



Exhibit J

Preference Point Reinstatement Appeal



**Oregon Department
of Fish and Wildlife**

Preference Point Reinstatement

Background

- Oregon Administrative Rule (OAR) 635-060-0046 allows for controlled hunting preference points to be reinstated if a person meets certain criteria
- ODFW processes hundreds of preference point reinstatement requests annually



Preference Point Reinstatement

Key Provisions of OAR 635-060-0046

(2)(a) The Director may reinstate the preference points of a person who the Director determines did not or will not participate in a controlled hunt because of circumstances beyond the person's control or tragic personal circumstances. For the purposes of this rule:

(A) "Circumstances beyond the person's control" means any unforeseen circumstance that directly and reasonably results in a person's inability to participate in the hunt. This could include, but is not limited to, administrative or emergency closures of hunting units, extreme events, and other accidents or incidents. Circumstances beyond a person's control do not include complaints about the quality of the hunt including, but not limited to road closures, inclement weather, and work being conducted in the hunt area.

(B) "Tragic personal circumstances" means:

(i) Death or life-threatening injury or illness in the person's immediate family; or

(ii) The person's own serious injury or illness, which results in the person's hospitalization or inability to participate in the hunt due to a physician's orders or recommendation. The person need not be hospitalized during the hunt; this rule also applies if preparation for surgery or recovery after hospitalization renders the person incapable of participating in the hunt.



Preference Point Reinstatement

Key Provisions of OAR 635-060-0046

(d) If the Director decides that the person does not qualify for reinstatement, the person may appeal that decision to the Oregon Fish and Wildlife Commission (Commission). All appeals to the Commission must be made in writing within 30 days of the Director's decision not to reinstate preference points. The Commission must review the Director's decision within 90 days after receipt of appeal, which may be scheduled as an agenda item or take place during "other Commission Business" at a Commission meeting. The Commission will not take verbal testimony from the person, and the Commission's decision is final.



Stephen Russell (Applicant) Reinstatement Request

- Applicant successfully drew a 100 series buck tag (169A) (Dates 10/5-10/16)
- Applicant successfully drew a 200 series elk tag (249R1) (Dates 8/30 – 9/28)
- Applicant submitted a point reinstatement request to ODFW on September 25, 2024
 - Per the request, applicant hunted two days during hunt 249R1, and was injured after returning to camp on the morning of the 3rd day
 - Applicant provided evidence, certified by a physician, that an injury did occur that rendered applicant unable to continue hunt 249R1, and unable to participate in hunt (169A)



Stephen Russell (Applicant) Reinstatement Request

- Based on information provided:
 - The Director approved point reinstatement for Controlled 100 Series Buck Deer, as applicant was unable to participate in the hunt due to injury (Tragic Personal Circumstances)
 - The Director denied the point reinstatement for Controlled 200 Series Elk, due to the determination that the applicant was able to participate in the hunt, which is consistent with the requirements of OAR 635-060-0046(2)(a):

(2)(a)The Director may reinstate the preference points of a person who the Director determines **did not or will not** participate in a controlled hunt because of circumstances beyond the person's control or tragic personal circumstances.



Stephen Russell (Applicant) Reinstatement Request

- The Department notified the applicant of their decision on 11/7
- The Department received a written appeal from the applicant, requesting the Commission review and reconsider the Director's Decision regarding Controlled Hunt Series 200 (Elk)
- The Commission is to determine whether the applicant qualifies for point reinstatement per the requirements of rule



Staff Recommendation and Draft Motion

- Staff recommends that the Commission deny the appeal and uphold the Director's decision regarding elk preference point reinstatement for Stephen Russell

Draft Motion:

“I move to deny the appeal by Stephen D. Russell for reinstatement elk preference points as we have determined Stephen D. Russell participated in hunt 249R1.”

