



Oregon Fish and Wildlife Commission Minutes

Meeting: Monday July 27, 2015 - 1:00 pm
 Oregon Department of Fish and Wildlife
 Commission Room
 4034 Fairview Industrial Drive S.E.
 Salem, Oregon 97302

1
 2 *Commission minutes are considered draft until approved by the*
 3 *Commission.*

4 **Monday July 27, 2015**

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

8
 Michael Finley, Chair
 Bob Webber, Commissioner
 Greg Wolley, Commissioner
 Laura Anderson, Commissioner
 Bruce Buckmaster, Commissioner
 Curt Melcher, Director
 Steve Sanders, Assistant Attorney General
 Erin Donald, Assistant Attorney General
 Michelle Tate, Executive Assistant

9
 10 **MEETING**

11
 12 On Monday, July 27, 2015 at 1:10 p.m., Chair Michael Finley called the Oregon Fish
 13 and Wildlife Commission (the Commission) meeting to order.

14
 15 **DIRECTOR'S REPORT**
 16 **Adopt Temporary Rules**

17 Director Curt Melcher requested the Commission ratify the following temporary rules.
 18 The 30 temporary rules were previously adopted by the Director under his emergency
 19 action authority.

20
 21 **1) 635-041-0065**

22 **Columbia River Zone 6 Treaty Indian Commercial Gill Net Fishery Set**

23 Adopted June 4, 2015: effective June 9, 2015 through July 31, 2015

24 This amended rule allows sales of fish from a gill net season in Zone 6 beginning
 25 at 6:00 a.m. Tuesday, June 9 through 6:00 p.m. Thursday, June 11, 2015 (2.5 days).
 26 Modifications are consistent with action taken June 4, 2015 by the Oregon and
 27 Washington Departments of Fish and Wildlife, in cooperation with the Columbia River
 28 Treaty Tribes, at a meeting of the Columbia River Compact.

29
 30 **2) 635-023-0128**

31 **2015 Columbia River Summer Recreational Fisheries Implemented**

32 Adopted May 8, 2015: effective June 16, 2015 through July 31, 2015

33 This amended rule implements 2015 summer recreational salmon fishing seasons
 34 in the Columbia River. Modifications to regulations for 2015 conform to regulation
 35 changes developed through this year's Pacific Fishery Management Council/North of
 36 Falcon process. Corrections to the regulations were made to ensure rule consistency
 37 with the State of Washington.

1
2 **3) 635-042-0022**

3 **Columbia River Commercial Spring Chinook Drift Net Fishery Set for June 10,**
4 **2015**

5 Adopted June 9, 2015: effective June 10, 2015 through June 11, 2015

6 This amended rule authorizes a 12-hour non-Indian commercial spring Chinook
7 drift net fishery in the mainstem Columbia River to commence on Wednesday, June 10
8 at 7:00 p.m. and run through 7:00 a.m. Thursday, June 11, 2015 from the mouth of the
9 Columbia River upstream to Beacon Rock (Zones 1 thru 5). Modifications are consistent
10 with action taken June 9, 2015 by the Oregon and Washington Departments of Fish and
11 Wildlife at a meeting of the Columbia River Compact.
12

13 **4) 635-042-0145**

14 **Youngs Bay Select Area Commercial Spring Fishery Modified**

15 Adopted June 9, 2015: effective June 10, 2015 through July 31, 2015

16 This amended rule modifies harvest regulations for a spring commercial fishery
17 previously adopted for the Youngs Bay Select Area of the Columbia River. Retention
18 and sale of non-adipose fin-clipped Chinook is prohibited for a nineteen (19) hour period
19 beginning at 7:00 p.m. Wednesday, June 10, 2015. Modifications are consistent with the
20 action taken June 9, 2015 by the Oregon Department of Fish and Wildlife at a meeting
21 of the Columbia River Compact.
22

23 **5) 635-019-0090**

24 **John Day River Tumwater Falls Warmwater Fishery Opens**

25 Adopted June 3, 2015: effective June 9, 2015 through August 31, 2015

26 This amended rule allows recreational anglers opportunity to harvest warm water
27 fish species in the John Day River from the ODFW marker ¼ mile downstream from
28 Tumwater Falls up to approximately 200 feet above the falls, which are located near the
29 head of John Day Arm beginning June 9 through August 31, 2015. This modification
30 restores a fishery previously allowed until 2015. Fisheries managers plan to reinstate
31 the fishery by permanent rule for 2016.
32

33 **6) 635-039-0085**

34 **Pacific Halibut Recreational Nearshore Season from Leadbetter Point, WA to Cape**
35 **Falcon, OR Expanded**

36 Adopted June 8, 2015: effective June 15, 2015 through September 30, 2015

37 This amended rule expands the recreational nearshore Pacific halibut season,
38 from three days per week (Monday-Wednesday) to seven, in the area between
39 Leadbetter Point, Washington and Cape Falcon, Oregon beginning at 12:00 midnight
40 Monday, June 15, 2015. The National Oceanic & Atmospheric Administration (NOAA),
41 International Pacific Halibut Commission (IPHC), Washington Department of Fish and
42 Wildlife (WDFW), and the Department (ODFW) conferred on June 8, 2015 in order to
43 increase angler opportunity to reach the harvest quota.
44

1 **7) 635-017-0090**

2 **Angling from Floating Devices Allowed On Sandy River between Revenue Bridge**
3 **and Oxbow Park**

4 Adopted June 8, 2015: effective June 12, 2015 through November 22, 2015

5 This amended rule allows sport anglers increased opportunities to harvest
6 hatchery spring Chinook in the middle section of the Sandy River. By allowing anglers to
7 target fish from a floating device their chances increase for the harvest of hatchery fish
8 that are intended for that very purpose. Abnormally low flows have been restricting fish
9 movement and making it challenging for anglers to target fish from the river bank.

10
11 **8) 635-041-0065**

12 **Columbia River Zone 6 Treaty Indian Commercial Gill Net Fishery Extended**

13 Adopted June 10, 2015: effective June 11, 2015 through July 31, 2015

14 This amended rule authorizes sales of fish from a Treaty Indian gill net season in
15 Zone 6 which is extended through 6:00 p.m. Friday, June 12, 2015 (24 additional
16 hours). Modifications are consistent with action taken June 10, 2015 by the Oregon and
17 Washington Departments of Fish and Wildlife, in cooperation with the Columbia River
18 Treaty Tribes, at a meeting of the Columbia River Compact.

19
20 **9) 635-004-0275**

21 **Federal Management Measures Implemented for Commercial Groundfish**
22 **Individual Fishing Quota Fisheries**

23 Adopted June 10, 2015: effective June 12, 2015 through December 8, 2015

24 This amended rule implements in-season actions previously adopted by the federal
25 government for 2015 and 2016 Pacific Ocean commercial groundfish individual fishing
26 quota fisheries, including but not limited to establishment of trip limits and sorting
27 requirements for big skate.

28
29 **10) 635-042-0160**

30 **2015 Commercial Spring Fisheries for Columbia River Select Areas Modified**

31 Adopted June 10, 2015: effective June 16, 2015 through July 31, 2015

32 This amended rule adds two new 12-hour commercial fishing periods at the end of
33 the previously authorized spring Chinook season for Blind and Knappa sloughs in the
34 Select Areas of the Columbia River. Rule revisions are consistent with action taken
35 June 10, 2015 by the Oregon and Washington Departments of Fish and Wildlife at a
36 meeting of the Columbia River Compact.

37
38 **11) 635-041-0045 and 635-041-0076**

39 **Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Set**

40 Adopted June 10, 2015: effective June 16, 2015 through July 31, 2015

41 These amended rules authorize the sales of fish caught in Treaty Tribal
42 commercial gill net and hook-and-line fisheries both above and below Bonneville Dam in
43 the Columbia River beginning 6:00 a.m. Tuesday, June 16, 2015. Modifications are
44 consistent with action taken June 10, 2015 by the Departments of Fish & Wildlife for the
45 States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes
46 at a meeting of the Columbia River Compact

1 **12) 635-042-0027**

2 **Columbia River Commercial Summer Chinook Drift Net Fishery Set for June 17,**
3 **2015**

4 Adopted June 10, 2015: effective June 17, 2015 through June 30, 2015

5 This amended rule authorizes an 8-hour non-Indian commercial summer Chinook
6 drift net fishery in the mainstem Columbia River to commence on Wednesday, June 17
7 at 9:00 p.m. and run through 5:00 a.m. Thursday, June 18, 2015 in all of zones 1
8 through 5. Modifications are consistent with action taken June 10, 2015 by the Oregon
9 and Washington Departments of Fish and Wildlife at a meeting of the Columbia River
10 Compact.

11
12 **13) 635-016-0090**

13 **Umpqua River Sport Salmon Regulation Changes**

14 Adopted June 22, 2015: effective June 23, 2015 through December 19, 2015

15 This amended rule does two things regarding Umpqua River sport fishing. It
16 changes the end of the spring Chinook season from July 31 to June 30, and it prohibits
17 fishing within 200 feet of the mouths of Umpqua River tributaries. The first part of the
18 amendments should provide increased angling opportunity and benefit to the local
19 economies of Reedsport and the Winchester Bay area. Fisheries managers believe the
20 rule amendment to end the spring Chinook season on the Umpqua River on June 30
21 rather than July 31, as per permanent rule, will have little to no biological impact or
22 conservation concerns and is necessary for both fishers and law enforcement
23 personnel. Due to abnormally low water conditions and high water temperatures in the
24 basin, fisheries managers believe the second part of the rule's modifications that
25 prohibit angling within 200 feet (in any direction) of the mouths of Umpqua River
26 tributaries is necessary for conservation.

27
28 **14) 635-014-0090**

29 **2015 Chinook salmon Seasons on the Siletz River**

30 Adopted June 23, 2015: effective June 24, 2015 through July 31, 2015

31 This amended rule reinstates modifications needed to clarify the regulations for
32 recreational harvest of Chinook salmon on the Siletz River for the period beginning
33 April 1 through July 31, 2015, that were ratified by the Oregon Fish and Wildlife
34 Commission at its April 24 meeting and repealed on June 23 upon filing of permanent
35 rule modifications adopted June 5, 2015 by the Commission. The reinstated
36 modifications, based on the updated permanent rule, are: A daily bag limit of one non
37 fin-clipped spring Chinook salmon per day and two per year for salmon harvested prior
38 to August 2015. All other limits and restrictions remain unchanged from those listed in
39 the **2015 Oregon Sport Fishing Regulations** on page 27, for the **Siletz River and**
40 **Bay.**

41
42 **15) 635-042-0160**

43 **2015 Commercial Spring Fishery for the Blind Slough Select Area Modified**

44 Adopted June 23, 2015: effective June 25, 2015 through July 31, 2015

45 This amended rule authorizes three additional 12-hour commercial fishing periods,
46 in the Oregon state waters of Blind Slough, to the end of the spring Chinook season for
47 Blind and Knappa sloughs in the Select Areas of the Columbia River. Rule modifications

1 are consistent with action taken June 23, 2015 by Columbia River Fisheries Managers
2 at the Oregon Department of Fish and Wildlife.

3
4 **16) 635-004-0375**

5 **Purse Seine Fishery Requirements for Coastal Pelagic Species**

6 Adopted June 29, 2015: effective June 29, 2015 through December 25, 2015

7 This amended rule places requirements on commercial directed purse seine
8 fisheries for coastal pelagic species (mackerels, anchovy, and herring) consistent with
9 appropriate conservation and management requirements currently in place for sardine
10 fisheries. These requirements include logbooks, measures to minimize bycatch
11 mortality, and limits on landings allowed to be processed for reduction purposes. To
12 minimize wastage, these rules allow purse seine vessels to pump catch from another
13 purse seine vessel and land this catch into Oregon.

14
15 **17) 635-023-0128**

16 **2015 Columbia River Summer Recreational Fisheries Modified**

17 Adopted June 30, 2015: effective July 3, 2015 through July 31, 2015

18 This amended rule modifies the ongoing 2015 summer recreational salmon fishing
19 seasons in the Columbia River. Modifications extend the season from the Astoria-
20 Megler Bridge upstream to Bonneville Dam through July 31, 2015 and amend the daily
21 bag limit for adult salmonids to include only one Chinook (marked or unmarked) from
22 The Astoria-Megler Bridge upstream to the OR/WA border. Modifications are consistent
23 with action taken June 30, 2015 by the Oregon and Washington Departments of Fish
24 and Wildlife at a meeting of the Columbia River Compact.

25
26 **18) 635-041-0076**

27 **Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery
28 Extended**

29 Adopted June 30, 2015: effective July 6, 2015 through July 31, 2015

30 This amended rule authorizes sales of fish caught in a 2.5 day Treaty Tribal
31 commercial gill net fishery in the Columbia River beginning 6:00 a.m. Monday, July 6,
32 2015. Modifications are consistent with action taken June 30, 2015 by the Departments
33 of Fish & Wildlife for the States of Oregon and Washington in cooperation with the
34 Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

35
36 **19) 635-019-0090**

37 **Spring Chinook Fisheries Close In the Grande Ronde, Imnaha and Wallowa Rivers**

38 Adopted June 30, 2015: effective July 5, 2015 through August 31, 2015

39 This amended rule closes recreational spring Chinook fisheries in the Grande
40 Ronde, Imnaha and Wallowa rivers. The Grande Ronde River spring Chinook fishery
41 will close at 12:01 a.m. Monday, July 6, 2015. Also, the Imnaha and Wallowa rivers'
42 spring Chinook fisheries will close at 12:01 a.m. Monday, July 13, 2015.

1 **20) 635-004-0355**

2 **Cumulative Trip Limits for Black Rockfish and Greenling in 2015 Periods 4**
3 **through 6 Increased**

4 Adopted July 1, 2015: effective July 5, 2015 through December 31, 2015

5 This amended rule increases the 2015 commercial nearshore fishery cumulative
6 trip limits for black rockfish from 1,600 to 1,800 pounds in period 4; from 1,400 to 1,600
7 pounds in period 5; and from 1,000 to 1,200 pounds in period 6. In addition, this rule
8 increases the 2015 trip limits for greenling from 300 to 400 pounds for each of periods
9 4, 5 and 6.

10
11 **21) 635-041-0076**

12 **Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery**
13 **Extended**

14 Adopted July 7, 2015: effective July 8, 2015 through July 31, 2015

15 This amended rule authorizes sales of fish caught in a one day extension of a
16 Treaty Tribal commercial gill net fishery in the Columbia River which began 6:00 a.m.
17 Monday, July 6; and a 2.5 day period beginning 6:00 a.m. Monday, July 13, 2015.
18 Modifications are consistent with action taken July 7, 2015 by the Departments of Fish &
19 Wildlife for the States of Oregon and Washington in cooperation with the Columbia
20 River Treaty Tribes at a meeting of the Columbia River Compact.

21
22 **22) 635-042-0027**

23 **Columbia River Commercial Summer Chinook Drift Net Fishery Set for July 8**
24 **and 14, 2015**

25 Adopted July 7, 2015: effective July 8, 2015 through July 31, 2015

26 This amended rule authorizes two 12-hour non-Indian commercial summer
27 Chinook drift net fisheries in the mainstem Columbia River to commence on
28 Wednesday, July 8 at 7:00 p.m. and run through 7:00 a.m. Thursday, July 9, 2015; and
29 Tuesday, July 14 at 7:00 p.m. through 7:00 a.m. Wednesday, July 15, 2015 in all of
30 zones 1 through 5. Modifications are consistent with action taken July 7, 2015 by the
31 Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia
32 River Compact.

33
34 **23) 635-021-0090**

35 **Balm Creek Reservoir and Thief Valley Reservoir Angling Regulations**

36 Adopted July 13, 2015: effective July 18, 2015 through October 31, 2015

37 This amended rule liberalizes catch limits and harvest methods for Thief Valley and
38 Balm Creek reservoirs. Due to current low water storage levels at Thief Valley Reservoir
39 and this year's drought conditions, that reservoir will likely be drained of all storage
40 water. Many fish trapped in isolated pools and stressed by warm and turbid water will
41 die. Balm Creek Reservoir is scheduled to be treated with Rotenone, a fish toxicant, in
42 late September to remove unwanted fish species and all fish remaining in that reservoir
43 will die. These rule modifications provide the sport fishing public opportunity to salvage
44 fish that will otherwise be killed.

1 **24) 635-041-0076**

2 **Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery**
3 **Extended**

4 Adopted July 14, 2015: effective July 15, 2015 through July 31, 2015

5 This amended rule authorizes sales of fish caught in a Treaty Tribal commercial gill
6 net fishery in the Columbia River which began 6:00 a.m. Monday, July 13, and has been
7 extended one additional day, to run through 6:00 p.m. Thursday, July 16, 2015
8 (3.5 days). Modifications are consistent with action taken July 14, 2015 by the
9 Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation
10 with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

11
12 **25) 635-042-0027**

13 **Columbia River Commercial Summer Chinook Drift Net Fishery Set for July 14, 2015**
14 **Rescinded**

15 Adopted July 14, 2015: effective July 14, 2015 through July 31, 2015

16 This suspended rule authorized a 12-hour non-Indian commercial summer Chinook
17 drift net fishery in the mainstem Columbia River to commence on Tuesday, July 14 at
18 7:00 p.m. through 7:00 a.m. Wednesday, July 15, 2015 in all of zones 1 through 5,
19 which is being suspended due to the attainment of the pre-season allocation for this
20 fishery. Modifications are consistent with action taken July 14, 2015 by the Oregon and
21 Washington Departments of Fish and Wildlife at a meeting of the Columbia River
22 Compact.

23
24 **26) 635-014-0090, 635-016-0090, 635-017-0090, 635-017-0095, 635-018-0090, 635-019-**
25 **0090, 635-021-0090.**

26 **Statewide Emergency Sport Fishing Regulation Changes Due to Severe Drought**
27 **Conditions**

28 Adopted July 14, 2015: effective July 14, 2015 through July 31, 2015

29 These amended rules set daily closures for trout, salmon, steelhead, and sturgeon
30 fisheries statewide due to the severe drought conditions which exist. Unless specified
31 as exceptions the following regulation will apply: "**Closed** to angling for trout, salmon,
32 steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following
33 day. Where applicable along coastal streams: All streams above tidewater **closed** to
34 angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour
35 before sunrise on the following day."

36
37 **27) 635-023-0095**

38 **Columbia River Emergency Sport Sturgeon Fishing Regulation Changes Due to**
39 **Severe Drought Conditions**

40 Adopted July 16, 2015: effective July 18, 2015 through September 30, 2015

41 This amended rule closes the Columbia River mainstem upstream of Bonneville
42 Dam and all adjacent tributaries to angling for sturgeon, including catch-and-release,
43 due to the severe drought conditions which exist. Over the past 2 weeks, reports have
44 been received of at least 80 sturgeon mortalities observed by agency or enforcement
45 personnel in areas upstream of Bonneville Dam. The majority of these accounts report
46 the sturgeon to be large, over-size fish generally considered as broodstock. Angling for
47 sturgeon is prohibited from Bonneville Dam upstream to the Oregon/Washington border

1 beginning at 12:01 a.m. Saturday, July 18, 2015 until further notice. Modifications are
2 consistent with action taken July 16, 2015 by the Oregon and Washington Departments
3 of Fish and Wildlife at a meeting of the Columbia River Compact.
4

5 **28) 635-041-0076**

6 **Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Set**

7 Adopted July 20, 2015: effective July 21, 2015 through July 31, 2015

8 This amended rule authorizes sales of fish caught in a Treaty Tribal commercial gill
9 net fishery in the Columbia River which begins 6:00 a.m. Tuesday, July 21 and runs
10 through 6:00 p.m. Friday, July 24, 2015 (3.5 days). Modifications are consistent with
11 action taken July 20, 2015 by the Departments of Fish & Wildlife for the States of
12 Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a
13 meeting of the Columbia River Compact.
14

15 **29) 635-042-0027**

16 **Columbia River Commercial Summer Chinook Drift Net Fishery Set for July 21, 2015**

17 Adopted July 20, 2015: effective July 21, 2015 through July 31, 2015

18 This amended rule authorizes a 12-hour non-Indian commercial summer Chinook
19 drift net fishery in the mainstem Columbia River to commence on Tuesday, July 21 at
20 7:00 p.m. and run through 7:00 a.m. Wednesday, July 22, 2015 in all of zones 1 through
21 5. Modifications are consistent with action taken July 20, 2015 by the Oregon and
22 Washington Departments of Fish and Wildlife at a meeting of the Columbia River
23 Compact.
24

25 **30) 635-001-0110**

26 **Establish Pikeminnow Fishing Derby Regulations In Accordance With Senate Bill**
27 **958 (2015)**

28 Adopted July 24, 2015; effective July 24, 2015 through December 31, 2015

29 This adopted rule sets requirements for holding a Northern pikeminnow derby as
30 authorized by Senate Bill 958 (2015). The rule requires the derby organizer to apply for
31 a free license from the Department that authorizes the derby to be held at a specified
32 time and waterbody. This license also authorizes the commercial sales, for charitable
33 fund-raising purposes, of the Northern pikeminnow retained during the derby and
34 exempts the organizer from any commercial licensing requirements.
35

36
37 *Action:*

38 Commissioner Webber moved to adopt the 30 temporary rules set out in the agenda as
39 presented. Commissioner Anderson seconded the motion, and the motion carried
40 unanimously.
41

42
43 **Exhibit A: COMMISSION MINUTES**

44
45 The Commission considered approval of the *June 5; August 1; October 10; and*
46 *December 5, 2014* Commission minutes.
47

1 Directory Melcher- per the Commission direction we are in the process of streamlining
2 our transcription of the minutes to reflect the important Commission actions, but
3 removing the aspect transcription of the meetings verbatim. With the staff reductions in
4 the Director's office we can no longer continue that verbatim transcription. The
5 electronic recording is retained according to the Records Retention Schedule.

6
7 *Action:*

8 Commissioner Anderson moved to approve of the *June 5, 2014*; Commissioner Webber
9 seconded the motion, and the motion carried unanimously.

10
11 Commissioner Webber moved to approve of the *August 1, 2014*; Commissioner
12 Anderson seconded the motion, and the motion carried unanimously.

13
14 Commissioner Anderson moved to approve of the *October 10, 2014*; Commissioner
15 Webber seconded the motion, and the motion carried unanimously.

16
17 Commissioner Webber moved to approve of the *December 5, 2014* minutes.
18 Commissioner Anderson seconded the motion, and the motion carried unanimously.

19
20 Commissioner Webber suggested removing the verbiage "at its next meeting" from the
21 header at the top of the minutes since it could be misleading.

22
23
24 **Exhibit B: SAGE GROUSE MITIGATION RULES**

25 *The Commission will be asked to adopt amendment of administrative rules for sage-*
26 *grouse management to include species specific rules for mitigating impacts from*
27 *development actions in core, low density, and general sage-grouse habitats.*

28 *Staff: Chip Dale, Klamath and Malheur Watersheds District Manager*

29 *Jamie Damon, Governor's Office*

30 *Brett Brownscombe, Acting Deputy Director*

31 *Public Testimony*

32 *Rulemaking*

33 *A presentation of proposed amendments to the administrative rules for the "Greater*
34 *Sage-Grouse Conservation assessment and Strategy for Oregon" (the Strategy) was*
35 *provided. This presentation is available in the meeting materials and at*

36 http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp

37
38 Questions by Commissioners

39 **Chair Finley** – Since this potential listing by the USFWS affects 11 western states, are
40 the other 10 western states engaged in this type of exercise?

41
42 **Brett Brownscombe** – Late 2011, the sage-grouse task force brought all of the 11
43 states together and they have held regular meetings since 2012 to coordinate a state
44 effort to address the USFWS concerns and roll up a framework to preclude the need for
45 a listing. In some way shape or form the other 10 states are working on a state action
46 plan with commitments to roll back and eliminate threats.

1 **Commissioner Anderson** – In regards to the public meeting comments - if fire and
2 invasive are a factor to decline, why change land use regulation?
3

4 **Chip Dale**- We have been approaching these issues from a broader spectrum. When
5 we start looking at things like fire and invasive as a cause of decline, we are working
6 with Bureau of Land Management (BLM) and other state agencies to try and address.
7 Those are natural outcomes of natural events and we have no control over. One of the
8 issues of the warranted determination of the listing was the lack of regulatory certainty.
9 We can't regulate wild fires and we can't regulate the issues associated with the
10 invasive. We manage those on the landscape as best we can.
11

12 **Commissioner Wolley** – You mentioned that agriculture and ranching are not
13 addressed in the plan is that because there is little or no impact, or simply out of our
14 jurisdiction.
15

16 **Chip Dale** – We rarely have any comments regarding agricultural actions. These rules
17 are not intended to go back and look at what people are doing on their own property as
18 far as agricultural practices. Many of the ranchers in eastern Oregon are working on
19 Candidate Conservation Agreement with Assurances (CCAA)'s from USFWS and their
20 actions and ranching activities are covered.
21

22 **Brett Brownscombe** – The Land Conservation and Development Commission (LCDC)
23 rules and the ODFW plan is two parts of a much larger picture. The action plan spells
24 out how to prioritize funding and actions to address wildfire and invasive annual grasses
25 and Juniper. There is funding through the Governor's budget to help advance those
26 kinds of actions that are not really regulatable in the traditional sense of how to deal with
27 development based impacts. Rules are specific to the issue on regulatory certainty and
28 tied to human development actions. The plan focuses on highlighting what the positives
29 are in terms of if you want to see what our approach is to agricultural, don't look to the
30 rules but look to the plan and the plan discusses the CCAA approach.
31

32 **Chair Finley** – I want to understand the context of the 3%.
33

34 **Chip Dale** – This concept is really based on a study that was done by a US Geological
35 Survey (USGS) biologist. He had taken a retrospective look at sage-grouse habitats
36 across the state. He had looked at what he could discern from examining basic
37 photography and the correlation between what had gone on, on the ground and what
38 the birds were doing. He just looked at the footprint that's what was there, that was the
39 direct impact of a very narrow interpretation. What he didn't describe because he wasn't
40 looking at it at the time were the indirect impacts that occur from the action of that
41 development. What the study found was when you got to 3% impact measured by the
42 footprint of a population area there was a very precipitous drop in the populations of
43 those birds in those areas.
44

45 **Brett Brownscombe** – When you get to the 3% there is already some impacts
46 occurring and you have non-use of habitat. The 1% over 10 year metering approach is
47 aimed at recognizing that we don't want to get to 3% so we will pay attention on a 10

1 year basis and if the development in the core areas is approving that 1% in the 10 year.
2 It's time to pay attention and determine a need and what responsive action is warranted.

3
4 **Commissioner Buckmaster**- Is there an overlay that will show me what percentage of
5 this real estate would be covered by the rules we are addressing? What is federal, and
6 what is outside of the rules?

7
8 **Chip Dale** – Actually we would prefer that the rules be applicable to the federal
9 government but unfortunately we are not sure we can do that. With regard to most of
10 the sage-grouse in the state of Oregon is on BLM lands. There are also portions of
11 Division State Lands (DSL) which are also in sage-grouse habitat. I don't have the exact
12 figures or if anyone has a ball park as to how much is private versus public.

13
14 **Jamie Damon** – We are closely coordinating with the BLM and their regional
15 management plan for sage-grouse that they're working on right now. Things such as the
16 3% and 1% are consistent methodologies. Would like to add that those numbers are a
17 starting point, a base line and that we haven't come to an agreement of what those
18 numbers are but we needed a starting point and we are working on that now. We are
19 trying to be consistent on how we are approaching this across state and federal.

20
21 **Chip Dale** – BLM land that is sage-grouse habitat is about 70%.

22
23 **Commissioner Wolley** – In terms of monitoring; when we get to the phase where there
24 is actually some construction occurring are we at adequate field staffing levels to do our
25 portion of the monitoring?

26
27 **Chip Dale** – I think we will be re-staffing and I haven't heard the final outcome of the
28 legislation and how we will be applying those resources but part of it would be to
29 provide higher level staff to deal with the mitigation actions. Right now our districts
30 already deal with development activities on a fairly regular basis and they are prepared
31 and are aware of this.

32
33 **Public Testimony:**

Judge Steve Grasty	Provided PowerPoint presentation <i>This presentation is available in the meeting materials and at</i> http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp
Representative Bentz	The rules crafted at the The Land and Conservation and Development Commission (LCDC) level are too broad which means your work today in addressing the mitigation paragraphs in your proposals and rules are important. The reason is ultimately; how are we going to gather the funds to pay for the rehabilitation of our millions of acres of bird habitat. We are not going to get that money from the state of Oregon and it's unlikely that we will get that money from the federal government. The source of those funds will probably come from an economic activity that would fell off dollars to assist us in rehabilitating those lands. The only

	<p>doorways to which those kinds of activities can pass are the mitigation strategy that is in these set of rules. However, I've seen where these can be used as barriers instead of opportunities. I would suggest the rules that have been crafted need more work. We want those monies spent on rehabilitation of the habitat and not on studies. I'd like to clarify a remark about HB3806 which provides the foundation for the mitigation piece in that my portion of the bill is section 2 not 1. Section 2 is ORS 498.502, I want the record to clearly reflect that this portion of the bill apply to the rules that you are going to enact perhaps today. What it does, it makes ODFW move forward to tell a developer whether or not the area upon which they proposed to develop is core habitat. I want to make sure that ORS 498.502 applies to today's rule. I would suggest that the mitigation piece applies to all habitats wherever the rules might apply. The rules as crafted on page 9 section 3 (a)(b)(c) I hope those are off site.</p>
<p>Ken McCall, Oregon Hunters Association</p>	<p>Provided written testimony. <i>This written testimony is available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp</i></p>
<p>Brent Beverly</p>	<p>We're hunting a bird that could possibly be listed. Since the plan is to lock up their habitat, why are you not looking at growing those birds? Wouldn't we consider growing birds by limiting the number of tags? It makes no sense to shoot a large number of birds over 500 which in this case you can add twice as many over the wounded ones that are never recovered.</p>
<p>Randy Whitaker</p>	<p>I don't think that most of the people in Oregon understand that when you are counting the sage-grouse birds as a spring breeding population you are counting just the males. If we are just counting the males because those are the ones present at the lek then you're not counting all the birds. If you have a formula that you are using, put that out there and tell the people of Oregon what you're counting specifically. I also disagree with hunting the sage-grouse while this is in jeopardy.</p>
<p>David Stanish, Idaho Power Company</p>	<p>Idaho Power serves customers in both southern Idaho and eastern Oregon. We have existing transmission and distribution lines in sage-grouse habitat in both Baker and Malheur counties. We also have some proposed projects that will go through sage-grouse habitat. The Idaho Power Company provided some comments to the rule advisory committee (RAC) on May 29th and to the Commission on July 23rd. We asked that the Commissioners consider those comments. We believe that our suggestions support the Commission objective of conserving sage-grouse while also providing some flexibility to industries like ours that have to operate out there in sage-grouse habitat. Specifically we requested that the Commission rules provide for an exemption for our</p>

	<p>proposed Boardman-Hemingway project as well as other pending Energy Facility Siting Council (EFSC) applications. We've been permitting this project for over eight years now. We've engaged in substantial sightings and scoping process to develop a route that meets the needs of various stakeholders including ODFW, local communities. One of the issues we dealt with was trying to avoid sage-grouse habitat and to minimize and mitigate impacts where those impacts cannot be avoided. After looking at nearly 50 different routes across 11 different counties we believe we have achieved that objective with our current route. In BLM's draft environmental impact statement (ESA) identified our current route as that agencies environmentally preferred alternative. Exemption from this body would not be unprecedented. The BLM and USFS expressly exempted the Boardman-Hemingway project. LCDC provided an exemption for pending EFSC application including B2H. The LCDC exemption is not enough. Under the EFSC rules which have a lot of cross references, we need to meet both the ODFW Commission rules and LCDC rules. It's crucial that we have exemptions here under division 140 and under LCDC rules so that we can be assured that the rules won't change underneath us. Idaho Power requests that the Commission adopt our proposed exemption which was provided in our July 23rd comments. Provided written testimony.</p> <p><i>This written testimony is available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp</i></p>
<p>Mitch Colburn, Idaho Power Company</p>	<p>Gave time to David Stanish</p>
<p>Ken Kestner, Commissioner</p>	<p>I have some of the same concerns that Judge Grasty had. Lake County has about 12% unemployment. 22% of Lake County is private ownership while the other is public domain. Retired USFS biologist and with BLM dealt with the sage-grouse and the spotted owl. Was in Oakridge from 1984 to 1999 and knows what it does to a community when species get listed. There are two different ways to look at this, the bottom up and the other is top down. If you look at the bottom up, the first thing you come in contact with is the proposed OAR's that are in front of you right now. If you look at it top down, you go through the systems of how the USFWS would list or not list. They have already determined it's warranted. We have to have a very strong case for them to say it's not warranted. Otherwise they have no basis to say it's not warranted. If it is listed and we do not qualify for the 4D rule so we can have our own governance it would fall back to the USFWS to be manage from the top down. That concerns me. Most ranches are covered by the CCAA's but those who are not will be impacted the most if the management of the sage-grouse falls to the USFWS. I'm</p>

	<p>supportive of the OAR's as proposed. They are not the best but it gives the regulations, the enforcement to us locally, it gives more assurance to the ranch and farming community. They are not the full community but they are our base community so if they go down it will have a ripple effect.</p>
<p>Andrew Shields, Wildlife Biologist for Roaring Springs Ranch</p>	<p>There are two mapping designations; core and low density that have been well vetted. With this plan there has been two more map designations, areas of high population richness and general habitat. Those two have not been vetted locally with the local implementation teams and haven't been seen by members of the public or local groups. It states in the plan on page 5, line 138 that the core and low density maps will be reviewed or revised by the local implementation teams. I'd like to see the other two map designations also revised by the local implementation teams. LCDC rules that were approved last week, farm use is explicitly excluded. In this document I would like to see that as well because it's not explicitly stated. We are in support and a participant of the CCAA program. We've joined with the USFWS in identifying the specific threats to the sage-grouse upfront and what to do address those threats. The plan before you today just adds another layer to of regulations on top of the CCAA, those agreements we have with the USFWS and I'd like to see a statement in this plan and rules of the importance of the CCAA, and that the ranchers and farmers are exempt to some of the provisions of this plan. Development cap and the 3% cap, that number comes from a study, that study was done at a very broad scale and covered a large area of six states. I feel that the number needs to be based on Oregon's data that we have on our leks, it would be more relevant to this plan.</p>
<p>Jon Jinings, LCDC</p>	<p>The process that we have been involved in, this collaborate rule making has worked pretty well. Having a tandem team of folks all with the same mission has been really productive. Complimented Chip Dale and Jacqueline Cupples, the LCDC's rule is better because of their participation.</p>
<p>Mary Anne Nash, Oregon Farm Bureau</p>	<p>Submitted some draft changes that were designed to address the mitigation requirements. My particular interest here is to ensuring that agricultural stays exempted from mitigation requirements. Provided written testimony. <i>This written testimony is available in the meeting materials and at</i> http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp</p>
<p>Bruce Taylor, OR Habitat Joint Venture</p>	<p>Was on the mitigation technical team. Supports the proposed rule</p>
<p>Micah Meskel</p>	<p>Provided written testimony. <i>This written testimony is available in the meeting materials and at</i> http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp</p>

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Catherine Macdonald, The Nature Conservancy	Supports the proposed rule. The sage-grouse is very sensitive to development. 98% of the leks occur in landscapes that have less than 3% of development. The majority of the leks landscapes in less than 1% development. Having a careful and cautious approach to development is very important. I encourage you to pass the amendments as proposed.
Richard Whitman, Governor's Natural Resource Advisor	<p>In 2010 USFWS determined that the listing of the greater sage-grouse is warranted under the federal ESA. What you're seeing today is one small piece of that effort. There are other significant actions that have been taken in the last six months. Starting with the ranching community in eastern Oregon and their CCAA's. That commits them to making millions of dollars of improvements on their lands in terms of conservation measures. What we are doing here is supporting the ranching industry in eastern Oregon.</p> <p>In the legislative session just completed, the Oregon legislature appropriated significant funding for sage-grouse conservation, but also for the administrative managerial work needed to run this whole system. The legislature has funded a lead position for the sage grouse action plan at the LCDC, that individual will be responsible for fitting all these pieces together including the coordination between state government and federal government on how we track disturbance over time and how we work across federal land and non-federal land in terms on managing over time. That will be accomplished by memorandum of understanding (MOU) between the state and federal agencies. That administrative structure will include participation from local government and the counties. The whole purpose is to demonstrate to the USFWS that we have the wildfire piece and invasive weeds, changes in policy and the habitat disturbance.</p> <p>Representative Bentz point – the whole purpose of this exercise is to chart a clear path way for development to occur in eastern Oregon. In terms of paying for conservation work on private ground, a lot of the resources for that will come from mitigation from development. The last thing we want to do is to erect rules that will block development from occurring in eastern Oregon. What we want to do is adopt rules that minimize impacts and assure mitigation of impact and to do so in a way that provides certainty to a developer in the front end so they know what they are getting in to. The intent here is to layout with certainty what the process is and what the mitigation obligations will be upfront.</p> <p>Representative Bentz second point – He is concerned that because of the wording in the rule that requires the use of best available science that it will be a field day for experts to come in and enter into consulting contracts on development projects. One thing we haven't talked on is the great work being done on the mitigation manual and related to that</p>

a quantification tool that is the piece that will be used in a streamline way to say; what are the mitigation obligations for a particular development project and how can those be met? That work is underway and a draft of that will be ready soon.

Judge Grasty points about staffing – there is additional funding for staffing that has been provided by the legislature for this purpose, both at LCDC and ODFW. There is also a coordinator position at ODFW to oversee the administration of the mitigation program.

I will now say for the record, my intent with the rules has always been off-site mitigation would not only be allowed, but in most cases, we will be looking at off-site mitigation because the whole purpose of the lands mitigation program is to put the mitigation resource where it will have the most benefit. Not necessarily where the impacts will occur, but for the agency to work with other partners including USFWS to identify the highest benefit and that often will be off-site.

One last point that was brought out by MaryAnne and Catherine is, what you're doing today is not imposing new mitigation obligations through this rulemaking. The rulemaking clarifies that for sage-grouse in particular the existing mitigation obligations that already exist under your rules, are being made more definitive for sage-grouse. In dealing with category one habitat and the mitigation obligation which is to a complete exclusion from those areas that will be replaced with these rules that provide a much more flexible approach for development.

Cathy McDonald is also correct in that the LCDC rules are one trigger for when mitigation is required in terms of land use actions. There are other state permits that trigger mitigation requirements and that tie to your rules.

Your rulemaking today will clarify the mitigation requirements both with regard to land use actions but also with regard to Oregon Department of Geology and Mineral Industries (DOGAMI) permits and energy facility site certificates that are issued by EFSC. The concern that Commissioner Webber raised about other pending energy projects. Every month I receive a report from the head of the citing division at EFSC about the status of pending projects, I have checked the most recent report and there is no project pending before EFSC in the preliminary application phase. The only project beyond B2H that is in process is already through permitting and under construction and is not subject to EFSC permitting because it's a federal Bonneville Power project which is an upgrade to the 500kv transmission line going through central Oregon, Lakeview, and onto California. There are no other wind, solar or transmission pipeline that are pending before EFSC. There are other projects pending before EFSC but not in Sage-

1 Discussion:

2 **Chair Finley-** Mitigation can occur off site was clarified by Richard Whitman's nodding
3 yes.

4
5 **Commissioner Webber-** Mr. Stanish, you asked for an exemption for the Boardman-
6 Hemingway line and also asked for an exemption for any permit within the process and
7 are there other ones?

8
9 **David Stanish** – The exemption language proposed was generally applicable to any
10 pending preliminary EFSC application which would include B2H. I really don't know
11 what other projects are in the queue.

12
13 **Commissioner Webber** – I'm thinking I could go with the Boardman-Hemingway, but if
14 I say everybody, I don't know what that is and makes me feel really uncomfortable.

15
16 **David Stanish** – I know that question came up within the RAC process and even in
17 Burns. Perhaps the staff may have been able to track that information down for you.

18
19 **Chair Finley** – I want to understand, Mr. Shield and Ms. Nash you both talked about
20 maintaining the required exemption for agricultural. That is as long as the land is being
21 used for agricultural purposes, correct? The exemption doesn't follow if the land is
22 changed from agricultural use to development.

23
24 **Andrew Shields** – That is correct. My understanding if it is zoned farm use. To do a
25 different type of land use it would need to be zoned differently.

26
27 **Commissioner Buckmaster** – Today there was a comment about the LCDC making
28 some amendments or postponing a portion of their rulemaking, could you bring us up to
29 speed on that?

30
31 **Richard Whitman** - In the rule that was adopted, the 1% and 3% disturbance threshold
32 were adopted by LCDC. What was not adopted was the specific baseline levels of
33 existing disturbance in each of the packs. That work with the BLM to have an
34 agreement between the state and federal agencies on the base line is underway and
35 expected to be concluded shortly. What LCDC did do to address this issues, was they
36 approved the methodology for calculating the baseline. That methodology corresponds
37 with a draft table and work that has been done. The draft table shows that in the pack
38 with the highest level of current disturbance is at barely over 2% disturbance in that
39 particular pack. In that pack there could be a 50% increase in the current level of
40 development before you hit the cap. That is really the important point about the LCDC
41 rules that were adopted on Friday. These rules are designed to accommodate a fairly
42 significant amount of development occurring in eastern Oregon. Development through
43 the mitigation rules would then help support much of the other conservation work on fire
44 and invasive weeds and juniper.

45

1 **Commissioner Buckmaster** – Does your office have any problems or concerns with
2 the amendments proposed by the Oregon Farm Bureau?

3
4 **Richard Whitman** – We have no problem with making it crystal clear in the rules that
5 agricultural is not subject to the mitigation requirements that's been the intent all along.
6 We also have no problem with clarifying the actual obligation to mitigate is imposed by
7 other programs not ODFW directly.

8
9 **Chair Finley** – Mr. Standish from Idaho Power, was talking about the exemption on the
10 B2H project, what's your opinion on that exemption?

11
12 **Richard Whitman** – We're supportive of not changing the rules at this point in the
13 process for the B2H project. First of all just out of fairness, second this is a priority
14 project for both the federal government and the state as well to see this project
15 completed, and third from the conservation perspective. The existing mitigation
16 requirements for B2H will be at least as protective as the new rules so we don't have
17 any concerns from that point of view either. We are supportive.

18
19 **Chari Finley** - Would you suggest if we exempt this in rule that we just site it as the
20 B2H project, or how should that be done.

21
22 **Richard Whitman** – I would prefer that you not do that. I understand Commissioner
23 Webber's concern but we don't typically call out particular exemptions in either statutes
24 or rules, we try to word generally just as a matter of good policy so that it's clear that we
25 would make it for anyone, were not making a special case for a particular developer
26 here.

27
28 Discussion

29 **Commissioner Buckmaster** – Do you have any problems or concerns with the
30 amendments proposed by the Oregon Farm Bureau?

31
32 **Brett Brownscombe** – What was stated about the rules not to apply to the regulation of
33 agricultural activities has been the intent all along. While it may not be reflected
34 precisely in the revised attachment 3, there are a couple relatively simple ways to do
35 this, if the Commission desires. We believe the rules as written would not have that
36 affect and certainly the intent is not to implement them in a way that would have the
37 effect of bringing regulations into agricultural lands, but if the Commission's preference
38 is to have that clarified further there are a couple ways to that with the slight revision in
39 the proposed rule.

40
41 **Commissioner Webber** – Would like to have it clarified.

42
43 **Chair Finley** – Why are we hunting sage-grouse and kill 500 to 1000 birds a season
44 when we say we are trying to raise the population to 30,000?

45
46 **Dave Budeau**- the 30,000 was a statewide population goal based on a 20+ year
47 average from 1980 to 2003. There is published research that showed a harvest rate up

1 to 11% did not influence the following spring populations. Our harvest of around 3%
2 birds each fall is not expected to result in additional birds the following the year and
3 that's because it's not added to mortality that's compensatory mortality. About 55% of
4 the adult males each year die for some reason and about 45% of the females die for
5 some unknown reason. The hunting is a small proportion of the total annual mortalities
6 for sage grouse so that's where that compensatory action can take place. We expect
7 that there can be some level of fall harvest without influencing the following year's
8 populations.
9

10 **Chair Finley** – That 3% is not going to provide a benefit or off-set the natural predation
11 or natural disease? And if so, I'd like to read that research, this is interesting. It defies
12 common sense.
13

14 **Dave Budeau** – Correct, there is a very recent paper published in 2015 in the Journal of
15 Wildlife Management on sage-grouse specifically that talks about just that issue and I'd
16 be happy to provide that paper. Blomberg is the author. In that paper they suggested
17 that the earlier the hunting of sage grouse takes place the more likely that the
18 compensatory mortality would have an effect. If we were to wait until January or
19 February to harvest that 3% there would be a greater chance that there would be an
20 additive to mortality. Our season is the second earliest of all the states that have a
21 harvest.
22

23 **Chair Finley** – You gave us information from a study and that's important and a great
24 way to base policy. You're dealing with public optics. How are we going to deal with the
25 public optics if ODFW is so concerned about sage-grouse, why don't we stop hunting?
26 So how are we going to deal with the public optics with the decision that continues to
27 hunt sage-grouse?
28

29 **Chip Dale** – The public optics; It's a continuing of the education. The hunting of it, there
30 is a lot of species right now that we still harvest both commercially in the fisheries and
31 also we have some sport opportunities under the 4D rules. It's one of those activities
32 that basically, as long as we're demonstrating that it is not additive to mortality; we are
33 still on pretty good ground. Finally, we use the data from the wings, and as much as
34 folks have testified saying we can get that data other ways. I don't know how we would
35 do so. Actually this data is very productive allowing us to come up with local imperial
36 information on what our populations are doing and the ratio to females are to males.
37 Otherwise we would be relying on published data.
38

39 **David Budeau** – We are predicting a population increase; the 2015 spring breeding is
40 up over the 2014. We don't hunt in all of our wildlife management units. We had almost
41 twice the rate of increase in the hunted units as opposed to the units we didn't hunt. I'm
42 not attributing hunting to the increase of the population. The units that we hunt are the
43 ones that are the healthiest and is probably why we saw almost two times increase.
44

45 **Commissioner Buckmaster** – Would like some clarification on the counting of bird's is
46 a fair and transparent system?
47

48 **Dave Budeau** - When we do lek counts in the spring, mid-March to the end of April.

1 We actually count all the birds on the lek. It is true we only use males to estimate the
2 breeding population. Males attend regularly whereas the females attended irregularly. It
3 is a transparent formula that we use; it's in our state strategy.
4

5 **Commissioner Wolley** – During testimony it was brought up that the 3% was based on
6 a six state geographic area and expressed concerns that perhaps an only Oregon
7 geographic would be a more accurate way of looking at it. Is this a valid concern?
8

9 **Chip Dale** – I'd love to be able to go back and do that study locally but given the time
10 that 3% was based on a very valid study that did include some Oregon counties.
11

12 **Commissioner Wolley** – A number of concerns are brought up about predation. Can
13 you address the predation concerns?
14

15 **Chip Dale** – We are not ignoring it and it has been identified as a factor and to be dealt
16 with. Remember in this document we are dealing with is a very narrow set of rules for a
17 specific application and it's really for development. In terms of addressing the predation
18 issue in this document; it more rightly belongs in one of the portions that we start
19 looking at through the action plan and a way to effect a change in it.
20

21 **Dave Budeau** – Sage-grouse are a prey species. They're most likely cause of death is
22 predation. Predation is related to disturbance and there have been some efforts at
23 predator control to boost sage-grouse numbers; one case in Utah. It really is only
24 affective if you have a relatively small area and it's something that has to be done
25 constantly. Once the efforts are ended the predator population can rebound. We are
26 talking about millions of acres and predation control in general would be impractical but
27 could be effective if it was a re-introduction or a small population that there was a
28 concern about. Predator control could be effective for a very local scale for a limited
29 time until the habitat recovered.
30

31 **Commissioner Akenson**- *This written testimony is available in the meeting materials*
32 *and at http://www.dfw.state.or.us/agency/commission/minutes/15/07_july/index.asp*
33

34 **Brett Brownscombe** – First issue, comments and assuring commitments around the
35 relationship with this rule around agricultural uses. We propose from Exhibit B revised
36 attachment 3, Page 7, before line 218 there will be an insertion of (C) subsection
37 Mitigation is not required for private land agricultural activities exempted from regulation
38 under OAR 660-023-0115. At the end of line 219 on page 7, add the phrase, “not
39 otherwise exempted in OAR 660-023-0115”. Second issue, clarify that the proposed
40 approach to ensuring that mitigation is allowed off-site.
41

42 **Chip Dale** – In the Revised Attachment 3 of Exhibit B on page 9, line 276, and policy 3
43 leads us through that. The standard mitigation is to achieve net conservation benefit by
44 replacing functionality. Further down line 287 is where we talk to “in-lieu fee” program,
45 working with an approved entity, and the projects consistent with the standard. We have
46 built that in all along and is clearly articulated in the mitigation protocol which the “in-lieu
47 fee” will be spelled out.

1
2 **Brett Brownscombe** – Final Issue; clarify the comments and requests received related
3 to citing council projects including the B2H project. Our recommendation is not to do
4 that specifically in these division 140 OAR's but through a temporary rule
5

6 **Commissioner Webber** – in regards to the agriculture component, the proposal that
7 you set out in your earlier discussion in what would be put into lines 218 and 219 on
8 page 7 those are the staff proposals for including agriculture within these rules?
9

10 **Brett Brownscombe** – That would be our proposed approach for ensuring that
11 agriculture is exempted. We believe that the rules aren't intended to cover agriculture
12 and do that already but to make it clear our proposed language would clarify that
13 exemption.
14

15 *Action:*

16 Commissioner Webber I move to amend OAR Chapter 635, Division 140 as shown on
17 revised attachment 3 and with the amendments to page 7 lines 218 and 219 as
18 proposed by staff previously. Commissioner Wolley seconded the motion and the
19 motion was carried unanimously.
20

21 Chair Michael Finley adjourned the meeting at 4:55 p.m.