



Oregon Fish and Wildlife Commission Minutes

Meeting:
August 4, 2006, 8:00 a.m.
Oregon Department of Fish and Wildlife Headquarters
3406 Cherry Avenue NE
Salem, Oregon 97303

Deleted: ¶
Reception: October 6, 2005, 7:00
p.m.¶
Oregon Department of Fish and
Wildlife 3406 Cherry Avenue
N.E. Salem, OR 97303-49

Approved September 8, 2006.

Notice of this meeting had been made by press release of statewide media circulation. Those attending part or all of the meeting included:

Marla Rae, Chair	Carter Kerns, Commissioner
Don Denman, Vice-Chair	Dan Edge, Commissioner
Zane Smith, Commissioner	Virgil Moore, Director
Jon Englund, Commissioner	Steve Sanders, Assistant Attorney General
Skip Klarquist, Commissioner	Casaria Tuttle, Executive Assistant
Bill Cook, Assistant Attorney General	

MEETING

On August 4, 2006 at 8:00 a.m., Chair Marla Rae called the Oregon Fish and Wildlife Commission (Commission) meeting to order. Chair Rae explained that the Commission received permission from DAS to reevaluate Director Moore's starting salary in six months. The Commission signed delegation of authority to the Director.

DIRECTOR'S REPORT

Opening Remarks

Virgil Moore, Director opened by saying that he appreciates being on this side of the podium rather than the other side. He said we're going to get the job done, and is anxious to get to work.

Field Reports (Written report is part of the Commission's official record)

Northwest Region

Rick Klumph, Acting Northwest Region Manager, reported on the second year of the statewide bear mark-recapture project. Preliminary data for the Northwest Region shows that 151 baits have been taken by bears out of 727 baits.

He also reported that Northwest Region staff assisted Frank Isaacs of the Oregon Cooperative Fish and Wildlife Research Unit with bald eagle nesting surveys along the lower Columbia River. Bald eagles on the Columbia River have made a dramatic recovery in the last four decades.

Southwest Region

Steve Denney, Southwest Region Manager, reported on the Diamond Lake Restoration Project. The contract fisherman began chub netting on July 17. A media day was used to explain the effort. An estimated 90 million tui chub are present in the lake. Netting efforts occur Monday through Friday to lower conflicts with the public, and will be continuing through August 11. Tui chub are being utilized by rehabbers, Wildlife Safari, and a local rancher as fertilizer. The Rogue/Umpqua Resource Advisory Committee awarded the Diamond Lake project \$276,000 to be used toward the purchase of rotenone. This leaves about \$171,000 left to raise to meet the total project costs.

A meeting between Morgan Creek neighbors and Steelheaders was held July 21. Six neighbors and two observers attended the meeting. The Steelheaders received notice that Division of State Lands has completed the 30-day public comment period on their permit application and will make a permit decision on August 7. A wetland delineation revealed .002 acres of wetlands on the project site. Temporary fish passage on Priorli Creek was installed to facilitate fish passage through the existing facility. The domestic water supply for the house and host site on the Steelheaders' property is located in a spring on a neighbor's property. The Steelheaders received a certified letter warning them not to trespass or take water from the spring, and on July 26 the water to the Morgan Creek property was shut off.

The sea lion hazing effort in the Rogue estuary began July 19. Mark Lotis, with the port, is conducting the hazing operation and has been trained in the safe and effective use of the hazing devices. Seal bombs are the primary tool being used, with some cracker shells used near the river mouth. No hazing is occurring when the jet tour boats go in or out of the marina. ODFW has employed a seasonal shore observer to record interactions, animal response, angler number, pinned numbers and other data. So far the hazing has been very effective and since hazing has begun, no hooked fish are known to have been lost.

High Desert Region

Clair Kunkel, Acting High Desert Region Manager, reported on water quality in Upper Klamath Lake and the Klamath River below Klamath Falls which is poor. Recent flows in the river have been reduced to try and rectify the consequences of a gauge malfunction at Iron Gate Dam.

At the time of this presentation, about half of the pronghorn antelope composition flights were completed for the High Desert Units. Preliminary fawn survival and buck ratios appear to be good. Water conditions throughout the desert units are very good and the animals appear well distributed.

Commissioner Smith asked staff if more dike breaches are a serious concern. Clair Kunkel replied that some of the local community members are asking to have some of the breached water pumped back into the lake but the water is not good quality.

Northeast Region

Craig Ely, Northeast Region Manager, reported that the current Federal Energy Regulatory Commission license for the Hells Canyon Dam complex expired in July 2005. Preliminary terms and conditions for the Project were filed in January 2006. FERC issued its Draft Environmental Impact Statement July 31, 2006 and it is out for a 60 day review period. The agency needs to press for anadromous fish passage.

District biologists have started collecting upland bird production data. Early counts have indicated poor chick survival for most species from this spring hatch.

For the past 12 years, Ladd Marsh Wildlife Area has provided a summer work experience for an Oregon Youth Conservation Crew. The work experience lasts eight weeks during the summer and consists of eight to ten "at risk" youth. In 2005, the Ladd Marsh OYCC crew helped band over 2,000 ducks and geese. In addition to teaching skills important in every job such as interpersonal communication, responsibility and initiative, the work at Ladd Marsh gives young people interested in natural resources a chance to experience some aspects of the profession. The Ladd Marsh OYCC project has received local, state and national attention and recognition. Director Moore and Craig Ely will be having lunch with the youth next week.

Ocean Salmon and Columbia River Program

Tony Nigro, Ocean Salmon and Columbia River Program Manager reported that the 2006 preseason forecast of 161,400 spring Chinook included 88,400 upriver, 46,500 Willamette, 23,400 lower river tributary, and 3,100 Select Area adults. The Mainstem Columbia River recreational fishery was open for retention of adipose fin-clipped spring Chinook downstream of the I-5 Bridge from January 1-April 13. Due to increasing catch and minimal passage at Bonneville Dam, the season closed six days earlier than scheduled. The preliminary recreational impact rate on ESA listed upriver spring chinook is 0.72 percent or 63 percent of the allocation. The mainstem commercial fishery included five fishing periods from February 23-March 5. Select Area fisheries also exceeded expectations, with over 7,100 chinook harvested since the season opened in mid-February. The preliminary commercial fishery impact rate on ESA listed upriver spring chinook is 0.86 percent (100 percent of allocation)

Commissioner Englund asked when there would be a report on the fishery to provide the Commission with a complete picture. Tony Nigro said staff are just finishing that report.

Oregon State Police Fish and Wildlife Division

Walt Markee, Captain Oregon State Police Fish and Wildlife Division reported that trooper Harris (Coos Bay) completed an elk investigation from November 2005. An elk was struck by the brother's vehicle while he was allegedly chasing them down a gravel road with one of the passengers, a local fishing guide, attempted to shoot out the passenger window at the elk. The suspect, who had a bow elk tag, was charged with Unlawful Taking a 6x6 Bull Elk in the Smith River area during the first rifle elk season and tagging it with his girlfriend's tag. The girlfriend was cited for loading a big game tag. The fishing guide later shot a young bull elk from a different herd and was lodged for Taking Bull Elk Closed Season (which was later emended to Chasing and Harassing

Wildlife and aiding in a Wildlife Offense), and a third suspect in the case was cited for aiding in a Wildlife Offense.

Trooper Cushman and Trooper Collom (Central Point) were patrolling a local lake in Jackson County when they noticed a female that was angling from a rubber raft with no angling license and no life jacket. She had a rope tied to her leg and dangling over the side. Attached to the other end of the rope was her anchor. She was enticed to shore, issued a citation for no angling license and warned for no life jacket.

Commissioner Smith asked about the wings on the Oregon State Police aircraft. Walt Markee said he has had a meeting with the pilots; a broker has been brought in to inspect each of the three planes and there should be a cost estimate reported next when he will review the information and make a decision.

Commissioner Kerns has located a plane and a pilot who will work for Oregon State Police free of charge with the Oregon State Police paying for necessary fuel. Walt Markee is concerned with the amount of Oregon State Police equipment that would be installed on the plane. Walt Markee and Commissioner Kerns will discuss further.

Forestry Program for Oregon

Marvin Brown, State Forester, Board of Forestry presented Key Forestry Program for Oregon concepts, Oregon Sustainable Forest Management indicators and Opportunities for Board of Forestry and Fish and Wildlife Commission collaboration.

Commissioner Smith complimented the Department of Forestry and the board on their management. He said he appreciates what is an increasingly valuable partnership between the Department of Forestry and Oregon Department of Fish and Wildlife. Marvin Brown said he is looking forward to the relationship between the two agencies and is looking forward to drawing on Commissioner Smith's knowledge and experience in their work group.

Commissioner Kerns asked how the agencies will address the issue of dead unusable forest area. Marvin Brown said that they are discussing that issue and are promoting the use of that kind of material for biomass. They are looking at what role state government can play in moving that concept forward. There are some technical and economic issues but he said it seems to be a pretty promising market. Marvin Brown said in the long term they would like to have the mill structure involved.

Commissioner Edge asked what the relationship is between vision for sustainability and the certification program. Marvin Brown said historically the certification systems, forest stewardship, sustainable forest initiative and tree farm industry have been used as standards for on the ground practices. Over time the indicators and criteria are the assessment. The certification system is a tool for obtaining sustainability. Commissioner Edge said the program relates to larger producers becoming certified but he is thinking more of the "mom and pop" operation. Marvin Brown said a lot of people who are using wood are becoming more interested in being certified. The Department of Forestry has commissioned a study by Washington, DC and asked that they take all

of the pieces we have in place and crosswalk those with PEFC. He said the question is how close we are to that standard. This would allow private landowners to become certified. It is feasible but would be costly. The other effort is the American Tree Farm Association. The association is submitting their program to the PEFC for certification to see if the tree farm program could morph into a certification program.

Chair Rae said she is delighted to be working with Marvin Brown. She thinks landowners participating in the conservation strategy is really important. The Nature Conservancy will be recognizing department staff for their efforts on the Conservation and Nearshore strategies.

Adopt Temporary Rules

Virgil Moore, Director, requested the Commission ratify the following temporary rules. The temporary rules were previously adopted by the Director under his emergency action authority.

635-047-0025

Adopted July 24, 2006, effective July 25, 2006 through January 15, 2007.

Rule amended to expand the types of marking that are acceptable for birds held by private hunting preserves. Current rule identifies only two types of marking; the amendment adds and defines a new type of marking.

635-018-0090

Adopted July 10, 2006, effective August 1, 2006 through October 31, 2006.

Amended rule opens the Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls to angling for trout, steelhead, and chinook salmon.

635-023-0095

Adopted July 12, 2006, effective July 24, 2006 through December 31, 2006.

Amended rule prohibits retention of sturgeon in the Columbia River and tributaries between Bonneville and The Dalles Dams (Bonneville Pool) effective 12:01 a.m., Monday, July 24, 2006. Harvest guideline of 700 sturgeon was attained. Revision is consistent with action taken July 12, 2006 by the Columbia River Compact.

635-042-0027

Adopted July 14, 2006, effective July 16, 2006 through July 31, 2006.

Amended rule provides two additional 12-hour fishing periods to the ongoing commercial summer chinook gill net fishery in the mainstem Columbia River (Zones 1-5). Revision is consistent with action taken July 14, 2006 by the Columbia River Compact.

635-014-0090

Adopted July 17, 2006, effective August 1, 2006 through December 31, 2006.

Amended rule allows radio-tagged fall chinook to be retained in the Siletz River and Drift Creek (Siletz Basin). This rule assists in recovery of the radio-tags and accurate assessment of migration patterns and encounter rates of study fish by enabling anglers to retain tagged fish.

635-039-0090

Adopted July 21, 2006, effective July 24, 2006 through December 31, 2006.
Amended rule prohibits retention of vermilion rockfish in the recreational ocean boat fishery to slow the progression toward attainment of the 2006 state recreational harvest cap for "other nearshore rockfish" species. Landings of vermilion rockfish and six other rockfish species in the ocean boat fishery are counted toward the harvest cap for "other nearshore rockfish" species.

635-013-0004

Adopted July 25, 2006, effective August 11, 2006 through December 31, 2006.
Amended rule expands the ocean recreational salmon fishery season to seven days per week and a bag limit of two salmon per day. Minimum length requirements are 24-inches for chinook and 16-inches for coho.

635-003-0077

Adopted July 27, 2006, effective July 29, 2006 through December 31, 2006.
Amended rule implements an Oregon ocean commercial troll salmon season from Cape Falcon to the US-Canada border, as adopted by the Pacific Fishery Management Council. The fishery is open effective 12:01 a.m. July 29, 2006 through 11:59 p.m., September 15, 2006. From July 29, 2006 through August 1, 2006 the fishery is open Saturday through Tuesday with a 60 chinook and 35 adipose fin-clipped coho landing and possession limit per vessel. From August 5, 2006 through September 15, 2006 the fishery is open on a cycle of Saturday through Monday with a 60 chinook and 40 adipose fin-clipped coho landing and possession limit per vessel per 3-day period.

635-041-0063

Adopted July 27, 2006, effective July 31, 2006 through December 31, 2006.
Amended rule allows sales of fish caught during the Tribal Treaty sturgeon setline fishery in the Columbia River. Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

635-042-0027

Adopted July 27, 2006, effective July 30, 2006 through July 31, 2006.
Amended rule adds an additional 12-hour fishing period to the ongoing commercial summer chinook gill net fishery in the mainstem Columbia River (Zones 1 thru 5). Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

635-041-0075

Adopted July 27, 2006, effective August 1, 2006 through December 31, 2006.
Amended rule allows sales of fish caught during the Tribal Treaty fall salmon platform and hook-and-line fisheries in Zone 6 of the mainstem Columbia River beginning 12:01 a.m., August 1, 2006 until further notice. Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

635-042-0031

Adopted July 27, 2006, effective August 2, 2006 through December 31, 2006.
Amended rule implements the commercial fall chinook salmon gill net season in the mainstem Columbia River (Zones 1-5). Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

635-042-0145

Adopted July 27, 2006, effective August 2, 2006 through December 31, 2006.
Amended rule implements the commercial fall chinook salmon gill net season in the Youngs Bay Select Area and allows retention and sales of white sturgeon. Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

Action:

Commissioner Smith moved to ratify the temporary rules. Commissioner Englund seconded the motion, and the motion carried unanimously.

COMMISSIONER ITEMS

Expenditure Report:

Chair Rae chose to pass on the expenditure report. The written report is part of the official record.

Staff: Roxie Burns, Acting Deputy Director for Administration

Exhibit A: COMMISSION MINUTES

The Commission considered approval of the July 2006 Commission minutes.

Commissioner Klarquist said on the first page of the minutes in the Pendleton paragraph the Commissioner who seconded the motion is Commissioner Denman not Commissioner Englund.

Commissioner Smith requested on page seven on the second day the top paragraph regarding wildlife diversity be modified.

Action:

Commissioner Edge moved to approve the minutes as amended. Commissioner Smith seconded the motion, and the motion carried unanimously.

Exhibit B: 2006-2007 OREGON GAME BIRD REGULATIONS

Staff Presentation:

Dave Budeau, Upland Game Bird Program Coordinator and Brad Bales, Migratory Bird Program Coordinator asked the Commission to adopt the game bird season regulations for 2006-2007.

Public Testimony:

Gail Greenman
Oregon Farm Bureau
3415 Commercial St.
Salem, OR 97302
503-931-3398

Ms. Greenman said the Pacific Flyway Council supported proposals which have now been supported by the United States Fish and Wildlife Service. She feels that current regulations are not keeping up with Aleutian Canada geese populations to alleviate agricultural damage.

Lee Sukraw

Mr. Sukraw handed out a waterfowl consumption report.

Farmer
1881 Lower Klamath Lake
Klamath Falls, OR 97603
541-884-8740

He said he would also leave his prepared statement for the official record. He feels the damage caused by geese has been increasing year after year. Mr. Sukraw compared what the geese eat to what a 1,000 pound cow would eat and has found that there is a large amount of economic damage created by the consumption of waterfowl. He said the city of Klamath Falls expects to spend over a million dollars in bird control. He asked the Commission to also consider the problems with the Ross-Snow geese during the March-April period of the year.

Commissioner Kerns asked staff if the agency can get financial help from the air force in Klamath Falls to help control the goose problem. Brad Bales said in general the goose depredation funding has been highlighted in northwest Oregon where federal funding has been received for a short period of time. Due to not being able to obtain federal funding in the Klamath Falls area it has been recommended that the agency join forces with California. He feels it will take progressive work and combined forces to get some Congressional support for federal funding.

Brad Bales said during February and March hunting periods (emphasis on depredation) the hunting during this time will be only on private lands.

Action:

Commissioner Edge moved to amend OAR Chapter 635, Divisions 008, 045, 051, 052, 053, 054, 060 and 100 as proposed by staff. Commissioner Smith seconded the motion and the motion was carried unanimously.

Exhibit C: TERMINALLY ILL HUNTING TAGS

Staff Presentation:

Tom Thornton, Game Program Manager asked the Commission to adopt rules regarding hunting tags for terminally ill children.

Commissioner Klarquist asked for an example of an organization. Tom Thornton said right now the only one he knows of is A Hunt of a Lifetime. Commissioner Kerns asked if Oregon Department of Fish and Wildlife looks at the application. Tom Thornton said he has seen the information that is provided on their website and they are nationally recognized but has not looked into their articles of incorporation or bylaws. Commissioner Kerns asked if the agency wrote a regulation that is too tight. Commissioner Kerns also asked what it means to be terminally ill and asked what the definition is of a child. Tom Thornton said staff did contact counsel and didn't find a specific statute that defined child as a specific age. He also said as far as terminal; it is an illness that will lead to death in a short time.

Bill Cook said the Legislature says an agency can waive fees for organizations that offer hunts for terminally ill children. Staff have looked at writing regulations but the Commission can take another look at writing the regulations.

Commissioner Smith asked staff to look into other organizations. Tom Thornton said staff would look into other organizations.

Public Testimony:

Al Elkins
Oregon Hunters Association
2595 Snowberry Ridge Ct.
West Linn, OR 97068
503-780-6824

Mr. Elkins is in support of any change to the rule that allows the organization to continue. Oregon Hunters Association was instrumental in helping Mr. Benson and his organization to get this piece of legislation passed last session.

Danny Benson
Hunt of a Lifetime
5829 Southgate
Klamath Falls, OR 97603
541-273-3381

Mr. Benson said that Senate Bill 694 was written to include/define children who are classed as terminally ill 4(a)1(b) allows an organization to allow hunts for children with a life threatening illness. He said the rules penalize a child for fighting for their life. Once a child is not classed as terminal the child is no longer eligible for a hunt like this. Commissioner Edge asked what the demand is compared to the number of tags issued. Mr. Benson said there were 14 hunts in Oregon and nationally there were 62. Mr. Benson said that not all of the trips are hunts some are fishing, backpacking or hunting trips. Commissioner Klarquist is concerned that the rule is specific to hunting. Bill Cook said the rule does say sole purpose. If the agency wants to accommodate this organization staff needs to change the language. Terminally ill is the concept in the statute and staff have to use that. Commissioner Englund asked how the experience is given to the children when there is no season available. Mr. Benson said last year he contacted the national office and the children were matched up with available hunts. Mr. Benson said he then contacts the children personally and sets up the hunt with the family and child and the organization pays all expenses for one parent and the child that is going on the hunt. Commissioner Klarquist asked Bill Cook if the Commission can come up with a definition of terminally ill that made reference to a child with a life threatening illness where the outcome would be questionable. Bill Cook said terminally ill means an illness that is going to lead to death. He said the Commission will have to stay within the boundaries that the legislature has given. Mr. Benson read a vision statement he wrote. Bill Cook said the intent was to leave it to the discretion of the physician.

Chair Rae said there will be two changes in the proposed rule in subsection 1 to read ...with the principle purpose of granting hunting and fishing adventures...

Tom Thornton recommended a change on the second to page pronghorn antelope would need to be modified to read August 1 – September 30.

Commissioner Edge asked if the Commission is comfortable with the definition of a child. On the second page it is listed from 12-21.

Action:

Commissioner Klarquist moved to adopt OAR 635-065-0771 as proposed with changes. Commissioner Edge seconded the motion and the motion was carried unanimously.

Exhibit D: 2007 OREGON SPORTFISHING REGULATIONS

Commissioner Englund declared a potential conflict of interest as his company sells recreational fishery gear.

Staff Presentation:

Rhine Messmer, Recreational Fisheries Program Manager asked the Commission to amend rules to adopt sport fishing regulation for finfish, shellfish and marine invertebrates for 2007.

Commissioner Kerns asked if any of the changes effect the sea run cutthroat trout from the last regulation changes. Rhine Messmer said the proposals for the 2007 regulations would not include the same areas changed in the 2006 regulations.

Public Testimony:

Danny Nunn
30584 Butte Crk. Rd.
Lebanon, OR 97355
541-258-7830

Mr. Nunn is in support of the opening of Deadwood and Indian creeks. He would like to see bait allowed in the areas.

Paul Wilson
Florence STEP Group
87849 Sandrift St.
Florence, OR 97439
541-901-9780

Mr. Wilson addressed cutthroat trout in the Deadwood and Indian creek areas. He feels it provides an opportunity for people in the area to fish locally. He said he has no problem not fishing with bait.

Bob Jacobson
PO Box 507
Waldport, OR 97394
541-563-2045

Mr. Jacobson testified on the cutthroat issue. He said the cutthroat trout population is prime and the area is not the steelhead habitat that NMFS thought it was. He would like the Commission to reopen the 26.2 miles of cutthroat fishery.

Commissioner Smith mentioned the correspondence received concerning the use of bait. Rhine Messmer said a study done showed a possible one percent mortality on juvenile trout. Overall staff does not expect to significantly impact the steelhead or chinook in that ESU.

Commissioner Smith asked what has been done to simplify the regulations. Rhine Messmer said anglers won't notice the book getting bigger because of rule changes.

The actual number of pages may be less this year because there will be less pages put to advertising. Commissioner Smith asked if staff simplified any of the rules and to give some examples. Rhine Messmer said redundant regulations regarding the use of bait have been removed. Staff continues to try to make existing rules clear to anglers. With new software staff will be able to reformat regulations to make them simpler.

Commissioner Kerns asked about page 16 referring to tide creek. He said he is concerned with what refers to the Umatilla Indian boundaries (east or west or what is within the reservation). Rhine Messmer said it is the same boundary that already exists there, with no proposed rule change to change the boundary. He believes it is the first boundary encountered on the upstream way as you are going upstream. Commissioner Kerns feels some clarification would be helpful. Rhine Messmer will contact the District Biologist Tim Bailey and better define the boundary. Commissioner Kerns would like the boundary defined carefully. Rhine Messmer explained that under the issue two motion staff can accommodate Commissioner Kerns' request.

Action:

Commissioner Edge moved to amend OAR Chapter 635 Divisions 011,014,016,017,018,019, 021, 023 and 039 as proposed by staff in Attachment 6 and to uniformly reflect the calendar dates for trout season openers as described in Attachment 4. Commissioner Klarquist seconded the motion and the motion carried unanimously.

Commissioner Edge moved to adopt the 2007 Sport Fishing Regulations pamphlet as proposed by staff in Attachment 5 to reflect changes made to the 2006 rules and authorize staff to make text or formatting changes to correct typographical or grammatical errors, correct inadvertent inconsistencies, improve readability or to meet publishing needs. Commissioner Klarquist seconded the motion and the motion carried unanimously.

Corrections submitted today in Attachment 5 were included in the second motion.

Exhibit E: SARDINE LIMITED ENTRY PERMITS

Commissioner Englund declared a potential conflict of interest as his company does business with the sardine industry.

Staff Presentation:

Jean McCrae, Developmental Fisheries Project Leader asked the Commission to review eligibility requirements for sardine limited entry permits.

Commissioner Klarquist asked what the purpose was for the Evich waiver of 2004. Jean McCrae explained that he didn't make the landing requirements that year.

Public Testimony:

Chris Cameron
450 Alameda

Mr. Cameron testified that he has been a commercial fisherman for 25 years in Alaska, California and Oregon with

Astoria, OR 97103
503-325-1132

vessels in each state. He sees the goals of the developmental fishery to have active participation, add jobs and expand the fishery resource. He said limited entry was to have participants in the fishery who have participated actively. He looks at this as consolidation in the fisheries. He feels consolidation is happening up and down the coast and thinks it is detrimental. Commissioner Smith asked if the only year he had a permit was 2003. Mr. Cameron said he had a permit in 2003 but in 2002 it was in the appeals process because it had been lost in 2001. Commissioner Smith asked what his capacity was in 2000. Mr. Cameron said he was a skiff man on the Valiant Lady fishing for 5 weeks with someone else's permit. Chair Rae asked Steve Sanders to remind her why the permit was denied. Steve Sanders said Mr. Cameron did not make the landings and the critical factor was when given the permit he signed a form stating he did own or control the vessel. That is the reason for the original denial.

Thane Tienson
Re: Paul Evich
1300 SW 5th Ave
Portland, OR 97201
503-224-4100

Mr. Tienson testified that he represents Mr. Paul Evich. Mr. Tienson said he thought Mr. Evich's waiver was for illness/heart attack. He said Mr. Evich has participated since 1999 and the only year he didn't participate was 2004 due to illness. He feels there is a case being made and it is an issue of only adding six more permits. He created proposed language that would result in only six permits being issued all to active fishers.

Jeff Princehouse
Bay Ocean Seafood
PO Box 348
Garibaldi, OR 97118
503-322-9629

Mr. Princehouse testified he is a proponent to adding permits. He feels there are markets that haven't been developed or marketed because of access to permits.

Dana Ferguson
West Bay Marketing
#49 Pier 2
Port of Astoria
503-741-0142

Mr. Ferguson said this would increase the opportunity to fish into December. He thinks some of the five or six guys would give the market the opportunity.

Gene Law
FV Ms. Law
754 Olalla Rd.
Toledo, OR 97391
541-336-2645

Mr. Law supports the petition for Evich and Schones. He feels reallocation of permits was not fair to existing fishers. He said the only fair and equitable way to correct the situation is to allow fishers who qualified in 2005.

Mike Okoniewski
Pacific Seafood
1635 Downriver Dr.
Woodland, WA 98674
360-225-9351

Mr. Okoniewski testified that 36,000 mt have been left unharvested per year. He is in favor of the Schones and Evich petitions. He said the permit holders did everything required. He is not asking for revoked or redistributed permits. Chair Rae asked what the economic impact was between the two years, Mr. Okoniewski said he thought

	53,000 tons about 25 million dollars which is \$500 per ton.
Ryan Kapp Fisherman 955 Colony Ct Bellingham, WA 98229 260-714-0882	Mr. Kapp agrees with the staff recommendation. He said the markets are not better or improving. He asked the Commission to support the staff recommendations.
Tom Libby Processor 90085 Logan Rd. Astoria, OR 503-325-5276	Mr. Libby said the markets are not good right now. He said his operation had a 400 ton order that took 4 days to fill. He also said there are several unemployed boats. Individuals should be considered by the advisory group rather than a blanket petition. Need to know each individual circumstance. Mr. Libby urged the Commission to reject the petitions and send the petitioners on an individual basis to the advisory board. Commissioner Smith asked if Mr. Libby's operation owned and operated vessels. Mr. Libby said no, the vessels are privately owned.
Dan MacDonald Fisherman PO Box 5993 Bellingham, WA 98227 360-961-2530	Mr. MacDonald started by asking Steve Sanders who would be approved under the petitions. Steve Sanders said six individuals or legal entities that would be approved. Mr. MacDonald urged the Commission to deny the petitions. He believes the petitions are not the correct fix. He feels the petitioners should go before the sardine advisory board.
Stan Schones Fisherman 1483 Old River Rd. Siletz, OR 541-444-2620	Mr. Schones said he has been on the advisory board, has been in the fishery since 1999 and participated every year with his own boat and permit. He said the market is what it is because of what we (fishermen) did last year. He said the oil and fat content was low and the ocean delivered small fish last year. This year the fish are larger with higher oil and fat content and he feels the fishery will be better now. Mr. Schones urged the Commission to approve the petitions and said the six permits would not affect the fishery.
Jim Fisher Fisherman 1620 7 th Dr. Hammond, OR 97121 503-861-3413	Mr. Fisher said he has been a commercial fisherman for 35 years and was one of the original sardine permit holders. He said that at no point in time was there ever a disclaimer or verbal alert that the people who had the permit and that met the requirements would get a permit if it went limited entry. He said regulations were changed to increase the requirement from 5,000 – 80,000mt. When it went limited entry the requirements were retroactive. He feels this was inequitable from the start. He wants the Commission to make a decision and not defer to the advisory board.
Nick Jerkovich Fisherman 3710 Harborview Dr. 253-405-5500	Mr. Jerkovch said he has commercially fished and owns licenses in Alaska, California and Oregon. He served as an advisor to the Department of Fisheries in California, Washington and Oregon. He said he holds a permit and has two sons with permits. He doesn't believe the fishery can sustain more than 20 permits and can't see where there is

	more room in the fishery.
Laeth Nelson Fisherman 309 Briar Rd. Bellingham, WA 98225 360-734-6541	Mr. Nelson said he is the owner and operator of a vessel and is now an Oregon sardine fisherman. He supports the Department's proposal.
Keith Omev Fisherman 1511 Mill Ave. Bellingham, WA 98225 360-733-8717	Mr. Omev said he is a participant and boat owner since the beginning of the fishery. He doesn't believe anymore permits should be issued for this fishery. He wants the Commission to follow staff's recommendations.

Commissioner Smith asked how the six people get permits and not participate in the fishery. Jean McCrae said it gets back to the definition of participation, having a permit and making landings by a vessel. Commissioner Smith asked about the effect of processors holding permits and do we or should we have any consideration for that. Jean McCrae said we do take that into consideration and put a stipulation that by 2008 the permit holder be the vessel owner. Commissioner Smith asked about permits under the control and ownership of the processor. Jean McCrae doesn't feel a processor has control of a vessel unless they own the vessel.

Commissioner Kerns voiced concern that only six permit holders are Oregon tax payers. He said for that reason he is leaning towards allowing initial permits into the fishery.

Commissioner Edge asked what the landing requirements are to retain a permit. Jean McCrae explained that 10 landings are required to retain the permit. Steve Sanders included that they could retain a permit by making \$40,000 worth of landings. Commissioner Edge has concerns about the fairness issue and also about the market even being able to support the 20 permits right now. He asked if there is a waiver permit. Steve Sanders said there are two broad waivers where the Commission can waive individually or fleet wide. Commissioner Edge asked if it is already to late to allow the six into the fishery to allow them the chance to make their required landings. Jean McCrae said it depends on the market. She also said that the six permit holders that would get a permit are 1, 3, 6,13,14,19.

Commissioner Smith asked if a permit holder doesn't meet the requirements and doesn't get a waiver what happens to the permit. Jean McCrae explained that the permit would go to the state and Steve Sanders said if the number of permits drops below 20 then the permit would go to the next highest qualifying fisher in a qualifying period.

Commissioner Smith said it seems one group says the market is not able to respond to additions and the other says there is a reason so if you wait long enough the fish will be better for the market. Jean McCrae said later in the year the fish get larger and oilier. Commissioner Smith asked what the merit and consequences would be in turning this issue over to the Sardine Advisory Board. Jean McCrae said there are three appeals going through the advisory group. Three of the six petitioners are going through the

process. If the Commission grants the petition then the currently pending appeals would be mute. Commissioner Smith supports the idea of fairness. He said he has some uneasiness in the fairness of the issue being dealt with. The leftover harvest limit has been substantial. Jean McCrae said there has been some left each year regardless of the fleet. Commissioner Smith asked how serious overcapitalization would be with 26 permits. Jean McCrae said based on average landings six permits could harvest up to 30 percent of what was harvested last year.

Chair Rae will, as Commissioner Klarquist requested, look at Mr. Evich, the other five and Chris Cameron separately. Chair Rae said she is not concerned with adding six permits and is interested in the added economic benefits to the state.

Chair Rae asked if there is consensus that Mr. Evich should receive a permit separate from the other five. Consensus is that the permits do not need to be split up.

Action:

Commissioner Kerns moved to amend OAR 635-006-1035(11)(d). In addition to those Sardine Fishery Permits previously issued by the Department in calendar year 2006, the Oregon Department of Fish and Wildlife shall issue a Sardine Fishery Permit to any individual or entity, if that individual or entity held a legally qualified Oregon Development Fisheries Permit for Sardines on August 1, 2005 valid for the year 2005, provided that neither the individual or entity has been previously issued an Oregon Sardine Fishery Permit in 2006. Seconded by Commissioner Smith seconded the motion. The motion passed unanimously.

Jean McCrae named those that would qualify:

R. Puratich
A. Babich
S. Lovejoy
P. Evich
J. Fisher
E. Law

Commissioner Klarquist moved to deny the petition by Mr. Chris Cameron and maintain the eligibility requirements of the limited entry sardine permits as adopted in December 2005. Commissioner Edge seconded the motion and the motion carried unanimously.

Exhibit F: OCEAN COMMERCIAL TERMINAL FISHERY

Commissioner Englund declared a potential conflict of interest as his company does business with both sport and commercial fisheries.

Staff Presentation:

Ron Boyce, Ocean Salmon and Columbia River Fisheries Manager reviewed ocean commercial terminal fishery options and requested Commission action to adopt terminal fisheries for fall chinook in 2006.

Curt Melcher explained that the intent for the calendar week is to represent the federal calendar. The calendar could be inserted into the rules. Commissioner Klarquist asked what the confidence level is that we can limit the quota daily or weekly. Curt Melcher said staff is expecting the fleet will be distributed because all of the fisheries will be open concurrently. We will institute a more intensive monitoring program. Commissioner Klarquist asked if the fish are known to show up in one area at one time then another area at another time possibly causing a concentration of fishermen in one area at a time. Curt Melcher said there is always the possibility of the concentration but they don't expect to see a large amount of vessels in any one area.

Public Testimony:

Nancy Fitzpatrick
OSC
PO Box 983
Lincoln City, OR 97367
541-994-2647

Ms. Fitzpatrick said the Salmon Commission has received funding from the Oregon Watershed Enhancement Bureau to do some ocean salmon research to get genetic information to find out where they are at what time. She said that 97 vessels contracted through the openers. The vessels went out 227 days out of a possible 296 days and sampled 1,471 fish. There was one Klamath fish in the 71 sampled in the first opener.

Ray Monroe
OSC
PO Box 98
Pacific City, OR 97135
503-801-4744

Mr. Monroe testified in support of the Salmon Commission's recommendation. He also asked to have the Netarts area kept open so vessels going into areas to fish and that have to go back through this closed area are able to get back.

Aaron Congton
POORT
PO Box 1486
Port Orford, OR
541-332-0580

Mr. Congton handed out a map of the Elk River terminal area fishery. He proposed to move the state line into the dotted line shown on the map.

Leo Grandmontague
Oregon Lamprey Soc.
46760 Hwy 252
Myrtle Point, OR
541-572-5146

Mr. Grandmontague strongly supports the bubble fishery on the Oregon coast.

Don Stevens
OSC
4505 E Portland
Newberg, OR 97132
503-537-0976

Mr. Stevens said that one third of the effort occurred north of Cape Falcon. He said the south of Falcon catch is 9 percent of the 2005 fishery. He supports alternative 10b on the Rogue River, the lower quota. He also supports Mr. Monroe's proposal to open from Pyramid Rock down to Cape Kiwanda. He supports any proposal from Florence to Cape Airigo. Commissioner Englund asked, with a quota of 50 fish per week, what kind of effect the tuna issue and fleet effort would be. Mr. Stevens said most years have 10-20 boats. Tuna fishers wouldn't fish in the bubble fishery.

Commissioner Englund asked if there is a conservation issue from Neskowin to Garibaldi. Ron Boyce said Sand Creek is the only anadromous bearing body of water.

Curt Melcher added that it depends, since we aren't changing the quota but the boundary, what new fishing effort would occur in the area.

Commissioner Englund asked what distance, opening waters, for joining the two areas. Ron Boyce said the best estimate is about 15 miles.

Chair Rae said that attachment five would be a temporary rule. If the Commission wishes to add the definition of calendar week at the end of the rule (12) insert parenthesis (Sunday through Saturday). If the Commission wishes to reduce the Rogue River bubble fishery quota to 750, which can also be done.

Chair Rae stated that the Commission is doing this because of the directive in the Governor's Executive order. She also stated that these fisheries are not new.

Commissioner Edge stated he supports the reduced 750 fish quota on the Rogue River.

Commissioner Kerns left the meeting at 2:47 p.m.

Action:

Commissioner Edge moved to adopt temporary rule OAR 635-500-0135 to establish ocean terminal fisheries in 2006 with the two modifications as shown in Attachment 5. Commissioner Klarquist seconded the motion and the motion carried.

Exhibit G: 2007 – 2009 BUDGET APPROVAL

Commissioner Edge declared a potential conflict of interest. The unit he administers at Oregon State University does contract work with Oregon Department of Fish and Wildlife.

Staff Presentation:

Marilyn Wachal, Administrative Services Division Administrator, Roxie Burns, Acting Deputy Director for Administration and Roy Elicker, Deputy Director for Fish and Wildlife Programs asked the Commission to review and approve the 2007-09 Agency Request Budget for submission to the Governor's Office by September 1, 2006.

Commissioner Smith said the agency needs to involve every employee in this effort. He would like to start with an informal audit of things the agency does.

Commissioner Edge asked if the four month vacancy savings begins at the date of vacancy and goes to the date the position is filled. Roxie Burns confirmed the vacancy savings begins on the date of the vacancy.

Commissioner Englund asked if there are a number of days the agency uses to collect receivables. Marilyn Wachal said there is a 30-60 day period where the federal government is billed and also a longer term where we are waiting for contracts to be

signed and the revenue to be billed out. Commissioner Englund asked if the agency is timely in getting billings out. Marilyn Wachal said the agency is working on the billing system, keeping positions filled and getting off the paper system.

Commissioner Smith asked how the agency is approaching the cuts. Roxie Burns said the agency took little bits from each area and tried to level the impact.

Commissioner Edge asked what the state government services charges are, listed under administration in the 10 percent reduction. Marilyn Wachal said they are in OF and GF, telecommunications and other such services.

Public Testimony:

Jerry C. Ray
Mary's Peak Hound
Club
800 NW Meadow View
Corvallis, OR
541-745-7311

Mr. Ray testified on implementing a user fee for Sauvie Island for the 07-09 budget. There would be a wildlife appreciation fee for the use of the Sauvie Island wildlife area if the user does not already have a hunting or fishing license. Chair Rae recommended Director Moore actively engage in the group.

T.P. Kistner
Mary's Peak Hound
Club
1120 NW 11th St.
Corvallis, OR 97330

Mr. Kistner stated that E.E. Wilson wildlife area is the only area that is fully handicap accessible where wheelchair access is available all the way through. He said that 9 percent of users are hunters, 11 percent are fishers, public display areas are 39 percent and all other uses are 41 percent.

Lyle Jack
Mary's Peak Hound
Club
29844 Hwy 34 SW
Albany, OR 97321
541-752-2920

Mr. Jack stated that it is not very often you get a user group requesting the agency impose a fee. He said that E.E. Wilson is the only area totally funded by hunting and fishing license dollars. It's only fair that those that are not paying or helping to pay be included in the opportunity.

Commissioner Englund asked if fees were a statute issue. Chair Rae said yes in a spending authority and budget process.

Ron Anglin wanted to express who Ted Kistner is and that he has a long history with the agency. He explained that Mr. Kistner served as the agency wildlife vet basically free of charge when the agency had no money.

Action:

Commissioner Smith moved to approve the Department's 2007-09 Agency Request Budget for submission to the Governor's Office by September 1, 2006. Commissioner Englund seconded the motion and the motion carried unanimously.

OTHER BUSINESS

2007 Commission Schedule

The proposed calendar for 2007 was approved by the Commission.

UNSCHEDULED TESTIMONY

Leesa Cobb

Ms. Cobb testified that the crab pot limit program has an outstanding issue with the five year wait period. She would like to delay that for a brief period so fishermen can get their business in order. She said there has been some talk about delaying it by temporary rule and others have reluctance because there would be no opportunity for public comment. Steve Williams said the staff would want the opportunity to review both sides of the issue. The review can be done if the Commission is interested. Staff could come back to the Commission in September and the review would be included in a packet. Commissioner Englund thinks the Commission should give the process a chance to work and put it on the agenda in September. Ms. Cobb said one issue is that people will want to go into the appeal process if their permit transfer is not approved. Commissioner Smith asked Steve Sanders if people could appeal that decision. Steve Sanders said there wouldn't be a remedy, if there is no legal remedy it would be a pointless appeal. Commissioner Smith would like the issue to be brought back at the soonest possible time. Chair Rae wants only the transfer issue brought up not the crab pot limit issue. She said then everyone should work through a season and see how it shakes out.

Chair Marla Rae adjourned the meeting at 5:10 p.m.