Oregon Fish and Wildlife Commission Minutes

Meeting:
April 22, 2011 – 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
3406 Cherry Avenue
Salem, Oregon 97303

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:

Marla Rae, Chair
Dan Edge, Vice-Chair
Carter Kerns, Commissioner
Jon Englund, Commissioner
Skip Klarquist, Commissioner
Bobby Levy, Commissioner
Bob Webber, Commissioner

Roy Elicker, Director
Kevin Blakely, Acting Deputy Director
Debbie Colbert, Deputy Director
Bill Cook, Assistant Attorney General
Steve Sanders, Assistant Attorney General
Teri Kucera, Executive Assistant

MEETING

On Friday, April 22, 2011 at 8:00 a.m., Chair Marla Rae called the Oregon Fish and Wildlife Commission (the Commission) meeting to order. She noted that several agenda items had been set over from the Commission's March 11 meeting in Florence, which was canceled because of a Tsunami warning.

Acting Deputy Director Kevin Blakely called staff forward for their Field Reports.

DIRECTOR'S REPORT
Field Reports

Northeast Region

Craig Ely, Region Manager, reported on the movement of four radio collared wolves in the Imnaha pack during March. Staff continues to monitor wolves and maintain regular contact with area landowners in response to the February depredations of two adult cows, and staff is working with the U.S. Fish and Wildlife Service (USFWS) on non-lethal activities. Ely discussed the test results of genetic samples taken from nine wolves captured or killed from May 2009 to August 2010. He discussed the status of five wolf-related bills in the Oregon Legislature. A monthly wolf report is available on ODFW's website: http://www.dfw.state.or.us/wolves/reports.asp). Ely discussed regional range conditions; water readings from the snowpack are consistently above 130 percent of normal.

High Desert Region

Chip Dale, Region Manager, said this year the weather influenced a late return of snow, white-fronted and Ross's geese back to the Klamath Basin. Opening weekend was slow

but hunting did pick up. Staff conducted bag checks with USFWS to monitor for Tule white-fronted geese; none were found. He said the population estimate for greater white-fronted-geese is close to 800,000; about one half-million over what the management objectives are for the flyway. The late season was created to address agricultural complaints; but those primarily arise after the hunting season ends on March 10 (set by the USFWS framework for migratory game bird hunting). Dale said 105 youths participated in the successful annual White River Wildlife Area Youth Turkey Clinic.

Southwest Region

Larry Cooper, Region Manager, said a study was conducted last fall to determine how to improve the accuracy of spawning ground counts. Staff marked 370 Coho at Winchester Dam on the North Umpqua River. Only 30 fish were detected; but staff did find 12 to15 miles of spawning habitat not on their map. The study will be repeated this fall; the count will be extended to 550 fish. He talked about Rogue Spring Chinook in the lower river and the influence of unusually high water flows; catch rates have averaged one to two fish per boat. The fishery in the upper river is expected to be better than the last four years. The increased number in hatchery and wild fish is due to improved ocean conditions, and implementation of the conservation plan.

Northwest Region

Chris Wheaton, Region Manager, said staff is working to improve fishing access on Klaskanine River through working with the Clatsop County Road Department. ODFW has one boat ramp in the vicinity but it's on private ground and with limited parking. The County is willing to sell ODFW a two-acre site with excellent opportunities for bank and boat anglers; provided that the County can acquire a new parcel nearby that could serve the same purpose. He said staff made the first release of 115,000 chum salmon into Big Creek in over 30 years; the first phase of a reintroduction strategy and slated to continue for several years; dependent on getting broodstock stock from Washington.

Conservation Strategy

Holly Michael, Conservation Strategy Leader, said Spring represents the 5th anniversary of the Oregon Conservation Strategy (Strategy) newsletter. She introduced Meg Kenagy, Conservation Strategy Communications Coordinator for the Information & Education Division, and said Meg has told the story of Oregon's wildlife and increased the awareness and support of the public and our partners.

Meg Kenagy said staff has been promoting the Strategy since it was federally approved five years ago; and have learned how to get the Department's message out beyond the sports page outreach. She highlighted several on-going projects: monthly newsletter articles on people or animals; expanding wildlife publications and information on the website; explaining the impact of invasive species; and using the Runyon "*Fishing, Hunting, Wildlife Viewing and Shellfishing in Oregon*" Survey (May 2008) to explain the economic importance of Wildlife Viewing to our counties.

Information & Education

Roger Fuhrman, Administrator, said the National Shooting Sports Foundation awarded the agency a $25,000 Hunting Heritage Partnership grant to expand opportunities for

hunters. Staff will work with 4-H, the Scouts, after school programs and others to recruit and train adult instructors and certify them as Hunter Education instructors. He said efforts are underway to increase awareness of the new requirement for youth to wear Hunter Orange while hunting. Cabela's will donate $10,000 to help purchase Hunter Orange hats; ODFW also has commitments from other organizations. He said staff just concluded the Oregon Hunter Education Coordinator Conference at Sunriver; about 150 instructors attended for training. Regarding the Angler Education Program, staff and the Oregon 4-H Program will train new angling education instructors on April 23 in Redmond, and ODFW will provide training on April 30 in LaGrande, Oregon.

Ocean Salmon and Columbia River Program

Tony Nigro provided an update on the Columbia River Spring Chinook fisheries for 2011. He said the Upriver Spring Chinook run this year appears to be pretty late. As of yesterday, 250-350 Spring Chinook were passing Bonneville Dam each day; total passage was about 2,400 fish. He said that Mainstem commercial fishers landed 75 spring Chinook throughout the winter white sturgeon fishery. In the Select Areas about 220 Chinook were caught. Nigro said recreational fishing downstream from Bonneville Dam closed on April 20. The season originally ran through April 4; but high flows and muddy river conditions hampered catch rates (only half of the guideline) and effort.

Oregon State Police, Fish and Wildlife Division

Captain Jeff Samuels reported that in January the Guardian patrol vessel seized 35 crab pots within the closure surrounding Port Orford. The subsequent investigation charged the skipper of the fishing vessel with four commercial fishing violations; he recently plead guilty and was fined $5,500. Captain Samuels said Troopers from the Albany and Springfield OSP offices investigated the unlawful taking and possession of a bighorn sheep. The lead officer Senior Trooper James Halsey had received information that the Sweet Home area subject possibly had bighorn sheep parts. After the search warrant was served, an investigation determined that the man was in possession of bighorn sheep parts. The suspect was sentenced on April 7 and fined $16,910; he received a lifetime hunting suspension, 40 months bench probation, six days in jail, and 10 days of compensatory service. The investigation also revealed that two blacktail deer were killed out of season and a cougar was killed without a tag.

Shikar Safari International Award

Shikar Safari Club International member Lynn Loacker presented the Shikar Safari Club International *Wildlife Officer of the Year Award* to Senior Trooper James Halsey. She said Trooper Halsey is the senior member of the Mid-Valley Fish and Wildlife team, the team leader on the Critical Incident Response Team and a patrol tactics instructor. He is able to motivate his co-workers to perform at their highest level by encouraging them and showing them appreciation for their achievements. The Linn County District Attorney considers Trooper Halsey the "go to" expert on fish and wildlife laws and investigation; he's also praised for his courtroom testimony. She said Trooper Halsey has developed a large network of landowners, sportsmen and other citizens who will call him directly with information; endorsement of the respect for him and his character.

Fish and Wildlife Habitat Mitigation Policy

Jon Germond, Habitat Resources Program Manager, Wildlife Division, highlighted the purposes of the Fish and Wildlife Habitat Mitigation Policy (Policy):

- Further the Wildlife Policy and Food Fish Management Policy of the State of Oregon through the application of consistent goals and standards to mitigate impacts to fish and wildlife habitats caused by land and water development.
- Provide framework for ODFW biologists to evaluate potential impacts of proposed development actions on fish and wildlife habitats.
- Tool for ODFW biologists to provide consistent mitigation recommendations to regulatory agencies; and on the effects of their permitted actions.
- Sets side boards so ODFW biologists can work with project proponents to develop mitigation based on site specific conditions that protects Oregon's fish and wildlife resources while accommodating the needs of project proponents.
- ODFW must apply requirements of the policy when implementing its own development actions and where it has regulatory authority; includes fish passage waivers and in-water blasting permits.
- Policy is advisory to all other agencies before they make a decision.

Rick Kepler, Water Quality/Quantity Manager, Fish Division, said the Policy provides:

- A framework that guides ODFW field biologists.
- Consistency; sets sideboards between flexibility and adaptability decisions to adopt site specific conditions; flexibility to adopt site specific circumstances.
- Available science, best professional judgment in applying the Policy and the use of Guidance; the goal is to apply consistency across the state.
- Allows ODFW biologists to document and justify their decisions.

During a slide presentation, Kepler used a Habitat Classification System flowchart and explained how the Policy is applied to Habitat Categories 1-6, and whether the Category is irreplaceable, limited, essential, or important. Germond used three separate examples to demonstrate how the Department categorizes habitat using the Policy. Kepler discussed Main Water Activities and said the Policy is applied to all waters of the state. Staff provides advice and recommendations to the Water Resources Department (WRD).

Wolf Update

Legal Counsel Bill Cook said, as of today, the wolf is still listed as endangered under the federal Endangered Species Act (ESA). Under a rider in the federal budget bill, the USFWS has until June 14 to reissue the delisting issue that they issued in 2009. When USFWS does that the wolf will be federally delisted across most of the Northern Rockies Distinct Population Segment: Montana; Idaho; far eastern portions of Washington and Oregon; and a corner of Utah but not Wyoming. He said in far eastern Oregon the regulatory spotlight is going to shift from federal government back to the Oregon ESA and the Department's Wolf Plan and rules.

Counselor Cook noted it's the first time Congress has stepped in and taken a species out of the ESA. In terms of where the wolf will be federally delisted, they have drawn the boundary based upon Highways 395, 78 and 95. The area that will come back under Oregon regulation will be all of Wallowa, Union and Baker Counties, the eastern part of

Umatilla and Grant Counties and most of Harney and Malheur Counties. Counselor Cook said this federal delisting decision cannot be overturned in court because Congress wrote that in the budget rider. He said this may result in a temporary lull in federal wolf-related legislation.

Expenditure Report

Debbie Colbert, Deputy Director for Administration, referred to the *ODFW Monthly Report for 2009-11 Biennium as of February 28, 2011.* She said revenues are down about $9 million; typical for the last quarter due to a lag in billing and collecting for contract work. Department wide, expenditures are within budgeted projections and running $14 million under in terms of available funds to spend. Deputy Director Colbert said staff provided testimony on the 2011-2013 budget process before the Ways and Means Natural Resources Subcommittee. During the public testimony, 99.9% of the folks testified in support of the Department and its budget; as did members of our External Budget Advisory Committee.

Adopt Temporary Rules

Deputy Director Blakely referred to temporary rule **635-016-0090 Diamond Lake Trout Bag Limit Increased to Eight Per Day** and distributed a letter from the Douglas County Board of Commissioners'. He said Commissioner Susan Morgan wanted to thank the Commission for raising the daily catch limit on Diamond Lake.

1. 635-042-0022
2011 Commercial Spring Chinook Fishery In the Columbia River

Adopted March 28, 2011; effective March 29, 2011 through April 1, 2011.
Amended rule allows the non-Indian commercial spring Chinook salmon fishery in the mainstem Columbia River to commence March 29, 2011 from the mouth of the Columbia River upstream to Kelly Point (Zones 1 thru 4). Modifications are consistent with joint state action taken March 28, 2011 by the Columbia River Compact agencies of Oregon and Washington.

2. 635-042-0022
Additional Commercial Spring Chinook Fishery In the Columbia River

Adopted April 4, 2011; effective April 6, 2011 through April 10, 2011.
Amended rule allows an additional non-Indian commercial spring Chinook fishing period in the mainstem Columbia River to commence on April 6, 2011 from the mouth of the Columbia River upstream to Bonneville Dam (Zones 1 thru 5). Modifications are consistent with joint state action taken April 4, 2011 by the Columbia River Compact agencies of Oregon and Washington.

3. 635-023-0095
John Day Pool Recreational Sturgeon Fishery Closes

Adopted April 4, 2011; effective April 10, 2011 through September 30, 2011.
Amended rule closes the recreational sturgeon season in the John Day Pool of the Columbia River effective April 10, 2011 due to the projected attainment of the harvest guideline. Modifications are consistent with action taken April 4, 2011 by the Columbia River Compact agencies of Oregon and Washington.

4. 635-023-0125
2011 Columbia River Recreational Spring Chinook Seasons
Adopted April 6, 2011; effective April 8, 2011 through June 15, 2011.
Amended rule re-opens the 2011 Columbia River spring Chinook season effective Friday, April 8, 2011 with a description of areas, dates, and bag limits for recreational harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with the action taken April 6, 2011 by the Columbia River Compact agencies of Oregon and Washington.

5. 635-023-0134
Open Spring Chinook Sport Fishery On the Snake River Below Hells Canyon Dam
Adopted April 11, 2011; effective April 23, 2011 through October 19, 2011.
Amended rule opens a spring Chinook fishery on the Snake River, from Dug Bar Boat Ramp upstream to the deadline below Hell Canyon Dam, beginning on April 23, 2011 to coincide with the State of Idaho's regulations for this fishery.

6. 635-016-0090
Diamond Lake Trout Bag Limit Increased to Eight Per Day
Adopted April 13, 2011; effective May 1, 2011 through October 27, 2011.
Amended rule allows an increase to the daily bag limit for trout in Diamond Lake. The 2009 Diamond Lake Management Plan established management of the lake under the Basic Yield alternative (OAR 635-500-0703). Increasing the harvest of trout will help reduce potential surplus biomass accumulation in the lake and retain the high trophic community levels currently observed.

7. 635-023-0125
2011 Columbia River Recreational Spring Chinook Season Extended
Adopted April 14, 2011; effective April 16, 2011 through June 15, 2011.
Amended rule extends, by four (4) days, the 2011 Columbia River spring Chinook season effective Saturday, April 16, 2011 with a description of areas, dates, and bag limits for recreational harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with the action taken April 14, 2011 by the Columbia River Compact agencies of Oregon and Washington.

8. 635-042-0145, 635-042-0160, 635-042-0170 and 635-042-0180
Modified 2011 Commercial Spring-Summer Fisheries for Columbia River Select Areas
Adopted April 20, 2011; effective April 21, 2011 through July 29, 2011.
Amended rules rescind commercial fishing periods previously scheduled to occur, from April 21 through April 26, 2011, in the Columbia River Select Area fisheries. Revisions are consistent with the action taken April 20, 2011 by the Columbia River Compact agencies of Oregon and Washington.

9. 635-023-0125
2011 Columbia River Recreational Spring Chinook Season Extended
Adopted April 14, 2011; effective April 16, 2011 through June 15, 2011.
Amended rule extends the ongoing sport fishery in the Columbia River upstream of the Bonneville Dam by seven (7) days through May 1, 2011. This action affects the area from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border; plus the Oregon and Washington banks

between Bonneville Dam and the Tower Island power lines. Revisions are consistent with the action taken April 20, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty tribes.

Action: *Commissioner Edge moved to adopt the nine administrative temporary rules as presented in the agenda. Commissioner Kerns seconded the motion, and the motion carried unanimously.*

PUBLIC FORUM

Melody Boyer Medford, Oregon	Melody Boyer, with Animal Adventures Limited, distributed "*The Great American Petting Zoo & Pony Ride*" brochure. . Boyer said they provide educational animal shows and petting zoos and other events across the country for children that includes hand raised fallow deer in their exhibits. She asked for a rule change to allow Animal Adventures to travel in and out of Oregon with fallow deer for educational and display purposes. She described the health, sanitation, and housing of the animals while traveling. The economic impact to the company would be huge if not allowed to travel with their fallow deer. Chair Rae asked Counselor Bill Cook, given the write-up and the request, does the Commission treat this as a Petition for an administrative rule change. Counselor Cook said there is a mechanism where members of the public can petition the Commission to take a look at a particular rule change. This comes very close; the only thing it doesn't do is the rules say you need to set out in legislative style the rule language you want. Tom Thornton, Big Game Program Manager, said the Commission adopted a temporary rule in January that is good for six months. Staff will bring this before the Commission in June to look at a permanent rule before that temporary rule expires. Chair Rae asked Thornton to explain that process to Boyer.
Mike Dykzeul Salem, OR	Mike Dykzeul, Director, Forest Protection, Oregon Forest Industries Council (OFIC), distributed *2011 OFIC Annual Damage Survey Results* on deer and elk damage. He said OFIC members report damage in the early Spring that occurred in the previous calendar year. They separate it out between severe damage (necessitated reforestation efforts) and moderate (damage occurred; stocking levels were below targeted areas). The estimated damage for 2011 is $5.2 million. There are only 25 reports in the survey representing over 65,000 acres of damage, which is

	relatively small when thinking about the membership across all acres. Of that only 16,000 acres is in the severe category and 49,000 acres is in the moderate category. Members are encouraged to take this survey when they meet with local ODFW wildlife biologists, so it is incorporated within the management objectives and tag numbers; significant damage to reforestation efforts continue to occur. Chair Rae thanked Dykzeul and noted for the record that this information is voluntary but is useful information.

Exhibit A: COMMISSION MINUTES

Chair Rae asked the Commission for any edits to the October 1, 2010, and January 7 and March 17, 2011 draft minutes; the February 4, 2011 minutes were still outstanding. She referred to the March 17 minutes, page 7, line 5, and said change the word "if" to "***it***". Commissioner Webber said in the January 7 minutes, on page 12, lines 1 and 4, change the word "mid-violation" to "**misdemeanor**".

Action: *Commissioner Kerns moved to approve the minutes as corrected. Commissioner Levy seconded the motion, and the motion carried unanimously.*

Exhibit B: 2011 OCEAN SALMON REGULATIONS FOR NEARSHORE WATERS

Commissioner Jon Englund declared a potential conflict of interest because his company deals with both recreational and commercial fisheries. Chair Rae noted his potential conflict of interest for the record.

Ron Boyce, Ocean Salmon and Columbia River Section Manager, (see slide presentation) directed the Commission's attention to Exhibit B, Attachment 4, "Salmon Technical Team Preseason Report III Tables" for commercial, recreational, and tribal regulations. Last week the Pacific Fishery Management Council (PFMC) adopted federal ocean salmon fishery regulations for waters 3 to 20 miles. The Commission is being asked to adopt similar regulations (2011 Ocean Salmon Fishery Regulations) for zero to 3 miles. This affects fisheries north and south of Cape Falcon:

- Sacramento Fall Chinook
- Klamath Fall Chinook
- Columbia river Fall Chinook
- Lower Columbia and Coastal

Boyce discussed the 2011 Adopted Ocean Commercial Regulations for North of Falcon – Treaty and Non-Indian, and South of Cape Falcon – Falcon to Humbug; Humbug to Oregon/California border. He discussed the 2011 Adopted Ocean Sport Regulations for North of Falcon (Columbia River area), Falcon to Humbug, and South of Humbug. Boyce also reported on Quotas and Impacts for North of Falcon and South of Falcon. He said as a preview for the Commission's June meeting, staff is developing regulation options for 2011 ocean terminal and river Chinook fishing regulations and wild Coho

fisheries in rivers and lakes. Staff recommends that the Commission adopt the salmon seasons set by PFMC on April 13, 2011, for state waters (see Attachment 5).

Public Testimony: There was no public testimony.

Commissioner Englund said Ron's report has generated much enthusiasm along the Oregon Coast. He commended staff on behalf of PFMC staff. He gets calls from California thanking the Oregon leadership, especially Steve Williams, for their work.

> *Action*: *Commissioner Edge moved to adopt the Oregon Sport and Commercial Salmon seasons as proposed by staff in Attachment 5. Commissioner Webber seconded the motion, and the motion passed unanimously.*

Exhibit C: WILDLIFE MANAGEMENT PLAN REVIEW PERIOD

Tom Thornton, Game Program Manager, said the purpose of this report is to remove the five-year review requirement from the species management plans for: bighorn sheep and Rocky Mountain goat; wild turkey; elk; black bear; cougar; mule deer; and black-tailed deer. He provided background on the self-imposed five-year review periods in management plans. He discussed key changes:

- Ongoing projects.
- Multiple plans due same year.
- Increased number of plans.
- Increased complexity of plans.
- Takes time away from analysis.
- Conditions may not have changed significantly.

Thornton said that staff proposes that the timeline not be incorporated into Administrative Rule. We can come up with the current science and make changes as necessary. Staff would provide the Commission with regular updates, or upon Commission request, or as changing conditions warrant.

Public Testimony:

William C. Carpenter, Jr. Eugene, Oregon	William Carpenter, attorney for Big Wildlife, said this is like throwing the baby out with the bathwater. He distributed a copy of the Endangered Species Act (ESA) of 1973. The reason for the five-year reviews is that science is constantly changing. He noted his handout for the ESA and quoted that the road to extinction is based on two things: 1) adverse habitat modification; and 2) over-hunting. He said there is not enough data to determine whether that is taking place. This wholesale removal of obligations by the State is not the way to attack this. A much better way would be to have the staff come back to you and say, "we don't have any new science for the last six years, so we're going to do a short amendment of the plan to reflect that."

Chair Rae noted the Supplemental Correspondence received since the packet went out.

Commissioner Edge asked Thornton why the Sage-Grouse Plan is not on the list. Thornton said staff was not looking to change the Sage-Grouse Plan; nor the Wolf Plan. Commissioner Edge said with regard to some kind of regular update, three to five, what are you thinking? Thornton said staff has discussed what kind of rotation to put the scheduled reviews on. He showed a slide '*Example Plan Review Schedule'*:

- December 2011 - Black Bear.
- April 2012 - Bighorn Sheep and Rocky Mt. Goat.
- August 2012 - Wild turkey.
- December 2012 - Elk.
- April 2013 - Mule deer.
- August 2013 – Cougar.
- December 2013 - Black-tailed deer.
- April 2014 - Gray Wolf.
- August 2014 - Sage-Grouse.
- December 2014 - Black Bear.

Chair Rae was comfortable with the plan and with relying on the career professionals and biologists to tell us when it's time to update these plans, versus an arbitrary calendar. Oregonians are not shy about telling this Commission when they want a review, plan or rule change. She said these management plans, in order to provide the adaptive management and flexibility, are reviewed on a weekly and daily basis anyway.

Commissioner Klarquist asked what the schedule change would represent. Thornton said staff would brief the Commission and lay out the findings, major changes, and accomplishments. Staff would make sure to look at the Commission-adopted portion of the plans. He said staff reacts regularly to new science and information, and we have to change the plan to incorporate that information; for example, the Bear Plan.

Commissioner Klarquist asked if this is a rolling three year period; does the cycle restart in 2015. Thornton said yes; this is an example of what the first cycle could look like. Commissioner Klarquist asked how these reviews differ from the reviews you do now. Thornton said we envision them as not being as detailed and more of a status update. Commissioner Klarquist said so if there are changes in cougar populations or dispersals of wolf packs, you'll report on that as needed, rather than just on a three or five year cycle. Thornton said that is correct.

Commissioner Englund said he was not comfortable with this to some degree, but he's going to trust the staff. Chair Rae said she has faith in this Commission, now and in the future. She recommended that the Commission ask for a briefing on these issues. As Thornton noted, particularly with bears, while the plan itself has not been word by word updated, new science has certainly been incorporated in bear management.

Commissioner Levy clarified that sage-grouse and the wolf are not included in this.

Eric Rickerson, Wildlife Division Deputy Administrator, said staff does not have any plans to remove the five-year requirement for the Oregon Wolf Plan because of the evolution and changing nature and status of the species, and the populations. On the Sage-Grouse Plan, staff will seek to remove that five-year review time frame. Commissioner Levy said she was uncomfortable because of the fact that it is looked at as an Endangered Species; it's in such a great portion of this state, and also not reviewing it on a five-year basis.

Commissioner Klarquist asked if the proposal was a commitment to the Commission that we will be informed. His concern is that it's the Commission's duty to be updated and informed in order to make their decisions. Thornton said yes; the Commission will see an update or status report on each plan within three years.

> *Action*: *Commissioner Edge moved to amend OAR Chapter 635, Divisions 120, 135, 160, 170, 180, 190 and 195 as proposed by staff. Commissioner Webber seconded the motion. Chair Rae took an oral vote. Commissioner Levy remained opposed and voted nay. The motion passed by a vote of six to one.*

Chair Rae moved the Executive Session up on the agenda after Exhibit D since the public had been told that Sage-Grouse testimony would be taken after lunch.

Exhibit D: AUTHORITY TO TAKE OR HARASS WILDLIFE

Tom Thornton, Game Program Manager, reported on the proposed language changes that would provide enforcement officers with authority to take or harass wildlife in performance of their professional duties. He said there are times when they need to act quickly, such as when an animal is struck by a car. This draft would clarify that in the Administrative Rule.

Public Testimony: There was no public testimony.

> *Action*: *Commissioner Kerns moved to amend OAR Chapter 635, Division 043, as proposed by staff and amended by Attachment 3. Commissioner Levy seconded the motion, and the motion carried unanimously.*

EXECUTIVE SESSION

Chair Rae stated that the Commission will meet in Executive Session as permitted by the Oregon Public Meetings Law (ORS 192.660(2)(f)) to discuss attorney-client privileged documents relating to the relicensing of the Opal Springs hydroelectric facility. The Commission will also be deliberating with persons designated to negotiate a real property transaction, as pursuant to ORS 192.660(2)(e). Representatives of news media and designated staff may attend, but are asked not to report on the executive session except to state the subject. Chair Rae said after the Executive Session the Commission would break for lunch and return to their public meeting at 1:00 p.m.

Exhibit E: GREATER SAGE-GROUSE CONSERVATION ASSESSMENT AND STRATEGY FOR OREGON

Dr. Christian Hagen, Sage Grouse Conservation Coordinator, provided information on updates to the July draft of the Greater Sage-Grouse Conservation Assessment and Strategy (the Plan) and recommendations for new rules for the Sage-Grouse Conservation Strategy. He reported that back in 2005, the Commission adopted Plan 6 of the Oregon Sage-Grouse Conservation Team; it is heavily steeped in science. In 2010 a five-year update draft was released. In March 2011, a revised draft was released, based on sage grouse biology and voluntary management guidelines. Hagen discussed the reasons for the draft revisions:

- West Nile virus.
- Habitat loss due to fire, juniper encroachment, new development.
- Science on habitat fragmentation.
- Federal status.

He discussed ESA listing factors and threats to sage-grouse:

- Habitat loss and fragmentation.
- Harvest or over-utilization.
- Diseases or predation.
- Inadequate regulatory mechanisms.
- Other natural or manmade factors.

Hagen gave an overview of the revisions that have taken place since July:

- Population Section
  - ✓ Updated lek and brood route data through 2010; incorporated in conservation approach.
  - ✓ Reworded objectives to correspond with rule language.
- Habitat Section
  - ✓ Climate change addressed – High elevation areas most resilient.
  - ✓ Feral horse and burros may impact invertebrate population habitats.

Hagen said the Core Area Approach (CAA) identifies the most productive landscapes. He recommended that the criteria for Core Area mapping become rule; not the maps themselves. We've identified Core Areas that, where we can, we should avoid the loss of those habitats. We also recognize that there are 122 low density sites where there would be less risk. The CAA has been adopted by the Western Association of Fish and Wildlife Agencies (WAFWA), the Bureau of Land Management (BLM), and the Natural Resources Conservation Service (NRCS). He showed slides of maps to illustrate the CAA. He said the Core Areas are a significant tool in the large tool box in this conservation strategy.

Chair Rae noted a recent handout (see "Proposed replacement of *portion* of box on page 113 of Plan") that modified page 113 in Attachment 5, *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, Draft, 1 March 2011*.

Public Testimony:

Brett Brownscombe Governor's Office	Brett Brownscombe, Deputy Natural Resources Policy Advisor for the Governor's Office (GO), testified in support

Salem, OR	of the Sage Grouse Conservation Strategy. He submitted a letter written by Richard Whitman, Governor's Natural Resources Policy Advisor. He noted that the GO's recognizes that this is a controversial issue. The controversy has been largely addressed by the refinement of this approach. The Governor is leading the effort to craft a long-term energy strategy for the state; it will address the relationship between energy goals and habitat restoration goals. Adoption of this plan is a critical building block for that strategy. The Governor favors adopting this Plan now, with the expectation that his office will be back later for refinement. He thanked ODFW staff for their work. Chair Rae said the Commission recognizes that habitat issues including Sage-Grouse are among many considerations on energy planning. Do you have a sense for the timing of the development of the 10-year Energy Plan? Brownscombe said it is likely to begin at the end of this year; an energy advisor will be brought onto staff sometime this summer. Chair Rae asked if one of the outcomes is the big map that shows which areas are suitable for geothermal, wave and hydroelectric, and transmission lines. Brownscombe said in the context of energy development, especially wind, projects have been moving forward in the absence of mapping. The industry is moving too fast for some interests. Maps will provide more certainty where energy development is; and is not proper. Chair Rae said what the GO's has asked the Commission to do is quite reasonable, in regard to when we take up review of the various wildlife management plans we have in place. This will help you in your development of the Energy Management Plan. Brownscombe agreed. He said it provides an important building block as to where Oregon is going next; another thing that will help is with conservation on agreements with USFWS.
Dominic Carollo N/A	Mr. Dominic Carollo, attorney for Otley Bros. Inc. introduced Harry Otley, a rancher in Diamond, Oregon. He urged the Commission to delay its decision on the Sage-Grouse Strategy in order to receive input from people who would be affected. He also displayed a colored map of the Otley brothers' property. Carollo said we've seen the proposed amendments to the Plan and think that's a big step in the right direction to resolve some of our issues. Today is the

	first day that we've seen these changes. It is important to keep in mind the role of the LIT. We have concern whether the lands will be looked at with all the site-specific data that's out there. What land should be in the Core Area or not – which gets to the exhibited maps in front of you. He pointed out the Otley Brothers property on the maps and how it falls into the Core Area. There isn't a lot of other data that goes into that.
Barbara D. Craig Portland, OR	Barb Craig, attorney for Stoel Rives law firm, distributed written testimony. She said it is premature to adopt the rule. Partnerships and conservation are best built at the local level. Based on the information and science we know today, this map is the footprint. She is most concerned about the Core Area categorization, and offered alternative language. Legal Counsel Bill Cook noted that portions of the Conservation guidelines would be incorporated into the Administrative Rule. Commissioner Klarquist said you're suggesting that we have conservation partners out there. Some are ranchers; others are hoping to develop energy projects. Are you saying that if we follow your suggestion and continue to study this that wind energy developers are going to sit back and wait? My fear is that we sit back and continue the study; meanwhile the habitat gets fragmented and degraded. Craig responded, in some circumstances these rules may actually be voluntary. She doesn't see the need for an Administrative Rule since there is already federal protection. Developers know there are rules, and they take them into account. Chair Rae asked Counselor Cook whether today's new handout that replace a portion of the plan, will appear in the new Administrative Rule. Counselor Cook referred to Attachment 3, Division 140, Greater Sage-Grouse Conservation Strategy for Oregon. He said see page 4, line 24; and page 5. "The Department recommends …", it is incorporated by reference.
Liz Nysson Bend, OR	Liz Nysson, Energy Policy Coordinator for Oregon Natural Desert Association (ONDA), distributed written testimony. She urged the Commission to move forward towards final approval. She said strength of this plan is use of best available science and modeling techniques; the weakness is the narrow definition of development; reliance on

	voluntary compliance is insufficient. ONDA recommended several changes to improve the Plan: 1. Definition of development should be expanded. 2. Add an independent scientist or conservation interest within the LITs. Current language is not sufficient to insure representation of non-economic, non-agency conservation interest. 3. More robust criteria for map refinement (pgs. 87-88). 4. For fragmentation, ODFW should provide more guidance for area exclusions. 5. Clarify language. Commissioner Englund asked for clarification, when she urged the Commission to move ahead for approval, did she mean with or without her recommendations? Nysson said she hopes the Commission will make some of these changes, but overall wants the Plan to be approved; it is a great plan. Chair Rae said Nysson hopes we will put those changes in and then adopt the Plan today.
Jeremy Maestas Redmond, OR	Jeremy Maestas, U.S. Department of Agriculture (USDA) – Natural Resources Conservation Services (NRCS), is a member of ODFW Sage Grouse Team. He said our customers recognize that ESA protections for sage-grouse could hurt viability of local ranching and viability. The Oregon Sage-Grouse Initiative invests in protecting sage grouse and has become a national model. Since it started last spring, NRCS has invested $6 million in Crook, Harney, and other Oregon counties. This is new money to the state, and is putting people to work restoring grouse habitat. We are ahead of schedule. The core area concept is a key component of this process. Commissioner Edge asked, under adoption of the Plan, would NRCS begin targeting private lands? Maestas said that is correct, although we're moving ahead regardless of what information is available. Adopting this Plan would tell us the most effective core areas to concentrate on. Chair Rae said the initiative has become a national model. Does it have LITs? Maestas said yes, absolutely.
Bob Sallinger Portland, OR	Bob Sallinger, Conservation Director, Portland Audubon Society (PAS), thanked staff for a good job on this Plan and for their outreach. PAS encourages adoption of this Plan today. He said we believe a continued delay would increase the likelihood of a listing, and it would be far stricter. This

	Plan is imperfect; no Plan ever is perfect but it has been through an extensive process, and at some point you have to decide what you want to do. We believe there are places where this Plan could have gone further. But at some point you have to decide what to do and if it doesn't work, come back and fix it. PAS believes the biggest threat is the threat of regulatory structure. Lack of certainty is creating uneasiness with the public. We are concerned that this is mostly a voluntary Plan; that is the Plan's greatest weakness – it's not regulatory across the board. He agreed with the issues that Liz Nysson had risen.
John O'Keeffe Adel, OR	John O'Keeffe, Chair Public Land Committee – Oregon Cattlemen's Association (OCA), is a representative on the Oregon State Sage-Grouse Conservation Team. He spoke in support of the Plan. He said loss of habitat to fire is one of the biggest issues to loss of sage-grouse habitat in Oregon. Managed grazing can increase the severity and incidence of wildfire. He said that Rural Fire Associations, largely made up of ranchers and volunteers, have been effective in reducing the number of large acreage fires. They arrive before the Agency can get there. The Plan recognizes the types of improvements to facilitate a grazing program are different from industrial development; and this is an important distinction and needs to be kept. All projects that take place on federal ground are subject to the NEPA Process and have thorough review by land management agencies before they're implemented. He hesitates to add additional burden to residences in Eastern Oregon. It is important to recognize that sage-grouse are listed as warranted but precluded. O'Keeffe said we do not have the luxury of time. We must protect these areas if we're going to avoid a listing. If Category 1 land is more difficult to work with than having federal involvement, then we open up the entire ESA case law; that results in lawsuits. It's extremely important to avoid a listing.
John Audley Baker City, OR	John Audley, Deputy Director for Renewable Northwest Project (RNP), distributed a letter from his colleague William B. Golden. He said RNP cannot support the existing Plan, and request more time for local input. His singular, overriding concern is the failure to include Core Area protection maps with the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon guidelines. This will lead to regulatory chaos. He urged the Commission to take the time to get this right.

	Commissioner Edge asked what Audley had heard from the GO's today in relation to the industry and the energy planning process. How do you see all that working together? Audley said he's not sure they know their next step. When he met with the Governor's Chief of Staff, it became clear that this issue is in the earliest stages of thinking. He said RNP is committed to work with the GO's and with the Commission. Commissioner Edge said the GO's message was that the Plan would form a foundation for beginning these conversations, and how we could come back and re-examine the process as part of the 10-Year Energy Plan. Audley asked the Commission to consider that there are a number of inconsistencies, and in particular, let's clean up Category 1, and then have this conversation again.
Mike McArthur Salem, OR	Mike McArthur, Executive Director Association of Oregon Counties (AOC), referred the Commission to AOC's letter dated April 1 to Director Elicker. He distributed three colored maps (see Federal and State Owned Land in Oregon). He liked the Plan, but encouraged the Commission to allow more time for adequate review. McArthur said it is incumbent on you as a policy board to look to balance the state's interests. AOC has used experts to review this Plan. The Eastern Landscape Conservation Plan is also important to us. We'll work towards trying to solve this problem of renewable energy. He chaired the Governor's Renewable Energy workgroup that developed that proposal. We must cooperate to solve these problems. He called attention to maps that show that sage-grouse habitat is largely owned by the U.S. Bureau of Land Management (BLM). He also asked how the changes connect to the Administrative Procedures Act.
Judge Steve Grasty Burns, OR	Judge Steve Grasty, Harney County Judge, distributed the following in order to request that the Sage-Grouse Strategy be postponed in order to allow local input. 1) Letter from Joel R. Davis, Harney County Farm Bureau President; 2) Letter from C.M. Otley, President, Diamond Valley Ranch; 3) Letter to the Commission from 14 legislators. 4) "*Where's Our Future*? poster, Photo by Crimson Presley 8/26/2007 Judge Grasty asked the Commission to hear all the

	comments all the way through. In regard to the economy, our communities are dying by a thousand cuts. You should approve the Plan today, only if you are completely satisfied that you can implement that Plan on the ground. If not, give us 90 days. We've been told over and over that this is guidance; it's not guidance anymore if it's implemented. He asked the Commission; if you adopt this Plan please adopt the Administrative Rule at a later date. He pointed to a photo of a burnt-down forest that is four years old. We can't handle all issues at once unless we've got this Plan right.
Dan Druis Salem, Oregon	Dan Druis, Marion County Judge, said "I support."
Paul Woodin The Dalles, OR	Paul Woodin, Executive Director for Community Renewable Energy Association, said there are basic principals of problem-solving; you can't throw solutions out until you understand what the problems are. He said the State hasn't yet reached the definition of the problem. There's not enough science on the impact of renewable energy, etc., on sage-grouse. Yet we're jumping to conclusions without understanding how it fits in the bigger picture. Twenty-percent of an issue causes eighty-percent of a problem, and vice versa. He asked, is renewables going to be the big issue, or will it be a small piece of a much larger picture. Woodin held up a map and said the blue areas are supposed to be Core Areas - he sees it differently. A lot of it is on private property, and you're attempting to put in a policy that impacts almost half of the area that the state can use for renewables, and landowners would like to think that they have some rights on their lands. He said these are some pretty serious decisions, and when you say "voluntary," that's code word for "we don't want to go through the legislative process; we'll put it in through the rule process and make it official." But you have to understand the impacts of what the decision will be. We've all lived through the spotted owl period where preserving the spotted owl basically destroyed the timber industry and created serious economic impact. There needs to be some understanding on the impact of the state.
George Buckner Portland, OR	George Buckner, BLM Wildlife Biologist, gave a brief update on BLM activities relating to sage-grouse. Our field staff have reviewed and commented on the updated Plan. We are confident that the strategy represents the best available science, and are comfortable with it. Regarding

	the Core Areas, our Washington D.C. office has issued us a Core Area Map that was developed by Kevin Doherty; similar to the Oregon maps. We anticipate direction from our Washington office to include those maps in our landuse plans. BLM and ODFW are in lock step in how we are approaching sage-grouse conservation in Oregon. Commissioner Webber said if we didn't adopt this draft of Sage Grouse Plan, are you still going to be applying the core habitat principles to the BLM? Buckner said yes. The guidelines and strategy represent the best available science, which BLM is obligated to follow. Commissioner Edge asked if we were to adopt the Plan today, is there a process by which we link back and BLM formally endorses the Plan. Buckner said yes, that's what we did for the 2005 version – by signature.
Bruce Taylor West Linn, OR	Bruce Taylor, Defenders of Wildlife, said we are on record in support of some minor changes involving the inclusion of local conservation teams. He underscored the importance of adopting the Plan and rules today; otherwise, we'll be kicking this around for three more years. As we heard from the GO's today, there will be opportunities to discuss this issue again during the bigger picture. He said it's a great Plan with a few minor things to improve, but important to move forward.
Miel Corbett Portland, OR	Ms. Miel Corbett, Assistant State Supervisor for USFWS, thanked the members of ODFW staff and other members for working on this. She commended ODFW for their development improvement of the Plan. She said she was also speaking on behalf of Jodie Delevan. She distributed a handout, *U.S. Fish and Wildlife Service Perspectives on the Oregon Sage-Grouse Conservation Strategy.* She mentioned that USFWS is under litigation regarding the species, and is going through its annual review. Corbett said that determination will be published around December. USFWS supports the use of Core Areas; we believe that we have the best available scientific information. We support the adoption of a mitigation strategy. We know that a lot of partnerships have been developed. Commissioner Kerns said the Sage-Grouse is listed number 8 on the ESA list. How likely is it that #8 will jump up to #1? Corbett responded, she hesitates to say, but the outcome of current litigation could have an impact.

	Commissioner Kerns asked if litigation could change the status of sage grouse hunting. Corbett said she does not see this happening. Commissioner Kerns asked, if sage-grouse jumped up to No. 1 it is unlikely unless a federal judge declares it so. Ms. Corbett said correct; 11 states are litigating this case, and we are in dialogue with them. Oregon is one of the leaders in providing strategies for other states to follow. Commissioner Edge asked how far along other states are in their plans. Corbett said Wyoming is working on a similar approach. Other states are pursing it. WAFWA has been engaged in this issue for a long time. We have a Greater Sage-Grouse Conservation Strategy in place that has been developed by a lot of states. Oregon's leadership is to show that we can have conservation as well as economic development. Commissioner Webber said you were talking about 11 states that include sage-grouse. Are we going to be included with the other 10; regardless of what's going on here? Corbett said yes, you will be considered like all other states; that does not mean you'll be treated like any other state.

Commissioner Klarquist said LITs are part of the strategy. What status do they already have? We had comments regarding the implementation of local implementation; Category 1 versus Core Area description causes concern to at least one of the presenters today. Judge Grasty said some of them seem to have merit. Hagen said the LITs were formed in 2005. Those teams have not met since we started revising this Plan in 2009. In the Plan there is a list of accomplishments (see page 126) and acres impacted as a result of discussions and actions of LITs (see page 128). The intent has always been to get these meetings done in early Spring; it didn't happen this year. He said the decision has always been to involve the landowners and land managers. We can make a more inclusive process without much difficulty.

Hagen said Division 140 - Greater Sage-Grouse Conservation Strategy for Oregon, Page 82, "*Objective 1. Consistent with Policy 1, ODFW shall define Core Area habitat using the following criteria"* through "*Policy 2. ODFW shall develop and maintain maps that identify Low Density Habitat Areas that provide breeding, winter and migratory habitats of the Oregon statewide greater sage-grouse population.",* clearly distinguishes the rationale for criteria leading to habitat categorization within the Core Area. So there are two distinct steps going from Core to Category 1.

Chair Rae added, perhaps this gets into mitigation policy metrics like we heard this morning. Hagen said with regard to the Harney County letters, he doesn't have anything

prepared to speak to that. Bob Hooten, Klamath Malheur Watershed District Manager, said much of that letter contained legal arguments.

Counselor Cook discussed several legal arguments:

- Use of advisory committees; the Commission is not required to have an advisory committee for every lawmaking action, although you can choose to use one.
- Fiscal impact analysis. The staff did the Fiscal Impact Statement that looks at the legal reality of the situation. For example, for wind power, the Commission does not have regulatory authority; the fiscal impact takes that into account. If we decided to be extremely careful, keep in mind that you are looking at changes to the existing Plan and changes to existing rule. The current changes are actually less restrictive. In other words, less impact than the current status quo.

Chair Rae said notice provisions were added. We're not afoul of any process, are we? Counselor Cook said the Commission has gone through two public comment periods; the law only requires one. Hooten said in listening to the testimony and reading the letters, there is confusion on statutory authority versus land use planning. The Plan provides direction to staff; it doesn't usurp the Counties' authority to make land use decisions.

Commissioner Webber asked if LITs are making final decisions or recommendations of adjusting boundaries of Core Areas. Hagen said they are providing recommendations to change the boundaries of those maps.

Commissioner Englund said there had been several requests for extension of time. Are there other things that could be incorporated into the Plan that would make it better? Rickerson said since this Plan is grounded in the best available science, nothing would change in 60 or 90 days.

Commissioner Edge asked staff to talk about the characterization of the Core Areas and the habitats within those Core Areas. He said Liz Nysson (ONDA) mentioned the roughness of Woodlands. He read in Judge Steve Grasty's letter, concerns about roads and existing infrastructure. Hagen showed two slides of the Lakeview Sage-Grouse Core Area Map Review. Based on the process so far, he was confident that what we are identifying are these areas of woodland and terrain that are fairly extreme.

Commissioner Edge said he thought of the aerial photograph of the Otley property. Would that fall under the roughness category? Hagen said in the Plan staff makes it clear that if a transmission transects the core, it remains in core. It's better to have that development clustered than spread out in habitat.

Commissioner Webber said he noticed in the Plan the elimination of the five-year review. Is there anything outside the Plan that moves that ahead? Rickerson said the five-year review is a self-imposed deadline; the next sage-grouse status update would be 2014. If the bird is listed as protected, staff would come before the Commission. He said it is the Governor's expectation that staff would revisit this as part of the overall Energy Plan.

Chair Rae asked about the 4-D process – the options are that we defer management to the feds, or give it to the federal courts. She said that John Audley mentioned that this is not just a renewable energy issue – that is the focus of our discussions today. She recommended that staff come back in one year and review this Plan with the Commission, plus the update on the 10-Year Energy Plan. Commissioners Webber and Edge both agreed. Commissioner Edge said he is interested in seeing the LITs moving forward and what will happen inside those circles.

Commissioner Kerns supported the concept of the Plan; it is certainly needed. He said the Commission needs to listen to people like Barbara Craig and the 14 legislators, and take a few extra months to address their concern; that's the Oregon way. We need some fine tuning. If the Commission doesn't wait, he'll vote against the Plan.

Chair Rae said House Bill 3511 concerns endangered species listings; it requires the Department to consult with cities and counties. She spoke with several of those 14 legislators and is not worried whether HB 3511 indicates sage-grouse strategy in any way, because the consultations that they'd have us do is already in this Plan.

Chair Rae directed the Commission's attention to the action items in Attachment 3 - Proposed Administrative Rules, and to pages 98 through 123 in the Draft Strategy, noting the replacement page of the portion on page 113.

Commissioner Levy said she was not comfortable with the rules. She asked how we can put this into rule to make it work, and not make it onerous on the private landowner. Rickerson said staff was asking the Commission to adopt the criteria. The Core Area actions starting on page 98 are still advisory in nature. As new information comes forward, staff would update the Plan. Commissioner Levy said it's too restrictive, especially pages 4-5. It was brought up earlier on page 4, starting at line 24 of the Administrative Rules.

Chair Rae said your preference would be to not have a class reference in the Administrative Rules to the actions and the guidelines? Commissioner Levy said the Administrative Rules need more work. She would pass the Plan but not pass the rules.

Commissioner Webber said if a private landowner in the Core Area wanted to engage in a permitted use under the County's land use planning, this Plan would have no effect on him? Bob Hooten said that is correct, it's already permitted. Commissioner Webber said likewise, if it required a conditional use permit or some other authorization from the County, it would be the County's choice with regard to that private land, on how they enforce our rules. Hooten said that's correct.

Commissioner Levy asked when staff anticipated getting more LITs on the ground; particularly Harney and Malheur counties. Hagen said his goal is by early May.

Chair Rae asked if the Commission was prepared to go forward; all agreed. She summarized their direction for staff:

- Be prepared to come back to this Commission 12- months from now.

- LITs will be formed and convened at an early stage.
- Review the comments received within the last week or so and determine which you would recommend and be prepared to incorporate.

Commissioner Webber asked if the 'Proposed replacement of *portion* of box on page 113 of Plan" needed to be in the motion. Chair Rae said the proposed replacement does not replace page 113, it's a replacement of language in the table of actions in the Conservation Guidelines. The commentary would stay but the action remains the same. The Conservation Guidelines would require some renumbering on the low density issues; that can be handled administratively and not by the Commission.

Chair Rae said on Attachment 3, page 4, line 26, change "…*Chapter V…*" to read "…***Section V***…", as it was stated in the strategy itself. She also received a written comment that the Administrative Rule on page 1, lines 19-20, in accordance with the Wildlife Policy (ORS 496.012) states that "…the primary goal is to restore, maintain and enhance populations..." She asked why the word "restore" was put in when the Wildlife Policy in our attendant missions referred to maintaining and enhancing populations.

Counselor Cook said the Wildlife Policy statute gives a number of policy guidance items to the Commission. In 1981, the Attorney General (AG) looked at that because the Commission and the Department were struggling to figure out how that works. The AG essentially said, the Commission has a lot of discretion in deciding how to play that out in practice, because there are elements in that statute that are conflicting, inconsistent. The Commission has some ability to interpret what that is telling you. It didn't worry him legally that the staff is working the restoration concept in there.

Chair Rae noted the change on page 4, lines 26, delete the word "Chapter" and insert the word "Section". Also, give staff the authority to renumber Section 5 accordingly, taking into account the Addendum we received today and a portion of the box on page 113. Counselor, is our record clear in what this motion would entail? Counselor Cook said yes.

> *Action*: *Commissioner Webber moved to approve the 2011 Greater Sage Grouse Conservation Assessment and Strategy for Oregon, and the amended draft rules as proposed by staff, with the change on Page 4 of the Rules and the amended box on page 113 that were provided earlier. Commissioner Klarquist seconded the motion. Chair Rae took an oral vote. The motion carried by a vote of six to one. Commissioner Kerns voted nay.*

Chair Rae said the Department will take this up again in one year. Director Elicker promised to place it on the calendar.

ADJOURN

Chair Rae adjourned the Commission meeting at 4:20 p.m.