



Oregon Fish and Wildlife Commission Minutes

Meeting:

Friday, January 20, 2017 – 8:00 a.m.
Oregon Department of Fish and Wildlife
Commission Room
4034 Fairview Industrial Drive S.E.
Salem, Oregon 97302

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2 *Commission minutes are considered draft until approved by the*
3 *Commission.*
4

5 Notice of these meetings had been made by press release of statewide media
6 circulation. Those attending part or all of the meeting included:
7

Michael Finley, Chair	Curt Melcher, Director
Bob Webber, Commissioner	Shannon Hurn, Deputy Director
Holly Akenson, Commissioner	Erin Donald, Assistant Attorney General
Greg Wolley, Commissioner	Anika Marriott, Assistant Attorney
Laura Anderson, Commissioner	Michelle Tate, Executive Assistant
Bruce Buckmaster, Commissioner	
Jim Bittle, Commissioner	

8
9 **MEETING**

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11 On Friday, **January 20, 2017 at 8:05 a.m.**, Chair **Michael Finley** called the **Oregon**
12 **Fish and Wildlife Commission** (the Commission) meeting to order.

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14 **DIRECTOR'S REPORT**

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16 Field Reports – in written form only; *this report is available in the meeting materials and*
17 *at http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp*
18

19 **Adopt Temporary Rules**

20 Curt Melcher, Director, requested the Commission ratify the following temporary rules.
21 The four (4) temporary rules were previously adopted by the director under his
22 emergency action authority.

23
24 **1) 635-004-0355**

25 **In-season Adjustments to Commercial Nearshore Black Rockfish Fishery Trip**
26 **Limits**

27 Adopted November 8, 2016: effective November 10, 2016 through December 31, 2016.

28 The amended rule implements changes to in-season trip limits for the Oregon
29 commercial nearshore black rockfish fishery that were inadvertently omitted from a
30 previous filing of this rule. Trip limits for black rockfish increased from 1600 to 2400
31 pounds in period 4; from 1400 to 2200 pounds in period 5; and from 1000 to 1800
32 pounds in period 6.
33

1 **2) 635-005-0505**

2 **Commercial Bay Dungeness crab Fishery Closes Due To Shellfish Health Closure**

3 Adopted November 21, 2016: effective November 21, 2016 through December 31,
4 2016.

5 This amended rule closes the commercial bay Dungeness crab fishery due to
6 issuance of a shellfish health closure by the Oregon Department of Agriculture. Existing
7 permanent rule language does not adequately address closure of commercial
8 Dungeness crab fisheries due to unsafe levels of bio toxins. Rule modifications are
9 needed to close the fishery and to re-open the fishery when the shellfish health closure
10 has been lifted.

11 **3) 635-005-0465**

12 **Commercial Dungeness crab Fishery Opener Delayed Due to Unsafe Levels of**
13 **Domoic Acid**

14 Adopted November 23, 2016: effective November 23, 2016 through May 21, 2017.

15 This amended rule delays the opening of the 2016-2017 commercial Dungeness
16 crab season in the Pacific Ocean and Columbia River due to elevated levels of the bio
17 toxin domoic acid detected in samples of crab viscera during preseason testing. The
18 season opening set in permanent rule is December 1. A new opening date for these
19 fisheries has not been set, will depend on the results of further testing, and may differ
20 regionally. Commercial Dungeness crab fisheries in bays and estuaries have already
21 been closed in accordance with the provisions of Temporary OAR 635-005-0505(2) (e)
22 which became effective November 21, 2016.

23 **4) 635-021-0090**

24 **Sprague River Closed to Angling January 23 through April 21, 2017**

25 Adopted January 17, 2017: effective January 23, 2017 through April 21, 2017.

26 This amended rule modifies the recreational season on the Sprague River in the
27 Southeast angling zone. The Sprague River will be closed to all angling beginning
28 January 23 through April 21, 2017. Closing the Sprague River during this time frame will
29 protect redband trout from angling pressure and mortality associated with handling and
30 harassment. The season will reopen to angling on April 22, 2017. Adfluvial redband
31 trout are repeat spawners, thus the excessive stress placed on these fish from
32 spawning and harassment by anglers would reduce their chances of survival and have
33 repercussions on future fisheries in Upper Klamath Lake and the Williamson River.

34 Action: Commissioner Webber moved to ratify the three temporary rules set out on
35 today's tan agenda, plus a fourth temporary rule, 635-021-0090 dealing with the closure
36 on Sprague River. Commission Chair Finley seconded the motion, and the motion
37 carried unanimously.

38 **Alternative Funding Task Force Recommendations**

39 A presentation will be provided to the Commission on final recommendations of
40 Alternative Funding Task Force. Briefing.

41 Presenters: Jim Owens, Task Force Facilitator

1 *This presentation is located in the commission material and can be viewed at*
2 http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

3
4 **Public Survey Briefing**

5 Presentation to Commission on results of public opinion survey conducted for
6 Alternative Funding Task Force.

7 Presenter: Mark Damian Duda; Responsive Management

8
9 *This presentation is located in the commission material and can be viewed at*
10 http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

11
12 The full 567 page report is available on the department website at
13 http://www.dfw.state.or.us/agency/docs/OR_2016_Legislative_Survey_Report_2017_01-05.pdf

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16 **Exhibit A: COMMISSION MINUTES**

17 The Commission will be asked to approve draft November 9 Commission meeting
18 minutes and deferred the December 2, 2016 to a future meeting.

19
20 *Action:*

21 Commissioner Webber moved to approve the November 9, 2016 with any grammar and
22 spelling changes needed; and to deferred the December 2, 2016 meeting minutes.
23 Commissioner Anderson seconded the motion and the motion was carried unanimously.

24
25 **Exhibit B: PROTECTED WILDLIFE HOLDING AND PROPAGATING**

26 The Commission will be asked to adopt staff recommendations for Protected Wildlife,
27 Holding and Propagating Rules.

28 Staff: Colin Gillin

29 Public Testimony

30 Rulemaking

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32 *Staff Presentation: This presentation included background on protected wildlife rules, an*
33 *overview of earlier draft rule revisions, new issues, and stakeholder/public review.*

34
35 *This presentation is located in the commission material and can be viewed at*
36 http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

37
38 *Public Testimony*

39 *Testimony provided for this agenda item begins at 2:07 on the audio recording*
40 *provided in the Commission materials at*

41 http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

42

Martha Pagel, Wildlife Images	
Brian Posewitz, Humane Society	Provided written testimony.
Chris Rombough	Provided written testimony.
Jesse Short	

Cory Paterson	
Molly Schoufer	
Ronald Sonnenbury, Talented Animals	Provided written testimony.
Teralee Harral	
Emily Jenkins, Oregon skunk Owner	Provided written testimony.
Bill Ahlquist, Oregon Skunk & Raccoon owner	Provided written testimony.
Brian Tenney, West Coast Game Park	
Debra Burke, A walk on the Wildside	Provided written testimony.
Laura Henry,	
Jeff Buccello, A walk on the Wild side	Provided written testimony.
Curt Wilcox, Houndsman	
Carol Clark, NWSA	Did not testify

1
2 Written testimony and documents provided to the Commission have been entered into
3 the record and can be viewed at

4 http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp
5

6 *Action:* Commissioner Webber moved to amend OAR Chapter 635, division 044 as
7 proposed by staff in Attachment 3; Supplemental 1 and 2 to Attachment 3; and
8 Attachment 4. Commissioner Wolley seconded the motion and the motion was carried
9 unanimously.

10
11 **Exhibit C: SCHEDULE OF DAMAGES FOR COMMERCIAL FISHING VIOLATIONS**

12 The Commission will be asked to adopt the schedule of damages used in assessing
13 commercial fishing violations during 2017.

14 Staff: Aaron Jenkins, Economist
15 Public Testimony
16 Approval

17
18 *Staff Presentation: This presentation included information on ORS 506.720;*
19 *annual update of average market values and average market values changes to OAR*
20 *635-006-0232.*

21
22 *This presentation is located in the commission material and can be viewed at*
23 http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp
24

25 No Public testimony

26
27 *Action:*

28 Commissioner Anderson moved to amend the Schedule of Damages for Commercial
29 Fishing Violations contained in OAR 635, division 006-0232 as proposed by staff in
30 Attachment 3. Commissioner Webber seconded the motion and the motion was carried
31 unanimously.

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33 **Exhibit D: Columbia River Fisheries Reform**

34 The Commission will be asked to adopt staff recommendations on Columbia River
35 Fisheries Reform for 2017 and beyond.

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Staff: Ed Bowles, Fish Division Administrator
Chris Kern, Deputy Fish Division Administrator
Tucker Jones, Ocean Salmon and Columbia River Program Manager
John North, Columbia River Fishery Manager
Public Testimony
Rulemaking

Staff Presentation: This presentation included information about Columbia River Fisheries Reform; a summary of the Washington Fish and Wildlife Commission decision; economic modeling updates; Mitchell Act updates; transition period summary phased allocation shifts, transition period summary off channel enhancements; off channel expansion, and alternative gear evaluation; conservation enhancements; conservation fishery; concurrent management with Washington; modeling approaches; additional scenarios evaluated; full policy implementation, adaptive management freeze transition, rebalance plan; enhanced commercial rebalance plan, 75/25 enhanced commercial rebalance, commercial gillnet industry proposal; and economic comparison summary.

This presentation is located in the commission material and can be viewed at http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

Director Melcher read a letter from Senator Girod into the record. This letter can be viewed at:
http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/Ltr_Senator_Girod_C_RFR_1_20_2017.pdf

Chair Finley read Governor Kitzhaber’s letter into the record. This letter can be viewed at:
http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/letter%20from%20kitzhaber%20112816.pdf

Public Testimony
Testimony provided for this agenda item begins at 4:53 on the audio recording provided in the Commission materials at http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

Conservation Community Panel	
Tom Wolf, Trout Unlimited	Provided written Testimony.
Paige’ Spencer	
Guido Rahr, Wild Salmon Center	
Commercial Fishery Panel	
Jim Wells, Salmon for All	Provided a document, Commercial Industry Proposal.
Robert Sudar, Fall Creek Fish Company	
Greg Johnson, commercial fisherman	

Steve Fick, West Coast Sesfood Processors Association (WCSPA)	
Thomas V. Dulcich	Provided written testimony.
Sport Fishing Panel	
Heath Heikela, Costal Conservtion Association (CCA)	
Bob Rees, Northwest Steelheaders	Provided written testimony.
Liz Hamilton, Northwest Sportfishing Industry Association	Provided written testimony.
Bruce Polley, CCA	
Public Testimony	
Brad Halverson	Provided written testimony.
Scott Mills	
Larry Deck, Sport fisher	Did not testify
Kevin Brisbois	
Eric Anderson, CCA	Did not testify
Mark Tarabochia Jr.	
Jim Fowler, Big Game Fishing	Did not testify
Arthur Prulx, MWVAG	Did not testify
Garry Morlock, Pacific Seafood	Provided written testimony.
Derek Wall, commercial fisherman	
Kyle Smith , commercial fisherman	
Mike Shirley, commercial fisherman	Did not testify
Jonathan Anderson, Salmon for All (SFA)	
David Quashnick Jr., SFA	
Joe Quashnick, SFA	Provided written testimony.
David Quashnick, SFA commercial fisherman	
Ryan Taraochia, commercial fisherman	
Cary Johnson, commercial fisherman	
Rawoy Wall, commercial fisherman	
Lonn C. Sweeney, sports fisherman	
Kevin Hawkins Jr. commercial fisherman	
Otis	
William Hunsinger, Port of Astoria	
Rick Quashnock, commercial fisherman	
Thomas j. Cronin, sport fisherman	
Larry Ponn, commercial fisherman	Did not testify
Greg Gilmore, commercial fisherman	Did not testify
Dean Graham, commercial fisherman	
Tim Buckendahl, commercial fisherman	Provided written testimony.
Brian Kamp, commercial fisherman, fish buyer	
Darren Crookshaunks, fisherman, fish buyer	
Brice Divine, commercial fisherman	
Todd Nicholas, sport fisherman	Did not testify
Brian McLachlan, NW Steelheaders	Provided written testimony.

Donald Williams, sport fisherman	Did not testify
Roger Stecker, gillnet fisherman	
Brad White, gillnet fisherman	
Randy Woolsey, NSIA	
Jim Coleman, fisherman	
Jeff Poveche, commercial fisherman	
Mike Okoniewski, Pacific Seafood	Provided written testimony.
Grant Putman, NE Guides & Anglers	
George Barton, CCA Sport fisherman	Did not testify
Louise Johnson, CCA	Did not testify
Jeremy Olson, commercial fisherman	
Jon Haas,	Did not testify
Herman Fleishman, CCA, Oregon Guide Association	Did not testify
Dana Roberts, CCA	Did not testify
Myron Young, CCA	Did not testify
Tim Hyker	Did not testify
Jerry Baily	Did not testify
Dawn Shaw	Did not testify
Alex Hendricks	
John Horak, fishing gear store owner	
Michael Glass, tackle shop owner	

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Written testimony and documents submitted to the Commission have been entered into the record and can be viewed at http://www.dfw.state.or.us/agency/commission/minutes/17/01_jan/index.asp

Commissioner Bittle stated a potential conflict of interest. The nature of the potential conflict is ownership of a boat company. (8:17 on recording)

Discussion:

Commissioner Akenson read the following statement into the record.

Columbia Fisheries Management and Reform is a very complex issue. I want to thank ODFW staff for continuing to provide the Commission with additional information, analyses, and clarifications. Your efforts and expertise have helped guide us to the best solution for the state of Oregon.

It is time for our Commission to finalize the Columbia River Fisheries Reform Policy for Oregon and Washington. In 2012 I voted to support the Reform Policy, including its transition period, additional funding for implementation, and adaptive management to address unknow factors that could make the original concept nonworkable relative to the guiding principles. I approach this decision as a conservationist, a professional fish and wildlife biologist, and a citizen concerned with the interests of all Oregonians. My conclusions are primarily based on available data, information, analysis, and science

1 *that addresses the Commission’s obligations as outlined by the Oregon Legislature in*
2 *ORS 508.980.*

3
4 *The original ideals of the Columbia River Fisheries Reform Policy have not been met*
5 *during the transition period. Therefore, adaptive management measures must be*
6 *incorporated in the final Policy.*

7
8 *First, during the transition no alternative gears tested were determined by ODFW to be*
9 *significantly more effective or economically viable than the current use of gillnets or*
10 *tangle nets selectively used in time, place, and mesh size to minimize mortality on wild*
11 *stocks. Only in one potential new “conservation fishery” was a seine determined to be*
12 *the best method for targeted removal of excess hatchery fish headed to wild fish*
13 *spawning areas. I realize “removing gillnets from the mainstem Columbia River” was a*
14 *strong motivator for many people in favor of reform, but simply replacing one source of*
15 *mortality for another does not enhance conservation of ESA listed and other wild stock*
16 *of salmonids. This misconception about conservation was widely promoted by many*
17 *recreational fishers and industry representatives who provided testimony. In reality,*
18 *commercial and recreational fisheries are managed through allocation of “ESA*
19 *Impacts”. If the allocation is 60:40 recreational fishers can kill 60 percent of the ESA fish*
20 *allowed by federal rules as incidental take for Oregon Columbia Fisheries, and*
21 *commercial fishers can kill 40 percent of the allowed ESA fish mortality. If the allocation*
22 *changes to 80:20 then recreational fishers kill 80 percent and commercial fishers kill 20*
23 *percent of the allowable number of endangered fish. The number of endangered fish*
24 *incidentally killed by the combination of fisheries does not change with changing*
25 *allocations. A dead fish is a dead fish, whether it is killed by a gill net, alternative gears,*
26 *or hook and line recreational fishers. In other words, an allocation change itself did not*
27 *provide additional conservation benefits to ESA listed fish survival.*

28
29 *Second, we are obligated to “Optimize overall economic benefits to this state” and*
30 *“Enhance the economic viability of Oregon’s recreational and commercial fisheries and*
31 *the communities that rely on these fisheries.” Of the five scenarios analyzed by ODFW*
32 *staff only two scenarios meet the minimum standard of enhancing economic viability for*
33 *commercial fishers (Salmon for All (SFA) and Enhanced Commercial Rebalancing),*
34 *while all five meet the standard for recreational fishers. Staff modeling indicates that*
35 *overall economic benefits were greatest for the SFA scenario. There have been some*
36 *differences in understanding how economic “effects” of a policy change is evaluated. By*
37 *definition, a comparison of a change in policy MUST be made between the expected*
38 *economic values WITH and WITHOUT policy changes. During the transition run sizes*
39 *have been larger than pre-policy. This has resulted in increased economic benefits to*
40 *both groups, but this is not because of a change in policy, instead, ODFW staff*
41 *demonstrated a mathematical correlation between run size and annual economic*
42 *benefits.*

43
44 *Third, this policy is to “contribute to native fish conservation and recovery.” Staff’s new*
45 *concept of a “conservation set aside” is a prime example of a novel idea to make real*
46 *progress with conservation using both fisheries as conservation tool, and not pointing*
47 *fingers at the other side. We need more innovative ideas like these. We need to focus*

1 *more on conservation of ESA listed species and other wild stocks and less on allocation*
2 *changes. The sooner listed species can be recovered, the sooner all fisheries will*
3 *experience less limitations on harvest opportunities.*

4
5 *Analysis of the transition period has demonstrated that the original policy we were*
6 *working toward is not viable and does not comply with ORS 508.980, failing in economic*
7 *terms and performance of alternative gear types. This may be discouraging for some*
8 *fishers, but we need to use facts, not opinions, to guide Columbia River fisheries*
9 *management. The best alternative all around is somewhere between the SFA scenario*
10 *and the Enhanced Commercial Rebalance. They both enhance recreational and*
11 *commercial fisheries economics and provide the best overall economics of all*
12 *scenarios. Although they continue mainstream gillnet or tangle net fisheries, not all*
13 *alternatives were found better. The SFA and Enhanced Commercial Rebalance*
14 *scenarios are not concurrent with Washington, but it is more important for Oregon to do*
15 *what best for Oregonians. We must comply with the laws of Oregon.*

16
17 **Action:**

18 Commissioner Webber moved to amend applicable OAR to concur with Washington
19 except for the two year limitation, with the barbless regulation change, and Young's Bay
20 control zone elimination. Chair Finley seconded the motion.

21
22 Chair Finley withdrew his second for this motion. Commissioner Bittle seconded the
23 motion. Motion failed with a vote of: in favor (2) Webber, Bittle; opposed: (5) Anderson,
24 Buckmaster, Wolley, Akenson, and Finley.

25
26 Commissioner Anderson proposed an alternate motion.

27
28 Commissioner Anderson moved to adopt the Enhanced Commercial Rebalance Plan as
29 outlined in exhibit D with the following change; the continuation of the Young's Bay
30 control zone. Commissioner Buckmaster seconded the motion.

31
32 Motion passed with a vote of: in favor (4) Anderson, Buckmaster, Wolley, Akenson;
33 opposed (3) Webber, Bittle, Finley.

34
35 **OTHER BUSINESS**

36
37 Chair Michael Finley adjourned the meeting at 7:35 p.m.

38