



Oregon Fish and Wildlife Commission Minutes

Tour:
Thursday, October 3, 2013 – 8:00 am
Depart Hallmark Resort
744 SW Elizabeth
Newport, Oregon 97365

Meeting:
Friday, October 4, 2013 - 8:00 a.m.
Hallmark Resort
Salon Room
744 SW Elizabeth
Newport, Oregon 97365

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
Michael Finley, Vice-Chair
Bob Webber, Commissioner
Holly Akenson, Commissioner
Gregory J. Wolley, Commissioner
Laura Anderson, Commissioner

Roy Elicker, Director
Debbie Colbert, Deputy Director
Steve Sanders, Assistant Attorney General
Erin Donald, Assistant Attorney General
Teri Kucera, Executive Assistant

8 **MEETING**

9 On Friday, October 4, 2013, Chair Bobby Levy called the Oregon Fish and Wildlife
10 Commission (the Commission) meeting to order at 8:05 a.m. She said the Commission
11 would hold their Executive Session during their lunch hour from 12:00 noon to 2:00 p.m.
12

13 Director Elicker thanked Caren Braby, Marine Resources Program Manager, and her
14 staff for their work on the Commission's tour the day before. He also thanked
15 Commissioner Laura Anderson and her staff for a tremendous dinner last night.
16

17 **DIRECTOR'S REPORT**

18 **Field Reports**

19 Northeast Region

20 Bruce Eddy, Region Manager, gave an update on the trapping of Washington ground
21 squirrel. A total of 40 were captured and relocated to two sites as part of the Three Mile
22 Canyon Farms intent to convert the bombing range into irrigated circles for organic
23 farming. Eddy also reported on several successful youth pheasant hunts during the
24 weekend of September 14-15 at the Ladd Marsh Wildlife Area and in John Day.
25
26

27 High Desert Region

28 Chip Dale, Region Manager, reported on aerial mountain goat surveys over the
29 Cascades; 50 goats were counted. The introduction is going well and the majority is
30 concentrating in the White River Wildlife Area on the Warm Springs Reservation. He said
31 youth bird hunts held the first two weekends in September were very popular.
32

33 Northwest Region

1 Kelly Moore, Research Program Supervisor in Corvallis Office, said staff is transitioning
2 into looking at the fish that the marine region tries to track throughout the year as they
3 move into fresh water. The hatcheries managed the recent storms really well with no big
4 incidences. Staff develops predictors of coho returns that are used to establish fishery
5 quotas and survival rates used through the Pacific Fisheries Management Council
6 process. Moore said Ben Clemens, Research Project Leader out of Newport, has been
7 selected to participate in the Department's Leadership Development Program.

8 9 Southwest Region

10 Tim Walters, Umpqua Watershed District Manager, reported that staff worked with the
11 Bureau of Land Management (BLM), Rocky Mountain Elk Foundation, the Tioga Chapter
12 of Oregon Hunters Association (OHA), and volunteers to reseed 1.5 miles of road with
13 native grass and legumes to improve Roosevelt elk and other big game species habitat
14 near Elkton. He talked about hatchery improvements at Rock Creek Hatchery to rebuild
15 and repave the driveway entering the hatchery. At Bandon Hatchery staff replaced
16 wooden adult pen dividers in the adult holding pond with aluminum dividers to reduce
17 long term maintenance and to improve survival of adults in the pens.

18 19 Information & Education

20 Roger Fuhrman, Administrator, said staff added nine adult pheasant hunting clinics that
21 attracted 130 participants; 30% were women. These workshops are part of an ongoing
22 effort to reconnect people with hunting and fishing. Also, 500 students were added to our
23 enrollment this year due to an increase in federal dollars. Fuhrman discussed the *Feast*
24 *Portland* event in partnership with Travel Oregon to promote Oregon's shellfish bounty.

25
26 Director Elicker asked Fuhrman to report on the customer survey. Fuhrman said staff is
27 working with contractor Southwick Associates to identify new options or combination
28 license types and what other states offer. A survey will be sent to about 5,000 hunters
29 and anglers (resident and non-resident) over the next couple of months. This feedback
30 will be presented to the External Budget Advisory Committee, the Executive Leadership
31 Team, and the Commission for review before the 2015 Session.

32 33 Marine Resources Program

34 Caren Braby, Program Manager, said the commercial tuna fishery has landed 8.5 million
35 pounds, the best year on record. It has not been as good for recreational tuna because
36 of the odd weather and winds that make it difficult for smaller vessels to get offshore.
37 There have been five landings of Dorado also known as mahi which is unusual in
38 Oregon. Braby said there have been concerns about the radiation plume coming from
39 the Fukushima nuclear plant in Japan but we have no indication that there are health
40 risks at this time. Lastly, Braby said the Lower Columbia Solutions Group is trying to
41 solve dredging and disposal issues that exist on the Columbia River because sediments
42 can pose safety in navigation issues if that sediment builds up too much. Our Nearshore
43 is becoming more starved for sediments as we change the flow of rivers. A graduate
44 student from the Marine Resources management group at Oregon State University will
45 be working for the next two years analyzing data to understand the disposal methods
46 and what their impacts on the environment might be.

1 Oregon State Police, Fish and Wildlife Division

2 Lieutenant David Anderson said this is busy time for Troopers because of the big game
3 season and fisheries that are ongoing. Recently in LaGrande, Sergeant Hawkins
4 responded to a report of shots fired at a herd of elk in an open field. A citation was
5 issued to the hunter and the elk was seized. Lieutenant Anderson said an important
6 aspect of their job is public outreach and education. He talked about the ODFW Hunter
7 Education Field Day in Newport assisted by ODFW and other volunteers. He said 37
8 students attended and 20 parents observed the training with their children. At the end of
9 the day all students receive their hunter education certificates.

10
11 **Expenditure and Budget Report**

12 Debbie Colbert, Deputy Director for Administration, referred to her Financial Report and
13 Budget Report, and said as of August 31, 2013, all expenditures and revenues are
14 tracking this point. This is not final until staff closes out the last biennium on December
15 31, so the numbers will change when we have the final beginning balance.

16
17 Deputy Director Colbert said the new biennium began July 1, 2013. ODFW operated
18 under a continuing resolution because our budget was not adopted before the beginning
19 of the biennium. We are already out of audit and should have our final legislatively
20 approved budget posted on our website within the next week or so.

21
22 **Update on Decision Support System**

23 Director Elicker said staff is working on a new data system called the Decision Support
24 System (DSS) and is close to launching a pilot by the end of the year. It is a major step
25 forward for the Department in conjunction with other western states as part of a request
26 from the Western Governors Council (WGA). He noted a handout *Oregon Decision*
27 *Support System (Oct. 4, 2013)* that provided background on the project.

28
29 Holly Michael, Conservation Policy Coordinator, introduced Arthur Rodriquez and said
30 they were developing a new tool to make investments in crucial habitats and connectivity
31 for wildlife on the western landscape in recognition of land use change, transportation,
32 energy development, etc. Staff is working with 16 other western states to provide a larger
33 map and tool so developers doing an energy transmission corridor can look across state
34 boundaries at crucial habitat and know that states are looking at these consistently. In
35 addition, this tool will be the data library for ODFW, provide tools for collection,
36 management, analysis and prioritization of data at the district level watershed region
37 statewide.

38
39 Arthur Rodriquez, Oregon Conservation Strategy GIS Analyst, discussed the four areas
40 of staff's development work:

- 41 1. New Data: Golden eagle nesting surveys; defining priority/general habitat for
42 game species; updating 2013 species status lists that combine federal and state
43 listing with Oregon Conservation Strategy (OCS) listings in one table, and others.
- 44 2. In Development: incorporating U.S. Forest Service bat grid database, ODFW
45 grassland bird surveys, and energy project assessment species observations.
- 46 3. Data Gaps: observational database query for number of records and individual
47 game species to establish priority and general habitat status.

1 4. Relationships: working with Oregon Biodiversity Information Center, state and
2 federal agencies, and in the future to incorporate more citizen science.
3

4 Michael added that today they were speaking to wildlife data but they are working closely
5 with the Fish Division; a lot of their data structure is already in place.
6

7 Rodriguez said a database structure has been developed that will serve as a catalog or
8 data library for species observations throughout ODFW. The data is in digital or in hard
9 copy data sources in field offices and at Salem headquarters. Michael said the hard
10 copy data goes back decades in field offices but staff is not able at this time to scan it
11 into digital, but staff can create a data library of what information is available and where.
12

13 Rodriguez said other agency data will be incorporated into the DSS including data sets
14 from federal agencies and other sources:

- 15 • Species of concern and prioritizing species observation based on OCS and
16 federal and state threatened and endangered listing statuses.
- 17 • Classifications of fish species and habitat.
- 18 • Game species distributions.
- 19 • Overall roll-up. Merging species and habitat data into one classification.
20

21 Michael said these are standard priority data layers across the west; you will be able to
22 access priorities layers at any scale for any program.
23

24 Rodriguez said staff will aggregate all the different data sets into data categories and
25 data inputs into a single roll-up value. The species of economic and recreational
26 importance data layer looks at species that are important economically and
27 recreationally, and staff are focusing on game species. Oregon is the first state to
28 incorporate wildlife viewing areas into the data layers. His focus this year is in the
29 Species of Concern (terrestrial) combining wildlife observations from different sources.
30

31 Michael said the agency recognizes it has to prioritize energy development. We see this
32 as an important tool to provide a consistent look at species and habitat on the landscape.
33 Data is coming in from contractors on energy developments to help inform this process.
34

35 During the slide presentation, Rodriguez demonstrated the Crucial Habitat Assessment
36 Tool (CHAT) map that will be unveiled in December at WGA's meeting in Las Vegas.
37 CHAT will pull together in one place maps for 16 western states. CHAT provides layers
38 of data that rate the resources on a scale of one to six, from most to least "crucial".
39 Individual states determine those priorities based on their information. A disclaimer will
40 reiterate that this is a non-regulatory tool; the data is constantly being updated. Michael
41 said you cannot get any further into the online application until you agree that you will still
42 need to work with our state biologists; this is not a replacement for ODFW expertise in
43 the field.
44

45 **Adopt Temporary Rules**

46 Director Roy Elicker asked the Commission to adopt the 16 temporary rules starting on
47 page 1 and through page 4 of the tan-colored agenda. The first 15 are primarily fishing

1 seasons with the exception of No. 16 which allows permitless take of wolves caught in
2 the act of depredating livestock or working dogs. He said this is part of House Bill 3452
3 and part of our overall agreement and settlement on the wolf lawsuit that prevented us
4 from taking action in northeast Oregon.
5

6 **1. 635-041-0075**

7 **Columbia River Treaty Indian Fall Commercial Gill Net Salmon Season Set**

8 Adopted September 6, 2013: effective September 10, 2013 through October 31, 2013.

9 Rule amendments allow commercial sales of fish caught during a Treaty Indian fall
10 commercial salmon gill net fishery set for the Columbia River and its Washington
11 tributaries. The authorized fishing period (4.5 days) is scheduled to begin at 6:00 a.m.,
12 Tuesday, September 10 and run through 6:00 p.m., Saturday, September 14, 2013.

13 Modifications are consistent with action taken September 5, 2013 by the Columbia River
14 Compact agencies of the states of Oregon and Washington in cooperation with the
15 Columbia River Treaty Tribes.
16

17 **2. 635-004-0355**

18 **Cumulative Trip Limits for Black and Blue Rockfish and Cabezon Increased for
19 Periods 5-6**

20 Adopted September 9, 2013: effective September 9, 2013 through December 31, 2013.

21 This amended rule increases the cumulative trip limits for black rockfish and blue
22 rockfish combined by 900 pounds in Period 5 and by 800 pounds in Period 6. Further
23 modifications increase cumulative trip limits for cabezon by 500 pounds in each of
24 Periods 5 and 6.
25

26 **3. 635-023-0130**

27 **2013 Columbia River Fall Recreational Seasons Modified.**

28 Adopted September 12, 2013: effective September 13, 2013 through December 31,
29 2013.

30 This amended rule modifies the 2013 fall recreational Chinook salmon and steelhead
31 season regulations for the Columbia River, effective Friday, September 13, 2013. Fall
32 fisheries in 2013 are structured to optimize the harvest of Chinook, coho and steelhead
33 within Endangered Species Act (ESA) limits and to provide a balanced opportunity for
34 the fishers. Modifications are consistent with action taken by the Columbia River
35 Compact agencies of the states of Oregon and Washington on September 12, 2013.
36

37 **4. 635-042-0031**

38 **Fall Commercial Drift Gill Net Season Set for the Mainstem Columbia River**

39 Adopted September 12, 2013: effective September 15, 2013 through September 30,
40 2013.

41 This amended rule authorizes a 6-hour fishing period beginning at 9:00 p.m., Sunday,
42 September 15, 2013 and an 8-hour fishing period beginning at 9:00 p.m., Tuesday,
43 September 17, 2013 for the 2013 fall commercial salmon drift gill net season in Zones 4
44 and 5 of the Columbia River. Authorized sales include salmon and white sturgeon.
45

1 **5. 635-041-0075**

2 **Columbia River Treaty Indian Commercial Gill Net Salmon Season Set**

3 Adopted September 12, 2013: effective September 16, 2013 through October 31, 2013.

4 Rule amendments allow commercial sales of fish caught during a Treaty Indian fall
5 commercial salmon gill net fishery set for the Columbia River and its Washington
6 tributaries. The authorized fishing period (4.5 days) is scheduled to begin at 6:00 a.m.,
7 Monday, September 16 and run through 6:00 p.m., Friday, September 20, 2013.

8 Modifications are consistent with action taken September 12, 2013 by the Columbia
9 River Compact agencies of the states of Oregon and Washington in cooperation with the
10 Columbia River Treaty Tribes.

11
12 **6. 635-017-0095**

13 **One Day Sturgeon Fishery in Willamette River below Falls including Multnomah**
14 **Channel and Gilbert River**

15 Adopted September 12, 2013: effective October 19, 2013 through December 31, 2013.

16 This amended rule authorizes a one-day only recreational fishery for retention of white
17 sturgeon in the Willamette River below the falls, including Multnomah Channel and the
18 Gilbert River, on October 19, 2013. A harvestable balance of 968 white sturgeon
19 remains from the 1,733 lower Willamette sturgeon harvest guideline established for
20 2013. Revisions are consistent with action taken September 12, 2013 by the Columbia
21 River Compact agencies of the states of Oregon and Washington.

22
23 **7. 635-023-0095**

24 **Previously Authorized Columbia River Recreational Sturgeon Fishery Rescinded**

25 Adopted September 12, 2013: effective October 19, 2013 through December 31, 2013.

26 This amended rule rescinds a recreational white sturgeon fishery previously authorized
27 for the Columbia River in the area from the Wauna power lines upstream to Bonneville
28 Dam. Scheduled to have occurred from Saturday, October 19 through Tuesday,
29 December 31, 2013, the fishery was rescinded due to attainment of 2013 harvest
30 guidelines. Modifications were made consistent with Joint State Action taken
31 September 12, 2013 by Columbia River Compact agencies of the states of Oregon and
32 Washington.

33
34 **8. 635-042-0031**

35 **Fall Commercial Drift Gill Net Season Set for the Mainstem Columbia River**

36 Adopted September 24, 2013: effective September 26, 2013 through September 30,
37 2013.

38 This amended rule authorizes two 10-hour commercial drift gill net fishing periods in
39 Zones 1-5 of the Columbia River from 8:00 p.m. through 6:00 a.m. the following
40 mornings on Thursday September 26 and Sunday, September 29, 2013. Authorized
41 sales include salmon and white sturgeon. Modifications are consistent with action taken
42 September 24, 2013 by the Columbia River Compact agencies of the states of Oregon
43 and Washington.

1 **9. 635-023-0130**

2 **2013 Columbia River Fall Recreational Seasons Modified.**

3 Adopted September 24, 2013: effective September 26, 2013 through December 31,
4 2013.

5 This amended rule modifies the 2013 fall recreational Chinook salmon and steelhead
6 season regulations for the Columbia River, effective Thursday, September 26, 2013.

7 Fall fisheries in 2013 are structured to optimize the harvest of Chinook, coho and
8 steelhead within Endangered Species Act (ESA) limits and to provide a balanced
9 opportunity for the fishers. Modifications are consistent with action taken by the
10 Columbia River Compact agencies of the states of Oregon and Washington on
11 September 24, 2013.

12
13 **10. 635-041-0075**

14 **Columbia River Treaty Indian Fall Commercial Gill Net Salmon Season Set**

15 Adopted September 26, 2013: effective September 30, 2013 through October 31, 2013.

16 Rule amendments allow commercial sales of fish caught during a Treaty Indian fall
17 commercial salmon gill net fishery set for the Columbia River and its Washington
18 tributaries. The authorized fishing period (3.5 days) is scheduled to begin at 6:00 a.m.,
19 Monday, September 30 and run through 6:00 p.m., Thursday, October 3, 2013.

20 Modifications are consistent with action taken September 26, 2013 by the Columbia
21 River Compact agencies of the states of Oregon and Washington in cooperation with the
22 Columbia River Treaty Tribes.

23
24 **11. 635-042-0145**

25 **Youngs Bay Salmon Season Amended for Allowable Sales**

26 Adopted September 26, 2013: effective September 30, 2013 through October 31, 2013.

27 This rule amends allowable sales from this fishery to exclude chum salmon.

28 Modifications are consistent with action taken September 26, 2013 by the Columbia
29 River Compact agencies of the states of Oregon and Washington.

30
31 **12. 635-042-0160, 635-042-0170, and 635-042-0180**

32 **Select Area Salmon Fisheries Amended for Allowable Sales**

33 Adopted September 26, 2013: effective September 30, 2013 through October 31, 2013.

34 This amended rule excludes allowable sales for Chum Salmon. Modifications are
35 consistent with action taken September 26, 2013 by the Columbia River Compact
36 agencies of the states of Oregon and Washington.

37
38 **13. 635-042-0031**

39 **Fall Commercial Drift Gill Net Season Set for the Mainstem Columbia River**

40 Adopted September 26, 2013: effective October 1, 2013 through October 16, 2013.

41 This amended rule authorizes seven 10-hour commercial drift gill net fishing periods in
42 Zones 4-5 of the Columbia River from 8:00 p.m. through 6:00 a.m. the following
43 mornings on Tuesday October 1; Thursday, October 3; Sunday, October 6; Tuesday,
44 October 8; Thursday, October 10; Sunday, October 13; and Tuesday, October 15, 2013.
45 Authorized sales include Chinook, coho, and pink salmon. Modifications are consistent
46 with action taken September 26, 2013 by the Columbia River Compact agencies of the
47 states of Oregon and Washington.

1
2 **14. 635-042-0032**

3 **Coho Tangle Net Season set for the Columbia River**

4 Adopted September 26, 2013: effective October 2, 2013 through October 15, 2013.

5 This rule authorizes eight 12-hour commercial coho tangle net fishing periods in Zones
6 1-3 of the Columbia River from 6:00 a.m. through 6:00 p.m. the following evenings on
7 Wednesday, October 2; Thursday, October 3; Monday, October 7; Tuesday, October 8;
8 Wednesday, October 9; Thursday, October 10; Monday, October 14; and Tuesday,
9 October 15, 2013. Authorized sales include Chinook, Adipose fin-clipped Coho Salmon,
10 Pink, Salmon and shad. Modifications are consistent with action taken September 26,
11 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.
12

13 **15. 635-039-0090**

14 **Allow Retention of Cabezon in the Oregon Ocean Boat and Estuary Boat Sport**
15 **Fisheries**

16 Adopted September 27, 2013: effective September 27, 2013 through December 31,
17 2013.

18 Amended rule opens the sport ocean boat and estuary boat fisheries to retention of
19 cabezon from Friday, September 27 to Tuesday, December 31, 2013 to allow the
20 Oregon recreational ocean boat and estuary boat anglers more opportunity to harvest
21 the pre-season cap of 15.8 metric tons.
22

23 **16. 635-110-0010**

24 **Allow Permitless Take of Wolves Caught in the Act of Depredating Livestock or**
25 **Working Dogs**

26 Adopted October 2, 2013: effective October 1, 2013 through March 29, 2014.

27 The 2013 Legislative Assembly adopted HB 3452, which amended ORS 498.012 and
28 authorized in certain circumstances take of a wolf or wolves caught in the act of biting,
29 wounding, killing, or chasing livestock or working dogs without a permit. Previously, take
30 of wolves caught in the act of attacking livestock required a permit. These rule
31 amendments are needed to implement HB 3452 (2013). Prompt action is necessary in
32 order to implement HB 3452 so that land owners, occupiers, or their agents may take
33 action to protect livestock or working dogs that are being attacked or chased by
34 wolves. There have been numerous wolf depredations on livestock over the past several
35 months, and more are likely to occur in the near future. Failure to act promptly would
36 result in serious prejudice to livestock and working dog owners who would be forced to
37 watch a wolf injure, chase or kill their animals rather than engaging in injurious
38 harassment or lethal take of the depredating wolf or wolves, resulting in financial loss
39 and loss of skilled working dogs.
40

41 Chair Levy referred to OAR 635-110-0010 and said the last sentence talks about "...the
42 loss of skilled working dogs." She said should there be an inclusion to include large
43 breed guard dogs? When you research those dogs for breeding purposes you find
44 border collies that work with cattle and sheep in herding purposes; however, the guard
45 dogs are specifically under guard dog when you research them.
46

47 Legal Counsel Erin Donald said that is right.

1
2 Director Elicker said that type of large dog for livestock operations are increasingly
3 popular. He asked Wildlife Division Administrator Ron Anglin what was contemplated in
4 the settlement.

5
6 Anglin said staff did not go into specific details because the definition of working dogs is
7 adopted within Oregon Department of Agriculture (ODA) rules and is all inclusive of the
8 types of animals Chair Levy referred to. A guard dog is a skilled working dog because it
9 has been trained for and has natural ability for looking after livestock. This is for our
10 program justification and is not the language that is in rule or will be in the final rule.

11
12 Commissioner Webber said if we are going to utilize ODA's definition we may want to
13 say that so it is clear when you read it how to figure out what is a working dog. Anglin
14 said we do that in the Wolf Plan and in the larger set of rules. In this rule it plugs into our
15 larger set of rules, so you don't see the pretext that leads up to this insertion.

16
17 Legal Counsel Erin Donald said in House Bill 3452 it states that working dog has the
18 meaning given the term in the agricultural statutes; so, it is a direct reference there.

19
20 *Action: Commissioner Webber moved to adopt temporary rules 1 through 16 as*
21 *set out on the agenda. Commissioner Anderson seconded the motion, and the*
22 *motion carried unanimously by a vote of six.*

23
24 **PUBLIC FORUM**

25 Chair Levy said this part of the agenda is for comments on topics not scheduled
26 elsewhere on the agenda. The Commission is unable to take action on items brought to
27 their attention in this forum.

28

<p>Paul Robertson Lincoln City, Oregon</p>	<p>Paul Robertson, Lake Manager of Devils Lake Water Improvement District (the District), said the District's watershed based management plan adopted in 2011 deals with the near term needs of Vegetation Management using sterile grass carp. This method is a continuation of the existing management tool. He said recent rule changes now prohibit Devils Lake (the Lake) and the District from utilizing this method. The District is asking the Commission to initiate a process for a rule change to allow the District to restock sterile grass carp into the Lake. In 1985 and 1992, this Commission approved stocking of 33,050 sterile grass carp to deal with invasive weeds. The sterile fish are aging and additional carp are needed to maintain the beneficial uses reclaimed in the last decades.</p> <p>Robertson said when the District reformulated its lake management plans in 2004, they revisited EPA's 1983 study and others. They evaluated 20 lake management strategies, including known methods of aquatic weed</p>
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	<p>harvesting, bottom barriers, and herbicides to the more novel Diver Assisted Suction Harvesting. Of all the methods available the use of sterile grass carp is the most economical, social, and environmentally viable for the Lake.</p> <p>The District's plan includes watershed restoration through nutrient abatement. They are on the cusp of establishing a mandatory septic inspection program. In August, the City staff drafted an ordinance to extend sewer around the Lake. Over 650 homes in the watershed are on septic systems. Through the work of Brian Green sewer is being established in 1 out of 14 of those systems. With 70% support from the neighborhood, Green petitioned the City to form a Local Improvement District (LID) that will bring sewer to the watershed by 2014. Robertson said it is this work and external watershed controls that the long term restoration of Devils Lake depends on.</p>
<p>Jack Strayer Lincoln City, Oregon</p>	<p>Jack Strayer, former director of the District, said the District was authorized grass carp in the 1980s with Section 13, a contingency that prevents macrophyte coverage getting below 20%. Biologists agree that 20% to 25% macrophytes (aquatic vegetation) is the desired level for the Lake's ecosystem. Currently, the nutrients don't have any plants; the blue green algae is growing and becoming more of a hazard. The Lake has been declared by the Oregon Health Authority a toxic lake since early July. Strayer called managers across the country about using grass carp to reduce macrophytes to 25%; they all said grass carp seem to be an all or nothing alternative. The carp rid the lake of native vegetation first leaving only invasive plants. He said the District has accumulated \$600,000 and adds to that annually. If funding is a problem, the District may have to cut some of the less beneficial programs. He believes the grass carp experiment has been an ecological failure. The District's request for a variance for the grass carp rules should be denied. ODFW has rejected the District's grass carp request three times for sound scientific reasons.</p>
<p>Joseph Eilers Bend, Oregon</p>	<p>Joseph Eilers, an aquatic scientist, was hired by the District to evaluate options for controlling macrophytes and to review available data. He said every way we construct this model if we allow the macrophytes to return, we expect the bass to move back into the system. They will increase predation on the juvenile coho and plankton and organisms that serve as a food source for the juvenile coho. It is a high probability that the coho population will suffer if the weeds</p>

	<p>return. There is a choice between the largemouth bass that does damage the coho population or the grass carp with no known effects and if anything a positive effect on the coho. Eilers said grass carp in the lake is a low risk approach. They have been there for 25 years and there is no recorded incident of a negative impact.</p> <p>Eilers studied the changes in the lake over the last 130 years. He said there is a clear relationship between the amount of development in the watershed and the increased nutrient in the lake, and there is a mistaken belief that the return of macrophytes will eliminate blue green algae blooms. Macrophytes have a calming effect on the water and allow blue green algae to proliferate and act as phosphorus pumps that bring phosphorus out to macrophytes. There will still be blooms regardless if macrophytes are in that system. The only thing that will reduce those blooms is reducing the nutrient loading from the watershed.</p> <p>Eilers said the original stocking rate was high; nearly 100 grass carp per hectore. The District's new stocking plan proposes a stocking rate that would initially be one percent of the historical rate. He discussed mapping techniques and said they propose an interactive plan whereby they monitor the macrophytes and work with ODFW staff to adjust stocking rates up or down depending on what is available.</p>
<p>Brian Green n/a</p>	<p>Brian Green, Board Chairman of the District, said the District looked at every option of vegetation management - physical, chemical, and biological controls – and have no realistic option for weed control. If we don't get new carp the weeds will come back and choke off use and enjoyment of the lake for the foreseeable future. He said fish and wildlife habitat will not be enhanced, e.g., native juvenile salmon. Largemouth bass might benefit from weeds returning and improve their ability to prey on young salmon, but largemouth bass are non-native like the carp.</p> <p>Green said their survey of local residents showed that 47% thought continued management of aquatic weeds with grass carp was the most important aspect of our lake management; 87% thought that grass carp were an important element of an overall lake management plan. He said the most important tool for nutrient reduction is extending sewer around the lake. Sixty property owners voted to pay \$20,000 each for sewer; that included 70% of</p>

	<p>the folks who already have homes with septic systems. Green said the city manager, mayor, and city council investigated sewerage the entire lake. We can't expect people to pay that money if they think their ability to use and enjoy the lake is evaporating, which will happen if we are left with no mechanism for weed control. The District provided the Commission with a report estimating the economic impact of allowing Devil's Lake to be again choked by weeds.</p> <p>Green said the proposed restocking program amounts to 270 sterile fish every two years for the entire lake or about one new fish every two years for every 122 fish that we put into the lake between 1985 and 1993. We do not want to overstock with grass carp. We want moderate native growth to return. It is part of our plan to encourage the spread of native plant species in the lake while minimizing the spread of invasive species.</p>
<p>Lonnie Johnson n/a</p>	<p>Lonnie Johnson, Conservation Director of Oregon BASS Nation and a Restoration and Enhancement Board member, said Devil's Lake is a eutrophic water body of 688 acres and by definition is a lake rich in nutrients that support a dense plant population, but it is no longer a eutrophic lake and there is no or very little vegetation. The natural support of wildlife is no longer available. The only real answer is balance and Devil's Lake is woefully out of balance. He said adding more grass carp to the lake will just exacerbate the problem. It is generally accepted that grass carp are an all or nothing approach to any sort of control. Oregon BASS Nation believes that Devil's Lake should be allowed to return to a natural state with macrophyte and vegetation controls instituted as those issues become apparent but not by using grass carp. Johnson said Devil's Lake was at one time a destination fishery for warmwater species but Panfish and bass populations have crashed due to a lack of vegetation. The long term economic impact of that loss is incalculable.</p>

1
2 Vice Chair Finley referred to Mr. Green's comments about looking at 20 different
3 practices to control these plants. If the grass carp eat the plants and then defecate in the
4 lake the nutrients are still in there to be recycled. Physical removal, taking them offsite
5 like the blue green algae, removes that point in that segment of those nutrients. Explain
6 how physical removal doesn't help and is not a companion to your fixing and repairing
7 the sewage system as a tandem approach to getting nutrients and unwanted plants out
8 of the lake.

1
2 Green said when we did the feasibility study in the 1980s there was enough nutrients in
3 the lake to support weed growth for 50 years. The long term goal is to stop the nutrient
4 input. That is the point of the sewer to bridge the gap until we can get to the point where
5 there is insufficient nutrients to support over-prolific weed growth. We need in lake
6 controls to get us to that point. We will not have the financial support to do that if the
7 people who are asking to pay that kind of money assume the lake will deteriorate.
8

9 Vice Chair Finley noted his experience working in the Everglades using small vessels to
10 physically remove weeds from canals to get the nutrients removed. He asked why it was
11 not in the District's best interest to physically removes these plants and take them offsite
12 as a part of this practice. Green said we don't have the money to do that and it is
13 expensive. He offered data that would explain why it's not going to work for the District.
14

15 Robertson said trying to sequester weeds and remove those costs millions of dollars of
16 expense over the course of the project. Over time if you can remove the inputs to the
17 system then sedimentation does occur.
18

19 Commissioner Webber said you are asking to be allowed to have grass carp for an
20 indefinite period of time into the future? Robertson said true. We are not looking for a
21 one time planting which are not effective, but an opportunity to do a strategic phased
22 planting and to look at whether you control weeds with grass carp from the bottom up.
23

24 Commissioner Wolley asked if they had any information about septic failure with the 657
25 systems. What work is being done on the integrity of the existing septic system?
26 Robertson said their project manager surveyed county records and found that one in
27 three of the septic systems had no physical record; they predate 1974 when the State of
28 Oregon started requiring permits. About 50% of the systems are over 25 years of age so
29 there is a pressing issue for replacing septic systems in the watershed. Green said the
30 percentage of septic systems 25 years or older is actually higher than 50%. We know
31 that septic systems have a useful life of 25 to 30 years.
32

33 Commissioner Akenson asked if Devils Lake has public access or is it private all the way
34 around the lake. Robertson said there is a lot of public access. It is against the rules as
35 far as putting grass carp in the lake but there was public access in 1985 and 1993 when
36 the fish were put in. We don't meet that part of the rules which is why we are here today
37 to promulgate that rule change to allow us to stock grass carp in Devil's Lake.
38

39 Director Elicker said the District has made application to ODFW for a rule change to
40 allow additional grass carp stocking. Deputy Director Curt Melcher met with folks last
41 month but Devil's Lake does not fit our current stocking rules for grass carp. If we do
42 something besides deny the application the Department would come back before the
43 Commission for action to allow for additional grass carp stocking at Devil's Lake.
44

45 Chair Levy instructed Director Elicker to continue working with the Devil's Lake Water
46 Improvement District and see what the Department can do for them.
47

1 Director Elicker said the grass carp in the first stocking had a massive effect on the
2 lake's ecosystem and collapse of the warmwater fishing. We are a member of the
3 Oregon Invasive Species Council that makes recommendations on these kinds of issues;
4 everybody is very sensitive about invasive species and how and where they are used.
5 There are always unintended consequences which are why our grass carp rules are
6 written to be very prescriptive and definitive about where and how they are to be used.
7

8 **Exhibit A: COMMISSION MINUTES**

9 Chair Levy asked for edits to the draft September 6, 2013 Commission minutes.
10 Commissioner Anderson asked for more time to review the draft minutes. Chair Levy
11 deferred the September 6 minutes to the Commission's December meeting.
12

13 **Exhibit B: COMMERCIAL FISHERIES PERMIT BOARD**

14 Deanna Erickson, Licensing and Controlled Hunts Manager, said the purpose of the
15 Commercial Fisheries Permit Board (the Board) is to review contested case proceedings
16 and proposed orders in cases where limited entry permit applicants have requested a
17 hearing because they were denied the renewal or the transfer of a permit by the
18 Department. Erickson discussed the rules and statutes prescribing Board membership.
19 She said maintaining a full board or a quorum for taking actions has been a struggle at
20 times and can cause delays in decision making by the Board and may not allow the
21 Board to take action under the timelines driven by the Administrative Hearings Office.
22 For administrative efficiency and to be timelier in appointments, staff requested a
23 delegation to the Director to make appointments to the Board. Prior to the July
24 delegation to the Director, staff would put forward candidates for Commission approval.
25

26 While the Commission approved delegated authority to the Director in July to appoint
27 Commercial Fisheries Permit Board (the Board) members they requested that staff come
28 back with an option that would allow the Director to make appointments only under
29 emergency situation. Staff consulted with Legal Counsel. The risk associated with that
30 approach is the ambiguity when there is sufficient emergency to justify using delegation
31 to the Director. With that ambiguity there is concern that the appointments by the
32 Director would be subject to legal challenge especially with a contentious decision made
33 by the Board. Because of the risk and concern the Department is recommending that
34 the Commission not pursue this option. However, the Commission could approve the
35 delegation to the Director where there is a vacancy on the Board and a contested case
36 hearing has been requested. This would allow us to move forward without introducing
37 ambiguity and risk to the Director's appointments.
38

39 Staff recommends Option 3 which provides the administrative efficiency we are seeking
40 without introducing legal risk.
41

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

44 Chair Levy said the Commission was given new wording that the delegation be "limited".
45 Commissioner Anderson had expressed concern previously on the appointments and
46 whether the Commission continued to retain the authority we've had in the past with this

1 Board. If the Commission passes this new wording it will be in the OARs. She asked
2 Legal Counsel if she needed to read the new language into the record.

3
4 Legal Counsel Steve Sanders said it did not need to be read into the record. He clarified
5 that the new wording will not be an OAR; it will be a Delegation Order that is maintained
6 in the Director's Office as an Order of the Commission.

7
8 Commissioner Anderson said she supported Option 3 and had discussed this issue with
9 former Commissioners Jon Englund, Jeff Feldner, and Al Pazaar (the appointee in this
10 case for emergency designation). They all felt fairly strongly that the authority should be
11 retained within the Commission and that it is the Commission's purview, but we all
12 understand that sometimes there are cases that require this. She made three points:

- 13 1. We do need to make strong efforts to fill the 10 vacant positions on the Board
14 so we are not in the situation where we have to make emergency
15 appointments.
- 16 2. In the event an emergency appointment is made, she would like that brought to
17 the Commission at the subsequent Commission meeting for their information so
18 they understand those cases.
- 19 3. She believes it is the intent of the Department to use the Commission for as
20 many approvals as possible and to minimize the use of emergency authority.

21
22 Commissioner Wolley asked how do the particular instances that you are highlighting
23 here, such as contested case hearings, free the Director from any legal repercussions.

24
25 Legal Counsel Steve Sanders said the Commission would have a delegation to the
26 Director with an objective standard about when the Director's authority could be
27 exercised. The Director will still have to appoint someone meeting the same criteria that
28 Deanna discussed that the Commission would have too. It would just be an objective
29 way to determine when it was the Director's appointment relative to when it was the
30 Commission's appointment and only in those situations where there was an actual time
31 crunch because of the request of four contested case hearings.

32
33 *Action: Commissioner Webber moved that the Commission, pursuant to ORS*
34 *496.112(3), hereby delegates authority to the Director of the Oregon Department*
35 *of Fish and Wildlife to appoint members of the Commercial Fishery Permit Board*
36 *on the Commission's behalf under ORS 508.755. The delegation is limited to*
37 *instances where there is a vacancy on the board and a contested case hearing*
38 *has been requested under ORS 183. The Director shall select members who*
39 *meet the requirement of OAR 635-0006-1200, who maintain a valid permit or*
40 *license for the fishery they represent and be in good standing within their*
41 *community. These appointments shall be subject to the Commission's authority*
42 *under OAR 635-006-1200(1)(c).*

43
44 Chair Levy said there are too many zeros in the OAR (see handout). Legal Counsel
45 Sanders said in the first reference it should read OAR 635-006-1200, only two zeros in
46 the section number of the rule (-006).

1 Commissioner Webber amended his motion to reflect that correction in the OAR.
2 Vice Chair Finley seconded the motion and the motion carried unanimously by a
3 vote of six.
4

5 **Exhibit C: COLUMBIA RIVER BASIN ENDORSEMENT FEES**

6 Michael Gauvin, Recreational Fisheries Program Manager, during a PowerPoint
7 presentation on the Columbia River Basin Endorsement (the endorsement) described
8 how Senate Bill (SB) 830 (July 2013) aids in the implementation of the Columbia River
9 Fish Management and reform rules adopted by the Commission, who may by rule
10 establish an annual and daily Columbia River Basin salmon, steelhead, and sturgeon
11 recreational fishing endorsement and may authorize an annual endorsement of up to
12 \$9.75 per annual license and a daily endorsement of \$1 per day. Anglers who fish for
13 salmon, steelhead, and sturgeon within the Columbia River Basin must possess this
14 endorsement.
15

16 Gauvin said revenue generated from the endorsement and proposed fees will be
17 deposited into the Columbia River Fisheries Enhancement Fund (CRFEF). These funds
18 will be appropriated to the Commission to implement measures to enhance fisheries,
19 optimize economic benefits of fisheries, and advance native fish conservation in the
20 Columbia River. Short term, the focus will be on enhancing hatchery production in the
21 off-channel areas; evaluating new opportunities; and to support law enforcement. Staff's
22 fiscal analysis estimates that the endorsement will generate about \$2 million per
23 biennium. This leveraged with \$1.5 million in GF will serve to fully implement the
24 Commission's program, which will take approximately \$3.5 million per biennium. He said
25 the CRFEF is scheduled to sunset in 2022.
26

27 Gauvin displayed the *Columbia River Basin Endorsement Areas* map (see slide 5, page
28 3) and noted the rivers and tributaries where the endorsement is required when fishing
29 for salmon, steelhead, and sturgeon; from the mouth of the Columbia River up into the
30 Snake Basin and tributaries; includes all tributaries in the mainstem Columbia. He
31 discussed public outreach and said an endorsement webpage will be launched that will
32 describe the endorsement and have FAQ's. On December 1, 2013, ODFW will start
33 selling the 2014 angling licenses and the endorsement.
34

35 Gauvin discussed implementation of the endorsement (see table in slide 6, page 3). By
36 offering licenses with the endorsement included anglers will save the \$2.00 agent fee
37 that would normally be charged. He said an angling license which normally costs \$33 for
38 a resident will have the option of getting an angling license with the endorsement
39 included; an additional \$9.75 for a total of \$42.75. However, ODFW will still offer the
40 endorsement separately for anglers who choose to purchase the endorsement at a later
41 time, but when purchased separately the endorsement will cost \$11.75, which is \$9.75
42 plus the \$2 agent fee.
43

44 Gauvin said staff recommends that the Commission amend the OARs shown in *Revised*
45 *Attachment 3 - Draft OARs* that includes an additional angling license that was missing
46 from the original Attachment 3. He said we have three license types that we no longer
47 offer but are grandfathered in; for example, permanent wheelchair and permanent senior

1 combination license. The senior combo license was added to the revised OAR. This
2 OAR will establish an annual Columbia Basin endorsement of \$9.75 and a \$1 per day is
3 shown in *Revised Attachment 3*.
4

5 **Public Testimony:**

Bill Kremers Corvallis, Oregon	Bill Kremers introduced himself as President of the Association of Northwest Steelheaders. He distributed written testimony from both him and Russell Bassett.
Russell Bassett Oregon City, Oregon	Russell Bassett, Executive Director for Association of Northwest Steelheaders (NWS), said NWS has 1,500 members who have spent time on STEP projects and have volunteered to enhance fisheries and wild fish production with ODFW. They hope this issue will not over-shadow all the positive things they have done with ODFW. He discussed NWS members concerns even though they supported SB 830 and these changes. <ul style="list-style-type: none">• Three years from now they don't see gillnets off the mainstem. There is going to be an allocation increase to 80% and they will see tanglenets still on the mainstem.• Going to barbless hooks on what is a hatchery fishery.• Fishing bubble around a prime fishing spot.• A wide reaching endorsement fee. Bassett said all the negative things for anglers are front ended before the court case is even settled. The angling fee is very over reaching and not how they saw it. To have anglers on the Grande Ronde pay for this is going to be a really tough sell for them. He noted that Ed Bowles explained it was a statutory requirement. Bassett said we have supported you through this process in public forums; we've done it in court. But it feels like to our members we are losing members over what should be a victory.

6
7 Commissioner Webber said SB 830 states that the Columbia Basin endorsement but he
8 gets the sense from a lot fishermen that they thought it was the Columbia River
9 endorsement. Bassett said that was put in there at the last minute by the opposition.
10 Through this whole process we thought it was the folks that actually would benefit from it
11 but it ended up being this basin thing. We just got that explained to us today and it is
12 probably our fault for really not understanding that sooner.

13
14 Chair Levy said Commissioners Finley and Webber and she were on the joint
15 Oregon/Washington panel. They were all under the assumption that it was the Columbia
16 River and not the Columbia Basin.

17
18 Ed Bowles, Fish Division Administrator, said the agency, Governor's Office, various sport
19 fishing interests, organized groups, lobbyists, and the bill sponsors worked to get a

1 comprehensive package with the intent of supporting the implementation of the
2 Commission's rules. The discussion of whether or not it's the tributaries was not
3 definitive through the Commission's process. Our administrative rules don't clarify the
4 endorsement as a funding mechanism. It was simply recognition that we needed the
5 sport dollars to help implement the program. He said this was a topic of interest by the
6 Governor's Office in several letters to the Commission.

7
8 Bowles said salmon and steelhead move throughout the system and as impacts shift to
9 prioritize the mainstem for sport you provide more opportunity that is translated wherever
10 the fishery occurs for those fish moving through. He said the Commission did support SB
11 830 through a letter to the Legislators by Chair Levy and Vice Chair Finley that
12 represented the leadership of the Commission; that support was relative to the intent of
13 moving forward with something that was a win for both commercial and sport fisheries.

14
15 Commissioner Akenson also expressed concern and said she believed that it was the
16 mainstem Columbia. She asked how SB 830 defines what the Basin is. Does it include
17 all those up river tributaries?

18
19 Bowles said SB 830 does not define the Columbia River Basin but it states thou shall
20 have an endorsement for anybody fishing for salmon, steelhead or sturgeon in the
21 Columbia Basin which is a geographically termed area. Given that the statute did not
22 imply discretion on that geographic boundary staff is not comfortable redefining for our
23 rules a different definition of a basin, which is a watershed and that is why we are
24 recommending moving forward with the literal definition of a basin. Through adaptive
25 management we will look at this and each year will show the Commission all aspects of
26 this so you can adjust course as needed.

27
28 Commissioner Akenson said given the allocation shifts that doesn't affect escapement of
29 fish to the upper basin at all. So, people that are fishing in the Upper Columbia River
30 Basin are not seeing that increase in fishing opportunity that they are on the mainstem.

31
32 Bowles said the allocations are transferred through preseason formulas relative to the
33 Lower River and Upper River. Where it does not translate within the ESA impacts is in
34 some of the tributaries up in the Grande Ronde and the Imnaha which are separate ESA
35 components. But that still doesn't mean there are not additional potential hatchery fish
36 moving through the system; that does translate.

37
38 Commissioner Akenson said this will sunset in January 2022 and SB 830 says the
39 transition fund goes through 2019. How do those two fit together?

40
41 Bowles said it doesn't correspond exactly with the transition fund. The legislative intent
42 was to make sure these funds are available in case the Commission has to modify any of
43 those needs for the transition and to make sure that this bears fruits all the way up to the
44 fish coming home with the lag time for their survival.

45
46 Director Elicker said our Columbia River endorsement was modeled after Washington's
47 endorsement fee (which extends throughout the entire Columbia River Basin in

1 Washington) as we looked at ways to make sure we would have enough money to
2 implement the programs that we adopted. Anglers in Washington are paying a Columbia
3 River endorsement now. We never thought it would be limited just to anglers in the river
4 because there are going to be far reaching benefits to the entire angling public
5 throughout the Basin.

6
7 Vice Chair Finley said it was not clear to him that people on the Grande Ronde or the
8 upper Deschutes fishing for steelhead were going to be paying a fee to remove gillnets.
9 He referred to the NW Steelheaders testimony about front loaded costs and delayed
10 benefit. He said the law states an amount up to \$9.75 and suggested that the
11 Commission stage it for the first couple of years before it gets raised in deference to
12 fairness for this implementation without direct benefit.

13
14 Bowles said we have a good idea of how many people buy salmon, steelhead, and
15 sturgeon tags, and the combo tag in Oregon. What we don't know is the portion of those
16 that fish the Columbia Basin. It is essential to fully fund the program that the Legislature
17 gave us spending authority to implement. Our recommendation is to be conservative in
18 revenue projections and make sure we fully fund the program. He said a reduction in the
19 amount is within the Commission's statutory prerogative.

20
21 Director Elicker said staff discussed what the amount should be and not where or how it
22 should be extended geographically. We would not have enough funds to implement this
23 program if it was \$5.00. We came before the Commission today about how this is going
24 to roll out and how many people are going to buy the endorsement. We can annually
25 look at the revenue coming in and perhaps make adjustments to this fee by reducing it
26 from the \$9.75. He said the Commission is free to not charge the maximum \$9.75.

27
28 Commissioner Webber noted that Bowles had said that he didn't feel he had any leeway
29 to limit the Columbia Basin. He noted that he did not see the Malheur and Owyhee on
30 staff's map and asked how do we pick and choose?

31
32 Bowles said this area of the Columbia Basin could potentially have a salmon, steelhead
33 or sturgeon fishery. It includes the Powder River above the Hells Canyon Complex that
34 does not have natural migration into the Powder River. We have through the northeast
35 region a trap and haul spring Chinook fishery. When we get hatchery surpluses and put
36 them into the Powder River that would be included in the Columbia Basin endorsement.

37
38 Commissioner Webber said it is going to be pretty hard to figure out how they are going
39 to get there. He asked what the sturgeon situation is above Brownlee, Oxbow, Hells
40 Canyon, and up into the lower Malheur and Owyhee. Bowles said he was not aware of
41 fisheries in there but would make sure that staff had this right; this includes the sturgeon
42 fishery in the Hells Canyon Complex.

43
44 Commissioner Webber said are you going to cut it off at Brownlee or Oxbow? Bowles
45 said yes, where the Snake River turns and heads into the Snake River plain of Idaho.

1 Michael Gauvin referred to his PowerPoint map (see top slide, page 3) and said that
2 fishing seasons will also help to dictate when the endorsement is needed. Throughout
3 the year fishing seasons open and close in different areas of the Columbia River Basin.
4 For example some of the tributaries at certain times of the year (e.g., the Deschutes)
5 spring salmon may not be open and the endorsement would not be needed. But if it
6 opens up for fall salmon you would need it at that point.

7
8 Commissioner Webber asked what is the amount of the Washington endorsement for its
9 residents. Gauvin said \$8.75.

10
11 Commissioner Anderson said this doesn't really reflect what the Commission's intent
12 was when this was negotiated in good faith between recreational and commercial
13 fishers. She did not know how much the fund would be diminished if just limited to the
14 mainstem. When this was being decided she did not expect this to be expanded up
15 through the upper tributaries. She suggested limiting the fee to the mainstem for a period
16 with the option to expand it as a way to reduce some of that front loaded strain that has
17 been brought to the Commission's attention.

18
19 Bowles said the statute as written, unless you were to redefine the Columbia Basin for
20 purposes of this rule, your only discretion is on the amount that you can attach but not
21 the geographic area. Unless the Commission purposely redefines the Columbia Basin for
22 purposes of this rule you are statutorily bound to implement it or require an endorsement
23 for everybody fishing within the Basin for those species at this point and time.

24
25 Legal Counsel Steve Sanders said the Commission is being asked to adopt a definition
26 of the Columbia River Basin in the rules. It is not a term of ours but although it has a
27 common understanding the Commission does have authority and some flexibility to
28 adopt a definition as it chooses and also has some flexibility with respect to the fee. The
29 statute doesn't really say whether the fee has to be the same throughout the entire area
30 and some of the endorsements we are not charging for at all. So arguably you might be
31 able to charge lower or no fee for the endorsement used in the upper part of the Basin.
32 My concern is we would be making a pretty complicated rule both in terms of drafting it
33 originally and then in terms of enforcement. There is probably some flexibility with
34 respect to how the Commission could define both the scope and the cost per area
35 because it is not precluded by the statute.

36
37 Commissioner Akenson said even as written in our proposed OARs it is still not clear
38 what the Columbia River Basin is, "*The Columbia River Basin is defined as: the*
39 *mainstem Columbia River from Buoy 10 upriver to the Oregon/Washington border...*",
40 that's the mainstem, "*...and all rivers and their tributaries that drain into the mainstem*
41 *Columbia River.*" (See Attachment 3 – Draft OARs, page 1, lines 18-20). Does that
42 include the Snake River because the Snake River is the border of Oregon and
43 Washington? It's not within Oregon so it wasn't clear that the Snake River was included
44 as one of those tributaries.

45
46 Legal Counsel Sanders said the interpretation would be that the Snake River drains into
47 it. You have the mainstem where it is the boundary and then all the tributaries in addition

1 to the mainstem and the Snake would be a tributary. Even the Columbia River above the
2 Oregon/Washington border would be in essence a tributary that drained into the
3 mainstem.

4
5 Commissioner Akenson said but that is beyond our state border. Legal Counsel
6 Sanders said we are interpreting all of this to mean within the state of Oregon. We are
7 not interpreting tributaries in Washington to be subject to this. Commissioner Akenson
8 replied, why does it say "to the Oregon/Washington border."? Legal Counsel Sanders
9 that was intended to accomplish the main idea that we're primarily talking about the
10 mainstem but also all the tributaries to it; and of course tributaries to the tributaries to the
11 tributaries so that essentially incorporates all the area in green there that you see (see
12 slide 5, page 3).

13
14 Vice Chair Finley suggested a motion to adopt an initial fee of \$8.75 and have Director
15 Elicker ask the Department to work with the Commission on a fee analysis of where it
16 would be fair to have a different fee in different parts of the Columbia River Basin. The
17 analysis would show that there is benefit sufficient throughout the system. He asked the
18 Commission to think about asking the Department to do an analysis of fairness and a
19 factual analysis of fisheries, distribution, and ultimate impact.

20
21 Vice Chair Finley asked Bowles to comment on why we in the first year initially shouldn't
22 be at parity with Washington at \$8.75? He asked Director Elicker to respond to doing a
23 post analysis of whether a strategy of different fees within the Basin as suggested by
24 Legal Counsel is something that makes good policy sense or is equitable.

25
26 Bowles said Washington struggled for several budgetary cycles of not receiving any
27 support for a fee increase. Their GF was drawing up, so the primary intent of their
28 endorsement looked at backfilling existing programs associated with the Columbia River.
29 He said for parity with Washington ours would be \$8.75.

30
31 Bowles said following up on the geographical distribution within the statute you could still
32 require everybody in the Columbia Basin fishing for these species to have an
33 endorsement but vary the amount of the endorsement all the way to a zero for certain
34 areas you wanted to exclude. Bowles said administratively in order to avoid the agent
35 fee (see slide 6, page 3) you would have to triple these amounts of licenses.

36
37 Commissioner Akenson said she was interested in doing this for a year and then having
38 additional information given to the Commission from staff next year for a future decision
39 making. We'll get a chance to see how much money it generates and how it plays out.
40 While not happy with it she wanted to move forward in the simplest way at this point.

41
42 Director Elicker said there are a lot of assumptions in how many of these we are going to
43 sell and what revenues are going to be generated. He said whether it's \$8.75 or \$9.75 to
44 most anglers that's not going to make any difference. What's going to make a difference
45 is they're going to pay this additional fee. If we're selling more than what we estimated,
46 we would come back after a year perhaps for a reduction in the fee. Right now we're just
47 giving you estimates of how we think the sales will go and what they will generate.

1
2 Commissioner Webber said we need to go with the full amount and then through our
3 adaptive management look at reducing it if this generates more money than what we
4 projected. He didn't know why "Oregon/Washington border" was inserted into the
5 definition because it has no bearing in the definition of upstream from Buoy 10, the
6 mainstem, a tributary, or a tributary to a tributary. When we put in "Oregon/Washington
7 border" we're raising this cloud that people might not understand how it all fits together.
8

9 Commissioner Wolley said he shared the other Commissioners' surprise and dismay at
10 the awareness of the geographic extent of the endorsement, particularly the
11 Commissioners who served on the joint panel who just learned about this today. He said
12 a graduated fee should be considered as we go through this one year process in addition
13 to looking at different fees for different locations.
14

15 Commissioner Anderson said she didn't feel good about what feels like a switcheroo. We
16 negotiated in good faith. I think the intent was a mainstem from mainstem commercial
17 and recreational deal. I am going to have a hard time voting to approve an option that
18 will extend this throughout the entire Basin without at least an opportunity for public
19 testimony and further negotiation with the recreational industry.
20

21 Commissioner Webber said this Commission did not come up with a definition or the
22 term Columbia Basin; that was a legislative decision and we are subject to those
23 statutes. We can clarify what we're using as the Basin and justify our definition, but we
24 cannot say we're not going to use the Basin that we're just going to use the mainstem.
25

26 Bowles said the Commission has flexibility on how to price this even geographically, but
27 did not have the discretion to just do the mainstem given the current language.
28

29 Legal Counsel Sanders said the statute does require this endorsement to fish for
30 salmon, steelhead, or sturgeon in the Columbia Basin. So, if the definition you adopt
31 does not really reflect the Columbia Basin, I would be very concerned that it would not be
32 within the statutory authority of the Commission. I believe the Columbia mainstem
33 wouldn't really be considered the Columbia Basin.
34

35 Vice Chair Finley said he would make a motion as written for the \$9.75 with the
36 understanding that the Commission was going to revisit the geographical application of
37 the endorsement maybe differently in the Basin, and at least do the analysis. He
38 suggested within the next 18 months.
39

40 Bowles said the agency will be preparing a budget package to consider potential fee
41 issues in the next full Legislative Session. So, partway through 2014 staff will be able to
42 make projections and trajectories.
43

44 Commissioner Wolley said what is the proposed date for the fee to be enacted; when do
45 you begin charging the fee? Bowles said the fee is enacted January 1, 2014. Gauvin
46 said the licenses for 2014 go on sale December 1, 2013. Commissioner Wolley pointed
47 out it will be a year and a half before any kind of analysis could be done. How will these

1 processes be synchronized if it's just starting? Bowles said our outreach will help people
2 understand that this new fee is coming and what it's for, and the feedback within those
3 18 months will help us know how many licenses are being sold and whether we actually
4 need all these fees in order to fully implement the program.

5
6 Commissioner Webber said he was still uncomfortable with how the Columbia River
7 Basin was defined. Do we just head down the mainstem Columbia River from Buoy 10
8 upstream and all the rivers and their tributaries drain into the mainstem of the Columbia
9 River? Legal Counsel Sanders said it would not change the definition to remove the
10 phrase "to the Oregon/Washington border."

11
12 Commissioner Webber said it doesn't change it at all but it does clarify what we just
13 talked about. Legal Counsel Sanders said it probably would clarify it but I don't believe it
14 would change the legal definition of which bodies of water we are referring to.

15
16 Gauvin said the reason we used the "Oregon/Washington border" is that the upper limit
17 is what it says in the regulations. Our regulations define the Columbia Zone from Buoy
18 10 to the Oregon/Washington border so we used that terminology and then added the
19 tributaries piece into it.

20
21 Commissioner Webber said we're not talking about the Columbia Zone; we're talking
22 about the Columbia Basin. Gauvin said correct. Commissioner Webber said if you add
23 the Oregon/Washington border then I'm not sure that people will automatically connect
24 the Snake River and the tributaries to the Snake that are in Oregon to the Columbia
25 River. He suggested taking out the border language so there is no question and it would
26 be applicable.

27
28 Legal Counsel Sanders said that is acceptable; it simplifies the definition and does not
29 change the legal effect.

30
31 *Action: Commissioner Finley moved to amend OAR 635-011-0104 as proposed*
32 *by staff in Attachment 3 and to establish an annual and daily Columbia River*
33 *Basin salmon, steelhead, and sturgeon fishing endorsement of \$9.75 per annual*
34 *license and \$1 per daily license as revised. In addition this motion would amend*
35 *the Columbia River Basin endorsement language, line 18 (a), to read "**The***
36 ***Columbia River Basin is defined as: The mainstem Columbia River and all***
37 ***rivers and their tributaries that drain into the mainstem Columbia River."***

38
39 Commissioner Webber said Buoy 10 is a significant line because that's where we go
40 from river to ocean. I think it's important that it be in there.

41
42 *Commissioner Finley said I amend my motion to leave the language "**..from Buoy***
43 ***10 upstream to include all rivers and their tributaries that drain into the***
44 ***mainstem Columbia River."***

45
46 Commissioner Wolley said is that in opposition to Ed's requirement that the tributaries
47 contain the targeted stocks that we are trying to support?

1
2 Vice Chair Finley said my intent is to move this forward with the commitment that the
3 Commission and the Department would do an analysis in 18 months or when staff has
4 the adequate information, and to understand the equity that we were concerned about
5 and how this enhancement fee may be different in different aspects of the river.

6
7 *Commissioner Akenson seconded the motion. Chair Levy said all those in favor*
8 *signify by saying aye. All those against signify by saying nay. Commissioner*
9 *Anderson voted nay. Chair Levy asked Commissioner voted for the affirmative*
10 *with the changes. The motion carried by a majority vote of five. Commissioner*
11 *Anderson voted nay.*

12
13 **Exhibit D: COMMERCIAL CRAB SEASON DELAY CRITERIA**

14 Troy Buell, State Fisheries Management Program Leader with Marine Resources
15 Program, during a slide presentation said the Tri-State Dungeness Crab Committee
16 created an annual pre-season testing program to insure that crab are of good quality
17 before the season opens. Staff conducts pre-season testing each year and assesses the
18 quality of legal male crabs by the meat recovery rate. Adult crabs molt once per year
19 and newly molted crabs have poor quality because of low meat content. Pre-season
20 testing insures that the crab have reached the minimum standard before the commercial
21 fishing season opens. He explained Washington, Oregon, and California's pre-season
22 testing in pre-determined test areas split into one to three test stations. Buell said the
23 industry requested the changes not so much on the actual methods used but the way
24 results are used to open the seasons. This year all three states agreed to hold a Tri-
25 State meeting and look at proposed revisions. After three regional crab summit
26 meetings and a Tri-State meeting in May, the following proposed changes agreed to
27 were mailed to all permit holders and crab buyers:

- 28
29 1. Eliminate minimum meat recovery projections. Staff only uses actual test results.
30 2. Eliminate rounding of test results north of Cascade Head.
31 3. Revise the testing schedule to provide a minimum 5 day notice of season opening
32 dates.

33
34 **Public Testimony:**

Hugh Link Coos Bay, Oregon	Hugh Link, Executive Director of Oregon Dungeness Crab Commission (ODCC), said progress is being made with the cooperation of the Tri-State management group and industry members. The protocols in the Tri-State Agreement provide the management tools that this marine region staff can use to better deal with the crab fishery and make decisions that achieve both biological and economical sound decisions. It only makes sense to open the season when we know the crab is ready; we have not had that before. ODCC wants everyone to get the best product possible: the fishermen; the buyer; and consumer. The proposed changes will maximum the value of Oregon's crab resource and keep poor quality crab out of the market place. The good news: these
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	additions to the protocol are an example of management, listening and working with industry to solve these problems. ODCC supports the staff's recommendation for the proposed changes to the Tri-State protocol as submitted.
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Action: Commissioner Akenson moved to incorporate the revised Tri-state protocol shown in Attachment 6 into Oregon Administrative Rule by reference as shown in Attachment 3 effective October 15, 2013. Commissioner Anderson seconded the motion and the motion carried unanimously by a vote of six.

Executive Session. Chair Levy said the Oregon Fish and Wildlife Commission will now meet in executive session during an extended lunch hour. The Executive Session is held pursuant to ORS 192.660 (2)(h) which allows the Commission to meet in Executive Session to consult with legal counsel concerning current litigation or litigation likely to be filed; and to consider information or records exempt by law from public inspection, that is, attorney client privileged documents, as authorized by ORS 192.660 (2)(f); and to review and evaluate the job performance of Roy Elicker as Director, as authorized by ORS 192.660 (2)(i). Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session we will return to open the public meeting and welcome the audience back to hear the remainder of the exhibits on the Commission's agenda.

Director Elicker said we had three scheduled executive session topics but because of the federal shutdown one of the three of those subjects will not be taken on.

Chair Levy reopened the public meeting after Executive Session at 2:24 p.m.

Exhibit E: ROOKE-HIGGINS BOAT RAMP ACQUISITION

Richard Duncan, Realty Specialist, said the Rooke-Higgins boat ramp was built in 1988 by the Oregon State Marine Board and was part of a 48 acre parcel. Weyerhaeuser leased two acres to Coos County and sold 40 acres to an individual who is farming and running cattle on the land. Duncan said the lease expired in 2008. The property owner closed the boat ramp and agreed to sell the property to ODFW. Staff is asking the Commission to approve the purchase so staff can close before the end of 2013.

Tim Walters said before the ramp was closed during the fall Chinook fishing season the boat ramp was typically one-third full. It was used during the winter by anglers launching for winter steelhead. The local angling community supports purchasing the property. He said there are some concerns about the crime rate occurring in the area but he spoke to Larry Robeson, Coos County Parks Director, who said they have not really had any

1 problem with crime. Just opposite the boat ramp is a campground with a host who either
2 calls the county or the Sheriff's Office if there are any incidences.

3
4 Duncan displayed a map and noted a parcel that Coos County gave ODFW in order to
5 facilitate a lot line adjustment necessary to take this parcel out of the 40 acre parcel. He
6 said there will be some maintenance needed to the facility because it is 20 years old.

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

9
10 Duncan said at the end of the proposed motion, "...upon completion of the due diligence
11 processes required under Oregon Administrative Rules for land exchanges.", the word
12 "exchanges" should be "**acquisitions**".

13
14 *Action: Commissioner Webber moved to approve the acquisition of the Rooke-*
15 *Higgins Boat Ramp property and direct staff to proceed to escrow closing upon*
16 *completion of the due diligence processes required under Oregon Administrative*
17 *Rules for land acquisitions. Commissioner Wolley seconded the motion and the*
18 *motion carried unanimously by a vote of six.*

19
20 **Exhibit F: OREGON STATE POLICE ANNUAL OVERVIEW**

21 Captain Jeff Samuels discussed their mission and said they are trying to gain voluntary
22 compliance of fish, wildlife, and environmental laws through protection and
23 enhancements of the long term health of fish and wildlife resources while trying to ensure
24 equitable utilization. They protect the habitat and environment, public safety, and also
25 enforce criminal, traffic, boat safety and all-terrain vehicle laws. All peace officers in
26 Oregon can enforce fish and wildlife laws but OSP is mandated (ORS 496.610) to
27 employ enough people to enforce those laws. A commercial fishing statute requires them
28 to have enough people to do commercial fishing enforcement.

29
30 Captain Samuels said they patrol 97,131 square miles and are responsible through state
31 jurisdiction and federal deputization to enforce fishing regulations in the Pacific Ocean
32 from shore out to 200 miles. Regarding their customer base, in 2012 ODFW sold over
33 833,144 total angling, hunting, and shellfish licenses. He discussed OSP's organizational
34 structure, regional offices and personnel. Through a Cooperative Enforcement Plan
35 each office meets annually with ODFW fish and wildlife biologists to map out by species
36 enforcement priorities and action plans. He extended an invitation to the Commission to
37 attend one of their regional annual meetings.

38
39 Captain Samuels discussed their Key Performance Measures.

- 40 1. Percent of anglers contacted who are angling in compliance with the rules and
41 laws associated with salmon and steelhead bag limits, licensing/tagging, means of
42 take and species.
43 2. Percent of anglers contacted who are angling in compliance with the rules and
44 laws associated with all fish species.
45 3. Percent of hunters contacted who are hunting in compliance with the rules and
46 laws associated with big game hunting seasons.
47

1 Captain Samuels discussed New Internal Measures:

- 2 1. Increased interactions with anglers and hunters to provide education, detection,
3 and deterrence of violations.
- 4 2. Increased apprehension of individuals illegally harvesting Oregon's fish and
5 wildlife.
- 6 3. Increased apprehension of individuals involved in environmental degradation.
7

8 Lieutenant (Lt.) David Anderson heads the Fisheries Program. He discussed:

- 9 • Ocean Fisheries. He participates in Pacific Fisheries Management Council
10 meetings as a member and chairs the Enforcement Consultants Committee.
- 11 • Columbia River Fisheries: sport, commercial, Columbia River Management
12 Reform, and Tribal fisheries above Bonneville. Member of Columbia Basin Law
13 Enforcement Council to discuss enforcement and plan operations.
- 14 • Shellfish. ODFW funds 2 positions. Illegal harvest of shellfish is biggest concern.
- 15 • Oregon Plan. Thirteen troopers focus on salmon, watershed protection,
16 environmental work and coordination with other natural resource agencies.
- 17 • Special Investigations Unit. A plain clothes unit consisting of a sergeant and three
18 detectives who receive specialized training through Western States Covert
19 Academy. One environmental detective funded by DEQ.
20

21 Lt. Anderson ran a *News Channel 8* video of OSP investigating clambers illegally
22 harvesting more clams than their limit, or taking only large clams and putting the small
23 clams back in the sand, or clamming without a razor clamming license.
24

25 Lt. Anderson discussed Lt. Ethan Wilson's responsibilities overseeing the Wildlife
26 Program:

- 27 • Big Game. Mule Deer Initiative, insuring that the field has equipment they need.
28 Updated GPS system helps identify property ownership; assists with trespassing
29 complaints during big game seasons.
- 30 • Inland Fisheries. Lt. Wilson will assist with regulation update process.
- 31 • Aircraft Program. Instrumental to both management and enforcement.
- 32 • Budget. Lt. Wilson oversees the budget as it relates to ODFW contract.
- 33 • Training. Annual in-service training.
34

35 Lt. Anderson said their decoy program is an effective tool to address a multitude of
36 issues. He ran a news video *Unit 8 Investigates* of poachers at New Haag Lake. Half of
37 the people don't have licenses or tags; 80% that shot at the decoy were in violation of
38 the law.
39

40 Lt. Anderson said in southeast Oregon 586 mule deer were collared and their mortality
41 was studied from 2005 to 2011. During that time 178 mortalities occurred. He said the
42 illegal harvest of those mule deer was 13%, which is 2% higher than the legal harvest.
43 OSP expanded this study to the entire mule deer population. In 2009 it was estimated
44 there were over 216,000 mule deer in the state. The same mortality rate applied to that
45 entire population over that five year period; roughly 66,000 mule deer died. If you apply
46 the mortality rate contributed to illegal harvest that is nearly 9,000 animals. Over that five

1 year time period OSP investigated 900 illegally harvested mule deer. He said OSP is
2 detecting 10% of the illegally harvested mule deer. That number is unacceptable so we
3 are asking what we can do better or what has changed.

4
5 Captain Samuels discussed the statistics of sworn positions versus the population
6 between 1993 and 2011. He said the 1980's population of 2.6 million has increased to
7 3.8 million today. He discussed their 2013-2015 Biennial Estimated Program Revenues
8 (see bottom slide, page 9). He said we have 118 FTE leaving 109 for fish and wildlife
9 enforcement. OSP has 10 vacancies and only has 100 troopers to do the work that in the
10 past was done with 122 troopers.

11
12 Captain Samuels discussed their efficiency plans:

- 13 • Technology. Mobile Data Terminals.
- 14 • Cameras in vehicles to capture evidence.
- 15 • Records Management System. Capture more real time data and access to
16 information; allows troopers more field time.
- 17 • Grants Program. In 2009-2011 Biennium, OSP lost \$1 million in LF used to buy
18 capital equipment, trucks or boats. ODFW provides \$400,000 for equipment but
19 OSP has \$1.5 million in equipment needs each biennium. They replace one third of
20 their fleet a biennium because trucks just mileage out.
- 21 • Recovery/Mitigation Plans. Reenergizing conversations with ODFW; conservation
22 enforcement is a key component of conservation plans.

23
24 Lt. Anderson during another slide presentation discussed the variety of work conducted
25 by OSP and the type of cases they routinely investigate. Captain Samuels extended an
26 invitation to each Commissioner to ride along with a Trooper in their local area.

27
28 **Public Testimony:** There was no public testimony.

29
30 Vice Chair Finley referred to Captain Samuels report about equipment fund needs for
31 \$1.5 million and the turnover rate. You said you had troopers lapsed; you don't fill
32 positions even though they are on the books? Captain Samuels said last biennium and
33 this biennium ODFW has not been able to provide full funding for the troopers that we
34 have and the equipment. We have had to actually hold vacancies in ODFW positions to
35 pay the way for the rest of the ODFW positions out there working.

36
37 Vice Chair Finley said the population today is 3.8 million and you have 832,614 permits
38 issued. He asked to get the numbers of permits that were listed in the 1980's. He said
39 what was interesting your violators do not necessarily have licenses or game synopsis.
40 There is a lot of take going on and it's a terrible loss in wildlife. Do we have any other
41 antidotal evidence that would point to even a better picture?

42
43 Captain Samuels said through that study and information that Lt. Anderson just provided,
44 during that same five year time period we become aware of 900 unlawfully harvested
45 animals. We question if some of that is related to the number of Troopers. Lt. Anderson
46 added they recently changed their reporting system. So before they might not have been
47 capturing accurately the number of animals where there is no suspect but a carcass left.

1
2 Vice Chair Finley said this is a trend line both for ODFW and OSP that somehow we
3 have to tell this story better to the public and Oregon Legislature because you both need
4 more GF. There is a bigger picture here that is not being told that ties in with the
5 population growth in the state and the unknown losses. He said the Commission has a
6 nongame responsibility and watching wildlife is one the fastest growing activities in the
7 nation; it has economic benefit throughout the state. Some of this poaching is affecting
8 the areas and the quality. He encouraged OSP to get together with Director Elicker to get
9 a bigger picture put together than just trying to fight the cuts.

10 11 **Exhibit G: 2014 BIG GAME REGULATIONS**

12 Thomas Thornton, Game Program Manager, discussed the regulation development
13 process and the proposed changes since the Commission's June meeting.

- 14 • Spring Bear. Add 25 tags in Hood and White River Units.
- 15 • Cougar quotas proposed to remain at same level since adoption of 2006 Cougar
16 Management Plan at which time all mortalities were included. As of one week ago,
17 300 cougars were checked; half due to hunting and half due to other causes.
- 18 • Pronghorn. Three hunt area changes; shift season dates to six days later.
- 19 • Big Horn Sheep. Delete Chesnimnus and Snake River #2; population is down.
- 20 • Rocky Mountain Goat. Three new hunts in Strawberry Mts., N. Wenaha, and
21 Elkhorn Mts. #3; and one non-resident tag as required by statute.
- 22 • Deer. Four new hunts in NE Owyhee (buck); Interstate Muzzleloader; Prairie Creek
23 white-tailed deer; and S. Bryant youth. Delete Union County agricultural hunt.
- 24 • Elk:
 - 25 ➤ Rifle hunts. Add unit-wide Snake River antlerless hunt. Split High Desert
26 into two hunts first and second period.
 - 27 ➤ Muzzleloader and Archery Hunts. Add five unit-wide archery hunts: expand
28 Elliott to entire Tioga Unit; add four units in Northeast with unit-wide
29 controlled archery hunts in Heppner, Ukiah, Snake River, and Chesnimnus.
 - 30 ➤ Youth hunts. Offer more opportunity by splitting Pine Creek and Keating
31 into two single unit hunts to spread the effort out.
- 32 • New Antlerless Elk. Remove Alsea and Trask units from units with antlerless elk in
33 the bag limit for archers and hunters with Disability Permit. These units are below
34 their population Management Objectives (MO).

35
36 Thornton discussed the 2012 Antlerless Elk Harvest by User Group. He said for 2014
37 Auction Tags there are five deer, five elk, one Big Horn sheep, and one pronghorn tag.
38 The Rocky Mountain Elk Foundation was unable to auction the deer and elk combo tag
39 at their national convention this year, so it was awarded to the alternate - Safari Club
40 International in Southwest Washington Chapter.

- 41 • 2014 Raffle Tags. Rocky Mountain goat raffle tag.
- 42 • General Regulations. One exception in Cooperative Travel Management Areas
43 (TMA). The original proposal to the Meacham TMA covered 45 square miles. There
44 is a block of several sections in the top center portion that were depicted as all
45 being private lands with interspersed pieces of Hancock property. He said staff has
46

- 1 become aware that is actually part of the Umatilla Indian Reservation and so those
 2 areas have been removed reducing it to 41 square miles.
- 3 • Muzzleloader bullets. Allow use of nontoxic round balls and conical bullets in
 4 addition to lead and lead alloy. Some now may be used without sabots.
 - 5 • Spring Bear Tags for Active Duty Personnel. Make permanent the change made by
 6 temporary rule for uniformed services members stationed outside Oregon but home
 7 on leave. 20 tags per district; tags issued not to exceed 10% of tags authorized.
 - 8 • Proof of Sex Regulations simplified to clarify three options for proof of sex.
 - 9 • Bear and cougar hunting during deer and elk seasons. Remove restriction during
 10 standard Rocky Mountain antlerless elk rifle season. Consistent with other rules of
 11 the antlerless elk hunts. Staff will monitor and evaluate hunter success rates.
 - 12 • First time Youth Applications. Remove September 1 application deadline for First
 13 Time Youth Tags to allow youth hunters to hunt more often and remain interested.
 - 14 • Concept: Allow crossbows with limitations. ODFW does not have a proposal
 15 regarding crossbows but because of continuing interest by the public, staff
 16 discussed crossbow for hunters with Disabilities Permits during archery season and
 17 crossbows during rifle seasons.

18
 19 Thornton said the USFWS ADA coordinator could not speak today on crossbows
 20 because of the federal government shutdown. Staff proposes to revisit this issue later
 21 this winter when the USFWS's ADA coordinator is available.

22
 23 **Public Testimony:**

<p>Duane Bernard Rainier, Oregon</p>	<p>Duane Bernard, SCI and Oregon Hunters Association (OHA), distributed written testimony and said he represented himself. He said there is no black-tailed deer harvest opportunity for the public including landowners north of Burlington Northern Railroad (BNRR) tracks along Columbia River within Saddle Mt. Unit #10. This is to prevent state and federally listed endangered Columbia White-tailed deer from being accidentally killed. Neighboring Scappoose and Willamette units are open to black-tailed deer during sanctioned seasons with no boundary restrictions, and the Roseburg area hosts Columbia White-tailed deer that remain open to the public to hunt. Currently, the only way to legally harvest black-tailed deer north of BNRR in Saddle Mt. Unit is to be a private landowner and declare property/crop damage by deer and receive kill permits or Land Owner Preference damages tags. Bernard asked several questions:</p> <ol style="list-style-type: none"> 1. Makes no sense to ban the public from black-tailed deer hunting in one unit where the species overlaps with Columbia White-tailed deer and not do the same where this situation occurs in other units. He doesn't believe hunters are different in the adjacent units. They should be allowed to hunt on their own land. 2. When property/crop damage is occurring by deer within this same area, why is the general public being
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	<p>excluded from the wildlife management process of their public resources? ODFW loses revenue and good will from their primary constituents.</p> <p>3. Either sex black-tailed deer kill permits or LOP damage tags are currently issued to landowners within this same boundary. These permits are issued mid-winter and can be exercised by April 15. He believes this window is too late to be killing pregnant does that will be fawning in a month or less if killed in April. He believes hunters could be part of sustainable population; if there was a surplus these animals could be harvested earlier in the year</p> <p>Bernard would like incorporated the area north of BNRR along the Columbia River into the black-tailed Deer hunt boundaries of the Saddle Mt. Unit including equal opportunity for tags during all sanctioned season for the general public.</p>
<p>Bob Kendall Hood River, Oregon</p>	<p>Bob Kendall, Oregon Bowhunters Association (OBA) and Oregon Hunters Association (OHA) member, said The Dalles Bowmen Archery Club and Apple Knocker Bowmen Archery Club, asked him to speak on lighted nocks. He owns an archery shop and is asked daily why Oregon is not allowed to use this product. We see no advantage or see where this product gives us a distance or accuracy advantage. The placement of our arrow is vital to knowing how soon we need to start the tracking of our animal. He encouraged the Commission to reconsider the use of the lightednock in Oregon; Washington state does allow them.</p> <p>Kendall said it has been stated that the use of crossbows has no purpose whatsoever in Oregon by the disabled or other hunters. It is legal by the disabled in Washington; the abuse is rampant by people that are acquiring disabled permits. He said countless guys come into his store with those permits that are certainly not disabled. This state does not have a surplus of wildlife. He sees only a drastic increase in harvest if crossbows are allowed. He asked the Commission to vote no on the use of this product.</p>
<p>Al Elkins Wilsonville, Oregon</p>	<p>Al Elkins, OHA, said OHA was prepared to voice their opposition on crossbows today but will wait until it comes up again on the Commission agenda. Elkins received a letter electronically the night before from five OHA chapters regarding deer and elk hunting general season along with Controlled Hunts on all public lands within the Siuslaw,</p>

	<p>Alesa, and Stout Mt. Units. They would like to see the hunting in those areas ended by December 31 of each year. Their main concern is fawn development and the stress of hunting during their gestation time. Elkins promised to forward that letter to the Commission on Monday. He said OHA would like to be part of Director Elicker and Captain Samuels' discussions about game enforcement in regard to poaching; OHA has observations they would like to share. He thanked Director Elicker for ODFW's black-tailed deer studies that provides new data they have not had before.</p>
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1
2 Commissioner Webber said Mr. Bernard spoke about the deer hunting in Saddle Mt.
3 from the BNRR tracks to the river. Is that five feet or five miles? Bernard said it could be
4 a couple of miles to half a mile in places but it does extend a long way east and west.
5 Commissioner Webber asked if hunting was different in the adjoining counties or units.
6 Bernard said there is less white-tailed deer in the other units because they are fairly new
7 and just being established. Saddle Mt. Unit comes upriver to Clatskanie; no hunting
8 down river between the railroad tracks and the river for any deer. If you own land you
9 cannot hunt on it for deer. But right at Clatskanie from there on up you can hunt in the
10 Scappoose and Willamette Units.
11

<p>Jeff Suiter Eugene, Oregon</p>	<p>Jeff Suiter, BowTech Archery, distributed written testimony in support of crossbows for hunters with disabilities. He said he has been a compound bow hunter for many years but most have not ever used one. It is not a question of how a crossbow is categorized, whether it fits into the archery world or firearms world, but how do we afford people with disabilities the opportunity to hunt and be able to do so for people unable to continue to shoot a vertical bow.</p> <ul style="list-style-type: none"> • 22 states allow crossbow use during the entire archery season with no restrictions. • 49 states allow some form of crossbow use; may range from "limited seasons", special permit areas, age, and/or individuals with disabilities. • Oregon is the only state that crossbows are illegal to use for hunting in any capacity. <p>He asked if we are missing something the overwhelming majority allows to exist. He said the pilot program allowing hunters with a category "d" permit and Special Use Permit should be allowed the opportunity to hunt with a crossbow.</p>
<p>Craig Starr Lebanon, Oregon</p>	<p>Craig Starr, OBA, distributed written testimony and said OBH opposes any use of crossbows in archery season. Starr said a year ago, ODFW controlled archery elk hunting in three northeast Oregon trophy elk units: Wenaha, Walla Walla, and Mt. Emily to address in-season poaching of</p>

	<p>branch bull elk. Given the number of 2013 tags approved in June, OBH calculated a 40% reduction in archery deer hunting opportunity (see his handout, <i>Northeast Archery Deer Hunting Comparison of Current (2011) Hunting Harvest and Success Rates</i>). At the Commission's meeting last October and this June, some of the Commission expressed concern about the impacts of this decision. ODFW staff indicated they would provide information on alternatives so the Commission could make decisions today for the 2014 season. Starr said a year of archery hunting in northeast Oregon has been lost to hundreds of Oregon bowhunters because the impacts of the Commission's actions were not addressed. He asked the Commission to:</p> <ul style="list-style-type: none"> • Eliminate the restriction on archery deer hunting to only those with a controlled archery elk tag. • Approve the OBH proposal or modify it so it is acceptable or come up with some other affirmative alternative for addressing the reduction that you have created. • If nothing else, take action today as a one year short-term pilot program so the issue is addressed for next season and we don't miss another year.
<p>Mike Treat Tigard, Oregon</p>	<p>Mike Treat, Field Governor for Traditional Archers of Oregon (TAO), said they have provided high vision alternatives that can be put on arrows that would make the arrow easier to see. TAO remains opposed to lighted nocks and any other electronic devices on bows or arrows. TAO encourages the Commission to maintain the current regulations and help them keep archery a primitive weapon sport in Oregon. Treat said TAO supports OBH's deer proposal within biological reasons. We were disappointed that nothing has been done. The loss of opportunity in northeast Oregon units needs to be examined. TAO encourages staff to look at the alternatives that are available and to help restore these deer hunting opportunities that has been lost in these units.</p>
<p>Rich Thompson Newberg, Oregon</p>	<p>Rich Thompson, TAO, distributed written testimony and said at the June Commission meeting concern was expressed that if crossbows were not allowed in archery seasons by disabled people that ODFW could potentially be sued by ADA and Pittman Robertson funds could be cut off. The Commission asked staff to provide alternatives to allow crossbows in archery seasons. He said archers concerns have been well documented but it appears the Commission's request has not been addressed. In August, staff did set up an archery demonstration and crossbows in</p>

	<p>action. Thompson said TAO asks that the Commission demand staff to produce a viable list of alternatives such as thorough research and review of available adaptive archery equipment, lesser weapons concept, working with disabled hunters in the archery community, increasing education and verification of ADA requirements. He said if the Commission agrees with staff that crossbows are the only option, they need to give serious consideration to how staff can maintain and further improve the quality of archery hunting in Oregon as well as the resource.</p>
<p>Les Helgeson Beaver, Oregon</p>	<p>Les Helgeson, landowner, has lived on the Upper Nestucca River since 1985. He is disabled under Social Security rules but has not yet applied for a Disabled Permit. He spoke to two issues affecting the disabled:</p> <ol style="list-style-type: none"> 1. He sees crossbows as the ultimate poaching tool. It is quiet and it's got the range. We don't need to bring that into the equation here in Oregon. He knows of people that hunt for multiple tags for the disabled; the program is being abused substantially. 2. He supports the bag limit restrictions the north coast district is proposing for antlerless elk. Over the last three years he has seen the reduction in cow and spike. It is noticeable and it is time to act there. 3. He asked if the closest Saturday to the first of October could be revisited at some time. He said this year the archery season got moved back to August 24. We are getting ripped off and it happens every five or six years. The same with the rifle and deer season. On the coast we look for the later part of the season to be able to bag a black-tailed buck.
<p>Lt. Ethan Wilson Salem, Oregon</p>	<p>Lt. Ethan Wilson, OSP Fish and Wildlife Division, expressed OSP's concerns with the proposal for bear and cougar hunting and the Standard Rocky Mountain (Mt.) antlerless elk hunt that requires the possession of a used or unused elk tag to hunt bear and cougar in that area. In 2010, when the prior rules were relaxed, part of the intent was to see if there would be an increase in the harvest of cougar and bear in those areas. In the Commission's packet it indicates that there was not really any change but there actually was an increase in the harvest of deer and elk in those units. There is no crime for party hunting but there is a crime of loaning or borrowing an elk or deer tag. OSP's concern is that this could increase more instances and opportunity for that sort of activity to occur under party hunting, particularly when coupled with the proposed rule change to eliminate</p>

	<p>that same standard antlerless Rocky Mt. elk hunt from the rule.</p> <p>Lt. Wilson referred to <i>Attachment 4 – Draft Oregon Administrative Rules</i>, page 21, under Unlawful Acts line 13, that reads “(1) To hunt with a centerfire or muzzleloading rifle during the standard eastern Oregon controlled deer buck season (September 28 – October 9, 2013) Cascade bull elk season, Coast bull elk season, or rocky Mountain bull or either-sex elk seasons,....”, and said what has been stricken through on lines 15-16, “..for the standard Rocky Mountain unit’s antlerless elk seasons.”, is this same unit. He said OSP is not sure that eliminating that area from the current restrictions solves anything. If damage caused by elk is an issue, OSP does not want a connection made between allowing the party hunting and tolerating it in order to possibly help offset damage issues.</p>
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1
2 Chair Levy said you want those stricken-through sentences (page 21, lines 15-16) left in
3 the language? Lt. Wilson said yes, that would be our preference for that piece.
4
5 Commissioner Akenson said by leaving that language as it was to minimize the chance
6 that people would be party hunting rather than actually looking for bears and cougars,
7 what about those units that don't currently have that option? Isn't there the same
8 problem with those units? Lt. Wilson said he would have to look at that. Since the law
9 was relaxed in 2010, OSP has seen an increase particularly in 2011 and 2012 in the
10 number of loaning and borrowing tags, which are the primary offense that ends up
11 getting charged in cases where hunters are filling other people's tags. We do not have
12 data that points to party hunting because party hunting is not a crime by itself.
13
14 Chair Levy asked staff to address Lt. Wilson's questions.
15
16 Thornton said as Commissioner Akenson pointed out it could be going on in other units
17 and staff does not know that. Staff looked at the changes through time and the way the
18 seasons have been structured. Whatever the Commission's decision, staff will continue
19 to monitor the situation and consider that for any future proposal whether to become
20 more restrictive or less restrictive in the future.
21
22 Chair Levy clarified that Lt. Wilson wants to leave as is the current wording that is
23 stricken-through on page 21 under "Unlawful Acts". What difference would it make to
24 leave that wording in? Thornton said it would maintain the status quo; that one specific
25 nine day time frame would continue to have a restriction during that antlerless elk season
26 for those units that have that hunt.
27
28 Chair Levy said she heard it would be easier for enforcement purposes if the
29 Commission left the wording as it is and not take the stricken-through wording out. Lt.

1 Wilson said correct. For that particular antlerless hunt since that would be excluded it
2 would open the door for anybody going through the woods with a high powered rifle
3 hunting anything to not be required to have in their possession a valid elk tag for that
4 hunt.

5
6 Commissioner Akenson said in *Attachment 3 – Staff Proposals*, on page 11, the table,
7 *Combined % Success*, does show that with the liberalizing of the allowance of people to
8 continue hunting that there was a significant increase in harvest of deer and elk even
9 though there was not a significant increase in the harvest of bears and cougars. So, it
10 does appear that increase may be due to party hunting.

11
12 Don Whittaker, Ungulate Coordinator, said removal of the standard cow season dates
13 will affect only 18 cow hunts, all that is left during that standard timeframe. All of the
14 other 100 plus cow hunts occur between August 1 and March 31. The remainder of
15 thousands of cow tags occurs outside that framework.

16
17 Commissioner Webber said Thornton indicated that under proposed elk changes staff
18 proposes to add five unit-wide archery hunts in the northeast. Are we are making these
19 limited entry? Thornton said that is correct, they are controlled hunts. Commissioner
20 Webber asked if that was the only archery opportunities, in those units. Thornton said he
21 would have to check the regulations. Some of those units also offer the expanded bag
22 limit during the General Season. So this would be a way to focus additional effort on
23 antlerless animals because they are in units that have Controlled Hunts. For example, in
24 the Snake River Unit, where hunters are restricted to a bull at this time this proposal
25 would add an antlerless opportunity. However, in the Chesnimnus Unit it's adding an
26 additional cow season.

27
28 Commissioner Webber said in the Chesnimnus this additional cow season would also
29 increase the number of opportunities for people to hunt deer? You need an elk tag to
30 hunt deer? Thornton said that is correct, it does not specify which elk tag you would
31 need to have. Commissioner Webber said in the Snake River there is not any restriction
32 to have an elk tag to hunt deer. Would that continue? Thornton said that is correct. We
33 would not make a tie between deer and elk tags.

34
35 Commissioner Akenson said she had a Chesnimnus tag this year and they could hunt
36 either a bull or cow. What is going to be different next year? Was the cow part added
37 after the regulations came out? Is that why the Chesnimnus is included in that list?
38 Thornton said this would be a way of adding additional cow harvest on top of those
39 hunters who have a tag that is for a bull or can take either animal. As that herd goes
40 above its MO this is a way to focus on the antlerless portion of that herd.

41
42 Commissioner Akenson said those tags would be in addition to the current either sex
43 tags? Thornton said correct, those tags would be in addition to the bull tags that are
44 currently good for either sex. Whittaker added that was the unit that staff had to correct
45 the emergency rule to change it from a bull tag to an either sex tag in the regulations.

1 Commissioner Akenson said for 2014 even without this change is it still an either sex
2 hunt or is it going to be a bull tag? Thornton said there would be two hunts: 1) an either
3 sex bag limit; and 2) restricted to antlerless animals during the same time period.
4

5 Commissioner Akenson said we have made these restrictions on deer hunting for
6 archers in these units and we are starting to get quite a few units that in order to get a
7 deer tag you have to have an elk tag for that Controlled Hunt Unit. We need to address
8 that loss of deer hunting opportunity that OHA and the archery hunters in Oregon have
9 brought up. If we don't get it done for this year it is important to look at that for next year.
10 We have significantly lost opportunity not because there is a problem with the deer, it's
11 because of enforcement and potential harassment of animals in these premier hunts
12 where people say they are deer hunting but are really bugling for elk with seven points.
13

14 Bruce Eddy, Northeast Region Manager, said at the time we instituted that particular
15 regulation we tried to provide more branch antler bull opportunity in the golden triangle
16 and to deal with the perception of a high illegal activity there. We didn't realize there
17 would be as much controversy over it as there is now. In considering a course of action,
18 we are very uncomfortable with OBH's proposal where we push an additional level of
19 harvest into the rut because those populations are all below the MO. Eddy said the
20 Commission could leave the regulation the way it is now and direct staff to review the
21 issue and come back with a recommendation when the archery review is done or
22 reverse the situation and go back to not having a deer tag to archery hunt but to review
23 the issue as part of the archery review.
24

25 Commissioner Akenson said it grew from being two units to five units; it is a significant
26 chunk of northeast Oregon. Originally it was a good intent but it is too broad scale. She
27 asked to see options for next year and to see how things have played out given the
28 Commission did cut the archery buck opportunity. We need some kind of a different
29 answer.
30

31 Commissioner Akenson said in the packet is information about HB 2027, the landowner
32 damage program that was not addressed by staff today. Will that be presented to the
33 Commission in the future? Thornton said correct. Staff is looking to implement HB 2027
34 on July 1 and will back before the Commission no later than the June meeting to put
35 those rules in place. Commissioner Akenson said that won't be implemented until the
36 2014 Season. Thornton said correct, it will be in place for the 2014 hunting seasons; the
37 landowner regulations are separate from the hunting regulations. Whittaker said staff
38 has language in the Big Game Regulations stating there is new language coming. Staff
39 is developing the administrative rule portion for June with implement beginning in the
40 2014-2015 seasons.
41

42 Vice Chair Finley asked Thornton to address concerns by Mr. Bernard and why the
43 Saddle Mt. Unit is different from the two adjacent units. Thornton referred to his slide
44 *Saddle Mt. Black-tailed Deer Hunting Closure Areas* and said there is 14 square miles
45 north of the railroad line. He said there are 6,000 deer in the Roseburg population and
46 600 in this Columbia River population. The Julia Butler Hanson Refuge has an estimated
47 70 to 90 deer on the mainland part. This spring USFWS moved half of those deer to

1 Ridgefield across from Sauvie Island because of an imminent potential of a dike failure
2 that would inundate the mainland refuge and compromise the survival of that group.

3
4 Vice Chair Finley asked if the objection is the population is below the MO. Why is the unit
5 closed in that area? Thornton said it is closed to protect the endangered Columbia
6 White-tailed deer. The black-tailed deer population is not below MO. The district
7 estimates 100 animals in that area and roughly 50/50 are Columbia and black-tailed
8 deer.

9
10 Chair Levy asked Ron Anglin to address Lt. Ethan Wilson's question.

11
12 Ron Anglin said the bulk of our cow seasons do not have any restrictions on bear and
13 cougar hunting and people having an elk tag to go hunt during those seasons. These
14 are the remaining 18 hunts that still have some level of a restriction in place. Staff did
15 ask if the restrictions drop will it result in increased cow harvest that potentially is illegally
16 taken through borrowing or lending of tags. He said that is a possibility it is occurring
17 right now. Biologically we don't know the answers on whether it would make a difference
18 or not. Staff hopes to tease that out over the next few years to answer those questions.

19
20 Chair Levy said so leave the strike-through in is so staff can figure out whether to put
21 that language in at a later date? Anglin said our recommendation is to leave the strike-
22 through language in, drop that restriction and allow bear and cougar hunting to happen
23 during that timeframe and provide that extra nine days of opportunity for people that want
24 to bear and cougar hunt. Three years ago, OHA came to the Commission and asked
25 them to drop the restriction entirely for all deer and elk hunting. Staff came back with a
26 modified recommendation to partially drop it and give staff time to review and determine
27 if there were any impacts. It appears something is going on and staff needs more time to
28 analyze that. Dropping the restriction on those 18 hunts is not going to make that big of a
29 different or influence the results of staff's overall analyzing.

30
31 Chair Levy said she would like to see the strike-through wording removed. If a member
32 of the law enforcement comes to the Commission and asks us to take that wording out
33 then that is a very easy accommodation. OSP is the one who has to enforce this rule.

34
35 Commissioner Akenson agreed and said the 18 units could be used as a comparison
36 against the other units to see whether this increase in success that was seen in the other
37 units is also seen in the units that don't have cougar and bear hunting. She suggested
38 that the Commission revisit that next year if it looks like it is not really an affect.

39
40 Chair Levy asked Legal Counsel to take the strike-through out and to rewrite the motion.

41
42 *Action: Vice Chair Finley moved to amend OAR Chapter 635, Divisions 010, 045,*
43 *060, 065, 066, 067, 068, 069, 070, 071, 072, and 073 as proposed by staff, but*
44 *without the elimination of the language shown in strike-through in OAR 635-065-*
45 *0740 on lines 15 and 16, to amend OAR 635-060-0030 to eliminate the*
46 *September 1 deadline for "first time" youth tags as proposed by staff in the*
47 *Supplemental Draft OARs (October 4, 2013), and to adopt the document entitled*

1 *"2014 Oregon Big Game Regulations" as proposed by staff. Commissioner*
2 *Anderson seconded the motion.*

3
4 Commissioner Webber said we took the strike-out on lines 15 and 16 but there is
5 another strike-out but it doesn't apply to bears and cougars; it applies to smaller
6 centerfire rifles. We are not dealing with that one? Chair Levy said no.

7
8 *The motion carried unanimously by a vote of six.*

9
10 **OTHER BUSINESS**

11 **Proposed 2014 Commission Meeting Dates.** The Commission announced their 2014
12 Commission meeting dates: January 10, February 7, March 7, April 25, May 16 (if
13 needed), June 5-6, July 11 (if needed), August 1, September 5 –Northeast Oregon
14 (Congressional District 2), October 3 – Medford, November - no meeting, and December
15 5, 2014.

16
17 Vice Chair Finley said he might miss the March 7 meeting date due to prior work
18 commitments.

19
20 **ADJOURN**

21 Chair Levy adjourned the meeting at 4:50 p.m.