



Oregon Fish and Wildlife Commission Minutes

Tour:
Thursday, February 15, 2024, 11:00
North Clackamas Watersheds Council
Milwaukie Presbyterian Church
2416 SE Lake Road
Milwaukie, OR 97222

Meeting:
Friday, February 16, 2024– 8:00 AM
Hidden Creek Community Center
Hybrid Meeting
5100 NE Hidden Creek DR
Hillsboro, OR 97124

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

Mary Wahl, Chair	Curt Melcher, Director
Becky Hatfield-Hyde, Vice Chair	Shannon Hurn, Deputy Director of Administration
Bob Spelbrink, Commissioner	Debbie Colbert, Deputy Director of Fish and Wildlife Programs
Mark Labhart, Commissioner	Chris Kern, West Region Manager
Leslie King, Commissioner	Bernadette Graham Hudson, Wildlife Division Administrator
	Mike Harrington, Fish Division Administrator
	Sarah Reif, Habitat Division Administrator
	Michelle Tate, Executive Assistant
	Casey Thomas, Captain Oregon State Police
	Anika Marriott, Assistant Attorney General
	Erin Donald, Assistant Attorney General

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MEETING

On Friday, February 16, 2024, at 8:00 AM, Chair Wahl called the Oregon Fish and Wildlife Commission (the Commission) meeting to order.

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DIRECTOR’S REPORT

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Field Reports – in written form only; *this report is available in the meeting materials and at https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/feb%202024%20Field%20Report.pdf*

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Expenditure Report

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Staff: Shannon Hurn, Deputy Director for Administration
Shannon reported for the month ending December 31, 2023, ODFW’s unrestricted cash balance finished at \$58.4 million and restricted cash came in at \$62.1 million, for a total of \$120.5 million in custody at Treasury. Unrestricted cash dropped approximately \$5.5 million from the prior month, but we anticipate the decline will reverse in January. Shannon shared that the agency submitted a preliminary list of 2025-27 policy option packages and 2025 legislative concepts to the Governor’s office on January 22, 2024. The agency will begin meeting regularly with Governor’s Office policy advisors and State Chief Financial Office analyst to develop a 2025-27 Agency Request Budget. We revised our budget development timeline and public engagement efforts to align with preliminary information on the timeline from the Governor’s Office.

1 Due to the change in process the agency is hoping to hold one public meeting in March and a
2 follow-up meeting in May. We will send invitations to the external budget advisory committee
3 members and stakeholder groups and notice the meetings broadly to the public.

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5 *This report is available in the meeting materials and at*
6 https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/Commission%20Financial%20Report%20Feb%202024.pdf
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9 **ADAPTING TO CLIMATE AND OCEAN CHANGE REPORT**

10 Advancing Resiliency of Species in the Face of a Changing Climate: Setting the Stage for 2024.

11 Debbie Colbert, Deputy Director of Fish and Wildlife Programs

12 Shaun Clements, Deputy Fish Division Deputy Administrator

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14 *This report is available in the meeting materials and at*
15 https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/2024%20Climate%20FWC%20Work%20Plan%20021424.pdf
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18 **GIS at ODFW**

19 Cedric Cooney; Natural Resources Data and Systems Manager

20 John Bowers, Geographic Information Systems (GIS) Coordinator

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22 *This report is available in the meeting materials and at*
23 https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/GIS_In_ODFW_20240214%20web.pdf
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26 **Adopt Temporary Rules**

27 Curt Melcher, Director, requested the Commission ratify the following temporary rules. The six
28 (6) temporary rules were previously adopted by the director under his emergency action authority.

30 **1.)635-005-0480**

31 **Waive Replacement Crab Buoy Tag Fee**

32 Adopted 1/29/2024: effective 1/29/2024 through 3/31/2024.

33 This amended rule will allow ODFW to issue replacement buoy tags to fishers without
34 charging for the cost of the tags.
35

36 **2.)635-017-0090**

37 **Allow Temporary Use of Two Rod Validation in the Willamette River**

38 Adopted 1/29/2024: effective 3/1/2024 through 8/28/2024.

39 This amended rule allows use of the two-rod validation while fishing for all species, except
40 sturgeon, in the Lower Willamette River and tributaries from March 1 through August 15,
41 2024, and in the Upper Willamette River from May 1 through July 31, 2024.
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43 **3.)635-005-0290, 635-005-0355**

44 **Implement Adaptive Management Modifications to Both the Intertidal and Subtidal** 45 **Tillamook Bay Commercial Clam Fisheries**

46 Adopted 2/7/2024: effective 2/9/2024 through 8/6/2024.

1 These amended rules will update the annual landing limits for the Tillamook Bay commercial
2 bay clam dive fishery as well as prohibit the commercial harvest of intertidal cockles in
3 Tillamook Bay during all weekends and holidays.
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5 **4.)635-005-0355**

6 **[Correction] Implement Adaptive Management Modifications to the Intertidal and**
7 **Subtidal Tillamook Bay Commercial Clam Fisheries**

8 Adopted 2/9/2024: effective 2/12/2024 through 8/6/2024.

9 These amended rules will update the annual landing limits for the Tillamook Bay commercial
10 bay clam dive fishery as well as prohibit the commercial harvest of intertidal cockles in
11 Tillamook Bay during all weekends and holidays.
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13 **5.)635-041-0063**

14 **Modifications to allow sales in Bonneville, The Dalles, and John Day pools treaty setline**
15 **fisheries**

16 Adopted 2/9/2024: effective 2/9/2024 through 4/30/2024.

17 This amended rule allows the sale of white sturgeon landed during treaty setline fisheries in
18 Bonneville Pool (February 10–12) and The Dalles and John Day pools (February 13-20).
19

20 **6.)635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180**

21 **Adopt Select Area Commercial Fisheries**

22 Adopted 2/14/2024: effective 2/14/2024 through 7/31/2024.

23 These rules implement the 2024 winter, spring, and summer Select Area commercial fisheries
24 from February 15 through July 31. The following fisheries are addressed by these rules:

- 25 • Blind/Knappa sloughs,
 - 26 • Tongue Point/South Channel,
 - 27 • Youngs Bay, and
 - 28 • Deep River
- 29

30 **Action:**

31 Commissioner King moved to ratify the six (6) temporary rules set forth in the tan agenda.
32 Commissioner Labhart seconded the motion, and the motion carried unanimously, five (5) in
33 favor: Labhart, Spelbrink, King, Hatfield-Hyde, Wahl; one (1) absent - Khalil.
34

35 **COMMISSION UPDATES**

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37 **Exhibit A: COMMISSION MINUTES**

38 **Action:**

39 Commissioner Spelbrink moved to approve the January 12 and January 26, 2024, meeting minutes
40 with continued authority to correct grammar and punctuation. Commissioner Hatfield-Hyde
41 seconded the motion, and the motion was carried five (5) in favor; (1) one absent Khalil.
42

43 **OTHER BUSINESS**

44 The Chair presented the need for a delegation to the director to complete the administrative filing
45 associated with the rulemaking record submitted to the Oregon Court of Appeals in Civ:A182213
46 (*Columbia River Keeper et al., v. Oregon Fish & Wildlife Comm'n*)
47

1 Action:
2 Vice-Chair Hatfield-Hyde moved to delegate to the Director finalize development of and signature
3 on behalf of the Commission the response to an administrative filing associated with the
4 rulemaking record submitted to the Oregon Court of Appeals in Civ: A182213 (*Columbia River*
5 *Keeper et al., v. Oregon Fish & Wildlife Comm'n*). Commissioner Spelbrink seconded the motion,
6 the motion carried five (5) in favor Labhart, Spelbrink, King, Hatfield-Hyde, Wahl; one absent -
7 Khalil.

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9 Appointment of an Interim Director

10 The Chair noted that Director Melcher retires on April 1, 2024. With the recruitment for the new
11 director not being completed until May 10, 2024, there is a need to appoint an interim director. At
12 a previous meeting, the commission indicated that they did not want to appoint anyone that would
13 be applying for the position. Director Melcher presented his recommendation that the commission
14 appoint Davia Palmeri to serve as interim director effective April 1 until the new director begins in
15 May.

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17 Action:

18 Chair Wahl moved to appoint Davia Palmeri as Interim Director. Commissioner Spelbrink
19 seconded the motion, the motion carried four (4) in favor; Labhart, Spelbrink, Hatfield-Hyde,
20 Wahl; one (1) opposed King; one (1) absent Khalil.

21
22 **PUBLIC FORUM**

23 This part of the agenda was for comments on topics not scheduled on the agenda. The Commission
24 will be unable to take action on items brought to their attention in this forum.

25
26 Dog Training to Avoid Porcupines
27 Dominic Bachman

28
29 Cold Water Refugia in the Columbia River
30 David Moskowitz

31
32 Kathayoon Khalil, Commissioner joined the meeting virtually.

33
34 **Exhibit B: OREGON LISTING DETERMINATION FOR SOUTHERN RESIDENT**
35 **ORCAS**

36 The Commission determined that the Southern Resident Orcas is warrant listing as
37 endangered" under the Oregon Endangered Species Act.

38 John North, Fish Division Deputy Administrator
39 Howard Takata - Interim Southern Resident Orca Listing Coordinator
40 Mike Brown - Marine Mammal Program Leader

41
42 *Presentation:* Staff provided the Commission with a presentation on Oregon listing
43 determination for Southern Resident Orcas. The presentation included background information on
44 the listing petition received February 2023; Oregon Endangers Species Act (ESA) listing criteria;
45 Federal ESA and other listings; Southern Resident Orca biology; critical habitat; population status
46 and trends; key threats; and public involvement. The staff's presentation included information on

1 actions addressing prey, vessels and noise, and contaminants. The impacts of an Oregon listing
2 and non-listing option were also discussed.

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4 *This presentation is located in the commission material and can be viewed at*
5 [https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/Exhibit%20B/Ex%20B%20S](https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/Exhibit%20B/Ex%20B%20SRO%20Presentation%20for%20Web.pdf)
6 [RO%20Presentation%20for%20Web.pdf](https://www.dfw.state.or.us/agency/commission/minutes/24/02_Feb/Exhibit%20B/Ex%20B%20SRO%20Presentation%20for%20Web.pdf)
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8 Public Testimony

John Rosapepe	Endangered Species Coalition
Haddle Stevens	
Opal Woodbury	
Simone Centerwall	
Bodhe Schurke	
Klara Pusch	
Ingrid Haugo	
Ames Oneal	
Aeon Rick	
Sophie Duessvior	
Ellie Nine	
Kathleen Callaghy	Defenders of Wildlife
Brady Bradshaw	Center of Biological Diversity
Deborah Giles – virtual	
Regina Asmutis-Silvia- virtual	
Quinn Read	Audubon Portland
Pamela Reber-virtual	
Josh McInnes- virtual	
Katie Russell-virtual	Oregon Shores
Madison Plummer	Center for Biological Diversity
Nikki Dennis- virtual	
Chelsea Stewart-Fusek	Center for Biological diversity
Rebecca Ramage-virtual	
Trisha Sharma	Center for Biological diversity
Leonard Krug - virtual	Oregon Anglers Alliance
John Ward -virtual	
Jennifer Smith -virtual	
Patricia Schnabel – virtual	
Hannah Williams-virtual	
David Moskowitz- virtual	
Dave Keehn -virtual	
Conrad Gowell	
Joseph Janowicz -virtual	
David Bain -virtual	
Tara Brock -virtual?	
Margaret Townsend	Center of Biological Diversity
Jack Fay	Center For Biological Diversity Volunteer

Danielle Moser	Oregon Wild
Michelle Sedelman	
Miquel Angel Ramirez	
Anne Thrall-Nash	

1 Rulemaking

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3 Action:

4 Commissioner Labhart moved to list Southern Resident orcas as endangered under the Oregon
5 Endangered Species Act. Commissioner Hatfield-Hyde seconded the motion, and the motion was
6 carried six (6) in favor.

7
8 Commissioner Hatfield-Hyde moved to adopt survival guidelines for the species as proposed by
9 staff in attachment three, except with respect to line 119 changing “can” to “shall”. Commissioner
10 Spelbrink seconded the motion, and the motion was carried five (5) in favor Labhart, Spelbrink,
11 King, Hatfield-Hyde, Wahl; one absent - Khalil.

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13 **EXECUTIVE SESSION**

14 The Chair announced that the Commission would be going into Executive Session pursuant to
15 ORS 192.660 (2)(e), (2)(f) and (2)(h), which allows the Commission to meet in executive
16 session to conduct deliberations with persons designated by the governing body to negotiate
17 real property transactions, to consider information or records that are exempt by law from
18 public inspection, and to consult with legal counsel with respect to litigation filed against the
19 Commission.

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21 The Executive Session was also held pursuant to ORS 192.660(2) (i) to review and evaluate
22 the employment-related performance of the chief executive officer of any public body, a
23 public officer, employee, or staff member who does not request an open hearing.

24
25 The commission returned from Executive Session to the public meeting, and Chair Wahl
26 adjourned the meeting at 3:47 p.m.