



Oregon Fish and Wildlife Commission Minutes

Meeting:
Friday, March 19, 2021 – 8:00 AM
Oregon Department of Fish and Wildlife
Virtual Meeting
4034 Fairview Industrial Dr
Salem, Oregon 97302

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

2

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

5

Mary Wahl, Chair
Greg Wolley, Vice- Chair
Bob Spelbrink, Commissioner
Mark Labhart, Commissioner
Jill Zarnowitz, Commissioner
Becky Hatfield-Hyde, Commissioner

Curt Melcher, Director
Erica Kleiner, Deputy Director
Shannon Hurn, Deputy Director
Mike Harrington, Interim East Region Manager
Bernadette Graham-Hudson, West Region Manager
Anika Marriott, Assistant Attorney General
Erin Donald, Assistant Attorney General
Michelle Tate, Executive Assistant
Cedric Cooney, Interim Fish Division Administrator
Doug Cottam, Wildlife Division Administrator
Casey Thomas, Captain Oregon State Police

6

7 **MEETING**

8

9 On Friday, **March 19, 2021 at 8:00 AM**, Chair Wahl called the **Oregon Fish and Wildlife**
10 **Commission** (the Commission) meeting to order.

11

12 **DIRECTOR'S REPORT**

13

14 Field Reports – In written form only, *this report is available in the meeting materials and at*
15 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/March%202021%20Field%20](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/March%202021%20Field%20Report.pdf)
16 [Report.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/March%202021%20Field%20Report.pdf)

17

18 Expenditure Report

19

Staff: Erica Kleiner, Deputy Director for Administration

20

21 Erica provided the Commission with a report on that revenues remain healthy and expenditures
22 continue to track within available funding and limitation. ODFW Budget hearing is scheduled in
23 the Ways & Means Natural Resources subcommittee on April 26 and 28; with public testimony
24 scheduled for May 3.

24

25 *This report is available in the meeting materials and at*

26 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/Commission%20Financial%20](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/Commission%20Financial%20Report%20March%202021.pdf)
27 [Report%20March%202021.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/Commission%20Financial%20Report%20March%202021.pdf)

28

29

30

31

1 Review of Salmon Forecast Status, 2021

2 Staff: Tucker Jones, Ocean Salmon and Columbia River Program Manager

3 *This presentation is available in the meeting materials and at*

4 https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/Review%20Salmon%20Forecast%20Status,%202021.pdf

7 Focused Investment Partnerships

8 Staff: Meta Loftsgaarden, Executive Director- Oregon Watershed Enhancement Board
9 (OWEB)

10 Jackie Couples, US Fish and Wildlife Service

11 Brandi Neider, Lake County Umbrella Watershed Council

12 Kristen Walz, North Fork John Day Watershed Council

13 Eric Williams, OWEB

14 Andrew Dutterer, OWEB

15
16 *This presentation is available in the meeting materials and at*

17 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/ODFW%20Commission](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/ODFW%20Commission%20OWEB%20FIP_3.19.2021_all%20pres_FINAL.pdf)
18 [OWEB%20FIP_3.19.2021_all%20pres_FINAL.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/ODFW%20Commission%20OWEB%20FIP_3.19.2021_all%20pres_FINAL.pdf)

20 **Adopt Temporary Rules**

21 Curt Melcher, Director, requested the Commission ratify the following temporary rules. The
22 fourteen (14) temporary rules were previously adopted by the director under his emergency action
23 authority.

24 **1. 635-005-0466**

25 Commercial Dungeness crab Evisceration Requirement for Oregon/Washington Border to Point
26 Chehalis, Washington

27 Adopted February 12, 2021: effective February 12, 2021 through August 6, 2021.

28 This amended rule prohibits landing of Dungeness crab harvested for commercial purposes from
29 the Oregon/Washington border (46° 15' 00" N. Lat.) northward to the Point Chehalis, Washington
30 (46° 53' 18" N. Lat.), unless they are processed in accordance with Oregon Department of
31 Agriculture temporary OAR 603-025-0424, pertaining to requirements to eviscerate crab
32 commercially harvested from areas with elevated bio toxins.

33 **2. 635-042-0145**

34 Set 2021 Non-Tribal Commercial Fishing Seasons in Youngs Bay Select Area

35 Adopted February 17, 2021: effective February 18, 2021 through July 29, 2021.

36 This amended rule sets the 2021 open fishing periods and gear requirements for non-tribal
37 commercial winter, spring, and summer season salmon fisheries in Youngs Bay and Upper Youngs
38 Bay.

39 **3. 635-042-0160**

40 Set 2021 Commercial Fishing Seasons in Blind Slough and Knappa Slough Select Areas

41 Adopted February 18, 2021: effective February 18, 2021 through July 2, 2021.

1 This amended rule sets the 2021 open fishing periods and gear requirements for commercial
2 winter, spring, and summer season salmon fisheries in the Blind Slough and Knappa Slough Select
3 Areas.

4 *Modifications are consistent with action taken February 16 by the Departments of Fish & Wildlife*
5 *for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

6 **4. 635-042-0180**

7 Set 2021 Commercial Fishing Seasons in the Deep River Select Area

8 Adopted February 18, 2021: effective February 18, 2021 through July 2, 2021.

9 This amended rule sets the 2021 open fishing periods and gear requirements for commercial winter
10 and spring season salmon fisheries in Deep River.

11
12 *Modifications are consistent with action taken by the Departments of Fish & Wildlife for the States*
13 *of Oregon and Washington at the February 16 Columbia River Compact.*

14 **5. 635-042-0170**

15 Set 2021 Commercial Fishing Seasons in Tongue Point and South Channel Select Areas

16 Adopted February 18, 2021: effective February 18, 2021 through July 2, 2021.

17 This amended rule sets the 2021 open fishing periods and gear requirements for commercial
18 winter, spring, and summer season salmon fisheries in the Tongue Point and South Channel Select
19 Areas.

20 *Modifications are consistent with action taken February 16 by the Departments of Fish & Wildlife*
21 *for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

22 **6. 635-041-0064**

23 2021 Columbia River Winter Treaty Commercial Fisheries Area and Season Revisions

24 Adopted February 23, 2021: effective February 23, 2021 through March 19, 2021.

25 This amended rule closes the 2021 winter treaty tribal hook and line platform fishery effective
26 March 19, 2021.

27 *Modifications are consistent with actions taken January 26, 2021 by the Departments of Fish &*
28 *Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

29 **7. 635-041-0065**

30 Set 2021 Columbia River Winter Treaty Commercial Fisheries

31 Adopted February 23, 2021: effective February 24, 2021 through March 5, 2021.

32 This amended rule implements the 2021 winter treaty commercial gillnet fishery season from
33 February 24-26 in the John Day Pool and March 1-5 in the Bonneville Pool.

34 *Modifications are consistent with actions taken February 23, 2021 by the Departments of Fish &*
35 *Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

36 **8. 635-042-0130**

37 Extend the 2021 Columbia River Commercial Smelt Fishery

38 Adopted February 24, 2021: effective February 26, 2021 through March 11, 2021.

1 This amended rule extends the 2021 Columbia River commercial smelt season for Zones 1 through
2 3 through March 11, 2021.

3 *Modifications are consistent with action taken February 24 by the Departments of Fish & Wildlife*
4 *for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

5 **9. 635-023-0125**

6 Set 2021 Recreational Spring Fishing Seasons in the Columbia River

7 Adopted February 26, 2021: effective February 26, 2021 through March 31, 2021.

8 This amended rule sets the 2021 open fishing periods and requirements for recreational spring
9 salmon fisheries in the Columbia River and Select Areas. The rule establishes seasons for spring
10 salmon by modifying permanent regulations in areas downstream of Bonneville Dam and updating
11 bag limits in areas upstream of Bonneville Dam beginning March 16, 2021.

12 *Modifications are consistent with actions taken February 23, 2021 by the Departments of Fish &*
13 *Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

14 **10. 635-023-0125**

15 Set 2021 Recreational Spring Fishing Seasons in the Columbia River

16 Adopted February 26, 2021: effective April 1, 2021 through June 15, 2021.

17 This amended rule extends the 2021 open fishing periods and requirements for recreational spring
18 salmon fisheries in the Columbia River and Select Areas. The rule modifies permanent regulations
19 through April 4, 2021 in areas downstream of Bonneville Dam and establishes seasons for spring
20 salmon in areas upstream of Bonneville Dam through May 5, 2021.

21 *Modifications are consistent with actions taken February 23, 2021 by the Departments of Fish &*
22 *Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.*

23 **11. 635-005-0466**

24 Commercial Dungeness crab Evisceration Requirement for Areas outside Oregon with Elevated
25 Domoic Acid in Viscera

26 Adopted March 3, 2021: effective March 3, 2021 through August 6, 2021.

27 This amended rule prohibits landing of Dungeness crab harvested for commercial purposes from
28 an area outside Oregon in which crab viscera samples showed domoic acid levels of 30 ppm or
29 higher, unless they are processed in accordance with Oregon Department of Agriculture temporary
30 OAR 603-025-0425, pertaining to requirements to eviscerate crab commercially harvested from
31 areas with elevated bio toxins.

32 **12. 635-042-0145**

33 Revise 2021 Commercial Fishing Seasons in Youngs Bay Select Area

34 Adopted March 5, 2021: effective March 8, 2021 through July 29, 2021.

35 This amended rule extends the fishery length an additional 8 hours per day for the March 8, March
36 10, and March 11, 2021 open salmon fishing periods in the Youngs Bay Select Area.

37 **13. 635-003-0003, 635-013-0003**

38 Adopt Early-Season 2021 Ocean Salmon Fisheries by Reference to Existing Federal Regulations

1 Adopted March 9, 2021: effective March 15, 2021 through May 15, 2021.

2 This amended rule implements 2021 ocean salmon fishing seasons for Oregon state waters
3 occurring prior to May 16, 2021 to match those implemented in 2020 by the National Marine
4 Fisheries Service (NMFS). This subset of expected fishery seasons may be modified by federal in-
5 season action prior to May 16, 2021.

6 *At their scheduled April 23, 2021 hearing, the Oregon Fish and Wildlife Commission (OFWC) will*
7 *consider permanent rules to adopt, by reference, new federal rules that will begin May 16, 2021.*

8 **14. 635-023-0095**

9 Close White Sturgeon Recreational Retention in John Day Pool

10 Adopted March 16, 2021: effective March 19, 2021 through June 30, 2021.

11 This amended rule closes the retention of white sturgeon in the John Day Pool and adjacent
12 tributaries of the Columbia River. Catch projections indicate retention of white sturgeon after
13 March 18, 2021 would exceed the allowable quota. Catch and release sturgeon fishing remains
14 open in these waters, except for within the sturgeon

15
16 Action:

17 Commissioner Spelbrink moved to ratify the fourteen (14) temporary rules set forth in the today's
18 tan agenda. Commissioner Zarnowitz seconded the motion, and the motion carried unanimously,
19 six (6) in favor.

20
21 **OTHER BUSINESS**

22
23 **COMMISSION UPDATES**

24 Columbia River 2021 Fisheries; Upcoming meeting March 31, 2021

25 Chair Wahl

26
27 ODFW Commission Beaver Management and Trap Check Working Groups Update

28 Commissioner Wolley

29
30 **PUBLIC FORUM**

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

33
34 *Amending the Costal Species Management Plan – provided written testimony*
35 *Jeff Dose*

36 *North Umpqua River and Rock Creek Hatchery*

37 *David Moskowitz, Executive Director - The Conservation Angler- provided written*
38 *testimony*

39 *Rock Creek Hatchery*

40 *Kirk Blain, Southern Oregon Regional Coordinator- Native Fish Society –provided written*
41 *testimony*

1 **Exhibit A: COMMISSION MINUTES**

2 Action:

3 Commissioner Zarnowitz moved to approve the February 12, 2021 meeting minutes with
4 continued authority to correct grammar and punctuation. Commissioner Hatfield-Hyde seconded
5 the motion and the motion was carried six (6) in favor.

6
7 **EXHIBIT B: RENDERING RECOMPENSABLE ASSISTANCE TO OTHER STATE**
8 **AGENCIES**

9 The Commission amended rules to remove the issuance of information statements and
10 authorizes the issuance of invoices for recompensable assistance to executive department
11 agencies as required in House Bill 3315 (2015).

12 Staff: Mat Oeder, Management Recourses Division Administrator

13
14 *Presentation:* Mat provided the Commission with a presentation on the agency recognition of
15 hours being spent working on other state agencies regulatory processes; 2015 Legislation (HB
16 3315)(ORS 496.167-496.168) , the creation of Online Task Tracking Information System
17 (OTTIS); Fiscal years 2016-18 informational years; and Fiscal year 2019- the first year authorized
18 to issue invoices.

19
20 *This presentation is located in the commission material and can be viewed at*

21 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/B/Exhibit%20B_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/B/Exhibit%20B_Presentation.pdf)
22 [.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/B/Exhibit%20B_Presentation.pdf)

23 No Public Testimony

24 Rulemaking

25
26 Action:

27 Commissioner Wolley moved to amen OAR Chapter 635, Division 001, to direct the
28 Department to issue invoices for recompensable assistance, as proposed by staff. Commissioner
29 Spelbrink seconded the motion and the motion was carried six (6) in favor.

30
31 **EXHIBIT C: ACCESS AND HABITAT PROGRAM, PROJECT FUNDING APPROVAL**
32 **AND ACCESS AND HABITAT STATE BOARD (BOARD) MEMBER APPOINTMENT**

33 The Commission approved the Access and Habitat Board recommendations for project funding
34 and appointment a Hunter Representative to the Access and Habitat Board

35 Staff: Travis Schultz, A&H Coordinator

36
37 *Presentation:* Travis provided the Commission with a presentation on the A&H Biennium Report;
38 the Board recommended projects; and appointment of a Hunter Representative to the Board.

39
40 *This presentation is located in the commission material and can be viewed at*

41 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/C/Exhibit%20C_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/C/Exhibit%20C_Presentation.pdf)
42 [.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/C/Exhibit%20C_Presentation.pdf)

43
44 No Public Testimony

45 ~~Kathleen Gobush~~

Did not testify

46 Approval and Appointment

1 Action:

2 Commissioner Spelbrink moved to approve the four projects recommended for funding by
3 the Access & Habitat State Board. Commissioner Hatfield-Hyde seconded the motion and the
4 motion was carried six (6) in favor.

5
6 Commissioner Spelbrink moved to appoint Nicholas Callero to serve a four-year term as
7 Hunter Representative on the Access and Habitat State Board. Commissioner Zarnowitz seconded
8 the motion and the motion was carried six (6) in favor.

9
10 **EXHIBIT D: FISH SCREENING TASK FORCE MEMBER APPOINTMENT**

11 The Commission appointed a new member to the Fish Screening Task Force.

12 Staff: Alan Ritchey, Fish Screening and Passage Program Manager

13
14 *Presentation:* Alan provided the Commission with a presentation on the public advisory body of
15 the Fish Screening Program; the current Fish Screening Task Force Members; appointment
16 recommendation process; and public representative candidate.

17
18 *This presentation is located in the commission material and can be viewed at*

19 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/D/Exhibit%20D_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/D/Exhibit%20D_Presentation.pdf)
20 [.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/D/Exhibit%20D_Presentation.pdf)

21 No Public Testimony
22 Appointment

23
24 Action:

25 Commissioner Hatfield-Hyde moved to appoint Alexis Vaivoda as a Public Representative on the
26 Fish Screening Task Force based on her relevant experience and qualifications. Commissioner
27 Wolley seconded the motion and the motion was carried six (6) in favor.

28 **EXHIBIT E: 2021 OCEAN SALMON FISHERIES INFORMATIONAL BRIEFING**

29 The Commission was given an update on the 2021 salmon fishery planning.

30 Staff: Christine Mallette; Section Manager, Salmon Technical Resources

31
32 *Presentation:* Christine provided the Commission with a presentation on process and schedule,
33 abundance forecasts, key constraints and season options for discussion.

34
35 *This presentation is located in the commission material and can be viewed at*

36 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/E/Exhibit%20E_Presentation.](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/E/Exhibit%20E_Presentation.pdf)
37 [pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/E/Exhibit%20E_Presentation.pdf)

38 Public Testimony
Thomas Beck
Brian McLachlan

39 Informational

40
41 **EXHIBIT F: COMMERCIAL MARKET SQUID MANAGEMENT MEASURES**

42 The Commission adopted new regulations for the commercial market squid fishery including, but
43 not limited to, gear requirements to reduce benthic impacts, periodic closures to protect spawning

1 squid, logbook requirements for “light boats”, and clarifying that “light boats” are prohibited from
2 operating in the Cascade Head South Marine Protected Area.

3 Staff: Troy Buell, State Fishery Management Program Leader
4

5 *Presentation:* Troy provided the Commission with a presentation on market squid biology and
6 ecology; commercial fishery history, development, and description; current fishery management;
7 management challenges; staff recommendations, and looking forward.
8

9 *This presentation is located in the commission material and can be viewed at*

10 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/F/Exhibit%20F_Presentation.](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/F/Exhibit%20F_Presentation.pdf)
11 [pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/F/Exhibit%20F_Presentation.pdf)

12 Public Testimony

Houston Vaughan, Captain; Gig Harbor

Robert Eder, Newport

Nathan McAvoy, Newport- provided written testimony

13 Rulemaking
14

15 The Commission asked that the department to conduct an analysis of food web needs and affect.
16 The department was also asked to evaluate the effectiveness of a two-day or three-day closure; if
17 there is a need for limited entry fishery, if there is a need to set controlled days; to review whether
18 net size restrictions are needed; to look at crab gear avoidance/Vessel monitoring system and to
19 create an advisory board.
20

21 Action:

22 Commissioner Labhart moved to adopt OAR 635 Divisions 004, 005 and 012 as proposed by staff
23 in Attachment 3 with a proposed exception with respect to requiring a rib line of at least 36 inches
24 after January 1, 2022.
25

26 ODFW Counsel proposed the following text (bold, underlined) to capture the proposed exception,
27 which Commission Labhart then amended his motion to incorporate:
28

29 Staff Proposed Rule

30 Attachment 3

31 OAR 635-005-0931

32 “Fishing Gear - Squid Fishery

33 (1) For the purposes of OAR 635-005-0930 through 635-005-0922 and 635-012-0030 through
34 635-012-0150, “take” is defined to include attracting any squid by light.

35 (2) It is unlawful to take market squid for commercial purposes using a purse seine net that is not
36 pursed using a rib line that is a minimum of 18 inches above the lead line. **In addition, it is**
37 **unlawful to take market squid for commercial purposes using a purse seine net that is not**
38 **pursed using a rib line that is a minimum of 36 inches above the lead line commencing**
39 **January 1, 2022.**
40

41 Commissioner Spelbrink seconded the motion and the motion was carried six (6) in favor.
42

1 **EXHIBIT G: PETITION TO ADD MINK TO LIST OF PROHIBITED SPECIES IN OAR**
2 **CHAPTER 635, DIVISION 56**

3 The Commission considered a petition from The Center of Biological Diversity requesting to
4 amend OAR 635-056-0050 to add mink to the listed Prohibited Species. The Commission denied
5 the petition. **The Commission had requested public comment on whether options exist for**
6 **achieving the rule’s substantive goals in a way that reduces the negative economic impact on**
7 **businesses.**

8 Staff: Kevin Blakely, Wildlife Division Deputy Administrator

9
10 *Presentation:* Alan provided the Commission with a presentation on Administrative Procedures
11 Act (APA) Rule Making Petition; petition evaluation; and staff recommendation.

12
13 *This presentation is located in the commission material and can be viewed at*
14 [https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/G/Exhibit%20G_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/G/Exhibit%20G_Presentation.pdf)
15 [.pdf](https://www.dfw.state.or.us/agency/commission/minutes/21/03_Mar/G/Exhibit%20G_Presentation.pdf)

16
17 **Public Testimony**

~~Kathleen Gobush, Defenders of Wildlife, Seattle~~

Michael Whelan, Executive Director; Fur Commission USA- Medford – provided written
testimony

Scott Beckstead, Center for a Humane Economy- Sutherlin

Lori Ann Burd, Center of Biological Diversity- Portland

Joe Ruef, Rancher- Salem

Jenny Dresler, Oregon Farm Bureau

18
19 **Consideration to accept or deny petition**
20
21
22
23

24 Commissioner Labhart read the following statement into the record:

25
26 First let me thank all of you who provided written, email and verbal testimony prior to the
27 Commission meeting and in-person today. Very much appreciated and informative to this
28 Commissioner.

29 As I understand the petition, it is to place the American and European mink on the list of
30 prohibited species in Division 56 of OAR 635-056-0050. Division 56 regulates human activity
31 involving “nonnative” wildlife.

32 In accordance with the Administrative Procedures Act (APA), the Commission must consider six
33 factors in determining whether to initiate rulemaking or to deny the petition. I will discuss each of
34 those factors in some detail.

35 **Factor 1.**

36 **Continued need for the rule**

37 Again, Division 56 is specifically designed to regulate human actions involving
38 “nonnative” wildlife. The American Mink is classified as native to Oregon. American

1 Mink are not allowed to be captured from the wild or held with exception that American
2 mink can be held by a commercial fur farm under the authority and jurisdiction of ODA.

3 The European mink is native to Europe. They are nonnative to Oregon. OAR 635-056-
4 0040 does not allow importation or possession of nonnative wildlife so they are considered
5 as a prohibited species. ODF&W has never been requested to classify the nonnative
6 European Mink as a controlled species and even then, this would likely not happen as
7 European Mink fall under an International jurisdiction Red List of threatened species that
8 essentially prohibits importation or possession of European Mink in Oregon.

9 ODA ORS 596.010 (3) specifically defines livestock, which includes domesticated fur-
10 bearing animals and such are not within the purview of state game laws under ORS
11 596.020 (2). More on this later.

12 Commercial fur farming is regulated by ODA in Oregon statutorily not ODF&W.

13 **Factor 2**

14 **The nature of the complaints or comments received concerning the rule from the public.**

15 The Commission has received written letters, emails and public testimony prior to and
16 during this Commission meeting in compliance with this factor.

17 **Factor 3**

18 **The complexity of the rule**

19 The request by the petitioners is to simply add the American and European mink to the
20 prohibited species list. The issue for me is that I believe this in our purview as
21 domesticated furbearer animals are statutorily regulated by ODA not ODF&W as I
22 explained in Factor 1. The petitioners argue that because the American Mink meet the
23 definition of livestock, they are thus nonnative. Our OAR 635-056-0010 lists the American
24 Mink as native wildlife. Even if the American Mink when held at fur farms were defined
25 as nonnative, they would in my opinion still fall under the purview of ODA not ODF&W
26 because fur farming is regulated by ODA not ODF&W.
27

28 **Factor 4**

29 **This factor discusses rule overlaps, duplication or conflicts with other local, state and federal 30 regulations.**

31 It's my believe that the petitioners are requesting oversight by the Commission/Department
32 in regards to the commercial breeding and maintenance of mink in pens, cages and hutches
33 which falls entirely under ODA regulations not ODF&W regulations. To add to this
34 assertion, our ORS 498.002 specifically prohibits the capture, and/or holding of native
35 American Mink from the wild.

36 **Factor 5**

37 **The degree to which technology, economic conditions or other factors have changed in the 38 subject being discussed affected by a rule.**

39 The petitioners outline the recent outbreak of COVID 19 in some commercial fur farms and
40 concerns for transmission outside the fur farms to the public. Valid concerns for sure. A
41 facility in Oregon had such an occurrence. ODA and OHA immediately responded to the
42 outbreak to curtail the outbreak at the commercial facility as they regulate commercial fur
43 farms. ODA hired Wildlife Services to trap and removed more than a dozen animals
44 around the facility, including possums, cats, skunks and three escaped mink. Two escaped

1 mink tested positive. ODA quarantined the facility and after the USDA veterinary services
2 lab confirmed the last two rounds of samples at the facility showed no virus the quarantine
3 was lifted by ODA. OHA officials believe the mink contracted the virus from the workers
4 at the farm. ODA hired Wildlife Services to trap and they removed more than a dozen
5 animals around the facility

6 **Factor 6**

7 **Statutory citation or legal basis for the rule**

8 The legal basis for the Division 56 rules has not changed and are still relevant today.

9 In summary, the commercial fur farming industry in Oregon is statutorily regulated by ODA not
10 ODF&W. The goal of the petition is to place two species of mink on the prohibited species list per
11 Div. 56. Div. 56 specifically regulates nonnative wildlife. The American Mink is a native wildlife
12 species. The European Mink is nonnative ICUN Red List species, which makes it prohibited from
13 importation or possession. In addition, Div. 44 prohibits holding native mink from the wild.
14 Domesticated mink in commercial mink farms is administered by ODA rules and regulations. We
15 need to be concerned about COVID 19 infections of fur farms but that falls under the jurisdiction
16 of ODA and OHA not ODF&W for commercial fur farms.
17 I will not be supporting moving this petition forward.

18 Action:

19 Commissioner Zarnowitz moved deny the petition and direct staff to notify the petitioner in
20 writing. Commissioner Spelbrink seconded the motion and the motion was carried four (4) in
21 favor-Zarnowitz, Spelbrink, Labhart, Hatfield-Hyde; one (1) opposed- Wahl; one (1) abstained –
22 Wolley.

23
24 Chair Wahl adjourned the meeting at 4:40 p.m.