



Meeting:
Friday, February 18, 2022 – 8:00 AM
Oregon Department of Fish and Wildlife
Virtual Meeting
4034 Fairview Industrial DR
Salem, Oregon 97302

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

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

Curt Melcher, Director
Shannon Hurn, Deputy Director
Debbie Colbert, Deputy Director
Nick Myatt, East Region Manager
Chris Kern, Acting West Region Manager
Anika Marriott, Assistant Attorney General
Erin Donald, Assistant Attorney General
Michelle Tate, Executive Assistant
Mike Harrington, Fish Division Administrator
Bernadette Graham Hudson, Wildlife Division Administrator
Sarah Reif, Habitat Division Manager

9 **MEETING**

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On Friday, **February 18, 2022, at 8:00 AM, Chair Wahl called the Oregon Fish and Wildlife Commission** (the Commission) meeting to order. Commissioner Khalil excused for personal business.

DIRECTOR’S REPORT

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/22/02_Feb/Field%20Report%20Feb%2022.pdf*

Expenditure Report

Staff: Shannon Hurn, Deputy Director for Administration

Shannon provided the Commission with a report that expenditures and revenue are still on track for the biennium. Preliminary sales for January 2022 are promising and hope to see an upward trend again within the next few months. For 2023-25 budget development the divisions and regions are compiling a draft Policy Option Package list.

This report is available in the meeting materials and at https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/Commission%20Financial%20Report%20February%202022.pdf

1
2 **Adopt Temporary Rules**

3 Curt Melcher, Director, requested the Commission ratify the following temporary rules. The seven
4 (7) temporary rules were previously adopted by the director under his emergency action authority.
5

6 **1.) 635-042-0130**

7 **Adopt Non-Treaty Columbia River Commercial Mainstem Smelt Fishery**

8 Adopted 1/25/2022: effective 1/26/2022 through 2/28/22.

9 This rule implements the 2022 non-Treaty commercial smelt fishery in Zones 1-3 of the lower
10 Columbia River on Mondays, Wednesdays, and Fridays from 5 a.m. to 5 p.m. from January 26
11 through February 28.
12

13 **2.) 635-006-0210**

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

15 Adopted 1/27/2022: effective 1/28/2022 through 3/31/2022.

16 This revised rule requires dealers to submit electronic fish tickets for commercial harvest of
17 intertidal and subtidal clams (except razor clams).
18

19 **3.) 635-023-0095**

20 **Modify Columbia River Basin White Sturgeon Retention Fisheries in Bonneville and The
21 Dalles Pools**

22 Adopted 1/28/2022: effective 1/29/2022 through 6/26/2022.

23 This amended rule closes the white sturgeon retention fishery on the mainstem Columbia River
24 from Bonneville Dam upstream to The Dalles Dam (Bonneville Pool) and adjacent tributaries
25 effective January 30 and extends the on-going white sturgeon retention fishery on the mainstem
26 Columbia River from The Dalles Dam upstream to John Day Dam (The Dalles Pool) and adjacent
27 tributaries.
28

29 **4.) 635-041-0064 & 635-041-0065**

30 **Set Treaty Commercial Winter Fisheries**

31 Adopted 1/31/22: effective 2/1/2022 through 3/19/2022.

32 These amended rules authorize the sales of fish caught in Zone 6 treaty fisheries. Platform hook
33 and line fisheries are open from February 1 through March 19. Gillnet fisheries include open
34 periods from February 1 through February 5 in The Dalles Pool and from February 1 through
35 February 12 in the John Day Pool.
36

37 **5.) 635-041-0065**

38 **Set Treaty Commercial Winter Fisheries**

39 Adopted 2/9/2022: effective 2/10/2022 through 3/19/2022.

40 These amended rules authorize the sales of fish caught in Zone 6 treaty gillnet fisheries to include
41 open periods from February 10 through February 12 in The Dalles Pool and extending the open
42 period through February 19 in the John Day Pool.
43

44
45 **6.) 635-041-0065**

46 **Set Treaty Commercial Winter Fisheries**

47 Adopted 2/15/2022: effective 2/16/2022 through 3/19/2022.

1 These amended rules authorize the sales of fish caught in Zone 6 treaty gillnet fisheries to include
2 open periods from February 16 through February 18 in The Dalles Pool and extending the open
3 period through February 26 in the John Day Pool.
4

5 **7.) 635-042-0145, 635-042-0160, 635-042-0170, and 635-042-0180**

6 **Adopt Select Area Commercial Fisheries**

7 Adopted 2/16/2022: effective 2/17/2022 through 7/31/2022.

8 These rules implement the 2022 winter, spring, and summer Select Area commercial fisheries from
9 February 17 through July 31. The following fisheries are addressed by these rules:
10 Blind/Knappa Slough, Tongue Point/South Channel, Youngs Bay, and Deep River.
11

12 Action:

13 Commissioner Spelbrink moved to ratify the seven (7) temporary rules set forth in the agenda.
14 Commissioner Labhart seconded the motion, and the motion carried unanimously, six (6) in favor;
15 one (1) excused – Khalil
16

17 **OTHER BUSINESS**

18 Request for Declaratory Ruling on North Umpqua

19 Director Melcher opened the discussion of the request for declaratory ruling on the North Umpqua
20 by reminding Commissioners that the department initiated a comprehensive analysis of wild
21 summer steelhead health in the Umpqua basin last year. The Department initiated this step of re-
22 evaluating management in response to several events. The very poor run last year added urgency to
23 the effort, so the work of multiple staff was rapidly re-prioritized to ensure sufficient information
24 ahead of any decisions this year. He will also share that the analysis is expected to be completed in
25 March and it will be presented to the commission in April, at which time the department can adapt
26 its management and take any corrective actions necessary, including for the hatchery program and
27 release of smolts this spring.
28

29 In his presentation, he underscored that the analysis is not complete, and there is no pre-determined
30 outcome by the department. He also acknowledged concerns raised that the juveniles were moved
31 from Cole Rivers to Rock Creek hatchery earlier this year, noting that hatchery staff were simply
32 carrying out a pre-planned transfer, and that this in no way indicated that a decision had been made
33 to release those fish. Since this management effort is underway, he recommended denial of the
34 petition.
35

36 Action:

37 Commissioner Zarnowitz moved to deny the administrative petition, considering the deficiencies
38 of the petition and the comprehensive analyses of wild summer steelhead health in the Umpqua
39 basin which is underway and will be the subject of a commission decision at the April commission
40 meeting. Commissioner Hatfield-Hyde seconded the motion, and the motion was carried
41 unanimously, six (6) in favor; one (1) excused - Khalil
42

43 **COMMISSION UPDATES**

44 Vice-Chair Zarnowitz provided an update that the Trap Check Working Group has dissolved. Any
45 outcomes from this working group will be presented at the June 17, 2022, Commission meeting as
46 part of the bi-annual Oregon Furbearer Regulations update.
47

1 Commissioner Hatfield-Hyde provided an update on the Beaver Management Working Group.
2 This working group continues to meet; the next meeting was scheduled for February 24; and the
3 working group plans to provide recommendations at the April Commission meeting.
4

5 **PUBLIC FORUM**

6 This part of the agenda was for comments on topics not scheduled on the agenda. The Commission
7 was unable to act on items brought to their attention in this forum.
8

9 *Lostine Wildlife Area rules, suspected pattern of poaching, wildfire concerns, and*
10 *consideration of a "Safety Zone"*

11 *Michael Eng*

12
13 *Southern Resident Orcas and Oregon's Role in Their Recovery*

14 *Sristi Kamal, Defenders of Wildlife*

15 *North Umpqua Summer Steelhead and Management Issues*

16 *David Moskowitz, The Conservation Angler*

17
18 *North Umpqua Summer Steelhead*

19 *Kirk Blaine, Native Fish Society*

20 *Jeff Dose*

21 *Rod Kirschner, The Conservation Angler*

22 *Mark Sherwood, Native Fish Society*
23

24 *Columbia River Fisheries*

25 *Steve Fick*

26 *Jim Wells*
27

28 **Exhibit A: COMMISSION MINUTES**

29 Action:

30 Commissioner Spelbrink moved to approve the January 14, 2022, meeting minutes with continued
31 authority to correct grammar and punctuation. Commissioner Zarnowitz seconded the motion, and
32 the motion was carried unanimously, six (6) in favor; one (1) excused - Khalil
33

34 **Exhibit B: ODFW/GRAND RONDE TRIBE MEMORANDUM OF** 35 **UNDERSTANDING FOR SHELLFISH LICENSING**

36 The Commission approved a Memorandum of Understanding (MOU) and amend OAR to
37 address licensing requirements for harvest of shellfish by Grand Ronde tribal members in
38 the Trask Wildlife Management Unit and in the ocean adjacent to Trask Unit.

39 Staff: Chris Kern, Acting West Region Manager
40

41 Presentation: Chris provided the Commission with a presentation on the content of the
42 Memorandum of Understanding regarding licensing requirements for harvest of shellfish by
43 members of the Confederated Tribes of Grand Ronde.
44

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

46 [https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/B/Exhibit%20B_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/B/Exhibit%20B_Presentation%20for%20web.pdf)
47 [%20for%20web.pdf](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/B/Exhibit%20B_Presentation%20for%20web.pdf)

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Public Testimony

Michael Langley	Confederated Tribes of Grand Ronde, Tribal Council Secretary
Cheryle Kennedy	Confederated Tribes of Grand Ronde, Tribal Council Chairwoman
Andrew Freeman	Confederated Tribes of Grand Ronde, Tribal Member

Rulemaking

Action:

Commissioner Labhart moved to adopt new OAR 635-041-0620 as proposed by staff and shown in Attachment 3 and authorize Chair Wahl to sign the MOU. Commissioner Hatfield-Hyde seconded the motion, and the motion was carried unanimously, six (6) in favor; one (1) excused - Khalil.

Exhibit C: ODFW/ODOT CULVERT REPAIR AGREEMENT

The Commission approved a 10-year Culvert Repair Programmatic Agreement (CRPA) to allow the Oregon Department of Transportation (ODOT) to make temporary repairs to state highway system culverts if a significant fish passage improvement can be provided.

Staff: Pete Baki, ODFW-ODOT Fish Passage Liaison
Dr. Shaun Clements, Fish Division Deputy Administrator

Presentation: Pete provided the Commission with a presentation on the increasing need to repair failing culverts and the high cost to address fish passage; fish passage policy at culverts, passage law and use of programmatic; the culvert repair programmatic agreement, fish passage prioritization, where efforts are being focused; and future prioritization of fish passage. The presentation also highlighted successes on the 15-mile post 167.04 Pass Creek and OR 22mile post 18.48 tributary to Mud Slough. Pete provided background on efforts during the 2015-2023 CRPA. Information on ODOT Fish Passage fund, the Compensation Fund work and the Fish Passage Task Force recommendations were also included in the presentation.

This presentation is located in the commission material and can be viewed at https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/C/Exhibit%20C_Presentation%20for%20web.pdf

No Public Testimony
Approval

Action:

Commissioner Spelbrink moved to approve the 2023 Culvert Repair Programmatic Agreement as proposed by staff in Attachment 2. Commissioner Zarnowitz seconded the motion, and the motion was carried unanimously, six (6) in favor; one (1) excused - Khalil.

EXHIBIT D: SHELLFISH MARICULTURE TRANSPORT BIOSECURITY REGULATION UPDATES

The Commission amended rules to increase shellfish transport biosecurity.

1 Staff: Matthew Hunter, Shellfish Project Leader
2 Dr. Steven Rumrill, Shellfish Program Manager

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4 Presentation: Steve and Matt provided the Commission with a presentation on the history of
5 commercial shellfish mariculture, regulation history, and current Oregon commercial shellfish
6 mariculture and biosecurity.

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

10 [https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/D/Exhibit%20D_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/D/Exhibit%20D_Presentation%20for%20Web.pdf)
11 [%20for%20Web.pdf](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/D/Exhibit%20D_Presentation%20for%20Web.pdf)

12
13 No Public Testimony
14 Rulemaking

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16 Action:

17 Commissioner Zarnowitz moved amend OAR 635 Division 005 as proposed by staff in
18 Attachment 3. Commissioner Spelbrink seconded the motion, and the motion was carried
19 unanimously, six (6) in favor; one (1) excused - Khalil.

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21 **EXHIBIT E: COMMERCIAL MARKET SQUID MANAGEMENT MEASURES**

22 The Commission amended rules to establish a limited entry control date; clarify rib line
23 requirement; and prohibit cable purse lines.

24 Staff: Troy Buell, State Fishery Management Program Leader

25
26 Presentation: Troy provided the Commission with a presentation on the background on the market
27 squid biology, ecology, fishery, and management and regulatory recommendations regarding
28 limited entry control date and net specifications. Troy also provided an informational report on the
29 vessel monitoring system, weekly closures, and ecosystem considerations.

30
31 *This presentation is located in the commission material and can be viewed at*

32 [https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/E/Exhibit%20E_Presentation](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/E/Exhibit%20E_Presentation%20for%20web.pdf)
33 [%20for%20web.pdf](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/E/Exhibit%20E_Presentation%20for%20web.pdf)

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35 Public Testimony

Greg DiDomenica	Sun Coast Calamari
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36 Rulemaking

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38 Action:

39 Commissioner Spelbrink moved to amend OAR 635 Division 004 to adopt the commercial market
40 squid fishery management measures as proposed by staff in Attachment 3. Commissioner Hatfield-
41 Hyde seconded the motion, and the motion was carried unanimously, six (6) in favor; one (1)
42 excused - Khalil.

43
44 **EXHIBIT F: LOWER COLUMBIA RIVER WHITE STURGEON POPULATION**
45 **AND FISHERIES UPDATE**

1 The Commission was provided an informational update on the current population status of
2 lower Columbia River white sturgeon and a review of 2021 sturgeon fisheries.

3 Staff: Tucker Jones, Ocean Salmon and Columbia River Program Manager
4

5 Presentation: Tucker provided the Commission with a presentation on white sturgeon background,
6 2021 stock status and fisheries, pinniped predation and 2022 projections and management plans.
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8 *This presentation is located in the commission material and can be viewed at*

9 [https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/F/Exhibit%20F_Presentation
10 %20for%20web.pdf](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/F/Exhibit%20F_Presentation%20for%20web.pdf)

11 No Public Testimony
12 Informational
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18 **EXHIBIT G: REGIONAL DRY MAINTENANCE TIME PERIODS**

19 The Commission adopted rules for regional dry maintenance time periods.

20 Staff: Jon Germond, Land Resources Program Manager
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22 Presentation: Jon provided the Commission with a presentation on HB 2437, biological rationale,
23 process and public outreach, and the proposed rules.
24

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

26 [https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/G/Exhibit%20G_Regional%20
27 0Dry%20Channel%20Maintenance%20Time%20Periods_Presentation_2-18-2022.pdf](https://www.dfw.state.or.us/agency/commission/minutes/22/02_Feb/G/Exhibit%20G_Regional%20Dry%20Channel%20Maintenance%20Time%20Periods_Presentation_2-18-2022.pdf)
28

29 Public Testimony

Mary Anne Cooper	Oregon Farm Bureau, VP of Government Affairs
Rulemaking	

31 Action:

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33 Commissioner Hatfield-Hyde moved adopt OAR Chapter 635, Division 418 to establish regional
34 dry maintenance time periods as proposed by staff. Commissioner Zarnowitz seconded the
35 motion, and the motion was carried unanimous, six (6) in favor; one (1) excused - Khalil.
36

37 Commissioner Hatfield- Hyde asked that the department bring an update on implementation of the
38 rules to the Commission in two years.
39

40 **EXECUTIVE SESSION**

41 This Executive Session was held pursuant to ORS 192.660 (2)(f) to consider information or
42 records that are exempt by law from public inspection, as well as to consult with legal
43 counsel concerning legal rights and duties regarding current litigation likely to be filed as
44 authorized by ORS 192.660 (2)(h).
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- 1 Following executive session, the commission returned to public session, and Chair Wahl adjourned
- 2 the meeting at 4:20 p.m.