



Oregon Fish and Wildlife Commission Minutes

Meeting: March 9, 2012 – 8:00 a.m.
Holiday Inn Express & Suites
River View Room
204 West Marine Drive
Corvallis, Oregon

Commission minutes are considered draft until approved by the Commission at its next meeting.

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

Dan Edge, Chair
Bobby Levy, Vice-Chair
Skip Klarquist, Commissioner
Bob Webber, Commissioner
Holly Akenson, Commissioner

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

MEETING

On Friday, March 9, 2012 at 8:00 a.m., Chair Dan Edge called the Oregon Fish and Wildlife Commission (the Commission) meeting to order. He said that Commissioners Jon Englund and Michael Finley were excused from the meeting.

DIRECTOR'S REPORT Field Reports

Northeast Region

Bruce Eddy, Region Manager, reported on steelhead fisheries in the John Day, Wallowa, Grande Ronde and Imnaha Rivers. Eddy said BLM, Oregon Department of Fish and Wildlife (ODFW), and U.S. Fish and Wildlife Service (USFWS) completed a three project evaluating how sage grouse use the desert country east of Baker City. Staff discovered that the low use areas had invasive medusahead rye infestation and range problems. A partnership of different organizations obtained funding to treat about 4,300 acres with herbicides this fall; reseeding will occur in 2013.

High Desert Region

Chip Dale, Region Manager, said staff is predicting a strong return of 14,000 spring Chinook in the Deschutes and Hood River systems; sport angling will open April 15 for two adipose fin-clipped adult Chinook plus a bag limit of five jacks. The Confederated Tribes of Warm Springs (CTWS) will implement a tribal fishery on April 1 at Shears Falls to get fish for their First Fish Ceremony. ODFW has managed the Hood River with CTWS to reintroduce spring Chinook; a fishery will open April 15 and close June 30. He said that staff and CTWS have looked at reintroducing anadromous fish in the Upper Deschutes in the Pelton Round Butte complex.

Southwest Region

Larry Cooper, Region Manager, said the 20th Annual Umpqua Fishing Enhancement Derby held February 3-5 in Roseburg has risen over \$1 million; those funds go back into

1 the enhancement of fisheries in the basin. Staff helped with the fishing derby and
2 collected 41 winter steelhead for broodstock. Cooper talked about two populations of
3 Pacific Fisher in southwest Oregon: 1) introduced population in the Cascades and 2) a
4 historic population in the Klamath Mountains. In 2010, staff started monitoring Pacific
5 Fisher, and continues to look for them in a conservation area that is part of the Oregon
6 Conservation Strategy and known to house Pacific Fisher populations in the past.

7 8 Northwest Region

9 Chris Wheaton, Region Manager, said staff is in the middle of finishing elk surveys. The
10 observed ratios and elk continue to be strongly influenced by elk herds on private lands;
11 about half of this area is public land, primarily national forest. He said the 8th "Annual
12 "Raptor Road Trip" was held February 4 on Sauvie Island. A very successful waterfowl
13 hunting season concluded January 29. Wheaton said a portable acclimation pond used
14 on the Sandy River was stolen in February; Oregon State Police (OSP) is investigating
15 that theft. Also, about 100 feet of cable was stolen near the main parking lot at South
16 Wilsonville Ponds. Wheaton said a tour of St. Louis Ponds was provided to the
17 Recreation and Enhancement Board on February 4; angler use was high.

18
19 Chair Edge moved the following report up on the agenda. Director Roy Elicker said
20 ODFW and other agencies are working closely with Oregon Water Resources
21 Department (WRD) on the Integrated Water Resources Strategy (IWRS) for Oregon.

22 23 **Oregon's Integrated Water Resources Strategy**

24 Phil Ward, WRD Director, said the Policy Advisory Group (PAG) held its last meeting
25 March 8 in Salem. He thanked the Commission for Director Elicker, Bruce McIntosh,
26 and Rick Kepler's participation. ODFW's contributions have been critical to the draft
27 document, *Oregon's Integrated Water Resources Strategy, Discussion Draft, December*
28 *22, 2011* (the Draft) distributed to the Commission.

29
30 Chair John Jackson, Chair of the Oregon Water Resources Commission (OWRC), said
31 House Bill 3369 (2009 Oregon Session) directed WRD to meet Oregon's water needs
32 instream and out-of-stream, and to partner with others and account for coming
33 pressures. He discussed the IWRS process and said the Draft contained 12 categories
34 of recommended actions and a series of tasks. He referred to handout *Oregon's*
35 *Integrated Water Resources Strategy Framework* (Framework) the organization of the
36 Draft, and talked about new features in the Draft.

37
38 Brenda Bateman, IWRS Project Manager, said the Draft reflects a wide range of tasks to
39 move us forward in the water discussion in Oregon. The Framework summarizes the
40 recommended actions in the Draft. She discussed the four quadrants in the Framework:
41 1) Understand Water Resources Today; 2) Understand Out-of Stream and Instream
42 Needs; 3) Understand the Coming Pressures that Affect our Needs and Supplies; and 4)
43 Meet Oregon's Out-of-Stream and Instream Needs.

44
45 Bruce McIntosh, Fish Division Deputy Administrator, discussed two Recommended
46 Actions involving ODFW:

- 1 1. *Action 3. A - Fill in knowledge gaps – Base, Peak, and Ecological Flows.* Set the
2 foundation of instream flows of what fish and wildlife need; working with WRD on
3 peak and ecological flows, and doing primary work on base flow studies.
4
- 5 2. *Action 12.G - Protect and Restore Instream Habitat & Habitat Access for Fish &*
6 *Wildlife.* For 10 years, ODFW has worked on conservation and recovery plans for
7 listed fish statewide; and developed and implemented a Conservation Strategy.
8

9 Chair Jackson said public comment was open until March 15; the Draft goes before
10 OWRC for adoption in August. He asked the Commission for a letter of endorsement to
11 OWRC (by June 1) to let them know that this Draft and strategy is moving Oregon
12 forward in the right direction; in understanding its water needs and meeting those needs
13 in water quality, quantity and the ecosystem.
14

15 Chair Edge and the Commission agreed to provide OWRC with a letter. He clarified that
16 there were no other actions wanted from the Commission. The Legislature didn't charge
17 the group with joint approval? Our role is in an assisting capacity? Chair Jackson said
18 HB 3369 charged OWRC to make notice of this adoption; this request is on our behalf to
19 hear from the Commission directly, and other commissions and boards. But beyond that
20 it is you working with our staff as to how to proceed in implementing it.
21

22 **Director's Reports - continued**

23 Information & Education

24 Roger Fuhrman, Administrator, said staff met with BiMart executives last month about:
25 sponsoring ODFW youth pheasant hunting clinics, advertising and providing volunteers
26 to staff ODFW events. Staff also met with Benchmade Knives and Yakima Bait. He said
27 staff is enhancing the Oregon Hunting Access Map by including range information on
28 Upland Birds; adding locations for public shooting ranges; and improving the location
29 search capability.
30

31 Conservation Strategy

32 Holly Michael, Conservation Policy Coordinator, said staff is developing the Western
33 Governors' Association Decision Support System tool to provide public access to
34 species data, crucial habitats and connectivity through an online mapping tool and
35 access to data. A prototype of an online viewer and data standards for an initial set of
36 fish and wildlife species will be developed. Staff will host a workshop this spring for
37 stakeholders to test the prototype and provide feedback to the system.
38

39 Ann Kreager, Willamette Valley Grasslands biologist, reported on the Willamette Valley
40 Grasslands Program; established in 2007 to support implementation of the Oregon
41 Conservation Strategy (OCS) with a focus on restoring, maintaining and enhancing
42 grassland habitats. She said emphasis is on restoring habitat for Western Meadowlarks
43 and other priority grassland dependent animals identified in the OCS. Staff implements
44 on-the-ground projects in partnerships with other partners; and provides technical
45 information on species, habitats, and restoration and management activities and
46 techniques. Kreager discussed the Program's accomplishments and projects.
47

1
2 Columbia River Program

3 Steve Williams, Fish Division Deputy Administrator, said on January 12 at the Joint State
4 Accord, ODFW and the Washington Department of Fish and Game dropped the harvest
5 rate to sixteen percent. He reported on white sturgeon fisheries in the Mainstem
6 Columbia River for: Winter Commercial Sturgeon; Mainstem Sport Fisheries;
7 Recreational fisheries in the Willamette; and the Bonneville, The Dalles, and John Day
8 Reservoir fisheries managed under the *U.S. vs. Oregon* Management Agreement.
9

10 Oregon State Police, Fish and Wildlife Division

11 Captain Jeff Samuels, Division Director, said the Oregon State Police (OSP) termed the
12 February 17-18 Willamette sturgeon fishery "Operation Leviathan". Troopers contacted
13 1,154 anglers and issued 42 angling citations, 68 angling warnings and 48 Marine Board
14 offenses. He said compliance was 91 percent. Captain Samuels talked about OSP's
15 joint enforcement agreement negotiations with NOAA for federal fisheries in Oregon that
16 would utilize two federal enforcement officers in Astoria and Newport.
17

18 **Habitat Conservation Stamp Artwork Contest**

19 Vice-Chair Levy was part of a five-member panel that judged 86 art entries; 21 entries
20 were youth. Out of ten finalists the winner was a Western Meadowlark painting by Sara
21 Stack, an employee of the Oregon Department of Forestry (DOF) who received a \$3,000
22 award for her winning entry that will grace the first Habitat Conservation Stamp.

23 Proceeds from stamp sales go towards funding habitat conservation projects linked to
24 the Oregon Conservation Strategy.
25

26 **Expenditure Report** by Deputy Director Debbie Colbert was moved to the afternoon.
27

28 **Adopt Temporary Rules**

29 Director Roy Elicker asked the Commission to adopt 11 temporary rules beginning with
30 635-017-0095 through 635-041-0065 on pages one through three of the agenda.
31

32 **1. 635-017-0095**

33 **Open Recreational Sturgeon Retention Fishery in the Willamette River**
34 **Downstream of Willamette Falls**

35 Adopted January 17, 2012: effective February 17, 2012 through April 30, 2012.

36 Amended rule opens the recreational white sturgeon retention fishery in the lower
37 Willamette River downstream of Willamette Falls, including Multnomah Channel and the
38 Gilbert River, Fridays and Saturdays only from February 17 through February 25, 2012
39 (4 days) or until the harvest guideline is met. Revisions are consistent with action taken
40 January 17, 2012 by the State of Oregon.
41

42 **2. 635-042-0145, 635-042-0160 and 635-042-0180**

43 **2012 Commercial Winter-Summer Fisheries for Columbia River Select Areas**

44 Adopted January 26, 2012: effective February 12, 2012 through July 31, 2012.

45 Amended rules to set seasons, area boundaries and catch restrictions for Chinook
46 salmon and white sturgeon winter, spring and summer commercial fisheries for the
47 Columbia River Select Areas. Modifications are consistent with the action taken

January 26, 2012 by the Columbia River Compact agencies of Oregon and Washington.

3. 635-023-0125

2012 Recreational Spring Chinook Seasons in the Columbia River

Adopted January 26, 2012: effective February 15, 2012 through June 15, 2012.

These rule modifications set the 2012 Columbia River recreational spring Chinook season regulations with descriptions of areas, dates, and bag limits for recreational harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead.

Revisions are consistent with action taken January 26, 2012 by the Columbia River Compact agencies of Oregon and Washington.

4. 635-008-0151

Add Habitat Conservation Stamp to List of Documents That Include a Free Annual Parking Permit

Adopted February 6, 2012: effective February 6, 2012 to August 4, 2012.

Adopted by the 2011 Oregon State Legislature (HB 2127), the Habitat Conservation Stamp allows Oregonians to purchase an annual stamp to benefit conservation of Oregon's native species and habitats. Stamps sell for \$40 a year and include a free ODFW Wildlife Area Parking Pass (a \$22 value). This will amend the rule to add the Habitat Conservation Stamp to the list of documents that include a free annual parking permit.

5. 635-010-0170

Add Habitat Conservation Stamp and ODFW Wildlife Area Parking Permits to be purchased via Mail Order, Fax and Internet

Adopted February 6, 2012: effective February 6, 2012 to August 4, 2012.

House Bill 2127, adopted by the 2011 Oregon State Legislature, allows the State Fish and Wildlife Commission to issue an annual Habitat Conservation Stamp for a fee. This allows Oregonians to purchase an annual stamp via mail order, fax or Internet to benefit conservation of Oregon's native species and habitats. This will amend the rule to add the Habitat Conservation Stamp as a postal delivery document. These documents will also allow daily and annual ODFW Wildlife Area Parking Permits to be purchased via mail order, fax or Internet.

6. 635-023-0095

Bonneville Pool Recreational Sturgeon Fishery Closes

Adopted February 8, 2012: effective February 18, 2012 through July 31, 2012.

This amended rule closes the recreational sturgeon season in the Bonneville Pool of the Columbia River effective 12:01 a.m., February 18, 2012. Modifications are consistent with action taken February 8, 2012 by the Columbia River Compact agencies of Oregon and Washington.

7. 635-060-0046

Amend Rule to Return Preference Points

Adopted February 10, 2012: effective February 10, 2012 to August 7, 2012.

Based on specific criteria for reinstatement of preference points, this temporary rule will allow the return of preference points used to draw a tag plus award one additional point as if the person was unsuccessful in the drawing.

8. 635-017-0095

Willamette River Recreational Sturgeon Retention Fishery Downstream of Willamette Falls Closes

Adopted February 21, 2012: effective February 23, 2012 through April 30, 2012.

Amended rule closes the recreational white sturgeon retention fishery in the lower Willamette River downstream of Willamette Falls, including Multnomah Channel and the Gilbert River effective February 23, 2012 due to anticipation of the harvest guideline being met. Revisions are consistent with action taken February 22, 2012 by the State of Oregon.

9. 635-041-0045 and 635-041-0065

Treaty Indian Winter Commercial Fisheries in the Columbia River Modified

Adopted February 27, 2012: effective February 29, 2012 through June 15, 2012.

The rule amendments modify allowable sales of fish caught in Treaty winter commercial fisheries in the Columbia River above Bonneville Dam and the Treaty fisheries downstream of Bonneville Dam allowed under state agreements. Effective 6:00 p.m., Wednesday February 29, 2012, Chinook salmon caught in these fisheries may not be sold but may be retained for subsistence. Effective 6:00 p.m., Thursday March 1, 2012, the winter commercial gillnet fishery in the John Day Pool will close. Fish caught in the platform/hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

10. 635-041-0065

Treaty Indian Winter Commercial Fisheries in the Bonneville Pool Modified

Adopted March 1, 2012: effective March 5, 2012 through June 15, 2012.

The rule amendments modify allowable sales of fish caught in Treaty winter commercial fisheries in the Bonneville Pool. Effective 6:00 p.m., Monday, March 5, 2012, the winter commercial gillnet fishery in the Bonneville Pool will close. Fish caught in the platform/hook-and-line fishery may not be sold, but may be kept for subsistence purposes. Modifications are consistent with action taken March 1, 2012 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

11. 635-041-0065

Bonneville Pool Treaty Indian Winter Commercial Fisheries Closure Postponed

Adopted March 5, 2012: effective March 5, 2012 through June 15, 2012.

Rule amendments postpone the closure date and time for Treaty Indian winter commercial fisheries in Bonneville Pool from 6:00 p.m., Monday, March 5 until 12:00 noon Tuesday, March 6, 2012. Modifications are in response to a Treaty Tribes request for more time to remove their gear from the Bonneville Pool, due to current high wind and weather conditions in the Bonneville Pool. Modifications are consistent with action taken March 5, 2012 by the Columbia River Compact agencies of Oregon and

1 Washington in cooperation with the Columbia River Treaty Tribes.

2
3 *Action: Commissioner Webber moved to approve the eleven administrative*
4 *temporary rules. Commissioner Levy seconded the motion, and the motion carried*
5 *unanimously by a vote of five.*
6

7 **PUBLIC FORUM:**

Mike Dykzeul Salem, Oregon	Mike Dykzeul, Director of Forest Protection for Oregon Forest Industries Council (OFIC), distributed <i>2012 OFIC Annual Deer & Elk Damage Survey Results</i> . He said page 2, 2012-OFIC Plantation Damage Survey, is information by county. OFIC believes that deer and elk have been gravitating to managed private lands. OFIC private landowners believe and value the hunting community as opportunities to help share in damage control issues. He said 17,737 acres were listed as severe damage and 51,845 acres were listed with moderate damage.
Dale Runions Bend, Oregon	Dale Runions testified about transferring preference points of a deceased relative to the closest relative. He lost his son-in-law in a logging accident between Christmas and New Years; who had 16 preference points for antelope and deer. Runions would like to change the ruling. He said if not for his family; see if there is a way to change it for the future.

8
9 Commissioner Klarquist said this would create a significant change in policy to make
10 points transferrable; it needed consideration before the Commission deliberated on it.

11
12 Ron Anglin, Wildlife Division Administrator, discussed special circumstances when
13 ODFW allows transfer of preference points. He said staff will bring permanent rules
14 before the Commission in June. He asked if the Commission wanted staff to analyze
15 Runion's request and move forward with rulemaking; it would be too late if they wanted
16 to use preference points for this controlled draw system.

17
18 Commissioner Webber didn't support the concept; it would be difficult to deal with and a
19 hard sale. He appreciated Runion's circumstances and said he was sorry for his loss.

20
21 Commissioner Levy asked if any other states do this. Anglin said staff would check with
22 other states with preference point systems. Commissioner Levy agreed with her
23 colleagues. Director Elicker said staff also was looking at when a person was given
24 back their preference points whether to be allowed to purchase the one they didn't get
25 because they didn't hunt that year for an excused reason. He said staff would look at
26 Runion's request and others and provide an overview to the Commission. The
27 Commission agreed.

1 **Public Forum - continued**

Todd Nash Enterprise, Oregon	Todd Nash, President of Wallowa County Stockgrowers (WCS), distributed a paper from WCS and Oregon Cattlemen's Association (OCA) asking for relief from the continuing depredation of the Imnaha Wolf Pack. He was contacted by Dave Talbott three weeks ago whose wife suffered a stroke. Yesterday Talbott called him because a first calf heifer of his was bitten by a wolf. The veterinarian euthanized the heifer; the calf inside her was already dead from the injuries. Two other cows were wounded and one calf is missing. He said Talbott leases winter pasture with horses and mules for a local packer guide; one of those mules was killed this year by wolves. Nash said Talbott has 60 head of cattle and does mechanic work on the side; it's pretty trying for his family right now. Nash spoke to other legal hurdles and failed legislation in the Oregon Legislature. OCA is asking the Commission to detain the remaining Imnaha pack wolves and house them somewhere live while this lawsuit is pending; it may require a rule change. He asked for immediate action; it's ridiculous what they have to live with.
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2
3 Commissioner Akenson asked how many cattle confirmed killed by the Imnaha pack to
4 date by ODFW. Nash said 22; with U.S. Wildlife Services it's about 32. Commissioner
5 Akenson asked how many since the stay was put in place last September. Nash said six
6 or seven; one of his calves was killed on September 22. He went to lethal control; but
7 October 5 he had another one killed; the stay effective date.

8

Jim Welsh Salem, Oregon	Jim Welsh, Oregon Cattlemen's Association (OCA), distributed written testimony and discussed the Wolf Conservation and Management Plan (the Plan): • Page 84. OCA urges the Commission to implement "Development and implementation of an ongoing research and information management program is an essential component of any successful wildlife conservation plan." • What's happening on the ground in Wallowa County will occur in other counties. OCA is urging the Legislature to help with those costs with General Fund dollars. • We need research today and the collaring of wolves on a regular basis. He referred to Phase 1, page 32, in the Plan that states each pack will have at least one member collared with a global positioning system (GPS) collar. Today there is not one wolf with a GPS
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	collar; we need that information shared.
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1
2 Commissioner Levy supported Nash's letter but said she didn't know if ODFW could do
3 anything until it got control back of the Plan. She agreed with Welsh, and said if we
4 expect the cattlemen to follow the rules in this Plan, to be able to kill a wolf that is
5 attacking their cattle, then we need to do our part in the Plan. She asked staff to look
6 into obtaining some kind of grant money or another method to at least collar one animal.
7

8 Commissioner Akenson said two wolves were to be lethally controlled before the lawsuit.
9 She asked Anglin to discuss the status of the lethal control before the lawsuit (stay).
10

11 Chair Edge referred to HB 4158 and said OCA was on record of supporting the Plan. He
12 said the Commission could not do anything today and would confer with staff and legal
13 counsel. In order to do what Nash requested the Commission would have to reopen
14 rulemaking and redo the Plan. He heard two requests: 1) monitoring; and 2) putting
15 GPS collars on the wolves.
16

17 Anglin said staff implemented lethal control action last spring after the wolves were
18 delisted and took two of the wolves documented where the depredations occurred. Staff
19 took no further action over the summer because the wolves had moved out of the
20 damage area and was on public lands outside the private land where the damage
21 occurred. When they moved back into that area in the fall, another depredation occurred
22 and staff went onsite and identified the alpha male and one uncollared wolf for removal.
23 Staff was in the process of doing that when the stay was implemented.
24

25 Commissioner Akenson said the intent of ODFW was to lethally control at that time when
26 the stay was enacted. We are unable now to adequately address the problems that the
27 cattlemen are having with the depredations in any other way. She said they have tried to
28 go through the Legislature and work other solutions to get relief from these depredations.
29 This request by Todd is a last ditch effort but it is worth looking at even though it may be
30 an extreme emergency procedure.
31

32 Commissioner Webber said Mr. Nash talked about not having a GPS collar within each
33 pack. Why don't we have that requirement fulfilled? Bruce Eddy said we do not have
34 GPS collars in all the packs. A component of the GPS collar went down on the Imnaha
35 pack alpha male but the VHF part is still working. During December-January, ODFW
36 contracted with Baker Air for helicopter time to capture and put GPS collars on wolves.
37 Staff has been monitoring the packs to determine when they are in a place so that staff
38 can place collars on them.
39

40 Chair Edge said, for the record, clarify where we are with the concept of capture and
41 hold. Do we have the authority to do that under the current Plan?
42

43 Anglin said the Plan states that we will not capture and relocate in any manner any
44 wolves that have been associated with depredations. The capture and relocation
45 depends on where they go. He was not aware of any western state that would give

Oregon permission to import livestock killing wolves into a holding facility in their state. To do that here would require building a holding facility in Oregon; knowing that no matter what the Court decides that you would then have those wolves to deal with.

Chair Edge said the Commission cannot take any action today. While the idea of capture and hold is problematic for us the Commission understands that having these animals in Oregon is particularly problematic for the livestock industry. He encouraged Nash and Welsh to continuing working with ODFW on a regular basis.

PUBLIC FORUM - continued

Scott Beckstead

Scott Beckstead, Senior Oregon Director for Humane Society of the United States (HSUS) distributed written testimony and said HSUS joined by the Oregon Sierra Club, Portland Audubon Society, Predator Defense and Cascadia Wildlands has filed a petition asking for changes that are long overdue in Oregon's wildlife trapping regulations.

- All traps be checked every 24-hours.
- Traps be tagged with the trapper's name and contact information.
- A visible sign be posted within five-feet of the trap.
- Traps be located no less than 100-feet from trails and other premises owned by the public.

Beckstead said the exception in the proposed rules would be for household rodents, gophers, moles and mountain beavers on property owned by the person setting the traps. Oregon is behind many neighboring western states in trap check requirements. Too many animals, targeted and non-targeted species, are suffering for long periods of time before the trapper returns; under Oregon law it is from three to 30 days. There is no trap check requirement for bear snares.

Beckstead said a couple of weeks ago at Oregon State University (OSU) it was discovered that Wildlife Services had set a number of snares around OSU's sheep research facility catching a coyote, baby deer, raccoons and a family pet. Most of those animals had been left to die and had been dead in the traps for a long time. The petitioners urge the Commission to adopt these common sense rules to bring Oregon into alignment with our humane values.

Chair Edge said with a formal petition the Commission has to respond within 90 days. Staff notified Beckstead that the furbearer trapping regulations process was scheduled for the June Commission meeting. He asked if Beckstead's proposal was to run the petition separately or roll it into that other regulations process.

1
2 Beckstead said he didn't know exactly what proposed changes are in the works. He
3 spoke with Tim Hiller who couldn't share exactly what the proposed changes are going to
4 be. He wanted to move forward with the petition filed and then meet back in June and
5 see if this can all be done together or if it makes sense to keep it bifurcated.
6

Denise McCurtain Gresham, Oregon	Denise McCurtain, a homeowner in Gresham, distributed written testimony and said this summer their seven-year old border collie was killed by a conibear trap that was placed along a manmade lake near her house. Twelve traps were placed on her side of the lake; five were conibear traps. The trap that killed her dog was 47-feet from her fence line; 107-feet from her house and placed less than 100-feet from the public sidewalk and in an area frequented by her children. She said the Homeowner Association agent who signed the contract did not know what kind of traps were being used; had he known he would never had allowed them in the neighborhood. McCurtain said the changes in the petition need to be done to prevent this from happening in the future; if there were consequences these traps would never have been placed there; the consequences for breaking it need to be severe enough that people just don't want to do it. She asked the Commission to make serious changes on: how and where traps can be placed; the warnings that are given to people and the surrounding areas; and that signs are posted.
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7
8 Chair Edge asked Legal Counsel to address the Commission's legal requirement to
9 respond to the petition.

10
11 Legal Counsel Erin Donald said the Commission has within 90 days to accept the
12 petition and initiate rulemaking or to deny the petition in writing. She said the petition
13 was received today; based on that date the 90th day is June 7. The Commission has a
14 meeting on June 7 and 8, and would need to make the decision during the first day of
15 that meeting; or there is an April meeting. Counselor Donald said because this a request
16 to amend rules there is a requirement that the Commission request public comment. The
17 requirements for a valid petition are quite involved; we need to do a review of that to
18 make sure that it meets those requirements and could amend if necessary.
19

20 Chair Edge said the Commission would consult with staff. Dr. Tim Hiller would contact
21 Beckstead about proposed rules changes and whether those would work for him.
22

23 **Exhibit A: COMMISSION MINUTES**

24 Chair Edge said there were no edits to the draft January 6, 2012 Commission minutes.
25

1 *Action: Commissioner Levy moved to adopt the January 6, 2012 Commission*
2 *minutes as submitted. Commissioner Klarquist seconded the motion, and the*
3 *motion carried unanimously by a vote of five.*
4

5 Chair Edge asked the Commission for edits to the draft February 3, 2012 Commission
6 minutes. Commissioner Klarquist said replace Legal Counsel Eric Donald with Legal
7 Counsel Bill Cook; Donald was not at the meeting. Commissioner Akenson referred to
8 page 6, line 46, and asked if "Workshop Working Group Committee" was correct.
9 Director Elicker said it should read "PFMC Working Group Committee" (Pacific Fishery
10 Management Council).
11

12 *Action: Commissioner Akenson moved to adopt the February 3, 2012*
13 *Commission minutes as amended. Commissioner Webber seconded the motion,*
14 *and the motion carried unanimously by a vote of five.*
15

16 Director Elicker asked the Commission to move Exhibit J forward on the agenda.
17

18 **Exhibit J: REINSTATEMENT OF PREFERENCE POINTS**

19 Director Elicker said he denied Dexter Zinke's request to reinstate his preference points;
20 the rules did not allow for his reason for reinstatement. Zinke has the right to ask in a
21 written request to the Commission that his decision be overturned but he cannot testify
22 before the Commission. Staff told Zinke we would take his letter before the Commission
23 for final judgment.
24

25 DeAnna Erickson, License Services Manager, said last November ODFW received an
26 application from Zinke requesting that we reinstate his preference points because two
27 national forest roads into his hunt unit were closed. After consideration it was
28 determined that he did not meet the standards that would allow us to reinstate those
29 points for either tragic personal circumstances or circumstances beyond his control; his
30 request was denied. Erickson said part of that denial offered Zinke the opportunity to
31 appeal that decision to the Commission. He is asking the Commission to review the
32 denial and make a decision whether or not he should get his point back.
33

34 **Public Testimony:** There was no public testimony.
35

36 Commissioner Akenson said some of that hunt unit closed for fire was still open?
37 Erickson said yes.
38

39 Chair Edge said he looked at that particular permit; it's a very large area and two road
40 closures is a tiny portion of the entire hunting unit.
41

42 Commissioner Levy said Zinke states that there were two roads closed and were his only
43 access; he has a Disabled Veteran permit. Why are those the only two roads that he
44 could use; is that due to his disability? Erickson said Zinke has a Disabled Veteran
45 license; a no charge license that ODFW gives to disabled veterans who have a 25% or
46 greater disability. She said there was other access to the unit. Commissioner Levy said
47 that would have allowed him to get access? Erickson said yes.

1
2 Commissioner Webber said we put the burden on the applicant to establish the
3 conditions that would justify us returning preference points. Based on the application he
4 did not see sufficient evidence to make a judgment. He spoke with ODFW about where
5 this two-unit hunt was; the hunt area closed was just a portion of the smaller of the two
6 units. He suspected that the two road closures that Zinke cited were limiting his access
7 to the specific place that he wanted to hunt; but didn't restrict his access to hunt with that
8 tag over a large area other than that specific point. He said this doesn't qualify as an
9 exception that the Commission should return the preference point for.

10
11 Commissioner Klarquist said he suffered a similar circumstance last fall. He gave no
12 thought to reapplying; he found a different way to get to his unit.

13
14 *Action: Commissioner Webber moved to affirm the decision of the Director*
15 *regarding the preference points and to deny reinstatement of Mr. Dexter Zinke's*
16 *preference points. Commissioner Klarquist seconded the motion, and the motion*
17 *carried unanimously by a vote of five.*
18

19 **Exhibit B: ACCESS AND HABITAT PROJECTS**

20 Matt Keenan, Access and Habitat (A&H) Program Coordinator, presented the Kareol
21 Woodlands Habitat Enhancement project. The A&H program would restore and fence
22 two ponds on 284 acres and install watering troughs that would provide year-round water
23 for wildlife, and plant native vegetation on the stream banks. He said we are not paying
24 for hunting access but the landowner has agreed to provide five years of by permission,
25 youth only hunting access to the property to hunt mule deer, whitetail deer, elk, predators
26 and upland birds. He said the total cost is \$33,800: Match Funds is \$8,600 and total A&H
27 funding request is \$25,200.

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

30
31 *Action: Commissioner Webber moved to approve the recommendation of the*
32 *Access and Habitat Board for project funding. Commissioner Levy seconded the*
33 *motion, and the motion passed unanimously by a vote of five.*
34

35 **Exhibit C: WILDLIFE CONTROL OPERATORS**

36 Rick Boatner, Invasive Species Wildlife Integrity Coordinator, presented staff's proposed
37 revisions to the Wildlife Control Operators rules. He noted a correction in Attachment 1 –
38 Agenda Item Summary, page 1. In Public Involvement the statement "Staff also
39 consulted with a representative from Audubon Society of Portland." is not an accurate
40 statement. It was a conversation he had with Bob Sallinger, not as a consultant. He
41 talked about past legislation, the force for Wildlife Control Operators (WCO), the program
42 manual and testing requirements. Major changes are:

- 43
44 • 635-435-0000 - Purpose
45 ✓ Remove summary paragraph (lines 3-7). Replace with: (a) Streamline
46 compliance requirements in ORS 498.012 while promoting sound wildlife
47 management. (Lines 9-10). Replace with: (b) Provide means for an agent to

act on behalf of a landowner or occupier to rid their home; business or land of wildlife causing a public nuisance, as defined in ORS 498.012. (Lines 11-13)

Boatner noted that line 12 was missing text; it should read, "Provide means for an agent to act on the behalf of a landowner or occupier to rid their home, business or land of wildlife **which is** causing **damage, is** a public nuisance **or possessing a public health risk**, as defined in ORS 498.012;"

Boatner also corrected line 15 (2) to read, "Any individual or business owner charging a fee to control wildlife **which is** causing **damage, and is a** public nuisance must first obtain a Wildlife Control Operator Permit and must comply with all state Wildlife Control Operator regulations."

- 635-435-0010 – Permits
 - ✓ Move Section (1) to "Purpose" in 635-435-0000 (see page 1, lines 3-7).
 - ✓ Replace Section (1) with subsection (a) to read, "A Wildlife Control Operator Permit from the Department **is required** prior to capturing, holding, transporting or relocating such wildlife." This clarifies what a permit can do, and what a person can do without a permit.

Boatner said in lines 1 and 9 and any reference to "euthanize" throughout Attachment 3 – Draft OARs should read, "**humanely euthanize**".

- 635-435-0015 – Passing a Test to obtain WCO Permit
 - ✓ Remove Note section (lines 27-30) if proposed rules approved by the Commission.
 - ✓ Section (1). An individual or business owner must submit an application and pass a test administered by ODFW with a score of 80% or above. If a permit has lapsed for more than two years or been revoked, applicant must retake and pass the test.
 - ✓ Section (2). Allows local ODFW district wildlife biologist or representative to determine if an applicant or sub-permittee is needed in that district. It helps a sub-permittee if their permit has been revoked as currently a sub-permittee could go work for somebody that has a permit and still be allowed to trap wildlife under a WCO. Allows ODFW to deny a sub-permittee being added to a business permit if sub-permittee doesn't meet conditions in OAR 635-435-0015 (2).
- 635-435-0060 – Cancellation or Non-Renewal of Permit. Section (2) allows ODFW to deny issuance of a WCO permit, to deny subpermittee(s), and impose special permit conditions for violation of a wildlife law or rule, or permit issued under the wildlife laws within the last five years.

Public Testimony:

Steve Adams Albany, Oregon	Steve Adams, a WCO before the program's inception, distributed written testimony and asked for more restrictions:
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	1. Act as the landowner's agent. The landowner can get friends to act as his agent to work on his place. When you're not the landowner, require a WCO permit to work on anybody else's land. 2. Raise the test score from 80% to 90%. When you do this type of work you better know what you're doing; to eliminate the problems that has occurred and was spoken to earlier by Beckstead and McCurtain. 3. Limit subpermittee's work under another's permit to no more than two years; equate it to an apprenticeship program for someone who has never trapped animals before and needs guidance and supervision. Adams said 20% of his work is removing animals; the rest is education to the public of what to do to not have conflicts with wildlife. When it comes to invasive species, such as opossum or nutria, the first alternative is to remove the animal causing the problem; then let the people know what measures they can take to keep that from happening again.
--	--

Commissioner Klarquist asked what a subpermittee is allowed to do independent of the permittee. Boatner said a permittee is required to take the test and pass it with 80% and do the recording keeping. A subpermittee is not required to take the test but has to acknowledge that they read the wildlife control training manual even though some industries for their personal use are requiring their subpermittees to take the test.

Commissioner Klarquist said a subpermittee should be required to take the test if they are doing the same thing the permittee could do. In the current regulations on page 4, line 16, it states, "Subpermittees are not required to pass a test." Why wouldn't we want them to have the standards of education as anyone else doing this work? Boatner said staff could make that change in the proposed draft rules.

Commissioner Klarquist said on page 3, line 14, there are a series of things that a permit does not authorize the permittee to do. It reads, "(3) A permit does not authorize the permittee to intentionally capture, hold, transport or relocate: (a) Game mammals, game birds or nongame wildlife protected caught incidentally must be released on-site." He said grammatically you just took out the sentence above it which should have been left in, and that would follow what you have in the following subparagraph (b). So, it doesn't allow the capture or holding for game mammals, game birds or nongame wildlife protected and if they are caught you are required to release them. Boatner said correct.

Commissioner Klarquist asked staff about the exclusion of western gray squirrel because of the edited new exception. Boatner said western gray squirrels are dual purpose; they are a game mammal and on private property they are a predatory animal so they can be trapped and moved.

1
2 Chair Edge asked Commissioner Klarquist to clarify his point on the deleted section.

3
4 Commissioner Klarquist referred to line 14, (3), "A permit does not authorize the
5 permittee to intentionally capture, hold, transport or relocate: (a) Game mammals, game
6 birds or nongame wildlife protected caught incidentally must be released on-site." He
7 said that should end there where it did already with a period. The current rule on line 16
8 before we amend it states, "(a) Game mammals, game birds or nongame wildlife
9 protected [~~Game mammals excluding western gray squirrels, game birds or nongame~~
10 ~~wildlife protected~~] caught incidentally must be released on-site." You cannot say that it
11 doesn't authorize a holding and then have at the end "EXCEPTION – western gray
12 squirrels" fit that sentence; it doesn't work. He said it is confusing in the structure of the
13 existing rule about excluding western gray squirrels, whether it's only excluding western
14 gray squirrels or also game birds and nongame wildlife. He said Boatner was trying to
15 correct that by putting "EXCEPTION: western gray squirrels." at the end on line 18.

16
17 Chair Edge asked if Commissioner Klarquist was okay with the correction he proposed
18 on lines 17 and 18. Commissioner Klarquist said yes; he would leave stricken the
19 western gray squirrel on line 17 and deal with it on line 18 like Boatner did.

20
21 Commissioner Akenson said subpermittees have to apply and be approved by ODFW
22 staff. What is the criterion for denial of subpermittees? Boatner said subpermittees could
23 be denied if they: 1) violated any wildlife regulations or rules; their authorization to work
24 under that permit could be revoked; or 2) if they were a permittee at one time and their
25 permit was revoked and then they became a subpermittee. Commissioner Akenson
26 asked if those records are checked. Boatner said they will be under the new proposals.

27
28 Commissioner Webber said the subpermittees can do everything the permittee can do
29 without the permittee being around; but we don't require the subpermittees to be
30 knowledgeable of the rules at least in the sense of having to take the test? Boatner said
31 correct, all the subpermittee and his employer have to do is sign off that he or she has
32 read the manual. Commissioner Webber said the subpermittee should have to take the
33 test in addition to the permittees if they are doing the work.

34
35 Chair Edge said the purpose of the subpermittees, as Mr. Adams talked about is almost
36 a training program. He said there might be large companies in Portland that have several
37 employees. Is that the purpose of the subpermittee where you might have a company
38 that had several people in an urban area doing this? Boatner said that is correct; that's
39 the purpose of the subpermittees; for employees of the business.

40
41 Chair Edge asked where the 80% test score came from; what does the test cover.
42 Boatner said the 80% test score is consistent with our other testing requirements for
43 wildlife rehabilitators and trappers; 60 questions cover everything in the training manual.

44
45 Commissioner Akenson said the Commission should not be deciding whether the
46 subpermittees have to take a test or not without knowing why they previously have not

1 done the testing. Boatner said to be consistent; in the Wildlife Rehabilitator rules
2 everything falls under the permittee; that is the same here.

3
4 Larry Cooper, Southwest Region Manager, said he was involved earlier in the process.
5 One concern voiced by the Steering Committee was for large companies who wanted
6 the company owner to get the training, do the paperwork and then train their staff to
7 administer what they felt was appropriate inside those guidelines. The original Steering
8 Committee felt it was more appropriate to just have the one person take the test and be
9 responsible for all of their staff rather than have the myriad of staff that may come and go
10 still be under the owner's permit, responsibilities and watch.

11
12 Commissioner Klarquist said Commissioner Webber and he had to pass a test before
13 performing their (legal) services. The purpose of the test is to make the people aware of
14 what the rules are so when they do the job they are not violating the rules. The
15 Commission received notice earlier today of concern by several organizations about
16 trapping activities in this state; this is another kind of trapping activity.

17
18 Commissioner Levy said as a farmer, they put chemicals on all of their farm ground.
19 Everybody that drives the tractor that applies the chemicals has to attend chemical
20 training classes and learn how to apply the chemicals even though she is the final
21 person that gets charged if somebody else misapplies the chemical. She said the
22 subpermittees need to have the class.

23
24 Commissioner Akenson said if the staff thought it was necessary they would have
25 already suggested that.

26
27 Commissioner Webber said he wants subpermittees to take the test; but apparently the
28 group that discussed all this in the past had concluded that it wasn't necessary.

29
30 Chair Edge said a committee worked over the rules and guidelines. He was reluctant to
31 suggest that a subpermittee would be required to take an exam as long as we are
32 holding the permittee responsible for his or her actions.

33
34 Ron Anglin said staff was trying to clean up inconsistencies between different sets of
35 rules and how staff was doing things. If the Commission wants to make substantive
36 changes like this, and it is a departure from what the group agreed to, we have an
37 obligation to discuss this with the original participants. If the Commission decides to
38 move forward today, staff would need time to look at what an amendment to the
39 proposed rules would be to make sure it wouldn't create any inadvertent problems.

40
41 Commissioner Klarquist said given this and given that these subpermittees worked for
42 years and never had to pass a test or demonstrate their proficient knowledge of the
43 rules, rather than make a change today the Commission should look at this. He didn't
44 know what the outcome would be of the (trapping) petition just presented to the
45 Commission by HSUS and others, but the Commission is dealing with the same issues.
46 He also didn't know who trapped Denise McCurtain's dog but presumably it was
47 somebody who is a WCO. He sees no good reason to not take a look at this issue.

1
2 Commissioner Webber said he would agree as long as staff went back to the group that
3 developed these rules as opposed to the Commission making a decision today.

4
5 Chair Edge said the Commission should shelve the current item. He asked staff to go
6 back and reconvene the group; specifically looking at the issue related to testing of
7 subpermittees and to make sure they have good triangulation on this before the
8 Commission moves forward with it.

9
10 Chair Edge asked if the Commission moves forward with the OARs today the way they
11 are currently written that staff has captured Commissioner Klarquist's editorial change as
12 well as the changes proposed by staff today. Boatner said that is correct.

13
14 Commissioner Webber asked if this is the same group that would look at the issues with
15 the trapping petition. Anglin said no.

16
17 Commissioner Akenson said these are two separate things. If the Commission is voting
18 on cleaning up the language, we are ready to do that because the issue about
19 subpermittees is not about cleaning up language; that's about setting a change in policy.
20 Chair Edge said that is correct. Commissioner Akenson asked if the Commission could
21 vote on this exhibit as written.

22
23 Chair Edge asked Commissioner Klarquist if his original concern could be captured with
24 additional process. Commissioner Klarquist said his original concern could be
25 addressed as we address the issues raised by this petition. He realizes they are in
26 different sections of the administrative regulations but they are specifically pointed to the
27 same issue: having people educated about what the rules are and then having rules that
28 protect the public from having their pets in snares when they shouldn't be. The
29 Commission can address the cleanup of the rules right now.

30
31 Anglin added that staff recommended insertion of language not part of the original
32 proposal. Chair Edge said the language that Boatner presented in his PowerPoint
33 presentation and the draft motion in Attachment 1. He asked Legal Counsel Erin Donald if
34 that was sufficient to make a proposal that captures this modification.

35
36 Legal Counsel Donald said yes. She said there was also the amendment proposed by
37 Commissioner Klarquist to page 3, line 18, that deleted the phrase "EXCEPTION:
38 western gray squirrels."

39
40 *Action: Commissioner Klarquist moved to adopt OAR Chapter 635, Division 435*
41 *as proposed in writing by staff with the editorial changes proposed by staff this*
42 *morning not all of which were captured in Exhibit C; adding "**which is** causing*
43 ***damage**" in lines 12 and 15, and also with the change in Attachment 3, page 3,*
44 *lines 16-17, adding back the proposed deleted wording "Game mammals, game*
45 *birds or nongame wildlife protected." Commissioner Akenson seconded the*
46 *motion, and the motion carried unanimously by a vote of five.*
47

Commissioner Klarquist asked where this leaves the Commission with the subpermittee issue. He said the Commission should address it as they address the petition rather than going forward with formal rulemaking. Chair Edge agreed. Anglin noted it as well.

Exhibit D: REMOVAL OF BALD EAGLES FROM STATE LIST OF THREATENED AND ENDANGERED SPECIES

Martin Nugent, Threatened and Endangered Sensitive Species Coordinator, said 70 years ago human threats and the risk of extinction led to the Bald and Golden Eagle Protection Act enacted in 1940 by Congress. In 1978 the Bald eagle was listed under the Federal Endangered Species Act (ESA) and added to Oregon's ESA listing in 1987.

Nugent said in 2011 the Oregon State University (OSU) Paper published "Bald Eagles (*Haliaeetus leucocephalus*) Nesting in Oregon and Along the Lower Columbia River 1978-2007" by Frank Isaacs and Bob Anthony (Isaac & Anthony). Based on the Isaac & Anthony paper the Oregon population has recovered from 65 occupied breeding areas in 1968 to 496 breeding pairs. Isaac & Anthony estimate the overall success rate as 66% in Oregon, 5.6% of the national population of Bald eagles.

Nugent discussed the legal requirements of OSEA and removing a species from the state list based on five criteria. The Bald and Golden Eagle Act and Migratory Protection Act still protect eagles from hunting. On federal land the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) continue to manage Bald eagle nesting sites. He said the Oregon Department of Forestry (DOF) protects Bald eagle nests and brood sites under the Oregon Forest Practices Act on commercial forest land as long as the Board of Forestry (BOF) maintains the current rules. He said a letter of support from DOF was circulated today; it includes options that BOF may take in the future. ODFW will work closely with DOF on any rule change that might result from that.

Nugent said if the Commission approves removing the Bald eagle from OESA, it will remain protected under the Nongame Wildlife Protected rules. Staff proposes adding the Bald eagle to Oregon's administrative sensitive species list as vulnerable. During this process, there has been overwhelming support and celebration that the recovery goals have been met.

Chair Edge noted Frank Isaac in the audience. He said the comprehensive data set that Nugent cited and the final report was collected and supervised by Frank, who also recruited volunteers to work on this report. He thanked Isaac for his work.

Public Testimony:

Charlie Bruce Corvallis, Oregon	Charlie Bruce, an ODFW retiree who worked in the Wildlife Diversity Program, distributed written testimony and said we have a marvelous data history collected over 40 years with involvement by many. The trajectory for Bald eagles is off the charts, but we still need day-to-day information for field managers to deal with site protection. He asked ODFW to: • Establish a coordinated monitoring plan with other partners that address the long-term habitat needs of
------------------------------------	--

	the Bald eagle, while supporting federal national monitoring efforts. • As in the past use the model that Frank Isaac and others developed; collect information that is reasonable and keeps the public engaged. • DOF has been a big user of that data over the years; continue to provide that to them. Participate in DOF's review of their rules and provide guidance. • Through ODFW's Information & Education program recognize the wonderful stories that have occurred over the years in the recovery of the species.
--	--

Director Elicker said he received an email from Dennis Wilkinson of LaGrande, Oregon urging the Commission not to delist today the Bald eagle. Wilkinson cited a Wall Street Journal article that appeared yesterday regarding the issue of Golden eagles and wind farms; it has become a very serious issue for Golden eagles that they are finding Golden eagles being killed by turbines. Director Elicker said Ron Anglin and he have discussed this issue but due to the Golden Eagle Protection Act the U.S. Fish and Wildlife Service (USFWS) has that responsibility.

Chair Edge referred to Charlie Bruce's testimony and asked about future monitoring of the Bald eagle as a state sensitive species in conjunction with the federal national monitoring plan. Nugent said the national monitoring plan looks to see whether recovery efforts are continuing and the population is expanding. We do need site-specific data so the Eagle Act and Forest Practices rules can be implemented. The USFS and BLM continue to monitor on sampling sites; we would like to see that done but not every year. Frank Isaac, he and other groups would like to see that done in 2017. He said there is money to manage the database but it is no good if we are not collecting information and analyzing it. Staff will keep it as a priority to carry forward.

Motion 1:

Action: Commissioner Akenson said based on the conditions specified in the Biological Status Assessment, I move to make the following findings concerning the bald eagle in Oregon:

- *The species is not now (and is not likely in the foreseeable future to be) in danger of extinction in any significant portion of its range or in danger of extinction in any significant portion of its range or in danger of becoming endangered within the state; and*
- *The species' natural reproductive potential is not in danger of failure due to limited population numbers, disease, predation or other natural or human-related factors affected its continued existence; and*
- *Most populations are not undergoing imminent or active deterioration of their range or primary habitat; and*
- *Overutilization of the species or its habitat for commercial, recreational, scientific or educational purposes is not occurring or likely to occur; and*

- Existing state or federal programs or regulations are adequate to protect the species and its habitat, and as proposed by staff.

Commissioner Webber seconded the motion.

Motion 2:

Action: Commissioner Akenson moved to amend OAR Chapter 635, Division 100, as proposed by staff. Commissioner Webber seconded the motion.

Chair Edge asked Legal Counsel if was okay to have combined the two motions. Legal Counsel Erin Donald said the Commission should vote separately on the two motions.

Motion 1: The motion carried unanimously by a vote of five.

Motion 2: The motion carried unanimously by a vote of five.

Chair Edge said Martin Nugent came to ODFW twenty-one years ago from the United Kingdom and recently became a U.S. citizen. He presented a photograph of the Bald Eagle to Martin and the Commission congratulated him.

Exhibit E: 2012 SPORT FISH ANGLING REGULATION CORRECTIONS

Bruce McIntosh, Deputy Fish Division Administrator, said in the rules that the Commission adopted last year staff discovered errors in the Sandy River Basin and the Hood River Basin. After the errors were discovered in December, staff notified OSP so they understood the enforcement elements. Temporary rules effective January 1 were implemented for six months but permanent rules are needed to cover the entire year for:

1. Sandy River Inclusions and Modifications. Staff inadvertently left both adipose fin-clipped and non-adipose fin-clipped steelhead angling open the entire year. The intent of the rule was to have it open in the upper basin for clipped and un-clipped steelhead from July 1 - August 31.
2. Hood River Inclusions and Modifications. Restricted the angling for trout to artificial flies and lures but omitted that applied in the Mainstem and tributaries. Staff left out the allowable use of bait for salmon and steelhead, which would reduce angling opportunities. Staff is proposing to add those in the temporary and permanent rules.

McIntosh said the sport angling process is very complicated. This year an extra person is working with Rhine Messmer to review the reviews to insure this doesn't happen again.

Public Testimony: There was no public testimony.

Action: Commissioner Webber moved to amend Oregon Administrative Rule 635, Divisions 017 and 018 as proposed by staff in Attachment 3. Commissioner Klarquist seconded the motion, and the motion carried unanimously by a vote of five.

1 **Exhibit F: RESTORATION AND ENHANCEMENT PROJECTS**

2 Josie Thompson, Restoration and Enhancement (R&E) Program Coordinator, presented
3 16 projects that were recommended for approval by the R&E Board at their February
4 meeting: eight restoration projects totaling \$280,000; and eight enhancement projects
5 totaling \$270,000. The Cycle 4 recommendations total is \$550,000 with nearly \$1 million
6 in Match Funds. If all the projects are approved by the Commission it will leave \$2.3
7 million in the R&E budget for the remainder of the biennium. She said these numbers are
8 based on the assumption that our projected revenue remains close to actual revenue.
9

10 **Public Testimony:** There was no public testimony.
11

12 Commissioner Klarquist said next Tuesday and Wednesday the Oregon Watershed
13 Enhancement Board (OWEB) has a board meeting; he will participate. Some of the
14 match funding in the Myrtle Point Wetland Enhancement Project is contingent on OWEB
15 Board funding. In one case, OWEB has recommended funding but it is below the funding
16 level that we will actually have money for to allocate. A decision hasn't been made yet
17 but if the decision is made as the staff is recommending, in that case, the funding will be
18 granted but no check will be written. If there is a failure to fulfill the projected matching
19 funds in the project what will happen?
20

21 Thompson said the stipulations by the R&E Board were that our grant contract will not go
22 out until we receive approval from OWEB; and National Fish and Wildlife Foundation
23 was the other match funding not secured. Commissioner Klarquist asked, do they have
24 to receive additional money to get our grant or does it go away automatically. Thompson
25 said she would take it back to the R&E Board and talk to the applicant about whether
26 they could still meet the objectives of the project.
27

28 Chair Edge asked Commissioner Klarquist that even though OWEB may not have
29 enough resources is their approval contingent upon the Commission's approval.
30 Commissioner Klarquist said the recommendation for approving the funding in the
31 different grant cycles at OWEB contemplates that the project will be fully funded. If it is
32 not OWEB takes another look at it. If it is not partially funded then the project could fail
33 and the monies are not being well spent.
34

35 Bruce McIntosh said if full funding is not available the proposal dies. Then it goes back to
36 the project proponent and they will look at what they can do with that funding and bring
37 another proposal forward. Staff would start over particularly with one that is contingent
38 on three pieces of funding. Chair Edge said failure to get funding from OWEB would
39 result in the same thing as if the Commission took this proposal out and decided not to
40 approve it. McIntosh said right.
41

42 Commissioner Klarquist said he was not recommending that the Commission take it out;
43 he was just asking what would happen if the Commission voted for it.
44

45 *Action: Commissioner Akenson moved to approve the recommendations of the*
46 *Fish Restoration and Enhancement Board. Commissioner Klarquist seconded*
47 *the motion, and the motion carried unanimously by a vote of five.*

1
2 **Exhibit G: COMMERCIAL FISHERY REGULATIONS**

3 Aaron Chappell, Commercial Regulations Project Leader for Marine Resources Program,
4 said ODFW has had a long relationship with many user groups who utilize our
5 Commercial Fishing regulations. This project deals with Divisions 004, 005, and 006. He
6 talked about the public process and said an advisory group was formed. Today he is
7 asking the Commission for guidance. The project will address:

- 8
 - Restructure – the basic foundation for Commercial Fishery Regulations.
 - 9 • Reorganization – move scattered but related regulations into a single area of a
10 single division.
 - 11 • Incorporate federal regulations by reference for all coastal pelagic species and
12 highly migratory species.
 - 13 • Housekeeping – updating spelling, punctuation, formatting and grammar.
 - 14 • Update or remove outdated regulations and references; combine with existing
15 regulations.
 - 16 • Limit intent changes to the regulations: conform with current practice or to be
17 concurrent to statutes or federal regulations.

18
19 Chappelle talked about what is wrong with the current regulations. He said the goal of
20 the restructure and reorganization is a workable framework and a better overall product
21 for all user groups. Using slides, he talked about the schematic of Division 004's
22 structure before and after the current organization (see Attachment 2), and used the Pink
23 Shrimp Fishery as an example of how Divisions 004, 005 and 006 look after
24 reorganization; pertinent regulations will be listed sequentially in well organized
25 locations. Chappelle said staff will meet with ODFW's legal counsel to insure there are
26 no unintended legal consequences, and review the project and implement any
27 Commission recommendations. After public input staff will return to the Commission in
28 June to ask for final adoption of the project.

29
30 Fisheries Lieutenant Dave Anderson said OSP has been involved with the project from
31 the beginning and are very supportive of the process. The goal of the project is to
32 simplify and put regulations in one area so you are not jumping between divisions. To not
33 try find the regulations will not only make our officers' job easier but anyone else that is
34 trying to find specific regulations related to a fishery will make that chore easier.

35
36 **Public Testimony:** There was no public testimony.

37
38 Commissioner Akenson said, when you are designing the regulations will you have the
39 same regulation format that is on the website. Chappelle said the structure varies
40 between the printed version of regulations and what is on the Internet. He said
41 sometimes regulations published are misconstrued in formatting online but staff will work
42 to make those similar.

43
44 Chair Edge said this project is very consistent with the Commission guidance to make it
45 simpler and easier to understand. He said staff will do their due diligence so when it
46 comes back before the Commission they won't be making changes on multiple pages.

**Exhibit H: PACIFIC FISHERY MANAGEMENT COUNCIL 2012 PRELIMINARY
OPTIONS FOR OCEAN SALMON**

Chris Kerns, Interim Ocean Salmon Technical Resources Manager, briefed the Commission on the most recent outcomes from the Pacific Fishery Management Council (PFMC) meeting in Sacramento this week. PFMC will adopt a final ocean salmon regulation alternative for federally managed waters in mid-April. He will ask the Commission on April 26 to adopt a similar set of regulations for state waters. Kerns said the forecast is looking good this year for ocean fishing and then gave the forecast rates for Klamath, Sacramento and Columbia Fall Chinook, and Lower River natural Tule Chinook and Lower Columbia and coastal coho. He said the details of these seasons are provided in the Pre-Season Report 1 (Attachment 3).

Kerns presented the 2012 Ocean Salmon Regulations. He said the intent of the three alternatives from PFMC is to put sideboards on the conversation so the public can comment on various aspects of each alternative. There may be some alternatives that cannot be implemented because they may not meet all the guidance and conservation objectives; pieces of them may be moved in the final option. He discussed fishing quotas for North of Falcon, South of Falcon and Falcon to Humbug, and the alternatives for commercial fisheries. He also gave a very detailed overview of the seasons for Ocean Commercial Troll seasons; the 2011 Oregon Waters Ocean Commercial Troll Seasons (excluding state waters terminal fisheries); and the 2011 Oregon waters ocean recreational salmon seasons (excluding state waters terminal fisheries) in Attachment 3.

Kerns said staff is still working on the tributary fisheries along the coast for 2012; coastal Chinook forecasts for those tributaries and determining if we need to make any changes to those regulations as we have in recent past years. Staff is developing wild coho fisheries and hopes to continue those similar to last year. Staff will bring proposed recommendations to the Commission in June as needed.

Public Testimony:

Ron Mason
Corvallis, Oregon

Ron Mason, a sports fisherman, thanked ODFW staff for listening because ocean fishing in October is on two of the three alternatives to increase opportunity. He asked the Commission to encourage staff to include fishing through the end of October in all three alternatives, not just two. Mason said in one of the alternatives only one fish is allowed in October on the Central Coast. He spoke with ODFW biologist Eric Schindler and was told that we catch very few of the credit card fish in October off the Central Oregon coast. Impacts on the fish in October go against next year's quota; so the Central Coast would have almost no impact on that historically. He hopes the quota will be two but will be happy if he gets to fish in October.

Mason said with the forecast this year for coho we have less marked fish and more unmarked fish in the ocean than last year. The mark rates the Commission saw on the graph are

	lower than previous years because the ratio of marked and unmarked fish in the ocean has changed. He likes to fish in July; but it would be wise to reduce the time period in which we can fish because the impact on the unmarked wild fish gets higher as the season progresses. Instead of the entire month of July allow fishing in the first three weeks of July when the marked rate is higher. Mason said the third alternative doesn't include any coho early in the season. Every year he hears that fishermen on the south coast only get an opportunity to fish marked coho early in the season. He asked the Commission to give them a chance for marked selective fish; the charters really like the opportunity in early summer when we have a decent salmon year; they getting a lot of tourists interested in salmon. He came today so the Commission would know that fishermen are paying attention to this.
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Chair Edge said there is a lot of opportunity for fishermen in general. He supports providing as much opportunity to our fishermen as we can, tweaking those alternatives if possible and encouraging adoption of ones that increase our opportunity.

Exhibit I: SALEM HEADQUARTERS ACQUISITION

Debbie Colbert, Deputy Director for Administration, provided background on the last two years leading up to today's recommendation to obtain the K2D Building (K2D) at 4030 Fairview Industrial Drive in Salem. The Commission approved the acquisition of K2D at their January 6 meeting with the condition that they review the due diligence items under Phase I Pre-Conditions of the Purchase and Sale Agreement (PSA).

Greg Parker, Special Projects Manager, reported on staff's due diligence:

- Title reviewed. Satisfactory; no issues to prevent delivery of a clear title.
- Seller Documents. All documents reviewed and acceptable.
- Buyer Inspection. Level 1 Environmental site assessment conducted by PBS Engineering & Environment was satisfactory. Structural engineer inspected and confirmed the building is structurally sound and suitable for adding a second floor and skylights. ODFW engineer reviewed the "as built" plans and inspected the site. No concerns were observed.
- Zone change for the property to Industrial Commercial was approved by the City of Salem in October 2011. The financing from the Legislature was approved last summer. The bonds will be sold through the Oregon Department of Administrative Services (DAS) in spring 2013. The actual project financing will be secured by K2D2 Development LLC. He said the DAS exception came in shortly after the February Commission meeting.

Deputy Director Colbert discussed other government approvals. The PSA requires the DAS Director's approval after he considers input from the Capitol Planning Commission

1 (CPC) and the Capitol Projects Advisory Board. Staff met with CPC yesterday. She said
2 yesterday an offer for a downtown property was submitted to ODFW that implies that a
3 new downtown construction on the river could be constructed for \$15.9 million. CPC
4 asked staff to meet with the property owner to see if those numbers were valid and then
5 meet before them next Tuesday. Deputy Director Colbert said staff has revised the
6 motion before the Commission today. This morning staff gave a second presentation to
7 CAB; they approved and accepted staff's proposal for the K2D Building. Staff will be
8 back in front of the Public Lands Advisory Committee in April; not part of the
9 preconditions but staff is doing their due diligence to obtain government approvals.

10
11 During a slide presentation, Greg Parker discussed proposed remodeling and changes
12 to the K2D Building and parking lot. He talked about the design and construction
13 scheduled for completion on June 30, 2013; then staff has two months to move in.

14
15 **Public Testimony:** There was no public testimony.

16
17 Chair Edge said Commissioner Klarquist had voiced a concern that staff do all of their
18 due diligence. They have not completed all of them but the major ones to cause concern
19 regarding the quality of the building have been made. Commissioner Klarquist said he
20 very satisfied that staff has done all of the due diligence.

21
22 *Action: Commissioner Klarquist moved to approve the Phase I pre-conditions*
23 *outlined in the Purchase and Sale Agreement for the K2D Building subject to the*
24 *condition that we obtain the approval of the DAS Director. Commissioner Webber*
25 *seconded the motion, and the motion carried unanimously by a vote of five.*

26 27 **Expenditure Report**

28 Deputy Director Debbie Colbert said as of January 31, 2012, department wide, revenues
29 and expenditures are tracking budgeted projections. She said during the February
30 session legislators passed a budget reconciliation bill. ODFW experienced a reduction in
31 General Fund (GF) of almost \$300,000. The Legislature approved a reduction of \$28
32 million that is not specific. ODFW has to make the cut by reducing middle management,
33 public affairs positions, and advertising and/or reducing personal service contracts.
34 ODFW does not have GF in any of those categories. Deputy Director Colbert talked
35 about ODFW requests to the Emergency Board.

36
37 Director Roy Elicker said our last fee increase was predicated on a six-year interval
38 before any further discussion about fee changes; we are on course to not need any
39 further increase or change in fees from 2010 to 2016. He is interested in extending it out
40 for another two-year period, instead of six years to eight years. Staff is discussing what
41 that would cost in program reduction or other reductions to extend that fee increase to
42 eight years.

43
44 Deputy Director Colbert said the ODFW economist has been working to update all of the
45 agency's ending balances and projections. We are evaluating what kind of reductions we
46 could make now; the more we cut now the less we have to cut later.

1 Director Elicker said we have some adjustments to the fee structure to review. ODFW
2 has seen a substantial reduction in non-resident hunting applications. We expected that
3 however the Legislature increased the fee increase on non-residents. Staff is looking at
4 that and the big game application fee; staff is still hearing the \$8 fee is high.

5
6 Commissioner Klarquist said if you talk about this publicly will it become a commitment?
7 What is the strategy for implementing the eight-year schedule? Director Elicker said staff
8 has told folks that they wouldn't hear from ODFW for six years about a fee increase; staff
9 has caveated to say that if we can make it some additional time after that we will look at
10 that. We have talked about this with the External Budget Advisory Committee. Klarquist
11 said he didn't want to see us get stuck if the climate conditions or the economic
12 conditions change and we can't make a change when we need to.

13
14 Deputy Director Colbert discussed the 2013-15 Budget Development process. Staff
15 would like to meet with EBAC in April and host four town hall meetings in May; then
16 present conceptual proposals to the Commission on May 10 during a conference call;
17 staff will incorporate the Commission's final guidance into the final proposals. Staff is
18 looking into video streaming the Town Hall meetings and future Commission meetings.

19
20 Chair Edge noted that Commissioner Klarquist attended a budget workshop in Portland
21 recently; a 10-Year Plan overview by the Oregon Department of Administrative Services.

22
23 Commissioner Klarquist said Debbie and Roy have done a great job of keeping the
24 Commission informed. He said if they make agencies jointly responsible for delivering
25 outcomes and have some super committee measuring outcomes, how will that work and
26 what will it create for the agencies? Especially since ODFW doesn't have a lot of GF.

27
28 Director Elicker distributed the new agency mission poster. Deputy Director Colbert
29 explained how the principles and priorities were developed by the staff.

30 31 **OTHER BUSINESS**

32 **Upland Artwork Selection**

33 Brandon Reishus, Upland Game Bird and Waterfowl Assistant, unveiled the winning
34 entry - No. 4. The winning artist is Jeffrey Klinefelter, who has won our contest eight out
35 of the 23 times. He said this is the second time the Department has showcased Sharp-
36 tailed Grouse.

37 38 **ADJOURN**

39 Chair Edge adjourned the public meeting at 4:00 p.m.