



Minutes

Washington Fish & Wildlife Commission
Web Conference
Friday, July 19, 2024
Olympia, Washington

Attendance:

Commission:
Barbara Baker, Chair
Tim Ragen, Vice Chair
Lorna Smith
Woody Myers
James R. Anderson
John Lehmkuhl
Molly Linville
Steve Parker
Melanie Rowland

Department Staff:
Kelly Susewind, Director
Joe Panesko, AGO
Amy Windrope, Deputy Director
Anis Aoude
Stephanie Landry
Julia Smith

Commission Staff:
Jamie Caldwell

1. Call to Order

Vice Chair Ragen called the meeting to order at 8:31am. He noted that there were 5 items on the agenda and anticipated being done by noon. He opened the floor to any comments needing to be made or any items that needed to be reported out on.

Commissioner Smith reported that she was doing volunteer keeper duty at the Dungeness Light Station. Her family lived there as lighthouse keepers 100 years ago. She invited anyone that was interested to come visit the light station, noting it was about a 5 mile hike out or there is a kayak trail that can be followed. ([Begins at 1:04 mark](#))

Commissioner Anderson reported that he had an eventful and fun week at Neah Bay doing salmon and bottom fishing. The weather was dry and windy. They had to wear coats and sweatshirts each day and the fishing was modest due to the wind and tides. A number of fish were being taken and it was a decent run out there. He knows a number of fisheries were open and a few more opened yesterday around Puget Sound. He thinks we're into the season and is hoping people have a lot of success with their salmon rods. ([Begins at 1:49 mark](#))

Commissioner Lehmkuhl reported that he likewise had a fishing report. He went fishing out of Westport last week and had a great time. Fishing was good, not super fast, but caught their limit of Chinook, hatchery Coho, and rockfish. They made it into port and there was a DFW fish checker there, but she was right on the spot, cordial, informative, and efficient of her work. She took samples and explained why they were doing that. He wanted to give her a kudos for a good job. ([Begins at 2:46 mark](#))

Meeting Minute Approval

Vice Chair Ragen asked for any other reports and there were none. He noted that the first item of business was the approval of minutes for the June 20-22, 2024 hybrid meeting in Vancouver. He asked if there was a motion for approval. ([Begins at 3:41 mark](#))

Commissioner Smith moved to approve the minutes for the June 20-22, 2024 hybrid meeting in Vancouver and it was seconded by Commissioner Lehmkuhl. There was a brief discussion again around the length of the minutes and whether or not it was necessary. Due to time constraints, the Commission decided to take the topic up again at a future meeting. Commissioners voted 8-0, with Commissioner Anderson abstaining due to being absent for that meeting; motion carried.

Delegation Discussion: Petition – Spring Bear Petition

Vice Chair Ragen moved to the next item of business noting a petition was up for Commissioner discussion for delegation. He noted that a petition was received from Mr. Thomsen. The Executive Committee discussed it, and the recommendation was that due to the Commission planning on having a longer discussion surrounding the petition process in August, that this petition be delegated to the Director for the time being. ([Begins at 7:21 mark](#))

Commissioner Lehmkuhl moved to delegate the petition to the Director for decision and it was seconded by Commissioner Chair Baker. The Commissioners voted unanimously; motion carried. ([Begins at 8:15 mark](#))

2. Cougar Rule – Discussion, Decision

Vice Chair Ragen commented that in his career that he's been in lots of meetings that Robert's Rules of Order was used. He noted they can be very technical and they are essential when there is a big audience or group of people involved. You have to bring order and make the process efficient, while also being fair. Because there are nine Commissioners, he thinks they can entertain some laxity, and he'll admit that laxity is really for the same purpose that the rules of procedure exist. That is to be fair and make sure that everyone has a good opportunity to participate in the discussion and it's done in an orderly as possible fashion. That's his focus for this issue and the next one on wolves. He wants to try to be careful, fair, and efficient as the discussions unfolds. He believed that there would be a staff p. ([Begins at 9:16 mark](#))

Staff presented a brief background on the topic and the proposed CR-102 rulemaking language. ([Begins at 10:59 mark](#))

Chair Baker thanked staff for their presentation. She requested some clarification on the point mentioned about when mortality is counted, which she believed the way it was presented to be during the hunting season made sense to her. Her question was in the year that the season starts on September 1st, as they're dealing with allowing more opportunity by going to a 20% cap, is conflict mortality counted for the summer preceding the season? So, if there was 12% at the end of the season, and then there was a bunch of conflict during the summer, are those cats counted as the seasons are being set in September? ([Begins at 16:29 mark](#))

Stephanie replied that she was correct, and staff understood of the rule that the Commission decided on with that everything from April 1st-March 31st is counted. Which means that staff began counting on April 1st this year. ([Begins at 17:35 mark](#))

Commissioner Anderson asked if staff able to identify areas where there have been significant counts of mortality per GMU? Has staff done work associated with that they can report on? ([Begins at 17:58 mark](#))

Stephanie replied that she could report on that, and Anis elaborated that staff have always captured that data every year since this type of hunting has been done. That data is always been available and tabulated since April 1st. So, staff is recommending remaining with that approach. Staff does have the data by PMU/GMU and tabulated them so the Commission had an idea of where they sat. Stephanie presented a bar graph showing the PMUs that have had mortalities since April 1st. There were two that currently wouldn't open if it weren't for the 20% addition into the rule. He further clarified that the two showing in red were over the cap and the ones in blue weren't. Anis went on to note that 13% for #6 is 6, so that PMU was at the cap. The 13% for #7 would be 8, and it was currently above that percentage. ([Begins at 18:29 mark](#))

Commissioner Myers asked staff if they could clarify the sunsetting, if it was the whole season, if it was the 20% and if it's the whole season, what happens when that season sunsets? ([Begins at 20:52 mark](#))

Anis replied that if he understood the question correctly, that Commissioner Myers was asking about the clause in the rule that sunsets the 20% and Commissioner Myers stated that Anis was correct. Anis went on to explain that the clause was only intended to be in place for one year. So, after this year, that would not be in place next year, if the rule were to remain in place. It would be in place for the entire season, it just wouldn't be in place next year. So next year, if those two units were above, they would just never open. ([Begins at 21:20 mark](#))

Commissioner Myers stated the clarification helped him a lot and he now understood it to be the 20% section that sunsets and Anis confirmed that to be correct. ([Begins at 22:03 mark](#))

Commissioner Rowland stated she's prepared to make a motion noting it would answer the issue that Commissioner Myers just raised. ([Begins at 22:19 mark](#))

Chair Baker asked to make a comment before motions are proposed. She commented that she thinks it's important to reiterate what was sent out in an email to everyone to let everyone know there was one Tribe, the Stillaguamish, ask for a government to government consultation on this issue. She went on to say that the consultation was handled in two pieces. The first, thanks to the Director for discussing the issue with Tribal leaders and the Tribal biologist, who was especially interested in the subject and signed the letter. Director Susewind put the science team to work, and they had similar discussions with the Tribal biologist. So all the issues the Tribal biologist with respect to being unhappy, or at least not exactly knowing what's going on with this rule, are resolved. The Vice Chair of the Tribe, Kadie Bizyayeva, wanted to talk a bit more about policy, so last week, Vice Chair Ragen, herself, the Deputy Director, the Director, and Kadie all had a conversation that lasted a little more than an hour. Within that conversation, primarily situated around Tribes don't like to be surprised and that we have to find a way that they are kept up on what we're doing. But embedded in that, she made a formal request, that the vote be postponed. She wanted to make sure everyone knew that and that she wants to work on trying to not have this happen again. She also told Kadie that she'd get back to her with suggestions in that regard, and that the Director and Deputy Director are working on that with the Tribal Affairs Director. She stated they offered to hear any suggestions Kadie had in that regard. She just wanted to remind everyone that it happened and didn't want the vote to occur without that reminder. The consultation is completed and it was a much more of a pleasant interaction than she thought it would be and felt it was a good talk. ([Begins at 22:42 mark](#))

Commissioner Rowland stated she was prepared a motion to adopt the CR-102 with one technical language change and asked that her motion language be shared on the screen. ([Begins at 25:40 mark](#))

In the meantime, Commissioner Anderson commented that based on the report-out on the conversation with the Stillaguamish Tribe, that it seems to him it would be a good thing to table the motion and revert to the 2023-24 rule that's in place and deal with the long-term solution. Not only are Tribes engaged, but others, as has been talked about doing. He thinks they made a good-faith effort trying to communicate that and it would be respectful to acknowledge that. ([Begins at 26:37 mark](#))

Commissioner Rowland stated that she felt there was some confusion about the sunsetting as Commissioner Myers indicated, whether the entire WAC sunsets or what provision of it sunsets, because all it says is, 'this section will sunset at the end of the 2024-25 season' in paragraph 3 of the proposed rule. But, it also in paragraph 3, which refers to the opening of seasons that would otherwise be closed, it also gives all the caps on each of the PMUs. What is the cap that will close the season for that particular PMU. She can't imagine that all of paragraph 3 will be sunsetted. Her suggested wording is 'The provision opening otherwise closed PMUs to hunting at the beginning of the season will sunset at the end of the 2024-25 hunting season.' So, that is not changing in any way the intent of the rule, to her, it's simply clarifying the rule. She checked this out with Attorney General Panesko, and he felt that was ok to do. So, her motion is:

Adopt the CR-102 that has been presented, with the wording change and it was seconded by Commissioner Smith. ([Begins at 27:44 mark](#))

Vice Chair Ragen commented that Commissioner Anderson's request would be a substitute motion or to table the topic, which he didn't think was one in the same. He noted that the Commission could discuss these, move forward with Commissioner Rowland's motion, or table this motion. He asked if anyone had a problem with proceeding with that discussion. ([Begins at 30:06 mark](#))

Attorney General Panesko had a question for Commissioner Anderson, being that he raised the suggestion to go with the Tribal suggestion to not take action, but it wasn't clear to him that Commissioner Anderson's intent was to make that a formal motion. He wanted to clarify if that was Commissioner Anderson's intent or not. ([Begins at 30:42 mark](#))

Commissioner Anderson clarified that was not the intent. Not to put a motion on the table at this point, but allow further discussions because he thinks there is more to discuss. He also felt that it was out of respect that he brings it up and wants people to give it consideration during this discussion. ([Begins at 31:05 mark](#))

Vice Chair Ragen commented that he's assuming there aren't substitute motions, just the one, but it was a point Commissioner Anderson would like brought up and discussed regarding Commissioner Rowland's motion. That motion has been seconded so discussion is open, and that would be a time to address that issue. ([Begins at 31:35 mark](#))

Commissioner Lehmkuhl commented that if it was an appropriate time that he'd like to propose an amendment to the motion. Vice Chair Ragen commented that he assumed the proposed amendment to the motion would supersede the motion at this time and suggested that Commissioner Lehmkuhl propose his motion amendment. ([Begins at 32:02 mark](#))

Commissioner Lehmkuhl moved to amend the motion to approve the cougar rule as follows:

- *Staff are directed to remove the sunset clause in section 3, or the section that Commissioner Rowland was referring to, if it's not being called section 3.*
- *Staff are directed to file a CR-101 to open a cougar rule in time for the 2025-26 season*
([Begins at 32:28 mark](#))

Commissioner Smith noted that motion is looking to amend the proposed rule on the floor, but also beyond that. She asked if it is advisable to present this in two separate motions, or appropriate for consideration in one motion. ([Begins at 33:22 mark](#))

Attorney General Panesko advised that there isn't a strict legal aspect to the second request. The second part of Commissioner Lehmkuhl's motion is directed at staff as sort of a forward/future steps. It's clear it's not an immediate part of adoption the proposed rule. It's a second point of direction to staff. It's on the same topic. He doesn't see a strict legal or parliamentary aspect of it that dictates either way. As long everyone is clear what the second part it, and it's direction to staff to say, hey, take a step forward to start working on rulemaking for the season after this year on the topic. He had no further legal guidance on it and stated they could do it either way. ([Begins at 33:54 mark](#))

Commissioner Anderson stated he was prepared to make second to Commissioner Lehmkuhl's amended motion. ([Begins at 35:08 mark](#))

Vice Chair Ragen noted that there was the motion from Commissioner Rowland to move forward with the CR-102 to approve it, and then there was an amendment to that from Commissioner Lehmkuhl. The strategy has been to go through and discuss the amendment before they go back to the full

original motion. So, the discussion now should be focused on Commissioner Lehmkuhl's amendment. [\(Begins at 35:22 mark\)](#)

Commissioner Rowland had a question before Commissioner Lehmkuhl spoke to his amendment. She asked to clarify if Commissioner Lehmkuhl's motion intend to remove the paragraph 3 that allows for opening hunting in PMUs that have already reached the 13%? [\(Begins at 36:09 mark\)](#)

Commissioner Lehmkuhl stated the amendment intends to remove the sunset clause from the rule. In other words, that provision will remain in the rule to allow up to 20% mortality, but it will not sunset at the end of the season as described. [\(Begins at 36:30 mark\)](#)

Commissioner Rowland thanked Commissioner Lehmkuhl for the clarification and reiterated that the sunset provision would be removed but would allow the provision opening of already closed PMUs, despite that. [\(Begins at 34:48 mark\)](#)

Attorney General Panesko clarified that Commissioner Rowland's motion included an amendment within it, not a motion to amend, but it was part of her main motion. But it was to alter that sunset language to make it clearer. He interprets Commissioner Lehmkuhl's motion to amend, strikes that language entirely, leaving the rest of subsection 3 in place. [\(Begins at 37:10 mark\)](#)

Anis commented that he thinks that Commissioner Lehmkuhl spoke to the dates, April 1st-March 31st. Staff would like that language to remain in the motion to make that clarification in the rule, because it's not currently in the rule. So it would be good to have it remain in the motion so staff are directed to do that when the rule is written. [\(Begins at 38:53 mark\)](#)

Commissioner Lehmkuhl requested his motion to shared on the screen and he spoke to it to clarify that the second bullet is the part of the amendment that clarifies the dates, the period of time in which total cougar mortalities begin being tallied. This is consistent with the discussion had a few minutes ago, when Commissioner Baker asked that question. He went on to state that the proposed rule before the Commission is meant to address an urgent need to regulate excessive cougar mortality in some PMUs. His amendment signals the intention to use a staff-driven process, guided by Commission policy, refining the rule for future years in a manner that both maintains stable cougar populations and better manages the conflict between cougar hunting opportunities and mortality from human conflict removals. Removing the sunset clause in section 3, that is retaining the 20% mortality exception in some PMUs, will allow for continued hunting opportunity, within an acceptable bound in PMUs with high conflict mortality, until a revised rule is developed and approved as described in the amendment. The language for counting mortalities, just clarifies the start and end time for counting them. [\(Begins at 35:34 mark\)](#)

Commissioner Smith stated she wasn't quite sure how to proceed at this point because she's strongly in agreement with the middle point of Commissioner Lehmkuhl's motion, however, she would revise the third bullet and don't agree with the first bullet. She will be prepared if this motion does not pass, to make another amendment to include simply, the second point in the rule. She felt this was a little confusing. She felt the CR-101 directing staff to open the rule by 2025-26 is potentially a very tight timeline to get those presumably incorporated in science, and get out in the form of a rule. She would support it if it didn't include the 2025-26 language. [\(Begins at 40:58 mark\)](#)

Commissioner Parker asked for clarification based on Chair Baker reporting on the meeting with the Stillaguamish. He was wondering whether the Commission has accounted for potential Tribal harvest as part of the all known human caused mortality and whether that is something that needs time spent on. What is the status of the discussions with Tribes about the potential of their harvest of cougars, reporting it, including it, and how would that potentially impact the season setting? It seems to him that is a large unknown at this point and seems like that information would need tie that piece up, certainly too late for this season currently being talked about, but in the future, perhaps during a new

CR-101 process, that the Tribes should be contacted and reach some understanding about that. [\(Begins at 41:18 mark\)](#)

Anis replied that the information for Tribal harvest isn't received in time to make decisions about the season. Even after the season, the harvest information isn't received from all the Tribes. It would be very difficult to include Tribal harvest into season framework. It would be almost impossible to incorporate Tribal harvest into the framework because the data isn't received in a timely manner to do so. After the fact, it wouldn't be useful because staff are doing end-season closers. [\(Begins at 43:54 mark\)](#)

Commissioner Parker replied that it occurs to him that the information is still useful, it may not be useful in real-time. But seems like it would give some notion of what to expect on average in terms of Tribal harvest. Maybe it's not as big of a loose end. [\(Begins at 45:07 mark\)](#)

Anis responded noting that out of the 24 Tribes that have off-reservation rights, the agency only has four that share data on their harvest. So it would be very incomplete information and not very useful at this point. If they're able to get more, it might be useful, but at this point it's not. [\(Begins at 45:28 mark\)](#)

Commissioner Anderson commented that this bring up his thought regarding discussions with the Tribes and the way to get close, is to have openings, communication, and the like. So, to him, you'd have much greater ability to bring that kind of information forward when there's a table that's set that people participate in. So, that argues for that and it's not just Stillaguamish that have raised issues, as he believed the Kalispel Tribe raised the issue as well. He wasn't sure how that was dealt with and believed there was a letter out from them as well. He supports the amendment because we're dealing with a 1-yr rule. He thinks that it's important that they kind of redirect themselves and the staff to engage in CR-101 for the future and a lot of work has been done. Accepting the petition and moving with this CR-101 and 102, he thinks preemptive some of that, but thinks there is an opportunity to get in the regular flow of business. He thinks that extremely valuable to them, not only on this rule, but in other situations. So, from that perspective, he thinks it's important it's articulated, and that's included in the motion. With regard to the sunset proviso with the 20% going away, he felt it should be kept in mind that this was a 1-yr rule again, and he doesn't believe there are significant risks, and it's important that they work their way through this. There's a lot of different perspectives out there and thinks that if we eliminate the sunset proviso, retain the bulk of the rule, then he thinks many of the Commissioners could find a way to support the overall motion. Without some consideration there, it will be difficult to support the base motion. [\(Begins at 45:52 mark\)](#)

Commissioner Rowland commented that she understood that much information from the Tribes isn't received, but also thinks the current wording of the proposed rule included all human caused mortality, so while we wouldn't require that Tribes, since we can't require that Tribes submit that information, we certainly could count the mortality that's reported by the Tribes that do report. That is already included the motion, the rule, as proposed. It's counting all human caused mortalities. While we don't have the full numbers from all the Tribes, if we do have numbers that a certain number of cougars are killed by a Tribe, then she thinks it already includes that as being counted. She would not support the amendment to the motion because she believes that they do. She supports the sunset clause for the provision that says they're going to open the season, even if it's closed at 13%, we're going to open at 20%. She thinks it does need to clearly disappear after one year. We're assuming that the whole thing will disappear after one year, and there will be more information from the scientists on the numbers that should be put in a longer-term rule. She doesn't think staff need to be directed to file a CR-101 to open the cougar rule in time for the next season. It obviously can be done, but there's no need to include that in this motion. We can open it and direct the staff to do the 101 anytime, and we are going to get more complete information from the staff scientists. So, the assumption is that they'll be looking at that, and if there is a need to amend the rule, it certainly will be done in time for the 2025-

26 hunting season. She's with Commissioner Smith and believes that the second bullet point is good. It sounds like it's already being done. She would have no objection to that being explicit. In the rule, she would still support that motion, but in general, she doesn't support the amendment, except for the second bullet. ([Begins at 49:15](#))

Chair Baker stated that when the CR-102 was built, it was in response to the science which they'd requested and was delivered very adequately. It was a good job, so that all went well. The science itself alarmed some of the Commissioners, in that they believed that they were using all indicators, in some cases, way too many cougars in a PMU. That was the impetus of the CR-102. They did what they said they'd do and listened to the science. The sunset clause, the 20%, and all of that was added at the last minute because they were concerned that in some cases, the 13% was too low, and they wanted to give hunters the opportunity to hunt when there was opportunity approaching the 24% and up, which was the problem area as identified by the biologists. So, getting to the amendment, everyone has said they'd entertain any improvements proposed by the staff. She believes that when it's said and assumes that these improvements will be in advance of the 2025-26 season. She thinks the first bullet and the third bullet are pretty repetitive. She didn't think the sunset clause needed to be removed, because if there is a CR-101, which she believed the impetus of that bullet was to reassure hunters that they mean what they say, since it can take a lot longer sometimes than they anticipate at the time. She thinks this amendment is overkill. They've all said what they need to say, but she doesn't have any problem with it, except the first bullet. She doesn't see a reason to remove the sunset clause if they intend to do the third bullet. She stated that it's pretty complicated and the bottom line for her, is that she can vote for this, and she didn't think it mattered very much. ([Begins at 52:47 mark](#))

Commissioner Parker commented that he looks at this amendment, specifically the third bullet, as a form of assurance. Not just to the hunting community, but to the Commission, that there will be follow-up that they're saying there will be. It seems to him that if it's said, then staff will be directed to file the CR-101. Got to be able to write it. That provides him some assurance that it will actually happen in the way it was intended to happen. In his experience, things can be delayed if they are not written and included in an agreement, which is basically what's being talked about here. So, he strongly supports this amendment, and he doesn't want to rehash the background of context of this CR-102 that they're deliberating on here. But, it seems to him that given it was certainly not the process he'd like to see on future decision making, and that in his mind, there are significant uncertainties about what comes next. If the 102 is agreed upon as it is written, in his own mind, he'd require assurance of the kind given in this amendment, to be able to vote in good conscience for the CR-102. ([Begins at 55:44 mark](#))

Commissioner Myers commented that he thinks that the Commission needs to think about what the staff was faced with here. This would go into effect for one year. One year, doesn't provide an adequate amount of time in his mind, to evaluate the effects of the changes. He thinks that the Commission is asking a lot of staff. The only problem he had with the amendment, is that directing staff to make a rule change a year from now, he thinks staff should be given at least 3 years, unless they come to the Commission with a particular reason to make a change. They see something that really pops up. Weather conditions, all kinds of factors come into play, and thinks hunting seasons should be viewed experimentally (as much as he hates to say it that way). The staff needs time to evaluate the results of what's being done. He thinks that the Commission should consider a longer evaluation period. That would be his only potential change. ([Begins at 58:14 mark](#))

Commissioner Anderson commented that he'd be interested in hearing from Kelly, Eric, and Anis as to their opinion relative to that question that Commissioner Myers posed, and whether it is a stumbling block. His concern is that it doesn't get started. If it gets started and gets done, if there are there legitimate reasons why it can't be, then he thinks that it should be recognized and what staff is telling the Commission. He wanted to reiterate what Commissioner Parker said. This amendment gives a number of Commissioners a feeling like they're on a path that will be successful if it does put in place the 102 as amended, but the 102 and the various provisions, that he thinks should be seen as a good

thing by many that they can support that subject to a broader look by the staff. He asked that maybe Kelly or Anis could enlighten him at least, with regard to that timeframe associated with that CR-101. [\(Begins at 1:00:00 mark\)](#)

Director Susewind commented that there's two questions involved. There's been a lot of talk about whether this is a one-year rule or not. This is a permanent rule, and he used that in air quotes because it's permanent until it's changed. Once it's on the books, the only way it changes in a year is if there is a sunset clause, so this is a permanent rule. Meaning it's on the books until a different rule replaces it. Timeline for 2025-26, he thinks there's ample time to go through a robust process, provide alternatives, option-based alternatives for the Commission with pros and cons, in time for the 2025-26 season. If everything goes as planned, this rule would be replaced with a new rule, unless there was a decision that this rule was right in the first place. One – the rule is on the books until it's replaced. Two – He thinks there's ample time to do a more robust rulemaking before the 2025-26 season. [\(Begins at 1:02:21 mark\)](#)

Commissioner Smith commented what the Director said somewhat changes her view of the last point. After hearing Commissioner Myers and former staff have stated that it takes more time than this to analyze how the season worked. She certainly could support filing a CR-101, which is an intent to open the cougar rule. Her concern is that this is more of a statement of intent because it doesn't force anybody to have the CR-102 In place and ready to go by the 2025-26 season. That would be her question. This is simply a statement of intent to get there, realizing that it may be difficult, but she'd be ok with it. [\(Begins at 1:03:33 mark\)](#)

Commissioner Linville commented that she's in kind of an awkward position that she'd vote against the CR-102 in general, and wasn't one of the Commissioners that voted for the petition, but she's going to vote in favor of the amendment because she does need the assurances and clarity that the amendment brings. It's a little bit of a hard pill for her to swallow, but she can do it because of the clarity of the amendment. [\(Begins at 1:04:47 mark\)](#)

Commissioner Rowland commented that she's again, fully in agreement with bullet two if it's necessary, and doesn't have heartburn with bullet three in regard to filing a CR-101. She didn't think it was necessary as there are already plans to do that, but if somebody thinks it needs to be in the rule, fine. But if this amendment does pass, she definitely wouldn't be in favor of removing the sunset clause in section three. She understands that Commissioner Lehmkuhl probably did that, then that would maybe cause confusion, because people would wonder if it's going to continue after that or not, so the sunset clause implies that the rest of the rule is going to stay. But the provision about opening a closed PMU would not. In general, she thinks it's a bit too confusing, but she doesn't have any problem with that as an amendment to her motion, except for the first bullet. [\(Begins at 1:05:40 mark\)](#)

Commissioner Lehmkuhl replied to Commissioner Smith's question indicating that the last bullet was an intentional statement. It's the commitment to reexamine the issue in a more robust process as the Director said. The motion doesn't make any assurances, there's no assurances in the motion that yes, we will absolutely have a CR-102 done. He hopes the Commission would. He stated that the Commission spent the first half of this year writing a 102 for the cougar hunting season, so there would be plenty of time. Assuming the Commission is successful in doing that, it would make the first bulleted item sort of mute. It's inconsequential, because there would be a brand new rule to address all the issues. To him, the first bullet is sort of a concession to the hunters, but also an incentive to the Commission to get a new rule in place for the 2025-26 season if they don't like this. [\(Begins at 1:07:05 mark\)](#)

Commissioner Rowland responded to Commissioner Lehmkuhl stating that is why she wouldn't include bullet one because yes, the Commission will try very hard to get a new rule for 2025-26, but if they somehow don't succeed in doing that, this provision about opening otherwise closed PMUs, should

sunset. She believes that the sunset clause should be left in the motion. It shouldn't be a part of a continuing rule, even though the Commission definitely intends to look at it again past this season. There is no guarantee that they will have it. If the rule just stays that way, and there is no sunset clause in regard to opening the closed PMUs, she'd very much object to that. ([Begins at 1:08:20 mark](#))

Commissioner Anderson responded to Commissioner Rowland's comment is that his perspective is that with this first bullet included, what you have is a engagement or support of a number of Commissioners that would make the motion on a willingness to support the overall motion. There is value in that, that the Commission is coming together, compromising, and finding a pathway forward. Even if you think it's moot, or it's going to change. It's way to move forward together and he values that. ([Begins at 1:09:36 mark](#))

Vice Chair Ragen commented that he's comfortable with the second bullet. He had one concern, and that was how to keep track of how this is working in the course of a year. We have control over when we do and don't hunt, but we don't necessarily have control over when we have conflict removals. What he'd like to see is where we have made assumptions and taken a number of animals hunting up to some limit, and then we have conflicts after that putting us over the limit. All he would do is ask for staff to look at that and see what that looks like to make sure that we are maintaining sufficient control and timing to ensure we aren't exceeding the limits. With regard to item number 3, directing staff to file a CR-101, he appreciates the sentiment in this in the sense that, we always should be looking to how we can improve our management. But he agrees with Director Susewind, and this is a permanent rule, until it is replaced. We have the opportunity to replace it when we need to, when we think there is information. When we make a statement to direct the staff to open this, we're giving the item a priority without considering all the other things on our plate. One of the key things would be, do we have sufficient information? Commissioner Myers' point was how well do we understand what we did works? What feedback do we have? He expects in a year that there won't be great information and it will take longer to figure out how well this works. We may have better information strictly from science. But to make a commitment that we have to do that, puts this above all the other things that might come up on our plate, and he doesn't see the need to do it. He thinks hunters and fishers should always recognize that we are all endeavoring to improve our management efforts, always. But to say that we're locked into something, he doesn't see the necessity or value of that. With the first bullet, that staff are directed to remove the sunset clause in section 3, he interprets that sunset clause as a transitional allowance for those GMUs where they were exceeding the total number that we think should be taken based on 13%, and it was to allow those adjustments. There are going to be issues in certain areas, and we can be pretty sure of that. But he doesn't see that we necessarily need to remove that clause. That says that now we're going to allow people to take more cougars in certain areas if their behavior in the past, or if they are taking more cougars through conflict or other things, than we think they should. He appreciates the sentiment behind the points Commissioner Lehmkuhl brought out, if they are kept together as a group, he'd have to vote no on this. ([Begins at 1:10:34 mark](#))

Chair Baker commented that she thinks we are overcomplicating this. The bullets 1 and 3 are assurances to the public, especially the hunting public, that we are going to continue to work on this. We've heard from Anis, and to some extent Eric, that staff are already working on this and that whatever the changes are, will be rolled into the Game Management Plan. The confusion for us is that we don't know what they're working on, and we've asked, and there hasn't been anything forthcoming. She believes it's because staff don't want to add more variables into this decision. She thinks that they'll be hearing pretty soon, what staff are considering changes, and we will remain in control of that. This is as Anis said, option-based suggestions. She doesn't think it's worth all the time to think about it. She's fine with bullets 1 and 3, because she thinks they'll be doing that anyways. On bullet 2, she wanted to reiterate that her question was reflected in the chart that staff put up. What that chart showed was that since the end of the cougar season of this year, there's been between 40-50 conflict mortalities, or what we call human-caused mortalities. She believes that she was assured that those

mortalities would count toward this year's season, and if that's the case, if what this is doing is reiterating that we are going to do things the same way, except we changed the season just a bit, then she's fine with that. If that isn't the case, if those 50 mortalities aren't going to count towards this year's season, and that is again, the mortalities that occurred since the end of the season this year and prior to the opener of the new season, then she has a real problem with it. She asked for clarification from Anis. ([Begins at 1:14:04 mark](#))

Anis responded indicating that it's more reassurance and less contradiction. Yes, staff plan to count all mortalities from April 1st into this season's mortality cap. So yes, what was seen in that, would count towards those. He added that this year, they had a hunting season during April, so some of those are actually hunting mortalities, but they will also count because they said they'd count all mortalities. In future years, there will be no April hunting mortalities, if the rule remains on March 31st ending. ([Begins at 1:16:36 mark](#))

Vice Chair Ragen felt there was enough clarity on the motion to go ahead and vote and requested any last-minute remarks, but there were none. He reiterated that the amendment before everyone is to remove the sunset clause, to establish the dates in which the counting occurs, and to ensure a CR-101 is filed at the beginning of the year. He clarified that the vote will either be in favor or against the amendment. He indicated he'd initially ask for a voice vote, and would do a roll-call vote if it wasn't clear what direction the vote went. He asked that all those in favor signify by saying aye, then followed with all those opposed. Commissioners Rowland, Smith, and Ragen indicated they were opposed, while the other Commissioners indicated they were in support of the amendment; motion passes. He asked if anyone wanted a roll-call vote, and nobody indicated they did. ([Begins at 1:17:25 mark](#))

Attorney General Panesko asked to clarify that the vote was 7-2 and Vice Chair Ragen indicated it was a 6-3 vote that was opposed by Commissioners Rowland, Smith, and himself. ([Begins at 1:19:00 mark](#))

Vice Chair Ragen indicated they were back to Commissioner Rowland's motion, which was to pass the CR-102 with the amendment put forth by Commissioner Lehmkuhl and asked if there was a need for further discussion. Commissioner Linville asked for some clarification that voting for the amendment didn't vote for the CR-102, and now the vote is for the CR-102. Vice Chair Ragen clarified that was correct, it would be a vote for the CR-102 as amended. ([Begins at 1:19:29 mark](#))

Commissioner Anderson asked to have the original motion Commissioner Rowland made to be put up on the screen and asked for clarification as to how it should be read with the amendment. ([Begins at 1:20:21 mark](#))

Commissioner Rowland clarified that she would agree that her motion has now been amended to delete the sentence entirely as opposed to change it as to specifying what would sunset. This would be deleted, as far as she understood, the sentence she would have amended for clarity, is deleted for this vote. She requested that the Vice Chair let her know if she was correct or not, and he indicated that was his understanding as well. ([Begins at 1:20:51 mark](#))

Commissioner Smith commented for clarification, that she thinks everyone needs to recognize this as Director Susewind pointed out, that they're adopting a permanent rule, with the intent of changing it just as soon as they have good information from staff to change it. But it is a permanent rule, therefore, what they're doing, is allowing those PMUs that go over the 13% mortality level, to go 20% in perpetuity. So, any PMU into the future until the rule is changed, could go to the 20% cap. ([Begins at 1:21:24 mark](#))

Attorney General Panesko responded to Commissioner Anderson's concern about how the motion is to be stated, as nobody has written it. Commissioner Lehmkuhl's bulleted points really are as close. They're starting with the CR-102 language, which was posted to the Commission's prior meeting

materials where they had the hearing, with the changes called by the bullets in Commissioner Lehmkuhl's motion to amend. So, the sunset sentence will be deleted, staff are directed to add language specifying the dates of the count, and the third component doesn't impact the rule language, its just a directive from the Commission to staff to get going on a CR-101 to pursue further consideration of future changes to the rule. ([Begins at 1:22:25 mark](#))

Vice Chair asked if Commissioner Anderson was comfortable with the explanation just provided and he indicated he was. Vice Chair Ragen asked if there were any other questions prior to the vote and none were indicated. ([Begins at 1:23:30 mark](#))

Vice Chair summarized that it had been moved and seconded to accept the CR-102 with the changes just described in Commissioner Lehmkuhl's motion. If that is clear enough, he asked that all those in favor signify by saying aye, and opposed with the same sign. It was opposed by Commissioner Linville only; motion passes. Commissioner Anderson requested an individual vote count. Each Commissioner indicated as follows: ([Begins at 1:23:52 mark](#))

- Commissioner Smith: Yes
- Commissioner Rowland: Yes
- Commissioner Parker: Yes
- Commissioner Myers: Yes
- Commissioner Linville: No
- Commissioner Lehmkuhl: Yes
- Commissioner Anderson: Yes
- Commissioner Ragen: Yes
- Commissioner Baker: Yes

The Commission broke for a short break and reconvened at 10:15am

3. Wolf Periodic Status Review – Discussion, Decision

Vice Chair Ragen opened the topic indicating that the discussion would be around the staff recommendation to downlist wolves to sensitive in Washington State. ([Begins at 1:26:43 mark](#))

Julia Smith, the Endangered Species Recovery Manager, gave the Commission a brief presentation on the Gray Wolf Periodic Status Review and the staff's recommendation to downlist to sensitive. ([Begins at 1:27:34 mark](#))

Commissioner Lehmkuhl commented that he didn't think that the discussion has happened around the topic of the implications of delisting. He requested staff explain. He asked if staff could delist and have another protected status. ([Begins at 1:33:00 mark](#))

Julia responded that it hasn't been discussed in this process yet. She explained that the difference between downlisting and delisting, is that downlisting still keeps the wolf as a protected as listed wildlife. If wolves were delisted, there are three buckets they could fall in. First, could be unclassified wildlife, which she didn't get into because they wouldn't be grouped under that bucket. The second, is they could fall under protected wildlife, which is the same WAC as threatened or sensitive. Lastly, they could be classified as game. If the Commission voted to delist wolves, a discussion would occur to decide if they should be listed as game or protected wildlife. She didn't believe that anyone would make the argument to classify them as unclassified wildlife. The protected wildlife is the exact same WAC as threatened or sensitive. ([Begins at 1:33:23 mark](#))

Commissioner Rowland asked if the differences could be if the protection of wolves if they were to be sensitive verses being listed as endangered could be explained. She stated that the recommendation of

staff is to move them from endangered to sensitive. So, she wanted to know the differences in protection between endangered and sensitive. If they were to be delisted, what's the difference between sensitive and protected. ([Begins at 1:34:27 mark](#))

Julia responded that the table she presented on the screen shows the difference of the three statuses. She noted there were four differences between endangered and sensitive, and between endangered and threatened there are two differences. Commissioner Rowland reminded Julia that she also asked for the differences between sensitive and protected, because she'd mentioned if they were totally delisted, they'd still be protected. Julia explained that her understanding is that protected wildlife falls under the threatened/sensitive/protected bucket, so they're on in the same. What she described as threatened and sensitive, should be the same thing. Some of the items listed are outside of that because some of it is guidance outside of the wolf plan because it's not designated in WAC or state law. Some of the items fall under the 2011 wolf plan, so that's guidance from the wolf plan. The other things are covered by RCW or WAC. Endangered, threatened, or sensitive...The penalties for poaching for threatened or sensitive species are somewhat less than for an endangered species. For a state endangered species, up to \$5000 and a year in jail. For threatened or sensitive species, up to 90 days in jail or a \$1000 fine. There is an important note here about protected wildlife, in that protected wildlife RCW, some protected species have particular criminal wildlife penalty assessments on them. There are species the Commission recently heard about Common Loons poached. They have a penalty assessment given that's actually higher than what we have for similar species, because they're specifically designated, so that's an option if wolves were to be protected wildlife. To ask the legislature to put a special criminal wildlife penalty assessment on them. Right now, the talk is just around general terms. Commissioner Rowland clarified that wasn't something the Commission could do, it had to be done by the legislature, and Julia confirmed that correct. Something that's the same between threatened and endangered wildlife, but is different for sensitive, and that's permits for lethal control by livestock owners. Typically, permits aren't issues, but WDFW can consider issuing a permit to a livestock owner to conduct lethal control of if WDFW doesn't have the resources to address control. That's the same between endangered and threatened status. For sensitive, it can be issued to livestock owners on private lands or public grazed allotments they own or lease. Resources wouldn't necessarily be thought about as an issue there. Under protected wildlife, that's something the Commission could talk about, because it isn't something that's designated there, it's guidance from the wolf plan. The next is about non-lethal injurious harassment. This is one she'd encourage the Commission not to worry about too much, as it isn't one that WDFW issues non-lethal munitions to folks often. It not something that's been done extensively in the state. The forest practices board for threatened and endangered species is the specific rule that applies to wolves about timber operations within a mile of a known active den site in between the dates of March 15th and July 30th, and a quarter mile at other times of the year. Under sensitive status that doesn't apply. ([Begins at 1:35:02 mark](#))

Attorney General Panesko commented for clarification that he hasn't previously looked into it but has been looking into it while Julia was talking, and he noted one minor deviation on the criminal side for something being listed as either threatened or sensitive verses protected. The table she presented cited 77.15.131(c), that is if it is threatened or sensitive. If it's protected, it falls under 77.15.131(a). A slightly different language, but the penalty amount would be the same. Substantively, not a difference. He thought is it something he hadn't considered for because the Commissioner hadn't previously asked the question. ([Begins at 1:39:57 mark](#))

Commissioner Smith commented that she wanted to go back to the discussion about the comments received, because she felt it important to point out to the public, that the Commission received a letter

from the Governor's Office asking the Commission to maintain the endangered classification for wolves in Washington. So, that's kind of in addition to the public comments, an official letter from the Governor. ([Begins at 1:40:48 mark](#))

Commissioner Parker asked staff if the data was available or if they knew offhand, how many citations for poaching or unlawful take of wolves under endangered status there have been and how many convictions for poaching? Julia responded, that to the best of her knowledge, there was one conviction. Commissioner Parker followed up to ask if she knew how many citations there had been. Julia replied that she'd have to look. Some of them are taken up by federal prosecutors if they fall under federal jurisdiction, but she knew there hadn't been many, and only one conviction. In that one case, there was some pretty clear evidence, that was undeniable, of what had occurred. She offered to follow up further after the meeting after she checked with law enforcement to verify. ([Begins at 1:41:35 mark](#))

Commissioner Myers asked Julia if she was familiar with any literature that documents increase in illegal take of wolves or other listed species as a result of a downlisting from endangered to threatened or endangered to sensitive, or removal to protected? He stated he wasn't familiar, but he'd like to know if there is any documented literature. Julia responded that there's a lot of documented literature about this, but the specific circumstances are sometimes comparable to what they're talking about here, and sometimes not necessarily. A lot of it is about removal of protections or a downlisting. A lot of it is about federal status. Sometimes there are papers that are about whether you allow increased take of wolves as a result of listing changing. The ideas about changing status is going to devalue wolves and that will increase poaching. Some of those papers that talk about this, are cited in the periodic status review, and she offered to make them available as well. She went on to say that some of these papers are about increased liberal take that accompanies a downlisting or delisting decision. A lot of them are talking about the federal side, where it's a bit more drastic from full federal protection to a completely delisted species, which isn't what's being talked about here. She isn't sure how comparable some of the papers are to the situation that we're currently in here with a downlisting to a threatened or sensitive status doesn't actually authorize more take of wolves in any way. She also stated that there certainly is the perception and an argument from some, that simply changing a status shows lessening of value, despite our agency's very clear message, that we value wolves at any listing status. She noted there is literature that points in that direction, and there's other literature that points to pendulum swings and listing status increasing more illegal take. ([Begins at 1:42:55 mark](#))

Commissioner Linville moved to downlist gray wolves in the state of Washington to threatened and it was seconded by Commissioner Anderson. ([Begins at 1:45:50 mark](#))

Commissioner Linville spoke to her motion noting that since Commissioner Smith brought up the Governor's letter, that she found herself in a tough spot, because she firmly believed that the case has been made to downlist to sensitive. She felt that the data beautifully backed it up. She felt that she was in the position to choose. Does she vote for where the science tells her where they need to go, or does she acknowledge the Governor who appointed her to this Commission? She felt that from what Julia pointed out, the differences are pretty minor, so she felt like she wanted to put this motion out as a compromise. It's a head nod to the Governor's ask, and a compromise for her fellow Commissioners, who she knows some of aren't comfortable with going all the way down to sensitive. She wanted to be really clear, that she didn't believe her motion was based on science, and believed it was more based on the good of the order. She knows that they're going to continue down this really great path of wolf recovery in the state, and things that it can be done under the threatened classification. ([Begins at 1:46:12 mark](#))

Commissioner Smith asked for clarification from the legal advisor as to whether this motion is consistent with the CR-102, and Attorney General Panesko indicated that he believed so. He stated its sort of an all or nothing approach to the status quo, if the Commission took no action, would just be to leave it endangered. The original CR-102 was to drop it all the way down to sensitive. This motion would put it at the intermediate level of threatened, is clearly within the four corners of the subject area at issue, that was advertised to the public, and the public provided input in. He stated he would vehemently defend this not being anything of a substantial variance from the scope of what is on the table within the CR-102. ([Begins at 1:47:58 mark](#))

Commissioner Anderson wanted to speak to seconding the motion and stated that he thought that the coexistence of wolves and people has long been supported. He noted that there are plans and policies that are in place that have been working really well, and they will remain in place with this motion, if it passes. They are not at all walking away from recovery, but are embracing recovery in a very broad sense. He thought it shows that we have had success, but have additional work to be done, and that they're committing to do that work. He thought not taking action, is an abrogation of responsibilities. As Commissioner Linville had mentioned, the Commissioners have been appointed by the Governor, him and his position are respected, but the Commissioners pledged an oath to fulfill their responsibilities, to follow the WAC and rules of the state, and to do their duties consistent with the way business is done. He's comfortable with moving forward with the change in listing status. He supported sensitive, but in the spirit of trying to find middle ground here, showing success, and still recognizing additional challenges. He's comfortable with the threatened status. ([Begins at 1:48:59 mark](#))

Commissioner Smith commented that she wanted to point out something rather unique about making status decision for species, and that the decision is to be based solely on the biological status or biological information available on the species at this time. She was a little concerned about the discussion around political compromise. She cautioned that the Commission should be careful about that if they want their decision to be substantiated. She went on to say that her reason for not supporting downlisting at this time is that the Commission has an adopted gray wolf recovery plan that was duly adopted, peer reviewed, and that the Commission hasn't revised since it was adopted. That plan says that wolves shouldn't be downlisted because there aren't any verified breeding pairs in the largest recovery area, the southwest coast and the Cascades. That's the largest recovery area, and it includes the Olympic Peninsula. As a resident of the Olympic Peninsula, she's very much waiting for the day that they have wolves there, but as of yet, aren't in compliance with the recovery plan. She believes that the downlisting is premature, as doing so would be out of compliance with the recovery plan. ([Begins at 1:51:18 mark](#))

Commissioner Parker commented that the process had been extraordinarily difficult for him personally. Initially, he thought the wolf recovery program was very successful and the Commission shouldn't be tinkering with it. That encouraged him to stay with an endangered listing. Then, he became aware that the language in WAC 220.610.110 tells him, that at least according to the definition of significant portion of its range, and given the facts in the record whether with uncertainty associated with those facts. Looking just boldly at the growth project rate of wolves and the language in the WAC that says that portion of its range likely to be necessary (paraphrasing), but likely to be necessary for its persistence in the state, he felt he could make a strong argument that the Commission is compelled to delist wolves under the facts and the law. He's not ready to go there. He didn't think any of the Commissioners are ready to go there. He then asked where that leaves us? He noted that he made persuasive arguments to himself for each listing category, and being pulled back and forth from these extremes, he's kind of landed on the principle that he's not a wolf expert, and Julia and her team are

wolf experts. He felt that he should probably listen to the experts, and if they're suggesting that wolves qualify for sensitive, he would probably go with sensitive, and that's not his first preference. He felt it is his obligation as a Commissioner. He was prepared to make that vote today. The new motion that was proposed, strikes him as a reasonable and valuable effort to try to bring some sense of collaboration and collective decision making to this issue. He finds value in that and agreed that it is hard to justify on the basis of the biological data available. In his view, maintaining an endangered status is probably even less supported by the facts and the law that is before them. He's willing to take that step and support the motion for threatened. ([Begins at 1:53:21 mark](#))

Commissioner Rowland commented that as a former legal counsel to NOAA on the Endangered Species Act decisions on the part of the National Marine Fishery Service, she would reiterate what Commissioner Smith said, which is that the decisions to be made both solely on the basis of the biological evidence. It isn't to be made because they want a consensus, a compromise, or because they want to work together. That would be fine if the law allowed it. The law doesn't allow it. The law says that the decision is to be made solely on the biological status of the species. For reasons that, she wasn't going to go into the details of, she thought a scientist, such as Vice Chair Ragen, might be able to do that. But from what she understood, there are significant uncertainties in terms of the projected status of the species. With those significant uncertainties in terms of data that was fed into the model that ended up saying the species was going to recover no matter what and is in great shape. She went on to state that there are significant problems with that conclusion as the scientific bases for a downlisting or delisting. Given that, it appears to her, plus the fact is that they're changing the status and the burden of proof for changing the status should be pretty significant. So, maybe it's endangered, maybe it's threatened, maybe it's sensitive, and maybe it should be delisted...you don't change a listing or you don't list it if it's is unlisted, so you don't change the status of the species, the legal status of the species, you don't do that...Unless you have strong biological evidence to change the status. To maintain the status, would simply be that the biological evidence for changing isn't clear. There are uncertainties as to data. There are uncertainties to immigration, considering what's happened to wolves outside the state of Washington. There are many other uncertainties. She stated she can't deal with the uncertainties in the model, perhaps Vice Chair Ragen could do that. She didn't think that compromise and collaboration is the standard here. The standard is the biological status of the species, which to her understanding, is to uncertain to change the listing to either threatened, sensitive, or no listing whatsoever. She stated she intended to oppose the motion to reduce the status to threatened. ([Begins at 1:57:20 mark](#))

Commissioner Lehmkuhl commented that he does agree with Commissioners Smith and Rowland that yes, the decision has to be made on the biological status of the species. But after that, he disagrees with them almost completely. He thinks that the department does that the best available science on this issue, and that there is a lot of science on the issue. He noted that there's 15 years' worth of monitoring data and probably one of the most extensive, long-lasting, and best financed monitoring study in the department. He noted he isn't a historian, but he would bet that is. There is a peer reviewed and published synthesis of the data in the model, developed by independent scientists (world class scientists), and it's published in an international journal with a very high impact factor. He noted he's talked with may people that have offered other science in terms of the issue that Julia talked about in terms of the listing status increasing poaching, protections, and things like that. He found that information compelling for sure, but thinks what is lacking from it and the argument that there is so much uncertainty, is that yes, you can cite these studies and that's good. But what is missing, and Julia mentioned this, is that the next step of applying science to management, in his experience, is that you

have to describe the relevance of that science to our specific situation, and then you have to tell us what the effect is, what is the impact of that, what is the effect size. So, is poaching going to increase? Is it going to double to go from 1-2% to 4%, is it going to be 20%, in other words, what is the impact of these uncertainties on the extinction probability? Because that's really what we're talking about. We're not talking about recovery. The department recognizes wolves aren't recovered, and as Julia said, we were committed to recovering them. We're simply talking about what the risk of extinction is. You don't even have to look at the model. You can look at the trend of population and ask yourself, does that indicate a serious risk of extinction in the state and he can't see how you could come to the conclusion someone could say yes to that. The first rule of modeling that he learned in modeling ecological modeling at the UW about 35 years ago, was that the best predictor of what happens tomorrow is what's going on today. There are uncertainties, but he thought that there's a strong scientific basis for making a recommendation for downlisting wolves to sensitive. He went on to state that he thought the wolf plan was an important document. The Commission supports the recovery standards in the wolf plan. But the plan said itself, that it is an adaptive document. Predictions were made 13 years ago of how wolves would recover in Washington state, and things haven't played out that way. He felt that there was more success than was originally thought to be possible. It seemed to him that if the wolf plan is stuck to, it's like saying I'm going to invest in the stock market today based on information that I had 12 years ago. It just doesn't make sense as a practical argument. ([Begins at 2:00:59 mark](#))

Commissioner Linville commented she was very glad that Commissioner Lehmkuhl spoke before her, because she couldn't have said it better herself. She wanted to add that she would absolutely echo everything Commissioner Lehmkuhl said. She wanted to clarify that she believed that the science is saying that the wolves can certainly be downlisted to threatened. She thought the science was also saying that wolves can downlist all the way to sensitive. Her decision is backed by the science, the social piece of that, is between the two. In her mind, the science supports threatened, it more supports sensitive. But the compromise isn't in the science. The compromise is with the people around it. ([Begins at 2:05:22 mark](#))

Vice Chair Ragen commented that he recognized that this is a tough one for everyone. He did think that the population doing better needed to be recognized and that the department has done a good deal of very good work, tracking it, understanding it, and managing it. He did feel that the people who live on the landscapes that are affected by the wolves need to be appreciated. He stated that he would argue that those folks should be given as much support as they need in order to continue to live with wolves, and the evidence suggests that in most cases, they've been very successful. That doesn't mean that they don't need support. He knows they are given some, but he thinks that as a state, when the statement is made that we want to have wolves recovered, that means we should foot the bill in many respects, and he isn't sure the whole bill covered and that concerns him. A lot has been learned about this process, from where things were when the plan was written, and he would agree. He went on to say that he thought the recovery criteria in the plan were its greatest fault, because he thought they were extraordinarily low. He pointed out last time that the modeler indicated that the population of 92 animals would be considered quasi extinct, which basically means it's almost impossible to turn around and it's likely to go extinct. The recovery criteria would indicate that a population of 60 could be considered recovered. There is a conflict there in the understanding that he thought hasn't been resolved, and it all gets to this question of what is a recovered population? What is endangered and threatened? All these terms are being used, but they haven't been well defined. He thought that's one of the things that shows up when the issues like, significant portion of range, starts

getting looked at. That normative discussion hasn't been had as they determine that some of the authors writing on this issue, and asking ourselves, well, what is endangered? What does it mean to be threatened? Usually those terms mean there's a certain probability of extinction, within a certain time frame, in a certain area. In his mind, the way it's used now, is gravely dangerous in the sense that the interpretation that's being given, could lead to arguing that populations are small as long as you can find one population somewhere in the state that looks like it's not going to go extinct. He felt that needed to be worked out. Concurrence with the feds really needs to be worked out. Does it apply only in uplisting or downlisting? He didn't feel that had been resolved. He noted that there's discussion with the Colville Tribes in regard to the data provided. Assumptions have been made about the data, and this year the public pointed out that there's some real significant issues with the data. The legislature has said to collaborate with them or have discussion with them, and that hasn't been done yet. There's been an incident where there's potential problems with people requesting Tribal members kill wolves. The model itself, he thought was a great piece of work, and is a great asset for the department. But, he doesn't think it does what's expected or wanted it to do, in the case of an endangered species. The differences are pretty significant, but he didn't want to go into a lot of detail. Sensitivity analysis is not a PVA. It really didn't do a population viability analysis, so there are issues like that. His thinking on this is that they're not only considering what to do with the wolves, but they're also trying to build a best management structure and approach to how endangered species are managed. He felt what was being done is that they're sitting down to play a game and the rules of the game are being established after they've played, and that doesn't make a lot of sense to him. He thinks the time should be taken to say how recovery is going to be defined, and how other topics should be defined, given everything that's been learned. Then a more informed decision can be made down the road. He didn't feel that was meant to encumber the department or denigrate any of the work that's been done. Certainly, he's not implying it's meant to denigrate any of the people that need to deal with it. But as the wolves move west, he thinks there are going to be far more issues related to conflict, because there are going to be more wolves with people, and those issues have to be stayed on top of in order to manage it well. His vote will be with the aim of moving forward cautiously. If you look around the country and the world, everyone is back and forth on their listing, delisting, downlisting, etc. He feels that is a misdirection and waste of time. The focus should be on the key things thought to still be uncertain, resolving them, and then a more informed decision can be made. That's going to be his driving decision on this. He thinks that wolves should remain endangered until it's been clarified or all the issues are understood. Then they can move forward with more confidence. He agrees that it should be based on biological information. Given the history of this animal, he thought that in many places it's just hated, and they need to be really careful about how they move forward. [\(Begins at 2:06:31 mark\)](#)

Commissioner Anderson commented he thought they are being careful with how they're moving forward. He thought they needed to accept the fact that there are rules in place, that the legislature has passed laws, and they have their WACs. So, they've been operating in that frame. He thought that's been the case for the entirety of the wolf recovery effort. In a very broad sense, they've done incredibly well. He thought that everyone would agree that the wolf numbers have shown way more robustness than anyone possibly expected them to. He doesn't think they're in a situation where they get to choose new rules at this point. They have a rule, so it needs to be followed, and that's their responsibility. So, that's the framework he's operating in. He thought with regard to the future, he thinks that is something that if they could come up with some additional ways of looking at this, that would be fine. That's why they have periodic status reviews and etc., and they're not doing away with hose. But what they have now, suggests that they're in a situation where they should be downlisting.

He thinks it sends a message that they play by the rules, that they mean what they say, and that they're serious. ([Begins at 2:13:32 mark](#))

Commissioner Myers commented that a lot of salient points on the subject have been made. His way of thinking, and he felt he's been in the same camp as Commissioner Parker. He's argued with himself ever since this became an issue, and ultimately has found himself feeling strongly both ways. The path forward to him, has been unclear. He wanted to applaud Commissioner Linville's suggestion to downlist because of the fact that she's trying to find a compromise. As everyone knows, this species has been very divisive in our state and across the west. When wolves were first released in Idaho, he didn't think there was a biologist around that could have predicted the population growth trajectory that occurred here. The same is being seen in Washington. Wolves are recovering. They're not recovered in our state, but the growth has been very impressive. Certainly, that is a result of a lot of hard work by the agency staff, both in educating the public dealing with conflicts, and monitoring the growth of that population. Getting back to the divisiveness, he's certainly considered some sort of compromise. Whether it's based on biological justifications or to benefit the people as well as the wolves. The reason he applauds Commissioner Linville's amendment, is because he thinks there's an effort there to bring everyone together as an example of the way that we'd all like to operate in the future. He thought that was a really important thing to do. He stated he's talked to a lot of people, as have many others, about this subject over the last several weeks. There's staff he's talked to that he can relate to. People that he worked with when he was a biologist with the agency. He understands the excitement of being able to watch this population grow. Knowing that you're making observations of where these animals are, and how they're responding to the landscape. Some are quantifiable, other aren't. But they still have to make a decision based upon the ramifications that they operate within. Even at best there, a clear path forward hasn't been provided to him. He knows the wolf recovery plan was written 14-15 years ago. He knows the people that were involved in that, the work they did, and it's a very impressive document. Perhaps, that needs to be adjusted or reevaluated in the future. He wished he could say with conviction, that he thought what the right step to take would be, but he's honestly still struggling with this. He's made up his mind and changed it more times than he wished he would have, and wished he hadn't overthought this whole process. Because it's difficult, and there's so many people that are viewing this right now, and want the Commission to make a decision that they can support. Ultimately, he wished there was a way to bring folks together (stepping outside his old role as a scientist), to look at that, but he also thinks that is important consideration as well. He questioned if it would make a difference 10 years from now, or 5 years from now, when the next PSR is presented to the Commission. Whether the wolves remain listed as endangered, or they're downlisted to threatened, realistically, probably not. They'll probably continue to increase, though there'll be some bumps along the road. He felt that everyone had made some really good points and people he's talked to on this have made some really good points. He stated he'd spoke with some of the Commission about the idea of a compromise. A retired colleague of his told him that whatever decision that he makes, he has to own it, and let the chips fall as they may. And she's right. He wished he could be more certain as some of the other Commissioners are. But he's not, and he's sure that whatever comes out of this will be the right thing, even though he's not sure that there's necessarily a right decision above the others, because of all the ramifications. Staff have worked very hard, and he'd like to celebrate that. Biologically, are the wolves at a delist point? No. But there's some place in-between. ([Begins at 2:15:33 mark](#))

Commissioner Lehmkuhl commented that he'd have preferred the initial motion was to vote up or down on the staff proposal to list as sensitive. Threatened would be his second choice. He asked Attorney

General Panesko if it would be proper to propose an amendment to the motion that lists wolves as a sensitive species, or is that changing the motion too much? Attorney General Panesko responded that he thought this was a parliamentary issue, and again, not legal controlling, but more up to the Commission. He continued that Commissioner Ragen, as Vice Chair of the Commission and chair for this meeting, is technically parliamentarian. But it's within bounds to do a motion to amend this to change it to suggest changing the outcome from threatened to sensitive. He felt that would be fair play. If they chose to do that, then they would need a second, there would need to be discussion on that, and there would be a vote on that. Whether it succeeds or not, then there would still need to be a main vote on what the listing decision should be. ([Begins at 2:23:22 mark](#))

Commissioner Lehmkuhl moved to amend the motion to designate wolves as sensitive species and it was seconded by Commissioner Linville. ([Begins at 2:24:41 mark](#))

Vice Chair Ragen summarized that it's been moved and seconded that the species be downlisted to sensitive, noting that in effect, changes Commissioner Linville's original motion from threatened to sensitive. Commissioner Linville clarified that if this motion doesn't move forward, then the voting goes back to the original motion she made, which was threatened. Vice Chair Ragen confirmed that was correct and that all that would be voted on right now is the adjustment to change her motion from threatened to sensitive. ([Begins at 2:25:00 mark](#))

Commissioner Lehmkuhl noted that he's basically already spoke to his amendment and rationale for it in his previous statements. ([Begins at 2:25:54 mark](#))

Commissioner Smith commented that she was in favor of maintaining the endangered status of gray wolves. She certainly is opposed to the amendment. She wanted to state to her fellow Commissioners and the public listening, that there are a lot of questions about the data and population data that they've been provided with, that may not at all be clear to the public. But it's largely on the basis of the questionable information, or the dispute of the accuracy of some of that information, that she believes that maintaining the endangered status is the correct way to go for now. So, she won't be voting against the amendment. ([Begins at 2:26:12 mark](#))

Commissioner Anderson commented that he felt the need to question Commissioner Smith's point on the data because he didn't think it's at all that confusing and questionable. He thinks that there's, in some cases, much to do about nothing there. So, he wanted to put out a different perspective than what Commissioner Smith had shared. ([Begins at 2:27:17 mark](#))

There was no further discussion on Commissioner Lehmkuhl's amendment to the motion and Vice Chair Ragen called for the vote. All those in favor of changing Commissioner Linville's motion to read from threatened to sensitive, were to signify by saying aye, and opposed was called afterwards with the same sign. The vote was 6-3 (Commissioners Ragen, Rowland, and Smith opposed) to go from threatened to sensitive; motion carries. That brought the Commission back to Commissioner Linville's motion as modified by the amendment. To be clear, the Commission would be voting on whether or not to list the population as sensitive at this point. Vice Chair Ragen asked if there was any further discussion before he called for the vote. ([Begins at 2:27:49 mark](#))

Chair Baker commented that like everyone, she's lost a lot of sleep on this. They're always told they have hard jobs. This is a particularly hard interlude in a difficult job. That vote that was just taken made her decision a bit easier, because like Commissioner Myers, she could go either way. For a long time she's been thinking about this and thought that threatened might be the best alternative. She

doesn't think that anymore and doesn't have that option anymore. She noted that the Commission does have to make a decision based on biological evidence, but they also have to make it within the law. She has some difficulties with the law on this one. The legal structure is generally presented is that there's a hierarchy, and there's statutes, and then there's rules, and then there's plans. The problem she has is that the Governor's letter noted that they didn't meet the recovery objectives. So, they should maintain the endangered status. She felt they should be looking for specific recovery objectives for gray wolves. The WAC maintains that a plan be written that lists those out very clearly. 11.1 of the WAC states that we shall write a recovery plan. We will look for target population objectives, criteria for reclassification, and an implementation plan for reaching population objectives. The reason she believes they're all struggling with this, is that the plan and the WAC are inconsistent with each other. There has been a lot of time spent talking about how there's a lot of wolves concentrated in two areas of the state. She said they hadn't spent any time talking about the objectives of the plan that don't relate to individual wolves, but to successful breeding pairs. Nor has any time been spent talking about geography. This isn't a minor issue to her and it's not a minor issue in the plan. The plan was five years in the making, the state spent millions of dollars doing that. It was peer reviewed twice. She spent some time doing something she's never done while being on the Commission, which is read all the peer reviewed comments in the environmental impact statements on the web on the plan. This is peer reviewed and is slightly up for her, than just public input, although it's important too. The peer reviewed comments, many of them, make the point that the numbers in the geographic distribution that's required in the plan is low, the numbers are low. That's made up by the fact that the geographic distribution is present. That's an inconsistency in the WAC. The reason that they've been talking about the full panoply of going from endangered to delisted, is that you can pick and choose from the WAC the points that you want to make, and every single one of those can be supported. Legally, it's really hard to get there using the WAC. For instance, the point that Vice Chair Ragen made, the WAC says that if a species is listed under the Federal Endangered Species Act, that will be the listing. 2/3 of the state are Federally listed. But when the question is asked of how come that's not dispositive? It's because the agency has made the interpretation that it only applies to original listings. In the definition section of that WAC, number 202 says "list" all derivatives means to change the classification. Her point was that the WAC is internally inconsistent and that's why they're having so much trouble with this. The one thing that strikes her is that the WAC is clear that a recovery plan will be written. It was written, peer reviewed twice, and it took a ton of time. It's over 300 pages long. Her position is that if it's stale, because it's taken 14 years to get here, then the recovery plan should be amended. They shouldn't have our authorizing law be in some way, and pretend that they're choosing between a recovery plan and a WAC, because they're the same thing. That's what the WAC requires. So she's been trying to count votes and do what everybody's thinking about doing. She doesn't know if this is a swing vote or not. But she will be voting no to this amendment as sensitive. She just wished the vote could be interpreted by the state, which she's said 100 times. She thinks this is doing a tremendous job of managing wolves. She's also afraid that this won't happen, that her appreciation will be considered sincere for those producers who are doing everything they can to coexist in places where wolves are concentrated. She wished that the could spend as much time figuring out the barriers to meeting those recovery objectives that the Governor discusses and eradicating them. She believed that they're arguing over this, almost false dichotomy, between endangered and threatened. As an example of that, she's said this several times as well, that she thinks we ought to start looking at translocating some of our wolves, not to Colorado, but to places in the state that we need there. There's a long section in the recovery plan about that. So, she'll be voting no on this motion. As a PS, the agency has thought for a while now about improving this WAC. This WAC is the state endangered species plan. There are a couple of authorizing statutes from the

legislature to do that, but this WAC is it. It is an enormous piece of law in this state. They'll be looking at some of the improvements that the diversity section of the agency, working with the Diversity Advisory Committee, has been thinking about how to improve this. She wanted to also say that while this is sort of a tangential and different subject, but is very important. She thought that if they enter into that negotiation on updating this WAC, it may well be the most important thing any of them can do while they're on this Commission. She thought it would be huge. For all those reasons, she's going to say that she will vote against the motion to downlist to sensitive. [\(Begins at 2:30:17 mark\)](#)

Commissioner Anderson commented that he wasn't sure how much that affects the motion that we have to now to go sensitive. He thinks that it's future and he understands that, but thinks there is a motion to move forward with Commissioner Linville's amended motion. [\(Begins at 2:39:22 mark\)](#)

Vice Chair Ragen replied that his understanding is that Commissioner Linville's amended motion is in fact, to follow the department's advice. That is what the vote now is for. There are a couple of ways that it could be interpreted. One, is that it's a yes or no. Is that the end of the story or not? Or, would people raise an alternative motions afterwards? He requested that Attorney General Panesko assist in answering the question. Attorney General Panesko replied that he agreed that the amendment to Commissioner Linville's original motion essentially turns this into a question of whether the Commission wishes to adopt the staff's recommendation to downlist wolves from endangered to sensitive. So, that is the question on the table now as for the substantive outcome. If it passes, then that becomes a CR-103 and it's filed. If it fails, then the proposal for purposes of the motion is done. And if no Commissioner made any further motion, then you could be done and the status quo of endangered would continue. If the motion to downlist to sensitive fails, does not obtain five votes, and any Commissioner chose to make any other motion, a Commissioner could do a motion to try threatened again. Although there was just the amendment to go from threatened that had six votes. So, what's the practicality of even trying to do that. But, a Commissioner could propose some other motion and he guessed, that it would have to be considered at that point in time to figure out if that is within order or not. [\(Begins at 2:39:58 mark\)](#)

Commissioner Lehmkuhl commented that he was a little confused by Chair Baker's statement. He noted that she said she didn't support the sensitive designation. But his recollection on the vote on the amendment that she voted for the amendment to vote on. So, he's uncertain as to who voted for what on the amendment. Since it was a voice vote, he didn't know if there's somebody kept score of who voted for what. [\(Begins at 2:42:05 mark\)](#)

Chair Baker responded thanking Commissioner Lehmkuhl for raising that point. She stated if she was recorded as voting yes on the motion to go to sensitive, that was an error. She stated she did not vote yes on that motion. [\(Begins at 2:42:52 mark\)](#)

Commissioner Lehmkuhl followed up stating that according to his vote count, the vote should have been 5-4 for clarification. Because his recollection was that Commissioner Ragen, Rowland, and Smith voted against the amendment, and that was the count. But now it turns out that Commissioner Baker voted against the amendment. So, he wanted to clarify what the count was for the amendment. Vice Chair Ragen replied that he thought that was correct. [\(Begins at 2:43:17 mark\)](#)

Commissioner Linville was of the opinion that the vote needed to be clarified because it didn't take into account Commissioner Myers. Vice Chair Ragen noted that 5-4 would take into account all nine

Commissioners that voted in favor of it and referred to Commissioner Myers to confirm, and he responded that he did vote in favor of it. ([Begins at 2:44:16 mark](#))

Vice Chair Ragen noted that they're at now is that they passed a motion that would change the original motion from threatened to sensitive, which is in effect saying, they are going to accept the department's recommendation, and they downlist to sensitive. That is the question on the table, and unless anyone has anything else, then they're ready to vote on that. Commissioner Linville recommended a roll call for this vote and Vice Chair Ragen agreed. He clarified that they'd be voting on the motion to accept the department's recommendation to downlist to sensitive. Yes being in favor of downlisting to sensitive, and not is opposed. ([Begins at 2:44:38 mark](#))

- Commissioner Smith: No
- Commissioner Rowland: No
- Commissioner Parker: Yes
- Commissioner Myers: No
- Commissioner Linville: Yes
- Commissioner Lehmkuhl: Yes
- Commissioner Anderson: Yes
- Commissioner Ragen: No
- Commissioner Baker: No

The vote was 5-4, not in favor of the motion to follow the department's recommendation to downlist wolves to sensitive; motion fails.

Vice Chair Ragen noted that the vote was 5-4, not in favor so they have vote not to downlist wolves to sensitive or to accept the department's recommendation. In a technical sense, and he welcomed correction if he was wrong, that they could stop there and the population would remain as endangered. ([Begins at 2:46:26 mark](#))

Commissioner Linville made a second motion and moved to downlist to threatened, it was seconded by Commissioner Anderson. ([Begins at 3:21:00 mark](#))

Commissioner Ragen noted it was moved and seconded that wolves be downlisted from endangered to threatened and welcomed further discussion. ([Begins at 2:14:09 mark](#))

Commissioner Smith commented that she will not be supporting this motion either, because she still believes that they should be following the adopted recovery plan. That means they can't downlist wolves without any having breeding pairs whatsoever, in the third largest recovery area that incorporates some of the best wolf habitat in Washington. ([Begins at 2:47:42 mark](#))

Commissioner Parker noted that he wanted to make the point that when they discuss compromise like they are now with this motion, they're not talking about compromising data or the integrity of the monitoring system. What they're talking about is representing all of the diverse, and quite often opposed interests, that they represent as a Commission. That is what they're attempting. He suggested that what they're attempting to do in a spirit of compromise. He went on to say that there are those Commissioners who will obviously disagree, but he feels that is a very strong part of their responsibility here. He also pointed out that if they're wrong, as somebody else has said, there is another status review in five years. He would encourage the department also to be, as it does monitoring key population statistics, and if they've made a mistake, they come back to this table and take another

whack at listing. It seems to him that it is their obligation to represent all stakeholders and represent all of their interests. ([Begins at 2:48:12 mark](#))

Commissioner Rowland commented that she would beg to differ from Commissioner Parker. She went on to say that it is not the Commission's obligation in every vote to represent all opposed interests. They cannot in every vote and it's not their duty to represent all people in the state, when on many of the issues, the people in the state disagree very much. It is the job of the Commission, and she reminded that the mandate of the Commission is to preserve, protect, and perpetuate wildlife in this state. Fish and wildlife right now, they're talking about wildlife. To follow that mandate, they have to follow the laws that are in place. The laws are that the status of a species is determined solely by its biological status. So, she can see if Commissioner Parker says, that the science shows that the biological status has changed to threatened, that they can't vote to change it to threatened. Just like with sensitive, they can't vote to change it to threatened unless the scientific evidence is convincing now that the species has gone from endangered to threatened. That is a decision of law and science. It is not a decision of compromise to represent all opposing views in the state. Because the Commission can't do that. ([Begins at 2:49:41 mark](#))

Commissioner Parker responded stating that he'd encourage Commissioner Rowland to check in the rules of procedure for the Commissioners, which states very clearly, that it is the Commission's responsibility to represent all of the citizens of Washington, not special interest groups or geographic groups. So, that is what he's based his position on. ([Begins at 2:51:36 mark](#))

Chair Baker commented that the reason this is so frustrating is because the Commission is being put in a position of conflict with each other on a distinction that makes very little difference. The difference between endangered status on the ground, the practical effect, is the penalties for poaching are diminished. That's basically it. So, this is an issue of conflict that she thinks they shouldn't be having. One of the things that she wrestled with in this, is that as Chair, supposedly some sort of leadership in this Commission, that they in these positions should be able to take everybody's positions, and try to get as much possible marching in the same direction. But, they can't on this one. So, then they go back to the biological science, the law, and a letter from the Governor saying that the recovery objectives aren't met. Just the fact that the breeding pairs, which is what they're looking for, have been reduced this year. Not increased, not even status quo, means to her that they have some problems that she'd like them to spend some time trying to be specific about what they are and eradicating them. While she'd really like to be able to say yep, we're all going to compromise, try to be a united front, and go to threatened. She just can't do it under the law. So, she will stick with her vote, which is to say no to this amendment. ([Begins at 2:52:17 mark](#))

Commissioner Smith commented that she'd like to support what Chair Baker just said. This is a difficult decision and she does her Commissioner Parker's desire to always seek some kind of middle ground. The middle ground isn't always the correct answer. In this case, when the law directs the Commission to base their decisions solely off the best science before them, then they may not be representing certain parts of the population. However, the mandate is to overall manage the public trust on behalf of the citizens of Washington. That's really what they're doing. Not trying to appease people. Not trying to find middle ground, but doing the best they can to manage public trust for this generation and future generations. Because that is their obligation. So, she will be voting against this because she doesn't believe reliable and compelling science that necessitates that this time, a downlisting of gray wolves, has been presented to her. Again, to her, a lot of the information that's been presented, she has remaining questions about its reliability. ([Begins at 2:54:32 mark](#))

Commissioner Anderson commented that they have very good data, and it bothers him to think that they're being told by parties that aren't wolf experts, that there's all these different problems. Having said that, he thinks that a decision to not support the motion for threatened, is frankly a decision to support a listing status of endangered, which is even further from the science. He thinks that what's being said, moving to either sensitive or threatened, is inconsistent. Looking at remaining endangered, he thinks that is inconsistent with the information they have in front of them and the law. ([Begins at 2:56:10 mark](#))

Commissioner Smith commented that she wanted to clarify the listing and delisting criteria in the adopted recovery plan indicates that they are not at the point of considering downlisting. Again, she believes that they should be guided principally by that adopted recovery plan. She opted not to go into all the reasons Chair Baker covered. It was peer reviewed, it had many experts in the wolf field weigh in to say anything. The delisting criteria should have been even stronger. So, they've not met the criteria, and primarily it's the lack of breeding pairs in that third recovery area, and that's science. Pure and simple. ([Begins at 2:57:14 mark](#))

Vice Chair Ragen commented that he's kind of reiterating a few things, but fundamentally, they're all using terms and concepts that either are inconsistent with the recovery plan or that they don't really know. They have different views on what is endangered, what is threatened, and all these things. Those are things that can be worked out. Then, the concurrence with the feds, that can be worked out and resolved. The question of the significant portion of range, which he thought was profoundly important, can be worked out. He would agree with Chair Baker that the many issues they have are not far from trivial. They weren't careful consideration and there is nothing lost by clarifying these things that will give them a better sense of where they are. He said he could make all kinds of arguments about how close they are or not to endangered. But as long as they're talking in slightly different languages, without clear interpretations of all these things, they're going to be all over the place. He thinks it behooves them, in his view, it does no harm. He's happy to recognize the department's progress. He's extraordinarily grateful for the ranchers in the rural communities handling wolves the way they have. He thinks they have a lot still in front of them. But he thinks that they should clarify these things that they've learned around certain, and need to be resolved. He thought they'd do a much better job moving forward. So, he'll be voting against the motion to list as threatened. Not with the idea that he doesn't want them to be there. But, he wants everyone to have done their homework, to do it well, and to create that common ground that they all understand their reasoning and perspectives on it. He thinks they can do a better job than is being done right now. ([Begins at 2:58:14 mark](#))

Seeing no other hands, Vice Chair Ragen wanted to bring the motion to a vote, reminding everyone that the motion on the floor right now, is to downlist to threatened, and that they'll be doing a roll call vote. Voting yes means that that they're supporting downlisting to threatened. Voting not, meant that they support leaving as endangered. ([Begins at 3:00:34 mark](#))

- Commissioner Smith: No
- Commissioner Rowland: No
- Commissioner Parker: Yes
- Commissioner Myers: No
- Commissioner Linville: Yes
- Commissioner Lehmkuhl: Yes
- Commissioner Anderson: Yes
- Commissioner Ragen: No

- Commissioner Baker: No

The vote was 5-4, not in favor of the motion to downlist wolves to threatened; motion fails. Vice Chair Ragen thanked the Commissioners, noting that he knew it was difficult, but thought everybody behaved in a very professional and thoughtful way, and he's grateful for that. He went on to state that he was wondering how he was going to try to keep a lid on everything, because this is a very difficult issue. He thought it was admirable that they all feel so strongly about their views. He also encouraged everyone that they should look forward as to where they go, because he thought they could move ahead. ([Begins at 3:01:44 mark](#))

Director Susewind commented that he understood that with no action, that they remain endangered. He asked what the status of the five-year status review was, noting it's just not completed. He informed the Commission that it would be helpful to staff if the Commission took a vote to support the endangered classification. That's end the five-year status review and starts the clock on the next one. He noted that he'd argue that if they don't take an action, that they're still without a status review completed, or at least the rulemaking. So, if it ends in the same place by having a formal vote, would make it clear that this process has concluded and we're moving on. Versus, we didn't really complete it. ([Begins at 3:02:25 mark](#))

Commissioner Smith commented that she believed that was a decisive vote, and they certainly could have added that it concluded the periodic status review. But the only place they're disagreeing with the staff recommendation if you will, is on the appropriate listing level after the periodic status review. She didn't know if the status review needed to be amended. It is what it is, the staff recommendation, and the Commission somewhat disagreed with that in this vote. ([Begins at 3:03:18 mark](#))

Chair Baker stated she was just confused with the Director's choices. For one thing, she thought that if they get their act together a little bit on the statute, WAC, and rule, they will likely have a SPR within five years. They're supposed to be every five years. They haven't had one on wolves ever, so she thought that they aren't necessarily saying that they won't take another vote on the PSR for five years. She did that that it could happen sooner. She asked the Director if his question was the status of the PSR? She didn't think their vote asked to amend it. She thought it just rejected it, but she wasn't exactly sure of the question. ([Begins at 3:04:09 mark](#))

Director Susewind replied that he thought that where they land, they understand that basically, by having no action today, that the endangered status remains. But that's through a default, or sort of a lack of action. Does voting no on sensitive and threatened mean it's endangered? An affirmative vote is different to him than them landing there by default. An affirmative vote says it's much more powerful for them as staff, as they try to move forward. If not, that's their prerogative. But it would be a lot clearer to him if they have the vote, but it's not necessary. ([Begins at 3:05:11 mark](#))

Chair Baker commented that there was a lot of discussion about whether or not they should have panned the vote. In other words, punt it, while they got some of the issues everyone is bringing up, resolved. Then taking a vote later. She stated she was prepared to make a motion that the PSR is rejected and will be raised again at staff's initiation. When the questions that the Commission raised have been resolved or when the recovery objectives in the plan are met. ([Begins at 3:05:54 mark](#))

Commissioner Linville commented that she was confused and had genuine curiosity, and questioned why the Commission wouldn't just take that endangered status vote. She didn't understand what the downside is to that. She noted everyone had their arguments and they laid them out for keeping

endangered. But she was a bit confused, that if voting would clean that up, then it seemed to her like that would be a good idea. ([Begins at 3:06:50 mark](#))

Commissioner Smith commented that she wasn't opposed to that but felt it was redundant and unnecessary. She thought it was very clear, noting that the Commission frequently finds itself in the situation, where the vote may be in favor of something, the vote may be opposed to something. The end result is what matters. In her mind, they have not rejected the "periodic status review". What was rejected is the conclusions and recommendations that were reached in that review. There's a lot of good science that went into the periodic status review, and she didn't want to say that they're ready to just throw all that out. It was simply the conclusions and recommendations. So, she wanted to give kudos to staff for all the hard work, very challenging work on a very challenging topic. When the whole process started with the University of Washington study, they were a very different Commission. The direction from, say the Wildlife Committee, and the Commission was quite a bit different at the time. Staff had to make these adjustments. She realized that's a really big challenge and how difficult their work is. She didn't want this vote to be a denigration of that work. It's just that they're in a different place in terms of where the recommendations should be. ([Begins at 3:07:29 mark](#))

Commissioner Rowland agreed with Commissioner Smith. She went on to say that it was her understanding that there is no question about the substance of the PSR in terms of analysis. But, what was voted on was a recommendation that as a result of the PSR, that the species be downlisted. That is what they voted on. What they voted on was, happened to be the opposite. They don't need to now vote on endangered. It remains endangered because they voted not to downlist. That doesn't mean that the staff have to start over on a periodic status review, and that nothing they've done counts. They need to move on at this point, with a further status review. At this point, the species remains endangered, and they have simply rejected the recommendation to downlist to sensitive. ([Begins at 3:09:13 mark](#))

Chair Baker commented that she agreed with Commissioner Linville on this, that more time has been taken discussing whether a vote will be taken than it would to have just taken the vote. She agreed with Commissioners Smith and Rowland, as well as that the PSR is a well-done document. When she says reject, she meant reject the recommendations. She thought the vote should just be taken and get on with the day. If the Director wants the Commission to vote, let's take a vote. ([Begins at 3:10:33 mark](#))

Commissioner Ragen commented that he was very comfortable with that unless someone else vehemently objects, they've discussed it, and he'd say that they go ahead. ([Begins at 3:11:08 mark](#))

Commissioner Smith offered a final word. She stated that they deal with the periodic status reviews all the time, and they have had disagreements with staff on recommendations over the past year on several species. She stated that they haven't gone through this affirmative process. She thought that if they do that now, a precedent is being set, and that's what they'll have to do for other species and wanted everyone to be aware of that. ([Begins at 3:11:21 mark](#))

Director Susewind commented that he certainly didn't anticipate causing this much confusion on this. He clarified that he didn't want to reject the PSR. The PSR is very well done and he supports that. What he was looking for was that staff are going to interpret this vote, or lack of vote, whichever way it is, that the PSR is complete and that the Commission has decided endangered is the appropriate classification. What he was looking more for the affirmative endangered than attacking the PSR. The

PSR is what it is. They make a decision based on that. For him, an affirmative decision is clearer than a default decision. But at this point, he thinks staff just live with it. ([Begins at 3:11:53 mark](#))

Vice Chair Ragen commented that he believed the question to be if there is someone that would want to suggest something as simple as the Commission votes to leave the wolf status as endangered and ask the Director if that would meet the need structure, and the Director confirmed that it would. ([Begins at 3:12:35 mark](#))

Commissioner Rowland commented that she did not believe that this was a default decision as characterized by Director Susewind. It was a decision the Commission has made. The Commission made two decisions. One, is first they reject the motion to go to threatened, and then they rejected the motion to go to sensitive. The known result of both those votes was to leave the status as endangered. She didn't think there was any question. She thought the vote would be unnecessary and bad procedure to then say, ok, well, the consequences of your vote are that it stays endangered. So now, let's vote on a motion saying that. She didn't think it was at all necessary or good procedure. ([Begins at 3:13:05 mark](#))

Commissioner Ragen commented that he didn't disagree with that but thought the simplest approach right now would be to go ahead and make that vote. Then they can discuss future procedures. He didn't recognize this as setting a precedent. But if this is something that would help the Director, he was comfortable doing that. He noted that they could be done within one minute if they go ahead and do it, and then move on. ([Begins at 3:14:00 mark](#))

Commissioner Ragen noted that he's putting the motion on the floor that the Commission votes to leave the wolf status as endangered and it was seconded by Commissioner Lehmkuhl. ([Begins at 3:14:48 mark](#))

Commissioner Ragen stated that he was going to call a voice vote unless someone objected. Commissioner Lehmkuhl asked for some clarification as to what a yes vote would be in favor of. Commissioner Ragen clarified that it would mean the Commission voted to leave the status of the wolf as endangered, as that was the outcome of all the discussion/action. Commissioner Parker noted it as a matter of record. Commissioner Lehmkuhl then questioned if they needed to vote because the record showed that. Commissioner Ragen commented that gets them back to the question of whether or not this vote is actually necessary, and he thought it was a courtesy to the Director. Commissioner Lehmkuhl stated that he thought the Director was asking the Commission to take a vote on a motion that wolves should be listed as endangered in the state. Commissioner Ragen stated that they are listed as endangered, and Commissioner Lehmkuhl clarified that he meant that they remain as endangered. Commissioner Ragen noted that is what he thought he said. Commissioner Lehmkuhl clarified that Commissioner Ragen said the motion was to confirm the Commission's vote. ([Begins at 3:15:32 mark](#))

Commissioner Smith respectfully asked Vice Chair Ragen to withdraw his motion. She thought they were about to create a tempest in a teapot that is completely unnecessary. She said it was the most confusing proposal and she's never seen anything that matches this, that they were going to vote to reaffirm what they just voted on. She thought it was really confusing to everyone, and probably to the public as well. ([Begins at 3:16:48 mark](#))

Commissioner Rowland agreed with Commissioner Smith, that it's basically like saying, ok, now let's vote on something that says we really mean it, we want the wolves to remain endangered. She didn't believe a second vote needed to be taken that says they really meant it. ([Begins at 3:17:32 mark](#))

Commissioner Ragen withdrew his motion and is assuming that the interpretation of what they voted on with regard to threatened and endangered, means that the status of the wolf will remain as endangered. Without any further points, he felt this section needed to be concluded. He apologized that it was a bit of a rough end to a difficult discussion. He noted there was still one item on the agenda, and that was the year at a glance and future meeting planning. He suggested that the Commission take a three minute break and come back to get that done, or is there anything really burning on that last point that they need to get to it. ([Begins at 3:17:50 mark](#))

Chair Baker suggested skipping the last agenda item. She suggested to wrap the meeting up and didn't think there's anything burning up to discuss at this time on future meeting planning. The suggestion was seconded by Commissioner Parker ([Begins at 3:18:50 mark](#))

Vice Chair Ragen noted that it was moved to no longer consider future meeting planning and the year at a glance. He asked that discussion on the topic be limited. He called for a voice vote, and the Commissioners voted unanimously; motion passes. ([Begins at 3:19:08 mark](#))

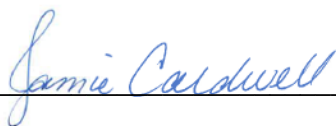
Vice Chair Ragen commented that the motion passed, so they will not address the future meeting planning and year at a glance. That brings everyone to the end of this meeting. He thanked everyone for their patience with him and his cumbersome understanding of how this works. He thought it was a good and helpful discussion. He thinks it means that they still have a lot on their plate that they need to do to help the department to move forward with it's valuable work. ([Begins at 3:19:48 mark](#))

Chair Baker commented that she wanted to thank Vice Chair Ragen on behalf of the Commission members for having the courage to chair this meeting. She wanted it on record that she'd offered and Vice Chair Ragen said that he was going to do it and thought he did a tremendous job under the difficult conditions. ([Begins at 3:20:20 mark](#))

~~4. Meeting Debrief and Future Meeting Planning~~

This item was struck from the agenda due to time constraints.

Vice Chair Ragen adjourned the meeting at 12:11 p.m.



Jamie Caldwell, Executive Assistant