

# **Oregon Invasive Species Council**

## **Business Meeting Minutes**

### **December 9, 2020 | Virtual (1:00 - 4:00 pm)**

#### **Summary of Outcomes & Next Steps:**

- October 2020 meeting minutes were approved.
  - Jalene will continue working with Rick on Northern Pike action items that came out of the last meeting.
  - Coordinator team will be compiling fire recovery resources on the OISC website, with the help of Alex, Karen, Wyatt, and Troy.
  - The Bioinvasions class projects will be posted on the OISC News Channel and eventually on the OISC Resources page (pending approval from project leads).
  - The Council approved the question for ODA to submit to the DOJ.
  - The Council approved a motion to ask ODA to submit the Council's approved question to the DOJ by January 8, 2021.
  - Need OISC members to submit 2017-2020 actions for plan reporting. Simplifying form.
  - The Council approved the May 27th version of the OISC brochure (with minor text edits from Christine Moffitt) for general use and for the website.
  - Rick voted in as 2021 Chair and Troy voted in as 2021 Vice Chair.
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#### **Welcome & Introductions**

*Catherine de Rivera, 2020 OISC Chair (Portland State University)*

See participants list at the end of the minutes.

#### **2021 Officer Announcement & Voting Process: Chair and Vice-Chair**

*Catherine de Rivera, 2020 OISC Chair (Portland State University)*

First step is to vote, members were sent an online form for voting. There are three options for Vice Chair (Troy Abercrombie, Glenn Dolphin, Christine Moffitt). Rick is the only nominee for Chair. If you are a voting member, please submit your vote and we will tally those a little later.

#### **Update to OISC Oregon Department of Environmental Quality (DEQ) Seat**

*Rian vanden Hooff, Oregon DEQ*

Want to announce to folks that with my change in role at DEQ, the Director asked that I transition out of the seat on OISC. We will be welcoming Josh Emerson to fill that seat, effective January 2021. It's been an absolute pleasure working with the Council for 10 years. The Council does fantastic work and there's still more work to be done!

Discussion via chat:

- Brendan to Everyone (1:16 PM): You'll be sorely missed! Sorry to see you go!

- Amira Streeter to Everyone (1:17 PM): Thank you so much Rian! Welcome Josh
- Chan, Samuel S to Everyone (1:17 PM): Rian, A real honor and truly appreciative for your service to the council. Great that Josh will be the DEQ rep
- Christine to Everyone (1:20 PM): Rian, you will be an important leader for further issues in DEQ. Thank you for your engagement with ballast issues and other key issues.

## Approval of Meeting Minutes: October 2020

*Catherine de Rivera, 2020 OISC Chair (Portland State University)*

**E. Chuck Fisk moves to accept October 2020 meeting minutes as distributed.**

**2nd: Glenn**

**All voting members approved.**

Outcome: October 2020 meeting minutes were approved.

## Follow up Items / Updates from last meeting

### Northern pike

Jalene is following up with Rick on action items that came out of the last meeting, including setting up an email list for notifications. We will be adding a page to the website and looking for updates to the ODFW webpage. We committed to a letter of support for UCUT efforts and reaching out to NWPCC letting them know that Oregon representatives are willing to participate in a working group if that is convened. If you'd like to be included, let Jalene or Rick know.

### Fire recovery

Jalene was able to submit comments to the Oregon Watershed Enhancement Board. The directive from the last meeting was to try to get invasive species messaging out to the agencies/entities working on fire recovery directly. We're working on getting information up on the OISC website, but would love to have more team effort. Alex, Karen, Wyatt, and Troy offered to help with that.

### PSU bioinvasions class projects

Cat shared samples of this year's student team projects. Projects will be posted on the OISC Blog - News Channel. Once project mentors have approved the projects and content, they can be added to the OISC Resources page as a vetted resource. Jalene has been working with Jake at ODA to develop a checklist for people moving to Oregon using positive messaging (vs. what 'not' to do). Looking forward to getting final approval from ODA and getting it published on the OISC website as well.

### Outcomes:

- Jalene will continue working with Rick on Northern Pike action items that came out of the last meeting.
- Coordinator team will be compiling fire recovery resources on the OISC website, with the help of Alex, Karen, Wyatt, and Troy.
- The Bioinvasions class projects will be posted on the OISC News Channel and eventually on the OISC Resources page (pending approval from project leads).

## Leveraging Partnerships & Activities to Advance Statewide Objectives: OISC Vision and Next Steps Strategy Considerations - Overview

*Catherine de Rivera, 2020 OISC Chair (Portland State University) & Jalene Littlejohn, OISC Coordinator ([Link to PPT](#))*

We've had discussions over the years about how to function successfully and how to resolve tension between the individual organization's efforts and the collective effort of the Council's activities so that we can work together effectively. We want to elevate invasive species issues so that everyone knows how important they are. How can we best support statewide efforts and what does success look like? This is not just an issue of fiscal agency that has been a topic of recent discussion, but that is a part of it. We have been collecting information through individual conversations, existing statutes, and the review that INR did of the OISC in 2015. Information sharing, networking, sharing of resources, and education & outreach were recurring themes that came out of the individual Council member conversations.

Main takeaways included the need for/to:

- An MOU with ODA and that there's broad support for moving forward with the MOU;
- A DOJ review as a starting point for the MOU;
- Greater continuity across years;
- Elevate invasive species issues as critical issues for funding;
- Creatively and collaboratively identify and pursue new opportunities for funding.

Suggested steps for consideration:

- Forming an Executive Committee;
- Considering options for and developing a plan for a position as a paid employee for the contractor;
- Deciding if we start off with a DOJ review or go to DOJ as a later part of MOU development as we identify what smaller questions need legal answers;
- Developing an MOU working group;
- Having the budget and funding committee meet monthly to, among other actions, actively identify opportunities to support state and local efforts to limit invasive species introductions and impacts;
- Develop & prioritize a set of actions for network outreach and a set for outreach with decision makers.

It was discussed that a contracted coordinator can lead to a lack of continuity, such as when there is a lack of funding. As a result, it was suggested that we develop an Executive Committee to help with the continuity issue, which allows for more shared leadership. It would include the Chair, Vice Chair, committee Chairs, past Chair, a fiscal agent representative, and one additional member. It also continues to be a challenge to narrow down coordinator efforts within the Council's priorities. The Budget/Funding Committee can play a more active role in seeking out collaborative funding opportunities and prioritizing efforts based on available resources.

- (Chat) Glenn Dolphin to Everyone (1:53 PM): The formation of an executive committee is an excellent idea!

### **Group Discussion about Permanent Coordinator Position**

As follow up to the presented suggestions, following discussion:

- Amira: I think these discussion points are good and shows progress. The question for me as a representative of the Governor's Office, is how the coordinator would shift to an employee position. I assume that would shift to an agency, so what agency would that be? Agency directors who are aware of these ideas would be helpful to know so the Council knows where they want to go.
- Cat: We haven't reached out to other agencies yet, but would see that as the next step.

*Q (Glenn): When does the current coordinator contract expire?*

*A (Jalene): End of the biennium - June 2021.*

- Glenn: I Agree with Amira, the concept would need to be developed a bit and then go to the Natural Resources Agency Director and it would need director buy-in.
- Jalene: Cat and I recognize that this is not an immediate priority, nor would it happen quickly but we should be looking into options and figuring out what's feasible.

*Q (Helmuth): Would it be an employee of the OISC or...?*

*A (Cat): I don't know if OISC can even have employee.*

*A (Jas.): I don't think there is anything that prohibits it. There is a provision that mentions the coordinator.*

- Helmuth: The coordinator was a part of the OISC, depending on funding but we are supposed to have a coordinator regardless of funding.
- Rian: This is not the first time the Council has talked about the benefits of getting a permanent staff employee for coordinator. Even though the contract ends June 2021, the budget cycle for next biennium is well underway. Thinking we would want to consider for the 2023 legislative session, but it's not too soon to have this discussion. Would need to maintain a coordinator contract while this is figured out.
- Cat: If we want to pursue a staff position for the coordinator for the 2023 session, we need to figure out the details of the staff position sooner (e.g., this coming year) rather than later.
- Sam: Having a permanent coordinator role is essential. At the same time, for us to move forward with this, it needs to be a part of the Strategic Plan. A discussion is needed about where this position would be housed (agency, NGO?) and how this fits into the MOU discussion, seems there are 2-3 steps that need to move forward first.
- Troy: If we knew we were going to go that route for 2023-2025, it wouldn't be good if we had to put out a bid and lose our coordinator.
- Christine: I would certainly endorse the new leadership concept.

### **Group Discussion about DOJ Review**

Cat suggested the group move on from the discussion of staff position back to the topic of the Oregon DOJ review. She summarized a few key points from her discussions with ODA leadership including additional questions of liability and risk coverage in addition to fiscal responsibility. The group discussed various options at length, summarized in the following discussion points:

- Christine: To get things going, I feel strongly that we need to go forward with interpretation from the DOJ. Then we can work towards an appropriate MOU. We are paralyzed in

understanding our full role. If there are errors in the legislative language, we need to resolve that.

- Jas: In September, Amira Streeter suggested ODA consult with DOJ and ODA agreed. The state speaks with a single legal voice. In an era of ever shrinking budgets, it's understandable why agencies don't ask for legal advice. As a result, agencies end up coming up with their own interpretation. That's why legal advice is separate from the MOU issue. I understand ODA has noted potential costs for audits. To the extent ODA has its own legal questions, there's no reason why those can't be submitted to the DOJ later. If ODA has policy concerns, it's appropriate to discuss during the MOU. I agree with Christine, a shared definitive legal framework is needed for a solid foundation. OISC has never more needed guidance grounded in the rule of law. I urge the Council to implement the advice request without further delay.

*Q (Chat) Troy, he, CPRCD to Everyone: (2:10 PM): Cat, could you repeat the reason for Director Hansons request for a delay*

*A (Cat): We don't know all the best questions to ask right now and suggesting it would open up other questions such as liability, fiscal responsibility, and risk coverage as well as logistics of how this works if the Chair is not a state employee? She outlined a number of sub questions that would stem from the question that Jas. outlined. It could also cost more.*

- Jas: I don't fully understand how the status of Chair bears on fiscal responsibility, but I agree that there might be aspects that need discussion. If ODA has questions, do it. It's not a requirement to ask all your questions at once.
- Helmuth: I offered up that we're looking at opinions from the past 20 years. Haven't done that yet, but will get to it.

*Q (Rick): When the DOJ determined that we were part of the executive branch, do you have that document and does that have the interpretation in it?*

*A (Jas.): It was actually sent to ODA and the Council in November 2012 and was openly discussed at the February meeting. I wrote that advice, but it came from the general council. Could the Council appoint a private entity? The answer was no because your structure is a matter of state agency. The question was not definitively resolved.*

*Agencies take many forms and are a much more flexible concept than you might think. The Council fits the description of a state agency, but depends on the question being asked.*

*Q (Cat): Should we wait on voting until we hear from Helmuth on past DOJ reviews?*

*A (Dave): I would agree with Christine and Jas. that we move forward now.*

*A (Troy): It depends on the turnaround from Helmuth. It would be nice to have this information.*

- Jas: I advised the Council 2005-2014. There was no advice on the question that is presented here today. I don't know what the DOJ will say, but I think there is some uncertainty. It won't be a huge surprise, but we will have to follow it whether we like it or not.
- Cat: I do see the issues that Lisa raised of liability. If the money is in their control, they are responsible for questions about it. If we control the money and there are any conflicts, who is on the line for it and why should they be liable for our spending? There have been past conflicts. ODA has responsibility now. If the DOJ opinion comes back that ODA is just a fiscal agent, other questions will come up. Might open a can of worms.

- Rick: If the Chair was not an employee of the state, Chair would be supervisor over coordinator. Trying to figure out what the hierarchy is.
- Amira: The question about hierarchy depends on the advisory body. OISC has its own statute. It is very unique to the state. There are specific instructions for how the Council is made up and it's actually extensive.
- (Chat) Amira Streeter to Everyone (2:24 PM): As you all know, OISC has a specifically defined statute that addresses its duties and responsibilities. What is the question that the Council is trying to answer that DOJ would help address? Sorry if I missed this point.
- (Chat) Troy, he, CPRCD to Everyone (2:34 PM): I would advocate that we wait for Helmuth's quick review. If there's nothing there, we move forward with a submission of our (Jas.)' question and seek an opinion. This could all take place over the next couple weeks, with submittal in early January....could the council not pay for our own opinion (if it truly is THAT important?)
- (Chat) Catherine de Rivera to Everyone (2:32 PM): Thanks, Troy. I like that idea. Yes, we could pay. Our question likely costs ~\$3k.
- (Chat) Christine to Everyone (2:35 PM): I bet there are some models out there with coordinated programs that include state and non state employees.
- Sam: Should have a date set to move this forward. This has been pushed back 4-5 months already.
- Cat: I would like to set a date for a vote next week.
- Jas: I propose we vote now while we have full council here and, should Helmuth find opinions that answer the question, we will pull back.

The Council discussed the best path forward at length and it was decided that the Council would put forward two separate motions to a vote. See details below.

**Troy moves to approve the question (see below) from the Council for ODA to submit to the DOJ.**

**2nd: Noel Bacheller**

**Aye: 13**

**Abstain: 3**

**Nay: 0**

**1. CONTEXT:**

*The Oregon Department of Agriculture (ODA) is an ex officio voting member of the Oregon Invasive Species Council (Council) with one vote out of 18 for making decisions in accordance with the governance structure for the Council, as specified in ORS 570.770(1). Vis-a-vis the Council's budget, contracts and fiscal compliance, the Oregon legislature specifically provided that ODA's role was to administer those delegated functions as the Council's fiscal agent. See HB 2213 (2009), codified in ORS 570.780(3). In contrast to ODA, the Council in 2009 did not and still does not have any state employees or occupy state premises to carry out infrastructure functions. The introductory clause of the 2009 bill, HB 2213, as codified in ORS 570.770(1), provides generally that the Council is established "within" the Department of Agriculture. The legislative history of HB 2213, including two hearings, does not explicitly address substantive control of the Council's budget or its policies or programs duties by another agency. As articulated by an ODA representative at one of the hearings, the original impetus for HB 2213 was to allow the Council to make use of ODA's federal tax ID for purposes of applying for federal grants; HB 2213 contained a provision authorizing the Council to enter into contracts.*

**2. PRECISE, PROSPECTIVE LEGAL QUESTION:**

*Is ODA statutorily authorized by the general provision in HB 2213 (2009) (declaring that the Council was "established" within ODA) to make controlling decisions concerning the Council's budget, policies or other matters, given that ODA has a single vote in the Council's governance structure described in ORS 570.770(1), and given that ODA's role vis-a-vis the Council's budget, contracts, and fiscal compliance infrastructure was specified in the same 2009 bill (HB 2213) as that of being the Council's fiscal agent for in-house administration of those infrastructure functions?*

**Jas. moves to approve asking ODA to submit the question approved by the Council to the DOJ by January 8, 2021.**

**2nd: Dave Pranger**

**Yay: 16**

**Abstain: 1**

**Nay: 0**

Outcomes:

- The Council approved the question for ODA to submit to the DOJ.
- The Council approved a motion to ask ODA to submit the Council's approved question to the DOJ by January 8, 2021.

## Statewide Strategic Action Plan Reporting & Legislative Report

*Jas. Adams, OISC Public Member*

Strategic planning and action reporting during a pandemic is a challenge. When you document what has been done throughout the state by everybody, we are able to measure progress, identify gaps, etc. We are not seeking to obtain proprietary data. If there is information you don't want to submit, you can leave that out. Whatever you have on your website, get those down as part of the action plan so we can file that. This effort will also help with the legislative report that is due in January. Won't work unless we get data from Council members. We will be simplifying and resending out the action report form.

Next Steps:

- Need OISC members to submit 2017-2020 actions for plan reporting. Simplifying form.

## Committees & Working Groups (Progress, Approvals, or Next Steps)

**Legislative Committee, Rian vanden Hooff**

We're in the midst of legislative days for pre-session. There has been ongoing discussion for the potential of a 3rd special session at the end of next week to address COVID-related issues, equity-related issues, and fire-related issues. The Governor's recommended budget was released earlier this month and the big picture is that there are impacts to natural resource agencies. I commend the work of the Education & Outreach Committee and Jalene for putting together a handout that will speak to different parts of the state. There will be a lot of new members of the legislature coming in that will need as much outreach about invasive species as we can give.

**Budget Committee, Helmuth Rogg**

Around \$99,000 left in the OISC account, which includes \$50,000 from the Forest Service and \$10,000 from BLM. Cat reminded the group that the contract with INR is about to go through, which will mean \$10,000 is about to come out of the account.

### **Worst Invaders List Working Group, Nikki Brooks**

We've made some great progress. Started putting species information into the fields that we created for the list. Using as a trial run with high interest species to see where our gaps are. Going really well. Asked members to continue trying to put information in on their own. The last meeting was cancelled, so not sure how it went for everyone.

### **Joint Education & Communication Committees, Sam Chan and Karen Ripley**

- Karen: We have two products we've been working on. May 27th version of the brochure has been available for review on the member webpage. We would be happy to see a motion to approve that document for posting on the main website. I think it's been well vetted and ready for general use. Another product, a briefing paper suitable for legislative outreach. Not sure that it's been shared with the full Council yet. You will be getting an improved version.
- Jalene: Christine followed up with some comments for minor edits to the text of brochure.
- Christine: Mainly technical, correcting how to interpret what was said. Not huge changes.

**Rick: Move to finalize the May 27th draft of the OISC brochure (with minor text edits from Christine Moffitt) for general approved use and move to the website.**

**2nd: Tim Newton**

**All in favor**

Outcome: The Council approved the May 27th version of the OISC brochure (with minor text edits from Christine Moffitt) for general use and for the website.

### **Announce Result of 2021 Officer Vote**

Outcome: Rick voted in as 2021 Chair and Troy voted in as 2021 Vice Chair

### **Round Table Updates: pressing topics or new developments**

- Troy: Thanks to the Council, I'm humbled by your votes. Hoping to lean into experience from both Glenn and Christine. I did send out a document to the Council an hour before today's meeting about OISC-hosted virtual networking events. If anyone has a chance to review and would like to participate/give feedback, let me know. The idea is to have regionally relevant webinars with targeted outreach to those who work closest to whatever the theme is.
- Jas.: I would like to coordinate with OSMB, DEQ, and ODFW. Wakeboard boats with large ballast tanks are the worst spreader of zebra mussels. Would like to look into whether there is any inspection of ballast tanks. Wonder if this is a threat that may be handled currently. Inspection stations are not 24/7.
  - Rick: Part of our protocol is wakeboard boats. All western states are aware of studies. Can't fill up all the way, but we do a flush and have to use 120 degree water. Also looking at other decontamination methods. Inspection stations are not 24/7, but main points of entry are open year round.

- Helmuth: Meeting with Washington and Oregon regarding Asian gypsy moth response. Spotted lantern fly quarantine draft ready for review. Ongoing discussions about 2021 invasive pest surveys, EDRR, and eradication efforts, considering budget crunch.
- Rian: A topic came up last week on wildlife trade and transit and connecting the dots with COVID. Pathogens and disease that can be transported by wildlife. Sparking conversations about if we aren't able to do things at federal level, is there anything that can be done at state or regional level? California checkpoint stations for agriculture and AIS, and now this type of thing might come up. Would be good for invasive species professionals to have their eyes on any legislative concepts that we expect to see around this topic.
  - Rick: There is a legal concept that is dealing with this.

## Action Items & Next Meeting & Close

See summary list of actions/outcomes at the top of minutes.

Cat suggested the next OISC meeting be held in January 2021 and Council members were in agreement. Council members thanked Cat for her leadership in her role as Chair and for working with the PSU Bioinvasions class on great projects!

## Public Comment

No public comment.

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## Meeting Participants

### **Council Members**

Troy Abercrombie, Western Invasives Network

Jas. Adams, Public Member

Noel Bacheller, Oregon Parks & Recreation Department

Rick Boatner, Oregon Department of Fish & Wildlife

Nikki Brooks, US Customs and Border Protection

Sam Chan, Oregon State University & Oregon Sea Grant

Glenn Dolphin, Oregon State Marine Board

Olivia Duren, The Freshwater Trust

E. Chuck Fisk, F5 Wildlife Control

Rian vanden Hooff, Oregon Department of Environmental Quality

Peter Kenagy, Kenagy Family Farm Inc, Oregon Farm Bureau, Willamette Mainstem Cooperative, Oregon Agricultural Trust & Specialty Seed Growers of Western Oregon

Erin McConnell, Bureau of Land Management

Sean McMillen, USDA APHIS PPQ

Christine Moffitt, Friends of South Slough Reserve

Tim Newton, Malheur County SWCD

Kathy Pendergrass, USDA NRCS

Dave Pranger, Morrow County

Karen Ripley, USDA Forest Service

Catherine de Rivera, Portland State University

Helmut Rogg, Oregon Department of Agriculture  
Cheryl Shippentower, Confederated Tribes of the Umatilla Indian Reservation  
Alex Staunch, Mosaic Ecology  
Amira Streeter, Office of Governor Kate Brown  
Brendan White, US Fish & Wildlife Service  
Wyatt Williams, Oregon Department of Forestry

*Council Members Excused: Heidi McMaster (US Bureau of Reclamation), Sen. Arnie Roblan (Oregon Senate - District 5), Rep. David Brock Smith (Oregon House of Representatives - District 1)*

**Other Meeting Participants**

Clint Burfitt, USDA, APHIS, PPQ  
Josh Emerson, Oregon Department of Environmental Quality (OISC member alternate)  
Jalene Littlejohn, Samara Group