



Oregon Fish and Wildlife Commission Minutes

Meeting: October 5, 2012 – 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue
Salem, Oregon 97303

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

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:

Bobby Levy, Chair
Bob Webber, Commissioner
Holly Akenson, Commissioner
Michael Finley, Commissioner
Laura Anderson, Commissioner
Gregory J. Wolley, Commissioner

Roy Elicker, Director
Curt Melcher, Deputy Director
Debbie Colbert, Deputy Director
Steve Sanders, Assistant Attorney General
Teri Kucera, Executive Assistant

MEETING

On Friday, October 5, 2012 at 8:05 a.m., Chair Bobby Levy called the Oregon Fish and Wildlife Commission (the Commission) meeting to order and said this meeting is being video-streamed on the Internet.

DIRECTOR'S REPORT

Field Reports

Northeast Region

Bruce Eddy, Region Manager, reported on archery and rifle deer seasons. There was a hunter fatality in Wallowa County that is being handled by the Wallowa County Sheriff. Grouse hunting was slow and grouse populations are down this year. Youth hunts were successful, largely due to volunteers and hunter education instructors who contributed over 3,000 hours in 2011. In a review of the Lower Snake River Compensation Plan Steelhead Review, Eddy said about 150,000 salmon and steelhead were lost when the dam was built. Twenty six hatchery and satellite facilities were built in order to mitigate this. Straying rate of the Wallowa stock has been historically high, and the Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife Service (USFWS) continue to monitor this.

High Desert Region

Chip Dale, Region Manager, talked about successful youth pheasant hunts. At the White River Wildlife Area hunters harvested 29 of 59 birds released. Attendance at Willow Creek was slightly down, but success was highest on record with 71 youth averaging two birds per hunter. Summer Lake Wildlife area hosted 67 youth hunters. Participation was slightly down, but the youth bagged four birds per hunter. At Klamath Lake there were two violations: exceeding a bag limit and a youth who was unoccupied by an adult.

1 Director Roy Elicker asked Dale to report on the two fires in the Northeast Region that
2 have had significant impact on sage grouse habitat, and how to rehabilitate those areas.

3
4 Dale said staff is working with Bureau of Land Management (BLM). Historically fires were
5 re-seeded with primarily crested wheat grass which once reseeded stays for a long time.
6 BLM purchased \$7 million of sage brush seed to reestablish sage brush stands. Staff is
7 recommending a seed mixture that may not be specific natives but will get good ground
8 cover that provide wildlife and forage values. Gradually they will disappear as those
9 ranges recover to the natural native species. Staff has offered funds to private
10 landowners for green forage and the deer program and to others for fertilizers and
11 seeds. Staff is looking at opening up Conservation Reserve Program property for
12 ranchers not getting enough forage resources. In the past, ODFW also opened up state
13 lands with fenced pastures for folks really hurting for pasture.

14
15 Director Roy Elicker said more details on the fire impacts to sage grouse would be
16 provided during Assistant District Wildlife Biologist Autumn Larkin's sage grouse update.

17 Southwest Region

18 Larry Cooper, Region Manager, said on September 15-16 the region held the Denman
19 Wildlife Area youth pheasant hunt. Out of 500 pheasant released, the Oregon Hunters
20 Association purchased 200. Very good participation by 154 participants and 164 roosters
21 were harvested. Volunteer dog owners provided youths the opportunity to hunt with a
22 dog. Cooper said this year there were 22 cases of canine distemper in Jackson County;
23 most cases are in grey fox with one positive coyote and one raccoon. There was one
24 case of bat rabies in Josephine County, and that was a grey fox.

25 Northwest Region

26 Steve Marx, South Willamette Watershed District Manager, reported that in the Waldport
27 area a large bear demolished the siding of a garage. ODFW found the bear and removed
28 it. Marx spoke to bird losses at Smith and Bybee Lakes, found by kayakers. The issue
29 was botulism. Staff has taken measures to reduce the stagnation in the water there and
30 implemented hazing to reduce. The most recent count is up to 2,500 birds. The second
31 incident occurred in the Salem area due to zinc phosphide toxicosis in Western Canada
32 Geese. Staff is working jointly with USFWS and Oregon Department of Agriculture
33 (DOA) to resolve this problem. Marx said the Wildlife Health Lab has drafted a statewide
34 policy for staff usage of immobilizing and other drugs on legally harvestable wildlife, and
35 developed a Pacific Northwest Interagency White Nose Syndrome in the Bats Plan.

36 Conservation Strategy Program

37 Holly Michael, Conservation Policy Coordinator, discussed the 2013 Habitat
38 Conservation stamp, the second in a series. Last year the contest was open to all the
39 strategy species. This year the focus was on 24 Conservation Strategy mammals and 16
40 species were represented in the artwork. She said of 47 entries about 44 were from
41 Oregon artists but there were no youth artists this year. She talked about the judging
42 panel that included Commissioner Finley. Andrea Hanson, Conservation Strategy
43 Coordinator, unveiled the winning entry artwork. Michael's said the winner was a kit fox
44 painted by Rod Frederick of Bend, Oregon.

1
2 Commissioner Finley thanked Chair Levy for the opportunity. There were 47 art entries
3 and we narrowed it down to six entries. Ultimately the winning entry was picked by all six
4 judges. It's a worthwhile program and it should continue.

5
6 Chair Levy said she likes the 2013 child's calendar. It's a great way to encourage kids to
7 participate in art. She'd like to see ODFW notify all the schools statewide by email to see
8 if we can get more youth participation.

9
10 Information & Education

11 Roger Fuhrman, Program Administrator, said this week Chris Willard moved into
12 Recruitment and Retention Coordinator position. He will work with retailers and sports
13 groups to increase participation in hunting, fishing and wildlife viewing. They created an
14 action plan, which will focus on increasing staff understanding of the importance of
15 recruitment and retention; identify and address barriers to participate in hunting, fishing,
16 and wildlife viewing; and increasing collaboration among industry, retailers and
17 organizations. Fuhrman distributed *50 Places to go Fishing Within 60 Minutes of*
18 *Medford* and said there is an online map that is available on smartphones. The website
19 also contains a new page on Global Climate Change.

20
21 Commissioner Webber said there is a problem on the south coast to figure out what's a
22 Chinook and what's a coho. Is that information available on smartphones? Director
23 Elicker said we will make it available on a smartphone.

24
25 Commissioner Akenson said ODFW is really progressive in stopping the national trend
26 that fewer people are hunting and fishing. Director Elicker said staff will put out an exhibit
27 on the retention/recruitment effort over the last two years. Nationally, participation in
28 hunting and fishing is up over the last five years.

29
30 Marine Resources Program

31 Caren Braby, Program Manager, discussed a new research project to understand clam
32 populations in the Tillamook Bay area. ODFW shellfish biologists worked with a dive
33 team in Tillamook. Next year she will be able to report what they found. She said staff
34 has collected 220 samples out of 250 planned samples. Within a sample they have
35 found a lot of different ages of clams, which is great news. Braby noted a new document
36 of recreational crab harvest in Columbia River and in five different basins on the coast *5-*
37 *Year Study of Recreational Crab Harvest Effort* and that was available on the website:
38 www.dfw.state.or.us/MRP/publications/#MRP. She said recreational crabbing is very
39 important to the local economy.

40
41 Commissioner Anderson said in the clam study what did you find in terms of ratios of
42 commercial to recreational harvest? Braby said staff does not have that breakout as part
43 of this sub-tidal study but can get that information and send it to her.

44
45 Oregon State Police, Fish and Wildlife Division

46 Lieutenant (Lt.) David Anderson introduced Northwest Lt. Josh Brooks. He replaces Lt.
47 Andy Heider who was promoted to Captain in the Patrol Division. Lt. Anderson said

1 troopers are patrolling the woods for deer season. Two troopers responded to a report in
2 July of a dumped mule deer carcass in the Rock Creek Reservoir area. They located a
3 plastic tote that contained a doe head and hide. They found an old cell phone and were
4 able to obtain a fingerprint off the gun shell casing that matched the owner of the cell
5 phone. The subject admitted to illegally shooting the doe and was cited for taking deer at
6 closed season and offensive littering. OSP also seized the .22 caliber revolver.

7
8 Lt. Anderson attended the 10th International Seafood Summit in Hong Kong in
9 September. During a slide presentation he reported on sturgeon poaching to turn meat
10 into caviar. The Russian presentation focused on Sakhalin and Kamchatka; very remote
11 but pristine areas with the most abundant salmon in the world. He said the illegal and
12 unreported catch is estimated to be 1.4 to 1.8 times the legal catch. The illegal seafood
13 trade in Kamchatka is estimated at \$3 billion. He said Dmitry Lisitsyn of Sakhalin
14 Environment Water coordinated local watershed councils, established public watch dog
15 groups, and helped create the 165,000 acre Vostochny Wildlife Refuge.

16 17 **Lower Columbia River Update**

18 Director Elicker noted an email dated September 20, 2012 from Brett Brownscombe in
19 the Governor's Office "Update from Governor re: concerns w/Columbia River Fish
20 Allocation proposal" and a letter dated October 1, 2012 from the Washington State
21 Legislature to Governor John A. Kitzhaber, MD.

22
23 Ed Bowles, Fish Division Administrator on special assignment to Director' Office,
24 distributed a handout updating the findings of the Joint Columbia River Fishery
25 Management Work Group (Work Group). He reported that the primary purpose of the
26 Work Group meeting held September 21, 2012 in Olympia, with Chair Levy,
27 Commissioners Webber and Finley, and nine advisors, was to focus on the joint staff
28 report "*Management Strategies for Columbia River Recreational Commercial Fisheries,*
29 *2013 and Beyond dated September 17, 2012.*" This information is also available online at
30 http://www.dfw.state.or.us/fish/OSCRP/CRM/LMCR_fisheries_mgmt_reform.asp.
31 Bowles said the joint staff report represents a convergence of the Washington
32 Department of Fish and Wildlife (WDFW) and ODFW on the key elements in Governor
33 Kitzhaber's letters and in Brett Brownscombe's testimony during the Commission's
34 conference call on August 14, 2012. It serves as a starting point for the Work Group that
35 will be updated.

36
37 Before the September 21 meeting, staff received additional clarification from the
38 Governor's Office that Director Elicker mentioned (email dated September 20, 2012 from
39 Brett Brownscombe, Update from Governor re: concerns w/ Columbia River Fish
40 Allocation proposal) about directions from the Governor and his staff with key interest
41 groups; primarily commercial interests, as well as recreational but also conservation
42 group discussions. Bowles said the Governor centered his response on seven key
43 questions that came up:

- 44 1. Contingencies
- 45 2. Impacts of the "transition period" on commercial interests
- 46 3. Ability to harvest increased returning to enhanced areas
- 47 4. Selective gear

- 1 5. Mortality
- 2 6. Size of the off-channel areas
- 3 7. Conservation

4
5 Bowles said Brownscombe would put the memorandum into a more formal memo form
6 but for now it's the "additional clarification" or "white paper". The white paper provided
7 how we move forward through the Transition Period, what are the levels of rigidity
8 regarding the allocation shift and production shifts. It provides additional guidance and
9 flexibility to the Commission in your considerations of this that will provide very helpful as
10 we try to balance this movement with the least amount of economic hardship particularly
11 to the commercial fishing interests during the Transition Period. It talks about Adaptive
12 Management and contingencies, relative assumptions going into this, the timeline for that
13 Transition Period, funding issues related to making all this happen, gear type
14 development, the size of the areas, and the shifts in production.
15

16 Bowles discussed assignments out of the first Work Group meeting:

- 17 • Revise staff report and put in the format of a Work Group recommendation.
18 Incorporate the additional direction from the Governor's Office and any of staff's
19 input relative to September 21 meeting.
- 20 • Define reasonable recreational fishery objectives. By softening the requirement
21 for the allocation shift in the Governor's original direction is relative to ensuring
22 that reasonable recreational objectives are met in the mainstem that move
23 towards additional mainstem priority for recreational fisheries; a key element.
- 24 • What is the exact baseline relative to the matrix of catch harvests, catch rates,
25 angler trips, and the economics associated with ex-vessel value? Staff will do that
26 same analysis relative to the current staff report and the revised one relative to
27 what does that mean compared to those baseline matrix traits.
- 28 • Alternative gear. Summarize where we are at relative to research and progress in
29 looking at that.
- 30 • Tour on October 4, 2012 helped the Commission subcommittee better understand
31 the off-channel and terminal areas for current commercial fisheries on the Oregon
32 side. We looked at some of the alternative gear and research that is going on with
33 a focus on purse and beach seining. We discussed the tangle net use of the tooth
34 nets and the commercial approaches to minimize handling mortalities associated
35 with the capture, e.g., live box approach.
36

37 Bowles also talked about the Coastal Conservation Plan. Staff is holding public
38 workshops along the coast. He said there are four keys areas from Cape Blanco to
39 Astoria. Six species are being looked at in this plan, e.g., salmon, cutthroat, steelhead.
40 Our next and last three-day workshop will be in Newport, October 8 - 10. Bowles will
41 present the results of the workshops to the Commission in spring 2013.
42

43 Chair Levy said the Commission has received three letters from the Governor; the last
44 one has some leniency in it. She asked Legal Counsel for clarification on what as a
45 Commission their role is in this and what their direction can be in that.
46

1 Legal Counsel Steve Sanders said the Governor has no direct legal authority to require
2 the Commission to do anything. The Commission is appointed by the Governor and
3 serves at the Governor pleasure but he cannot directly require you to do anything. It
4 would be legally improper for the Commission to commit now to do something in
5 Administrative Rule when you have yet to have the public process. He said the public
6 process would be meaningless if the Commission were legally bound to do what the
7 Governor had already described in prior letters. The arrangement between the Governor
8 and you as his designees and appointees on this Commission is something that the
9 Commission is entitled to work out with the Governor or the Governor's staff. He said
10 was the Governor to convene a meeting of three or more of course that would constitute
11 a public meeting. However, the Commission is not bound and could not be bound by the
12 Governor's letter with respect to the specifics in that letter about what your ultimate plan
13 will be.

14
15 Director Elicker clarified that ODFW and the Commission has been given direction by the
16 Governor. Your direction is purely a legal matter? Legal Counsel Sanders said yes.
17 Elicker said the Commission is the one that passes the rules and will assess the public
18 process; however, we are very sensitive to the Governor's direction and we will do our
19 best to follow that direction. But it is the Commission in the end that needs to make the
20 decisions about the rules, and the sites, and the very specifics of the process?

21
22 Legal Counsel Sanders said exactly. The Governor's remedy should he not like the
23 result you reach is that he could replace all of you; he could not change the rule.

24
25 Chair Levy said she has been to all the Select Areas. The purse seine demonstration
26 was interesting. The tour was very informative and very well put together.

27
28 Commissioner Webber said under the public meetings rules and as the Commission is
29 constituted, what number of Commissioners make up the public meeting requirements?
30 We have six members momentarily. Legal Counsel Sanders said a meeting of the
31 subcommittee constitutes an advisory body to a public body. So if the three members of
32 your subcommittee meet that constitutes a public meeting. Otherwise, it would be four of
33 you, a quorum of the six that would constitute a public meeting if you were discussing
34 official business like this. He said you are entitled to have social meetings at which you
35 don't discuss this so that would not constitute a public meeting but four of you discussing
36 this would constitute a public meeting.

37
38 Commissioner Finley said the three of us that attended the tour yesterday; we were all
39 three subcommittee members. Was that a public meeting? Legal Counsel Sanders said
40 yes that would be a public meeting. We didn't notify that but it wouldn't create public
41 meeting violations for you but yes that would constitute a public meeting.

42
43 Commissioner Anderson said one question coming from the commercial sector is
44 securing the funding necessary to make the transition happen. Where and how will
45 funding be obtained for this transition?

46

1 Bowles said funding for off-channel status quo management is over \$4 million per year;
2 about half comes from BPA. That money is tenuous and ODFW and Governor's Office
3 are working diligently to ensure that funding does not dry up; particularly, during this
4 temporary time when BPA is in a temporary shortfall of funding. He said they have
5 indicated their interest of trying to dictate where those savings may occur including these
6 investments in the off-channel area. That's just preserving the current system. There is
7 a portfolio of funds that goes into that. We will have all that lined out relative to a sub-
8 assignment to the baseline and we will be looking at costs. That will come out with a
9 packet that will either be completed this Friday or following Monday.

10
11 Bowles said in regard to the new money our Agency Request Budget is already in the
12 hands of DAS. We will look at working with the Governor's Office on a Policy Option
13 Package (POP) relative to any additional needs for this next biennium. The initial aspects
14 are able to be absorbed through existing programs very substantively. For example, the
15 initial movement of up to three quarter of a million spring Chinook to the off-channel
16 areas can be accommodated through the existing infrastructure. We need additional
17 funds for fish feed and others. The existing research going on for alternative gear is
18 currently being funded through existing efforts. Bowles said we will pursue those so they
19 will be maintained. That's not to say that additional resources are not necessary - they
20 are. Additional resources are necessary, and the additional guidance from the
21 Governor's Office noted earlier with the red print (see white paper) does speak to the
22 funding piece. That was a key question so you can see how seriously the Governor and
23 his staff are taking this issue.

24
25 Commissioner Anderson said she read the piece he referred to and asked what was
26 meant by the statement that part of the Commission's transition plan should include
27 recreational angler dollars to mitigate the commercial impacts presumably meaning
28 losses. Is that to read licensing fee dollars, or is there another source that the Governor
29 was perhaps pointing to in that statement?

30
31 Bowles pointed out Question 1, subsection a: "The size and scope of the funding need
32 will depend on the size and scope of the Commission's approach to enhancement of off-
33 channel areas. Part of the Commission's transition plan conversation should include
34 discussion of the role of recreational angler dollars and other sources of funds in
35 mitigating commercial impacts and realizing the components necessary for this proposed
36 change in lower Columbia River fisheries management."

37
38 Bowles said through this document the Governor reiterates that this is a package deal,
39 and part of that package is new production or reallocation of existing production from
40 some of the tributary areas down to the off-channel terminal areas. And that will come at
41 the expense of some fishing opportunity for recreational fishing in the tributaries or
42 below. He said that's part of the contribution from the recreational side the acceptance
43 of that transition of that production and it is focused towards commercial fishing interests.
44 Bowles said he interpreted it to mean that it's part of your discretion as well as ours as
45 an agency to consider robust funding options that may include some support, either
46 through potentially research, potential options related to other aspects of a long-term
47 plan that recreational fishing interests could contribute towards. I think that is what the

1 Governor meant when he teed that up, and not just the production shift. I don't have any
2 sense of how much or what source or where, but I think he is teeing that up for your
3 consideration.

4
5 Commissioner Akenson said if the other three of us Commissioners were to do a tour or
6 go out on a trip like the subcommittee's tour yesterday, would that also then be
7 considered a public meeting? Legal Counsel Sanders said the three of you who on the
8 subcommittee would constitute a public meeting because you have been formally
9 appointed to be an advisory body to a public body. Otherwise it does not constitute a
10 public meeting even if you are discussing related things if there is not a quorum.

11
12 Commissioner Akenson asked Bowles, are the staffs working together between
13 Washington and Oregon on developing strategies or is it more of an Oregon-driven
14 process? Bowles said both are working together, and the joint staff report that was the
15 basis for the first Work Group meeting was a joint report submitted by their Director Phil
16 Anderson and our Director Roy Elicker. He said we spend quite a bit of time as technical
17 staff and agency leads getting that convergence. They bring a difference nuance and
18 priorities and perspectives that have been woven into the joint report. He said we will
19 continue to as we update it to work with them to make sure that their agency is on board
20 as well and incorporates direction that their subcommittee Work Group or their
21 Commission gives them. There is a Commission meeting in Washington tomorrow that
22 will be video streamed or at least on one of their cable channels. Staff will track that.
23 Washington has this teed up as an agenda item, so there will be public input.

24
25 Commissioner Wolley asked has there been any new or additional Tribal input into this
26 process since this Subcommittee has convened?

27
28 Bowles said at the Work Group meeting in Olympia staff invited the Tribes to represent
29 themselves They are purposely not a part of the advisors to the Work Group, simply
30 because their status is not as a stakeholder or an interest group; they are as sovereigns.
31 So we will consult with them directly. One of the first aspects was to have the Columbia
32 River Inter Tribal Fish Commission, which represents the four treaty tribes on the
33 Columbia. He said they provided testimony through their Chair Kat Brigham, from the
34 Confederated Tribes of Umatilla Indian Reservation. She provided very good testimony
35 that we can make sure is provided to the rest of you not on the subcommittee. There was
36 also a presentation from Northwest Indian Fisheries Commission, which is the Puget
37 Sound and coastal Tribe consortium. He noted they are not directly Columbia River
38 Tribes. Staff will follow up with additional consultation with the Tribes through their
39 boards ad hoc throughout this process, and we have been invited to their next Board
40 meeting.

41
42 Commissioner Anderson said she has heard from people involved in that fishery
43 particularly at Youngs Bay is operating at full capacity. She said after the site visit do you
44 think that the basic math for generating hopefully close to a zero impact if we can
45 achieve the Governor's objective? Do you think that there is enough space to support the
46 returns necessary to have a net-zero impact on the fishery given that we are only looking
47 at four areas here right now?

1
2 Bowles said there are different seasons for fisheries, and the importance of the off-
3 channel areas in helping offset the loss or the transition out of the mainstem for
4 commercial varies depending on the season. For example, in the springtime for spring
5 Chinook the off-channel areas, because there is not a lot of opportunity with selective
6 gear other than the tooth nets which do get involved with steelhead impacts, there is
7 going to be less opportunity in the mainstem likely for the spring fishery after the
8 transition. The off-channel area is vitally important for those spring Chinook. The goal is
9 to ensure that there is as additional adult spring Chinook caught in the off-channel areas
10 as what is currently caught in the mainstem. He said that capacity is roughly 1-to 1-1/4
11 million additional smolts put in to the off-channel areas, existing or newly developed
12 ones. He said the capacity right now can absorb about one million additional productions
13 of smolts which go a long way towards that objective. We have the infrastructure in
14 place for that right now; Tongue Point is actual under-utilized right now. Youngs Bay is
15 more utilized but there are some strategies for accommodating that without new
16 infrastructure.

17
18 Bowles said for some of the fall fisheries staff is not looking to offset all the fall fisheries
19 and move them all into the Select off-channel Areas. The key solution for most of the
20 money fish in the fall, which is the coho and fall Chinook, is a combination of off-channel
21 investments but really focused on the alternative gear and allowing the commercials to
22 stay in the mainstem fishing on harvestable surpluses both beyond those reasonable
23 sport objectives. The long-term vision is for a very continued major presence in the
24 mainstem using alternative gear focused on hatchery Tule fall Chinook as well as upriver
25 bright Chinook using alternative gears in time and place and gear type. So that's where
26 the economic piece comes in and there is not a huge emphasis on moving fall Chinook
27 into the off-channel areas, new production beyond what is currently done. Bowles said
28 there is a very large increase plan for coho which will be a large addition of which we can
29 absorb about 800,000. We are talking about over four million of additional coho in the off-
30 channel areas but we are also thinking of a vision that actually has more coho fishing in
31 the mainstem than currently occurs through this alternative gear. For the fall Chinook
32 using alternative gear to try to at least come close to the opportunity currently. He does
33 believe long-term there will be as much fall Chinook harvested in the mainstem as we
34 currently do.

35
36 Commissioner Anderson said when you stated that it could absorb another 1 million
37 smolts, where you referring to Youngs Bay or a combination of all the four off-channel
38 areas? Bowles said that is a combination of the areas. Based on Commission action in
39 2008 we began moving 250,000 in additional spring Chinook from Willamette hatcheries
40 down to the off-channel areas that began in 2010. He said that investment is going to be
41 bearing fruit; it started this year and we will continue. That investment of 250,000
42 occurred at Tongue Point and those net pens.

43
44 Chair Levy asked staff to coordinate a tour for the remaining Commissioners of the
45 Select Areas so the full Commission is on board and they can personally see what our
46 plans are, what we would like to do in the Select Areas so they can personally see the
47 gear and the Select Areas; do it either as a group or individually.

1
2 Bowles agreed and noted that they were unable to get any of the Washington Work
3 Group members on the tour yesterday. They would make it an additional chance for
4 them to tour as well. He said the Commission has a packet that was prepared by staff
5 *Site Visit of the Columbia River Fishery Management Work Group, October 4, 2012* and
6 encouraged them to read it.

7
8 Director Elicker asked Deputy Director Curt Melcher to work out the logistics with
9 Commissioners Akenson, Anderson, and Wolley. Bowles asked that Deputy Director
10 Melcher dovetail that with the Washington Commissioners as well.

11
12 Chair Levy moved agenda item **Dr. Donald Hansen - Certificate of Recognition** to
13 later on the agenda.

14 15 **Expenditure Report**

16 Debbie Colbert, Deputy Director for Administration, said as of August 31, 2012,
17 Department wide, revenues and expenditures are within budgeted projections.
18 Administration is slightly above projected expenditures due to additional state service
19 charges, billed annually. For the 2013-2015 budget development staff submitted bid
20 forms and the agency request budget to Department of Administration Services (DAS)
21 and Governor's Office. Program Funding Teams are meeting frequently, but we have not
22 been asked to present to them. They inquired about our Other Fund ending balance and
23 monitoring programs. Funding teams are supposed to conclude their work by mid-
24 October and submit recommendations to the Governor in December. Deputy Director
25 Colbert said the new Salem headquarters process is on track, and should break ground
26 in mid-October. Staff will provide an update to the Commission in December.

27
28 Commissioner Wolley said he does small business contracting. He encouraged Deputy
29 Director Colbert to hire local small contractors certified by the State of Oregon as a small
30 business or women in business or minority owned business.

31 32 **Adopt Temporary Rules**

33 Deputy Director Curt Melcher noted that **635-060-0040, Active Member of the Armed**
34 **Forces Controlled Hunt Tags**, will be before the Commission later today as a
35 permanent rule change in Exhibit D: 2013 Big Game Regulations.

36
37 Director Elicker asked the Commission to adopt the 12 temporary rules on pages 1
38 through 3 of the agenda, beginning with 635-041-0045 through 635-023-0095.

39 40 **1. 635-041-0045 and 635-041-0075**

41 **Treaty Indian Fall Commercial Gill Net Salmon Fishery Set In Columbia River**
42 Adopted September 6, 2012: effective September 11, 2012 through October 31, 2012.
43 Amended rules set a Treaty tribal gill net fishery for all of Zone 6 in the Columbia River
44 and allow commercial sales of fish caught during the fishery. The fall gill net fishery
45 begins at 6:00 a.m., Tuesday, September 11 and runs through 6:00 p.m., Friday,
46 September 14, 2012 (3.5 days). Modifications are consistent with action taken
47 September 6, 2012 by the Columbia River Compact agencies of Oregon and
48 Washington in cooperation with the Columbia River Treaty Tribes.

1
2 **2. 635-004-0355**
3 **Increased Cumulative Trip Limits for Two Different Species Groups in Periods 5**
4 **and 6**

5 Adopted September 7, 2012: effective September 11, 2012 through December 31, 2012.
6 This amended rule increases the cumulative trip limits for two species groups in Periods
7 5 and 6 of the Nearshore Fishery. Cumulative trip limits for black rockfish and blue
8 rockfish combined are increased from 1,000 to 2,100 pounds in Period 5 and from 800 to
9 2,100 pounds in Period 6. Cumulative trip limits for greenling species are increased from
10 250 pounds to 400 pounds in both Periods 5 and 6.
11

12 **3. 635-041-0075**
13 **Additional Treaty Indian Fall Commercial Gill Net Fishery Set In Columbia River**

14 Adopted September 17, 2012: effective September 18, 2012 through October 31, 2012.
15 Amended rules set an additional Treaty tribal gill net fishery for all of Zone 6 in the
16 Columbia River and allow commercial sales of fish caught during that fishery. This fall
17 gill net fishery begins at 6:00 a.m., Tuesday, September 18 and runs through 6:00 p.m.
18 Friday, September 21, 2012 (3.5 days). Sales of fish from this gill net fishery are
19 authorized beginning at 10:00 a.m., Tuesday, September 18. Modifications are
20 consistent with action taken September 17, 2012 by the Columbia River Compact
21 agencies of Oregon and Washington in cooperation with the Columbia River Treaty
22 Tribes.
23

24 **4. 635-042-0031**
25 **Additional Fall Commercial Drift Gill Net Seasons Set for the Mainstem Columbia**
26 **River**

27 Adopted September 17, 2012: effective September 18, 2012 through October 31, 2012.
28 Amended rule authorizes three additional fishing periods for the 2012 fall commercial
29 salmon drift gill net fishery in the Columbia River mainstem in Zones 4 through 5. The
30 first authorized fishing period begins at 8:00 p.m., Wednesday, September 19, 2012.
31 Modifications are consistent with action taken September 17, 2012 by the Columbia
32 River Compact agencies of Oregon and Washington.
33

34 **5. 635-021-0090**
35 **Unity Reservoir Trophy Bass Protection**

36 Adopted September 18, 2012: effective September 21, 2012 through December 31,
37 2012.
38 Amended rule prohibits harvest of bass from Unity Reservoir. Due to low water storage
39 levels currently at Unity Reservoir, the trophy-sized bass stocked there in 2011 are
40 highly vulnerable to over-harvest. Rule modifications provide protection of these fish
41 from over-harvesting. Because bass recruitment is low in this reservoir, this rule will also
42 protect younger year-classes of bass from being over-harvested.
43

44 **6. 635-039-0085**
45 **Central Oregon Coast Subarea (Cape Falcon to Humbug Mountain) Nearshore**
46 **Pacific Halibut Season Reopens**

47 Adopted September 19, 2012: effective September 24, 2012 through October 31, 2012.
48 This amended rule reopens the Nearshore sport fishery for Pacific halibut in the area
49 between Cape Falcon and Humbug Mountain, Oregon at 12:01 a.m. on Monday,

1 September 24, 2012. The reopening allows opportunities to harvest the remaining
2 Central Coast Sub-area quota and the projected remaining Columbia River Sub-area
3 quota that becomes available on October 1, 2012. This rule is consistent with
4 regulations that have been implemented by the federal government and the International
5 Pacific Halibut Commission for the 2012 Oregon Pacific halibut recreational fishery.
6

7 **7. 635-041-0075**

8 **Additional Treaty Indian Fall Commercial Gill Net Fishery Set In Columbia River**

9 Adopted September 25, 2012: effective September 26, 2012 through October 31, 2012.

10 Amended rules set an additional Treaty tribal gill net fishery for all of Zone 6 in the
11 Columbia River and allow commercial sales of fish caught during the fishery. This fall gill
12 net fishery begins at 6:00 a.m., Wednesday, September 26 and runs through 6:00 p.m.,
13 Friday, September 28, 2012 (2.5 days). Modifications are consistent with action taken
14 September 25, 2012 by the Columbia River Compact agencies of Oregon and
15 Washington in cooperation with the Columbia River Treaty Tribes.
16

17 **8. 635-042-0060**

18 **Additional Fall Commercial Drift Gill Net Seasons Set for the Mainstem Columbia
19 River**

20 Adopted September 25, 2012: effective September 27, 2012 through October 31, 2012.

21 Amended rule authorizes three additional fishing periods for the 2012 fall commercial
22 salmon drift gill net fishery in the Columbia River mainstem in Zones 1 through 5. The
23 first authorized fishing period begins at 7:00 p.m., Thursday, September 27, 2012.
24 Modifications are consistent with action taken September 25, 2012 by the Columbia
25 River Compact agencies of Oregon and Washington.
26

27 **9. 635-060-0040**

28 **Amend rule to authorize deer and elk tags for Active Members of the Armed
29 Forces**

30 Adopted September 26, 2012; effective September 26, 2012 through March 15, 2013.

31 Time off can be difficult for persons in the military to plan and is prone to change.
32 Members of the Armed Forces with Oregon resident status, returning to Oregon after tag
33 sale deadlines are currently permitted to purchase general season tags for themselves.
34 The adoption of these rules would provide a mechanism for Oregon's active duty
35 members of the Armed Forces stationed out of state to obtain a controlled deer or elk
36 hunt tag if they return to Oregon on leave during the season so they can hunt with their
37 family and friends. To qualify for these tags individuals must be from Oregon, currently
38 stationed out of state, and maintain Oregon residency.
39

40 **10. 635-041-0075**

41 **Additional Treaty Indian Fall Commercial Gill Net Fishery Set In Columbia River**

42 Adopted October 1, 2012: effective October 2, 2012 through October 31, 2012.

43 Amended rule sets an additional Treaty tribal gill net fishery for all of Zone 6 in the
44 Columbia River and allows commercial sales of fish, except white sturgeon, caught
45 during that fishery. This fall gill net fishery begins at 6:00 a.m., Tuesday, October 2 and
46 runs through 6:00 p.m., Thursday, October 4, 2012 (2.5 days). Modifications are
47 consistent with action taken October 1, 2012 by the Columbia River Compact agencies
48 of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

1
2 **11. 635-042-0060**
3 **Additional Late Fall Commercial Drift Gill Net Seasons Set for the Mainstem**
4 **Columbia River**

5 Adopted October 2, 2012: effective October 4, 2012 through October 31, 2012.
6 Amended rule authorizes five additional night time and one daytime fishing periods for
7 the 2012 late fall commercial salmon drift gill net fishery in the Columbia River mainstem
8 in Zones 1 through 5. The first authorized fishing period begins at 7:00 p.m., Thursday,
9 October 4, 2012. Modifications are consistent with action taken October 2, 2012 by the
10 Columbia River Compact agencies of Oregon and Washington.
11

12 **12. 635-023-0095**
13 **Columbia River White Sturgeon Recreational Fisheries above Wauna Power Lines**
14 **Rescinded**

15 Adopted October 2, 2012: effective October 20, 2012 through December 31, 2012.
16 This amended rule rescinds a white sturgeon fishery previously authorized for the
17 Columbia River above the Wauna power lines from October 20 through December 31,
18 2012 due to the expected attainment of the pre-season harvest guideline. Modifications
19 are consistent with action taken October 2, 2012 by the Columbia River Compact
20 agencies of Oregon and Washington.
21

22 *Action: Commissioner Webber moved to approve the 12 administrative temporary*
23 *rules. Commissioner Finley seconded the motion, and the motion carried*
24 *unanimously by a vote of six.*
25

26 **Exhibit A: COMMISSION MINUTES**

27 Chair Levy deferred the draft September 7, 2012 minutes to the December meeting.
28

29 *Action: Commissioner Akenson moved to approve the draft August 3, 2012*
30 *Commission minutes as proposed by staff. Commissioner Wolley seconded the*
31 *motion, and the motion carried unanimously.*
32

33 **Exhibit B: SALMON AND TROUT ENHANCEMENT PROGRAM (STEP) ANNUAL**
34 **REPORT**

35 Kevin Herkamp, STEP Coordinator, introduced Dave Dunahay, a member of Salmon
36 and Trout Advisory Committee (STAC). During a slide presentation, Dunahay discussed
37 the *2011 Annual Progress Report* that covers October 2010 to September 2011.
38

39 Dunahay said STEP is 30 years old. Its purpose is to restore and enhance native salmon
40 and trout populations and habitat, and to provide opportunity for volunteer participation.
41 Since 1981 more than 317,335 volunteers have provided over 3,078,329 hours and
42 worked on over 34,078 projects. Volunteers have released over 152,102,199 fish.
43 Dunahay said this equates to an average of 49 FTE per year over 30 years and
44 \$60,076,788 worth of donated time. He discussed 2011 volunteer hour contributions by
45 the four STEP project categories:

- 46 1. Fish and Habitat inventory and monitoring – six percent.
- 47 2. Habitat enhancement and restoration – three percent.
- 48 3. Fish culture – 61%.

1 4. Education, outreach, and program development – 30%.
2

3 Dunahay presented STAC and staff recommendations:

- 4 • Improve recruitment and retention of new and younger volunteers.
- 5 • Encourage STEP involvement in reintroduction and recovery of listed stocks.
- 6 • Improve data collection and reporting (including use of GIS).
- 7 • Continue to support and provide opportunities for aquatic resource education
8 outside the classroom.
- 9 • Maintain current STEP staffing levels:
 - 10 ➤ Even though an increase in staffing is desired, given today's financial
11 environment maintaining is a priority.
 - 12 ➤ Provide adequate Service and Supply funding.

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

15
16 Chair Levy encouraged the Commission to attend STEP events; an incredible program.

17
18 **Exhibit C: WILDLIFE INTEGRITY RULES FOR POSSESSION AND REARING OF**
19 **TILAPIA; CONTROLLED MULLUSK OAR REFERENCES**

20 Rick Boatner, Invasive Species and Wildlife Integrity Coordinator, presented two items to
21 the Commission.

22
23 Issue 1: Whether to amend the Wildlife Integrity Rules, OAR 635-056-0075, related to
24 the possession and rearing of Tilapia for personal consumption. He said at their August
25 3 meeting, the Commission directed staff to develop rules for petitions submitted by
26 Bruce Smith, Mike Smith, and David Hasse. He discussed four items requested in the
27 Petition:

- 28 1. Add species of Mozambique tilapia (*Oreochromis*) and Blackchin tilapia
29 (*Sarotherodon*) to be reared.
- 30 2. Waive propagation permit for personal consumption. Boatner said staff
31 recommends for personal consumption to waive the requirement for a propagation
32 license. He said we have divided how it is decided based on what the use of
33 tilapia is. If you are raising it for commercial purposes, sale, barter, or trade then a
34 propagation license would be required. If you are raising it for personal purposes
35 in your greenhouse or garage the propagation license would be waived.
- 36 3. Define requirements for outdoor and indoor rearing.
- 37 4. Waive transportation fee. Petitioner wants to use invoice from propagator to serve
38 as a transportation permit, which is very valuable because it lets staff know where
39 the fish came from, where it's going, and how many. It is in Oregon Revised
40 Statute that OFDW has to issue that transportation permit. Staff does not
41 recommend that this be changed in the rules.

42
43 Issue 2: Administrative correction to update Wildlife Integrity Rules reference in OAR
44 635-056-0075(2) – Controlled Mollusks. Boatner said at the June meeting the
45 Commission adopted new rules for commercial shellfish statutes that made reference
46 material in the Wildlife Integrity Rules obsolete or inaccurate. Staff is asking the
47 Commission to accept the Division 005 – Commercial Shellfish and Marine Invertebrae

1 Fisheries as a whole in the agency's reference materials so staff will not have to update
2 it if there are any changes. It makes it consistent with other regulations of ODFW.

3
4 Commissioner Webber noted it states "in-doors" is a structure. Does structure mean
5 poles and a roof, where predators are not excluded. A garage is fine, as long as the door
6 is closed. How do we protect these fish from being exported out of this site if it is not a
7 closed area? Boatner responded, that is a technicality we missed. We defined outdoor
8 structures well but in-doors structures are lacking.

9
10 Chair Levy asked Legal Counsel to comment.

11
12 Legal Counsel Sanders said you could insert the phrase "**capable of excluding**
13 **predators**" right after the word "structure" and that parenthetical would address your
14 point. Commissioner Webber said that was his concern that we need to define that. In
15 terms of requiring a license is if you intend to sell, barter, or exchange it doesn't say you
16 need a license if you intend to propagate for your personal use. Then it says it has to be
17 in-doors. Is doing outdoors not permissible or can you do it outdoors if you cover it?

18
19 Boatner said propagation outdoors you would have to meet the requirements, but it
20 would not be for personal consumption, it would have to be for the other purposes.

21
22 Legal Counsel Sanders said presumably a person growing inside could grow Tilapia for
23 personal consumption if they got the propagation license. They would be allowed to get a
24 propagation license, even if they were growing inside in a greenhouse, and would need
25 to if you're going to sell or exchange. You could grow them outside for personal use, but
26 you'd still need to get a license.

27
28 Commissioner Webber asked where that was written. Legal Counsel Sanders referred
29 to lines 9 and 10, and starting on line 11 the exception for the in-doors. He said the
30 default position is you must have a license to propagate Tilapia. Commissioner Webber
31 said if we clarified the structure excluding predators it would cover his concerns. Legal
32 Counsel Sanders said "**capable of excluding predators**" would do that on line 12 of
33 page 4. Insert the word "**structure**" within the parenthetical.

34
35 Commissioner Finley asked if the license affirms that upon conclusion of their activity
36 they are not going to go dump them somewhere. Boatner said there is nothing in the
37 transportation permit that states they are not going to dump them but you need a
38 transport license to move live fish. Commissioner Finley clarified just a reminder to them
39 that they won't do it.

40
41 Eric Rickerson, Wildlife Division Deputy Administrator, said in regard to a definition of
42 structure, we could state "**enclosed structure capable of excluding predators**" that
43 would make it clearer. Chair Levy asked Legal Counsel if that would work. Legal Steve
44 Sanders said yes it is clearer. You could use only the word "enclosed" in the provision
45 about predators. If you add the part about excluding predators it makes it clearer to what
46 we are aiming at.

1 **Public Testimony:**

<p>David Hasse Eugene, Oregon</p>	<p>David Hasse, Petitioner, said he lives in Alaska but has a farm in Eugene, where he is a licensed propagator of Tilapia. He's unhappy with staff, who didn't return his phone calls, and their information is incorrect. There are approximately 30 species of Tilapia. Oreochromis and Sarotherodon are the two species of Tilapia and all the others are subspecies. He said Hornworm is the hottest breed in the market, and yet they are not on the list. That is the same with 26 other species. Tilapia is the third largest seafood in this country today, and will someday outpace salmon. It does not live outdoors; it's a tropical fish. People get tired of them and throw them in the rivers, but they don't survive. They slow down and are a target for other fish.</p> <p>Regarding the Transportation Permit, he submitted language to Boatner to fix the issue of the State Legislature requiring a transportation permit. It shouldn't be required for tropical fish, but the Legislature does require it and the Commission cannot override the Legislature. His proposed solution is to issue a transportation permit to licensed propagators, just as sporting goods stores issue hunting and fishing licenses. As far as the structure is concerned, he has no problem with the language presented earlier. The main issue is the definition of what a Tilapia is, wrongly eliminating 26 species, and the trip permit.</p>
---------------------------------------	---

2
3 Commissioner Akenson asked, what is the current way to obtain a trip permit? Hasse
4 said register as a licensed propagator and then you log onto Fish and Games website
5 and fill out a form. It takes three or four days. Commissioner Akenson said if someone is
6 buying fish from you what do they do? Hasse said they don't buy from us because we
7 can't sell them. But I have a waiting list of people who want to buy fish, and have taken
8 some orders in anticipation. Commissioner Akenson said the trip permit is for live fish,
9 but if they're processed you don't need a permit? Hasse said yes, hit them in the head.

10
11 Commissioner Finley said you made the statement that there are probably two dozen we
12 don't know much about. Why would we encourage licensing of a fish that we don't know
13 much about? Hasse said we know a lot about Tilapia; they have been farm raised for
14 5,000 years. Your staff doesn't know much about them. They are quite easy to find. I
15 have a list of 30 species, I'd be glad to give it to you.

16
17 Chair Levy said the Commission would not look at that list or expand upon it without
18 biological information; that would have to be taken care of at some later date.

19
20 Commissioner Anderson asked for clarification on the Transport Permit. She cannot
21 understand why someone who wants to buy fish for personal use through a licensed

1 propagator can't log onto the ODFW website and request a transportation permit to take
2 that from the site to their house. Hasse said that is not an option.

3
4 Chair Levy asked Boatner for clarification. Boatner said for Tilapia we use references
5 cited in the Wildlife Integrity Rules; the common and scientific names for American,
6 Canadian, and Mexican fish (American Society Special Edition 26). Currently in the
7 Tilapia species there are three genuses: 1) parachromis; 2) seradomis; and tilapia. They
8 are all based on the type of breeding they do. Parachromis is a mouth breeder, maternal;
9 seradomis is a parental mouth breeding, and the other species builds nests like other
10 fish do. So currently those five species I presented are listed in that category. The one
11 Hasse mentioned is a subspecies of the Wami, which is a chromis. With tilapia species
12 in the last 30 years they have changed the nomenclature drastically. At one time they
13 were all called Tilapia, and they changed it down to those three genuses. There is a wide
14 variety of common names and scientific names out there. We have to refer back to
15 what's listed in our OARs.

16
17 Chair Levy asked Boatner to speak to the Transport Permit issue. Boatner responded it
18 is required in statute to be issued by the Commission to transport live fish in Oregon. It
19 does not apply to dead fish. The cost is \$12. The permit tells us what propagator they got
20 it from, how many, and where it's going.

21
22 Commissioner Anderson clarified, someone who was purchasing for personal
23 consumption, would that permit apply to them or not? Boatner said yes, they would need
24 a transport permit to move fish from the propagator to their house.

25
26 *Action: Commissioner Wolley moved that the Commission accept Option 1, to*
27 *adopt rules to amend the Wildlife Integrity Rules related to Tilapia as shown in*
28 *Attachment 6, to specify "an enclosed structure capable of excluding predators"*
29 *as found on page 4, line 12, and also to correct the administrative changes to the*
30 *Wildlife Integrity Rules OAR 635-056-0075 relating to Tilapia, as shown in*
31 *Attachment 6. Commissioner Akenson seconded the motion, and the motion*
32 *passed unanimously.*

33
34 Chair Levy asked Counsel if that motion covered it. Legal Counsel Sanders said yes.

35 36 **Exhibit D: 2013 Oregon Big Game Regulations**

37 Tom Thornton, Game Program Manager, during a slide presentation talked in general
38 about the regulation process. He said in June the Commission adopted the tag numbers
39 for the 2012 hunts and approved the 2013 regulation concepts. He focused on three
40 regulations:

- 41
42 1. Tags for Active Duty Armed Forces. They are stationed out-of-state and are coming
43 home on leave. The main components are:
- 44 • 20 deer and 20 elk tags for each district; first come, first-served.
 - 45 • Valid for most deer and elk hunts.
 - 46 • Requirements to obtain a tag include active military ID and current leave papers.
 - 47 • Provide harvest and effort information.

1
2 Thornton said if you look at your packet it is not consistent. Verbage in the text was not
3 repeated in the OARs. He clarified that the text is actually the entire language.

- 4 • He said OAR 635-060-0040 (4) (c) got left off: **“Additional tags for Active**
5 **Members of the Armed Forces for each controlled hunt will not exceed 10%**
6 **of the tag number authorized by the Commission.”** See *Supplemental DRAFT*
7 *OAR’s October 5, 2012*
- 8 • Page 1, lines 28-29, the second portion of paragraph (7) did not get included:
9 **“Any additional fee for purchasing a tag after the tag sale deadline will be**
10 **waived.”**
- 11 • Page 1, a minor addition to paragraph (3), on line 11 insert in (a) **“A copy of an...”**
12 before **“... active duty military ID.”** They can fax or email their ID and don’t have
13 to be there in person with the original to apply for this.

14
15 2. Mandatory Harvest Reporting Rates. This has been up and running for four years.

- 16 • Propose penalty for 2012 deer and elk tag holders who do not report by the
17 deadlines.
- 18 • Begin penalty assessment December 2013 with purchase of 2014 hunting license.

19
20 3. Other Regulation Changes:

- 21 • Require allowing inspection of hunting equipment, consistent with fishing
22 regulations.
- 23 • Classify drones as aircraft when hunting.
- 24 • Spike elk definition – clarification.
- 25 • Require hunter to identify Wildlife Management Unit of bear and cougar harvest.

26
27 Thornton discussed proposed hunt changes for 2013:

- 28 • Pronghorn – expand Northside hunt area.
- 29 • Bighorn sheep – add second East Whitehorse hunt period.
- 30 • Deer – Expand South Paulina Bow and Muzzleloader hunts to unit wide. Delete
31 Simpson Creek Hunt.

32
33 **Public Testimony:**

Robert Kendall Hood River, Oregon	Bob Kendall is a bow hunter and owns an archery business. He is concerned with wounding and loss issues, and in particular, he expressed support for legalization of the lighted arrow nock in Oregon. Over 30 years he has used a number of devices and fletchings to enhance his ability to see the flight of his arrow. It has never been about increasing distance of the arrow shot, it has always been about recovery. He urged the Commission to support passage of use of this device.
Mike Morris Bend, Oregon	Mike Morris spoke in support of closing the Malheur hunting unit from harvesting mule deer bucks, in order to boost the population. He summarized staff’s proposal: let’s keep on

	<p>doing the same thing we've been doing for the past 40 years. He proposed 46 of the 47 units keep same season dates and structures with the same end results. He proposed to take one unit and do something different by stopping the harvest of bucks. He requested that staff give him a copy of their reaction to his proposal, which he received. They found a research project that supports their position, that mature bucks make no difference in the productivity of a deer herd. That report was from 1965 on whitetails. He said mule deer 20 years ago were the most important big game species in the west from an economic and participation standpoint. We've watched this go down consistently, to about a third of what it was in the 1960's. In the last 25 years, he can't find a single western state that's closed a significant area to hunting, even though 50-60 years ago it was common practice. Morris said the discussion shouldn't be about science because there isn't a lot of science. Isn't it time to do something different and see if we get a different result? In hindsight he shouldn't have selected the Malheur Unit because of the Mule Deer Initiative. If you really believe that the MDI will provide information that could make a difference, then approve my proposal. We can fix this, but doing the same thing again and again won't fix it.</p>
<p>Tim Logue The Dalles, Oregon</p>	<p>Tim Logue, rifle hunter and archer, testified in support of legalizing the lighted nocks. He distributed and read verbatim a letter dated 10-4-12 from Mike Slinkard of John Day who had testified at the Commission's June meeting. He said it mirrors his own views. His letter clarified several facts about lighted nocks; they aid in the ethical recovery of game, and do not give the bow hunter any added advantage. He concluded: "Making a simple rule change that reads "the use of electronic devices on bow or arrow is prohibited EXCEPT the use of battery operated lighted arrow nocks is legal" would be a simple and effective way to address this issue while also keeping intact the existing prohibition of other electronic devices."</p>
<p>Rich Thompson Newberg, Oregon</p>	<p>Rich Thompson, Traditional Archers of Oregon, said in the Commission's packet he wrote a letter thanking them for their decision although he realized it was not final. He asked to keep archery a simple primitive weaponry season, keep electronics and other gadgetry out of it. Thompson said he supported the \$10 mandatory fine for reporting. He believes the Commission needs to take a stronger stand. The Legislature proposed \$25, and he was disappointed in this.</p>

<p>Al Elkins Wilsonville, Oregon</p>	<p>Al Elkins, Oregon Hunters Association (OHA), brought to the Commission's attention, the new mandatory reporting and penalty language. <i>See page 3 of General Season and Regulations for Game Mammals, Divisions 065, Section 2, lines 26-29.</i> He said Ron Anglin and Commissioner Webber are working on changing this language, and he supports it.</p>
<p>John Stone Lebanon, Oregon</p>	<p>John Stone spoke in support of the use of lighted nocks, and of increasing involvement of children in archery. He said in modern archery we have reached our peak as far as arrow speeds, about 87% efficiency is as much as we are going to get. In regard to lighted nocks, we old folks can't see that arrow go. He distributed pictures of lighted nocks in a dark situation.</p>
<p>Craig Starr Lebanon, Oregon</p>	<p>Craig Starr, Oregon Bowhunters Association (OBA), spoke to several 2013 regulatory changes.</p> <ul style="list-style-type: none"> • Deer. OBA supports staff proposal to change South Paulina bow and muzzleloader hunts. • Elk hunt in Ochoco. Since 2003 rifle hunters have taken seven times more out than bow hunters. He urged staff to make sure next year's tags will improve the current equity in harvest. • Wenaha, Walla Walla and Mt. Emily elk units. OBA opposes preventing deer hunting by archers unless someone holds one of those tags. • Strongly support tags for Active Military. • Strongly support the need for Mandatory Reporting Penalty. Starr recommended implementing a \$25 fee and see what it does. If it doesn't help, go back to the Legislature. • Lighted Nocks. He said staff's report in June was grossly misleading. He received an email from Tom Thornton apologizing for a poor choice of words (see June 26, 2012 email, 9:15 a.m., Subject: Bend 2010 Lighted Nocks.) He has talked to 300 bow hunters to express support for lighted nocks. He thinks this is a credibility issue for the Commission and ODFW.

- 1
- 2 Commissioner Webber asked Starr if OBA supports lighted nocks. Starr said yes.
- 3
- 4 Commissioner Finley asked Elkins what the position of OHA is on lighted nocks. Elkins
- 5 said OHA has not taken that issue up specifically. Whenever it comes to technology, we
- 6 always listen to both sides. ODFW weighs in on where the biology is in relation to that

1 and then we make a decision. He said ODFW has drawn a line in the sand in relation to
2 technology over the years for both rifle and bow hunters and OHA supported that line.

3
4 Commissioner Finley said he understands and supports the evolving technology and
5 keeping the primitive approach. He has a hard time equating it with recovering an arrow.
6 He'd like someone to address the line drawn on nocks and why.

7
8 Thornton referred to a slide presentation that he gave a couple of years ago that
9 provided a quick overview of the issue. He said there were a lot of requests from archers
10 and manufacturers to allow more technology, such as lighted nocks and other finders.
11 We focused on electronic devices. In July 2010 at a meeting in Pendleton, staff put
12 together a table of what hunters felt was effective:

- 13 1. Crossbows – yes.
- 14 2. Cameras – no.
- 15 3. Lighted nocks – mixed.

16 The committee recommended unanimously to not changing any archery equipment
17 regulations. They were concerned about the slippery slope: if you allow one electronic
18 device, you allow others. In spite of the group's recommendation, staff proposed to allow
19 use of the three above items. They were lumped together at the last minute. People
20 commented that they could not be split. Other western states do not allow electronic
21 devices.

22
23 Commissioner Akenson said what is the definition of a primitive weapon for archery?
24 Thornton said there are a variety of levels of technologies used by archers. The intent of
25 a permanent weapons season would limit the use of technology. He said it is also illegal
26 in Oregon to use an electronic device on rifles and on remote controlled rifles.

27
28 Commissioner Webber said on Walla Walla, Wenaha, and Mt. Emily elk tags is it an
29 enforcement issue that we are requiring deer hunters to have a Controlled Elk tag?
30 Thornton said correct. If deer hunters are allowed in with a General Season tag, he didn't
31 know how to keep them from going in if they didn't also have a General Season elk tag.

32
33 Commissioner Webber said do we also limit cougar hunters, bear hunters, etc., and
34 would they pose the same problems? Thornton said potentially they could but hunting
35 these animals with a bow is not very common. Commissioner Webber said he
36 understands those problems but eliminating the deer hunters doesn't change the
37 dynamics. Thornton said the issue is that a person with a General Season deer tag is
38 required to have the elk tag for that unit.

39
40 Commissioner Webber, in regard to lighted nocks, said he understood a hunter could not
41 demonstrate an advantage in finding an elk? Thornton said that is correct, it allows them
42 to see the arrow and act as a tracer.

43
44 Commissioner Akenson said as we add new things to archery hunting she did not think it
45 was a good argument or ethical if we have lighted nocks or not. If we don't have the
46 ethics from the start technology is not going to improve our ethics; it is a personal activity
47 that improves our ethics. If we continue to add new things that makes us more

1 comfortable about taking shots that just continues the increase in archery technology
2 that will require more additional things that will make these more ethical hunts. She feels
3 that lighted nocks are not essential and that people can limit their own behaviors to be
4 ethical hunters regardless of their equipment. As an archery hunter she is concerned
5 they could start seeing decreases in hunting opportunities.

6
7 Commissioner Webber said regarding the Mandatory Reporting Penalty is it staff's
8 intention that if someone fails to report the next time, whether it is the next year or 10
9 years later, they apply for a license they pay the penalty and have to report? Thornton
10 said staff envisions that as a one-year off. If a person doesn't report with what we
11 propose they could not buy a 2014 license. If they they refuse to pay the penalty, they
12 also would not be able to apply for their preference points. There is some additional
13 leverage beyond the \$10 for many hunters. If you buy the license you can apply for your
14 preference points.

15
16 Commissioner Webber said if you were willing to skip every other year you would never
17 pay a penalty for not reporting? That is the intent you have? Thornton said that is the
18 way it has been envisioned and is something that can be clarified in rule.

19
20 Commissioner Webber asked what staff was intending the Commission to do. He asked
21 Legal Counsel is that what we are doing? Legal Counsel Sanders said the rule would
22 say they would not be able to obtain a license to hunt game mammals or game birds in
23 Oregon without first reporting and paying the license. It doesn't specify what year. So,
24 whenever you come again you are going to have to pay the penalty and do the reporting
25 for whichever year it was. If you intend it to be only one year, you would need to change
26 the language.

27
28 Commissioner Wolley referred to 635-065-0760 – Other Restrictions (Attachment 4 –
29 Draft OARs) regarding lawful inspection for the purpose of taking wildlife. Is there any
30 penalty related to not allowing an inspection? Legal Counsel Sanders said a violation of
31 any rule adopted by the Commission is a misdemeanor if committed with the appropriate
32 mental state that it is knowingly or willfully. It is a violation if committed without that.
33 Commissioner Wolley said you cannot plead ignorance? Legal Counsel Sanders said
34 you cannot plead ignorance.

35
36 *Action: Commissioner Finley moved to amend OAR Chapter 635-065-0010 titled*
37 *Mandatory Reporting Penalty, Section (2)(b) to read: "The penalty fee amount will*
38 *be \$25." Commissioner Webber seconded the motion and the motion passed by a*
39 *vote of five to one. Commissioner Akenson voted against the motion.*

40
41 Commissioner Webber asked for further discussion on deer hunting in the Wenaha,
42 Walla Walla, and Mt. Emily units. We should allow deer hunting there.

43
44 Deputy Director Melcher referred to page 79 in the draft 2013 Oregon Big Game
45 Regulations and said the proposed regulations show that our longstanding, e.g., Ochoco,
46 Sled Springs, Chesnimnus, have this specific language that mentions that deer hunters
47 must have the Controlled Elk tag in this unit. But it does not show that language for these

1 new units that we're proposing. It looks to me like they could continue to hunt deer in
2 these units without a valid controlled hunt elk tag. Please clarify.

3
4 Thornton said it is our intent that those be listed there; it's currently being revised.

5
6 Deputy Director Melcher said in the current draft before the Commission it is not include
7 but you are recommending that is included. As a matter of consistency we have several
8 other units with the exact same language that is proposed now for these three new units.
9 He does not know why we would exclude archery deer hunters from those units and not
10 some other units. For consistency we should take all of those up as one block.

11
12 Commissioner Webber asked Lt. David Anderson for his thoughts on this issue.

13
14 Lt. David Anderson, OSP Fish & Wildlife Division, said he was not part of the discussions
15 related to these units but the units in question contain coveted trophy animals. Over the
16 past few years the cases he's aware of that they have made specifically in the Wenaha
17 Unit related to trophy bulls have been by individuals that have possessed General
18 Season archery tags, and going into those units under the guise of once they bag the
19 animal and get it into the truck and have the tag on it, we cannot prove that they killed it
20 in that Wenaha or trophy Unit. These appear to be attempts to close that to protect those
21 trophy class animals but still give the people who have waited 15-to-20 years to draw the
22 tag the opportunity to hunt those animals.

23
24 *Action: Commissioner Anderson moved to amend the current rule that prohibits*
25 *the use of electronic devices on bow and arrow, to give exception to the use of*
26 *battery-operated lighted nocks. Commissioner Finley seconded the motion.*
27 *Commissioners Anderson, Finley, and Webber voted aye. Commissioners*
28 *Akenson and Wolley and Chair Levy voted nay.*

29
30 *Legal Counsel Steve Sanders said for the record the motion fails for a lack of a*
31 *majority. Chair Levy said Commissioners Levy, Akenson, and Wolley voted nay.*
32 *Commissioners Webber, Anderson, and Finley voted yes.*

33
34 *Commissioner Akenson moved to amend OAR Chapter 635, Divisions 008, 045,*
35 *060, 065, 066, 067, 068, 069, 070, 071, 072, 073, 078, and 080 as proposed by*
36 *staff, and to adopt the document entitled "2013 Oregon Big Game Regulations" as*
37 *proposed by staff with the earlier modifications, and to include changes in 635-*
38 *065-0010, as well as Exhibit D – Supplemental Draft OARs dated October 5, 2012*
39 *for the 2013 Big Game Regulations. Commissioner Finley seconded the motion,*
40 *and the motion carried unanimously.*

41
42 **Dr. Don Hansen – Certificate of Appreciation**

43 Roy Elicker introduced - State Veterinarian Dr. Don Hansen who recently retired. He said
44 Dr Hansen has worked with ODFW on many issues for many years. Anglin said ODFW
45 has a strong linkage with Oregon Department of Agriculture and has had a great working
46 relationship with Dr. Hansen. Dr. Colin Gillim, ODFW veterinarian, also thanked Dr.
47 Hansen for a wonderful eight years. Dr. Don Hansen said he reaped a lot of joy from

1 being the State Veterinarian. To be granted an immediate audience to this agency and
2 building a relationship was very gratifying. He appreciated an open door that he always
3 found. It was a two-way street. He is humbled and flattered by this recognition from an
4 agency as large and diverse as ODFW.

5
6 **Exhibit E: Mule Deer Initiative**

7 Don Whittaker, Ungulate Species Coordinator, provided the Commission with an update
8 on Oregon's Mule Deer Initiative during a slide presentation. Highlights:

- 9
 - Populations slowly declining over 30 years.
 - Confirmation by hunters, tag trends, harvests.
 - Unit-Specific actions plans focused on six areas: Habitat management; predator
12 management; disturbance and harassment; law enforcement; disease and
13 parasites; and population, harvest & hunting management.

14
15 Whittaker said after spending \$5 million over the last three years, are Management
16 Actions Working? Population response to habitat change takes time. We have two years
17 of activity in the MDI Units. He said we are starting to head in the right direction.

18
19 **Public Testimony:**

Al Elkins Wilsonville, Oregon	Al Elkins, OHA, said this is an incredible program and we salute the Department for implementing it. OHA would like to work with ODFW in getting more information out there in a timelier manner.
----------------------------------	---

20
21 Commissioner Webber asked Elkins if OHA had an opinion on Mike Morris' proposal to
22 close a unit to hunting. Elkins did not know where OHA would be on that issue.

23
24 **Exhibit F: Oregon Sage-Grouse Conservation Strategy Implementation**

25 Dave Budeau, Upland Game Bird Program Coordinator; and Autumn Larkins, Acting
26 Sage Grouse Coordinator, gave a slide presentation. Larkins gave the overview and
27 background timeline, emerging issues and potential risks to Oregon. She said ESA
28 listing factors identified five threats:

- 29
 1. Habitat loss and fragmentation.
 - 30 2. Harvest or over-utilization.
 - 31 3. Diseases or predation.
 - 32 4. Inadequate regulatory mechanisms.
 - 33 5. Other natural or manmade factors.

34
35 Larkins talked about Core Areas and the refinement of the conservation approach. She
36 showed three maps identifying Core Areas. She said breeding locations are 95% within
37 core areas. She also talked about the official map on the ODFW website, how staff uses
38 the map, and the use of the Core Area approach:

- 39
 - Core Area. Generally Habitat Category 1. Sites evaluated on a case-by-case
40 basis; avoid impacts.
 - Low Density. Generally Habitat Category 2. Sites evaluated on a case-by-case
41 basis. No net loss and with net benefit. Calculate mitigate acreage.

- Non-core Sagebrush steppe.

Bureau explained how the Core Area Approach was developed and how the state sage grouse plan is actually being used range-wide. BLM last year initiated a National Greater Sage Grouse Planning Strategy. They plan to amend 160 of their resource management plans dealing with sage grouse; in Oregon they'll amend eight plans, and revise two more. They've created a number of teams to facilitate this process.

- Large effort to amend RMPs throughout range of greater sage-grouse.
- Eight plans will be amended in Oregon; two revised
- Many "teams" created.
- BLM goal is to be done by May 2014.
- USFWS will consider BLM plans for listing decision in 2015.
- Creates range-wide approach.
- National IMs issued, defines: preliminary priority habitat and general habitat.
- Oregon was ahead of the curve.
- Oregon BLM adopted Core Area as Preliminary Priority Habitat.
- Low density included in Preliminary General Habitat.
- Oregon BLM also incorporating conservation guidelines from Plan. That report is in final stages of peer review and expected to be completed by November.

Larkins discussed the makeup and responsibilities of the Local Implementation Teams (LIT). Five teams are based on BLM district boundaries. LIT are tasked with identifying areas that share common threats to sage-grouse and prioritizing guidelines. She also discussed the Implementation of the Strategy and Tracking progress:

- Create a scorecard for USFWS.
- Utilize the projects identified within the Action Areas.
- Calculate acreages of work accomplished.
- Analyze lek trends by Action Area.

Larkins talked about the "Adopt a Lek Program". She said 46 volunteers counted and checked leks; 66 leks were counted. Funding provided by USFWS State Wildlife Grant Program and ODFW. She talked about applying for a grant in the following year.

Larkins reported about five large fires that have burned 1,021,753 acres in southeast Oregon. The most severe threat to wildlife habitat is invasion of exotic annual grasses.

1. Long Draw burned 582,313 total acres; 36% of core sage grouse habitat (231,249 acres); and 42% of low density sage grouse habitat (242,478 acres).
2. Miller Homestead burned 161,711 total acres; 92% in core; 8% in low density habitat. A lot of soil erosion.
3. Bonita Complex burned 18,188 acres; 98% core; 2% low density.
4. Ten Mile fire burned 14,036 total acres; 100% of core sage grouse habitat.
5. Holloway fire on Trout Creek Mountains burned 461,047 total acres; 215,542 acres in Nevada and 245,505 in Oregon. 90% was core sage grouse habitat and 10% was low density sage grouse habitat.

Larkins discussed Next Steps.

- 1 • Marking of sage-grouse; Judas Birds. Need Global Position System capability.
2 • Increased monitoring within fire areas.
3 • Working with BLM on post-fire restoration.
4 • Explore funding options for research.
5

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

8 **OTHER BUSINESS**

9 Chair Levy said she, Commissioner Webber, and the other Commissioners have been
10 discussing the Commission and the makeup of it. Commissioner Webber proposes to
11 bring a motion before the Commission.
12

13 *Action: Commissioner Webber moved that the Commission appoint Mike Finley*
14 *as the Vice-Chair of the Commission. Commissioner Akenson seconded the*
15 *motion. The motion passed unanimously by a vote of five.*
16

17 **Executive Session**

18 Chair Levy said the Fish and Wildlife Commission will now meet in Executive Session for
19 the purpose of reviewing and evaluating Director Roy Elicker pursuant to ORS 192.660
20 (2) (i). Representatives of the news media and designated staff should be allowed to
21 attend the executive session. All the members of the audience are asked to leave the
22 room. Representatives of the news media and Deputy Director Colbert are allowed to
23 attend. All other persons are asked to leave the room.
24

25 Reporters are directed not to report on the discussions during the executive session,
26 except to state the general subject of the session as previously announced. No decision
27 may be made in executive session. At the end of the executive session we will return to
28 open session and welcome the audience back to hear me adjourn the meeting.
29

30 **ADJOURN**

31 Chair Levy adjourned the public meeting at 4:26 p.m.
32