



Meeting:
Friday, July 9, 2021 – 8:00 AM
Oregon Department of Fish & Wildlife
40334 Fairview Industrial Dr SE
Virtual
Salem, Oregon 97302

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

3

Mary Wahl, Chair	Curt Melcher, Director
Greg Wolley, Vice- Chair	Erica Kleiner, Deputy Director
Bob Spelbrink, Commissioner	Shannon Hurn, Deputy Director
Mark Labhart, Commissioner	Erin Donald, Assistant Attorney General
Jill Zarnowitz, Commissioner	Mary Newcomb, Fish Division Operations Assistant
Becky Hatfield-Hyde, Commissioner	Doug Cottam, Wildlife Division Administrator
Kathayoon Khalil, Commissioner	

4

5 **MEETING**

6

7 On Friday, **July 9, 2021, at 8:15 AM, Chair Wahl called the Oregon Fish and Wildlife**
8 **Commission** (the Commission) meeting to order.

9

10 Commissioner Zarnowitz read the following statement into the record: “For the record, I would
11 like to state that between 2003 and 2006 my husband was employed by the US Fish and Wildlife
12 Service and was involved in marbled murrelet related work. He has not provided me any advice on
13 today’s decision and the decision I am making today is based on the information available to the
14 Commission.”.

15

16 **EXHIBIT A:**

17 The Commission evaluated the biological assessment of the Marbled Murrelet in Oregon,
18 and the criteria under the Oregon Endangered Species Act (ESA) for reclassification and
19 survival guidelines for the Marbled Murrelet under the Oregon ESA.

20 Staff: Martin Nugent, Threatened, Endangered, and Sensitive Species Coordinator
21 Rod Krahmer, Forest Program Coordinator

22

23 *This presentation is located in the commission material and can be viewed at*
24 https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/index.asp.

25

26 **Marbled Murrelet Guest Panels**

27 Invited Guest Panel Number 1

- 28 • Quinn Read, Center for Biological Diversity
- 29 • John Mellgren, Western Environmental Law Center
- 30 • Joe Liebezeit, Portland Audubon
- 31 • Sristi Kamal, Defenders of Wildlife

32

1 This presentation is located in the commission material and can be viewed at
2 https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Marbled%20Murrelet%20Pre
3 [sentation_Panel%201_7-9-21.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Marbled%20Murrelet%20Pre)

4 Invited Guest Panel Number 2

- 5 • Fran Cafferata Coe- Certified Wildlife Biologist, Cafferata Consulting
- 6 • Tom Dober- President, Banks Rock Products Inc.
- 7 • Tom Sharp- President, Oregon Cattlemen's Association
- 8 • Kirk B Maag- Attorney, Stoel Rives LLP

9
10 This presentation is located in the commission material and can be viewed at
11 https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Marbled%20Murrelet%20Pres
12 [entation_Panel%202_7-9-21.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Marbled%20Murrelet%20Pres)

13
14 **Public Testimony:**

NAME, CITY	AFFILIATION
David Brock Smith, Port Orford	State of Oregon – Representative, District 1
John Sweet, Coos Bay	Coos County Commission
Lindsay Adrean, Pacific Northwest	American Bird Conservancy
Teresa Bird, Port Orford	Kalmiopsis Audubon Society
Amanda Astor, Eugene	Associated Oregon Loggers
Jennifer Wolfson, Beaverton	
Meghan Tuttle, Salem	Weyerhaeuser
Andrew Kittel, Waldport	Lincoln County - Oregon Small Woodlands Association
Seth Barnes, Salem	Oregon Forest & Industries Council
Heath Curtiss, Silverton	Hampton Lumber
Bethany Cotton, Ashland	Cascadia Wildlands
Danielle Moser, Portland	Oregon Wild
Marty Farrell, Eugene	
Elie Steinberg, Portland	Citizen
Nora Sherwood, Lincoln City	Lincoln City Audubon Society
Sarah Miranda, Portland	Oregon Farm Bureau
Kat Balogh, Scappoose	
Bob Sallinger, Portland	Audubon Society of Portland
Glen Crouch, Salem	
Jenniffer Bakke, Corvallis	Hancock Forest Management

15
16 **Rulemaking:**

17 Commissioner Zarnowitz moved to reclassify the listed status of the Marbled Murrelet in Oregon
18 to endangered under the Oregon Endangered Species Act because (1) the survival of the species
19 has diminished such that the species is in danger of extinction throughout any significant portion of
20 its range within Oregon. The motion was seconded by Vice-Chair Wolley. Motion carried with
21 four (4) in favor: Zarnowitz, Wolley, Wahl, Khalil and three (3) opposed: Hatfield-Hyde,
22 Spelbrink, Labhart

23
24 Commissioners discussed the following three factors below (a, b, & c) and voted:

1 **a) That most populations of the species are undergoing imminent or active deterioration**
2 **of their range or primary habitat in Oregon.**

3 Vice-Chair Wolley moved to determine that most populations are undergoing imminent or active
4 deterioration of their range or primary habitat in Oregon. The motion was seconded by
5 Commissioner Khalil. The motion carried with four (4) in favor: Commissioners Zarnowitz,
6 Wolley, Wahl, Khalil; opposed: Commissioners Hatfield-Hyde, Spelbrink, Labhart
7

8 **b) That overutilization of the murrelet or its habitat for commercial, recreational,**
9 **scientific, or educational purposes is occurring or is likely to occur.**

10 Chair Wahl moved that overutilization of the murrelet or its habitat for commercial, recreational,
11 scientific, or educational purposes is occurring or is likely to occur does not exist. WITHDRAWN
12

13 Commissioner Khalil moved to determine that utilization of the murrelet or its habitat for
14 commercial, recreational, scientific, or educational purposes is occurring or is likely to occur.
15 Motion dies due to lack of a second.
16

17 **c) That existing state or federal programs or regulations are inadequate to protect the**
18 **murrelet or its habitat.**

19 Commissioner Zarnowitz moved that the murrelet is in danger of extinction under the existing
20 state or federal programs, or regulations are inadequate to protect the murrelet or its habitat. The
21 motion was seconded by Commissioner Khalil. Motion carried with four (4) in favor: Zarnowitz,
22 Wolley, Wahl, Khalil; opposed: Hatfield-Hyde, Spelbrink, Labhart
23

24 Chair Wahl moved to reclassify the listed status of the Marbled Murrelet in Oregon to endangered
25 under the Oregon Endangered Species Act because (1) the survival of the species has diminished
26 such that the species is in danger of extinction throughout any significant portion of its range in
27 Oregon and 2) the following factors exist: those factors are (a) **That most populations of the**
28 **species are undergoing imminent or active deterioration of their range or primary habitat in**
29 **Oregon;** and (c) **That existing state or federal programs or regulations are inadequate to**
30 **protect the murrelet or its habitat.** This reclassification will amend OAR 635-100-0125 as
31 drafted by staff in Attachment 3. Further, I move to determine that state lands can play a role in the
32 conservation of the species. Commissioner Wolley seconded the motion. Motion carried with four
33 (4) in favor. Zarnowitz, Wolley, Wahl, Khalil; opposed: Hatfield-Hyde, Spelbrink, Labhart
34

35 **ISSUE 2: Amend Survival Guidelines if the Marbled Murrelet is Reclassified as Endangered**

36 Chair Wolley moved to amend OAR 635-100-0137 as proposed by staff in Attachment 3.

37 Commissioner Hatfield-Hyde seconded the motion. Motion carried with five (5) in favor: Wolley,
38 Spelbrink, Hatfield-Hyde, Wahl, Khalil; opposed: Labhart; absent: Zarnowitz
39

40 **Adopt Temporary Rules**

41 Curt Melcher, Director, requested the Commission ratify the following temporary rules. The 18
42 temporary rules were previously adopted by the director under his emergency action authority.
43

44 **1) 635-039-0085**

45 **Close Recreational Halibut Retention in the All Depth and Nearshore Columbia**
46 **River Subarea Fisheries**

47 Adopted 6/21/2021: effective 6/24/2021 through 9/30/2021.

1 This amended rule closes retention of halibut in all depth and nearshore Columbia River
2 Subarea from June 24 through September 30.

3
4 **2) 635-006-0210**

5 **Require Electronic Fish Tickets for the Commercial Clam Fisheries**

6 Adopted 6/21/2021: effective 7/1/2021 through 8/3/2021.

7 This revised rule requires dealers to submit electronic fish tickets for commercial harvest of
8 intertidal and subtidal clams (except razor clams) beginning July 1, 2021.

9
10 **3) 635-039-0085**

11 **Close Recreational Halibut Retention in the All Depth and Nearshore Columbia**
12 **River Subarea Fisheries**

13 Adopted 6/22/2021: effective 6/24/2021 through 9/30/2021.

14 This amended rule closes retention of halibut in all depth and nearshore Columbia River
15 Subarea from June 25 through September 30.

16
17 **4) 635-041-0076**

18 **Add Periods to Treaty Summer Commercial Gillnet Fishery**

19 Adopted 6/24/2021: effective 6/28/2021 through 7/31/2021.

20 These amended rules authorize the sales of fish caught in Treaty commercial summer gillnet
21 periods scheduled for June 28-July 1 and July 5-8.

22
23 **5) 635-005-0387**

24 **Close Commercial Intertidal Cockle Fishery in Tillamook Bay**

25 Adopted 6/24/2021: effective 6/26/2021 through 11/5/2021.

26 This amended rule closes the commercial Tillamook Bay intertidal cockle fishery on June 26.

27 The annual harvest quota allowed for this fishery is 80,000 pounds, and the fishery is projected
28 to reach that quota on June 25.

29
30 **6) 635-018-0090**

31 **Steelhead Protections in Eagle Creek and Deschutes River Waters**

32 Adopted 6/25/2021: effective 7/1/2021 through 7/14/2021.

33 This amended rule reduces the daily bag limit to one hatchery steelhead per day in the lower
34 reaches of Eagle Creek and Deschutes River from June 16 through July 14 to align with
35 regulations for the adjacent mainstem Columbia River mainstem enacted to provide additional
36 protection for upriver steelhead.

37
38 **7) 635-019-0090**

39 **Steelhead Protections in Lower John Day River Waters**

40 Adopted 6/25/2021: effective 7/1/2021 through 8/31/2021.

41 This amended rule reduces the daily bag limit for hatchery steelhead in the John Day River from
42 June 16 through August 31.

43
44 **8) 635-023-0095**

45 **Open White Sturgeon Retention fisheries in the Mainstem Columbia River**
46 **Downstream of Bonneville Dam**

47 Adopted 6/25/2021: effective 7/1/2021 through 9/30/2021.

1 This amended rule allows the retention of white sturgeon on the mainstem Columbia River from
2 Wauna powerlines upstream to Bonneville Dam September 11 and September 18.

3
4 **9) 635-016-0090**

5 **File Temporary Rule Extensions for the Southwest Zone**

6 Adopted 6/25/2021: effective 7/1/2021 through 9/30/2021.

7 This amended rule incorporates temporary rules that were adopted prior to June 30, 2021
8 (temporary rule end date) with effective dates that extended beyond July 1. This includes
9 rules to:

10 (1) Close all recreational angling in the section of the Rogue River known as the
11 "hatchery hole" located just downstream of Cole Rivers Hatchery Dam from May 1
12 through July 31, 2021.

13 (2) Allow the use of bait, spears, and spear guns to harvest smallmouth bass in the
14 Coquille River (mainstem), East Fork Coquille River, Middle Fork Coquille River,
15 North Fork Coquille River, and South Fork Coquille River (mouth to USFS
16 boundary near Powers) for the period of May 22 through October 31.

17
18 **10) 635-016-0090**

19 **Umpqua and Coquille Rivers Wild Chinook Bag Limit Reduction and Area Closures**

20 Adopted 6/28/2021: effective 7/1/2021 through 9/30/2021.

21 This amended rule modifies bag limits and other measures for harvest of Chinook in the
22 Umpqua and Coquille rivers.

23
24 **11) 635-016-0090**

25 **Prohibit Angling in Umpqua River-Tributary Bubble**

26 Adopted 6/24/2021: effective 7/1/2021 through 9/30/2021.

27 This amended rule closes angling within 200 feet of the junction between any tributary and the
28 Mainstem Umpqua River (including both in the Umpqua River and the tributary) upstream from
29 Scottsburg Bridge (Highway 38) to the River Forks Park Boat Ramp from July 1 through
30 September 30.

31 **12) 635-018-0090**

32 **Regulation Changes Related to High Temperatures, Low Water and Drought**
33 **Conditions in the Central Zone**

34 Adopted 6/30/2021: effective 7/1/2021 through 7/14/2021.

35 These amended rules address fishing regulations related to drought conditions throughout the
36 Central Zone. Fishing will be closed from 2:00 p.m. to one hour before sunrise daily from
37 July 1 through September 30 in the lower Deschutes River from the mouth at the Interstate 84
38 Bridge upstream to Sherars Falls.

39
40 **13) 635-019-0090**

41 **Regulation Changes Related to High Temperatures, Low Water and Drought**
42 **Conditions in the Northeast Zone**

43 Adopted 6/30/2021: effective 7/1/2021 through 8/31/2021.

44 These amended rules address fishing regulations related to drought conditions throughout the
45 Northwest Zone. Fishing will be closed from 2:00 p.m. to one hour before sunrise daily from
46 July 1 through September 30 in all streams, creeks, and rivers upstream from tidewater in the
47 Northwest Zone.

1 Additionally, all angling is closed in the Nehalem River, and all tributaries of the Nehalem
2 River, upstream of the Miami-Foley Road Bridge.

3
4 **14) 635-014-0090**

5 **Regulation Changes Related to High Temperatures, Low Water and Drought**
6 **Conditions in the Northwest Zone**

7 Adopted 6/30/2021: effective 7/1/2021 through 9/30/2021.

8 These amended rules address fishing regulations related to drought conditions throughout the
9 Northwest Zone. Fishing will be closed from 2:00 p.m. to one hour before sunrise daily from
10 July 1 through September 30 in all streams, creeks, and rivers upstream from tidewater in the
11 Northwest Zone.

12 Additionally, all angling is closed in the Nehalem River, and all tributaries of the Nehalem
13 River, upstream of the Miami-Foley Road Bridge.

14
15 **15) 635-016-0090**

16 **Regulation Changes Related to High Temperatures, Low Water and Drought**
17 **Conditions in the Southwest Zone**

18 Adopted 6/30/2021: effective 7/1/2021 through 9/30/2021.

19 These amended rules address fishing regulations related to drought conditions throughout the
20 Southwest Zone.

21 (1) Fishing will be closed from 2:00 p.m. to one hour before sunrise daily
22 from July 1 through September 30 in the following locations:

- 23 • In the North Umpqua River, from the mouth to the marker below Soda Springs
24 Dam
- 25 • The Illinois River from the mouth upstream to Collier Creek
- 26 • The Rogue River from Lobster Creek upstream to Hog Creek.

27 (2) Fishing is closed on the Mainstem Umpqua and North Fork Umpqua rivers from
28 July 1 through September 30 within 200 feet from all portions of a tributary's mouth,
29 and 200 feet upstream into any open tributary in the Mainstem Umpqua River from the
30 Scottsburg bridge upstream to the River Forks Park Boat Ramp and the North Umpqua
31 River from the mouth to the marker below Soda Springs Dam.

32 (3) In the Rogue River from Fishers Ferry Boat Ramp to Dodge Bridge, retention of
33 wild Chinook is prohibited July 1-10.

34 (4) In Howard Prairie and Hyatt lakes, all size (minimum and maximum) and daily
35 limits for gamefish are lifted from July 1 through September 30.

36
37 **16) 635- 017-0090**

38 **Regulation Changes Related to High Temperatures, Low Water and Drought**
39 **Conditions in the Willamette Zone**

40 Adopted 6/30/2021: effective 7/1/2021 through 9/30/2021.

41 These amended rules address fishing regulations related to drought conditions throughout the
42 Willamette Zone. Fishing will be closed from 2:00 p.m. to one hour before sunrise daily from
43 July 1 through September 30 in locations throughout the Willamette Zone.

1 **17) 635-017-0095**

2 **Regulation Changes Related to High Temperatures, Low Water and Drought**
3 **Conditions in the Willamette Zone**

4 Adopted 6/30/2021: effective 7/1/2021 through 8/15/2021.

5 These amended rules address fishing regulations related to drought conditions throughout the
6 Willamette Zone. Fishing will be closed from 2:00 p.m. to one hour before sunrise daily from
7 July 1 through September 30 in locations throughout the Willamette Zone.

8
9 **18) 635-042-0160 and 635-042-0170**

10 **Add 2021 Commercial Fishing Periods in Select Area Commercial Fisheries**

11 Adopted 7/2/2021: effective 7/5/2021 through 7/31/2021.

12 This amended rule adds four 12-hour fishing periods in the Blind Slough, Knappa Slough,
13 Tongue Point, and South Channel Select Area summer commercial fisheries.

14
15 Action:

16 Commissioner Labhart moved to ratify the 18 temporary rules set forth in the today's agenda.

17 Commissioner Hatfield-Hyde seconded the motion, and the motion carried unanimously, six (6) in
18 favor; one (1) absent- Zarnowitz.

19
20 **COMMISSION UPDATES**

21 Consideration of a Wildlife Response Work Group Update

22 The commission supports the development of this working group.

23 [https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Consideration%20of%20a%20](https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Consideration%20of%20a%20Distressed%20Wildlife%20Work%20Group.pdf)
24 [Distressed%20Wildlife%20Work%20Group.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/07_Jul/Consideration%20of%20a%20Distressed%20Wildlife%20Work%20Group.pdf)

25
26 Commissioner Wolley gave an update on the current Beaver Working Groups.

27
28 **ADJOURNED:**

29
30 Chair Wahl adjourned the meeting at 4:34 p.m.