



Oregon Fish and Wildlife Commission Minutes

Meeting:
Friday, December 4, 2015 - 8:00 a.m.
Embassy Suites – Portland- Airport
The Fir & Oak Room
79000 NE 82nd Ave.
Portland, Oregon 97220

1 *Commission minutes are considered draft until approved by the*
2 *Commission.*

3
4 Notice of these meetings had been made by press release of statewide media
5 circulation. Those attending part or all of the meeting included:
6

Michael Finley, Chair	Curt Melcher, Director
Bob Webber, Commissioner	Bill Herber, Deputy Director
Holly Akenson, Commissioner, Phone	Shannon Hurn, Deputy Director
Greg Wolley, Commissioner	Steve Sanders, Assistant Attorney General
Laura Anderson, Commissioner	Michelle Tate, Executive Assistant
Bruce Buckmaster, Commissioner	
Jason Atkinson, Commissioner	

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8
9 **MEETING**

10
11 On Friday, December 4, 2015 at 8:00 a.m., Chair Michael Finley called the Oregon Fish
12 and Wildlife Commission (the Commission) meeting to order.
13

14 Chair Finley: An administrative error at the November 9, 2016 Commission meeting
15 prevented Commissioner Atkinson from voting. Commissioner Atkinson was available
16 on the phone and was not able to connect. For the record I would like to give
17 Commissioner Akenson the opportunity tell us how he would have voted on if he would
18 have been able to connect.
19

20 Atkinson: For the record, I was very interested in the ability of our Commission to split
21 the state regarding east and west, and the wolf delisting. I do support that and the
22 ultimate outcome of what when we made the vote to delist. This has been my position,
23 is my position and will remain my position.
24

25 Chair Finley: Also for the record- Commissioner Atkinson and I had a discussion about
26 his excused absence. He was working on a very important issue to the state of Oregon.
27 He was working on removal of the four dams on the Klamath River. It was a meeting
28 that happened to fall when our wolf vote was here. He was doing this work on our behalf
29 to restore the Klamath fishery and bring the Klamath Water Agreement to fruition.
30
31

32 **DIRECTOR’S REPORT**

33 Field Reports – in written form only

34 *This report is located in the commission material and can be viewed at*
35 http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp
36

1 Expenditure Report

2 *Staff: Bill Herber, Deputy Director for Administration*

3 *This report is located in the commission material and can be viewed at*

4 http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp

5
6 Department wide, expenditures are within budgeted projections and available revenue.

7
8 Preliminarily, it appears that the ending fund balances are doing much better than
9 previously projected. The Department has worked aggressively over the last biennium
10 to downsize the agency, reduce expenditures, and improve program efficiency.

11
12 The Department's Legislatively Adopted Budget document has been posted and is
13 available on the public website at [http://www.dfw.state.or.us/agency/budget/2015-](http://www.dfw.state.or.us/agency/budget/2015-17_budget.asp)
14 [17_budget.asp](http://www.dfw.state.or.us/agency/budget/2015-17_budget.asp) . This marks the final step in the 2015-17 budget development process.

15 16 **Adopt Temporary Rules**

17 Curt Melcher, Director, requested the Commission ratify the following temporary rules.
18 The six temporary rules were previously adopted by the director under his emergency
19 action authority.

20 21 **1) 635-017-0090**

22 **Henry Hagg Lake Opens All Year Beginning November 23, 2015**

23 Adopted November 10, 2015: effective November 23, 2015 through December 31,
24 2015.

25 This amended rule allows recreational fishers to angle at Henry Haag Lake all year
26 beginning on November 23, 2015. The Oregon Fish and Wildlife Commission recently
27 adopted these changes into permanent rule effective January 1, 2016. Modifications to
28 this rule provide one and a half months of additional angling opportunity and
29 consistency with open dates for most of the standing water bodies in Oregon. These
30 changes are also supported by the angling community and Washington County Parks
31 and Recreation which is responsible for management of Hagg Lake.

32 33 **2) 635-041-0069 and 635-041-0075**

34 **Treaty Indian Commercial Fall Fisheries in the Columbia River Modified**

35 Adopted November 12, 2015: effective November 13, 2015 through December 31,
36 2015.

37 These amended rules set a Treaty Tribe commercial fall platform and hook-and-
38 line fishery that begins Friday, November 13 through December 31, 2015. Modifications
39 also set a white sturgeon setline season in The Dalles Pool beginning 6:00 a.m.
40 Monday, November 16 through 6:00 p.m. Wednesday, November 25, 2015; and in
41 Bonneville Pool beginning 6:00 p.m. Friday, November 27 through 6:00 p.m. Thursday,
42 December 31, 2015. Fishing for the purpose of commercial sales and subsistence is
43 allowed. Modifications are consistent with joint state action taken November 12, 2015 by
44 the Departments of Fish and Wildlife for the States of Oregon and Washington, at a
45 meeting of the Columbia River Compact in cooperation with the Columbia River Treaty
46 Tribes.

1 **3) 635-005-0505**

2 **Commercial Bay Dungeness crab Fishery Closed Due To Unsafe Levels of**
3 **Domoic Acid**

4 Adopted November 13, 2015: effective November 13, 2015 through December 31,
5 2015.

6 This amended rule closes the bay Dungeness crab fishery on the Oregon coast
7 south of Heceta Head due to unsafe levels of domoic acid and the issuance, by the
8 Oregon Dept. of Agriculture, of a Health Advisory Closure.

9
10 **4) 635-005-0465**

11 **Commercial Dungeness crab Season in the Pacific Ocean and Columbia River**
12 **Delayed**

13 Adopted November 20, 2015: effective November 20, 2015 through January 31, 2016.

14 This amended rule delays the opening of the 2015-2016 commercial Dungeness
15 crab season in the Pacific Ocean and Columbia River due to elevated levels of the
16 biotoxin domoic acid detected in samples of crab viscera during preseason testing. The
17 season opening set in permanent rule is December 1. A new opening date for these
18 fisheries has not been set, will depend on further testing and may differ regionally.
19 Commercial Dungeness crab fisheries in bays and estuaries have already been closed
20 in accordance with the provisions of temporary OAR 635-005-0505(2) (b) effective
21 November 13, 2015.

22
23 **5) 635-004-0275**

24 **Federal Action Implemented for Shore-based Midwater Trawl Groundfish Fishery**

25 Federal Action Implemented for Shore-based Midwater Trawl Groundfish Fishery

26 Adopted November 25, 2015: effective November 25, 2015 through May 22, 2016.

27 This amended rule implements a fishery closure action previously implemented by
28 the federal government for the 2015 Pacific Coast Groundfish Individual Fishery Quota
29 (IFQ) program including, but not limited to, closure of the shore-based midwater trawl
30 groundfish IFQ fishery shoreward of the boundary line approximating the 150 fathom
31 depth contour (defined at 50 CFR 660.73(h)).

32
33 **6) 635-067-0027**

34 **Amend Rule to Change Bag Limit for Pronghorn Antelope Controlled Hunt 473M2**

35 Adopted: December 1, 2015. Effective Dates: December 2, 2015 through April 15,
36 2016.

37 The current bag limit for Pronghorn Antelope Controlled Hunt 473M2 is "One buck
38 pronghorn". To provide landowners the opportunity to take antelope causing property
39 damage, the Department is expanding the bag limit to "One pronghorn either sex". This
40 change is necessary because Landowner Preference Tags for pronghorn cannot be
41 issued for pronghorn hunts with a bag limit of "One buck pronghorn".

42
43 *Action:*

44 Commissioner Webber moved to ratify the six temporary rules listed on your tan
45 agenda. Commissioner Buckmaster seconded the motion, and the motion carried
46 unanimously.

47 **PUBLIC FORUM**

1 Note: This part of the agenda is for comments on topics not scheduled elsewhere on the
 2 agenda. The Commission is unable to take action on items brought to their attention in
 3 this forum.
 4

<u>“State of the Trout”</u>	
Tom Wolf, Executive Director; Oregon Council Trout Unlimited	Provide written testimony. This written testimony is available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp

<u>Elk Damage on Private Land</u>	
Darryl Schmidlin, Banks	Many herds that continue to grow and are causing tremendous crop damage year round. Control measure of the Land Owner Preference (LOP) program and Damage program are unable to satisfy the need of agriculture producers. Damage tags will not be issued until the LOP tags are filled. It is very frustrating when we are denied damage control tags repeatedly. My suggestion is to increase the number of antlerless tags that can be an issue – Also to issue a second antlerless tag to bow hunters to allow them to harvest a few cows without losing their opportunity to pursue a trophy bull, additionally suggest having five tags per problem field to be issued year round as damage tags without a 30 day expiration rule. Damage tags need to be issued as an additional permit to allow hunters to have the opportunity to hunt bulls during the general season while still being able to reduce the elk population. Many hunters will not accept a damage control tag if they are going to lose their chance to hunt bulls. I fear without a reduction of the elk population we will need to have a conversation about compensating for crop loss.
Derek Berger	Provided written testimony. This written testimony is available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp
Ryan Stadleman, North Plains	Provided written testimony. This written testimony is available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp
Tad Vanderzanden, Hillsboro	So much damage happens after March 31 st and will year round. I don't know what our options are in April, May June and July.

<i>Mike Vandehey, Banks</i>	<i>Elk damage on private land, is taking money out of pocket of my family's, they are destroying crops, and other duties are not being taken care of because chasing animals out of crops. These are state owned animals and I am feeding them. This is occurring year round. Current policies are not able to address this issue. Find a solution to address elk damage across multiple tax lots that can be used year round.</i>
<i>Dave Vanash, Cornelius</i>	<i>There are an abundance of elk in the foothills of northern Washington County. Dairy Creek Valley this year we planted red clover, the elk eat all of the heads off the clover in the summer and destroy the fields with hoof prints. I don't hunt in the area and many hunters don't like to hunt here because of the houses. I would like to see them moved physically to an area that does not have as many number of them.</i>

<i>Bi- State Columbia River Fishery Reform</i>	
<i>Steve Fick,</i>	<i>As we go through this process and we review in March, stay with the facts; look at the biology; and the economics of this. I strongly suggest getting an independent economist that has not worked for anyone on either side of this issue. We need to stay with the plan, all of the plan. One of the promises made was that we were going to be 117% better off – we are not even close to that and are not seeing that happening; it is going the other way. The other thing that we need to be concerned about as you go forward with this plan is long term funding for the artificial propagation fish and what is going to happen in these areas that this is proposed to occur in? There are areas that are set for potential development that will be in direct conflict with these select areas, we have mitigation projects going on; all of these things become more complex. There is an overriding concern is how we treat each other, and fairness defines who we are both as individuals and as a state. There is ways to build resolution if we all can sit-down at the table together. As we have in the past, work together, many of the people that are at odds right now have successfully worked together in the past to get us to these record runs that we have on the Columbia River right now.</i>
<i>Mike Wullger, Commercial Fisherman</i>	<i>We are trying to make the science fit the plan, as the science is coming in we are seeing some real problems that keep developing – one is on the Youngs Bay the selects are coming up short, last year the sport fisherman did fine with</i>

	<p><i>the bubble in place. I hope that the Commission looks hard at the science and not he said she said type stuff.</i></p>
<p><i>Tim Heuker, Commercial Fisherman, Advisor</i></p>	<p><i>Yesterday we had an advisory meeting and spent a lot of time talking about sturgeon and smelt; what is coming down the line the first of the year. We are a long ways away from all of the pieces of the puzzle fitting. We need to get this stuff out on paper so that we can actually see it and make some kind of plans.</i></p>
<p><i>Heath Heikkila, Policy Advisor, Coastal Conservation Association Oregon</i></p>	<p><i>Provided an overview of the Columbia River fisheries, why they are unique and talk about an overview of this plan. There has been a large shift to selective fisheries over the past two decades. Targeting the unlisted hatchery fish vs. the wild fish; trying to avoid harvest to get those fish back to the spawning grounds, harvest those fish and reduce interaction between hatchery fish wild fish, and also to get those wild fish back to hatcheries to improve brood stock. Columbia River fisheries and hugely popular and are growing in popularity totaling about 350,000 people. There is a controversy about the use of gillnets, this the only river in Oregon where gillnets are used currently, a big part of the plan was to transition away due to some of the selective issues. There has been years of debate on this topic.</i></p> <p><i>The over view of the plan, the three legs of the stool basically are significant investment in off channel hatchery production-increase hatchery returns to those off channel areas to make gillnet harvest increase there, and the economic value has been delivered, the Commercial X Vessel value in 2014 was over 6 million dollars. We are exceeding the numbers that were included in that policy. The plan had a prioritization of mainstem recreational fisheries because of their value. It is about making these fisheries as selective as possible to harvest as many of the hatchery fish, get the economic benefit, and get the wild fish up river.</i></p> <p><i>A transition to selective commercial gear is a big part of the plan; this is the area that I am most concerned in the plan. We are behind schedule. There are concerns about mortality rates for these seines, this gear was very effective in initial trials, in 2011 the immediate mortality rate was less than 1%, we have had a morality rate that was adopted that approaches 30% to 40% that is out of line with what the observed mortality was.</i></p> <p><i>Recommendations provided in handouts. This handouts is</i></p>

	<p>available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp</p>
<p>Jim Martin, Conservation Director, Pier Fishing</p>	<p><i>We have read the testimony from the Seaside meeting and appreciate the opportunity to respond with some facts. The fact of the matter is that this restructuring is working in terms of promoting viable recreational and commercial fisheries in the Columbia. It is working in terms of figuring out more flexible management structure, which is going to be very handy to the department when they are faced with a highly fluctuating environment in the future. Essentially what this Columbia River harvest restructuring is about is getting ready for the future. Unfortunately the debates usually focus on the past, but we are thinking about the future.</i></p> <p><i>I would like to summarize the bottom line presented in our graph, our chart, and testimony for you to think about why It's important to stay the course, continue to implement the plan, evaluate it after 2016 and determine where it should go from there in the future.</i></p> <p><i>The first point is improved economics, look at how many fish are caught each fishery and consider the economic value. I appreciate the testimony earlier by Mr. Fick who said you should get an independent outside expert that is not imbued in anyone's industry. Getting a credible outside evaluation to sort out of the fact. We would strongly support this.</i></p> <p><i>The second point is we are getting better conservation of non-target fish by moving more of the spring/summer commercial fishery into the safe area and less out in the mainstem. We have very stringent restraints on non- target wild spring Chinook, summer Chinook and steelhead.</i></p> <p><i>We are getting the value to the commercial fishery without burning so much uncertainty on non-target fish.</i></p> <p><i>The third point, we are getting better funding for the conservation mission. The comment earlier of where the department is in terms of it budget, was very relevant to what we are talking about. We participated in the legislature in the fee increase hearings – we pointed out that every time you increase fees on an individual basis you lose anglers. We cannot price ourselves out of the market by raising rates. The future is expanding the base, particularly expanding the economic base on the tourist industry that on a per fish basis</i></p>

	<p><i>brings the best fee structure to support the conservation mission.</i></p> <p><i>Fourth is reduce social conflict - vast majority of people think that this is a better strategy for having commercial and recreational fisheries and having the flexibility built into the system to deal with the fluctuations of dealing with that are going to come in from dealing with a very challenging future.</i></p> <p><i>There are factors involved in a challenging future as we get ready for it. Shifting climate is going to create more fluctuations; shifting in conserving species that are going to tighten us down; and very tight budgets.</i></p>
<p><i>Bob Rees, Executive Director Association of Northwest Steelheaders</i></p>	<p><i>Some key bullet points when evaluating the safe area plan: Enhance safe areas program, in recent year's safe hatchery production has increased– the hatchery production promise under the plan are largely being met. Much of the increase safe production and other parts of the plan are mainly being funded by sport angles. The claims of economic harm are not supported by facts do not support the claims. Landings data from ODFW show that over 75% of the Oregon's gillnetters fleet have had landing is the safe area fisheries.</i></p> <p><i>SB 830 transition fund to mitigate for demonstrate able economic harm, and to provide assistance to transition to selective gear under the plan. Since SB 830 has been implemented not a single lower river county has applied for this money to provide for assistance.</i></p> <p><i>In regard to the revenue provided to the department – it is important to consider the license revenue received for these fisheries.</i></p>
<p><i>Grant Putnam, President Northwest Guides & Anglers Association</i></p>	<p><i>Our industry represents a transfer of wealth from urban to real rural Oregon communities; our guided customers typically spend \$290 for every angler user day. Commercial fisheries have met and exceeded the economic projections outlined in the bi-state plan; exceeding the harvest level in the years immediately prior to the implementation of the plan in 2013. The plan is succeeding. Key recreational fisheries are experiencing an increase and in some cases near record numbers of angler trips corresponding. Economic value to both Oregon and Washington large returns have played a part. Both sectors have seen an increase in fishing, harvest and revenues under the bi-state plan. Since SB 830 has</i></p>

been implemented not a single lower river county has applied for this money to provide for assistance. They clearly have not needed it.

It is important to consider the license revenue the department receives from these fisheries. The recreational fishermen shoulder the lion's share of the burden when it comes to funding this agency. The Columbia River recreational anglers generate tens of millions in license and endorsement revenue generated each year being used toward important conservation and management activities.

You have heard our members justifiably belly ache about fee increases- that is not what the belly arching is about. It's about taxation with representation, parity and opportunity between sport and commercial fisheries. We want a robust agency, we want those 30 positions that we lost reinstated and filled, we want our hatcheries operating at full capacity, and a habitat division robust to continue our mission of restoring wild salmon runs.

Many of our members introduce fishing to younger generation of anglers; the Columbia River is often where it happens. This fishery is a gateway to a lifetime advocate.

1
2 Commissioner Wolley- has the department considered a *credible outside economic*
3 *analysis?*
4

5 *Director Melcher- it is something that we should consider as we move forward. We will*
6 *be bringing to you a formal staff review in 2016.*
7

Family Fishing Camp

Stevie Parsons

Northwest Steelheaders are doing a Family Fish Camp January 15 through 17, 2016 in Tillamook County at Camp McGruder. We are expecting 150 to 200 community members. We plan to teach them how to safely fish and enjoy the outdoors. We would like to ask for you to consider using one of the four free fishing days on January 17th for this northern coast event. This would show stewardship. We need to engage youth now or we will lose them, so many are already lost in computers, TV and video games.

8
9 **Exhibit A: COMMISSION MINUTES**
10

1 The Commission considered approval of the January 9, March 6, July 27, and
2 September 4, 2015 Commission minutes.

3
4 *Action:*

5 Commissioner Anderson moved to approve of the January 9, March 6, July 27, and
6 September 4, 2015 minutes. Commissioner Wolley seconded the motion, and the
7 motion carried unanimously.

8
9 **Exhibit B: Restoration and Enhancement Project Approval**

10 *The Commission will be asked to approve the Restoration and Enhancement Board's*
11 *recommendations for project funding.*

12 *Staff: Kevin Herkamp, STEP and R&E Program Coordinator*

13 *Public Testimony*

14 *Approval*

15 *Staff Presentation:*

16 *This presentation is located in the commission material and can be viewed at*
17 http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp

18
19 *Action:*

20 Commissioner Webber moved to approve recommendations of the Recreation and
21 Enhancement Board. Commissioner Anderson seconded the motion and the motion
22 was carried unanimously.

23
24 **Exhibit C: Recompensable Assistance (HB3315)**

25 *The Commission will be asked to adopt rules regarding recompensable assistance to*
26 *agencies*

27 *Staff: Bill Herber, Deputy Director for Administration*

28 *Public Testimony*

29 *Rulemaking*

30 *Staff Presentation:*

31 *This presentation is located in the commission material and can be viewed at*
32 http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp

33
34 *Action:*

35 Commissioner Wolley moved to amend OAR Chapter 635 Division 001 as proposed by
36 staff relating to reporting on rendering recompensable assistance to other state
37 agencies. Commissioner Buckmaster seconded the motion and the motion was carried
38 unanimously.

39
40 **Exhibit D: Wildlife Control Operators**

41 *The Commission will be asked to approve amendments to Division 435 Rules, Wildlife*
42 *Control Operators*

43 *Staff: Rick Boatner, Wildlife Integrity Coordinator*

44 *Public Testimony*

45 *Approval*

46 *Staff Presentation:*

1 This presentation is located in the commission material and can be viewed at
2 http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp
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Testimony: Scott Beckstead HSUS	<i>Provided written testimony. This written testimony is available in the meeting materials and at http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp</i>
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4
5 *Action:*
6 Commissioner Atkinson moved to adopt staff recommendations to amend OAR 635
7 Division 435. Commissioner Webber seconded the motion and the motion was carried
8 unanimously.
9

10 **Exhibit E: Wildlife Rehabilitation**
11 *The Commission will be asked to adopt staff recommendations for Wildlife*
12 *Rehabilitation Rules.*
13 *Staff: Colin Gillin, State Wildlife Veterinarian*
14 *Public Testimony*
15 *Rulemaking*
16

17 *Staff Presentation:*
18 *This presentation is located in the commission material and can be viewed at*
19 *http://www.dfw.state.or.us/agency/commission/minutes/15/12_december/index.asp*
20

Public Testimony	
Scott Beckstead	Generally we believe that relocation should be an option. We believe generally that good hearted people trying to do the right thing should not be punished for trying to do the right thing. Rehabiliters should be able to save all types of animals, whether it is an opossum, raccoon or any wild animal that is in trouble. There should be transparency reporting for ODFW to provide the public with information what animals are coming in and what happens to an animal when it leaves a facility.

21
22 *Action:*
23 Commissioner Anderson moved to adopt staff reconditions to amend the Wildlife
24 Rehabilitation rules and renumber the rules as part of a new Division 062 in Chapter
25 635 of the Oregon Administrative Rules, as shown on Attachment 3. Commissioner
26 Wolley seconded the motion and the motion was carried unanimously.
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1 **OTHER BUSINESS**

2 **Executive Session**

3 *The Commission will hold an executive session as authorized by ORS 192.501(37) to*
4 *review information related to an ongoing audit of a public body, as defined in ORS*
5 *174.109 that is in the custody of an audit organization operating under nationally*
6 *recognized government auditing standards. This report is confidential until the auditor*
7 *issues a final audit report in accordance with those standards.*

8
9 Returned to regular session at 2:15 p.m.

10
11 **OTHER BUSINESS**

12
13 **Briefing on Cascade Locks, Nestle water exchange.**

14 In 2010 at the request of Governor Kulongoski the department began working on a
15 project with Cascade Locks related to their interest in bringing a bottled water facility
16 into the city as an economic development project. We've been working on this over the
17 last six years. In April we talked about changing our process to a water rights cross
18 transfer instead of a water exchange process that we had been proceeding under.
19 About three weeks ago Governor Brown requested that we go back to the exchange
20 process. To withdraw our application for the transfer of water rights cross transfer and
21 go back to the exchange proceedings. She was interested in the additional public
22 review component under the exchange process.

23
24 **Denman Wildlife Area: Memorial for Donald K. Denman**

25
26 The Wildlife Area outside of Medford is named after his father, we could add Don's
27 name to the Wildlife Area.

28
29 Oregon Department of Fish and Wildlife Memorial - draft a memorial to be adopted at a
30 Commission meeting, and present it at the service. Commissioner Atkinson suggested
31 to call this the "Oregon Department of Fish and Wildlife Memorial". This will give the
32 department a vehicle to recognize service. The term memorial may not be appropriate
33 for all occasions, give consideration to what we choose to name this.

34
35 **2016 Proposed Commission Meeting Dates**

36 Approved as proposed.

37
38
39 Chair Michael Finley adjourned the meeting at 2:38PM p.m.