



Oregon Fish and Wildlife Commission Minutes

Meeting: April 20, 2012 – 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue
Salem, Oregon 97303

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

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

- | | |
|------------------------------|---|
| Dan Edge, Chair | Curt Melcher, Deputy Director |
| Bobby Levy, Vice-Chair | Debbie Colbert, Deputy Director |
| Jon Englund, Commissioner | Steve Sanders, Assistant Attorney General |
| Skip Klarquist, Commissioner | Erin Donald, Assistant Attorney General |
| Bob Webber, Commissioner | Teri Kucera, Executive Assistant |
| Michael Finley, Commissioner | |

MEETING

On Friday, April 20, 2012 at 8:00 a.m., Chair Dan Edge called the Oregon Fish and Wildlife Commission (the Commission) meeting to order. Commissioner Holly Akenson was excused from the meeting due to illness, and Director Roy Elicker was representing Oregon at a Pacific Salmon Commission meeting in Washington, D.C.

DIRECTOR'S REPORT

Field Reports

Northeast Region

Bruce Eddy, Region Manager, said staff collared two wolves with GPS transmitters; a helicopter was used to dart OR4 at Zumwalt Prairie. The second wolf collared was from the Wenaha pack. Staff continues to monitor the VHF collared Walla Walla pack. Staff is close to implementing the automated landowner notification system; they still need to meet with the Oregon Cattlemen's Association (OCA) in Wallowa County who are spring calving. Eddy said staff completed the region's spring surveys. An Oregon State University (OSU) intern working under a Conservation Strategy grant discovered that Burrowing Owls are more numerous and widely distributed in Baker County than originally thought.

High Desert Region

Chip Dale, Region Manager, said the winter was mild and dry; the past month has made up much of the snowpack. Over winter survival of deer fawns was good, more so in the high desert regions versus the forested areas. Elk numbers remain good and big horn sheep populations continue to increase. Dale discussed the Klamath Basin late goose season that ended March 10. Staff thought the late arrival of geese in March was weather driven but it's the pattern of how they move into the Klamath Basin. He said the estimate for white-fronted geese is 900,000 in the flyway, 600,000 over the management

1 objective. Dale said the Summer Lake Wildlife Area is one of the key areas in southern
2 Oregon providing habitat for migratory birds between California and parts in the Arctic,
3 even into Russia.

4 Southwest Region

6 Larry Cooper, Region Manager, said the region experienced another successful South
7 Umpqua winter steelhead hatchery program. This year staff acclimated over 110,000
8 smolts at three different sites: Canyonville and Seven Feathers Casino in cooperation
9 with the Cow Creek Tribe of the Umpqua Indians; and the Eastwood Elementary School
10 in Roseburg. Over the last year 450 students have gone through our education program
11 at Canyonville. He said fishermen helped to catch the 60 pair of wild steelhead needed
12 to make this program work.

13 Northwest Region

15 Chris Wheaton, Region Manager, said regarding the Black Tail Deer Plan groups are
16 working on concentration units and staff is trapping and radio-collaring deer; several
17 interns from OSU's wildlife program will help staff. He said the Wildlife Habitat
18 Conservation Program and Riparian Lands Tax Incentive Program allow tax deferrals for
19 agriculture to protect fish and wildlife habitat. The programs have no dedicated funding
20 and require annual inspections and working with landowners. He said staff is at
21 capacity; as the rules allow, a temporary hiatus has been placed on new programs until
22 staff can catch up. Soil and Water Conservation Districts are a great source of help.
23 Wheaton said it's been a good winter steelhead year in the region, with good returns.

24
25 Chair Edge said the Oregon Department of Fish and Wildlife (ODFW) provide better
26 training for OSU students than they get anywhere else; he very much appreciates it.

27 Information & Education

29 Roger Fuhrman, Administrator, talked about the education program's work on the coast
30 to highlight recreational opportunities in several ODFW Outdoors workshops. Earlier this
31 month ODFW and several partners staged the first Inland Marine Fishing clinic in
32 Newport. Fuhrman said Oregon has seen a decline in the past several years of the
33 number of hunters and anglers and people buying licenses. A new workgroup of 20-to-30
34 people in ODFW are looking at the recruitment and retention of hunters, anglers and
35 wildlife viewers to increase participation in hunting and fishing. He said the Recreational
36 Boating and Fishing Foundation's lapsed angler campaign has had some success; staff
37 is looking into other efforts and what to do to get people out.

38 Marine Reserves Program

40 Caren Braby, Program Manager, said Long Form Fishing Community Profiles (Profiles)
41 is a document that describes individual fishing communities and how they perceive
42 management actions by ODFW and other agencies. Staff recently completed a profile for
43 Pacific City, and is working on Depoe Bay. A report, *Long Form Fishing Community*
44 *Profile, Pacific City, Oregon*, is available. Previously, OSU's Sea Grant staff completed
45 profiles for Garibaldi and Newport. Braby discussed the Black Rockfish 2012 PIT
46 Tagging Project, a stock assessment tool. In the last year over 36,000 fish were PIT
47 tagged; 300 tags were recovered for a 10-year total of 2,500 tags recovered. Regarding

1 marine spatial planning staff is mapping where wave energy devices may be deployed in
2 Oregon's territorial sea. The Ocean Policy Advisory Council (OPAC) recommends how to
3 zone Oregon's ocean for different uses to accommodate energy devices. There is
4 advisory work with the Land Conservation and Development Commission in adopting the
5 map in September. In federal waters staff is working with the federal Bureau of Ocean
6 Energy and Management task force responsible for leasing seabed land offshore for
7 these devices; workshops are planned for the near future.

8
9 Commissioner Englund asked in your profiling are they discussing not only with the
10 fishers and the fisher families but the infrastructure around those. Braby said interviews
11 are going on with individual fishermen but she didn't know if staff was talking to
12 processors; but staff is discussing the infrastructure in terms of processor capacity.
13 Commissioner Englund said the decision making by this body or PFMC changes
14 drastically the infrastructure and what can be done. He said that's a slow process to
15 make that change. The logging community with the entire infrastructure around logging if
16 that changes it affects the whole community all the way through to shipyards. He asked
17 staff to do that because change and decision-making are easily done but the affect on
18 the infrastructure takes a long time to heal or move forward.

19 Oregon State Police, Fish and Wildlife Division

20 Captain Jeff Samuels said two Troopers and others from Newport put together an Ocean
21 fisheries display and attended the Saltwater Sportsmen Show at the State fairgrounds;
22 over 800 people attended. Captain Samuels said Trooper Baimbridge in Roseburg
23 received anonymous information through the Oregon TIP line used by citizens about
24 three subjects poaching Black-tail deer. The Trooper located the subjects and found that
25 they had shot the deer out of season while coyote hunting. The suspects were cited;
26 their rifles were seized; and the deer carcasses were released to Wildlife Safari. Captain
27 Samuels presented Lieutenant Dave Anderson with a 15-year Service pin for his
28 dedicated service to the citizens and the natural resources of Oregon.

29 **Columbia River Sturgeon Fishery Planning**

30 Steve Williams, Fish Division Deputy Administrator, said Tony Nigro has prepared
31 materials in response to public correspondence that the Commission and ODFW has
32 received concerning commercial gill-net fisheries in the white sturgeon sanctuary below
33 Bonneville Dam; the material responds to both recreational and commercial fisheries.

34
35 Tony Nigro, Ocean Salmon and Columbia River Program Manager, distributed *Directors*
36 *Report to the Oregon Fish and Wildlife Commission April 20, 2012* (Report). He said the
37 sanctuary was established in 1996 by ODFW and Washington Department of Fish and
38 Wildlife (WDFW) to minimize handle of brood-stock sturgeon that gather there in late
39 spring and early summer to spawn. Sport anglers began targeting brood stock oversize
40 fish as trophies; 5,000 sturgeons were taken in 2000; it's now down to a few hundred.
41 He said sport fishing is prohibited because of law enforcement concerns that it would not
42 be possible to distinguish between sport anglers that are targeting oversize sturgeon and
43 those targeting legal-sized sturgeon.

44
45 Nigro summarized public emails and letters commenting about how ODFW manages
46
47

1 Commercial fisheries in the sanctuary:

- 2 • Sport anglers view the disparity between sport and commercial fisheries
3 regulations as unfair and not consistent with the intent to protect white sturgeon.
4 Allowing commercial fishers to keep legal-sized sturgeon provides an incentive for
5 them to target sturgeon. The fisheries allowed there are intended to target
6 salmon.
- 7 • Prohibit commercial fishers from keeping legal-sized white sturgeon. Prohibit all
8 commercial fishing and not just the retention of legal-size sturgeon.
- 9 • Coastal Conservation Association (CCA) sent a letter asking the Commission to
10 immediately close the sanctuary to gill-netting. On March 8, ODFW and WDFW
11 met with CCA who said the gill-net fleet is capable of harvesting their salmon and
12 sturgeon quotas without fishing in the sanctuary; gill-netting is an unnecessary
13 source of stress to spawning white sturgeon. CCA is concerned about the
14 disparity in regulations; they urged ODFW to consider changes to the Sturgeon
15 regulations in 2012 in regard to the appearance of a double standard.
- 16 • Salmon for All letter said the commercial fishing industry asks to have their fishery
17 reviewed; and that the sports fishery also be reviewed amid its concerns that bait
18 fishing for salmon in the sanctuary also results in the handle of sturgeon.

19
20 Nigro discussed ODFW and WDFW's response to these concerns. Staff is briefing the
21 Commission today for direction and whether there is more that staff should be doing in
22 response. Williams said staff recommends that the Commission add this to staff's
23 process to develop an Accord for 2013.

24
25 Commissioner Klarquist said in the correspondence was x-ray pictures of sturgeon
26 stomachs with a number of hooks. Are you looking at regulations for hooks or gear?
27 Williams said that material was in the letter from Salmon For All. During the overall
28 review for 2013, staff will look at gear types and the use of gears in different locations.
29 The reference to circle hooks referenced work by the Idaho Department of Fish and
30 Game. He said there is mixed reactions to the use of circle hooks and matching up the
31 use of that gear with different kinds of fisheries. Idaho and where they fish sturgeon is a
32 different fishery than what Oregon has in the Columbia River.

33
34 **Expenditure Report**

35 Debbie Colbert, Deputy Director for Administration, said as of February 29, 2012, staff is
36 tracking within budgeted revenues and expenditures. She said ODFW kicked off its
37 2013-15 budget development and met with the External Budget Advisory Committee
38 (EBAC) last Saturday to discuss participation trends; looking long-term at ending
39 balance; projections and where we go with any long-term fee adjustments. Another
40 meeting will be held with EBAC in July. Starting April 30, Director Roy Elicker and she
41 will hold Town Hall meetings in Wilsonville, LaGrande, Bend and Coos Bay. Regarding
42 the new Salem Headquarters building, Dalke Construction selected Caustic Architects to
43 begin the architectural work. Staff is working on space planning so they can use the
44 design to go out for bid on the construction work.

45
46 **Adopt Temporary Rules**

1 Deputy Director Curt Melcher asked the Commission to adopt the 12 temporary rules on
2 pages 1 through 3 of the tan-colored agenda.

3
4 **1. 635-018-0090**

5 **2012 Spring Chinook Seasons on the Lower Deschutes and Hood Rivers**

6 Adopted February 21, 2012: effective April 15, 2012 through July 31, 2012.

7 Amended rule allows the sport harvest of adipose fin-clipped spring Chinook salmon in
8 the Lower Deschutes River from April 15 through July 31, 2012 and in the mainstem of
9 the Hood River from April 15 through June 30, 2012. The Deschutes River open area
10 extends from Sherars Falls downstream to the mouth of the river. The Hood River open
11 area extends from the mouth to mainstem confluence with the East Fork; and the West
12 Fork from the confluence with the mainstem, upstream to the angling deadline 200 feet
13 downstream of Punchbowl Falls. The daily bag limit is two adult adipose fin-clipped
14 Chinook salmon per day, and five adipose fin-clipped jack salmon per day. All unmarked
15 Chinook salmon must be released unharmed and it is unlawful to angle from Sherars
16 Falls downstream to the upper railroad trestle after taking a daily bag limit of two adult
17 Chinook salmon.

18
19 **2. 635-042-0145**

20 **Commercial Gillnet Fishery for Youngs Bay Select Area of the Columbia River**
21 **Modified**

22 Adopted March 15, 2012: effective March 18, 2012 through July 31, 2012.

23 Amended rule modifies the start time, fishing period length and fishing area boundaries
24 authorized for the March 18, 2012 commercial gillnet fishery in the Youngs Bay Select
25 Area of the Columbia River. Modifications are consistent with the action taken March 15,
26 2012 by the State of Oregon.

27
28 **3. 635-042-0145**

29 **Additional Commercial Gillnet Fishing Period for Youngs Bay Select Area of**
30 **Columbia River**

31 Adopted March 15, 2012: effective March 21, 2012 through July 31, 2012.

32 Rule amendments modify the start time and fishing period length in the previously
33 authorized commercial gillnet fishery for the Youngs Bay Select Area of the Columbia
34 River on March 25. Further amendments authorize an additional four-hour fishing period
35 from 5:00 p.m. until 9:00 p.m. on Wednesday, March 21, 2012. Modifications are
36 consistent with the action taken March 20, 2012 by the State of Oregon.

37
38 **4. 635-042-0145**

39 **Additional Commercial Gillnet Fishing Period for Youngs Bay Select Area**
40 **Authorized**

41 Adopted March 27, 2012: effective March 29, 2012 through July 31, 2012.

42 Rule amendments authorize an additional four-hour fishing period in the ongoing
43 commercial gillnet fishery for the Youngs Bay Select Area of the Columbia River on
44 March 29. This additional four-hour fishing period will begin at 10:00 a.m. and end at
45 2:00 p.m., Thursday, March 29, 2012. Modifications are consistent with the action taken
46 March 27, 2012 by the State of Oregon.

1 **5. 635-042-0145**
2 **Commercial Gillnet Fishing Period In Youngs Bay Select Area Authorized for**
3 **April 1st**

4 Adopted March 30, 2012: effective April 1, 2012 through July 31, 2012.
5 Rule amendments authorize an additional four-hour fishing period for the ongoing
6 commercial gillnet fishery in the Youngs Bay Select Area of the Columbia River on
7 April 1. This additional four-hour fishing period will begin at 1:00 p.m. and end at 5:00
8 p.m., Sunday, April 1, 2012. Modifications are consistent with the action taken March 30,
9 2012 by the State of Oregon.

10
11 **6. 635-042-0022**
12 **2012 Commercial Spring Chinook Fishery in the Mainstem Columbia River**

13 Adopted April 2, 2012: effective April 3, 2012 through April 30, 2012.
14 This amended rule allows a non-Indian commercial spring Chinook fishery in the
15 mainstem Columbia River to commence on April 3, 2012 from the mouth of the Columbia
16 River upstream to Beacon Rock (Zones 1 thru 5). The authorized drift gillnet fishing
17 period is from 7:00 a.m. through 7:00 p.m. (12 hours). Modifications are consistent with
18 joint state action taken April 2, 2012 by the Columbia River Compact agencies of Oregon
19 and Washington.

20
21 **7. 635-042-0145**
22 **Commercial Gillnet Fishing Period in Youngs Bay Select Area Authorized for**
23 **April 5**

24 Adopted April 4, 2012: effective April 5, 2012 through July 31, 2012.
25 Rule amendments authorize an additional four-hour fishing period for the ongoing
26 commercial gillnet fishery in the Youngs Bay Select Area of the Columbia River on
27 April 5. This additional four-hour fishing period will begin at 4:00 p.m. and end at 8:00
28 p.m. Thursday, April 5, 2012. Modifications are consistent with the action taken April 4,
29 2012 by the State of Oregon.

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31 **8. 635-023-0125**
32 **2012 Recreational Spring Chinook Season Extended in the Columbia River**

33 Adopted April 5, 2012: effective April 6, 2012 through June 15, 2012.
34 These rule modifications extend, by one week, the 2012 Columbia River recreational
35 spring Chinook season for harvest of adipose fin-clipped Chinook salmon and adipose
36 fin-clipped steelhead. Revisions are consistent with action taken April 5, 2012 by the
37 Columbia River Compact agencies of Oregon and Washington.

38
39 **9. 635-042-0022**
40 **Additional Six-hour Commercial Spring Chinook Fishery in the Mainstem**
41 **Columbia River**

42 Adopted April 9, 2012: effective April 10, 2012 through April 30, 2012.
43 This amended rule allows an additional non-Indian commercial spring Chinook fishery in
44 the mainstem Columbia River on April 10, 2012 in the area from the mouth of the
45 Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized drift gillnet
46 fishing period is from 12:30 p.m. through 6:30 p.m. (six hours). Modifications are

1 consistent with joint state action taken April 9, 2012 by the Columbia River Compact
2 agencies of Oregon and Washington.
3

4 **10. 635-023-0125**

5 **2012 Recreational Spring Chinook Season in the Columbia River Extended**

6 Adopted April 12, 2012: effective April 14, 2012 through June 15, 2012.

7 These rule modifications extend, by eight fishing days, the 2012 Columbia River
8 recreational spring Chinook season for harvest of adipose fin-clipped Chinook salmon
9 and adipose fin-clipped steelhead. Revisions are consistent with action taken April 12,
10 2012 by the Columbia River Compact agencies of Oregon and Washington.
11

12 **11. 635-042-0145**

13 **Commercial Gillnet Fishing Period in Youngs Bay Select Area for April 19**
14 **Amended**

15 Adopted April 16, 2012: effective April 19, 2012 through July 31, 2012.

16 Rule amendments change a previously authorized commercial gillnet fishing period
17 scheduled for 6:00 p.m. until midnight on April 19, 2012, in the Youngs Bay Select Area
18 of the Columbia River to now begin at 4:00 p.m. and run until 9:00 p.m. on the same
19 date. Modifications are consistent with the action taken April 16, 2012 by the State of
20 Oregon.
21

22 **12. 635-023-0134**

23 **Open Spring Chinook Sport Fishery on the Snake River below Hells Canyon Dam**

24 Adopted April 16, 2012: effective April 22, 2012 through September 30, 2012.

25 Amended rule opens a spring Chinook fishery from Dug Bar Boat Ramp upstream to the
26 deadline below Hells Canyon Dam on the Snake River beginning on April 22, 2012 to
27 coincide with the State of Idaho's regulations for this fishery.
28

29 *Action: Commissioner Englund moved to approve the 12 administrative temporary*
30 *rules. Commissioner Klarquist seconded the motion, and the motion carried*
31 *unanimously by a vote of six.*
32

33 **PUBLIC FORUM**

Rich Thompson Newberg, Oregon	Rich Thompson, President for Traditional Archers of Oregon (TAO), distributed written testimony and said he saw a poll by Oregon Bow Hunters asking the Commission to allow for lighted nocks for archery hunting. He said "electronics on board" is illegal in the current regulations. The common reason to allow lighted nocks is being able to see the arrow as it proceeds to the target and whether you hit the target. Many of the modern bows are shooting arrows at speeds almost twice the speed of a normal recurve bow. There are TV shows and articles espousing that people want to extend their range. The manufacturers continuously come out with new bow accessories; he described several. Thompson said TAO supports current regulations that state no
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	<p>electronic devices on either bow or arrow; failing to hold the line in these primitive weapons seasons should increase success and result in disgruntled firearms hunters continuing to ask ODFW for more reduction in archery season opportunity. If ODFW allows for electronics in any form, TAO must reiterate its previous request that ODFW begin to issue separate tags for “traditional” and “modern” archers.</p>
<p>Shawn Miller N/A</p>	<p>Shawn Miller, Coastal Conservation Association (CCA), referred to CCA’s letter dated March 21, 2012 from Bruce Polley about allowing the commercial sturgeon gill-net fishery in the sanctuary that was established to protect the spawning brood-stock sturgeon populations. He said Polley brought up this issue at the Commission’s January 6 meeting and was told that the Commission was going to continue to allow gill-net fishing in the sanctuary. The correspondence from ODFW to CCA members stated, “Current management allows sport and commercial fishing in the area for species other than sturgeon.” CCA questions the accuracy of that statement because the fishing community has given up a lot to bring back the sturgeon populations. It is illegal for sports fishermen to target and retain a sturgeon in that area but okay for the commercial gill-net fleet to fish and sell sturgeon in the same area. That is a double standard that CCA asks and the Commission to address.</p> <p>Miller said the other side mentions sport and commercial fishery encounters and supports having the Commission look at encounter regulations. He asked the Commission to look deeper than just encounters. We will leave hook-and-line and encounter in an area, you’re not targeting that fish in that area. If you do fish in that area where you are salmon fishing, you don’t want to catch a sturgeon; you have salmon gear. He also questioned the idea that the sport fishing community is out there just catching sturgeon when they’re actually targeting salmon. He said that is not what the sports industry is out to do. He asked the Commission to address the same concerns for commercial fishers by moving that fishery below the spawning sanctuary to where they are able to get their current quotas that we believe are unharmed.</p>
<p>Steve Fick N/A</p>	<p>Steve Fick, representing Salmon for All (SFA), said they never want to target or handle oversize or undersize sturgeon in a commercial fishery; it’s more work. In the recreational fishery the harvest of these oversized fish was closed. SFA’s information in the Commission packet shows</p>

	<p>the damage it has done. ODFW closed it with opposition from the recreational fishery. SFA looked at websites on guides that are directing on the bottom line advertising for oversize sturgeon fishing trips. One claims he can hook four to five a day for his clients. It does continue; the evidence suggests that we should study the effects of these recreational fishing trips on oversize sturgeon. He said one of the handling protocols for tagging is using gill-nets to tag and release these fish because of extremely low mortality; it is a very gentle method of handling. We have salmon fisheries at that time and there is an incidental sturgeon catch that goes on. He said those fish are part of an annual quota the commercial fishery gets. We catch them in that zone different times of the year, but the nets are designed to catch four-to-five foot fish; that is what these people are trying to target for the consumer. He noted CCA's letter and said they were misinformed or are trying to misguide people. He asked the Commission to turn to their own staff to look at the facts of how these two fisheries exist.</p>
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2 Chair Edge asked Harney County Judge Steve Grasty to give his testimony on **Exhibit I:**
3 **TRAPPING REGULATIONS PETITION** since he needed to leave the area.
4

<p>Steve Grasty Burns, Oregon</p>	<p>Judge Steve Grasty said if the rural area is going to survive we need flexibility, consistent rules and some opportunities. If the Commission is going to take actions that will eliminate communities, it is easy to say that tightening this one rule isn't going to eliminate Burns or any other rural community; but its death by a thousand cuts. He said fragmentation of the habitat is the basis for our communities. Judge Grasty gave examples of the impacts to:</p> <ol style="list-style-type: none"> 1. A Burns Paiute Tribal member is a trapper; he is trying to keep connection to his heritage. The proponents of this petition say it would not have any economic impact. 2. The 12-year old that runs a trap line with his grandfather is a piece of the culture that is lost if grandpa can't afford to gas his rig. 3. Retiree who supplements his social security income. 4. A hide business in Burns that has three employees. 5. Positive predator control as a result of trapping. <p>He encouraged the Commission to deny the request; there is an opportunity later for it to come up. He said communities will be participating to tell this story again.</p>
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1
2 **Exhibit A: COMMISSION MINUTES**

3 Chair Edge said the March 9, 2012 minutes were deferred to the June meeting.
4

5 **Exhibit B: 2012 REGULATIONS FOR SARDINE AND PACIFIC HALIBUT FISHERIES**
6

7 ***Commissioner Jon Englund declared a potential conflict of interest because his***
8 ***business is involved with the sardine, recreational and halibut industry.***
9

10 Gway Kirchner, Marine Resources Program Assistant Manager, noted Revised
11 Attachment 3 – Draft OARs and said the citation in the final rule for the halibut fisheries
12 was published recently (see Federal Register Vol. 77, No. 56, dated March 22, 2012 (77
13 FR 16740). She said the 2012 commercial Pacific Sardine harvest levels were set by
14 the Pacific Fishery Management Council (PFMC) in November 2011 (Attachment 4); the
15 final rule should be available soon and will be inserted into the OARs. Survey indices
16 show an increase in sardine biomass. She discussed harvest guidelines:

- 17 • Federal coastwide maximum harvest guideline is 109,409 metric tons (mt).
- 18 • 3,000 mt set aside for Industry sponsored survey that will occur again this year.
- 19 • 9,000 mt set aside for Washington coastal Tribe to fish sardine; new this year.
- 20 • 97,409 mt remaining for the directed fishery and some incidental catch from
21 coastal pelagic species fisheries.
22

23 Kirchner said at the February Commission meeting, industry testified about permit
24 renewal requirements put in place when the limited entry program was established to
25 insure that these permits were being used. The Commission directed staff to return with
26 alternatives on how to adjust or remove these requirements. A survey was sent to 36
27 holders and processors; 25 were returned and 22 recommended complete removal of
28 the requirements. The Sardine Advisory Group was put into place to review contested
29 cases for permit renewals. Those duties have been assumed by the Commercial Permit
30 Review Board, which has sardine representation.
31

32 Kirchner said the Halibut Regulation Process is set by the International Pacific Halibut
33 Commission (IPHC), PFMC, and National Marine Fisheries Service (NMFS). She said
34 harvest levels are based on an annual coastwide assessment; stock increased 9% in the
35 Oregon, Washington and northern California. She discussed Halibut Allocation by Area,
36 changes in the Catch Sharing Plan, and the recommended season dates (Attachment 6)
37 for the summer sport fishery and nearshore; Columbia River Sub-area Sport Fishery;
38 South of Humbug sub-area Sport Fishery, and 10-hour Commercial openers.
39

40 **Public Testimony:**

Rod Moore Portland, Oregon	Rod Moore, Executive Director of West Coast Seafood Processors Association (WCSPA), said in February he asked the Commission to consider removal of the landing requirement. Over the years the sardine fishery has become a fishery that fishermen and processors have learned to deal with and make their business plans. Many fishermen in the fishery are in other fisheries and make their business plans
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dependent on what they are doing in those other fisheries. One year they may have a better opportunity for Sitka herring and the next year they participate in the Oregon sardine fishery. Moore said the processors recognize that boats have different opportunities and they need to schedule boats to insure that they are able to supply sardines for the market and support Oregon fisheries; this has worked out well. As noted in the staff report, the landing requirement has effectively been waived by the Commission every year that it has been necessary. He said WCSPA asks the Commission to remove the landing requirement.

1
2 *Action: Commissioner Englund moved to adopt the recommendations for 2011*
3 *Pacific sardine and Pacific halibut fisheries as proposed in Revised Attachment 3.*
4

5 Commissioner Klarquist said the staff's recommended motion should read "for
6 **2012**". Legal Counsel Steve Sanders said yes.
7

8 *Commissioner Klarquist seconded the motion as just revised, and the motion*
9 *passed unanimously by a vote of six.*
10

11 **Exhibit C: 2012 OCEAN SALMON REGULATIONS FOR STATE WATERS**

12

13 ***Commissioner Englund declared a potential conflict of interest because his***
14 ***company deals with salmon, recreational and commercial fishing boats.*** Chair
15 Edge said a potential conflict of interest does not prohibit Commissioner Englund from
16 debating and voting on the issue.
17

18 Chris Kern, Interim Ocean Salmon Technical Resources Manager, said on or before May
19 1 the U.S. Department of Commerce will adopt ocean salmon regulations for federal
20 waters based on the seasons that cover ocean waters adopted by PFMC on April 6. If
21 the Commission adopts the proposed rules today for state waters they take effect on
22 May 1, 2012. Kerns said the forecast this year is good.

- 23 • Klamath fall Chinook forecast - 1.65 million in fish ocean abundance.
- 24 • Sacramento index fall Chinook – 81,700.
- 25 • Columbia River fall Chinook – 65,100
- 26 ✓ Lower Columbia wild tule – 127,000.
- 27 ✓ Upper Columbia bright stock Chinook - 354,000.
- 28 • Coho:
- 29 ✓ Lower Columbia Natural coho – 30,000.
- 30 ✓ Columbia hatchery – 342,000.
- 31 ✓ Oregon Coastal natural coho – 291,000.
- 32

33 Kerns discussed primary constraints. Chinook is 41% on Lower Columbia tules; a new
34 guidance from NOAA this year. He said a new harvest matrix was adopted that allows for
35 a changing exploitation rate scaled to abundance. The ocean harvest rate on age four

1 Klamath fall Chinook is 16%; staff is operating under a 15% exploitation rate for Lower
2 Columbia and Oregon Coastal natural coho. He gave an overview of the adopted
3 seasons in Attachment 4 – Ocean Salmon Management Measures & Impacts
4 (Preseason Report III) for the 2012 Ocean Commercial Season Options and the 2012
5 Ocean Sport Season Options.

6
7 Kerns said the coastal Chinook forecasts are completed; staff will determine where they
8 need to propose any regulation changes. Staff is developing regulation proposals for
9 wild coho fisheries given the large forecast for Oregon coastal wild coho. Two public
10 meetings are scheduled: April 25 in Tillamook and April 26 in Newport. He will brief the
11 Commission in June on the public input and proposed regulations.

12
13 **Public Testimony:** There was no public testimony.

14
15 Commissioner Englund said he gets asked what made the big change south of Falcon.
16 What happened to the Klamath and Sacramento when the media was in dire straits; is
17 this an ocean condition? Kerns he didn't know if anybody knows for certain; he suspects
18 its ocean conditions.

19
20 Commissioner Englund said in the ocean and the mortality particularly on marked coho,
21 there are a lot of recommendations from people. Why not take the first two and be over
22 with it; without keep fishing with mortality. He said there are treaties on the coho; staff
23 will hear about this at the meetings. He has heard that the wastage of unmarked coho is
24 significant. Kern said that is continually discussed; particularly in a year with low forecast
25 for hatchery coho, therefore marked rates are going to be low. The quotas for the
26 marked selective fishery last year were higher than staff is proposing this year. He said
27 staff heard that folks want to maintain some marked selective opportunity; but there is a
28 balance to be struck between that and the potential for wastage or mortalities of released
29 fish. Kern said in most seasons, despite the mortality of released fish during the marked
30 selective fishery, we are still able to provide more days on the water and more
31 opportunity by having them than by not.

32
33 *Action: Commissioner Finley moved to adopt the 2012 ocean recreational and*
34 *commercial salmon seasons as proposed by staff in Attachment 5. Commissioner*
35 *Levy seconded the motion, and the motion carried unanimously by a vote of six.*

36
37 **Exhibit D: COMMERCIAL DUNGENESS CRAB REGULATIONS**

38
39 ***Commissioner Jon Englund declared a potential conflict of interest because his***
40 ***business deals with the Commercial Dungeness Crab industry.***

41
42 Kelly Corbett, Commercial Dungeness Crab Project Leader, said over the last two years
43 staff, OSP and stakeholders have identified a number of modifications to the current
44 Commercial Dungeness Crab regulations. She talked about the public involvement
45 during 2011 with the Oregon Dungeness Crab Commission and OSP for five issues.

1 1. Require buoy tags on rings. Recent interest in this practice alerted management
2 and OSP to a potential pot limit loophole: fishing more than the allotted pot limit by
3 fishing rings since they currently do not need buoy tags, or fishing tags without buoy tags
4 under the guise of fishing with rings.

5
6 2. Allow hold inspection date flexibility. Staff proposes to allow officials to conduct
7 hold inspections beginning on the day prior to the opening of the season. The proposed
8 rule requires a hold inspection before delivering crab within first 30-days of the season.
9

10 3. Allow retention of crab from derelict gears. Staff proposes allowing the legal crab
11 from any derelict gear recovered during the crab season to be retained by a Dungeness
12 crab permitted vessel.
13

14 4. Clarify transiting language. The current rule for transiting with no buoy tags
15 attached to gear requires a vessel to be authorized to participate in the Dungeness crab
16 fishery of an adjacent state; it allows vessels to carry gear destined for non-Oregon
17 Dungeness crab fisheries through Oregon waters without buoy tags. The rule allows a
18 loophole for permit holders that own permits in more than one state to transit between
19 ports in Oregon with untagged gear when they're not actually in route to participate in or
20 is returning from participating in that other state's fishery. This impacts OSP's ability to
21 enforce pot limits and determine when crab and pot theft occurs. Staff proposes requiring
22 fishermen to be in route and to participate in or returning from participating in an adjacent
23 state's fishery in order to have the untagged gear on board.
24

25 5. Reduce temporary rule changes when a season is delayed due to crab quality
26 issues in one or more areas to reduce the complexity of temporary rule development that
27 facilitates a delayed start:
28

29 1) Change derelict gear retrieval period from December 1 to begin at the start of
30 the season. Retains the intent of the derelict gear rule by prohibiting derelict gear
31 retrieval from October 31 until the start of the next crab season; but would make
32 the rule effective at the start of the next season regardless of the actual start date.
33

34 2) Permit transfer allowances. Temporarily suspend permit transfer in years when
35 the coast is divided in two areas with different opening dates to facilitate the 30-
36 day "fair start" provision which restricts vessels that started fishing in the first
37 opened area from fishing in the second area until 30-days after the second area
38 opens. Permit transfers are allowed during that 30-day period. Permit holders can
39 circumvent the intent of the provision by transferring a permit from a vessel that
40 participated in the earlier opening to the one that did not; then participate in a later
41 opening before the 30-day period is over. Permit transfers would be allowed after
42 the expiration of the fair start period 30-days after the later opening date.
43

44 Corbett said both of these changes would be put into permanent rule changes made
45 through temporary rule when there has been a delay in the season opening.
46

47 **Public Testimony:**

<p>Nick Furman Coos Bay, Oregon</p>	<p>Nick Furman, Executive Director for Oregon Dungeness Crab Commission (ODCC), distributed written testimony. The ODCC supports the regulation changes and believes the crab management program is in capable hands with Kelly Corbett and others. He referred to his <i>2011 Landings & Value (by species)</i> and said the Total Landed Value of \$148 million of all seafood in Oregon is at a 23-year high. The 2010 figures were \$105 million; the industry has averaged between \$105 and \$112 million for the last 23-years. The top two, Dungeness crab and Pink Shrimp, are state managed fisheries. Of the top five fisheries four are Marine Stewardship Council certified fisheries; that indicates the fisheries have minimal environmental impact, are harvested sustainably and well managed. Furman said this fishery is doing well this year because of the highest season average value ever - \$2.85 per pound. The landing value is \$36.7 million and may get close to \$39 million by the end of the season. Oregon has taken the leadership role with California and Washington in Dungeness crab management.</p>
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1
2 Commissioner Webber asked about the terms “lost” and “forgotten” in the rules. Corbett
3 said there is bio fouling on the buoys when a pot has been out in the ocean a long time
4 and has not been turned over. The pots would be set apart and not within a single string;
5 it’s either out of place and been moved from a place where normal crabbers would be.
6 Commissioner Webber said we have trouble in the south Coast with people pulling up
7 somebody else’s pots. He was contemplating how to defend their actions as pulling
8 derelict gear. Lt. Dave Anderson said in that situation the person whose gear is derelict
9 would be contacted. If they say that gear was not derelict then we have an issue.
10
11 Commissioner Webber said he hears cases where a pot will have multiple ownership
12 tags. Is there any requirement that they remove the other ones? Corbett said Oregon
13 statute has a crab pot requirement that the owner have an identifiable tag that goes
14 inside the pot or ring. You would have to take out the person’s identification that you
15 bought the pot from and put your own in.
16
17 Commissioner Englund said we have different opening dates than adjacent states; San
18 Francisco starts before our Dungeness crab season. Some boats in transit could get
19 stopped because of weather. How do we do hold inspections? Is there a cooperative
20 agreement with California State Police that can certify if I got into Crescent City that they
21 can come down and satisfy our rule? Lt. David Anderson said a hold inspection done in
22 California is valid in Oregon. The California Department of Fish and Game or a California
23 warden could do a hold inspection in Crescent City and that would satisfy the need.
24
25 *Action: Commissioner Webber moved to adopt staff recommendations for*
26 *commercial crab fishery rule modifications, as shown in Attachment 3.*

1 Commissioner Englund seconded the motion, and the motion carried unanimously
2 by a vote of six.
3

4 **Exhibit E: JOHNSON CREEK DAM FISH PASSAGE WAIVER**

5 Greg Apke, Fish Passage Program Coordinator, presented the fish passage waiver
6 request by the Bandon Cranberry Water Control District (BCWCD) who proposes to
7 construct a new 90-foot tall earth-filled dam in Johnson Creek without providing fish
8 passage. He said it is the State of Oregon's policy to provide for fish passage for native
9 migratory fish. Oregon fish passage statutes adopted in 2001 and administered by
10 ODFW make provisions for owners of fish passage artificial obstructions to seek waivers
11 from the State's fish passage requirements.
12

13 Apke said Oregon's fish passage statutes require that fish passage be addressed at
14 artificial obstructions prior to certain trigger events: major construction or replacement;
15 major maintenance; and abandonment or fundamental change in permit status at the
16 existing or proposed obstruction. The trigger event for this action is the construction of
17 the proposed new dam in Johnson Creek. He said once trigger events occur the
18 Department's fish passage authority is invoked and the owner of the artificial obstruction
19 has three general options:

- 20 1. Providing a fish friendly solution, typically a fish way built as part of the project.
 - 21 2. Request a fish passage waiver.
 - 22 3. Request a fish passage exemption.
- 23

24 Apke said only the Commission has the legal authority to grant fish passage waivers
25 where the stream affected by the obstruction contains greater than one mile of native
26 migratory fish habitat above the artificial obstruction. Prior to granting fish passage
27 waivers the Commission must determine that alternatives to fish passage, in this case a
28 fish passage mitigation plan, proposed by the applicant provides a net benefit to native
29 migratory fish. He said ODFW's net benefit analysis must compare the benefit to native
30 migratory fish as if passage were provided at the obstruction compared to the artificial
31 obstruction or the benefit for native migratory fish proposed by the mitigation actions.
32

33 Apke clarified that the fish passage waiver request represents one permit and only
34 satisfies Oregon fish passage statutes and rule regulations. There are numerous other
35 state and federal rules, regulations and permits that the project proponents must acquire
36 prior to construction of the new dam. He said construction and operation of the proposed
37 facility will most likely result in additional fish, wildlife and habitat impacts. We anticipate
38 habitat mitigation policy provisions will be required by the Department.
39

40 Mike Gray, Coos Coquille Watershed District Fish Biologist, said the proponent's
41 application identifies the purpose and need of a new dam to store approximately 1,556
42 acre feet (ac. ft.) of water for cranberry production and municipal water supply. During a
43 slide presentation, Gray used maps to show the context of Johnson Creek, a direct
44 ocean tributary south of Bandon. He said Blair Creek is a tributary of the north fork of the
45 Coquille. He said Johnson Creek has soft, sandstone type geologies with substrates of
46 small pea gravel and sand or silt. While cutthroat do well in these streams they are not
47 typically high production areas for larger anadromous fish like coho and steelhead. Blair

1 Creek is part of the Coquille Basin, which has high production potential for coho, salmon
2 and other anadromous fish as well as cutthroat trout. He said Coquille Basin is within the
3 Oregon Water Resources Department (WRD) south coast drainage basin, which forms
4 the basis for the definition of "in proximity" for mitigation within our rules.
5

6 Gray said we define larger coho populations and basins, such as the Coquille, as
7 independent, being productive and sustainable over time under variable and
8 environmental conditions. Populations in smaller coastal tributaries, like Johnson Creek,
9 are defined as dependent populations and depend on the larger independent basins to
10 carry them and repopulate those following unfavorable environmental conditions.
11

12 Gray said the proposed dam site on Johnson Creek is about 3.5 miles upstream of the
13 mouth. Four road culverts are located in the lower basin including a perch culvert at
14 Rosa Road. The Stoltz and Evans dams (both impassable) are located downstream and
15 upstream of the proposed dam. Evans dam is owned by the Hagas. He said Blair Creek
16 holds the four mitigation sites where the applicants have proposed to provide fish
17 passage at barriers. There is a county road culvert near the mouth or the confluence of
18 the north fork of the Coquille River. Just upstream on a private farm road owned by the
19 Liles is another culvert. There are two culverts on private industrial forestland known as
20 Plum Creek. Staff was just notified of a transfer of ownership from Plum Creek Timber
21 Company to the Campbell Group. Gray said letters in Attachment 7 - Authorization
22 Letters for Fish Passage Mitigation Implementation indicate permission for the applicants
23 to perform mitigation on all the lands associated with the mitigation package including
24 the recent transfer to the Campbell Group.
25

26 Gray described the native migratory fish species in Johnson Creek and Blair Creek. He
27 discussed the schematic of Johnson Creek and the habitat found there in its lower and
28 upper basins. He also described the schematic of Blair Creek; the substantial barriers
29 and culverts at the four mitigation sites: 1) Coos County Road; 2) Lile's private farm road;
30 3) Plum Creek forest road; and 4) Plum Creek forest road/unnamed tributary. He said the
31 Johnson Creek dam would block an estimated 1.75 miles of fish habitat although existing
32 barriers currently block native fish migration in much of the basin. He said providing this
33 mitigation would provide over two miles of habitat.
34

35 Apke said as a result of ODFW's net benefit analysis we conclude the proposed
36 mitigation actions in Blair Creek in lieu of providing passage at the proposed Johnson
37 Creek Dam provide an appreciable net benefit to native migratory fish. The Fish Passage
38 Task Force supported moving this waiver forward to the Commission. Staff received
39 numerous comments from the public the public comment period (February 28 - March
40 21), and sent notices to the media and letters to local landowners and stakeholders. As
41 a result of public comments, staff made revisions to the net benefit analysis and waiver
42 agreement in the Commission packet.
43

44 **Public Testimony:**

Paul Slater Coquille, Oregon	Paul Slater, Consultant to Bandon Cranberry Water Control District (BCWCD), read a letter dated April 16 from Coos County Board Chair Fred Messerle. Highlights were:
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	<ul style="list-style-type: none"> • Agriculture is the No. 2 industry in Coos County. The Johnson Creek Dam project will improve the agriculture community by providing a local source of needed water for cranberry production. Coos and Curry Counties are the top cranberry producers in Oregon; Oregon is the fourth largest producer in the U.S. • Water is crucial to cranberry production; local farmers are limited in their ability to produce by lack of water. Most of the streams in the Bandon area are allocated by WRD; no additional surface water is available. This project will provide additional water to allow local cranberry farms to maximize current production and expansion to meet market demands. • Increased production/expansion provides more jobs and income. Coos County has highest unemployment rate in Oregon. • The City of Bandon is a partner; this project will improve the potential for the city to grow. • BCWCD is formed under ORS 553 and recognized by Coos County. • In 2005, Coos County completed a culvert replacement to improve fish passage on Lost Creek and observed immediate returns of coho, salmon and winter steelhead. The County believes it will see the same improvements to Blair Creek. • Messerle asks the Commission to grant a waiver to BCWCD.
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1
2 Commissioner Finley said throughout the United States municipalities and agriculture is
3 seeking more water. What conservation measures have been undertaken over the last
4 20 years, or mitigation measures in the City of Bandon for water efficiency? You
5 counteract this need by saying, "much needed water". Paul Bauge, a cranberry farmer in
6 Bandon and BCWCD member, said Bandon City Manager Matt Winkel told Project
7 Manager Ron Kasper and him that in recent years they have explored other options to
8 meet the future water needs of the Bandon municipality. It is not a crisis-type issue but
9 down the road it will be. He said Winkel stated that they explored several other options
10 and felt that best option for the City of Bandon rests with the Johnson Creek project.

11
12 Commissioner Finley asked what efficiency measures have been undertaken in the City;
13 like watering restrictions or low flow toilets. Has the City Council endorsed waterless
14 urinals? Has anything been done to cut back on the City's use of water? Bauge said he
15 was not prepared to answer that. He served on the City of Bandon's Water Resource
16 Committee and said staff is very cognizant of conserving water. He didn't have any
17 immediate knowledge of any process or specific details that they have done but they
18 would be happy to have Matt Winkle provide that information.
19

<p>Paul Bauge Bandon, Oregon</p>	<p>Paul Bauge, a cranberry farmer and member of BCWCD, said the Water District urges the Commission to approve the waiver for the following reasons:</p> <ul style="list-style-type: none"> • Rigid requirements of net benefit analysis passed. • Mitigation proposal by Slater and project manager area is environmentally compatible. • With the Commission's approval of the waiver, BCWCD is prepared to move forward for the overall need for more water in years that bring drought conditions. • Twenty-nine patrons/subscribers currently supporting this proposal have been on board for almost 20 years. A few of the cranberry growers who currently oppose this project have been behind the project since its inception in 1993. • BCWCD has met with folks who oppose this project and are committed to discuss this further with them to arrive at a win-win conclusion. • Opportunity to capture, conserve and store 1,107 ac. ft. of water every year. There is another 400 ac. ft. in the Commission material that's the bottom pool for seepage and trans-evaporation.
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1
2 Commissioner Webber asked if this water is projected to sustain existing operations or
3 allow people to put in additional bogs. Bauge said both. Several of the 29 patrons have
4 additional land they would like to develop in the future but they don't have the water. He
5 said in 13-years each fall during four or five of those years some farmers were not even
6 able to harvest until November due to lack of water.
7

<p>Scott Cook Bandon, Oregon</p>	<p>Scott Cook, a landowner and commercial fisherman, said his wife Elizabeth and he hold the largest piece of land in this project; his wife has lived on the creek since 1958. He said there are a couple of inaccuracies in the application; for instance there was one person above the dam against the project. BCWCD has a list; we had meetings before. There was an extensive list of people against the project but currently there is only one member above the new dam that is for the project. Cook said four years ago this came up to the Board and it was denied on the creek. Mike Gray came to the property and identified it as very good spawning ground. After the project was denied, we formed a Water District. The cranberry growers and neighboring farmers got together; we realized there was a need for water. We stepped back to the original project; a 20-30 foot earthen dam. He and his wife have dedicated 20-acres for this process and dedicated land for a fish ladder. For four years they have worked with their neighbors with the intent of</p>
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	<p>getting water and looking at everybody's needs, not just the fish, farmers and the city. Then a month ago they got a letter stating that there was fish waiver application; none of the landowners on the creek even knew this project still existed.</p> <p>Cook referred to Commissioner Finley's question about the City of Bandon and said we attended those meetings; its public record that Bandon has a 20-year surplus of water and at least three other sites for water that could be explored and used to get water for the City. We certainly if Bandon had any peril would be happy to get water to the City. Cook said Blair Creek is a great project and needs to be done but also Johnson Creek needs to be cared for. We should take our time and slow down on this project so we can answer everybody's needs and have a viable project that takes care of the fish, farmers, city and the landowners that live on the creek.</p>
<p>Linda Anderson Charleston, Oregon</p>	<p>Linda Anderson distributed a handout and said she has nothing against the dam; she thinks it is a good idea to store water for the future. She said the City of Bandon has indicated that they do not need this water immediately; they have a 20-year supply. Not mentioned is another person behind this application: Michael Keizer known as Bandon Dunes. Her handout has emails from Matt Winkel identifying Michael Keizer as one of the applicants. She said there are 29 people in BCWCD, the City of Bandon and Bandon Dunes. She asked who decided that the fish passage was too expensive. There are a lot of people there to pick up that cost but that was overlooked the analysis.</p> <p>On May 21, in her testimony (year and meeting not stated), she requested that an actual cost or estimate for the fish passage be provided by the applicants. She said on page 2 of the application it states "The cost of providing fish passage over a 90-foot high dam is estimated to be very expensive." The other reference is on page 46 of ODFW's online documents that states, "Creating fish passage at the proposed dam site is not cost effective." How can this application be considered complete without that one piece of information that is critical to the decision? She read an email dated April 19, 2012 from Winkel, "I am also trying to get an answer to your question regarding the cost of the fish passage at the dam." She said even Winkel doesn't know what the cost of that passage is. In her previous testimony, she requested a local public hearing. In 2007 a public hearing was held on a previous proposal for a smaller dam</p>

	<p>in the same location; there was a short meeting notice. She isn't sure why a decision was made this time not to have a local hearing. Notice was given in local newspapers with a two-week deadline for comments. It's a long haul from the south coast; people cannot afford the expense or time away from earning a living. ODFW has the resources and means to have conducted a hearing for the people most affected by this waiver.</p> <p>Anderson said a memo from Paul Merz dated April 1, 2012 identifies three points that with further analysis, it results in a different conclusion than the ODFW benefits analysis. It also includes a fourth point that was not addressed in the ODFW review. She urged the Commission to deny the waiver or declare the application incomplete or at the very least delay the decision and call for a public meeting and said this is a serious and irreversible decision.</p>
<p>Steve Gant Bandon, Oregon</p>	<p>Steve Gant, a landowner and third-generation cranberry farmer, has grown cranberries for 74-years on Johnson Creek. He is against the fish passage waiver and Johnson Creek project. The proposed 90-foot earth filled dam in the middle of cranberry country with bogs around the dam will stop fish. He said we are being threatened by BCWCD and other groups to put this dam on our family farm against our will. Those pushing for the fish passage waiver and dam project are not farmers and do not own property on the proposed dam site except for one. Gant said the project has changed since it was first presented 20 years ago; the storage size has tripled. In the beginning it was proposed as water for growing cranberries; now outsiders have bought into the project and promised water for human consumption. Gant said it is a dangerous idea to try to grow cranberries in a city watershed. He proposed other options:</p> <ul style="list-style-type: none"> • Allow cranberry growers to have off-stream storage on their farms for what their need is and what they can afford instead of building a 90-foot in-stream dam fish passage. • Drill deep wells; there will be no fish passage issues. • Utilize the City's watershed instead of creating a new one surrounded by cranberry bogs.
<p>Tom Wolf Hillsboro, Oregon</p>	<p>Tom Wolf, Chair of Oregon Trout Unlimited (OTU), opposed approval of this fish passage waiver. He said after reading the testimony of the local community, the Oregon Salmon Commission, the Oregon Coastal Association and others there are many good reasons to oppose this. He would love</p>

	to see fish passage done on the two dams above and below the proposed dam, see restoration in there and to see stuff done on Blair Creek. OTU is all for any sort of fish passage done, but to allow this dam to be made without more input from the local community would be a great disservice to that community. Wolf asked the Commission to delay this decision and allow more hearings and testimony or at the most deny the waiver.
Jeff Haga N/A	Jeff Haga, a landowner, opposes this project. He said this is not in the same basin; one is in the Coquille and the other drains directly into the Ocean, so he didn't understand how they could do mitigation.

1
2 Commissioner Webber asked Haga if he had ownership of one of the existing dams.
3 Haga said yes, the Haga dam that he assumed in a 2002 foreclosure. Commissioner
4 Webber said there is no fish passage at the dam? Haga said no; but the dam is a drop
5 board; you could drop the boards and allow fish through. It is not like the other pictures
6 you've seen where they're up high and they fold and there is no way for the salmon or
7 fish to get through. Commissioner Webber asked if that has been done at all since 1962.
8 Haga said not since he's been there.
9
10 Commissioner Finley asked if Haga was willing to mitigate that site. Haga said yes.
11
12 Chair Edge asked what the purpose of that dam site is. Haga said that supplies my farm;
13 that is my water right.
14
15 Commissioner Levy asked what this would do to Haga's water right if the Commission
16 allowed the dam. Haga said he hopes he will still retain his water right. He said explain
17 to me how I would draw water out of a 90-foot dam? Would they run me a dock all the
18 way out to the center of that reservoir as that drops down? He has lived there all his life;
19 it will not support a 90-foot dam; he knows the flow of the creek. He said there are many
20 other things that could be going on. He said you've seen the picture of the Winhurst
21 project; that's on our property. We got that off the ground and it is a working project.
22 Haga said the City has just as much property if not more next to it that would be cheaper.
23 We pump off-season into that reservoir. The City could do the same and would be in a
24 creek that has no fish passage because they are above the fish hatchery.
25
26 Commissioner Levy said a few people have said there wasn't enough meetings and
27 public input into this decision to ask us to grant the waiver. Apke said OARs have
28 specific requirements about the public process for waivers. It requires the Fish Passage
29 Task Force to represent water users, conservation and fishing interests, and the public.
30 Staff ran the fish passage waiver request through the Task Force meeting in November
31 2011; they recommended moving this forward to the Commission. The rules dictate that
32 staff vets all waivers and fish passage exemptions publicly for a three-week period prior

1 to the decision by the Commission. He said we received about 20 comments; about two-
2 thirds of those comments were in opposition; some of those folks have spoken today.

3
4 Commissioner Levy asked if you have public meetings where the public can testify and
5 get additional information from you or is it just through a write-in or telephone call
6 process. Apke said the Information & Education program distributes public notices. They
7 have a broadcast distribution that goes to local media venues, local watershed councils,
8 and soil and water conservation districts. He and Mike Gray looked at ODFW records
9 and a list to notify folks by letter.

10
11 Commissioner Levy said she assumed that people living on Johnson Creek were
12 notified. Apke said this was in the news media, the newspapers and in a radio ad. Gray
13 said the Johnson Creek dam project submitted a fish passage waiver application in
14 2007. At that time staff held public meetings; a number of people came forward both in
15 support and in opposition. Since that time we have maintained a list of interested
16 parties. He said if folks were on the list from the 2007 process or from any other
17 correspondence received prior to or after 2007, they received a direct mailing of the
18 public notice if we had their contact information.

19
20 Commissioner Levy said a couple of people have testified that since that waiver was
21 submitted in 2007, even since the 1990s when they started it, these have changed over
22 the years; what has come before the Commission is not what everybody had agreed
23 upon. She asked where the difference is. Gray said since the early 1990s, when the
24 project was first conceptualized, the project has changed - the municipal storage was
25 added. Since the 2007 fish passage waiver application the size of the Johnson Creek
26 dam has not changed nor the storage. What has changed is that their initial mitigation
27 package at that time did not meet the net benefit. It went back to the drawing board to
28 come up with a mitigation package, which was brought before the Commission today.

29
30 Commissioner Levy asked if you put the dam in how will the people below and above it
31 be affected. The people above it are going to be affected the most by overflow; the
32 people below are going to be affected the most by a less amount of water. Gray said the
33 WRD analysis questioned that. The task before staff is to bring the Commission a fish
34 passage waiver and net benefit analysis having to do with the impact of blocking fish
35 passage at one site in lieu of providing mitigation at another site. He said there are other
36 considerations; Greg alluded to those in his slides with the water rights issues. If this
37 process goes into a water rights process, we will look at what types of mitigation might
38 be allowed for water impacts; such as the flow of the stream below the dam and habitat
39 alteration for inundating property above the dam. But that is not a part of our net benefit
40 analysis with regard to fish passage waiver.

41
42 Commissioner Levy asked if WRD is directly involved in this mitigation plan now. Rick
43 Kepler, Water Quality and Quantity Program Manager, said the water questions are
44 separate from fish passage. In this case they haven't applied for water rights yet and
45 gone through that process. In that process they are not allowed to injure existing water
46 rights, which will be the instream water right. It is one of the issues we have been
47 working with them because they at one time protested the right; they have now

1 withdrawn that protest; WRD is going through certifying that instream water right. They
2 will have to meet those minimum flows and all other water rights before they can get
3 water. One of things everyone is going to be talking about is in reality WRD said water is
4 not available in this basin. We have talked with them about using peaks flows, which are
5 flows over 50-percent of the time.

6
7 Commissioner Levy said peaks flows are November 1 through March on the Columbia.
8 Are they going to use those peak flow periods to store the water and then withdraw them
9 in the lower times? Kepler said they would have them in the reservoir and then they
10 would take them out of the reservoir. Commissioner Levy said the people below the dam
11 would be more affected by the dam. Has the group doing the mitigation done a cost
12 benefit analysis to the people below the dam? Kepler said he was not aware of that; but
13 they can't injure other water rights. You have to let enough water go through; all those
14 set water rights are satisfied year-round. Commissioner Levy asked if that is part of that
15 mitigation plan. Kepler said it's a requirement of law. Apke said in the mitigation waiver
16 application that ODFW received there was no information on a cost benefit analysis; the
17 cost of the fish way or the cost of right issues submitted.

18
19 Chair Edge asked Legal Counsel if that was something the Commission needed to
20 address. Legal Counsel Steve Sanders said it was not one of the criteria that the
21 Commission considers. You really are making a biological risk estimate here not an
22 economic analysis. Assume that the project opponents do some kind of economic
23 analysis to determine whether they'd rather put in passage or they could do mitigation
24 work more cheaply, and presume probably that they'd choose the less expensive option.
25 He said that is not one of the Commission's criteria for determining whether there is a net
26 benefit to native migratory fish.

27
28 Commissioner Levy said the Commission is changed with seven co-equal goals where
29 we are not to cause economic harm. She said that a net benefit cost analysis for those
30 directly related to would be beneficial for us to make appropriate determination on
31 whether this is an appropriate form of waiver for us. We have left out some of the
32 important information for the Commission to make a relevant decision. Counselor
33 Sanders said it is true that your co-equal goals of wildlife management come into the
34 Commission's decision but probably at the water right application phase of the process
35 because that is where the WRD Commission makes a public interest determination
36 about the relative merits of using water for this or some other purpose. It is probably not
37 this step in the phase where the Commission's determination of your wildlife goals
38 comes mostly into play.

39
40 Commissioner Levy said the Commission will be revisited by this again? Counselor
41 Sanders said not as the Commission. He said Kepler, on behalf of the Department,
42 comments to the WRD and negotiates with them with respect, for example, maintaining
43 the integrity of our instream flows, alternative uses of water and things like that. He
44 didn't believe that the Commission before has ever been asked to weight in as the
45 Commission on that part of the goal management.

46

1 Commissioner Finley said staff was asked to do a benefit analysis; it's a snapshot in
2 time, and asked to evaluate existing conditions on Johnson Creek. The Commission
3 heard from a gentleman who has a dam on Johnson Creek that he was willing to
4 mitigate. If your analysis compares existing conditions on Johnson Creek and then the
5 equivalence on the alternative mitigation site, what if Johnson Creek were mitigated?
6 Would you still come up with the same analysis that you did today with existing
7 conditions? Apke said the rules tell us to take that baseline snapshot biologically at the
8 time of the application; we have done that. He said a change in the baseline condition if
9 passage is a viable option at other obstructions in the basin would change our
10 evaluation.

11
12 Commissioner Finley said right now it says a dependent population. The barriers on
13 Johnson Creek were mitigated now. Could it become an independent population? Would
14 it have a stronger ability to sustain coho runs? Gray said no, it's unlikely that that would
15 change our determination. These small direct ocean tributaries typically are not high
16 production areas relative to these large basins like the Coos and Coquille. Johnson
17 Creek with ideal fish passage to its headwaters would take a lot given that the geology
18 and the sub straights in the stream do not typically produce larger spawning gravels until
19 you get up into the upper part of the basin. It would be a production area for fish like
20 coho, salmon, andramonous fish, winter steelhead, the sea life history of cutthroat and it
21 could be improved. However, under the definition that we use for coho salmon that would
22 still be a dependent population that would tend to wink in and out depending on
23 environmental conditions and would be dependent on those larger basins to repopulate
24 them when coho abundances are higher.

25
26 Commissioner Finley read about the tail waters below the dam in Johnson Creek. Can
27 that habitat be improved with gravels or in some other manner that would allow beneficial
28 use of that water below the dam assuming that it was constructed? Gray said there are
29 methods that are used to place gravels in streams. We don't have a sediment budget for
30 that basin to know whether some of the larger gravels and cleaner gravels that are
31 upstream would be able to migrate in the absence of barrier dams that are in there right
32 now. Those right now would preclude gravels from being carried downstream to the
33 lower basin. He said there is predominance in the lower basin of very fine sub-strats,
34 sediments, silt and organics. Part of that is due to the geology and land uses that
35 surround the stream on the uplands on either side. Those are changes that would take
36 many years even in the absence of dams and barrier culverts to reverse that legacy.

37
38 Commissioner Finley said he was thinking about a requirement that the project
39 proponents be required to truck in gravel and mitigate below the dam. Is that feasible or
40 beneficial; an additional condition? Gray said those projects are typically dependent on
41 controlling smaller sediments so if you place gravels they don't quickly become buried.
42 He anticipates that without that legacy reversal of the geology and sedimentation that
43 any placed gravels would fill in rather quickly.

44
45 Commissioner Webber said the Commission's decision today is whether we are going to
46 allow blockage to fish passage? We are not saying a 90-foot dam or a five-foot dam;
47 we're just saying that this mitigation is related to, as things exist today, blocking Johnson

1 Creek at this point is appropriate with this other mitigation in Blair Creek? Apke said
2 that is correct; the decision is to approve the waiver for fish passage. He said our benefit
3 analysis does show there is a net benefit based on the project proponents' application or
4 mitigation strategy. Commissioner Webber said if the Stolts dam was gone would there
5 be a significantly different mindset as far as blocking a drain that actually had access up
6 to that point? Apke said the Stolts Dam lies below the proposed dam location. As Gray
7 demonstrated there are multiple obstructions in the system; it is fully functional reach in
8 terms of fish passage ability. There are other barriers below the Stolts dam. If fixing the
9 Stolts dam did allow more native fish to come up to the proposed site that would cause
10 staff to rethink things. He said the picture is much broader than that due to the other
11 obstructions below the Stoltz dam itself.
12

13 Commissioner Webber said for anadromous fish to get into Johnson Creek it has to be
14 an unusual ideal circumstance; it is nothing something that exists yearly that the fish
15 could pass over the beach right there. Gray said with a lot of these direct ocean
16 tributaries they are at the whim of the tides. When you have a high tide depending on the
17 extent of the tide it can come up into the mouth of the creek. At a low tide water is
18 flowing out across the beach in sometimes an undefined or a braided channel that is
19 very shallow. He said the timing of water coming out of these streams in the fall when
20 fish are migrating past the mouth can be very crucial. Unlike the larger river basins that
21 have access to anadromous fish at all times of the year these small ocean tributaries
22 have to have relatively good to ideal conditions before fish get in there. If at that crucial
23 time the passage into the creek is not good then those fish will go elsewhere to ascend
24 toward spawning habitat.
25

26 Commissioner Klarquist said this is not just about coho; there are other anadromous fish
27 that will be affected. If we allow the dam, eventually it's built and then that shuts off part
28 of the river and it doesn't allow for any future fishing efforts. By being there it has a
29 negative effect on the stream down below either by increasing the perch of the water or
30 the load in the river column. He is bothered by the regulations in place that require the "in
31 proximity" mitigation work. The rules require the mitigation to be in the stream that is
32 affected by the obstruction and not some other stream. He understands staff's argument
33 about the multiple population relationship but it doesn't fit the rule. He is bothered by the
34 applicants saying they don't want to do the recommended restoration on Blair Creek to
35 improve the riparian vegetation or that it costs too much to build a fish passage. He
36 wants to see people extend themselves to make it better, not just find a few things. He
37 said watershed councils or others could do the restoration work on Blair Creek or we
38 don't have any kind of net gain. Commissioner Klarquist said he was not prepared to
39 support approving this. He asked if staff tried to find out the cost of the fish passage. We
40 would be allowing a waiver and supporting a dam that didn't make sense to the fish
41 passage in the first place.
42

43 Apke speculated that a 90-ft dam is \$1million; maybe more depending on site
44 constraints. He said you have to have water to run the fish way. Fish passage is
45 expensive; for ODFW and staff to mandate that is challenging. The project proponents
46 are working within current statutes; waivers are viable options. Whether its cost or other
47 reasons it is challenging for us to push that, the rules limit where we can go with that.

1
2 Commissioner Klarquist said the Oregon Watershed Enhancement Board (OWEB) sees
3 things to remove other dams around the state when they were no longer viable. They
4 have removed dams but it doesn't seem right to him to support this, putting in a dam that
5 does not have a fish passage on it.

6
7 Commissioner Levy understands the need for water; she lives in one of the state's most
8 severe critical groundwater areas. She said there is more that we can do here in order
9 to make it viable for her.

10
11 Commissioner Englund said many issues need to be resolved. He asked Legal
12 Counselor Sanders that there is a list of agencies that the applicants must go through.
13 Legal Counselor Sanders said yes. Commissioner Englund said they will have to deal
14 with costs, legal issues and concern of other properties. He said the question before the
15 Commission is the mitigation issue only? Legal Counselor Sanders said that is correct.

16
17 Commissioner Englund said if we believe that Blair Creek can mitigate Johnson Creek
18 that is our sole vote? Counselor Sanders said yes, as well as some of the technical
19 points. As Commissioner Klarquist pointed out, there is conceivably an issue about
20 whether this mitigation is in proximity. The Commission is making a two-fold
21 determination. First, that it's in the same basin as defined by a WRD map that describes
22 the whole south basin; it probably falls within that part of the definition. He said the more
23 problematic part would be whether it benefits the populations as defined by ODFW
24 directly affected by the artificial obstruction. It is not clearly a yes or no answer; so, that
25 really looks to the Commission for these kinds of policy determinations. While your basic
26 criteria is a net benefit there are different ways of determining what is a net benefit is or
27 which populations you are comparing.

28
29 Counselor Sanders said the other thing relating to Commission Klarquist's comment is if
30 you give the approval today it really approves this project. If during the permitting
31 process the project substantially changes, as is sometimes the case as it goes through
32 WRD, it leaves some ambiguity about whether the analysis would be the same on a
33 substantially different project. That is why typically the applicant is not required to do
34 these in any particular sequence. Often the Commission does get this waiver request
35 later in the process when there is more certainty about financing and actual project
36 design; however, that is not a legal requirement.

37
38 Chair Edge asked if staff had discussions about mitigating the four barriers in the lower
39 part of Johnson Creek; there are four barriers below the proposed dam and one below
40 one of the current dams. Gray said yes, staff had discussions prior to the first fish
41 passage waiver application submitted in 2007. He said coho fry were discovered in early
42 2003. Prior to that time, coho were not considered a native migratory fish in Johnson,
43 Creek; it was primarily cutthroat and Pacific Lamprey. When those fry were discovered,
44 coho salmon entered the discussion. The habitat up to the proposed Johnson Creek
45 dam site was considered very poor to marginal for coho salmon production. In 2006, he
46 toured the upper part of the basin above the Johnson Creek dam site. He saw gravels,

1 sub-strat and habitat that would be conducive to coho salmon. In the lower part of the
2 basin that habitat is very poor for coho salmon.

3
4 Chair Edge said do we know of any future triggers on either Stolts or Haga dams? Gray
5 said we know of no future pending triggers. He said there was a partial blowout of the
6 Stolts dam a few years ago. Staff visited the site and met with the landowner who chose
7 to restore the dam to a smaller footprint without putting fish passage in unless he was
8 forced into it.

9
10 Chair Edge said some of the public correspondence mentions recent past proposals to
11 do the Blair Creek work through an OWEB proposal. Might we get Blair Creek anyway?
12 Gray said the Coquille Water Association (CWA) is continuously scouring the Coquille
13 basin under their priority list looking for projects to do. CWA was preparing to submit an
14 application to OWEB for Blair Creek along with other tributaries. But within the last year
15 they had discussions with BCWCD and their consultant. CWA opted to hold back
16 pending the current process and did defer to BCWCD and their mitigation package.

17
18 Chair Edge said approval of this waiver is not a time sensitive issue if the Commission
19 decides to defer it that would be a viable decision as well.

20
21 Deputy Director Curt Melcher recommended deferring the decision so staff could provide
22 more background information and narrow the decision space for the Commission.

23
24 Commissioner Finley said he was really not convinced that if this were a full blown
25 environmental impact statement (EIS) by the proponents that the purpose of the need
26 has really been set forth. He was reminded by Commissioner Klarquist he was
27 somewhat focusing on coho and that there are other aquatic organisms including other
28 fish. He said before the Commission agrees to a waiver all that whole ecosystem
29 function has to be taken into account.

30
31 *Action: Commissioner Finley moved that the Jonson Creek fish passage waiver*
32 *be tabled until further information and analysis is provided to the Commission.*
33 *Commissioner Klarquist seconded the motion, and the motion carried*
34 *unanimously by a vote of six.*
35

36 Chair Edge said this issue is deferred to a future date for additional analysis.

37 **Exhibit F: BEAR MANAGEMENT PLAN**

38 Tim Hiller, Carnivore-Furbearer Program Coordinator, talked about the Bear
39 Management Plan (Plan) goals and objectives outlined in the draft Plan. He said bear
40 populations have increased in abundance over the past several decades such that now
41 the focus of management has shifted from population and recovery to regulation of
42 abundance as reflected in the draft Plan of our descriptions: hunting opportunities and
43 issues related to damage management and public safety. The Plan goal is to manage
44 bear populations to attain the optimum balance among species protection, recreational
45 uses, habitat availability, primary land uses, and other wildlife species. He said the
46 Plan's four Objectives are:
47

- 1 1. Maintain a healthy and stable bear population.
- 2 2. Reduce the number of human-bear conflicts.
- 3 3. Develop and evaluate population abundance techniques using temporary
- 4 modeling methods and other statistical analyses.
- 5 4. Continue to improve basic understanding of bear ecology through applied
- 6 research.

7
 8 Hiller said the draft Plan updates the 1993 to 1998 Oregon Black Bear Management
 9 Plan. Since that time a ballot initiative passed which prohibited certain hunting methods
 10 for cougars and bears. In 2008, ODFW shifted from a voluntary to a mandatory check-in
 11 process for all bear mortalities. The Plan addresses advancements in population
 12 monitoring and data analyses which ties back to Objective 4. He talked about a
 13 statewide tetracycline capsule project in 2005; a process to use baits in predetermined
 14 locations. When a bear ingests a capsule it leaves a mark in their teeth that staff can
 15 identify the number of bears through a mandatory check-in process when staff age bears
 16 according to their teeth. The information is used to estimate bear population abundance.
 17 Hiller said the public comment period opened on March 27 and will continue to the June
 18 Commission meeting. At that time staff will ask the Commission to consider adoption of
 19 the final revised Plan. He summarized the public comments received so far on three
 20 major topics: population monitoring; hunting related; and damage and human safety.

21
 22 **Public Testimony:**

<p>Joe Ricker Salem, Oregon</p>	<p>Joe Ricker, Mid-west Director for Oregon Hunters Association (OHA), said OHA supports ODFW's efforts and the draft Plan and healthy black bear populations; however, over populations are detrimental to big game and other wildlife. Over population has an adverse impact on Oregon's economy due to impacts on public and private timber. OHA suggests that, while costly, more in-depth methods of obtaining population estimates are needed in some areas, particularly southwest Oregon. OHA continually hears from hunters, farmers, ranchers and forest folks that the population is much greater than what your estimates show.</p>
<p>Craig Starr Lebanon, Oregon</p>	<p>Craig Starr, President of Oregon Bow Hunters (OBH), said OBH is concerned that a high population of bears contributes to a serious adverse impact on deer and elk populations in many areas of the state due to heavy predation on fawns and calves in the first few days following birth; the draft Plan does not address this issue adequately. The Plan should consider how to increase the bear harvest by sport hunting since we cannot use hound hunting or baiting to accomplish control. OBH recognizes that ODFW has made changes to increase the harvest of bears where they are a problem; the first-come first-serve southwest spring bear tags and the extra southwest bear tags. OBH recognizes that the number of bear tags issued has</p>

	<p>increased dramatically over the last 20- plus years with the Sports Pac tag. Starr said the harvest by general tag holders is extremely incidental and too limited to provide control of the burgeoning population. The role of sport hunting in the Plan's strategy is nonexistent; the Plan needs to guide how more can be done.</p> <p>With regard to black bear hunting, Starr said spring bear season in Northeast Oregon is weather-dependent. Given the current seasons if you have a really tough year it can be difficult to get access to the area where the bears are; that reduces the harvest and leaves more of the animals to have impact on deer fawns and elk calves. OBH suggests looking at making the general season run from April 1 through the end of the year or year round like with cougars. If there is concern about vulnerability of bear in the spring then put a quota system in place with the reporting mandate.</p>
<p>Scott Beckstead Sutherlin, Oregon</p>	<p>Scott Beckstead, Senior Oregon Director for Humane Society of United States (HSUS), said HSUS appreciates the effort to update management strategies for bears, and supports a greater emphasis on nonlethal management strategies that emphasis public education and awareness as a means of facilitating peaceful co-existence with bears. He was grateful as to how orphan cubs are to be handled and managed in the Plan. He has been contacted by wildlife rehabilitators in Oregon who have been distressed at instructions they have received from ODFW not to care for orphan bear cubs and other animals brought in. The position of HSUS is that qualified wildlife rehabilitators should be allowed to care for any injured or orphaned animal that is brought to them for care, even if that means that animal is humanely euthanized. He said that especially goes for these young orphaned animals that otherwise would be left to linger and die a very slow death alone in the wild.</p>
<p>Chris Jarmer Salem, Oregon</p>	<p>Chris Jarmer, for Oregon Forest Industries Council (OFIC), filled in for Mike Dykzeul, OFIC Forest Protection Director. He said OFIC supports and appreciates the work by ODFW and looks forward to working with ODFW in the future. Jarmer said Dykzeul is working with Tim Hiller on some technical details.</p>

- 1
- 2 Commissioner Webber said through the Plan it doesn't seem there is any problem with
- 3 an under- abundance of bears. Hiller said correct. Commissioner Webber said it was
- 4 suggested to extend the season. What would keep us from doing that if there are bears

1 to harvest? Hiller used the spring controlled hunt in Northeast Oregon that ends on May
2 3 as an example and said one concern expressed is potentially related to orphaning
3 cubs. Even though it may be a fairly rare incident running the season later into June
4 could increase the probability of that.

5
6 Commissioner Webber asked if there are any other biological reasons to extend the
7 season. Tom Thornton, Game Program Manager, said the biology of the bears with the
8 males coming out first and the cubs at the end of the year being in the company of the
9 males contributes to the reason we end the season when we do.

10
11 Chair Edge said in contrast to our Cougar Plan where we have zone management and
12 present data statewide do you think there is sufficient data to at least look at the age
13 structure by zones; e.g., the east and west side of the state? Many comments the
14 Commission received expressed concerns about the damage management. He said that
15 mostly occurs in the west half of the state; there might be some advantage in partitioning
16 the state into two parts when the sample sizes are not as large. Hiller said it is possible
17 and would not be difficult to partition the data in that way; 80%-to-90% of the bear
18 damage occurs in western Oregon. We could go down to whatever spatial scale we need
19 to until we start having effects of small samples sizes; we could get down to Wildlife
20 Management Units in some cases. Chair Edge said it would be helpful to separate it but
21 he doubted it would be helpful at the Wildlife Management Unit level. The regional level
22 would be an effective way to do it just to present the data; it might show something
23 different and help to alieve some of the fears stakeholders have expressed with the
24 damage by bears.

25
26 Commissioner Finley said someone wrote in and expressed concern about the high
27 levels of female mortality. Hiller said based on the criteria set forth in the Plan that all of
28 our harvest levels, even using the female criteria, generally fall in the light to moderate
29 harvest levels. These are criteria that other states have adopted as well. He said
30 generally speaking this is data sorted east side and west side as Chair Edge mentioned.

31
32 Chair Edge said there were two comments from Dr. Brian L. Horejsi (see Comments
33 attached to William Carpenter's email dated April 11, 2012) who expressed concern
34 about the increase in the female kill since 2008 represented in Table 5 (see Attachment
35 2 – Draft Oregon Black Bear Management Plan, page 27). Dr. Horejsi also wondered
36 about the female criteria and suggested that it was adopted from Idaho in 1992. Chair
37 Edge asked if other states are continuing to use as valid criteria the number of males
38 and the relative number of females in a harvest. Hiller said that is correct, Idaho and
39 Washington are currently using those same criteria. As a follow-up in Table 5 this
40 person's comments are related to sample size. We started a mandatory check-in
41 process in 2008. The table shows that 91 female bears were checked in 2007 and 359 in
42 2008; that is the transition between voluntary to mandatory check-in.

43
44 Chair Edge asked what staff intended to with the comments that just came in and how
45 they would incorporate those into the final Plan. Hiller said staff will discuss the
46 comments internally. He referred to the comment about Table 5 and said staff can clarify
47 that in the text as well, and will take comments up to June and address them one by one.

1
2 Chair Edge referred to Scott Beckstead's question regarding the retention of cubs by
3 wildlife rehabilitators. He read only one criterion under which we would even retain a
4 bear (see Attachment 2 – Draft Oregon Black Bear Management Plan, Options for
5 Management of Orphaned Bear Cubs, pages 58-59). A wildlife rehabilitator may
6 humanely euthanize on site or transported to the Wildlife Health and Population Lab in
7 Corvallis (see lines 2000-2001). Is that correct? Hiller said that is correct and primarily
8 related to the condition of the bear; in poor condition or human habituated. Thornton
9 said one reason for these guidelines is there is a strong desire not to create captive
10 bears but to return them to the wild. A lot of wildlife rehabilitators are not set and don't
11 have the facilities or are capable of handling animals without habituating them to people.
12

13 **Exhibit G: SAUVIE ISLAND WILDLIFE AREA MANAGEMENT PLAN**

14 Nancy Breuner, Wildlife Area Operations Coordinator, described the Public Review
15 process that started back in June 2009 including staff's informational briefings to the
16 Commission with regard to the Sauvie Island Wildlife Area Management Plan (Plan).
17

18 Jeff Boechler, North Willamette Watershed District Manager, summarized the results of
19 the Sauvie Island (SI) Dog Training Advisory Committee (DTAC) process. He said in
20 September 2010 the Commission directed staff to seek resolution to concerns regarding
21 maintaining hunting dog training activities and strategies for grassland habitats/species.
22 The process was professionally facilitated; four public meetings and a tour were held.
23 DTAC focused on four specific areas:

- 24 1. Objective 2.4 – Grassland Habitat and Species.
 - 25 2. Objective 3.2 – Hunting Dog Training and Trials.
 - 26 3. SI Dog Trial Plan.
 - 27 4. SI Individual Dog Training Plan.
- 28

29 Boechler said there are no changes for Dog Training/Trials in the Westside Unit. The
30 Eastside Unit will be used only for organized trial competitive events. The area identified
31 in the Eastside trial area emphasized for ground bird nesting will be managed with
32 seasonal nesting closures. Staff added two new alternatives areas for hunting dog trials:
33 Rays Lake and Schneider Pond. The Commission packet referenced 2,230-acres of
34 pasture grassland habitat that will be managed for that habitat condition (Objective 2.4).
35 Within that acreage staff is focusing on ground grasslands bird nesting in several
36 emphasis areas: Oak Island, North Unit and the Eastside Unit. It limits disturbance of all
37 uses during ground bird nesting season, April through July. Focal areas for monitoring in
38 terms of goals are grassland habitat conditions and biological responses. He
39 summarized staff's proposed revisions:

- 40 • SIWA Dog Trial Plan and Individual Dog Training Plan. Identify areas that will
41 have timing restrictions due to groundbird nesting.
 - 42 • Division 008. Bring SI into consistency with the statewide Dog and Raptor
43 Training rules adopted since the last Plan; other minor housekeeping.
 - 44 • Implement Plan immediately if adopted, no changes to Dog Trials until spring
45 2013 because dog trainers have all their events scheduled this year.
- 46

1 Breuner said the Plan goals and objectives are relatively unchanged from the September
 2 2010 final draft Plan:

- 3 • Goal 2 - Objective 2.4. The word “song” was removed from “ground nesting
 4 songbirds”; not all ground-nesting birds are songbirds.
- 5 • Goal 3 - Objective 3.2. Added “...up to 50 days of dog field trial use days
 6 annually...” to provide certainty in the number of days that field trials would occur.
- 7 • Division 008. Delete 1993 Management Plan text and add text consistent with
 8 statewide Dog and Raptor Training rules.

9
 10 **Public Testimony:**

<p>Phil Sperr Portland, Oregon</p>	<p>Phil Sperr distributed written testimony. He served on the RDAT Committee and DTAC. He judges Hunt Test events and serves as a director and member of five retriever clubs. He’s lived on SI for 12 years and his wife and he have hunted and trained dogs for 20 years. He said strong cooperation between dog and ODFW people was obvious from the result. At first he was skeptical regarding similar results for the SIWA dog training activities. Due to the hard work and cooperation of the group and Boechler, Mark Nebeker and the “bird” people our serious concerns were resolved. He uses the word bird people with the understanding that dog trainers have no other group who feel as strongly as they do or financially and voluntarily support efforts regarding the interests of conserving birds. He said to those he represents that assuming agreement by the Commission we should be very satisfied with the result and the efforts of ODFW staff.</p>
<p>Mike Collson Ridgefield, WA</p>	<p>Mike Collson, Retriever Clubs, reiterated that this group wasn’t a member of the group but attended all the meetings. We felt as though we were pitted one against the other, bird people against dog people, but we have forged great friendships and partnerships with the bird people. He thanked Boechler, Breuner and Nebeker and their staff; they were a joy to work with. It was a very arduous process; we started a long way from where we ended up. What we got is fair to all the groups. We obviously gave some stuff, which traditionally we have had usage of; while we were not happy with that we were pleased with staff’s cooperation and their ability to help us find something that will work for us.</p>
<p>Jane Hartline Portland, Oregon</p>	<p>Jane Hartline, Director of SI Habitat Partnership, Chair of West Multnomah Conservation District, Chair of the Communications Community of SI Community Association and a Grange member, lives on SI. She is one the bird people and said we are all friends now and have learned from each other. She hopes ODFW staff will not hesitate to</p>

	<p>invite the environment community in future efforts knowing that the outcome was a good one. She testified two years ago and is excited about the words “managing it for a variety of species”. Hartline said there is a lot to do; not just in the wildlife area but there are a lot of weeds. She hopes that ODFW can put the resources together because if we just do it with the money and expertise in front of us it may not turn out the way we want. If we base how successful it is by whether the birds come back and we don’t do a good job it’s not going to work. She said the Conservation District is committed to helping and doing plant surveys. They are creating an Oak Committee that will look at putting together a species list. She hopes that ODFW will work closely with them; it needs to be science based. She is willing to write grants; other people are willing to help. She hopes that everybody’s resources and expertise will be behind this.</p>
<p>Leslie Like</p>	<p>Ms. Leslie Like, Northwest Pointing Dog Association, was a DTAC member. She said we went through this very expensive process because of mis-steps by staff in June 2009. They were told there would be no changes to dog training on SIWA; but staff wrote a proposed management Plan wiping out 62 years of history of use by dog trainers. She thanked former Chair Marla Rae and the Commission for their help in September 2010 by having staff include them in this process. The proposed plan removed them from dog training grounds during nesting season in the Crane Unit as a result of a one-day tour by expert bird habitat DTAC members who determined that all of the Crane Unit was unsuitable for the six-targeted species. Like supports the goal changes as proposed today; but when the Committee was set up staff and the facilitator barred user groups from input and public comments from being published on DTAC’s website. They omitted testimony at the DTAC meetings in the minutes, her own comments. By the time they reinserted it the committee meetings were over, withholding documentation to support claims of exclusion of certain acreage from dog training. Her involvement in this public process has left her disappointed in the management of DTAC even though she supports the results.</p>
<p>Larry Porter Portland, Oregon</p>	<p>Larry Porter, Northwest Pointer Dog Association and Oregon Brittany Club, was a DTAC member. He said overall it was a success primarily because of the expertise of two bird experts on DTAC - Bob Altman and Dan Kim. Without their support, analysis and conclusions we would have been stuck in a quagmire; the other DTAC members had no</p>

	<p>expertise in ground nesting bird habitats. If the Commission adopts this Plan his concern is what happens next. He said it takes management over time and funds to establish the habitat for ground nesting birds in the areas recommended by DTAC or staff. Without all those things including staff to make it happen and continue the process all this work is in vain. He's been assured by Mark Nebeker that all this will happen regarding funding, staffing and maintenance over time; for that he is extremely happy. Porter urged the Commission to adopt this Plan; it's been well thought out. He thanked Jeff, Nancy and Mark for their work and support of DTAC.</p>
<p>Lynn Herring Portland, Oregon</p>	<p>Ms. Lynn Herring, representing the Audubon Society of Portland (ASP), said comments were submitted to the Commission dated September 2, 2010. Consistent with those comments ASP urges the Commission to adopt the Plan and supports the ecosystem-based management philosophy and the Oregon Conservation Strategy referenced as a guiding document. ASP endorses the Plan's stated prioritization that public uses must be compatible with the protection, enhancement and management of wetland and upland habitats to benefit fish and wildlife species. She noted the extraordinary measures taken to accommodate a single user group dissatisfied with the final draft Plan on September 2, 2010. ASP was represented by Bob Sallinger on DTAC. The limited acreage that was ultimately set aside for nesting grassland birds is a step forward but ASP has three concerns:</p> <ol style="list-style-type: none"> 1. ASP members and other stakeholders devoted significant resources to participating in the development of the Plan. Changes through the process were significant enough that ASP felt that ODFW should have reopened the entire Plan and reengaged all stakeholders. The original objective pertaining to grassland birds was to protect and restore grassland bird habitat. During the process this was narrowed to provide habitat for two grassland species: streaked horned larks and western meadowlarks. Since these two species have some of the most stringent habitat requirements of all grassland birds species found in the Willamette Valley several areas that could have provided good habitat for a variety of other species were not included for protection and restoration. 2. ASP reiterates the importance of setting up a stakeholder advisory group to help develop the Plan. 3. ASP urges the Commission to do something about

	<p>Canada Geese on SI since ASP is concerned that the management area is being converted into a Canada and cackling goose farm. She said biological diversity should not be sacrificed to support a monoculture of Canada Geese.</p> <p>ASP views the Plan as a significant step forward and supports its adoption and looks forward to working with ODFW and implementing the Plan over time.</p>
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1
2 Commissioner Webber sat through the DTAC meetings and listened to the various
3 interest groups. He said he didn't hear anybody that came back today that wasn't
4 supportive of the Plan. Staff did a good job.
5

6 Chair Edge asked about implementation of the Plan; a few people talked about what
7 happens next. Boechler said staff is looking at doing different things for management to
8 benefit other species other than geese and ducks and in a manner that we maintain
9 everything we have been doing for those species. Staff believes it can achieve all the
10 objectives set out for grassland birds at no significant additional cost and within existing
11 budgets by changing the way we manage and alter practices. The emphasis areas are
12 focus areas for how we are achieving desired conditions and what the biological
13 response is. He said if additional resources are needed staff will work with partners
14 willing to help. We have talked with Hartline about the Oak Woodland restoration work.
15

16 Breuner added that staff is also looking at using Oregon Habitat Conservation stamp
17 funds to do further habitat restoration at Sauvie Island.
18

19 *Action: Commissioner Klarquist moved to adopt the Goals and Objectives of the*
20 *2012 Sauvie Island Wildlife Area Management Plan and amend OAR Chapter*
21 *635, Division 008, as proposed by staff. Commissioner Levy seconded the*
22 *motion, and the motion carried unanimously by a vote of six.*
23

24 **Exhibit H: ACCESS AND HABITAT PROJECTS**

25 Matt Keenan, Access and Habitat (A&H) Program Coordinator, said the A&H Board
26 recommended Block Grant funding approval for Oregon Open Fields, a federally funded
27 Block Grant through the Farm Service Administration's (FSA) voluntary Public Access
28 and Habitat Incentive Program and a component of the 2008 Farm Bill. A&H received a
29 grant award of \$1.56 million beginning in September 2010 to improve public hunting
30 access and wildlife habitat on private lands in Oregon.
31

32 He said staff anticipated spending these funds over a five-year period. Due to recent
33 congressional action, the funds will need to be spent by September 30, 2012. Congress
34 prohibited FSA from continuing to administer this program. Staff has spent a total of
35 \$212,372 to date leaving a balance of \$1,350,127 for staff to spend over the next five
36 months. Due to the A&H and Commission schedule for project proposals there is not
37 enough time for individual project proposals to come through the A&H Board and the

1 Commission to fund projects one at a time. Staff requests that the Commission approve
2 a block grant so staff can spend these funds expeditiously and get them on the ground.

3
4 Keenan said projects that would be funded under this block grant are access projects in
5 the Columbia Basin and Willamette Valley and habitat enhancement projects conducted
6 on private lands. If this block grant is approved individual project proposals are brought
7 forward by ODFW staff and landowners working together. Projects are reviewed by him
8 and Wildlife Division staff. Projects that qualify would be funded without any further A&H
9 Board or Commission action. Staff expects to improve access or provide access to
10 100,000 acres of private land and improve about 5,000 acres of wildlife habitat. The total
11 cost of these projects is estimated to be \$4,075,545 with Match Funds of \$2,725,418.
12 The total A&H fund request is the remaining balance of our federal grant of \$1,350,127.

13
14 **Public Testimony:** There was no public testimony.

15
16 Chair Edge said Congress didn't eliminate the funding they just didn't allow FSA to
17 administer it. Keenan said correct. We were originally approved for three years of
18 funding conditional on federal availability. We received years one and two, which totaled
19 the \$1.56 million grant award, but this congressional action immediately eliminated the
20 year three funding and prohibited the FSA from administering the program; they cannot
21 work on any contracts or do contract extensions. He said it essentially kills the program;
22 states have to scramble to get things done by the end of the current fiscal year.

23
24 *Action: Commissioner Finley moved to approve the recommendation of the*
25 *Access and Habitat Board for project funding. Commissioner Webber seconded*
26 *the motion, and the motion carried unanimously by a vote of six.*

27
28 **Exhibit I: TRAPPING REGULATIONS PETITION**

29 Ron Anglin, Wildlife Division Administrator, said the Commission received the petition for
30 rulemaking at their March 20 meeting. At the time the petition was presented to the
31 Commission Legal Counsel informed the Commission that if it did qualify as a petition
32 the Commission had ninety days in which to respond to that petition, to either accept or
33 deny it. If the Commission denies the petition it has to be in writing. If the Commission
34 accepts the petition it does not mean that you accept or endorse any of the provisions
35 within the petition; it only means that the Commission is directing staff to enter into
36 rulemaking and consider those four provisions. Anglin discussed some of the required
37 considerations under the Administrative Procedure Act (APA).

- 38
39
- 40 • Continued need for the rule. Staff has received public comments for and against
41 the petition. Some expressed concern over pets being caught in traps; staff has
42 documented that through the Veterinary School at OSU for the last few years.
 - 43 • Complexity of the existing rule. Petitioners say existing rule is very complex to
44 interpret; there are multiple timeframes for people to follow. Anglin said some of
45 that is at the direction of the Oregon Legislature but the Commission has
discretion to tighten things a little bit.

- Extent to which the existing rule overlaps, duplicates, or conflicts with other state or federal rules to federal regulations or with local government regulations. He said staff is not aware if that is occurring at all.
- The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the existing rule, since the agency adopted the rule. Anglin said with the current economy the Commission should consider that if you impose additional restrictions on operators would it have an economic impact on them. Staff has not looked at that yet not knowing what the Commission's direction is going to be, staff would have to look at that as part of the rulemaking process. He said there are 1,100 trappers licensed through ODFW to trap or hunt furbearers; and there are 300 wildlife control operator permits for single individuals, multiple employees, U.S. Wildlife Services and other organizations that do damage control on private land.
- Statutory basis for the rule is found in the Commission broad statutory authority allowing the Commission to address these things.

Anglin said the Commission has three options:

1. If the Commission accepts the petition the agency would initiate a new rulemaking process to look specifically at this petition and its four provisions. The earliest that staff could put this in front of the Commission is August 2012. The rulemaking notice on Furbearer Trapping regulations scheduled for the June Commission meeting was filed by staff with the Secretary of State on April 12 (the filing deadline for the June meeting). Under the APA reference to this petition would have to be included specifically in that filing.
2. Deny the petition and direct staff to consider those four items, or any subset of them, during the regularly scheduled rulemaking process in June.
3. Deny the petition. Written response is required to the petitioners.

Commissioner Bobby Levy declared a potential conflict of interest because her husband is a licensed trapper. Chair Edge noted it for the record and said declaration does not prevent Commissioner Levy from debating and voting on the issue.

Public Testimony:

<p>Craig Starr Lebanon, Oregon</p>	<p>Craig Starr, President of OBH, said OBH supports maintaining opportunities for hunting including trapping. Although we support all hunting OBH is particularly concerned that effective options for predator control are already too limited. Trapping is an important tool for meeting that need. We don't need still more limitations such as those proposed making it even more difficult to accomplish control of predator populations.</p>
<p>Ken Hand Klamath Falls, Oregon</p>	<p>Ken Hand said trapping is a management tool. He asked that rulemaking be done by wildlife professionals, not on emotions without causing undue burden to the trapping public. He said there is no one here that probably loves their</p>

	<p>pets more than I do. I definitely need to take care of mine and he appreciates people taking care of theirs. He asked that the Petition be denied.</p>
<p>Scott Beckstead Sutherlin, Oregon</p>	<p>Scott Beckstead, Senior Oregon Director for HSUS, said this Petition was filed in large part because of growing alarm on the part of the vast majority of Oregonians at the high rate of both family pets and nontarget wild animals being caught in traps and being allowed to suffer and languish before the trapper is required to return. Just over the past several months over a half dozen animals and family pets were caught; many of them killed in traps that were set on our public lands. This is a very real issue and if you want to talk about making policy based on emotions, the emotion here is quite well founded because this is very near and dear to people's hearts when they see other people's family pets, who are considered part of the family, being caught in these very cruel and very indiscriminate devices.</p> <p>Beckstead had looked at some of the comments by trappers. He said it is truly astounding that these individuals blame the owners of the dogs and other animals for being caught in the traps rather than accept any responsibility for even taking modest steps, as proposed in this petition, to protect the public and make sure these things don't happen. He said the proposed changes are modest; they are reasonable and a responsible means of protecting family pets and nontarget wildlife while still allowing trappers to do what they do. He noted that 31 other states have at least a 24-hour trap check requirement and are doing just fine with no adverse consequences. HSUS is very mindful of calls from across the state by a lot of people for a complete ban on all trapping and has received complaints that our petition doesn't go far enough. He urged the Commission to adopt their recommendations and proposals as a means of taking some steps to address the concerns of most Oregonians and keeping in mind that the consequences for taking no action could result in steps that are far more decisive and final with respect to any trapping occurring in Oregon.</p>

- 1
- 2 Commissioner Finley said by other actions are you talking a ballot initiative? Beckstead
- 3 said they have heard there are groups forming. HSUS has not signed onto anything like
- 4 that. We are hoping that we can avoid something like that with this petition.
- 5
- 6 Commissioner Webber said the Petition talks about 100-feet from trails on public land. Is
- 7 that state, federal or county? Beckstead said the intent is to protect the public on

1 publicly owned lands. If there is a public campground that is publicly owned or a public
 2 trail that is publicly maintained, it is our position that trappers should be required to set
 3 their devices at least 100-feet away to minimize the risk to the public and their pets on
 4 those premises. Commissioner Webber said the definition of a trail that you indicated is a
 5 publicly maintained trail? Beckstead said yes; the intent is addressing premises that are
 6 owned by the public through a public agency or entity, whether it's the federal
 7 government, national parks or a state park.

8
 9

<p>Jim Welsh Elmira, Oregon</p>	<p>Jim Welsh, Oregon Cattlemen's Association (OCA) and Oregon State Grange (OSG), said he represents between 4,000-5,000 members between both groups. OCA and OSG oppose the Petition and hope that the Commission will object it. In 2001, House Bill 3147 was introduced. A Best Management Task Force was formed. There was considerable work between ODFW, stakeholders, legislators and ag groups who agreed that there could be modifications to the use of traps to address real public concerns. In 2003, a Predator Trap Check Work Group was formed. In 2004, a Commission meeting established and adopted Option 2 to check traps on a regular basis.</p> <p>Welsh said OCA and OSG sent the Commission comments about deliberating more and explaining our stand. The task force and others representing those groups believe this issue is about the legislative intent in HB 3147 and the extensive work done by staff and stakeholders. He said the stakeholder group went from the position of no check time to the one that the Commission set based on legislative intent. He said the documented history of involvement by the stakeholders and everyone involved has established a continuous record of balanced and flexible considerations for all involved on this issue.</p>
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10
 11 Commissioner Finley asked if they had discussed that it is unduly burdensome to have a
 12 trap located 100-feet from a public right-of-way. Welsh said we talked about the
 13 placement of traps. He deferred to those who are licensed and trapping at this time. We
 14 have not elaborated and had any further decisions around that particular discussion.
 15 Commissioner Finley said the Petition has a number of proposals. If you and I were
 16 sitting at a table we would parse out which ones you could live with and which ones you
 17 can't. He heard an objection to the overall proposal; that was the purpose of his
 18 question. Is that so onerous? Does it defeat the purpose of the trapper's need or intent
 19 for having to trap a minimum of 100-feet from a public right-of-way? He said you need to
 20 think about that kind of stuff.

21

<p>Katie Fast</p>	<p>Katie Fast, Oregon Farm Bureau Federation (OFBF), said in</p>
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Oregon Farm Bureau	<p>2000 Oregon voters opposed a ballot measure by nearly 60% that banned the use of body gripping traps. In 2001 the Legislature passed HB 3147 to address the issues raised by voters. The bill put into Oregon Statute two classes of trap check requirements: 48-hours for furbearers and regular checks for predatory animals, due to the type of animals being trapped and the circumstances under which they are trapped. The bill created the Best Management Task Force around trap checks whose recommendations put into place the current rules. She asked the Commission to look back to those 2003 recommendations. Fast said HB 3147 requires veterinarians to submit reports to the College of Veterinary Sciences when domestic animals are caught in traps. There isn't accurate data around that issue. Veterinarians are not submitting information or if is occurring then the information the other side is bringing forward is falsified. She asked the Commission to have ODFW do outreach to the veterinarian community so they understand that these requirements are in place. A form was developed in 2003 for veterinarians to fill out. Fast said the 2001 Legislature also considered Senate Bill 460 that required 24-hour traps checks; it did not pass. OFBF requests that the Commission deny the petition and maintain the legislative intent around this issue.</p> <p>Regarding the path issue and from a rancher and farmer's perspective there are different needs in different areas. She said Oregon is a very diverse place and we're dealing with very diverse landscapes There are times when it is not appropriate to not have a trap that close to a public access way. In certain situations that might be the only appropriate place for you to get there and check it often, or it's your only access to that path. OFBF requests that flexibility remains for land managers and for wildlife managers.</p>
Joe Ricker Salem, Oregon	<p>Joe Ricker, Mid-West Director of Oregon Hunters Association, said this anti-trapping petition is not just about additional unnecessary restrictions on trapping; it's just another attempt to attack the wildlife compensation model in North America that has been successful over the years in conserving wildlife. These organizations are not as concerned about domestic pets as this petition may lead you to think. He said it's just another tool for the ultimate goal of destroying pet ownership, utilization of wildlife and the livestock industry of North America. Ricker asked the Commission - do not be misled by this petition.</p>
Bob Gillman	Bob Gillman is the President of OTA representing 350

Albany, Oregon	<p>trappers, is a licensed trapper for over 50-years in Oregon; a licensed wildlife control operator and has done damage control in the state for 30-years. He said OTA is opposed to this Petition; we ask the Commission to deny it. Gillman had three points about the petition:</p> <ol style="list-style-type: none"> 1. Trap check times have been thoroughly vetted in the recent past and looked at for several months by the Commission and others and found to be reasonable. They work very well and he doesn't have any trouble figuring out what the trap check times are in his business; they should be left as they are. 2. Issue of trap tags has not been brought up but in the petition is a requirement of putting a name and address on the tags. He said we have a system that has been used for many years that allows law enforcement to quickly find out who owns a trap with the brand that it is on it. It is illegal for the general public to bother a trap. OTA feels it would be an opportunity for the wrong people to find out. If there is a problem with a trap, law enforcement should be brought in and they can quickly get to the bottom of the issue. 3. Posting individual traps with a sign would be an unbelievable burden on individual trappers. OTA feels that it would not work, that it would just point out a trap that could be stolen. He said there are a lot of people who do not respect the laws. <p>Gillman said he would have further comments on some of these issues at the furbearer hearings as they come up.</p>
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1
2 Commissioner Klarquist asked Gillman if he would consider it a modest change if he had
3 to check the traps every 24-hours instead of when he checks them now. Gilman said he
4 would consider that a very difficult change to make. He is affected like everyone else by
5 economics and covers a lot of country at times. It would be quite a burden to change it
6 from 48-hours; that is a 100% change from where we are now.
7
8 Commissioner Finley said on public lands and on public rights-of-way, a maintained trail
9 by BLM or the Forest Service, would you find it unduly burdensome to locate your trap
10 100-feet from the trail? Gillman said a trapper who set his trap on a well-used trail would
11 be out of his mind; any responsible trapper would not do that. One of the dogs that were
12 captured in the trail this year that got a lot of publicity was set by a young person with
13 little experience and little common sense. That is an area we need to work on.
14
15 Commissioner Webber said there clearly in your mind would be places that it would be
16 inappropriate to set a trap? Gillman said correct. Commissioner Webber said it could be
17 of some benefit if both the trappers and the general public to know what that are so they
18 can guide their conduct so they don't come in contact with each other. Gillman said the

1 difficulty we have at OTA with that is writing the regulations so it doesn't scoop up half of
 2 the state. It could very easily happen; public right-of-ways for instance are unknown to
 3 people. We have looked at and are continuing to look at that issue.
 4

<p>Stan Steele Corvallis, Oregon</p>	<p>Stan Steele said during his career working fish and wildlife enforcement with OSP he conducted numerous training sessions for game troopers statewide at annual In-service Schools; teaching trappers how we actually go out and can be effective in working with trappers and making sure that Oregon's laws were adhered to. The current controversy regarding the use of furbearers and the control of predators takes up considerable staff time in attempting to clarify the public's misconceptions about regulated trapping. Trapping of the furbearers is a reoccurring issue and is morally opposed by animal rights advocates. He said complex issues involved in furbearer predator management, such as habitat loss, animal damage control, public health and safety, and the responsible use and conservation of furbearers must be left in the hands of trained professionals. ODFW professional furbearer managers have been and continue to be national and world leaders working on international trap standards, international sales and markets of what we classify as protected or furs such as bobcats. He said the science is extremely clear on Oregon's trapping regulations; they are best management practices that have been utilized not only in Oregon but also in the rest of the nation as well as many parts of the world.</p>
<p>Lynn Herring Portland, Oregon</p>	<p>Lynn Herring represented the Audubon Society of Portland (ASP) and its 13,000 members in support of the trapping petition to amend Oregon trapping regulations in order to protect wildlife and pets. ASP urges the Commission to adopt the petition and move forward with long overdue trapping reforms that will bring Oregon in closer alignment with the requirements of other western states. ASP served on the 2003 ODFW Advisory Committee that looked at trap check requirements. Currently ODFW regulations allow for furbearing animals to be left in restraining traps for up to 48-hours and predatory animals that are causing damage to be left in restraining traps for up to seven days. ASP is concerned about the impact of trapping on nontarget wildlife. Herring said the petition we have submitted makes four common sense changes to trapping regulations which will reduce nontarget impacts and creates accountability:</p> <ol style="list-style-type: none"> 1. Requiring all trappers to check their traps every 24-hours. 2. Requiring trappers to attach tags to their traps and

	<p>snare with their names and contact information.</p> <ol style="list-style-type: none"> 3. Prohibiting traps on public lands within 100-feet of trails and other areas used by the public. 4. Requiring trappers to post clearly visible warning signs near their traps when trapping on public lands.
Larry Sowa	<p>Larry Sowa is a licensed veterinarian who practiced for almost 40 years in Oregon. He said he has occasionally has seen a dog that was caught in a trap. He has no opinion about whether the Commission rejects this petition or not but he asked the Commission not to consider what is being considered slightly – the requirement that the traps be back on a road 100-feet. He traverses the forests in the eastern part of the state and there is basically no underbrush and you can see 100-feet from the road. Here in Western Oregon we have thick underbrush. If you require a trap from the road 100-feet, if my dog or grandchild gets caught in a trap it is going to be very hard to find that dog or child. You won't be able to hear a dog whining or the child crying. He asked the Commission to reject that proposal because you want to be able to look for your child or dog by walking down a trail; you won't be able to see them at 100-feet.</p>

1
2 Chair Edge said the Commission heard there was a reporting form that veterinarians are
3 required to send to the College of Veterinary School. Are you aware of that; are most of
4 your colleagues aware of that form? Do we need to do some education in that respect?
5 Sowa said he has been retired for 20-years so he wasn't sure what his colleagues are
6 aware of but he knows there is a form and that you need to fill it out because he follows
7 the legislative process. He thinks most veterinarians are aware of that.

8
9 Deputy Director Curt Melcher said with regard to the distance from a road, trail or other
10 public right-of-way, it is important to keep in mind that in some cases this is where the
11 target animals may live, for instance beaver or nutria that are problems for county or
12 other road departments. He said if they couldn't trap them within 100-feet of a roadway
13 that might become an issue. But also many of our waterways in the state are navigable.
14 I'm not exactly sure how but if we're right at a public right-of-way and navigable
15 waterways come down it may be that those waterways would be caught up in this issue
16 of public right-of-way. We're not making rules here today but it's something we should
17 follow up and consider.

18
19 Commissioner Klarquist said he heard that even though we have 48-hour rule for trap
20 check that under some circumstances we have a defacto seven-day rule. Are you aware
21 of how the rule is being enforced or being regarded by the trappers? Anglin said neither
22 he nor staff has heard anything specifically that OSP has found violations of that or that
23 there has been a blurring of that distinction. Commissioner Klarquist said while we are
24 considering the rules you should inquire whether there is a problem.

1
2 Chair Edge asked Legal Counsel to address legislative intent; for instance the 48-hours
3 in statute. Legal Counsel Erin Donald said ORS 498.162 gives the Commission the
4 authority to prescribe the times, places and manners in which wildlife may be taken by
5 trapping and in other ways too; and to prescribe such other restrictions or procedures
6 regarding the taking, hunting, trapping or possessing of wildlife. She said the Legislature
7 gave the Commission broad authority to establish the ways in which trapping in Oregon
8 would operate. The Oregon Administrative Rules as they are written now require traps
9 set for the taking of furbearing or unprotected mammals to be inspected every 48-hours.
10 Traps set for predatory animals must be checked frequently depending on whether they
11 are killing or restraining traps. Killing traps must be checked once every thirty days and
12 restraining traps have to be checked once every 76-hours unless they are set for
13 predatory animals damaging land. Then they shall be checked at least once every seven
14 days; so that's where that seven-day component comes in.
15

16 Chair Edge recalled that there was a statute that actually fixed the trap check frequency.
17

18 Anglin said ORS 498.172 set it up to 48-hours or at least once during each 48-hour
19 period. Section 2 sets a trap check for predatory animals to be checked on a regular
20 basis. He said ORS 496.162 is the general authority that the Commission has to set
21 manner, time of take in place. He said the Legislative intent on trap check is in ORS
22 498.172. Counselor Donald said ORS 498.172 put in place the minimum 48-hour trap
23 check for furbearers and then a reasonable, on a regular basis for predatory animals.
24

25 Chair Edge asked about the ramifications if the Commission moved forward on the four
26 issues. Anglin said staff has looked into the details relative to each item and has started
27 contacting other states. He said we are not prepared to bring that to the Commission in
28 any detail at this point. We have been doing research and have talked with user groups
29 looking at how that would apply to furbearer seasons and the predatory animal statutes,
30 which are only applicable on private land. Once you get off private land the predatory
31 animal statutes change and fall under the general regulations on public lands. He said
32 staff will be prepared to talk to the Commission in June.
33

34 *Action: Commissioner Weber moved to deny the petition submitted by the*
35 *Humane Society of the United States, Predator Defense, Oregon Chapter of the*
36 *Sierra Club, Audubon Society of Portland, and Cascadia Wildlands and direct staff*
37 *to consider the Petitioners' issues during the 2012-13 Furbearer Regulation*
38 *setting process. Commissioner Levy seconded the motion, and the motion*
39 *carried unanimously by a vote of six.*
40

41 **ADJOURN**

42 Chair Edge adjourned the public meeting at 4:02 p.m.