



Oregon Fish and Wildlife Commission Minutes

Meeting: September 6, 2013 - 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
4034 Fairview Industrial Drive SE
Salem, Oregon 97302

1
2 *Commission minutes are considered draft until approved by the*
3 *Commission at its next meeting.*
4

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

Bobby Levy, Chair	Roy Elicker, Director
Michael Finley, Vice-Chair	Debbie Colbert, Deputy Director
Bob Webber, Commissioner	Curt Melcher
Holly Akenson, Commissioner	Steve Sanders, Assistant Attorney General
Gregory J. Wolley, Commissioner	Erin Donald, Assistant Attorney General
Laura Anderson, Commissioner	Teri Kucera, Executive Assistant

8 **MEETING**

9 On Friday, September 6, 2013 at 8:05 a.m., Chair Bobby Levy called the Oregon Fish
10 and Wildlife Commission (the Commission) meeting to order. She said the meeting
11 would adjourn at 2:00 p.m. for the Oregon Department of Fish and Wildlife's (ODFW)
12 Open House and tour of its new location. Any agenda item not completed would be
13 deferred to a future date.
14

15 Director Roy Elicker welcomed the audience to ODFW's new permanent home and
16 invited all to the Open House at 2:00 p.m.
17

18 **DIRECTOR'S REPORT**

19 **Field Reports**

20 Northeast Region

21 Bruce Eddy, Region Manager, reported on projects to recover federally listed steelhead
22 on Birch Creek. He said West Birch Creek had a number of old irrigation diversions that
23 staff has been pulling out with irrigators. Eddy said in July the Commission adopted new
24 rules for the Oregon Wolf Plan. Staff has been working to put those new rules on the
25 ground. For instance, development of maps of know Areas of Known Wolf Activity and
26 development of a new email notification system of real time updates for those who sign
27 up for the emails. Staff has held training on the implementation of the wolf depredation
28 tax credit that was attended by 20 peace officers.
29
30

31 High Desert Region

32 Chip Dale, Region Manager, discussed work to remove brook trout to restore and
33 recover Bull Trout that reside in Sun Creek. Staff has been building barriers downstream
34 to keep brook trout from re-colonizing. The final phase will be to reconnect Sun Creek to
35 the Wood River. This will be the first of the populations that staff will be reconnecting to

1 have potential access to the lake system. Redband, native to Wood River, will be able to
2 get back into Sun Creek also. Dale said in 2005 the Commission adopted the Miller
3 Lake Lamprey Native Fish Conservation Plan and directed staff to remove a man-made
4 upstream passage barrier on Miller Creek downstream. Since 2010, staff has
5 translocated larval lamprey above Miller Lake to ensure multiple age classes are
6 present. Dale said this year staff moved over 2,500 larval lampreys. They take three to
7 five years to reach an adult stage where staff can detect them better.

8 9 Southwest Region

10 Larry Cooper, Region Manager, discussed staff's efforts to radio and GPS collar black-
11 tailed deer in the south Indigo Unit and Dixon Unit to help identify deer density by
12 landowner type paired with fecal DNA sampling. Cooper said last month a project
13 concluded with Department of State Lands (DSL) and Department of Forestry (DOF) on
14 elk forage enhancement on the Elliott State Forest. Staff mowed pastures to remove
15 reed canary grass to increase forage for big game. The new habitat has given deer
16 incentive to move from private lands to public lands. Lastly, Cooper said beaver entered
17 a riparian zone restoration project in Medford that Oregon Stewardship began in 2009.
18 In a matter of days, beavers caused damage to newly planted native trees. Staff
19 revamped some cages and placed protective wire mesh around the trees.

20 21 Northwest Region

22 Christ Wheaton, Region Manager, reported on staff's capture and collaring of Alsea Unit
23 black-tailed deer last month. He said staff and volunteers just completed a new angling
24 dock at Town Lake in the Pacific City area that was funded mostly by Restoration and
25 Enhancement (R&E) funding. Wheaton said staff used the Salmon River hatchery and
26 hatchery Chinook release of 200,000 tagged Chinook smolts to serve as an exploitation
27 rate indicator stock for north Oregon coast Chinook populations. As of August, the
28 research crew caught, tagged, and released more than 30,000 naturally produced
29 Chinook smolts from the Salmon River. Wheaton said an animal rights group claimed to
30 have released birds from ODFW game bird show pens at E.E. Wilson Wildlife Area.
31 None of the domestically raised birds choose to leave and stayed inside the pens.

32
33 Chair Levy welcomed Commissioner Wolley to the meeting.

34
35 Director Roy Elicker asked Wheaton to provide a progress report on the endangered
36 Columbia White-tailed deer translocation operation with the U.S. Fish and Wildlife
37 Service (USFWS) from the Julia Butler Hansen National Wildlife Refuge (JBHNWR) in
38 Washington to the Ridgefield National Wildlife Refuge near Vancouver, Washington.

39
40 Wheaton said a few weeks ago four White-tailed deer swam the river to Sauvie Island
41 and St. Helens Units. Staff is working with Washington Department of Fish and Wildlife
42 (WDFW) and USFWS about efforts for next year. He heard that USFWS has identified
43 funding to fix the dike so the imminent emergency nature may be over.

44 45 Conservation Program

46 Director Elicker said Holly Michael, Conservation Policy Coordinator, was at a climate
47 change meeting at Oregon State University in Corvallis, Oregon.

1
2 Information & Education

3 Roger Fuhrman, Administrator, said staff has doubled the number of field days available
4 for hunter education students this fall through additional federal funding that allowed staff
5 to hire nine temporary employees to meet that need. The field days are required for
6 students to complete a hunter education course and receive their certification. Fuhrman
7 reported on staff's locavore outreach and a recent archery and butchery clinic in Eugene
8 with the Bow Rack and the Portland Meat Collective. This week a panel discussion on
9 this topic will be held at the at the Association of Fish and Wildlife Agencies annual
10 conference at the Marriott Waterfront Hotel in Portland. Oregon is proud to host the
11 AFWA meeting that starts Sunday and runs September 8-12, 2013.
12

13 Ocean Salmon and Columbia River Program

14 Tony Nigro, Ocean Salmon and Columbia River Program Manager, discussed the
15 mainstem Columbia River Summer and Fall Chinook Fisheries. He said the fall fisheries
16 numbers today include the last week in August; different from his Field Report.

- 17 • Summer Chinook. Recreational was almost 2,500 adults. Sockeye run came in
18 slightly above the forecast of 1,800 adults. The commercial fishery harvested
19 almost 2,000 summer Chinook and 150 sockeye.
- 20 • Fall Chinook. Recreational fisheries harvested almost 25,000 adult Chinook. The
21 Buoy 10 season for coho remains open through end of the year. Coho take
22 through September 1 is under 7,000 fish. Recreational fishery as of August 31 is
23 just under 13,000 adults. Commercial fisheries harvested almost 46,000 fish.
24

25 Oregon State Police, Fish and Wildlife Division

26 Captain Jeff Samuels said one of their Baker City Troopers observed a mining operation
27 and located the suspects who were pulling water from a sluice box along Silver Creek.
28 Both suspects were cited for Unlawful Water Pollution in the Second Degree. He also
29 reported that a Tillamook Trooper issued citations to four subjects at Netarts Bay for
30 having 252 clams over their daily limit.
31

32 **Expenditure and Budget Report**

33 Director Elicker said they would forego the financial report today. ODFW is still in
34 transition from the last biennium and staff has been busy moving into the new building.
35

36 **Adopt Temporary Rules**

37 Director Roy Elicker asked the Commission to adopt the 12 temporary rules in the tan-
38 colored agenda starting on page 1 and through page 3.
39

40 **1. 635-042-0160, 635-042-0170 and 635-042-0180**

41 **2013 Fall Commercial Seasons Set for Columbia River Select Area Fisheries**

42 Adopted July 25, 2013: effective August 26, 2013 through October 31, 2013.

43 The amended rules set the 2013 fall commercial gill net salmon seasons for three
44 Columbia River Select Areas including: Blind and Knappa sloughs, Tongue Point/South
45 Channel and Deep River.
46

1 **2. 635-039-0085**

2 **Pacific Halibut Summer All-Depth Sport Season Closes from Cape Falcon to Humbug**
3 **Mountain**

4 Adopted August 8, 2013: effective August 8, 2013 through October 31, 2013.
5 The amended rule closes the summer all-depth sport fishery for Pacific halibut in the
6 area between Cape Falcon and Humbug Mountain, Oregon at 11:59 p.m. on Thursday,
7 August 8, 2013. The pre-season quota of total all-depth quota of 168,942 pounds has
8 been attained. This rule is consistent with regulations previously implemented by the
9 federal government and the International Pacific Halibut Commission for the 2013
10 Oregon sport fishery for Pacific halibut.

11
12 **3. 635-042-0145**

13 **Youngs Bay Salmon Season**

14 Adopted August 8, 2013: effective August 9, 2013 through October 31, 2013.
15 This amended rule modifies previously adopted gear regulations for the fall Youngs Bay
16 Select area commercial fishery to allow the use of additional weights and/or anchors
17 attached directly to the leadline in the lower Lewis and Clark River from the Alternate
18 Highway 101 Bridge to the powerlines upstream of Barrett Slough and in the lower
19 Walluski River from Fastabend's Dock upstream to the Highway 202 Bridge.

20
21 **4. 635-041-0045 and 635-041-0175**

22 **2013 Treaty Indian Fall Commercial Fisheries**

23 Adopted August 8, 2013: effective August 12, 2013 through December 31, 2013.
24 These amended rules allow commercial sales of fish caught during the Treaty Indian Fall
25 salmon platform and hook-and-line fisheries in the Columbia River and its Washington
26 tributaries. The fall platform and hook-and-line fisheries begin at 6:00 a.m., August 12,
27 2013. Implementation is consistent with action taken August 8, 2013 by the Columbia
28 River Compact agencies of Oregon and Washington in cooperation with the Columbia
29 River Treaty Tribes.

30
31 **5. 635-041-0075**

32 **Columbia River Treaty Indian Commercial Gill Net Salmon Seasons Set**

33 Adopted August 13, 2013: effective August 19, 2013 through December 31, 2013.
34 Amended rule allows commercial sales of fish caught during the Treaty Indian
35 commercial fall salmon gill net fishery in the Columbia River and its Washington
36 tributaries. The first period (2.5 days) of the fall gill net fishery is scheduled to begin at
37 6:00 a.m., Monday, August 19, 2013. Modifications are consistent with action taken
38 August 13, 2013 by the Columbia River Compact agencies of the states of Oregon and
39 Washington in cooperation with the Columbia River Treaty Tribes.

40
41 **6. 635-004-0275**

42 **Federal Actions and Management Measures Implemented for Commercial Fixed-gear**
43 **Groundfish Fisheries**

44 Adopted August 13, 2013: effective September 1, 2013 through December 31, 2013.
45 This amended rule implements in-season actions previously adopted by the federal
46 government for 2013 Pacific ocean commercial groundfish fisheries, including but not

1 limited to changes in limited entry and open access fixed gear groundfish and limited
2 entry fixed-gear short spine thorny head trip limits.

3
4 **7. 635-004-0375**

5 **Directed Commercial Sardine Fishery Second Allocation Period Closes August 22,**
6 **2013**

7 Adopted August 20, 2013: effective August 22, 2013 through September 14, 2013.
8 This amended rule closes the Second Allocation Period of the directed commercial
9 sardine fishery effective 12:01a.m., Thursday, August 22 through September 14, 2013.
10 These modifications conform state regulations to federal rule changes posted by the
11 National Marine Fisheries Service (NMFS) for public inspection August 16, 2013 with
12 intent to publish these changes in the Federal Register.

13
14 **8. 635-023-0130**

15 **2013 Buoy 10 Fall Recreational Seasons Modified**

16 Adopted August 20, 2013: effective August 23, 2013 through December 31, 2013.
17 This amended rule modifies the 2013 fall recreational Chinook salmon and steelhead
18 season regulations for the Buoy 10 area of the Columbia River to allow the retention of
19 only adipose fin-clipped or left ventral fin marked Chinook, effective Friday, August 23,
20 2013. Modifications are consistent with action taken by the Columbia River Compact
21 agencies of the states of Oregon and Washington on August 20, 2013.

22
23 **9. 635-023-0134**

24 **2013 Snake River Fall Chinook Sport Fishery below Hells Canyon Dam Opens**
25 **September 1**

26 Adopted August 21, 2013: effective September 1, 2013 through November 30, 2013.
27 This amended rule implements a fall Chinook fishery on the Snake River from the
28 Oregon-Washington border upstream to the deadline below Hells Canyon Dam
29 beginning September 1 through November 17, 2013, to coincide with State of Idaho
30 regulations for this concurrent fishery.

31
32 **10. 635-021-0090**

33 **Thief Valley Reservoir Sport Game Fish Harvest Opportunity**

34 Adopted August 22, 2013: effective August 24, 2013 through December 31, 2013.
35 Amend rule authorizes liberal catch limits and methods of take in Thief Valley Reservoir
36 beginning August 24. Due to low water storage levels, the reservoir will be drained of
37 storage water sometime in early September. Fish will then be trapped in isolated pools
38 and stressed by warm and turbid water. This rule provides anglers an opportunity to
39 harvest many of these trout before they are lost.

40
41 **11. 635-042-0031**

42 **Additional Early Fall Commercial Drift Gill Net Season Set for the Mainstem**
43 **Columbia River**

44 Adopted August 23, 2013: effective August 25, 2013 through August 31, 2013.
45 Amended rule authorizes an additional 9-hour fishing period for the ongoing 2013 fall
46 commercial salmon drift gill net season for the Columbia River mainstem in Zones 4
47 and 5. This additional fishing period begins at 9:00 p.m., Sunday, August 25, 2013.

1 Authorized sales include salmon and white sturgeon.

2
3 **12. 635-042-0031**

4 **Additional Early Fall Commercial Drift Gill Net Season Set for the Mainstem**
5 **Columbia River**

6 Adopted August 27, 2013: effective August 28, 2013 through August 31, 2013.

7 Amended rule authorizes an additional 5-hour fishing period for the ongoing 2013 fall
8 commercial salmon drift gill net season for the Columbia River mainstem in Zones 4
9 and 5. This additional fishing period begins at 9:00 p.m., Wednesday, August 28, 2013.

10 Authorized sales include salmon and white sturgeon.

11
12 *Action: Commissioner Webber moved to approve the administrative temporary*
13 *rules 1 through 12 as listed on the agenda. Vice Chair Finley seconded the*
14 *motion, and the motion carried unanimously by a vote of six.*

15
16 Director Elicker said three people wanted to testify under Public Forum.

17
18 **PUBLIC FORUM**

19 Chair Levy said this part of the agenda is for comments on topics not scheduled
20 elsewhere on the agenda. Please contact the Commission or the Office of the Director
21 at least 24 hours prior to the meeting to be included in the public forum. If you bring
22 written summaries or other materials to the meeting please provide the Commission
23 Assistant with 20 copies prior to your testimony. The Commission is unable to take
24 action on items brought to our attention in this forum today.
25

<p>Royal Johnson N/A</p>	<p>Royal Johnson said several years ago the Commission started a program requiring you to draw to hunt east of Hwy. 97. The Game Commission gave him these facts: 75% of tag sales and licenses are rifle hunters; 20% are bowhunters; and the other 5% are muzzleloaders and youth. He said:</p> <ul style="list-style-type: none"> • To hunt east of Hwy. 97, rifle hunters have to put in for that drawing in May. Sometimes it takes 3-4 years to get a tag in a unit we want. • A bowhunter can apply for only six units east of Hwy. 97. All the rest of them are open. They can buy a tag the day before season and go almost all over Oregon on that one tag. He said that is not right. • He's applied for the Wenaha Unit for 11 years and never gotten a tag. A bull hunter which is 20% of the hunters that draws for Wenaha get only 25 bull tags. How does that figure out? Bowhunters get the same number of tags as rifle hunters but get a longer period to hunt and a better time. He said that is discrimination. • Rifle hunters pay for 75% of the tags and licenses (part of ODFW's funding) but don't get the return on the hunting that the other 20% buys. It is harder to bowhunt but they
------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>get a 30-day season, five weekends a year, and can hunt at any time during that time. As an elk hunter, he gets five days.</p> <p>Johnson said everybody should have to draw May 20th or mid-May for a unit in eastern Oregon. Then the Commission would know how many people utilize those units.</p>
<p>Dave Walp Springfield</p>	<p>Dave Walp, a volunteer at Fern Ridge Reservoir and other events, said he attended a Northwest Region meeting in May and listened to Chris Willard discuss ODFW's Recruitment, Retention, and Reactivation Action Plan. He held up a copy of a pie chart for the ODFW 2013-15 Budget. He said a lot of the public, particularly hunters, don't know who is paying for what. What pushes them away is the cost of the application and tags. He talked to a family of four after a Hunter Safety program who was trying to figure out to afford the cost. Walp told them only two percent of the General Fund goes into ODFW. He said recently an Op Ed piece told the public that their tax money was being used to kill cougar when their tax money could be going to the schools. He referred to the budget pie chart and asked the Commission to consider putting the information in a newspaper article along with the Director's recent speech to staff about funding and what is happening to ODFW.</p>
<p>Michael Morris Bend, Oregon</p>	<p>Michael Morris made the following comments:</p> <ul style="list-style-type: none"> • Utah offers 2,800 limited entry elk tags to residents for \$280 with 40,000 applicants, and 250 tags to non-residents at \$800 per tag with 0,000 applicants. • Wyoming eight years ago introduced a program where non-residents could buy elk preference points for \$50 and \$40 for deer. Over 40,000 non-residents bought preference points; over 30,000 non-residents bought deer preference tags. That gets you zero tags; you're not even in the draw. You are giving them money to someday improve your chances. • Oregon has three great elk units: Walla Walla, Wenaha, and Mt. Emily. There are 180 tags for residents with 10,000 applicants. In 2011, ODFW gave non-residents two tags at \$150 each; 700 applicants applied. ODFW offered a couple thousand of spike-only tags in those three units that could not be given away. <p>Morris said ODFW is not doing trend counts on large numbers of units or hunter surveys on large numbers of hunts. There is research on the value of protecting deer and elk from excessive harassment by motor vehicles. In the last</p>

	<p>11 years in the green dot program, ODFW added 20 square miles. ODFW needs to do a mortality study in the Ochoco Unit. Morris said in the budget cycle, if ODFW goes for a 25% or 30% rate increase you will see 2011 all over again.</p> <p>Director Elicker said ODFW is taking a hard look at the funding issue for the 2015 Oregon Session. He urged Mr. Morris to work with Roger Fuhrman and staff who are working with hunting focus groups about how to provide more value and revenue for the Department.</p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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

Exhibit A: COMMISSION MINUTES

Chair Levy presented the draft July 12, 2013 Commission minutes for comment.

Action: Commissioner Anderson moved to approve the Commission meeting minutes for July 12, 2013. Commissioner Wolley seconded the motion and the motion carried unanimously by a vote of six.

Exhibit B: PROPOSED WATER EXCHANGE AT OXBOW HATCHERY IN CASCADE LOCKS

Director Elicker said the Commission requested to learn more about our proposed water exchange project with the City of Cascade Locks (the City) and Port of Cascade Locks (the Port) in the Columbia River Gorge. He asked Deputy Director Curt Melcher to organize informational panels from all sides of the issue so the Commission could have a better sense of what the project is and how it benefits a number of folks, including ODFW and the hatchery itself. He said this is just an informational briefing for the Commission.

Deputy Director Curt Melcher explained the process of putting together five panels and who they were. He said Representative Mark Johnson (House District - 52) and a staff member from Senator Chuck Thomsen (Senate District – 26) were in the audience. He said after Representative Johnson speaks the five panels will make their presentations.

Representative (Rep.) Mark Johnson, House District 52, said Oregon is blessed with an abundance of natural resources wealth that can be both enjoyed and utilized in a sustainable manner so that they can meet the needs for today and the future. He said the City strongly supports this partnership with Nestle because the project will bring good paying jobs and an increase to the City’s tax base. As a school board member in Hood River County School District he has had to reduce educational opportunities in Cascade Locks because of declining enrollment due to the lack of good paying jobs. He met with Nestle who hosted several community events and listed to the people’s concerns. He said critics of the relationship between Nestle and the City attempt to demonize Nestle as a predatory multiple international corporation out to take advantage of unsuspecting communities, but Cascade Locks has their eyes and ears wide open and believe the partnership with Nestle is in their best interest. Nestle has won awards for its environmental awareness, been recognized by Business Week as one of the best places

1 to launch a career, and recently received the Stockholm Industry Water Award for
2 leadership and performance to improve its water management practices.

3
4 Rep. Johnson said this is the type of responsible, natural resource development that we
5 need more of in Oregon. As the Commission hears the science and objective record
6 today, proponents' objections can be placed in two categories: 1) don't like multinational
7 corporations regardless of how they conduct themselves; and 2) don't believe
8 consumers should have the ability to drink water out of plastic bottles. He said the laws
9 and regulations that govern the natural resources of Oregon are set to make sure that
10 these regulations are met and the resource is well managed. He said the Legislature
11 does not envision a Commission or an agency making subjective decisions about what
12 type of industry or business should be able to have access to Oregon's natural
13 resources. As long as they play by the rules the playing field should be level for all.

14
15 **Oregon Department of Fish and Wildlife**

16 Chris Wheaton, Northwest Region Manager, provided an overview of Oxbow Hatchery.
17 Constructed in 1913, it was relocated to its present site in 1937 after construction of
18 Bonneville Dam. The springs, reservoir and hatchery sit on 33.5 acres of ODFW owned
19 land. Oxbow operated as a state-funded hatchery until 1952 when it was remodeled and
20 expanded as part of the Columbia River Fisheries Development Program (the Mitchell
21 Act) to enhance declining fish runs in the Columbia River Basin. Wheaton said 75% of its
22 funding is from Mitchell Act funds and 25% from Bonneville Power Authority funding.

23
24 Rick Kepler, Fish Division Water Quality Section Manager, said there are a number of
25 hatchery water rights for Oxbow Hatchery. The 1951 priority date for 10.0 cfs is the one
26 proposed for the exchange with City of Cascade Locks and was acquired after the
27 hatchery was remodeled in 1950s. The Satellite Ponds at Herman Creek are not part of
28 the spring system; the 1922 priority date is for 20.0 cfs.

29
30 Wheaton said the majority of water for Little Herman Creek Satellite facility and the
31 hatchery come from the Middle Spring, East Spring, and a third smaller spring that flows
32 into a spring reservoir. The water is piped directly to the hatch house because the
33 springs are pathogen free water used for egg incubation and early fish rearing. The
34 spring reservoir supplies flow for the hatchery rearing ponds and race ways which
35 represents the bulk of the water used at the hatchery. Staff does not collect adults or
36 release fish here but hatch about 825,000 eggs. The setup runs 1 cfs of the spring water
37 through the hatch house and could accommodate about 2 cfs of water. Twelve rearing
38 ponds rear coho, spring Chinook, and sockeye; total production is about 1.9 million eggs.
39 He said the flow from the springs varies seasonally. Staff plans its production at the
40 facility based on the seasonal flows. Current annual production is: 1.6 million coho;
41 140,000 spring Chinook; and 125,000 of Redfish Lake sockeye.

42
43 Kepler said the Exchange allows ODFW to maintain control of its water right. ODFW
44 would provide the City with .5 cfs of spring water year around. In exchange, ODW would
45 ask for its volume of water June to December which would be 1 cfs for these six months
46 resulting in .5 cfs of water to be more flexible for hatchery production later in the summer
47 and fall. Kepler said it would provide:

- 1 • Increased flow during hatchery low flow period in the late summer.
- 2 • Additional flow in Little Herman and Herman Creek.
- 3 • Water redundancy for hatchery; connection to groundwater in case something
- 4 happened to the spring.

5
6 Kepler discussed the three current proceedings:

- 7 1. Forfeiture proceeding (partial cancelation). He said ODFW has to have a valid
- 8 water right. A contested case hearing is scheduled October 15 and 16 before an
- 9 administrative judge.
- 10 2. Protests of transfers. ODFW is adding the springs as a point of diversion.
- 11 3. Protests of the Exchange. A public interest review is by the Water Resources
- 12 Commission (WRC).

13
14 Kepler said there are contested cases for each one of these. It would go before the WRC
15 and it could go before the Appeals Court and maybe to the Supreme Court.

16
17 Vice Chair Finley said he did not share Representative Johnson's view. For over 10
18 years he has worked nationwide trying to support groups protecting local water
19 resources. He said the history of the corporation is mixed at best. But his role here as a
20 Commissioner is what is best for the people of Oregon. He asked if anyone has run any
21 radioactive isotope tests of the spring water so we know the age of this water. Do we
22 know the source of these springs?

23
24 Kepler said they have not done any isotope tests, but have tested for pathogens and for
25 the ability to raise fish, both have shown positive. He said most likely it is fairly recent
26 water because it is more a surface type of groundwater flow than deep water.

27
28 Vice Chair Finley asked about the potential affect on satellite ponds. Kepler said the
29 Satellite Ponds have a water right from a different source Herman Creek, which is where
30 Little Herman Creek goes into. They are not connected here.

31
32 Vice Chair Finley referred to the transfer and asked what kinds of exit strategies are in
33 this? Is this seen as a temporary exchange agreement that is revocable upon the sole
34 discretion of the Department? Is it a termed permit? He was interested in the long term.
35 He said that Rep. Johnson used the term "sustainable", which is the basis of his
36 philosophy of life. But that has not always been the nature of this corporation (for
37 instance, there is back history at Poland Springs). Vice Chair Finley said everyone
38 should be looking at this with an exit strategy. How long? What rights are really
39 conveyed under what conditions? You need good attorneys on both sides of this.

40
41 Vice Chair Finley asked if staff is considering the structure of the Exchange Agreement.
42 Kepler said staff has not put that part together. ODFW will enter into an agreement with
43 the City and that it would be revocable by ODFW as part of the contract. Vice Chair
44 Finley said these agreements have a way down the road 25 or 50 years, when the
45 goodwill of the handshake and all the promises are long forgotten, of biting people who
46 are then living. He said that is the thing we must think about.

1 Commissioner Akenson asked if the proposed increase of 1 cfs in the summer and fall
2 would be used primarily to increase production at the hatchery or for increased instream
3 flows into Herman Creek. Kepler said both. More water will go through during the low
4 period and provide more flexibility in how you move fish in and out. All the water that
5 goes through the hatchery ends up in Little Herman Creek and down to Herman Creek, it
6 would increase the flow of those two creeks by a half cfs. Wheaton added that there is
7 an attractive coldwater refusia effect from the spring water in the Columbia.
8

9 Commission Akenson asked will the water you get from the City be treated water. How
10 will that affect the quality of water for rearing and hatching? Kepler said it will be
11 nontreated water from one of their wells that does not go through the City. Any treated
12 water would have chlorine in it, which is deadly to fish.
13

14 Commissioner Akenson said if there was a shortage or decrease in water available
15 either from the spring or from the wells, how will water be allocated priority wise between
16 the City, ODFW, and Nestle? Kepler said the agreement is not set up yet but we would
17 put factors into the agreement about how the water would be shared and when it would
18 be available and when not available. Commissioner Akenson asked staff to make certain
19 we don't have a potential liability or loss of flexibility if there was a problem with water
20 availability, and that we would not suffer from that due to this arrangement.
21

22 Commissioner Webber said if the 1 cfs from the City went away temporarily, would we
23 have the ability to stop the half foot of water that is going back to the City to supplement
24 the water at the hatchery? Kepler said that would be part of the agreement. In an
25 exchange you have to have an equal exchange of water. So you would have to adjust it
26 accordingly if water was not available and that would affect the agreement. Wheaton
27 said it has been the state's primary concern that ODFW is protecting the operations of
28 the hatchery and not entering into any agreement that would jeopardize those
29 operations. Commissioner Webber said our agreement is strictly with the City of
30 Cascade Locks? Kepler said yes.
31

32 Chair Levy said the spring water is pathogen free. What about the well water? Kepler
33 said the well water is pathogen free because we tested it and grew fish on it.
34

35 **Oregon Water Resources Department**

36 Phil Ward, Director of Oregon Water Resources Department (WRD), discussed the
37 Water Right Transfer and Exchange process from WRD and the WRC's perspective. He
38 said a Water Right has a:

- 39 • Priority Date. Kepler mentioned ODFW has a 1909 priority date in one of the
40 water rights of this hatchery; the year the Water Code was adopted in Oregon and
41 also known as a senior water right.
- 42 • Point of Diversion (where you take the water from) or Point of Appropriation (from
43 a well).
- 44 • Place of use.
- 45 • Quantity or Volume.
- 46 • Conditions or limitations. For instance, WRD responds to ODFW's comments on
47 fish screens and where they are needed for water rights.

1
2 Director Ward said the first piece is a Water Rights Transfer. To make this proposal
3 work there had to be some truing up of ODFW's existing water rights and transfers had
4 to be done relative to where you are diverting the water currently today with your existing
5 rights. He said a Transfer generally can be filed to change a water right to change its:

- 6 • Point of Diversion or Appropriation.
- 7 • Place of use.
- 8 • Character of Use and what it is used for.
- 9 • Priority Date does not change.
- 10 • Primary evaluation factors: 1) whether transfer would "injure" another water right;
11 and 2) whether it would "enlarge" the underlying water right.

12
13 For the Transfer Process, Director Ward said an application is filed and there is a Public
14 Notice and a 30 day comment period. WRD issues an initial determination that is mailed
15 to the applicant and the commenters. Another Public Notice and 30 day protest period
16 follows. If protests are filed and a settlement is not reached, WRD schedules a
17 contested case hearing and a Final Order is issued by the Director. If a protestor wanted
18 to continue to protest a Final Order they can request reconsideration by the Director and
19 ultimately by judicial review.

20
21 Forfeiture of Water Rights (ORS 540.610). Director Ward said when ODFW staff entered
22 this process relative to transferring the water rights it was asserted by some of the
23 protestors that ODFW had actually forfeited a portion of those water rights for nonuse
24 being the presumed reason. We are in the middle of a process to determine whether that
25 forfeiture actually occurred. He said under Oregon law forfeiture once it has been
26 asserted and an affidavit filed that it's presumed to have occurred, and that is a
27 rebuttable presumption. ODFW is presenting its evidence to rebut the presumption and
28 a there is a hearing in October to determine this. A contested case is underway relative
29 to the forfeiture process that we will be working through shortly. If the forfeiture is not
30 upheld and the transfers ultimately occur we move to the water right exchange.

31
32 Director Ward discussed the Exchange Process and said a Water Right Exchange is
33 used to trade two water right sources. It is not used to trade the underlying water rights.
34 He said to Vice Chair Finley's earlier question, the underlying water rights stay in place.
35 What is exchanged is the source of that water. When WRD issues a proposed order
36 there can be a hearing requested and if settlement attempts fail, WRD will automatically
37 move to a contested case hearing. He said this is a very involved process with
38 significant opportunities for the public to engage and weigh in on this.

39
40 Director Ward said Oregon statutes state the WRC shall allow the exchange unless the
41 proposed exchange would:

- 42 • Adversely affect other appropriations and water rights.
- 43 • Be too difficult to administer.
- 44 • Adversely affect the public interest – ultimately a determination has to be made.
- 45 • Would not work since water is not available to replace the water used under the
46 exchange.

1 The WRC may include any condition it deems necessary.

2
3 Using a slide, Director Ward walked the Commission through a flowchart of the
4 ODFW/Cascade Locks Transfer and Exchange process. He said WRD has received
5 4,500 comments on the Exchange that will ultimately be addressed if the Final Order by
6 WRD is not satisfactory to the protestors; then WRD would move to a Hearing Process.

7
8 Vice Chair Finley said is the architecture of the exchange agreement usually or
9 customarily a temporary exchange or are they permanent in nature? Director Ward said
10 generally an exchange of this nature is a permanent exchange of the source of water.
11 That does not mean that an exchange could not be undone in the future if the underlying
12 parties came to us and said this did not work and action is taken to revoke it.

13
14 Vice Chair Finley said it is always harder to back out of an agreement particularly when
15 there is political pressure by a corporate interest. Could it be conditioned to be a
16 temporary transfer based on certain conditions and criteria that are revocable at the
17 discretion of the Department? Director Ward said your agreement with the City could
18 include a number of different ways for that exchange to be moved to be undone.
19 Ultimately, he was not certain the WRD could create a temporary exchange in terms of
20 their process piece but certainly in terms of the agreement between the parties.

21
22 Vice Chair Finley said if it has not historically been done would you be willing to look at
23 your statutes and see whether this is maybe in the best long term interests of
24 Oregonians for other exchanges? Director Ward said certainly. We do have statutory
25 language regarding temporary transfers themselves, whether the transfer is done on a
26 temporary basis. He said the business we do in exchanges is fairly limited. It may be that
27 something similar could be added to that statute as well.

28
29 Commissioner Akenson asked if a water right is canceled through forfeiture proceeding
30 is that water volume then available to new uses to apply for. Director Ward said if a water
31 right is canceled, the water reverts to the public and would become available for new
32 appropriation or other users. Commissioner Akenson said on a first come, first serve
33 basis? Director Ward said generally that is how it is done. Commissioner Akenson said if
34 the spring is on someone else's property, then someone can still request a water right
35 from that spring? Director Ward said they would have to have access to the body of
36 water where the point of diversion would be needed. Permission from the agency would
37 be needed to get that done.

38
39 Commissioner Webber asked if the spring is on ODFW property. Legal Counsel Steve
40 Sanders said yes, all three springs are.

41
42 Commissioner Webber said the contested case on the water right only relates to a
43 portion of it? Director Ward said correct. Commissioner Webber asked if there is
44 limitation in reacquiring a water right based on that water flowing into the Columbia River
45 and the Columbia River needing additional water. Director Ward said when we evaluate
46 any new appropriation of water we evaluate whether there is water available for that
47 purpose; that would be a time evaluation.

1
2 Commissioner Webber asked if this transfer is dependent on a certain volume of water
3 and making it available. For example, if we go from 10 cfs and you canceled two so we
4 had 8 cfs, would that affect this transfer if we were only trying to transfer .5 cfs? Director
5 Ward said a transfer could move forward if there were water available to transfer. If the
6 full right was not transferred and a lesser amount of water could do the job and the
7 parties still wanted to move forward, he assumed a partial transfer of that nature could
8 move forward.

9
10 Chair Levy said the State has numerous pockets of critical groundwater areas. What do
11 we know about that aquifer? Director Ward said the groundwater in this area is not part
12 of a groundwater management area. We have not identified this as an area of particular
13 groundwater concern.

14
15 Chair Levy said for this transfer to go forward what is the criterion to determine whether it
16 is in the best public interest? Director Ward said the statutory criteria are injury and
17 enlargement. If it injures another water right or enlarges the underlying water we won't
18 move it forward. On the Exchange there is a broader criterion where WRD is charged
19 with considering the public interest; that is where more value judgments come in place.
20 He referred to the bottom slide on page 4 of his slide presentation and recapped why the
21 WRC would not allow the exchange.

22
23 Chair Levy asked Legal Counsel if ODFW is the water right holder above and below
24 Herman Creek; there is nobody above and below us. Legal Counsel Steve Sanders said
25 yes, we basically appropriate all of the water from the springs, run it all through the
26 springs and then discharge it into Little Herman Creek which almost immediately runs
27 into Big Herman Creek. He said there are no other water rights on that system.

28
29 Commissioner Akenson asked if the City has a groundwater right for a certain volume
30 and can it be increased in the future? Director Ward said yes, to increase that volume
31 the City would go through a new application process and the full process relative to
32 appropriating new water to do that. It would be an amendment to an existing right.

33
34 Commissioner Webber's said ODFW is trying to transfer a portion of its right to the City.
35 Does the City have to enter into the same process to transfer a portion of their water to
36 some other entity? Director Ward said ODFW is attempting to do internal transfers to
37 true up existing water rights in order for us to have a water right that is available to be
38 exchanged. Where you actually divert the water today is not what it says on your water
39 right. If that goes through you have the opportunity to exchange the source of that water
40 right with the City. The proposal is to ultimately make that swap of sources so Cascade
41 Locks can have access to the spring water and ODFW would have access to the well
42 water. Regarding the City marketing some of the exchanged water to Nestle, he did not
43 believe there would be an additional process because that falls under the ability of the
44 authorizing water right.

45
46 Commissioner Anderson referred to Vice Chair Finley's question that in the event of low
47 or limited water is it written into the contract who would come first. Would not ODFW be

1 first in line for that? Is there any question if there were low water years? Director Ward
2 said we are exchanging the sources of water. He assumed there would be an agreement
3 between ODFW and the City that if the City were not able to provide the water in that
4 agreement there would be some agreement to make sure that the hatchery was taken
5 care of. He said that is not part of the Water Right process; the underlying right as we
6 mentioned before remains secure.

7
8 Vice Chair Finley was trying to picture that this exchange is as permanent as Director
9 Ward described. He said ODFW has a hatchery with a spring on its property but has no
10 control where that water goes unless it goes back to WRD to reverse a transfer which
11 the City could object to. He said to try pulling back something you have given away it's a
12 fight and that is really worth looking into. Maybe the City and corporation would not like
13 that but there is an obligation on this Commission and Department to insure that the
14 water is of the right quantity and quality to produce fish for Oregon's waters.

15
16 Director Ward said this is out of the WRD and the Commission's purview. As Rick
17 Kepler articulated earlier the intent was to insure the stability of the agency's water
18 resource through agreements with the City.

19
20 Legal Counsel Steve Sanders agreed. He said that would be a side deal with the City of
21 Cascade Locks possibly built in as a condition to the Exchange but we could negotiate
22 that separately apart from the Exchange deal itself and presumably would.

23
24 Director Ward said the Exchange Process states, "The WRC may include any condition it
25 deems necessary" on an exchange; that could be included on something like that.

26
27 Chair Levy said you discussed place of use, quantity or volume. What are the conditions
28 of limitations on the City's wells? Director Ward said he did not know the specific
29 requirements relative today but asked the Chair if he could get the information to her
30 relative to the groundwater rights to the City. There is a rate and volume associated with
31 that right as well as other conditions. To make this whole thing work there has to be
32 enough room for the Exchange to work in exchanging those sources of water.

33
34 Legal Counsel Sanders said if you are asking what the City is currently allowed to do
35 with their water, it is a municipal water right which is an umbrella right. He said they're
36 entitled to do anything that is usual and ordinarily done with municipal water: homes,
37 yards, schools, all those things you would expect to have within a municipality. They are
38 not restricted as narrowly as you are on your irrigation right to own and irrigate crops.

39
40 Chair Levy asked if they have limitations on the amount of volume they can pump out?
41 What are those? Legal Counsel Sanders said yes, rate and duty. He suggested that the
42 City tell the Commission the exact rate and duty of what their water rights are. He said
43 they are confident that it is enough though to provide water for us to exchange. Chair
44 Levy said when the City comes up they can address that question.

45
46 **Business Oregon Department**

1 Carolyn Meece, Business Development Officer with Oregon Business Development
2 Department (OBDD), said her region covers Multnomah, Hood River, and Wasco
3 Counties. She discussed projects and studies in Cascade Locks funded by OBDD.
4 Meece said OBDD has helped with the marketing of their industrial site. The Port and
5 City are on OBDD's recruitment list for business leads. Meece said Nestle worked
6 directly with the City. She was asked in 2008 by the City and Port to work with Nestle
7 through the process. OBDD works this as a regular recruitment process and works with
8 different agencies to answer questions and provide information. OBDD is not a
9 regulatory agency nor decides whether this is a good or bad process. She said our goal
10 is to look at what a community asks us to do and to make sure it makes sense from the
11 state perspective. Cascade Locks is a distressed rural community that has sited some
12 small businesses in town, but in 10 years they have yet to site any industry in their
13 industrial park.

14
15 Commissioner Wolley said the benefit for Cascade Locks is 50 new jobs and increased
16 tax benefits. He asked to see the job descriptions and how much they would pay. Meece
17 did not have that information. She said OBDD used the numbers they received: 50 jobs
18 and a \$50 million construction project. Their economist looked at similar types of
19 industries but did not find any red flags. The City and Nestle could provide the numbers.
20 Commissioner Wolley suggested that she look at other bottling plants where these same
21 types of jobs would occur. Meece promised that information to Commissioner Wolley.

22 23 **City and Port of Cascade Locks.**

24 Tom Cramblett, Mayor of Cascade Locks, said last year during the mayoral campaign
25 candidates were 100% in support of Nestle coming to Cascade Locks; there was an 80%
26 voter turnout. He said revenues are tough for everybody. He agreed you have to be
27 careful about how you do things. There are corporations who have issues but
28 corporations are also headed towards understanding the problems they created and are
29 trying to be better partners with the public. He said we are looking to obtain a public and
30 private partnership because we cannot do it ourselves. We are a small town with very
31 little revenue and resources that lost its high school. Mayor Cramblett said the citizens
32 of Cascade Locks are in favor of this partnership.

33
34 Jess Groves, President of Port of Cascade Locks, has been a Commissioner for 17
35 years. He said the Port's job is to create jobs and economic development. All we have in
36 our little community to create jobs is water and wind for small boat sailing so water is
37 important to us. Regarding jobs they have been sitting stagnant for a number of years.
38 His job is the sustainability of the folks in Cascade Locks who have lost their school. He
39 said a good portion of their people support this project. They are scoping this project out
40 so nobody is going to come in and railroad them into any weird deals. They have
41 supported Bonneville, Eagle Creek, and Oxbow Hatcheries that are located close to
42 them. He said we see this as a win-win situation to get jobs and economic opportunity in
43 supporting this local hatchery and the state's sustainability of the fish being raised there.

44
45 Darrin Nichols is the Executive Director of Columbia River Gorge Commission (CRGC),
46 a two state public agency created by Oregon and Washington in 1987 through the Gorge
47 Compact through the National Scenic Area Act (NSA). Nichols made three key points:

- 1 1. There is a complicated relationship between natural resources and the
- 2 economic health of our communities.
- 3 2. We all think about protecting our resources and supporting the economy.
- 4 3. CRGC is focusing on collaboration and the solutions that protect resources
- 5 and enhancing the economy.

6
7 Nichols said he distributed *Collaborative Engagement Assessment – Columbia River*
8 *Gorge National Scenic Area, September 2012*, to underscore that CRGC is doing
9 business differently and finding good results using collaborative tools to solve problems.
10 He said the NSA is an 85 mile stretch of the Columbia River. The NSA Act gives Oregon
11 agencies, CRGC, and communities two fundamental purposes:

- 12 1. Protect and enhance natural scenic and recreational resources.
- 13 2. Support the economy of the area by encouraging development to happen
- 14 inside urban area boundaries (UAB) established by Congress and in addition
- 15 to UAB in Oregon's land use program.

16
17 Nichols said the combination of UAB set by the NSA Act and established in Oregon land
18 use law creates different and legal complexities for Cascade Locks. In order for the City
19 to amend its boundary requires the approval of GRGC or U.S. Congress. CRGC and
20 ODFW need to think differently about innovations to protect our resources but also to
21 help our communities thrive in the midst of landscape protected resources.

22
23 Gordon Zimmerman, City Administrator of Cascade Locks, said the City produces 7.3
24 million gallons of water per month (MGWM), sells 4.4, and uses .26. The City loses 2.84
25 MGWM (39%) through leaks in an old system consisting of concrete asbestos pipe and
26 old chip boiler piping. Through its Master Water Plan (WMP), the City wants to revamp
27 its water system loss to .84 MGWM through leaks. The City's water right is 4.0 cfs out of
28 Herman Creek but its current capacity with two wells is 2.2 cfs. Part of the MWP is to
29 increase production capability to 4.0 cfs so they can supply water to who needs it. He
30 noted on the *Water in Cascade Locks* slide (see page 4) he had ODFW's water right at
31 40.05 cfs but when he added up the numbers it totaled 39.0. He said Nestle is asking for
32 .5 cfs out of our 4.0 water right.

33
34 Zimmerman discussed the City's MWP. The plan is to negotiate with Nestle to increase
35 the City's capacity to pump up to 4.0 cfs by building a new well. Add a 12-inch water
36 main to the industrial park (to be paid by the Port) and build a new reservoir on the west
37 end for fire flow requirements (to be paid by the City). Build a new reservoir to eliminate
38 14,880 feet of old pipe and put a new 12-inch water main down WaNaPa Street to better
39 distribute water. The City and Port are to negotiate with Nestle on paying its fair share of
40 developing any infrastructure required to service ODFW and the City. He said new
41 increased water sales will pay off the debt service to construct the water line, reservoir
42 and new water main. He said ODFW gets 1 cfs for egg incubation and early rearing of
43 Chinook, coho, and sockeye salmon from July to December for free.

44
45 Zimmerman said the benefits to the City are:

- 46 • \$50 million construction project will have a \$3 million MWP construction project.
- 47 • Estimated 50 new jobs.

- 1 • Water sales and electrical sales will increase 100%.
- 2 • Waste water fees to City increase 30%
- 3 • Property tax base and tax collection income will increase 50% after Enterprise
- 4 Zone property Tax Abatement is completed. 2:36
- 5 • City gains partner to help with infrastructure improvements.

6
7 Vice Chair Finley asked Mayor Cramblett if he was willing to work with ODFW to insure
8 and hold harmless ODFW's water and think experimentally about a temporary exchange
9 or a year certain exchange where you revisit it. Mayor Cramblett said we need to look at
10 other ways about how we can do this and be careful not to take advantage of each other.
11 He is not interested in setting up their process that would take water away from Oxbow.
12 He said this is a win-win situation for Oxbow and he is open to working that out.

13
14 Vice Chair Finley asked Mr. Zimmerman how he felt about a modified process coming
15 out of WRD. Zimmerman said we would be happy to entertain time certain limits after
16 the infrastructure is built and in place. Even if Nestle goes away the City could still supply
17 the water to ODFW and insure that you have the flows that you need. The only
18 compensation we would require is that you pay the same rate everybody else pays.

19
20 Commissioner Wolley asked if the 50 temporary construction jobs will be rolled into
21 those 50 purely operational jobs at the plant once it is rolling. Jess Groves said Dave
22 Palais (from Nestle) was going to testify but his understanding is the construction jobs
23 are temporary but 50-54 jobs will start when the operation is started.

24
25 Commissioner Akenson asked about the new infrastructure development timeline.
26 Zimmerman said after they get the MWP back the City has to determine whether to
27 spend the \$3 million all at once or phase it. The Port is doing a portion to get the water
28 into the industrial park; it is not only for Nestle but the entire industrial park. We will look
29 at doing the reservoir in 2015 and hopefully the main water line transmission in 2016-
30 2017 before revamping four blocks of downtown, which is under ODOT administration.

31
32 Commissioner Akenson asked if the MWP is directly tied to the Nestle proposal. If Nestle
33 was not involved in Cascade Locks would the MWP still be implemented? Zimmerman
34 said the MWP is to determine what the City needs to do for its infrastructure whether
35 Nestle comes or not. The question is who is going to pay for it at that point. He said they
36 knew of the Nestle proposal and had their engineers look at what they will require to do
37 their portion. There are options in the MWP that will allow the City to insert Nestle but it is
38 still the infrastructure the City will have to do for its water system.

39
40 Commissioner Akenson said you are still developing where funding will come from to
41 implement the MWP which does include the Nestle piece? Zimmerman said one option
42 when they get the MWP is to do a "One Stop" consultation with OBDD who will tell the
43 City how much to raise their rates and how much money they will loan the City. Based on
44 that the City will figure out much they can do.

1 Mayor Cramblett added that they may have to go to their citizens and ask them to help
2 fund it. Groves said the plumbing up to the hatchery probably will not happen unless
3 Nestle will do that which is the agreement between the City and them.

4
5 Vice Chair Levy asked if the Port is under the Port of Portland's purview or are you
6 private. Groves said ports fall under ORS Chapter 777 and are municipalities that fall
7 under all government purviews and responsibilities. The only difference is the Port of
8 Portland's Commissioners are appointed by the Governor and every other port's
9 commissioners are elected by the people. We are all ports and are all individual.

10
11 Chair Levy asked if they have sought grants from the Port of Portland. Groves said no,
12 we seek grants directly from the State of Oregon. We just received a grant that came
13 through the City and County to the Port to fix the Bridge of the Gods for \$1.4 million. We
14 pursue our own monies and get funded by businesses that buy or lease property and
15 then we turn those funds back over to do more economic development.

16
17 **BARK, Food and Water, and Crag Law Center**

18 Alex Brown, Executive Director of BARK, said this deal was initiated in 2009 by Governor
19 Kulongoski about creating jobs. But the primary beneficiary is Nestle who would profit
20 from 100 million gallons of spring water it would bottle and sell every year and by
21 establishing its first bottling plant in the Northwest. In 2009 the benefit to Oxbow was an
22 increase in summer and fall hatchery water supply and possibly redundancy to the
23 existing supply system. Brown said Sierra Club and Oregon Wild have raised concerns
24 about the impact plastic water bottles have to the aquatic systems in Oregon. Food and
25 Water Watch and the Association of Federal, State, County, and Municipal Employees
26 raised concerns about Nestlé's track record on employee safety and corporate
27 accountability. He said new unforeseen barriers have come to light that put Oxbow
28 Hatchery operations at risk. This will be forwarded by the deal being considered between
29 ODFW, Cascade Locks, and Nestle.

30
31 Julia DeGraw, Northwest Organizer with Food and Water Watch, said from the beginning
32 there have been potential risks with a state agency tasked with protecting and enhancing
33 fish and wildlife in their habitats with becoming a partner with a water bottling company.
34 Bottled water is not a fish friendly industry starting with the plastic refineries that make
35 the bottles to the plastic bottles polluting waterways that damage fish habitat. She said
36 infrastructure needs to be built and updates are needed through the cooperation of the
37 Port, City, ODFW, and Nestle. A Nestle representative stated at a town hall in Cascade
38 Locks that the company's intention is to only have a Memorandum of Understanding with
39 the City regarding its bottling proposal. Without contractual or a binding agreement in
40 terms of the needed infrastructure and possible contingencies the Commission is
41 opening itself up to risks detrimental to the hatchery and springs. She asked the
42 Commission to look at these things.

43
44 Brown said the ability of the City to pump water uphill to the hatchery system was not
45 included in the fish feasibility study. He spoke to the February 25 presentation by Darrin
46 Eckman of Tenneson Engineering on its preliminary findings of the City's water system
47 (see packet with slides, video recording of Tenneson presentation to Cascade Locks City

1 Council, and Status of Cascade Locks Water Supply). Brown said the City can pump
2 950 gallons per minute from its two wells. According to Eckman, a 24 hour industrial
3 user could draw up to 300 gallons per minute. Draw of the 1 cfs for the hatchery between
4 June and December converts to 448 gallons per minute. These two commitments by the
5 City comprise 80% of the total pump capacity available. Per Eckman, "Any future
6 industrial or large water users are almost going to demand one of the existing wells."
7 Brown said drinking capacity, leaking pipes, and inadequate reservoirs comprise a
8 package of risk in the ability to deliver the volume and quality of water promised to the
9 hatchery.

10
11 Brown said there is a recent intergovernmental agreement between the City and the Port
12 that suggests that a new well could be excavated on Port property and new pipes built
13 for an industrial user and possibly new pipes for the hatchery. He noted that the Port's
14 PowerPoint presentation may have referenced the mention of a new well. He said this
15 agreement is vague and raises more questions than it does provide answers. He said a
16 water development by the Port is years into the future and is currently not right for this
17 discussion today.

18
19 Julia DeGraw highlighted risks assuming that ODFW does not lose a portion of its water
20 right to the contested case hearing and the water exchange is approved:

- 21 • How would the water be moved from the hatchery to the City? Who will foot the
22 bill and who will cover the cost of mitigation if something goes wrong?
- 23 • How will the water be transported from the City's wells to the hatchery? If pipes
24 prove improbable or prohibitively expensive could the hatchery function with water
25 being trucked through town in order to run its summer rearing operations?
- 26 • If Nestle does cover the cost of infrastructure to get the water to the hatchery and
27 from the City, who ends up maintaining that infrastructure and for how long?
- 28 • Nestle will have to build extractive infrastructure on ODFW's property. What
29 recourse will ODFW have if there is a negative impact to hatchery operations or
30 the springs?
- 31 • If the City does not have adequate water to give to ODFW and chooses to partner
32 with the Port to fix its water infrastructure needs, where will ODFW then get its
33 water? In terms of the Exchange would they then have to enter into a new water
34 exchange application with the Port?
- 35 • In the case of a summer fires if water is not available from the City what will
36 ODFW do to keep the hatchery running?
- 37 • How invested is the Commission in seeing this complicated and risky bottling
38 water deal through with benefits to the hatchery dubious and minimal at best.

39
40 Courtney Johnson, Crag Law Center, said they represent BARK and Food and Water
41 Watch in the contested case proceeding. She said the current challenge to the hatchery
42 water right sprung out of the protests to the transfer which is part of the Exchange
43 Process. The protests were filed in March 2012 (see her handout *Timeline of Legal
44 Action on Proposed Transfers and Exchange for Nestle at Oxbow Springs and flowchart
45 of same title*). Johnson said this is the first of potentially three case proceedings each
46 with the possibility of appeals to the Court of Appeals and Supreme Court. She said this
47 is not just a wait and see situation for the Commission. Each case involves commitment

1 of staff time and legal resources to see these processes through. Johnson said by
2 inserting itself into this process ODFW has actually opened up the future hatchery
3 operations to a risk; potentially the water right could be reduced.

4
5 Brown encouraged the Commission to withdraw from the Water Exchange process.

6
7 Commissioner Akenson asked how the risks that you are concerned about for the
8 hatchery affected you personally. What is the public interest and why are you so
9 concerned about the effect on the hatchery? Brown said BARK has a mission to protect
10 fish and wildlife and is focused on Mt. Hood National Forest (MHNH). The zone of
11 contribution for Oxbow Springs is through the MHNH down the escarpment of the
12 Columbia River Gorge and comes out by Oxbow Hatchery. We have an organizationally
13 dedication to public water that includes the surface waters of MHNH which we fight to
14 keep clean and cold. This is about 100 yards outside the boundaries of the MHNH.

15
16 Commissioner Akenson said have you worked in the past to support hatcheries and
17 water issues related to more opportunity for hatcheries related to water resources?
18 Brown said we have not in the past had any dealings directly with fish hatcheries
19 because they are outside the boundaries of the national forest.

20
21 Commissioner Akenson asked Julia to comment. DeGraw said Food and Water Watch
22 is concerned about maintaining water and the public trust and has an organizational
23 policy against bottled water and the commoditization of water as well as against the
24 privatization of water. She said we know if water is to be an economy source and a
25 human right then it needs to be in the public's hands and managed for the public good.
26 Personally, she has a concern about how public resources are used.

27
28 Commissioner Akenson said if we are transferring or exchanging equal quantities
29 between the City and ODFW is there really an issue here today regarding a loss of water
30 from the public? DeGraw said ultimately a water bottling facility is going to be extracting
31 water from this watershed and ultimately there is a net loss of water from this watershed
32 whether or not water is being replaced at the fish hatchery. The commoditization of water
33 is what brings us to this issue, and the appropriateness of a state agency engaging in a
34 water exchange for the obvious purpose of a water bottler.

35
36 Commissioner Akenson said you talked about trying to protect the hatchery and enhance
37 the hatchery operations, but it seems that your legal proceedings are actually potentially
38 damaging and creating risk for ODFW. How on one hand you can say we want to
39 support ODFW and want to protect your water rights, but you are trying to get forfeited
40 water rights and you are protesting the transfer and exchange. She said it doesn't match
41 up what you saying and what you are legally doing.

42
43 Brown asked if the Commission had seen the letter sent to Mr. Sanders in September.

44
45 Legal Counsel Steve Sanders said your settlement offer was forwarded to the
46 Commission, yes.

1 Brown said the letter they sent to Mr. Sanders referred to the settlement they think is a
2 viable opportunity to move forward in a way that will keep the operations of the hatchery
3 exactly the way they have happened for 60 years. He said our coalition believes that this
4 is an inappropriate relationship between ODFW and Nestle and that the transfer of this
5 water is inappropriate for the hatchery and puts the hatchery's operations at risk. The
6 time and energy that has been put into the defense of the transfer application was only
7 raised because of the Exchange Process that was initiated in 2009. We are committed
8 to following that process through and think we are doing the right thing.

9
10 Commissioner Akenson said she had difficulty in hearing that they want to support
11 ODFW and the hatchery when you are creating risk for the water right and creating that
12 additional staffing time which does not have to happen if you are not filing this forfeiture.
13 It is difficult to see that connection in your actions. Brown said they strongly believe that
14 pursuing this exchange is a significant risk to the hatchery.

15
16 Commission Akenson said more risk than what you are doing with requesting a forfeiture
17 of a 100-year water right? Brown said if the end result is that hatchery operations remain
18 in place and continue to be functional like the last 60 years then yes. Commissioner
19 Akenson said potentially the hatchery would not be able to function the same if some of
20 that water right is forfeited.

21
22 Courtney Johnson said just to be clear the only portion of the water right that would be
23 forfeited is water that is not being used currently. It's a question about whether
24 expanding the use of more water is appropriate if the hatchery is not currently using all of
25 the water that is available under the water right. It is not actually a threat to current
26 operations; it's a question about the quantity of water available for exchange in order to
27 expand operations at the hatchery.

28 29 **Nestle Waters North America**

30 Dave Palais, Natural Resource Manager for Nestle, has worked on this project since
31 2008 with Cascade Locks. He has been with Nestle Waters for 17 years and has a PhD
32 in geology. During a slide presentation, he said Nestle is the third largest beverage
33 company in North America with over 7,500 employees and 29 bottling facilities in the
34 U.S. and Canada. Nestle has six different regional water brands and also imports
35 bottled waters such as Perrier. Palais said three pinnacles define Nestle:

- 36 1. Bottle responsibility including innovation to reduce amount of plastic and increase
37 amount of recycled content in those bottles.
- 38 2. Water. Sustainable sourcing of water supplies; watershed improvement. Key
39 supporter of water education teachers or Project Wet.
- 40 3. Stakeholder Engagement. Willing to engage with communities such as Cascade
41 Locks for the last eight years. Transparency and commitments to the community
42 are important to Nestle. Have a siting framework that defines their process.

43
44 Palais said in Cascade Locks creating shared value translates to local employment
45 opportunities and support for local businesses. They held local town hall meetings and
46 shared a variety of studies including traffic, air quality, and noise. An economic study

1 was done by Bruce Sortie at Oregon State University that is close to being released. He
2 talked about Nestle Water's commitment to transparency and stakeholder engagement.

3
4 Palais said at full build out based on their other plants they estimate up to 50 full time
5 jobs at the bottling plant, not including construction jobs. Nestle pays its employees in
6 the top 50% of the region's wage scale for comparable jobs and provide benefits such as
7 health, dental, vision, vacation pay, 401-K, and profit sharing. He said about six months
8 before the plant opens Nestle will commission a wage survey for the area where people
9 are currently going for jobs and what comparable jobs are paying for the types of jobs in
10 Nestle, e.g., forklift drivers, machine maintenance mechanics, quality control technicians,
11 warehouse and logistics. Nestle will set its wages in the upper 50% of that wage survey.
12 Nestle will sponsor a variety of events from bike races to the local food bank.

13
14 Palais displayed a map of Water Quality Monitoring Network and said the map shows the
15 different areas where they have collected water and have done quality monitoring both at
16 the springs, Little Herman Creek, mainstem of Herman Creek, and the City's
17 groundwater wells. He noted they had done stabilized isotope testing not to look at the
18 age but to look at the sourcing to see if the waters from the springs, Herman Creek, the
19 City wells and the Columbia River and how they relate as far as sourcing. All of the
20 waters with the exception of the Columbia River show the same stabilized isotopic
21 signature meaning they are coming from the same source. Palais said Nestle has been
22 monitoring flow and water levels to insure that this project is sustainable with no adverse
23 impact to our neighbors or to the environment.

24
25 Palais said our opponents would have you believe that their concern is over water and the
26 public trust yet they don't seem to be acknowledging that there are 30 other water
27 bottlers in the state (see slide 8 – *Bottled Water in Oregon*) and they are not protesting
28 them. We would be joining an already existing industry. He said there are other water
29 bottlers in the Gorge: *H2Oregon* in The Dalles and *Water from the Hood* in Hood River.
30 He said the bottled water that serves the State Capitol is tankered from a spring source
31 in the Salmon River area in the Gorge to a bottling facility in east Portland where it is
32 processed into five gallon bottles and transported down to the Capitol.

33
34 Palais talked about Myth vs. Fact.

- 35 • At opponent's website: Nestle is trying to privatize Oregon's water. We are not
36 and want to become a customer of the community of Cascade Locks.
- 37 • Commission getting into an agreement with Nestle. You are not getting into an
38 agreement with Nestle; you are being asked to go into an agreement with
39 Cascade Locks.
- 40 • How will the water get back up to the hatchery? Palais said the best people to
41 ask is the engineers who designed the City's water system before because right
42 now the City pumps its water from the wells across I-84 to a reservoir above the
43 springs and up behind the hatchery. We should be able to do it now if they can get
44 it above the hatchery they should be able to get it to the hatchery.
- 45 • Nestle harvests water unsustainably. Not true. Nestle studies a spring for at least
46 a year and has studied these resources now going on five years and feels very
47 confident that this is a sustainable project.

- 1 • Spring water operation and hatchery are not compatible. He said that is furthest
2 from the truth. We have a number of spring operations on the east coast that are
3 actually operating with hatcheries. Palais offered to the Commission the
4 references to state regulators who see the hatcheries in Maine and then call them
5 and ask how Nestlé's relationship is with them.
- 6 • Bottled water is less safe than tap water. Nestle performs 200 tests/day on each
7 bottling line and meets or exceeds FDA standards.

8
9 Palais said their commitment is to work with Cascade Locks and ODFW to meet the
10 shared environmental and economic goals of all the organizations and we look forward
11 to continuing to be an active part of the community for the foreseeable future. More
12 information at www.nestlewaterspnw.com or info@nestlewaterspnw.com or call 1-877-
13 441-0444.

14
15 Vice Chair Finley referred to the isotope studies and said he didn't hear the source and
16 was sure that Nestle traced and had done testing to the source even though all their
17 sample points were in different areas. He asked Palais to explain to the Commission the
18 source of the water.

19
20 Palais said the source is precipitation on the uplands above the hatchery area following
21 up into the Mt. Hood National Forest; it percolates down through the landslide material
22 and then comes out by the springs. He referred to slide *Water Level and Flow*
23 *Monitoring Network* and said the amount of water that flows out of Oxbow Springs (the
24 recharge area up behind it) is too small to the amount of rain that typically falls in
25 Cascade Locks and the amount of water that flows out the springs. The recharge area
26 directly up gradient of the springs is too small to be the sole source of the water. He said
27 we believe most of that water coming out of the springs is being funneled over from the
28 Dry Creek drainage, a much larger recharge area that has similar isotopic signature.

29
30 Vice Chair Finley said on the isotopic signature do you have an age of when this fell as
31 precipitation on Mt. Hood? Do you know whether it is 20 years old, 50 years old, or three
32 years old? Palais said we have not done the age dating yet; no.

33
34 Vice Chair Finley said in your sustainability recycling do you ask consumers to recycle
35 their plastic bottles back to you so you can reformulate them? Palais said we are not in
36 the business of actually making the recycled plastic. At the beginning of this year the
37 Arrowhead brand introduced its first bottle that has 50% recycled content. We partnered
38 with a company in southern California that does collect the recycled content. He said that
39 is part of the problem right now is that there is not enough raw material, the recycled
40 plastic, to support the number of companies that are doing all of these recycled bottles.

41
42 Vice Chair Finley said that was the point of his question. Most of the bottling industry
43 would not support a deposit on bottled water and yet that would give you a source of
44 plastic. What is the position of Nestle on a deposit on bottled water? Palais said we are
45 very much for that and are working with some governments both in Canada and are
46 looking at states in the U.S. to try to launch some extended producer responsibility

1 programs which takes the responsibility off the consumers, the distributors, and the
2 sellers and puts it back on to the producers of product.

3
4 Commissioner Webber said if the Commission required as part of the Agreement that if
5 our source of water from the City stopped and we were not getting our one gallon and we
6 stopped giving away our half gallon is that something that Nestle could live with?

7
8 Palais said his responsibility to the company is to make sure that there is a continuous
9 supply of water to the facility after spending \$50 million to invest and having 50
10 employees work there. He said if this exchange disappears that employment becomes
11 an endangered species in Cascade Locks. Nestle does not want to see its name in the
12 newspaper being responsible for some problem at the hatchery. We are a consumer
13 product and consumers buy our product based on what they read and don't read about
14 us in the papers. We want to make sure that this operation runs smoothly and the
15 hatchery is protected. If the City is selling us water during the first half of the year when
16 you are not getting the water back the exchange requires that by the end of the year you
17 need to be made whole. So there is really not much of an option there if something
18 happens in the latter part of the year; the City still has to deliver the water to you so at
19 the end of the year it is an equal delivery back to the hatchery.

20
21 Commissioner Webber said if on October 1st there was some failure of the City water, we
22 would want back our half of gallon to supplement what we are using while they are
23 repairing their system which would shut you down. Palais said that is one of the things
24 the City and the Port have been looking at – the new well. The concept is that would be
25 a dedicated well to the hatchery and separate from the City's municipal system. The
26 intent is to have a separate dedicated well that is just for the hatchery and the delivery of
27 the water back with a primary and a backup pump.

28
29 Commissioner Webber said but if all that failed, would you have a problem with us taking
30 our water back. Palais said the Exchange requires the City to deliver that back. It is not
31 a question of does the City have the option because you have already delivered a certain
32 amount of water to the City that they have sold to us. The Exchange requires a delivery
33 of water back to make it equal.

34
35 Commissioner Webber said the City very well could deliver the portion of water they are
36 obligated to deliver but may not be delivering any water on the first of October which is a
37 problem for us. We would want to insure that if there was a stoppage of water from the
38 City that we could then take our half a gallon per minute back; half a cubic foot. Palais
39 said that is a fair thing to have discussions about. If you are not getting the water
40 delivered back then you turn off tap with the water going to the City. It has to be in some
41 sort of agreement and we all have to make sure our interests are being captured.

42
43 Commissioner Anderson said in addition to the half cubic foot per second of spring water
44 that Nestle is interested in is there any current or foreseeable future interest for Nestle in
45 the groundwater at Cascade Locks? Palais said yes. We have had discussions with the
46 City that this bottling plant will have two production lines. Both of them could do either
47 spring water or our Nestle *Pure Life* product which does not have to come from the

1 spring; it is a purified water product. He said that has been calculated into the City's
2 Water Master Plan as far as them having the capability to deliver that water to us.

3
4 Commissioner Anderson said in the event that this transfer does not go through would
5 Nestle still pursue bottling strictly off of the groundwater at Cascade Locks. Palais said
6 unlikely given that if was just going to be a purified water facility we would more than
7 likely locate that closer to the market in Portland or in some other place where the
8 distance to transport the product is not 40 miles out to Cascade Locks. It is the spring
9 water and location being in an area where there is 70 to 80 inches of rain and is clearly
10 sustainable that is what attracts us and draws us to Cascade Locks.

11
12 Commissioner Wolley said have you implied any share of the improvements that would
13 be borne by Nestle? Is all of that up to negotiation with the City at this point? Palais said
14 it is still pending negotiations. We have the expertise to drill a new well and have
15 consultants that know the geology and how to explore and develop a proper well. We
16 had discussions with the City that it would be appropriate for Nestle to be contributing to
17 the installation and development of the well and insuring the infrastructure is in place to
18 allow for the Exchange to occur. Making sure that the water can get back up to the
19 hatchery and that water can be delivered from the spring to the bottling facility.

20
21 Commissioner Wolley asked if Nestle intended to have a maintenance agreement as
22 part of that negotiation or are you assuming that all long term maintenance would be
23 borne by the City. Palais said because this is a food product and we are very particular
24 about the quality of the delivery system and the quality of the water coming through the
25 delivery system, we have talked to the City about our interest in having the maintenance
26 responsibility at least for the pipeline coming down from spring to the bottling plant.

27
28 Commissioner Wolley said based on the results of your wage survey you would be
29 paying the top 50% of that wage range. Enterprise Zones have job hiring preferences
30 and it sounded like the 50% of living wage rate was contingent upon the area becoming
31 an Enterprise Zone. How do you reconcile your wage study and make decisions about
32 how wages can be set through an Enterprise Zone.

33
34 Palais said they don't factor in the Enterprise Zone criteria in the wage survey or how
35 they establish the wages. The employee pool that will be applying for jobs at their facility
36 if they are all going to Portland now for work, we will have a wage survey done in
37 Portland six months before the factory opens and find out what the range that forklift
38 drivers are getting paid in Portland. We will set our wages in the upper half of that.

39
40 Vice Chair Finley said he understands the Exchange and that no losers in this are the
41 goal. He said timing of the water to the hatchery is critical; not just a repayment in
42 December before the end of the calendar year. He said Palais was trying to convey that
43 in a time of conflict that ODFW just turn off the spigot. We have no authority to turn off
44 the spigot because the Exchange is permanent and it is not our spigot anymore. How do
45 you propose to insure and protect the factory's interest in a time of scarcity?

46

1 Palais said if there is drought or a low water year there are other locations and springs
2 where we curtail our water use and our water withdrawals. Again, that is something he is
3 going to turn to their water rights attorney to make sure that there is a fair and
4 reasonable proposal on the table for all of the agencies and us to consider that is
5 protecting everybody's interests.

6
7 **Exhibit E: COUGAR MANAGEMENT PLAN and Exhibit F: OREGON STATE POLICE**
8 **ANNUAL REVIEW**

9
10 Director Elicker said the Commission will adjourn at 2:00 p.m. today. He said **Exhibit F:**
11 **Oregon State Police Annual Review** would be set over to the October meeting and the
12 public will have chance for public testimony on that.

13
14 Director Elicker suggested that **Exhibit E: Cougar Management Plan** be deferred to the
15 Commission's October or December meeting.

16
17 Ron Anglin, Wildlife Division Administrator, said they could hold the exhibit over until
18 October but it would create a conflict with the hunting community so holding it over to
19 December would insure they had the opportunity to attend the briefing. Director Elicker
20 said he had discussion with legislators about plan reviews. Was there any issue there if
21 this was set in December? Anglin said the only commitment we made for this year was
22 we would provide the informational briefing and this will not jeopardize that.

23
24 **Exhibit E: COUGAR MANAGEMENT PLAN** was deferred to the December meeting.

25
26 Director Roy Elicker announced that Steve Williams, Fish Division Deputy Administrator,
27 and Charlie Corrarino, Conservation and Recovery Program Manager, were both retiring
28 from ODFW. He invited the Commission to a retirement BBQ for both Steven and Charlie
29 on Saturday, September 21 at Eagle Fern Park in Estacada, Oregon.

30
31 Steve Williams said he was retiring from ODFW to work with Randy Fisher at Pacific
32 States Marine Fish Commission. His career with ODFW started in 1973 as a seasonal
33 creel checker. He will miss the people the most. He wished the Commission good luck
34 on several strong issues and to deal with them in a good manner as they have.

35
36 Chair Levy said those hard difficult issues were made a lot less difficult and less stressful
37 thanks to Steve's guidance and information to keep them informed. The Commission
38 appreciated it very much and wishes him the best.

39
40 **Emerging Issue - New Wolf Rules**

41 Director Elicker said he wanted an emerging wolf rule issue put on the public record and
42 to make the Commission aware of a situation that he was just made aware of this
43 morning regarding our new wolf rules and issues with the Umatilla pack.

44
45 Ron Anglin said in July the Commission adopted permanent rules that mirrored the
46 temporary rules that had been adopted earlier on how to deal with wolf depredations as
47 a result of the settlement we had. Within that once we had depredations that occurred

1 when the second one occurred we were required to establish an Area of Known
2 Depredating wolves and also develop a wolf conflict deterrence plan. On the Umatilla
3 pack those actions were triggered with the second depredation that occurred. He said we
4 started working on that; unfortunately, we missed the fourteen (14) day window. By rule
5 the second depredation that occurred, while it is a confirmed wolf kill, would not qualify
6 towards chronic. We still need to have three in order to qualify for chronic. Anglin said
7 he and Bruce Eddy have worked closely on this during the last week and are confident
8 we will not miss it again. It was a situation where we have new rules and are trying to do
9 it right and we just missed the deadline. We have not told our constituents yet of this but
10 it is a read of the rules and in line with the rules.

11
12 Commissioner Akenson asked if the 14 days is a reasonable amount of time, or is it just
13 because this is the new first time doing it that is the problem. Or are we always going to
14 have a problem? Anglin said it was a great point of negotiation within the mediation. We
15 started out at 30 days and the livestock community wanted seven days. We negotiated
16 towards the middle. Originally it was fourteen calendar days and we said that was
17 unacceptable. Everybody agreed to 14 working days. He said we can do that. It was
18 this time because we were trying so hard with the first one to get it right that we lost track
19 of time and we missed the deadline.

20
21 Commissioner Akenson asked how hard it is with two incidences on a pack to come up
22 with an Area of Known Wolf depredation. Bruce Eddy said it is not the issue of coming
23 up with the provisions of the plan, it's the coordination components that the rules call for
24 and finding the right people to talk to. We were trying to do it right and just missed the
25 deadline on this one. Anglin added that some of the people they were trying to
26 coordinate with had jobs and they were unavailable. He said we learned from it.

27
28 Commissioner Akenson asked if staff had heard anything back from stakeholders, either
29 cattlemen or environmental groups. Anglin said we have not informed the stakeholders
30 at this point. Once we brought you up to speed then we will make the calls to them.

31
32 Commissioner Akenson said thanks for the good work on making sure the first one was
33 done right. We will move on from there. Anglin said the groups we were enjoined within
34 the litigation are very aware of the timelines. They were making calls and asking what
35 are you doing in watching closely. If we tried to wiggle out of it he was confident we
36 would be in court.

37
38 Chair Levy asked how we dropped the ball if they are calling you and saying the timeline
39 is going. What happened? Anglin said they waited after.

40 41 **Exhibit C: FISH RESTORATION AND ENHANCEMENT PROGRAM**

42 Josie Thompson, Restoration and Enhancement (R&E) Program Coordinator, presented
43 fourteen projects that the R&E Board recommended for funding at their meeting in
44 Lakeview on July 26, 2013. The recommendations included five restoration projects
45 totaling \$181,000 and nine enhancement projects totaling nearly \$300,000. She said the
46 recommended total for the second funding cycle is \$477,000. If all of these projects are
47 approved today \$2.6 million of the \$4.6 million limitation will remain.

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

3
4 *Action: Commissioner Webber moved to approve the recommendations of the*
5 *Fish Restoration and Enhancement Board for project funding; effective date*
6 *September 6, 2013. Vice Chair Finley seconded the motion and the motion*
7 *carried unanimously by a vote of six.*
8

9 **Exhibit D: ACCESS AND HABITAT PROJECT APPROVAL**

10 Matthew Keenan, Access and Habitat (A&H) Program Coordinator, presented the Abiqua
11 Basin Access Area project. He said this is a popular, long term cooperative effort with
12 Oregon Hunters Association (OHA) where A&H funds are used to reimburse OHA
13 volunteers for their mileage to travel to the access area to open and close the main line
14 at the beginning and end of each day during the deer and elk rifle season. The project
15 provides 35,000 acres of private timberland for public hunting access for an additional
16 three years. Total cost is \$21,945 of which \$16,695 comes from OHA and landowner in-
17 kind support for a total A&H funding request of \$5,280 for the five years. He said also
18 important is the partnership that is maintained with OHA volunteers.
19

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

21
22 *Action: Commissioner Akenson moved to approve the recommendation of the*
23 *Access and Habitat Board for project funding effective September 6, 2013. Vice*
24 *Chair Finley seconded the motion and the motion carried unanimously by a vote*
25 *of six.*
26

27 **Exhibit E: COUGAR MANAGEMENT PLAN** deferred to December.

28
29 **Exhibit F: OREGON STATE POLICE ANNUAL REVIEW** deferred to October.

30
31 Deputy Director Debbie Colbert provided the Commission with an overview of the Open
32 House at 2:00 p.m. to celebrate the opening of the new ODFW Salem Headquarters.
33

34 **ADJOURN**

35 Chair Levy adjourned the meeting at 1:25 p.m.