

## Agenda Item Summary

### BACKGROUND

The Confederated Tribes of the Grand Ronde Community of Oregon (Tribe) previously requested that the State of Oregon recognize greater tribal authority in the management of fish and wildlife resources on reservation and other lands owned by the tribe, as well as provide opportunities for ceremonial harvest of big game animals at times not allowed under a 1986 Agreement (adopted as a Federal Court Consent Decree and a State Administrative Rule, OAR 635-041-0600) between the Tribes and the State. The purpose of the requests was not to reopen or amend the 1986 Consent Decree, but to create new ways for State and Tribal cooperation regarding wildlife management. These requests were included in a Proclamation signed on August 2, 2007 by the Governor of Oregon, Chair of the Oregon Fish and Wildlife Commission, and Chair of the Tribal Council of The Confederated Tribes of Grand Ronde directing staff to work to complete the necessary government-to-government agreements for adoption by the Commission to address these issues (Attachment 3).

On April 18, 2008, the Commission reviewed these issues and adopted Oregon Administrative Rules providing opportunities for the ceremonial harvest of big game animals as requested by the Tribes (OAR 635-043-0120). At that time, the Commission also adopted a Resolution recognizing a shared common vision between the Commission and the Tribes of wise stewardship of fish and wildlife resources and a commitment to protecting those resources for present and future generations (Attachment 4). The Resolution further directed the Department to assist the Tribes in completing a permanent Grand Ronde Fish and Wildlife Management Plan for tribal Reservation and Trust lands that upon completion and approval by the Commission shall regulate the tribal management of fish and wildlife resources on the Tribe's Reservation and Trust lands. The proposed Commission action is in satisfaction of that Resolution's direction.

### PUBLIC INVOLVEMENT

On August 2, 2007, a meeting was held between the Governor, The Confederated Tribes of the Grand Ronde Tribal Council, and the Fish and Wildlife Commission. This was a public meeting with substantial media attendance. A Proclamation (Attachment 3) was signed by the Governor, Chair of the Oregon Fish and Wildlife Commission, and Chair of the Tribal Council directing staff to complete agreements called for in the Proclamation.

On April 18, 2008, the Commission held a public meeting that included consideration of these issues and which resulted in the adoption of a Commission Resolution referenced previously (Attachment 4). Public involvement and opportunities for testimony on this issue were provided during that Commission hearing.

## ISSUE 1

Consider whether to approve The Confederated Tribes of the Grand Ronde Fish and Wildlife Management Plan (Management Plan), delegate authority within certain specified limits to The Confederated Tribes of Grand Ronde to manage fish and wildlife resources, and by rule authorize the take of specified wildlife on tribal Reservation and Trust lands.

## ANALYSIS

As directed by the Commission in the April 18, 2008 Resolution, the Department assisted the Natural Resources Division of the Tribe in the development of a tribal fish and wildlife management plan; the final version of which, dated September 5, 2014, is attached for Commission consideration for approval. Staff from ODFW and the Oregon Department of Justice worked with the Tribe to develop the proposed Oregon Administrative Rule. The Commission's action has two legal components:

First, the Commission, by adopting the Management Plan, is delegating its authority to the Tribe to be exercised by the Tribe on Reservation and Trust lands in accordance with the provisions of the Management Plan. The details of the Management Plan represent a shared vision of our goals for the described species, and will establish criteria by which the Tribe will further allocate the harvest authorized by the proposed OAR, which is discussed next.

The second aspect requiring Commission action relates to wildlife harvest. The Commission is prohibited by statute (ORS 496.112(3)) from delegating its authority to authorize the take of wildlife. Thus the proposed rule authorizes the take of the species and number of animals mentioned, recognizing that the Tribe has inherent authority over its members and Reservation and Trust lands to impose some additional conditions on the authorized take in the accomplishment of the purposes and goals of the Management Plan.

The number of animals identified in the rule is likely much higher than the number of animals that are available for harvest on the lands to which this proposal applies, which is only the Tribe's Reservation and Trust lands. Staff expects that with the reporting requirements and several years of experience we will be able to predict the actual numbers likely to be taken in a given year. Even if all the allowed numbers were harvested, though, staff does not believe that a biological problem would result. The reason for the high numbers of potential harvest is to recognize the Tribe's authority to further condition and limit the harvest to scale harvest numbers to reflect Tribal management priorities as described in the Management Plan, not in expectation that those numbers would actually be harvested.

No commercial sale of harvested animals is permitted, with the exception of furbearers. In addition, several other specific disclaimers are provided in the rules: Delegation of management authority in no way authorizes the establishment of a fish hatchery or hatchery fish supplementation

program, and that no tribal or treaty right is being created by the Commission with the adoption of these rules.

As a technical point, tribal harvesters will be allowed to use tribal harvest licenses issued jointly by the Tribe and state pursuant to the Consent Decree in lieu of the otherwise required state-issued license or tag every person must have in their possession when harvesting wildlife in Oregon. (Non-Indian harvesters would be required to possess all state tags, permits or licenses applicable to that harvest.) No change to the rights described in the Consent Decree result from this proposal.

If experience shows the Management Plan or the harvest authorized by these rules is failing to accomplish the expected results, the Commission has authority to withdraw from either or both at its discretion, although we contemplate a perpetual arrangement, adjusted with changes in management to reflect changing conditions on the ground.

**OPTIONS**

- 1) No action.
- 2) Approve The Confederated Tribes of the Grand Ronde Fish and Wildlife Management Plan, dated September 5, 2014, and adopt OAR 635-043-0130 authorizing the take of wildlife as proposed in Attachment 6.

**STAFF  
RECOMMENDATION**

Option 2.

<b>DRAFT MOTION</b>	I move to approve The Confederated Tribes of the Grand Ronde Fish and Wildlife Management Plan, dated September 5, 2014 and adopt OAR 635-043-0130 as shown in Attachment 6.
<b>EFFECTIVE DATE</b>	Management Plan: When approved by both the Fish and Wildlife Commission and the Grand Ronde Tribal Council;  Administrative Rules: Upon filing with Secretary of State.