

January 29<sup>th</sup> 2023

To Whom It May Concern:

Please find attached my “Petition For Adoption, Amendment, Or Repeal Of A State Administrative Rule”

I have checked the box, “1. New Rule – I am requesting the agency adopt a new rule.”

“The subject (of purpose) of this rule is: “immediately begin Rule Making for the 2023 Spring Black Bear Hunting on Public Lands using the same science, metrics, benchmarks and thresholds used in the Spring Black Bear Timber Damage Program (aka Spring Black Bear Hunts on Private Land)”

Please find the attached following documents:

- Public Disclosure Request – 1 of 5: Sent to [PublicDisclosureRequest@dfw.wa.gov](mailto:PublicDisclosureRequest@dfw.wa.gov) on Jan 29, 2023
- Public Disclosure Request – 2 of 5: Sent to [PublicDisclosureRequest@dfw.wa.gov](mailto:PublicDisclosureRequest@dfw.wa.gov) on Jan 29, 2023
- Public Disclosure Request – 3 of 5: Sent to [PublicDisclosureRequest@dfw.wa.gov](mailto:PublicDisclosureRequest@dfw.wa.gov) on Jan 29, 2023
- Public Disclosure Request – 4 of 5: Sent to [PublicDisclosureRequest@dfw.wa.gov](mailto:PublicDisclosureRequest@dfw.wa.gov) on Jan 29, 2023
- Public Disclosure Request – 5 of 5: Sent to [PublicDisclosureRequest@dfw.wa.gov](mailto:PublicDisclosureRequest@dfw.wa.gov) on Jan 29, 2023
- As a separate .pdf to this petition contained in the submission of this petition the 100 page document, “Responses prepared by WDFW staff to Commissioner Questions after on the Black Bear Spring Special Permit Rule November 10, 2021
- Document, “Bear Timber Damage 2022 – FAQ”

***Next:***

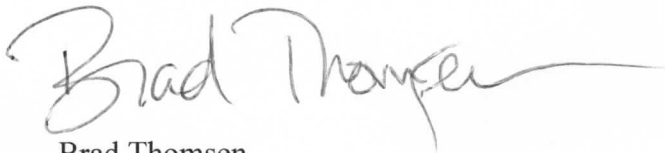
- The WDFW Commissioners have failed to prove the science which they have previously accepted and was used in 2022 for the 2022 Spring Black Bear Timber Damage Program is unacceptable for Spring Black Bear Hunts on Public Land
- The WDFW Commissioners have failed to prove the science regarding Black Bears on Private Land is not the same as the science regarding Black Bears on Public Land
- The WDFW Commissioners have failed to prove there is any scientific or genetic difference between Black Bears on Public Land versus Black Bears on Private Land
- The WDFW Commissioners have failed to prove there is any scientific or genetic difference between Trees found on Private Land versus the Trees found on Public Land
- The WDFW Commissioners have failed to prove there is a scientific difference between the actual damage Black Bears do to Trees on Public Land versus the damage Black Bears do to trees on Private Land

- The WDFW Commissioners have failed to prove that Black Bears do not migrate from Public Land to Private Land or vice versa
- The WDFW Commissioners have failed to provide a scientific reason why they have chosen to Provide a Spring Black Bear Hunt on Private Land for Private Land Owners and not a Spring Black Bear Hunting Season on Public Lands which are owned by 'The People'
- The WDFW Commissioners have failed to prove the Private Land Owners are scientifically or genetically different from Public Land Owners
- The WDFW Commissioners have failed to provide their science for asking for a different set of science for Public Land Black Bears versus Private Land Black Bears
- The WDFW Commissioners have failed to provide the science behind Private Land Spring Bear Timber Damage differences to the science behind Public Land Spring Bear Timber Damage
- {I could go on like this for several more pages but by now the Commissioners reading this see how annoying it is for the Public to listen to the Commissioners blather on ad nauseam meeting after meeting about 'we don't have the right science or the correct science of the newest science, or the science wasn't interpreted correctly... you know, 'Science Gamesmanship'}
- The WDFW Commissioners had the right science for the 2022 Spring Black Bear Timber Damage Program Hunts.
- The WDFW Commissioners will have the right science for the 2023 Spring Black Bear Timber Damage Program Hunts.
- The WDFW Commissioners currently have the right science for Public Land Spring Black Bear Timber Damage Hunts
- Now, I could simply copy/paste the previous page and insert the next word the WDFW Commissioners like to use when rejecting Spring Black Bear Hunting in Washington and why they continue to refuse to begin rule making for Spring Black Bear Hunts and that would be the word 'metrics'
- Shall I copy / paste the previous page and replace the word 'science' with 'metrics'? It would be equally as annoying as listening to the WDFW Commissioners use that word over and over and over again.
- Next, shall I copy / paste the previous page and replace the word 'science' with the word 'thresholds' or shall we all just agree it's another pet word of the WDFW Commissioners and agree that the thresholds needed for Spring Black Bear Timber Damage Hunts on Public Land are already being used on Private Land
- Next, shall I copy / paste the previous page and replace the word 'science' with the word 'benchmarks' or shall we all just agree it's another pet word of the WDFW Commissioners and agree that the benchmarks needed for Spring Black Bear Timber Damage Hunts on Public Land are already being used on Private Land in the Bear Timber Damage Program
- The WDFW Commission already has approved benchmarks for Spring Black Bear Timber Damage Hunting on Private Timber Land and it was used in 2022 and will be

mostly the same benchmarks for the 2023 Spring Black Bear Timber Damage Program Hunting on Private Lands.

- The Staff previously brought thresholds to the Commission for Spring Black Bear Timber Damage Hunting on Private Lands and it was approved and is used.
- This petition serves to provide guidance to the WDFW Commissioners that the benchmarks, thresholds, science and metrics have previously been approved by the WDFW Commissioners, was used in 2022 for Private Land Spring Bear Hunts, and those same benchmarks, thresholds, science and metrics will be much the same for the 2023 Black Bear Timber Damage Program (for Private Lands)
- The WDFW Commissioners do not need to have staff develop specific thresholds that trigger management-based Spring Black Bear Hunting.
- Those thresholds are already in place and approved in the Black Bear Timber Damage
- Question: ***By the way, is there a 2023 Bear Timber Damage FAQ available or will the Department be using the Bear Timber Damage 2022 - FAQ again in 2023?***
- Answer: **The FAQ is not yet developed for 2023 and will likely look very similar to 2022.**
- Should the Commissioners and 'Joe' get into a discussion during the Commission Meeting when this petition will be scheduled, regarding denying this petition as the title includes the year, "2023", it is acknowledged I know I included the date 2023 and can easily and conveniently submit a follow up new Petition should this petition be denied for the reason of the date. As I remember the Recreational Spring Black Bear Hunting Season was cancelled in 2021 due to some discussion regarding a date being included or not being included in that WDFW Commission discussions then. It's a tired gambit. But it is out in the open now. During the January 27<sup>th</sup> Commission Meeting I believe that petition was largely discussed regarding denying that petition in light of that petition being titled "... for 2023 and future year(s)..."

Thank-you

A handwritten signature in black ink that reads "Brad Thomsen". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Brad Thomsen



Mailing Address: P.O. Box 43146  
Office Location: 1111 Washington Street S.E.  
Olympia, Washington 98501-3137  
Telephone (360) 706-3325  
**PublicDisclosureRequest@dfw.wa.gov**

## REQUEST FOR PUBLIC RECORD

NOTE: The Department of Fish and Wildlife may impose charges for providing copies of public records (RCW 42.56.120)

1. REQUESTOR'S NAME: Brad Thomson

COMPANY/ FIRM: \_\_\_\_\_

MAILING ADDRESS: [REDACTED]  
Street/Box \_\_\_\_\_ Code \_\_\_\_\_

EMAIL: [REDACTED] TELEPHONE: [REDACTED]

PLEASE DESCRIBE THE RECORDS YOU ARE REQUESTING AND PROVIDE ANY ADDITIONAL INFORMATION THAT WILL ASSIST US IN LOCATING IDENTIFIABLE RECORDS. PLEASE BE AS SPECIFIC AS POSSIBLE. PLEASE PROVIDE TIMELINE (DATE/YEAR TO DATE/YEAR); CASE NUMBER(S); CLEARLY AND CORRECTLY SPELLED NAMES OF PARTIES INVOLVED. PROVIDING SPECIFIC INFORMATION WILL ALLOW US TO PROCESS YOUR REQUEST MORE EFFICIENTLY.

Please See Attached

3. RECORDS WILL BE PROVIDED ELECTRONICALLY UNLESS OTHERWISE SPECIFIED.

☒ Electronic ☐ Photocopy ☐ CD ☐ Inspection

NOTE: FEE ESTIMATES WILL BE PROVIDED IN ADVANCE OF PRODUCTION

4. PURPOSE FOR WHICH INFORMATION IS REQUESTED\*: Please See Attached

\* Requests for lists of individuals may require additional information to verify that the list is not for commercial purpose.

### CERTIFICATION THAT LISTS OF INDIVIDUALS WILL NOT BE USED FOR COMMERCIAL PURPOSES

I understand that pursuant to RCW 42.56.070(8), WDFW is prohibited from releasing lists of individuals if such lists will be used for "commercial purposes." "Commercial purposes" has been interpreted to mean "any business activity intended to generate profits," SEIU Healthcare 775NW v. Dep't of Soc. & Health Servs., 193 Wn. App. 377 (2016), and includes business activity "by any form of business enterprise intended to generate revenue or financial benefit," Id., including not-for-profit entities.

I hereby certify that any list of individuals provided to me by the Washington Department of Fish and Wildlife (WDFW) will not be used for commercial purpose. I further certify that I will protect any list of individuals provided to me by WDFW from access by anyone who may use it for commercial purposes.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signature of Requestor

Date

4/29/2023



January 29 2023

Hello,

Can you please provide me any and/or all policies, procedures, RCW's or WAC's that pertain specifically to the following:

- Documents pertaining to what the WDFW Commissioners roles, responsibilities and duties are regarding Open Public Comment, and emails received to the WDFW Commission, and postal mail sent to the WDFW Commission as it pertains specifically to Petitions on the WDFW Commission Agenda?
- Documents pertaining to the roles, duties, responsibilities regarding any metrics the WDFW Commission/Commissioners are to following regarding the weighing of Public Comments received regarding a Petition on the Commission Schedule?
- i.e. is there a threshold, as an example, if more than 50%, or significantly more than 50%, or even greater than 90% of Public Comment is in Support of a Petition are there rules regarding WDFW Commission Votes the WDFW Commission must following if certain thresholds or metrics are met?
- Documents pertaining to the guidelines (metrics) the WDFW Commissioners use to comply with the overwhelming Public Comments on one side of an issue?
- Documents pertaining to who oversees the WDFW Commissions Conduct as it pertains to the WDFW Commission if they vote against the will of the people (Public Comments) in their votes to approve or disapprove a Petition?
- Documents pertaining to discipline, sanctions or counseling provided to the WDFW Commissioners if they vote on Petitions against the overwhelming will of the people (Public Comment)
- Documents pertaining to the discipline, sanctions or counseling provided to the WDFW Commissioners if they blatantly with wanton disregard for the will of the people repeatedly vote against the overwhelming will of the people regarding Petitions of the same subject matter?
- Documents pertaining to WDFW Commissioners roles, responsibilities and duties in regard to following overwhelming public opinion regarding a topic?
- Documents pertaining to the metrics, roles, responsibilities, duties or conduct regarding hearing Open Public Comment? i.e. if an overwhelming number of speakers in favor of a Petition on the WDFW Commission Agenda wish to speak, what is the metric beyond simply putting a time limit on how long Open Public Comment lasts (generally one hour) what is the policy, procedure, duties of the WDFW Commission to ensure the other many people who wish to provide Comment are heard prior to the Petition Vote?
- Documents pertaining to roles, responsibility or duty to hear and read all public comment prior to a Commission vote regarding a Petition on the WDFW Commission Calendar.

Thank-you



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City/State

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Brad Thomson  
Signature of Requestor

4/29/2023  
Date

January 29<sup>th</sup> 2023

Hello,

Can you please provide to me any and/or all policies, procedures, RCW's or WAC's that pertain specifically to the following:

Please send me the following:

Total number of public comments regarding the January 27 2023 Spring Bear Petition

Total number of public comments that were in favor of the Jan 27, 2023 Spring Bear Petition

Total number of public comments that were against the Jan 27, 2023 Spring Bear Petition

Total number of people signed up to speak on Jan 27, 2023 during Open Public Comment

Total number of people who actually were allowed to speak on Jan 27, 2023 during Open Public Comment

Total number of people who were still on the phone waiting to speak during Open Public Comment at the time Open Public Comment was ended

Total number of Public Comments regarding the Jan 27 2023 Spring Bear Petition that were actually read by WDFW Commissioners

Total number of Public Comments that were not read by WDFW Department Staff regarding the Jan 27, 2023 Spring Bear Petition

Are the total number of Public Comments read by each WDFW Commissioner measured?

Is there a tool the Department uses to measure the number of Public Comments each WDFW Commissioner opens and reads?

Please provide all available information regarding the documents that pertain to the processes, procedures, and any RCW and/or WAC that pertains to the measuring of each of the above questions.

Who is the tech company that handles the Public Comments for WDFW Commission?

Thank-you



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Brad Thomson

COMPANY/ FIRM:

MAILING ADDRESS:

Street/Box

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EMAIL:

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Signature of Requestor

Date

4/29/2023

January 29<sup>th</sup> 2023

Hello,

Can you please provide to me any and/or all policies, procedures, RCW's or WAC's that pertain specifically to the following:

Please send me the following:

Total number of public comments regarding the November 18, 2022 Spring Bear Petition

Total number of public comments that were in favor of the November 18, 2022 Spring Bear Petition

Total number of public comments that were against the November 18, 2022 Spring Bear Petition

Total number of people signed up to speak on November 18, 2022 during Open Public Comment

Total number of people who actually were allowed to speak on November 18, 2022 during Open Public Comment

Total number of people who were still on the phone waiting to speak during Open Public Comment at the time Open Public Comment was ended

Total number of people who had a comment entered during the Spring Bear Policy Discussion by a WDFW Commissioner(s) prior to the WDFW Commission vote to cancel Spring Bear Hunting.

Documents that guided and/or provide a source material for reference why there was no Open Public Comment period on November 18<sup>th</sup> 2022 as can be seen on the WDFW Commission Previous Meeting Webpage for the WDFW Fish and Wildlife Commission – November 18, 2022 Meeting Agenda

Documents that guide which Commission Meeting shall have no Open Public Comment and which WDFW Commission Meetings shall not have Open Public Comment period

Total number of Public Comments regarding the November 18, 2022 Spring Bear Petition that were actually read by WDFW Commissioners

Total number of Public Comments that were not read by WDFW Department Staff regarding the November 18, 2022 Spring Bear Petition

Are the total number of Public Comments read by each WDFW Commissioner measured?

Is there a tool the Department uses to measure the number of Public Comments each WDFW Commissioner opens and reads?

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Brad Thomson  
Signature of Requestor

4/29/2023  
Date

January 29<sup>th</sup> 2023

Please provide me the "Bear Timber Damage 2022" Department File, aka "Bear Timber Damage Program" file for the year 2022.

Specifically this request is for the following from the file:

- The science which is documented, was accepted by the WDFW Commission for the 2022 Spring Black Bear Timber Damage Hunts during the Bear Timber Damage Program for year 2022.
- The metrics which are documented, which were accepted by the WDFW Commission for the 2022 Spring Black Bear Timber Damage Hunts during the Bear Timber Damage Program for year 2022.
- The thresholds which are documented, which were accepted by the WDFW Commission for the 2022 Spring Black Bear Timber Damage Hunts during the Bear Timber Damage Program for year 2022.
- The benchmarks which are documented, which were accepted by the WDFW Commission for the 2022 Spring Black Bear Timber Damage Hunts during the Bear Timber Damage Program for year 2022.
- Total Number of Spring Bear Timber Damage Hunt permits that were issued in 2022
- Names of Timber Producers / Companies who received Spring Bear Timber Damage Hunt permits in 2022
- Documents / results of the permits / harvest data regarding each Spring Bear Timber Damage Hunt Permit issued by WDFW broken down by GMU, sex, weight, age, etc.
- Specific science / metrics / thresholds / benchmarks documentation paperwork that is necessary and/or accompanying each permit as it was issued in 2022.
- Documents specific to tree species / class of trees that were damaged associated with each Spring Timber Damage Hunt permit issued in 2022
- Documents specific to identifying both injured and killed trees.
- Documents specific to species, width of tree, percentage of tree damage documented associated with each Spring Black Bear Timber Damage Hunt Permit in 2022
- Preference rating of trees by species which suffered sufficient Black Bear Timber Damage in 2022 which resulted in issuance of a Spring Black Bear Timber Damage Hunt Permit in 2022.
- Bear Damage Transects and how they were identified in 2022
- Please provide the methods, science, benchmarks, thresholds that were used in the 2022 Spring Black Bear Timber Damage Hunts for the collection of data concerning damage characteristics in that area.
- Please provide the credentials required by WDFW for individuals for gathering data used in the issuance of Spring Black Bear Timber Damage Permits in 2022

- Documents, Policies, Procedures, RCW's or WAC's that were used in the WDFW Commissions decision to Staff to not update the WDFW Document 'Responses prepared for WDW staff to Commissioner Questions after the Black Bear Spring Special Permit Rule November 10, 2021'

Thank-you



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Signature of Requestor

4/29/2023  
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January 29<sup>th</sup> 2023

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- Documents, Policies, Procedures, RCW's or WAC's that were used in the WDFW Commissions decision to Staff to not update the WDFW Document 'Responses prepared for WDW staff to Commissioner Questions after the Black Bear Spring Special Permit Rule November 10, 2021'

Thank-you





## Bear Timber Damage 2022 - FAQ

### Why did the original Bear Timber Damage Program stop?

The validity of a Washington Administrative Code (WAC) rule providing for the issuance and use of the black bear timber damage depredation permits found in [WAC 220-440-210](#) was challenged in an appeal to the Washington State Court of Appeals. The court invalidated the rule and thus the Department has limited ability within current laws in order to address bear caused timber damage.

### What is currently happening with the litigation?

A portion of the court case was resolved when Washington State Court of Appeals invalidated the rule. There are portions of the litigation that were remanded to Thurston County Superior Court, and the Department cannot comment on active litigation.

### What is Washington Department of Fish and Wildlife (WDFW) able to provide in response to timber damage this season?

Under [RCW 77.12.240](#), WDFW may authorize the lethal removal of black bears causing damage to private property subject to the limitations in RCW 77.15.245. WDFW is considering requests for authorization to kill timber-damaging black bears with firearms ("boot hunting") on a case-by-case basis. Under very limited circumstances, the local WDFW conflict specialist may be able to deploy a culvert trap in an effort to trap and remove a timber-damaging bear, but only if a trap is available and the conflict specialist has the time and ability.

### How do I request WDFW assistance responding to timber damage?

Each timber company will need to work with their local Wildlife Conflict Specialist (WCS) to address bears causing timber damage. The WCS will need to retrieve the following information:

- Location of damage.
- Verification of the fresh damage either by a site visit, a photograph, or any other means as requested by the WCS.
- What non-lethal methods have been employed in attempt to prevent the damage.
- Whether supplemental feeding is currently occurring on the property or not.
- Any additional information the timber company or WCS feels is important for consideration.

The WCS will evaluate whether a kill permit is appropriate for each specific case, or alternatively, may consider if culvert trapping is an option. If the timber company would like to request a kill permit, the company should coordinate with the WCS to submit the above information along with a request for issuance of a kill permit.

## Who approves each kill permit?

Every permit will need to be reviewed, approved, and signed by the Wildlife Conflict Section Manager, Jim Brown, or whomever he designates as acting in his absence.

## How long will it take to receive a kill permit?

Each permit request will be evaluated on a case-by-case basis considering the information provided by a permit applicant and potentially additional information gathered by WDFW in a field visit or desk review. Normally, if a timber company has provided the WCS with needed information, WDFW staff will have kill permits issued within three business days of receiving a request. Promptly responding to requests for any additional information needed for approval will assist with the speed of processing.

## How long will the kill permit be valid for?

The duration of each kill permit will be considered on a case-by-case basis.

## How many bears are allowed to be taken under each permit?

Each permit will state the number of bear(s) approved to be killed, which will depend on the specific damage situation. If a timber company would like to request a permit to kill more than one bear in a location, the request should include information explaining why the removal of two or more bear is necessary to address the timber-damage occurring at that location.

## Can I receive more than one kill permit if I have multiple locations of damage?

Yes. However, each location of damage will require a separate kill permit and will need to be reviewed for approval independent of other damage locations on the property.

## Can I receive a kill permit for bear timber damage if I am in a grizzly bear recovery zone?

Yes, but hunters will need to comply with the bear identification test. If this situation occurs, WDFW will outline any additional requirements upon issuance of the permit, and those requirements must be met before the permit may be used.

For more information on where the grizzly bear recovery zones are and the bear identification program, please visit our website at this link: <https://wdfw.wa.gov/hunting/requirements/bear-identification-testing>

## Will there be requirements associated with the take of a bear under a kill permit?

Yes. Each permit will include conditions and requirements based on a case-by-case analysis of the specific timber damage situation. This will include time, place, and manner restrictions, as well as harvest reporting requirements (e.g., bear tooth envelope to be returned to WDFW). Each permit will also address the disposition/possession of any carcasses. Barring unusual circumstances, the gall

bladder will need to be turned over to the WCS while the hunter would be able to retain the remainder of the carcass.

Is a license or tag required for the take under a kill permit issued in response to bear timber damage?

No, there is no WDFW license, tag, or fee required.

When can I apply for a bear timber damage kill permit?

Bear timber damage kill permits are generally issued beginning around April 15<sup>th</sup> and are not usually issued after June 30<sup>th</sup> of each year. If a timber owner has a problem with timber damage outside of this time frame, s/he may contact the WCS to assess the situation and to discuss options for addressing the cause of the damage.