

## Summary Sheet

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**Meeting dates:** December 21, 2018

**Agenda item:** Petitions – Rule Changes to Carney Lake

**Presenter(s):** Annette Hoffmann, Brian Calkins

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**Background summary:** Carney Lake was purchased in 1954. It has been managed as an opening day lake with a split season, closed in July and August; with an internal combustion motor prohibition during the fishing season. The Department's access site is the only public access to the lake. As one of two lakes planted with trout that serve the greater Kitsap County along with Gig Harbor, Carney Lake has been moderately popular for trout fishing. In the 1980's, conflicts arose between lake front landowners and the "Citizens to Save Carney Lake Access" group. In 1986, the Department of Game began closing the Department access during the July-August fishing season until a "community coalition" could provide an alternate workable solution to the community's concerns. To date we are not aware of such a solution. Since the 1980's the lake has been closed to fishing in July and August and the access site has been locked. However, there have been instances where individuals desiring to use the access site during the July-August closures have cut our locks and forced the Department to place chain link fencing around the entire Department site.

In response to an overwhelming public request to simplify the sport rules, the Commission adopted regulations that eliminated as many special situational rules as possible. In this effort, the rules for Carney Lake were changed from a split season (4<sup>th</sup> Saturday in April – June 30 and September 1 – November 30) to the general opener, 4<sup>th</sup> Saturday in April through October 31. In addition to the season change during rule simplification, the prohibition on internal combustion motors was eliminated.

Since the rule change, the Department has received 26 petitions to amend or repeal the rule adopted on Carney Lake. One of those petitions had 30 signatures (of which 9 signatures were from petitioners who had submitted individual petitions). Overall, 11 petitions asked for reinstatement of the internal combustion motor prohibition, 4 for reinstatement of the July-August closure, and 11 for both (including the one with 30 signatures). Through these petitions, the Department has been reminded of a restriction on the deed of the properties surrounding Carney Lake, including the Department's access property. The deed restriction requires the property owner to prohibit the "use of power driven boats." Thus, by the deed restriction the Department cannot allow its users to use power driven boats on Carney Lake.

There are basically two issues raised by the petitions; a request to reinstate the summer closure, and a request the Department respect the deed restriction by prohibiting the Department's guests from using power driven boats accessed from the Department's property.

Fishing season. In their petitions, the property owners allege that, if Carney Lake was open for fishing during the summer, the lake would become a popular swimming, camping, and partying area during the warm summer months. Their concern is this situation would lead to problems with garbage and debris scattered on the access site and adjoining properties; noise and profanity at all hours; and vandalism, pilferage, and harassment. In the past, these concerns caused property owners to retain legal representation to negotiate at least closing the access during the warmest summer months to discourage non-fishing use of the lake.

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Deed restriction on power driven boats. Our real estate services staff have determined the Department's property is subject to the deed restriction identified by the petitioners. We believe we can satisfy our obligation by posting our site with a sign or signs informing our users of the restriction. This measure would apply to all boats using the Department's access site. Reinstating the fishing regulation (prohibiting the use of internal combustion motors) would only effect boats in the act of fishing and would not fully meet the requirements of the deed. Relevant laws currently exist that give the Department the authority to post signs on its property identifying how users of the property must behave or act, WAC 220-500-030(3) and RCW 77.15.230.

Since the petition on the rule change to Carney Lake was publicized on the agenda, the Commission has also received a letter requesting the rule not be changed, stating that the lake belongs to the citizens of Washington State who should not be denied access, and expressed a concern about setting a precedent.

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**Staff recommendation:**

Deny the petition.

For the fishing season issue, the Department recommends that instead of initiating a rule process to consider the appropriate fishing season, the Commission direct the Department to monitor the access site for misuse. This recommendation will allow the public to utilize Carney Lake for fishing under simplified rules while addressing the misuse of the access site. If our monitoring of the access site shows misuse occurring or evidence of misuse is provided, the Department will implement measures to address the misuse.

Regarding the petition to prohibit the use of internal combustion motors, the Commission directs the Department to comply with the deed restriction by posting language at the access site restricting the use of all power drive boats on Carney Lake. The Department plans to develop appropriate signage to inform our access users of the motor use restriction. The signs may also inform the users of the penalty for violation of our signage and restrictions.

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**Policy issue(s) and expected outcome:**

Request the Commission deny the petitions to provide fishing opportunity at Carney Lake during the summer months and to utilize existing authority to implement the deed restriction regarding the use of power driven boats at the access site.

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**Fiscal impacts of agency implementation:**

Fiscal impacts would include costs to posts signs and monitor the access site during the summer months.

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**Public involvement process used and what you learned:**

In 2015, the Department initiated an effort to increase public support for conservation, participation in outdoor recreation, and ensure Department programs and services meet the needs of the public. The Department hosted 10 "listening forums" around the state to record public comments on where the Department should focus its efforts. The public provided approximately 2,500 comments covering an array of topics. One of the most common comments received was criticism about the complexity of our fishing rules and requests to simplify them. Based on this public comment, the department initiated a process to simplify

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sport fishing rules in 2016. In response to concerns expressed by land owners after simplified rules were adopted, the Department sent a letter explaining the public process and how Carney Lake's season changed in response and asking if there were any access use concerns that the Department needed to address. In absence of such communications, staff reached out and have spoken with two landowners, one with a parcel adjacent to the access site to ask the question directly. Concerns we heard included vandalism, trespass and theft. Staff who have visited the WDFW access site on a regular basis over the summer have not encountered any conditions that would raise a concern and records indicate that less time has been required to maintain this site in comparison to many of the other lake access sites in the Region.

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**Action requested and/or proposed next steps:**

Develop and post signage at the access site.

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**Draft motion language:**

Motion: I move to deny the petitions as recommended by staff and instead direct the Department to utilize existing laws (WAC 220-500-030(3) and RCW 77.15.230) to inform the public that the Department prohibits the use of motorized boats at the Department's access site at Carney Lake, and to monitor the access site for misuse.

Is there a "second"?

If so, then motion maker discusses basis for motion; other Commissioners discuss views on motion; amendments, if any, proposed and addressed

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**Post decision communications plan:**

Communicate the outcome of the Commission Decision to the petitioners and other commenters.

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