) and elk. 160 acres –
29 buck deer; bull and either sex elk; doe and either sex pronghorn.
- 30 • No requirement for animals to be present on the property or damage to receive
31 initial tags.
32

33 THORNTON discussed the potential impacts by the Petition request:

- 34 • Would eliminate contiguous acreage requirement to meet the minimum, and
35 would allow an aggregate to meet the minimum. He and talked about reviews by
36 a 1993 Task Force; 2004 ODFW/OSP work group, and 2008 LOP Review
37 Committee – no review recommended changes.
- 38 • Increase number of LOP properties; has potential to allow hunting on smaller
39 parcels of current LOP participants.
- 40 • Increased harvest of elk and deer, particularly antlerless.
- 41 • More difficult enforcement. OSP has limited authority to enter private property;
42 would be a lot of additional smaller parcels. If tags are revalidated to address
43 damage outside the standard season; more places to be watching and more
44 report of animals being taken that aren't during the season.
- 45 • Increased workload for ODFW biologists and OSP.

- Requires ODFW to make judgment “deemed suitable and safe for hunting”. This issue raises concern for potential liability if a Department representative states this place is safe for hunting and something occurs at a later date.

Thornton referred to Section 2 of Landowner Statutes and said these issue sunsets on January 2, 2014. This is the provision that allows for the splitting of tags and the damage aspect. There will be discussion about LOP in general and damage aspects specifically.

Public Testimony:

<p>Al Elkins Wilsonville, Oregon</p>	<p>Al Elkins, Oregon Hunters Association (OHA, said OHA supports the staff recommendation to deny the Petition. All of the impact issues that Thornton talked about, they also have concerns with. He polled the OHA Board and the word “safety” came up continually. OHA is concerned with changing the contiguous definition; this issue keeps coming up every time we meet. LOP sunsets in 2014; we will have a good forum to revisit it then and not through this Petition. He expressed concern over the clarification in the Petition regarding Mullins LOP contiguous acreage presentation:</p> <p><i>“Clarification of the Petition: The petition is NOT to decrease the minimum requirement of 40 contiguous acres for participation.....,BUT to provide a means whereby the ODFW can accept and evaluate request for inclusion in the program by individual landowners who meet a minimum acreage requirement but do not own 40 contiguous acres.”</i></p> <p>He said this brings forth more issues to be dealt with and discussed. This is a whole new concept that we as a group back in 2004 and 2008 never dealt with. For those that don’t meet minimum requirements; it would create more work for staff. We would have to talk about increasing application fees to cover the cost for the additional work load for ODFW.</p>
<p>George Houston Sandy, Oregon</p>	<p>George Houston, Board member of Oregon Foundation for Northern American Wild Sheep (OF-NAWS), said their membership every year hunt deer and elk. They are very interested in this particular process. He said he was a member of the 2008 LOP task force that went through LOP tags. It was very thorough and they did talk about this issue. With the review of the LOP process and the Legislature in 2014, OF-NAWS thinks there will be some other hard questions and review of the process. Our hunters and membership are interested in additional hunter opportunity on public land. As a member of EBAC, we need more opportunity in the field staff to get the work done that they have to do now; rather than adding additional load that this particular proposal would purport. Houston said OF-NAWS is interested in more hunting opportunity on public lands and</p>

	are very concerned about the antlerless harvest related to the Petition. OF-NAWS is not in favor of the Petition and in favor of the staff recommendation to deny the Petition.
--	---

1
2 Chair Edge asked Thornton to explain the process to certify enrollment of properties.
3 Thornton said landowners fill out a registration with information about their property and
4 acreage. It's processed by Controlled Hunts in our Licensing Section.
5

6 Chair Edge asked what process will be used when LOP sunsets in 2014. Deputy Director
7 Melcher said originally the LOP statutes had a 2009 sunset. There was no consensus
8 from the Legislature for making changes to LOP; they extended it for five years through
9 2014. The Legislature directed agricultural and hunting interests to meet and get back to
10 the Legislature to renew LOP with a consensus recommendation; that has not occurred.
11 ODFW expects in the coming months to jump start LOP. We also have a southwest pilot
12 program that sunsets in 2014, so LOP will be discussed in the next two years.
13

14 Lieutenant Ethan Wilson, OSP Fish and Wildlife Division, discussed OSP's concerns:

- 15 1. Potential for local resident safety issues with livestock or other users on adjacent
16 properties. Safety becomes more problematic with the smaller parcel size.
- 17 2. Violation by LOP tag holder. Whether intentionally or inadvertently, the possibility
18 of that animal crossing over into adjacent property and the take has to occur on
19 that adjacent property. It creates a violation for that LOP tag holder; whether
20 through criminal trespass or even if they have permission to be on that property,
21 the tag is not valid for that property.
22

23 Commissioner Webber said we have a good, clear bright line right now and staff should
24 not be involved in looking at multiple separated properties; making those judgments and
25 looking at safety. There is going to be a multitude of 160 acre people in Eastern Oregon
26 that are noncontiguous; it is going to open a Pandora's Box.
27

28 Commissioner Klarquist recognized the safety issue and the administrative burden on
29 staff. He said if the Commission were to adopt this; we're shifting socially between
30 whom the harvesters are now and who the harvesters would later be if we shift more of
31 the hunting opportunities to the private land owners; he opposed the Petition.
32

33 Commissioner Finley said we are too close to a formal review period; there will be a lot
34 of these issues that will be watched. He understands the safety issues, and said even
35 through the petitioner's property abuts forest land there should be some habitat
36 consideration in what's also offered to be designated in a LOP program. It doesn't trump
37 safety; but this is a special allocation and there ought to be additional conditions.
38

39 Chair Edge also said a formal review will start soon; why he is against the Petition.
40

41 *Action: Commissioner Englund moved to deny the petition submitted by Mr. Jeff*
42 *Mullins and direct the Director to notify the petitioner of the Commission's decision*

1 *in writing. Commissioner Levy seconded the motion, and the motion carried*
2 *unanimously.*

3
4 Deputy Director Melcher said he spoke with Mr. Mullins and Senator Betsy Johnson
5 several times. He was very gracious in that we did not have a November meeting and
6 could not meet the sixty day timeline for Commission action on this item; and accepting
7 us doing this in December outside of the actual administrative procedures act schedule.
8

9 Commissioner Levy said when this comes up for review, Mr. Mullins might request to be
10 on the LOP review group as a landowner.

11 **RECOGNITION OF FISH PASSAGE TASK FORCE MEMBERS**

12 Chair Dan Edge recognized and presented plaques of appreciation to John Borden and
13 Mark Mouser for 10 years of service on Oregon's Fish Passage Task Force. He said
14 Borden and Mouser played vital roles in the development and management of Oregon
15 Fish Passage Policy and Administrative Rules. Both were appointed to the original task
16 force in 2002, where they both served as chair. Chair Edge said, your tireless volunteer
17 service, commitment to excellence, dedication and solutions based approaches to
18 complex issues have advanced the Department and Oregon's Fish Passage Program.
19
20

21 **EXECUTIVE SESSION**

22 Chair Edge said the Oregon Fish and Wildlife Commission will now meet in executive
23 session for the purpose of conducting deliberations related to real property transactions.
24 The Executive Session is held pursuant to ORS 192.660 (2)(e) and (2)(f), which allows
25 the Commission to meet in executive session to conduct deliberations with persons
26 designated by the governing body to negotiate real property transactions and to consider
27 information or records that are exempt by law from public inspection, such as real estate
28 appraisal information. The Commission will also meet in Executive Session for
29 consultation with legal counsel concerning current litigation or litigation likely to be filed
30 pursuant to ORS 192.660(2)(h).
31

32 Representatives of the news media and designated staff shall be allowed to attend the
33 executive session. All other members of the audience are asked to leave the room.
34 Representatives of the news media are specifically directed not to report on any of the
35 deliberations during the executive session, except to state the general subject of the
36 session as previously announced. No decision may be made in executive session.
37

38 **ADJOURN**

39 Chair Edge reconvened the public meeting in order to adjourn it at 12:37 p.m.