



Minutes

## Washington Fish and Wildlife Commission

August 8-10, 2024 Hybrid Minutes

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### Attendance

#### Commission

Barbara Baker, Chair  
Tim Ragen, Vice chair  
Lorna Smith  
Molly Linville  
John Lehmkuhl  
Jim Anderson  
Melanie Rowland  
Steve Parker - Excused  
Woody Myers - Excused

#### Staff

Kelly Susewind, Director  
Amy Windrope, Deputy Director  
Joe Panesko, AGO  
Jamie Caldwell, Executive Asst.  
Heather Hall, Region 6 Director  
Samantha Montgomery  
Marlene Wagner  
Mike Scharpf  
Kelly Cunningham  
Craig Burley  
Laurie Peterson  
Lorna Wargo  
Eric Gardner  
Chris Conklin  
Tom McBride  
Morgan Stinson  
Cynthia Wilkerson  
Margen Carlson  
Wendy Connally  
Hannah Anderson  
Taylor Cotten  
Anis Aoude  
Stephanie Landry  
Shawn Behling  
Julia Smith  
Kristin Kuykendall  
Lisa Coffman

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### Friday, August 9, 2024

#### **1. Call to Order**

Chair Baker called the meeting to order at 8:03am. She noted that there were roughly 50 people signed up for open public input, and was hoping to get some time on the front-end by being efficient with the next half hour. She stated that she hoped they could get everyone in, but wasn't sure if they could or not. As usual, those that came in-person would be prioritized for the meeting and would be limiting testimony to two minutes to try to hear everybody. ([Begins at 0:03 mark](#))

#### Commissioner's Discussion

Commissioner Lehmkuhl commented that about a week ago he decided to take a ride up to the Colockum Wildlife area in Wenatchee. He went on to say that the main road is called the Colockum Road and it's the old stagecoach road from Wenatchee to Ellensburg. When you get to the top of the wildlife area, he stopped at the corner of what's called the Coffin Wildlife Reserve, which is a special no hunting area within the Colockum Wildlife area. There's a 2x2 embedded brass plaque, and it commemorates Arthur Coffin, who the reserve is named after. Arthur Coffin owned the Mountain Home Ranch, which is a 120k acre pioneer ranch that spanned from the Columbia River to the top of Mission Ridge. What struck him the most about it, is that Arthur Coffin was on what was called the State Game Commission at that time. He served for 23 years on the Game Commission from 1956 to 1979. ([Begins at 0:57 mark](#))

Commissioner Rowland commented that she was sharing a story from her hometown newspaper, the Methow Valley News, that was on the front page. The title of it was *Fencing Program may Keep Bears at Bay*. She showed the picture of a Black Bear that accompanied the article. She went on to explain that the Methow Valley Citizens Council and other have formed a new group called the Methow Bear Coalition, to reduce human/bear conflict in the Methow Valley. The article says that homeowners can be reimbursed up to \$500 for installing an electric fence. They're now trying to use electric fences for keeping animals out of places you don't want them to go, and reducing that conflict. She thought this was exactly the ink of thing that they want to be promoting. So, when the talk is about budget and money, and she knows there are a lot of issues in terms of wolves for compensation (not compensation for dead calves or anything). But compensation for taking non-lethal measures. Because it costs money, she felt ranchers ought to be paid for having to do that. This is something else, that costs money, that could reduce human/bear conflict. If they could come up with money to help a whole lot of places do this kind of fencing, that would be great. She was delighted to see this because she didn't know it was happening, and there's

a lot of effort to reduce human/bear conflict. There's already been the bear awareness that Lorna used to teach in terms of keeping your garbage locked up/inside or something like that. Obviously, there's still a lot of problems. So, she thought this electric fencing is something that could be very helpful to pursue. ([Begins at 3:00 mark](#))

Char Baker noted that most of the Commissioners went on a field trip the day before. She went on to say that in the old days, they used to go on lots of field trips, and they have been few and far between lately. The group went down south of Olympia and went to visit two potential wildlife crossing sites. They were led by a couple of Fish and Wildlife staff and some staff from DOT. The thing about it that was interesting to her, is how much energy and agreement there is about the need for wildlife crossings. Her point was that it's really hard for any animal to get across I5, going either way. The state is going to be spending some money on crossings down in this neck of the woods. She thoroughly enjoyed the site visit. ([Begins at 5:46 mark](#))

#### Meeting Minute Approval

Chair Baker noted that it's been mentioned at the last couple of meetings, but she tried reading the minutes from the last meeting that was three hours long, and the minutes were 26 pages, single spaced. It's hard to get through all that and say, yea that's perfect. She can't imagine the amount of work that is for the Commission's executive assistant, so at some point (not now), the Commission will need to discuss the pros and cons of doing that in-depth of a transcript for minutes. The one thing she found really useful to her about how they're being done now, is that they are timestamped. So, if people really wonder about what happened/when, they can look at the timestamp and see exactly what happened.

*Vice Chair Ragen moved to approve the July 19, 2024 webinar minutes and it was seconded by Commissioner Lehmkuhl. The Commission voted unanimously (7-0, Commissioners Parker and Myers excused); motion passes.* ([Begins at 7:18 mark](#))

#### **Committee Meeting Updates:**

##### Big Tent Committee

Committee members in attendance: Lehmkuhl, Baker, Parker, Smith. To review the full meeting recording for August 8, 2024, please click this [link](#).

Commissioner Lehmkuhl reported out that the committee received an update on the conservation policy, which still active and being worked on. They're currently working out the Tribal Consultation aspect. The science policy was discussed as well and is still active. He noted that it was decided at the last meeting in Vancouver, that they'd decided to regroup and condense the science policy and spend some time consulting with the Tribes. He went on to say that parts of the science policy had some procedural definitions included in it, like how they work with science and how they work with the staff to deliver science. That portion of the policy was proposed to be taken out because it's very controversial. The decision was to basically focus on defining best available science. Those rules and procedures are still important of how we work among ourselves to get the best science and make the best decisions using that science. The committee recommended to the Commission that it takes up the idea of formalizing these rules of procedure in some form. Not as policy, but perhaps part of the Commission's rules of procedure document or some other fashion. Attorney General Panesko provided an excellent presentation on the public trust doctrine. It was a very in-depth discussion going all the way back to Roman times of the basis for the public trust doctrine and then concluded with a discussion on what it means for us right now, in terms of their mandate and what it means to manage fish and wildlife in the public trust. In the future, they'll continue to talk about our policies, what he calls the critical concepts discussion, which was the public trust topic that was talked about the day before. In the future they'll talk about precautionary principles. They'll also start having lessons on collaborative management. So, how do people under this big tent work together to be successful in accomplishing the goals and objectives of the fish and wildlife conservation and management. So, whatever region they're in, they're going to focus on getting a presentation of some successful project. Potentially, they may talk about budget and legislation in terms of committee work. Commissioner Smith added that her take away on the public trust doctrine was that there are a few states that have incorporated the public trust doctrine into their rules, regulations, or even the constitution. So, the fact that they don't have the public trust doctrine embedded in their constitution, but they do have explicit in the RCW that lays out their mandate, they do manage resources in the public trust. Her take away was that it doesn't matter all that much that it's not in their constitution. It is spelled out in the RCW that wildlife and fish are public resources to be managed in the public trust. Commissioner Anderson responded to Commissioner Smith's remark, and commented that he thought the key is in the statutes and the things that are written down, and that's the sideboards that he heard the Attorney General talk about in terms of their work, rather than some broad concept that isn't really documented. Chair Baker added that it's an intriguing concept, and their statutes gives them the mandate to manage natural resources and notes that the

resources are the property of the state. The other thing that it does is say that they will make sure that some degree of hunting and fishing are protected and there are words like maximize in there. They're aware of all of that, so she thought the discussion of the public trust doctrine was very interesting. She got a few emails after the meeting asking her to look at this and look at that. She thinks that they see they do have several mandates in their statute and they're aware of all of them and are working as hard as they can to harmonize them. [\(Begins at 8:55 mark\)](#) Commissioner Lehmkuhl amended his report to add that there was a discussion on public input and there was a presentation by Dr. David Trimbach that followed up on his presentation in recent meetings on public input study best practices. They formed a couple of working groups that are taking that information and looking at the best practices. They're going to be making recommendations to the Commission on how to better manage their public input. He knows there's a lot of interest in that and he gets people commenting to him all the time with ideas of how to improve that. He wanted to let everyone know that yes, it is still an active topic, they're working on it, and trying to improve things. [\(Begins at 21:11 mark\)](#)

#### Fish Committee – Special Meeting

Committee members in attendance: Anderson, Linville, Ragen, Parker. To review the full meeting recording for June 14, 2024, please click this [link](#).

Commissioner Anderson reported out that it was attended by all committee members, except for Commissioner Parker, who was excused. Commissioners Rowland, Smith, and Lehmkuhl also participated. They went over the Grays Harbor Salmon Management Policy. The past policy, C-3621, has expired and they're in the process of revising that. The staff provided a briefing to the committee on the draft policy language, revisions, and the rationale. This came on the heels of last month, when they got an initial look at the issues in front of them. They were presented with the policy draft with various revisions. The full Commission will hear from the staff on this issue this afternoon. The recommendation from the fish committee was that the draft policy go out for public comment early next week. He wasn't sure if a motion was needed or just let that ride until the discussion that afternoon was held. The second item was background on management objectives for coastal Dungeness crab. They received a really good presentation by Lorna Wargo and Heather Hall. They basically presented a preview of proposed changes to the policy. There was a policy in place on coastal Dungeness crab for about five years that has worked out pretty well. But there are a few issues that have come up over time that requires the Commission to take another look at it, add to it, and make it better. The committee will continue to work on that over the course of the next couple of months. It was around resiliency, coastal recreational crabbing, and net entanglements. There were several issues associated with whales and crab gear. The idea is to start to sculpt that out and that will lead into a conservation plan that will somehow be fully coordinated with Oregon and California. Ultimately, this work will lead to an incidental take permit to allow for the crab fishery to continue in the future and protect grays, humpbacks, and other species. The final topic was about the future meeting agenda. They have three items coming up in September. They'll continue on with the Grays Harbor Salmon Management policy, where more input will be received from staff on what they're hearing from the public. The public comments will hopefully start coming in officially next week and there will be about a month to receive those. Staff will take a lot of that and turn around to get it to the committee. They'll also have opportunities over the course of the next couple of months for official public input. On the Dungeness crab policy, which is the second item for next month, will have some proposed draft language associated with it. That will be more helpful in terms of following the trend and what they're attempting to do. The final item for next month will be the native resident trout issue that's been talked about and discussed in a previous committee meeting or two ago. This will be an opportunity to share public comment received to date and to review the overall purpose of the policy. Chair Baker made the recommendation that if the Commission was going to hear more about the Grays Harbor policy later today, to remember the recommendation Commissioner Anderson made, and do it then. [\(Begins at 15:26 mark\)](#)

#### Wildlife Committee

Committee members in attendance: Smith, Rowland, Myers. Commissioner Anderson was excused. To review the full meeting recording for June 20, 2024, please click this [link](#). The committee joined the Habitat Committee for a field trip to potential wildlife crossing areas on I5. They were in two groups to avoid a quorum.

Commissioner Smith reported out that they haven't reported out on the Game Management Plan progress for a while. She knew there were a lot of people curious about where that is. The committee has been holding work sessions with wildlife staff and are making good progress on developing that document and it will be ready very soon to transmit that draft to the full commission for their purview and shortly thereafter, it will be consulting with the Tribes, and releasing the document for SEPA review. They are making progress and it's moving along. Over the next several months, the public and full Commission will get to see the work that committee has been doing. Commissioner Linville asked Commissioner Smith if she was able to provide them with a tighter ballpark for when they might see the document. Commissioner Smith responded that she'd like to do that, but staff is still working

on that timeline, so it's really up to them at this point in time, and noted that October was a possibility. Chair Baker commented that the five Commissioners that haven't been involved in going through that document, are just as interested as anybody else in actually seeing it. Because of the open public meeting restrictions the Commission has, no more than a quorum can work on it at a time without making it a public document. The decision was made to try to have a small work group go through it. So, the rest of the Commission hasn't seen it either and guesses that's why there's interest, and that everyone is interested. Chair Baker asked for final comments on the field trip before they moved on. Commissioner Smith commented that one of the reasons she's really excited about the project is because it's a great opportunity for them to do collaboration with their sister agencies. The Department of Transportation is going to be playing a very lead role in this project. They have been so far, and we're very fortunate to have staff over at WSDOT that are really enthusiastic and very involved in the project. While crossings aren't cheap, they're going to have to figure out how they're going to get the funding for this project. But there's great enthusiasm across the board in making this go forward. It's a very exciting project. What they did learn during the trip, is that I5 is actually a complete barrier, is what the transportation planners call, a complete barrier to wildlife crossing. Usually, WSDOT looks at putting crossings where there's high wildlife and car collisions. That isn't the case in this location of I5. The reason is that wildlife doesn't even try to cross the highway there. They saw a number of videos yesterday showing the wildlife approaching I5, then backing away, approaching again, and then backing away. They just weren't even going to try to make it across. It's important that we get to the wildlife crossing built and it's an exciting project. Commissioner Lehmkuhl noted the other interesting thing they learned yesterday in addition to the fantastic work being done on I5, is the work going on I90. Anybody who's traveled that sees and knows there's construction going on there. When he asked about the plans for wildlife crossing in this new phase of reconstruction, and he was told there are plans for about seven new wildlife crossing structures on that new section. There'll be a new overpass, the seven new crossing structures, and reconstructing bridges to make them longer and have more passage underneath them. The final addition Chair Baker made was stating that the neat thing she thought everybody knows is that they have to put in and rehabilitate many culverts for fish passage. But DOT, DFW, and DOE are also now engineering those to be big enough so that animals can go through them as well. ([Begins at 22:15 mark](#))

#### Habitat Committee

Committee members in attendance: Linville, Lehmkuhl, Ragen, Myers. To review the full meeting recording for June 20, 2024, please click this [link](#).

The committee joined the Wildlife Committee for a field trip to potential wildlife crossing areas on I5. They were in two groups to avoid a quorum.

## **2. Open Public Input**

Please see the attached list of commenters. To listen to the audio please click this [link](#). Public input begins at the 28:08 mark.

Chair Baker thanked everyone for keeping their testimony short, being respectful, and civil. She stated that if she listened to this as an outsider, she would think they were all nuts for trying to be here and agree with each other with all the conflict. She just wanted to appreciate the commenter that said we all want the same thing and trying to figure out how to traverse that razor edge they work on all the time. She opened the floor to the Commissioners to respond to comments that were received. ([Begins at 1:49:01 mark](#))

Commissioner Smith commented that she heard two things during the open public input that really caught her ear. One had to do with cougars and Chronic Wasting Disease. She wanted to point out that there is actually some research that documents when cougars feed on CWD infected ungulates, that those prions that cause the disease, pass through the gut of the cougar, they are somehow in a process that's not well understood, are inactivated. So, cougars do tend to select CWD infected ungulates, and when they prey on them, they're actually helping to cut down the spread of the disease. So, there's research documenting that and she can provide sources if people are interested. Second point she wanted to make was in regard to Dave Hedrick's last comment. It greatly concerns her about the cutting down on the money in their budget for non-lethals and range riding. She hopes they can have a broader discussion about that during the budget consideration. ([Begins at 1:49:40 mark](#))

Commissioner Rowland that she was probably just being defensive, but one of the commenters dismissed the idea of electric fencing as a way to actually reduce bear/human conflict for various reasons. But, she thought a lot of the goal is to have the electric fencing underground. So, that is not going to be a problem. It doesn't make a bunch of fences that fall down or get pulled out. As far as she knew, it has been shown to work, and is particularly effective when it is underground. She would like to not dismiss the idea of electric fencing, particularly when groups are raising money to help people put in that electric fencing. It's just like the other kinds of conflict

reduction that WDFW should be helping with people who experience this conflict. Whether it's a predator killing livestock, or a bear coming in and raiding your garbage can. There are ways to deter that. Talking about the budget, she thought helping people who are in conflict with the wildlife that was there before us, and is here now, that many of us want to stay here. Reducing that conflict is a critical piece of WDFW's mandate. ([Begins at 1:51:31 mark](#))

Chair Baker commented that they all want the same thing. They heard a lot today, both about cougars, wolves, and a little bit about bears. That amendment there was significant disagreement with about going to 20% temporarily. That was a temporary amendment. It got turned into a permanent one. That was just about listening to the science and trying to provide as much opportunity as possible. There was disagreement on this table about it. There's disagreement in the staff. She can't pretend otherwise, as it was her amendment. But to let people know where they are with their cougar rule now, is they have passed the rule that they had. They also passed what is called a CR-101. So, they're giving the staff the opportunity to fine-tune and possibly improve that rule. They don't yet know what they're going to come up with. It should be in the next couple of months. They hope to get a preview of what they're going to come up with before staff lay it on the Commission. She hopes that everyone else can have their opinion about whether it's good or bad. Her point is that they have to date, done what they've said they were going to do. The staff performed probably six to eight months of intense research on cougars, presented to the Commission over at least three meetings, and the Commission did the best they could with putting that all together and come up with a system that hopefully works for everyone. Obviously, it didn't work for everyone, but they're taking another hit at it. There's also been discussion today about bears. Again, to let people know, they ask the same thing. They don't want to make decision about bear hunting in the state until they have the science. They have not. The staff have been working on the same thing. Density reports. Bears are very different than cougars, in that they are distributed unequally around our state. The staff have been looking at that, doing studies for at least 20 years, and they're going to give the Commission the results of that, and likely recommendations on how to structure hunting seasons for 2025. The reason that they haven't done anything on bears yet, is because they haven't seen that science yet, and everyone will see it when they do. Hopefully in October. She felt she sounded a little defensive too, and didn't mean to be. But she wanted to point out that they are doing the best they can to do what every single person in this room is asking them to do. That is apply the science to their management decision. Once they do that, not everybody agrees, and they can't help that. But it is interesting to her and important to hear the feedback. They will continue to try to improve these big changes they've been working on for the last 20 years or so. ([Begins at 1:53:33 mark](#))

Commissioner Anderson commented specifically on the bear topic, that one of the people who testified this morning talked about not treating our staff as hostile witnesses. He thought it was important as they go forward with the bear pieces, that they get the full and complete staff information, rather than part and cherry picking it. He's really looking forward to the complete staff work so that they don't get in the situation of putting the staff in a bad situation. Chair Baker agreed with his statement. ([Begins at 1:57:08 mark](#))

Vice Chair Ragen commented that he didn't disagree with Commissioner Anderson. He thinks the Commission would like to see the bigger picture with all the science involved. He did think it would benefit the Commission to have a discussion about what they're all looking at, because he thinks they have different expectations about what's important and what isn't. So, before the staff does a huge amount of work, he would personally like to see a conversation between the staff and the Commission that says, this is how we look at this. This is the kind of science we're interested in. What are you going to bring and what do you have that could inform these decisions? Just having something dropped on them, without some preliminary discussions, sort of sets it up to have a more difficult follow up discussion. To that extent, they can talk about what's coming, what they would like to see, and what's available. He thinks that would make future discussions easier. ([Begins at 1:58:18 mark](#))

Commissioner Anderson commented that he somewhat agreed with Vice Chair Ragen. But he's concerned that they end up going down this outcome based science approach rather than science and then decide what the questions are. He thinks that they need to be careful in terms of getting the full picture, rather than just going off snippets, or petitions, or ideas that have been presented to them. He thinks they need to have the full science and then come up with some sort of their own thinking on it. Vice Chair Ragen agreed with him. ([Begins at 1:59:18 mark](#))

Chair Baker commented that she believes she heard that this may be Eric Gardner's last meeting with them. She joked that they'll have Eric earn his keep, and perhaps he could sit down with Commissioner Anderson and Vice Chair Ragen at some point during the meeting, and they'll make sure that they do get a full science presentation on bears and then proceed with the framework. She went on to say that it's pretty hard to have continuity in all of this when valuable employees, parts of the staff, are heading off to better pastures. ([Begins at 2:00:03 mark](#))

Commissioner Smith had an observation that she wanted to clear up with the audience, and that is that all of them sitting up at the table have a great respect for DFW staff and the work they do. She wanted to be clear on that. On the other hand, if they agreed with what staff brought forward every time, there would be no need for the nine of them to be sitting there. There simply wouldn't, if all they did was rubber-stamp everything. So, staff understand and expects that when they're presenting to the Commission, that they're going to have questions. They're going to have probing questions, that are never intended to be disrespectful, because they deeply respect the work the staff does. They always want to get down to the root of the matter, and that sometimes means they're asking rather deep, probing questions. ([Begins at 2:00:58 mark](#))

### **3. Director's Report**

Commissioner Rowland corrected the error she previously stated about electric fencing being installed underground as a wildlife deterrent. She corrected herself stating that they couldn't be installed underground, and got it mixed up with the ones you'd install for domestic dogs. She still felt that electric fencing was a really good idea, and that the Communications Director told her that WDFW offers that as part of their assistance to landowners to reduce the human/wildlife conflict. ([Begins at 2:03:05 mark](#))

Director Susewind commented that WDFW does fund that, and believed the Methow project was partly based on a DFW grant, so he's pretty sure that DFW did fund part of that project. He notified the Commissioners that he would keep his update brief, to reserve most of the time for the Regin 6 Director to give her introduction. He noted that they've all heard that the L&I citations were issued for two incidents, both were involving smolt traps. One was on the Duckabush and one was on Nisqually. The Nisqually one was a boating accident tending to this smolt trap. Two citations have been received. \$114k for one and \$86k for the other. He felt it important to note that most of the violations were corrected at the time the citations were issued because they got on it. The abatement one is in place, and they're working on the abatement for the other. So, they have all heard them talk about safety a lot. This has become a top priority for staff. The Commission approved a budget request last time for about \$4.7m from the legislature. They're going to hear today that that's continuing to build that safety program and is a top priority and they're leaning into it. He wanted them to know that staff have been on this path for a while, they've been accelerating it, and thinks they're in a pretty good place going forward on these two particular things. Staff stopped all operations, and stood down the smolt trap operations until they went to every smolt trap and made sure it was being operated in a safe manner. Making sure people have their gear, their flotation devices, and are trained to operate. So, they're leaning as hard as they can with that. They have also submitted an appeal of those penalties yesterday. He didn't think the classification of the penalties was correct, so they'll wait to see how that turns out. But, while it's under appeal, there won't be a lot of discussion about the details. They also heard on the first confirmation of Chronic Wasting Disease in the state, a female white-tailed deer in Spokane. Fortunately, there is a great plan in place, they knew it was coming, and it was really more a matter of when than if. So, they have a plan, it's been updated based on tabletop exercise and they're in the process of implementing that plan. They'll start by identifying an initial response area around that particular detection. Also, understanding what the prevalence is. He's suggest at this point in time, is that this would be a great topic for the next Commission meeting. Have at least a half hour for a detailed briefing. That way, staff remind them of the plan that they've all seen, but also cover what they're doing and where the plan is being implemented. He felt that a month out or so would be very interesting as opposed to right now. But if the Commission had further interest, staff could answer some questions. Commissioner Smith was wondering if any kind of press release encouraging people to not be feeding the deer, because he's heard in that particular area, that was a fairly popular thing to be doing. Is that part of the approach? Director Susewind responded that he's balancing between getting into it in-depth. Yes, obviously, staff also have to look at our own feeding operations as this come through the state. Because there are places where the agency is feeding elk to make sure they survive through the winter. That's also a problem. That'll all be covered in the plan. He read the plan when it was issued. He's not an expert now, and felt that everyone could brush up on it, and that's why he's suggesting the next meeting. He also heard a discussion around wolves. In particular, to the Dominion and Lead Point Pack. He did authorize the lethal removal in the Dominion Pack. The operation is ongoing. There have been no wolves removed to date. At the last count, there were 18 depredations in that pack, so they're still actively pursuing removal of one wolf in that pack. He briefly touched on the special hunt problem that occurred recently (the software problem). June is the time of year where special hunts are issued. This is a big deal to hunters. They're unique opportunities that are only available through a drawing system that the agency operates each year. About 80k people put in applications for special hunts. These hunts can be for special groups like youth, or seniors, or disabled hunts. They can be by species, sex, and equipment type. So, it might be a late white-tail antler buck archery hunt or something down to that level of detail. We put all the names into a hopper, basically a computer hopper, and select hunters randomly. You get points if you've been putting in for a number of years. So, someone that has been putting in for 10 years has a better chance of drawing that particular tag than someone who's

putting in for their first year. We randomly assign numbers to folks, and then rank them from luckiest winner to least lucky winner, who doesn't get selected. That part of the operation all went correctly. So, we have a rank list of hunters for each hunt. That is correct. When you apply, you can put up to four choices for some categories, two in others, it's their preference. They're listed by the hunters first to fourth choices. They're supposed to get the highest preference hunt they asked for that's available. So, lucky hunter number one, obviously gets what they asked for, because nobody's taken it. Hunter number two probably gets it. Number three, maybe they wanted the same thing one and two did, so they get their second choice. So, they get a lower choice if the hunts they wanted have already been prescribed. That part of the program was messed up and did not assign the right hunter the right hunt to them. If you just think about that for a minute, number one got his fourth choice instead of his first. Number two got their fourth choice instead of their first choice. Number three wanted that choice, but now they're gone, but they shouldn't really be gone, because they shouldn't have been awarded. So, it just cascades through the whole system. Bottom line, we ended up with 729 folks who should have been selected, but were not. They got the notorious, "you are not selected" notice from DFW, but they should have been. We know the correct rank of the hunters, so we were able to make sure that everybody get what they would have gotten, absent this mistake. That's step one. So, if hunters were notified that they didn't receive it, they got a new notification that we made an error, and in-fact, you did receive a hunt. We also had 738 folks who've been notified they were awarded a hunt, but they shouldn't have been. This is a big deal for folks. They are waiting, they don't plan their vacation until they see if they draw. If they draw, they plan their vacation for that draw. They go over next week, because it's a unit they're not familiar with, so they start scouting right now. So, to tell those folks, oh, sorry, you had to give us that permit back, was something the agency didn't want to do. So, staff were instructed to look at each of those permittees, and see if there was a hunt available. They don't get their first choice because they didn't earn their first choice. But is there a hunt they selected at a lower-level choice, that we could provide, and not have any worries biologically or for other reason that we set these hunts up. For each of them, staff went and started with the district bio, the bio that set up the hunt, and say, ok, you planned don ten late buck hunts in here. We mistakenly gave out two more. Can we tolerate two more tags in that area? Staff went through line by line, hunt by hunt, and evaluated whether or not we could biologically sustain those additional tags, so that we could honor the decision the people had thought they had drawn. We were able to do that. Things to keep in mind are, a tag doesn't equal a mortality. Success rates on some of these hunts is pretty low. A tag is not necessarily an additional animal. You have a general season deer tag, and you draw one of these special hunts for late season, you still get one deer. As soon as a deer is shot, that hunter is done. If they shoot a deer in regular season, the special hunt doesn't even apply. It could even go the other way, where a hunter doesn't shoot a deer in special season, so they're excited to be out there in the snow, and then they don't see one when they could have gotten one. It can go both ways. Most of the hunts are for deer and elk, and most of those are for antlered males, and the antlered males don't really drive the population. Some of those hunts are issued because they want quality hunts. The agency is going to give hunters the special opportunity to go into an area where there's going to be ten people hunting because only permittees can have it. Hunters would still get one deer. Now, there will be eleven or twelve. So, staff went through line by line, and the Director called out the whole staff, especially Kyle Garrison, who was in charge of the whole list. Every single hunt was validated to be sustainable and appropriate to issue. There was only one place that they ran into an issue of being concerned biologically, and that was or the North Cascade Mountain Goat. There was a tag in the Mount Baker area that we said we awarded, that we shouldn't have. But there is a separate category of raffle hunts that provides a got tag for that area. So, we cancelled that hunt, and refunded all the money to those hunters. Then, we shifted that tag to the Mount Baker area, so it was a net wash. We'd already accounted for a tag in that area. Other than that, we were able to issue all the tags/permits (used interchangeably) to the folks that thought they'd drawn but shouldn't have. So, that's where we stand today. Some folks don't take them. They don't have to if they don't like the hunt they got. They can turn it down and they get their points back. Points are almost a property right to some folks, especially when you've been doing it for close to 30 years. So, they can reinstate if they'd rather do that, or we can offer this tag. It was an unfortunate mistake that he wished hadn't happened. But the response from staff, they went into an immediate incident command structure and knocked it out. It was over the 4<sup>th</sup> of July when we found out about it and people were working on the weekends. He thought it made everybody whole and in a responsible manner. Staff will be working closely with the vendor this was associated with. This was all in a new code that issued just this year. He's confident this is the first time it's happened and can keep it from happening again. There was approximately three words missing in the code that jumbled the whole mess up. A short video was made about it, and Nate was the MC that went through it in better detail with some graphics that he thought made it a lot easier to understand. There are a lot of hits on it and folks are tuning in to figure out how this works. His hope is that all the questions are answered. He thought the initial response of, so you offered more permits than you should have, are you sure you should have? Step one was permit by permit, making sure they could be issued. ([Begins at 2:04:29 mark](#))

Chair Baker commented that when this happened, she got a call from the Director, and it was like, this is just terrible and thought a lot of staff lost a lot sleep over the issue. The Director glossed over it, but this wasn't precisely a fish and wildlife mistake. It was probably completely innocent, but a not-good mistake on the point of a vendor that we use. We ship all of this information to them, and then they have algorithms and computer systems that actually compile the lists. As they talked about this, her request was that as it was figured out who could be accommodated and who couldn't be, that they'd be very careful about what they call not impairing the resource or conservation issues related to these hunts. That wasn't new to the Director. It had already been decided to do that, so she herself, felt gratified that this was done on a granular level. Usually, if there was an increase here and there, it was one or two animals. Again, not optimal but not impairing the resource. She appreciated the way that the department handled the problem. Sometimes, you just have to roll with it and that's what she thinks the Commission should do. She thought the staff did the best they could in an unfortunate situation. She remembered the Director's point was that he was glad that he didn't draw a moose tag this year, because he wouldn't have been able to take it just because of the optics. So, she appreciated the amount of work that staff and the department did on the problem. ([Begins at 2:16:35 mark](#))

Commissioner Smith commented that nobody liked this situation and everyone probably got a lot of inquiries about it. She also added that Kyle Garrison is one of those folks that goes above and beyond in trying to work things like this out in a very systemic and fair process. This was very unfortunate, but she thought that the best was done that could have been done, and that Kyle did a super job of trying to work it out. The best of bad circumstances. ([Begins at 2:18:44 mark](#))

Commissioner Anderson commented that he agreed it was an unfortunate situation, but the department did a very credible job and thought the hunting community understood that and appreciated the efforts that the staff went through. He thought the whole issue of the permits and the like is a little bit foreign to all the Commissioners, so the summary the Director provided was good. But he thought they'd all benefit with some form of information sharing on how that works and wasn't sure how to go about that. He didn't want to burn up a lot of Commission time, but felt it would be useful for all the Commissioners, so they have a better understanding. It was talked about last month in terms of trying to come with some time to do that. ([Begins at 2:19:27 mark](#))

Vice Chair Ragen seconded Commissioner Anderson's point of view when the incident occurred. He also was concerned. The first thing that went through his mind, was what extra take would be involved, how do they justify that, and what is the basis for that. It reminded him that he really didn't understand the whole basis for how levels are set and the Commissioner really do need to have a discussion about that, so they're more informed. He's had a lot of people ask him about the point system and how that feeds into it. He needs to understand better, so he seconds Commissioner Anderson's comment. ([Begins at 2:20:31 mark](#))

Chair Baker responded to both their comments that while they're talking about Commission time and staff time, to work them through and school them on how specifically the point system works with hunting. Normally, that would be a blue sheet. She's been trumpeting that they need to get back to doing some blue sheets so that they can vote on these kinds of issues, because it's easy for them to say they want this, but it actually translates into a lot of work. She wanted to take the point in time to ask that if there's anybody that would object to having such a briefing at a future Commission meeting, and again ask staff if that would be an egregious or otherwise problematic use of their time. There were no objections and she went on to say that there is a virtual blue sheet and asked the Director and Deputy Director if that would work. ([Begins at 2:21:10 mark](#))

Director Susewind responded that staff could certainly do that and it wasn't new to put on a presentation like this and that hours and hours are spent talking about the point system and they look forward to sharing that joy with the Commission. He'll be asking them to make it short and helpful. He mentioned that some of the hunts that are limit based on the fact that the agency wants it to be a quality hunt. So, did they put a 5<sup>th</sup> or 6<sup>th</sup> person in the area. It's not always biology. Sometimes, it's you add a person that can go out there on a damage hunt if there is a damage claim. So, there's different reasons for these, and thinks a short presentation will be helpful. ([Begins at 2:22:23 mark](#))

The Region 6 Director, Heather Hall, welcomed the Commission and updated them on happenings in the area. ([Begins at 2:23:10 mark](#))



#### **4. Land Transactions – Briefing, Public Comment, Decision**

The Commission was briefed and considered approving the land transactions for the Wenas Black Canyon, WSDOT Naches, and Moss Cave Conservation Easement properties. ([Begins at 2:51:35 mark](#))

Commissioner Smith requested clarification as to whom would be managing the Moss Caves property and staff replied that Pacific Corp would be managing them. They'll do the management of the area, so they'll get the property and be the owners, and the agency will hold a conservation easement, so that they can monitor the bat population there. ([Begins at 2:58:55 mark](#))

Cynthia Wilkerson clarified that Pacific Corp is an electric utility company. She went on to say that the agency does quite a bit of work with many electric utility companies, in terms of providing mitigation services. They're one of the agency's partners in general. Commissioner Smith asked the follow-up question that this was possibly related to some mitigation requirement. Cynthia replied that their interest and their work to conserve this, is yes. ([Begins at 2:59:41 mark](#))

Director Susewind added that they operate three dams on the Lewis River ([Begins at 3:00:11 mark](#))

Commissioner Linville asked in relation to the Wenas portion, if there was a perimeter fence that got burnt in the fire, and staff didn't believe that was the case. She followed up on the WSDOT piece, and asked if the retreat fire impacted that at all. Staff responded that it did not but it was close. They were told that as of that day, that the fire that is close is pretty much out in that area, and is not traveling anymore to the east, where the property is located. ([Begins at 3:00:29 mark](#))

Commissioner Anderson commented that he's hiked the black canyon and it's a very aesthetic place. He noted there is a big fence around there, so it may have gotten singed, but that this project has his full support. ([Begins at 3:00:59 mark](#))

Public Comment: There was one constituent signed up to give public comment, but they weren't in attendance at the meeting.

Commissioner Smith commented on the public access to bat caves was pretty much closed (unfortunately) due to white nose syndrome and the possibility of spreading it. ([Begins at 3:01:53 mark](#))

Lisa responded that the caves in the presentation were mostly formed by the eruption of Mt. St. Helens. A lot of them are where there were trees and the trees have now rotted away to make the cave formation that goes directly down into the ground. They have some fenced because it can be dangerous in some of those areas. Since the agency is holding only a conservation easement, it does not allow for public access, because the agency isn't the owner. ([Begins at 3:02:14 mark](#))

Commissioner Linville commented on the really great work being put towards this and wanted to point out how complicated it is to determine what it's going to cost to maintain a piece of property, when you don't know when it's going to burn down (or if it is), because that's the reality of managing land. Just when you think your \$95/acre is going to dig and then something happens. She was not against the piece of property at all, just highlighting that complication of it. ([Begins at 3:02:55 mark](#))

*Commissioner Rowland moved to accept the recommendation to purchase these three lands on behalf of the department and was seconded by Vice Chair Ragen. ([Begins at 3:03:49 mark](#))*

Commissioner Linville pointed out that the motion called for three purchases and it two purchases and a conservation easement. ([Begins at 3:04:11 mark](#))

*Commissioner Rowland amended her motion to move to approve the two purchases and the conservation easement. The Commission voted unanimously (7-0, Commissioners Parker and Myers excused); motion carries. ([Begins at 3:04:24 mark](#))*

#### **5. 2025 Agency Request Legislation – Decision**

Staff briefed the Commission on the agency requests for the 2025 Legislative cycle, noting that the agency request proposals were to increase the renewal fee for personalized license plates dedicated to non-game species preservation, and to increase efficacy of enforcement for fish and wildlife violations. ([Begins at 3:05:00 mark](#))

Commissioner Smith asked about the slide that stated the language change in the statute for shooting over the roadway would give the enforcement officer the option. She asked how that would work, if it's in the code as a civil violation. Tom responded that there were two different answers to her question. Under B, that discharge from a road, if the officer thinks it was done in a way that negligent, that there's a safety risk, or some reason, then they can cite someone with the criminal offense and that's what the state's going to have to prove to hold someone accountable as a criminal offense. That's the discretion. If they don't think it was, if they think someone isn't supposed to do it, but it wasn't in a negligent manner, it allows them to do the civil infraction. On C, it raises a good point, because on C, if the tag is attached to the animal, and someone didn't clearly notch it, that's actually a downgrade, because the criminal offense requires that an individual do both things – they don't attach and they don't notch. ([Begins at 3:12:29 mark](#))

Chair Baker asked if this bill extended to general penalties. The reason she asked is because a lot of time is spent talking about bears, science, and all the importance of it. She's heard from hunters and non-hunters alike, that the return rate on a tooth is abysmal and real disappointing, and that the \$10 penalty is too low. She went on to ask if there a reason, and if so, an opportunity to bump that up a bit? Tom replied that when you look at the infraction language for big game hunting under B for hunting violations, what isn't seen there, is what a person would get on the criminal offense if there was a take involved. So, in her question, the person would have taken an animal. So, that doesn't have to run through as an infraction. It could run through as a criminal offense. That would be more for someone that's in the wrong GMU, out at the wrong time, that type of thing. Could an officer give someone a break? That happens across the board, not just with agency enforcement officers, but with the police and sheriffs as well. There's always a little bit of discretion. But what is being structured here, is the low-level offenses having expressed language, allowing it to be a civil infraction. Everything else retains the ability to be done as a criminal, but he wouldn't promise that every time, and that it's always pushed to the harshest penalty. Chair Baker clarified that she wasn't speaking about the range of the misdemeanor to a felony, but was speaking about the actual penalty that is also set out in statute, but thinks the answer to her question is that this bill doesn't get to that. Tom responded that it doesn't get to that, but it's an interesting question that he would need to look into. Part of the reason the \$500 mandatory fine is there, and when the statutory assessments are added, it can kick it up to about \$1000. This doesn't go that easy on people, and that's the deterrent effect, but it's still a significant ticket. ([Begins at 3:15:07 mark](#))

Vice Chair Ragen commented that the argument could be made that by reducing penalties in some cases, that one may be reducing the incentive to comply with the law. He asked staff if there was any mechanism for tracking how often whether or not there are repeat offenses, because those are the ones that someone would really want to know about. If someone just screws up and made a mistake, ok. But if someone does continuously violate the law, then what happens in those cases? Tom responded that in the statute, they keep track of multiple violations, and it can lead to suspension of licensing and such. But the broader question, he'd have to look into and follow up on. He went on to say that there are a lot of criminal justice studies that would say swiftness and certainty of punishment is more of a deterrent effect than severity of punishment. It's because of this weird dynamic, where the severity of punishment, especially really high stakes, tend to be more contested and have more going on. If the public starts perceiving it as unlikely that they'll be held accountable, behavior doesn't change. So this is really the swift certain model, which is if people know when you violate the rules, you're going to get ticketed, and they'll have to end up paying it, that's going to have a better suppression effect than one or two people getting hit with he criminal offense. That's his first answer to the Commissioners, broadly. In the criminal justice system writ large, swiftness and severity is often argued as having a beneficial over severity. When dealing with people, severity has a whole different dynamic going on, but there's also the fairness or the justice of the penalty. It can happen in natural resources on the low-level ones. His personal opinion is that the severity desire is less present. Vice Chair Ragen asked to clarify that there is a way to go back and see if someone is a repeat offender, because they aren't talking about two different opposing theories and wanted to resolve that question on the basis of some evidence. Tom clarified that there is a statute in existence right now that if there are multiple violations within a 12-month period, it can lead to suspension. He offered to send the Commission the data on when the agency checks with the courts as to whether the fractions issued are getting resolved successfully. ([Begins at 3:17:19 mark](#))

Commissioner Linville commented that she shouldn't be speaking for law enforcement, but the law enforcement officers are the ones that would keep track of repeat offenders and they know if they've contacted someone multiple times, and that it's a pretty small world of law enforcement, and they know who the repeat customers are. ([Begins at 3:19:53 mark](#))

Chair Baker asked whether or not the agency goes on private property to bust people on their own property for driving through stream beds or if the language just applied to public property? Tom clarified that the jurisdiction is waters of the state, which is different than waters of the US. He told her that is the jurisdictional issue, but what she was right on, is that there are times where the HPA's just not that interested in some sort of seasonal runoff that doesn't connect any other waterway. Sometimes, there's not fish present, but there could be worry over rosiner sediment going down onto the gravel or onto the reds. But if nothing like that is present, then the issue is about the fish life. ([Begins at 3:22:24 mark](#))

Commissioner Lehmkuhl asked the question of how enforceable would it be to hold a boat owner? If someone was out on a charter boat, and someone commits an infraction on the boat, then how would an enforcement officer know? He went on to ask that for example, is there was a rule that there were 12 fishermen on a boat and the limit was two, then the boat limit is 12. What typically happens is that someone might catch their limit, but another person hasn't caught theirs, so the first person keeps fishing until the boat is at the limit, so would that be considered an infraction of the rules? Tom offered to check Captain Wickersham and get back to him about it, but Commissioner Anderson added that he didn't believe the example would be a violation, and that there are specific rules regarding that. ([Begins at 3:25:21 mark](#))

Commissioner Linville commented that she saw the differences, but gets a little concerned that could be sort of the camel's nose under the tent, as far as someone allowing someone else to hunt on their property, and they're doing something willfully that the landowner isn't aware of that they could get in trouble for. That would make her not want to let someone hunt on her property if it were to go that direction. Tom pointed out that this would be a situation where a person is on a boat in a controlled space, and that person has paid someone to take them out, and that payment is essentially for the boat owner to know the rules so the person paying wouldn't have to know them. That would be the difference. If you're allowing someone on your property, you're not being paid, because you wouldn't want to mess up your liability protection. He believed that because they're paid, and part of that payment is what's going to happen in that setting on the deal, that that's why it's different enough. But he appreciated her thinking it through in that manner because those situations should be talked about, but didn't see this leading to that. He also pointed out that the draft language has definitions that define guiding, and sport guiding services, because that relationship is different than the terrestrial. Commissioner Linville asked a follow up question about hunting guides. She asked if they fell under the same obligation? Tom replied that they aren't under the proposed language, because it was just done for fishing and charter. He felt it leaned more towards Commissioner Lehmkuhl's question about practicality and enforceability. You have a discreet boat, people on the boat, you know who is on and what they're doing. ([Begins at 3:26:22 mark](#))

*Chair Baker moved to approve the agency request legislation as set out by staff and it was seconded by Commissioner Lehmkuhl. The Commission voted unanimously (7-0, Commissioners Myers and Parker excused); motion passes.* ([Begins at 3:29:01 mark](#))

## **6. 2025 Operating & Capital Budget Request - Decision**

Staff briefed the Commission on the 2025 operating and capital budget requests. The capital budget presentation highlighted the minor works projects, the major works projects, hatchery improvements, and the major projects draft of the 10-yr plan. The operating budget presentation covered the maintenance level requests, and the policy level requests that were broken down into the sub-categories of priority items, one-time to ongoing, and new items. ([Begins at 3:30:24 mark](#))

Commissioner Rowland asked how much of the project budget is hatcheries vs. other projects? She noted staff talk about major projects, and she was trying to get a sense of what the major projects are, and the proportion that goes to various projects. Kristen responded that across the board, it's about 75% of the budget. The capital budget is associated with hatchery work, and hatcheries are the largest piece of infrastructure that the agency has, and is also some of the oldest. The focus of the hatchery rebuilds is not a change of production, or how work is being done. The goal is to increase safety, the working conditions for staff, and to make things more efficient. Use water efficiently, use resources efficiently, and to be able to handle the fish safely and efficiently. A lot of it has to do with the weirs and the fish passage components of it to make sure that the genetic integrity associated with the hatcheries, that the wild fish are being allowed to pass safely, and that all the requirements of federal hatchery operations are being met. Because it is one of the largest components of the agency, it includes areas from where fish are collected in river structures to allow for safe passage, where they're held, and the focus is to make these areas a better place to work and a to make them better for the environment. The major focus is on climate resiliency when doing this, so a lot of the new hatchery projects moving forward have recirculated water systems, better water filtration systems, sediment ponds, and those types of things to really help improve the current. There is also the killer whale, SRKW master plan component of some of the hatchery work that's a little

further down the list. But that is really meant to help look at where the agency can safely, and without impacting the resource, increase production for killer whale prey. Commissioner Rowland asked the follow up question of whether or not there is any discussion around a particular hatchery that really needs a lot of work, that's going to cost a lot of money, and if there has been discussion of closing that particular hatchery because of the cost/benefit balance costing too much for the benefit that it provides? So, instead of spending a lot of money to make the improvements. She stated that she was delighted to hear about where the money is going to go, but if it's going to hatcheries that maybe shouldn't be there anyway, is that ever part of the discussion when deciding how to spend this money? Kristen responded that historically, yes. Staff do engage in that discussion and the focus is on what the obligations are of the agency, as well as what their arrangements are with the ecosystems and co-managers. They have shut hatcheries down in the past and shifted productions over to more productive areas. As these projects are looked at, they are being evaluated to determine if that system has a long term water source, a sustainable production level, and a sustainable water source? All of that comes into play, and there are some hatcheries that aren't on the capital budget list that are going through that evaluation. Are they able to maintain productivity? Are they meeting all of the goals the agency has? So, the projects brought forward are one that have been evaluated, they're necessary to meet the agency's goals/missions, as well as co-manager agreements. [\(Begins at 3:33:12 mark\)](#)

Commissioner Smith commented that it's kind of a big gulp between the \$71m in fiscal year 23-25, and then going forward into fiscal year 25-27 of \$177m. She thought she heard staff say that was because they were trying to come more in-line with getting consistent into the future and having a roll-out plan. But she was also assuming it is related the hatchery system across the board is aging out. She asked if staff thought that the \$177m is taking into consideration inflation, etc? For example, 10, 15, 20 years out, and assuming staff have looked that far, she asked if this would be about the level the agency would be asking for from here on out? Kristen responded that it is, and that's part of the major work section of the capital budget. They do have to present the Legislature a 10-year plan, so if they went back to last year's 10-year plan, you'd see that the agency is planning on asking around that 200 mark. So, last year, the request was for \$240m, and of that, \$71m was received. So, there is a 10-year plan, and every two years, that plan is updated to kick it out another biennium. So, across the board, it is right around that \$200m mark. Commissioner Smith followed up by saying that she hoped that's not a reflection on the part of the Legislature that they don't see the need to support the hatchery program at this level. That's a big difference from what was asked for and what was received, so how is that gauged? Kristen responded that she could provide her personal opinion on that. She noted that back in June, the presentation showed how the capital budgets have been going. So, going back three biennia ago, it was right around that \$40m mark. So, she felt a really good job had been done with the Legislature by fully describing the needs, showing the needs, and they're doing what they can to progress it. Each year, the agency has been getting a little bit larger capital budget, with each biennium, and each request. So, the capital budget has almost doubled in the last 8 years. Part of that is being able to show the 10-year plan, showing the needs, and showing the numbers. They're not getting smaller the longer we wait. She believed they're doing a really strong job of messaging it, and on the same side, the work is able to be completed. That is the biggest measurement with the Legislature on how much funding is received, is how much can actually be implemented and get on the ground. The capital budget is funded through the state bond dollars. It's really important because the Legislature wants to see it built. They want to see something on the ground that meets the intent of the state bond dollars and complete construction. That's really what staff are working for. Every biennium, it grows a little bit, a little more is asked for, and staff have been really successful. But it is a long path. [\(Begins at 3:37:35 mark\)](#)

Commissioner Smith asked if some of the hatcheries on the list were mitigation hatcheries or ones that the agency has been managing and building for the BPA, the Army Corp, or something? If that's the case, she was wondering if they didn't have a continual obligation to keep the hatcheries updated and running? Or are none of these mitigation hatcheries for other entities? Kristen responded that the one that comes to mind is one of the larger requests, the Beaver Creek Hatchery. It was part of a mitigation hatchery, a Mitchell Act hatchery. However, Grace River was closed down and production was moved. So, it's part of that bigger picture of fish management in that area that does sit in the capital budget. Their obligations wouldn't fund two hatcheries, so one had to be upgraded. Staff are going through Mitchell Act for other funding for the long-term operation of that. There are some smaller projects and then there's some that aren't necessarily related. I can be seen in the out year, but it's one she's really excited about and it's the agency developing micro-hydro and solar power and the Washougal hatchery was picked for this project. But it's part of the ongoing carbon reduction and sustainability goals. [\(Begins at 3:44:26 mark\)](#)

Vice Chair Ragen commented that the bigger picture level, if someone were to imagine managing a hatchery on a river system. The reason that they have that is to help compensate for lost habitat, which seems to be one of the most common issues faced. As the hatchery is being rebuilt, at what point is the question asked, or are there conversations surrounding, do we invest now more into the hatchery or do we invest our funds in habitat protection? Are there people responsible for those two different things talking so there's some coordination at the bigger level that says, we're at a point now where we really need to be focusing on habitat and shifting away from the hatchery? How does that happen and how does that conversation take place? Kristen responded that question was outside of her engineering expertise, but noted there are a lot of conversations because the hatcheries typically have a much bigger obligation than mitigation or lost habitat. That direct connection exists as a portion of the production at some of the hatcheries. But the agency has a lot more production level agreements out there that exist. It can support the SRKW program, commercial recreational fisheries, and we try to meet the end-to-end co-management agreement of how much fish is going to be produced. All of those exist. One the projects on the list is the NACI hatchery. There is a large component of taking down a fish ladder weir system that was not compliant. It did have issues with blocking of habitats, and we're rebuilding that into such a way that is both compliant, and we want to make sure that hatchery fish aren't getting into places they aren't wanted, that they're being collected and managed at the hatchery. Every one of the hatcheries that are being rebuilt, especially getting into the fish passage section, is meant to help make sure that fish can make it upstream into habitat areas. As she previously mentioned, there is a large component of restoration going on at the same time. It's not directly tied to the hatcheries, but existing in the same watershed and ecosystems. ([Begins at 3:46:05 mark](#))

Chair Baker commented that it was a terrific answer to a very difficult question, and turned to Director Susewind stating that the budgets are usually built from the ground up, and the numbers don't get to the agency's budgeteers until the policy discussions have been really well vetted. She went on to say that maybe there's some instances where fish, wildlife, and habitat might all want some money, and that goes through the Director's Office. She asked if the Director could answer Vice Chair Ragen's question a little bit more on the process of how the numbers get to the budget team? Director Susewind responded that hatcheries are always being evaluated. The agency has hatchery plans they go through and the agreements are extensive. It might be a mitigation, a co-management agreement, or a conservation hatchery vs. harvest hatchery. All of that's worked out within the fish program with Erick Kinney's group, Kelly Cunningham, etc. These staff understand the need for the hatchery to work, what it's going to cost, and build it for us. It's a lot more than that, because they're doing the assessment of the infrastructure, if it's worth it from a purely infrastructure. But the driving force of what the hatcheries are trying to accomplish is managed through the fish program through an ongoing evaluation. ([Begins at 3:48:42 mark](#))

The Fish Program Director, Kelly Cunningham, elaborated that hatcheries are in place as mitigation, not just for dams, but for habitat loss in general. When many of the places around Puget Sound are looked at, absent bulldozing places like Seattle, there's not much hope for recovery of habitat in situations like that. Unfortunately, there is a lot of that going on everywhere. Those investments in habitat are vitally important. The challenge with habitat restoration is the length of time it takes to see a positive change. The agency is left with the continued need to operate hatcheries, and that's done so with an eye toward how is the habitat today, what's anticipated in the near future, what can be hoped for in the longer term, and what are the conditions being dealt with right now on the ground? He didn't want to lose sight of the fact that hatchery reform, managing hatcheries in light of FSA obligations, and that our hatcheries are being managed under the ESA and under the need to have a permit in place to be able to do so. So those hatcheries are being evaluated on a constant basis. He noted that the Commission approved a couple budget cycles ago, a package that was funded by the Legislature that would allow the agency to expand it's evaluation of hatcheries. It was the hatchery M&E project, which the fish program received phase one funding here in the last biennium. The money is being put to work to help complement and supplement the hatchery reform work that's been going on for almost a couple of decades now, since the Commission put them on that path some time ago. Habitat is absolutely considered, but there's no getting out of the simple fact that if fisheries are important in Washington, then hatcheries are a key ingredient to making that happen. Absent hatcheries, there is no fishing, and that's the bottom line. It's incumbent upon us to do all that can be done to operate those hatcheries in a smart way. The capital budget requests really reflect the need to improve our infrastructure, so we can be in compliance. So, we have the tools we need to be able to implement those hatchery reform obligations and desires that we have. Much of our infrastructure continues to age, there are compliance issues that are being dealt with, and he was sure that Kristen has told them that there are hatcheries that are over 100 years old and have received maintenance dollars. Just routine maintenance dollars because of the challenges the agency has had. Capital budget has been very successful, and that hasn't always been the case. He hoped that helped, but noted that the landscape isn't going to change in the near-term, especially in places like the I-5 corridor, and the Columbia River, where there is excessive development. ([Begins at 3:50:12 mark](#))

Commissioner Smith commented that they heard during public testimony this morning, that the amount earmarked for NW Washington, has been considerably reduced from previous years. She took that to mean the money that gets funneled through the Department of Agriculture (as that is the money she thought was being discussed), because it was money that was to support the cooperatives. She asked if that was true and what could be done about it. She went on to state that the issue being heard from SW Washington, is that they might like to have a similar program sent out for SW Washington, but she wasn't sure if there was an existing nonprofit cooperative that could be eligible for that kind of money. She asked where the agency is on that. Morgan replied that he'd like to send the spreadsheet he put together, but looking at it, there is a slight decrease in that funding that was associated with that fiscal note, received piece by piece. It used to be kind of like a \$954k proviso. It dropped in FY 2023-2025 to \$780k. Ag's funding has fluctuated a little bit. But if this package was funded, he felt that the high point of overall wolf funding in Washington state would be hit. There are some dollars that are not proviso. They're not specific to NE Washington, and next biennia would be the most that would have to be dealt with areas outside of NE Washington as well. So, SW, SE, those other possible areas. Commissioner Smith followed up to say that what she hears him saying is that the problem is being taken care of and two things will happen that will be able to take care of the perceived shortfall for the NE, and funding should be available for the SE. Without answering the question of how those dollars are deployed in the SE, because she thought that was still an unanswered question. Whether it would be a cooperative project or would be the agency's conflict specialist tackling some of the additional work. Morgan replied that all of the above was applicable. He imagined that damage prevention, cooperative agreements, and staff being deployed for lethal measures, so the funding would be flexible for any of those tools. [\(Begins at 4:04:03 mark\)](#)

Chair Baker commented that a few years ago, everyone was scared to death of quagga muscles, especially if they got into dams, and how important it was to keep them out of our waterways because the numbers would escalate into the hundreds of billions of dollars if they started mucking up the infrastructure. Now that they're here and we're trying to figure it out, and now CWD is here, and so everyone is freaking out about that. Are we still being aware and putting the resources into some of our past concerning areas, like the quagga muscles? It's important as them sitting up there and being asked to approve a budget that somehow staff convey what the most immediate need is, and also assure that the earlier immediate needs are being handled. She didn't want to shift a bunch of resources to CWD, which is extremely important if they end up with quagga muscles in the dams. Morgan responded that it was a difficult question to answer. He is sure the two packages will compete. He went on to say that there's a piece of funding that staff are working on right now and trying to get that one to continue. He felt she was highlighting the challenge between those two things, and where it as an individual dollar goes. [\(Begins at 4:07:50 mark\)](#)

Deputy Director Windrope commented that the packages being gone over right now are basically saying to the Legislature, you've invested in us one time, and we need it ongoing. So yes, it is not being let go, nor are staff letting go of the European Green Crab. She clarified that they're not here yet, but they are in Idaho. Chair Baker followed up stating she thought they were here, and appreciated the clarification. Director Susewind added that a press release was done on the topic, because there are moss balls that are sold for aquatics, and staff are retrieving a bunch of those and identifying others, so staff are on it. This was a national level response about 3-years ago, and we're back on the topic again. [\(Begins at 4:10:12 mark\)](#)

Char Baker commented that the national politics are really affecting markets right now. She asked if there was any insight or suggestions about what's going to happen in the September revenue forecast? Morgan responded that they have seen the June revenue forecast and the update done in July. Both were pessimistic compared to that the budget was built off of in February. They can hope that there's lots of money to go around, and staff can remind folks that the natural resources budget is a very small portion. It possible our requests will fit in easily compared to all of the other large-dollar amounts in the rest of the state, but there's not great revenue news just yet. Commissioner Anderson added that the work of the department, and the use of the budget advisory group, etc., is helpful in that he believed the cumulatively with the different efforts, we tend to stay focused on the things that are important. He thought that the muscles and European Green Crab are being dropped, but new stuff is coming on, so they'll have to address those items. [\(Begins at 4:11:17 mark\)](#)

Commissioner Linville commented on Morgan's list of unfunded, underfunded, and new projects that there was a lot of things that were unfunded and underfunded that the Commission set policy on, and she thought everyone needs to be mindful of. She went on to say that sometimes staff are being asked to do things when there's no budget for it, and felt that's on the Commission to be aware of. [\(Begins at 4:14:07 mark\)](#)

Commissioner Smith commented that going back a few slides, the \$3.1m for pinniped predation management, that it seems like a hefty price tag compared to what is spent on some other programs. She was wondering how it got to be that much and why? She knows that focus work needs to be done on pinniped predation prevention, but was wondering where that figure came from. Morgan responded that it was a combination of the work that has been done in the Columbia and the work done in the Puget Sound. Those two packages that have been seen for a few biennia, being funded one time. In this case, it's just those two combined together. In the Puget Sound, there is only research being done and in the Columbia River, there's removal. This isn't advancing, it's actually the status quo of what the funding ask is for. ([Begins at 4:15:53 mark](#))

Vice Chair Ragen commented that he realizes there are times when there are issues, but no funding, and that is a problem. The flip side to that is when there's times that money is being sought, and there are policy implications in those requests that we might not be aware of. There has been talk of having a budget committee multiple times, and have generally agreed that it isn't necessary. His question was, is there a way for us to become familiar with the underlying policy issues before they get to the point that they are making a decision on the budget? Like mid-term, middle of the year, can staff let them know what's going on, what are the things rising to the top, and what's behind them so they can make more informed decisions? Morgan replied that staff will continue to bring packages and ideas forward as early as June, and try to get as much possible time for everyone to ask questions. He said he's also available to meet offline and go over any part of the budget, or connect the Commissioners with the subject matter experts as needed. ([Begins at 4:17:07 mark](#))

Commissioner Anderson asked if staff could elaborate a bit on number 29, the hatchery conservation program? Morgan responded stating that particular package is basically five programs, four existing hatcheries, and one review of a hatchery area. We can grow fish that we're not going to catch. Basically to try to increase wild numbers. ([Begins at 4:18:39 mark](#))

*Commissioner Anderson moved to approve the proposed 2025 capital budget request as presented, allowing for minor adjustments to project scope and budget, to the Office of Financial Management and it was seconded by Commissioner Lehmkuhl. The Commission voted unanimously (7-0, Commissioners Parker and Myers excused); motion carries. ([Begins at 4:21:55 mark](#))*

*Commissioner Anderson moved to approve the proposed 2025 supplemental in 2025-27 operating budget request as presented by staff, with allowance for minor adjustments as staff prepare the final documents to the Office of Financial Management and it was seconded by Commissioner Smith. The Commission voted unanimously (7-0, Commissioners Parker and Myers excused); motion carries. ([Begins at 4:22:59 mark](#))*

## **7. State Wildlife Action Plan Update – Briefing**

Staff briefed the Commission on the status of the State Wildlife Action Plan, noting that the final plan is due on October 1, 2025. ([Begins at 0:52 mark mark](#))

Commissioner Rowland requested clarification of bullet 5 on slide 10 of the presentation – CPM threat and action vocabulary 'plus WA'. Wendy responded that Conservation Measures Partnership is an internationally recognized conservation standards organization, Plus Washington. Basically, standard vocabulary that the conservation measures partnership has put out is being used. But for the threats, staff felt that there were some things missing for Washington when it was reviewed, so some additional language was added to cover those things exclusive to Washington state. ([Begins at 18:08 mark](#))

Commissioner Linville asked the question that there was the non-negotiable deadline of October 1<sup>st</sup>, but was wondering if US Fish has a non-negotiable deadline for reviewing the plan? Wendy responded that they don't. Commissioner Linville followed up commenting that it seems like that would complicate funding. Wendy replied that they would continue to operate under the previous SWAP until the new one was approved. As long as the new one is delivered on time, then we're ok and still eligible for that funding. ([Begins at 27:08 mark](#))

Vice Chair Ragen commented that the question of bureaucracy when dealing with a lot of money like this, and you're doing a lot of planning, it's easy to get caught up in a lot of bureaucracy and paperwork. Everything that ultimately is useful, only if it affects the animals, the environments, and the habitats that we're concerned about. The expression 'getting people on the ground and getting the work on the ground' was used, so that tells him that staff are tuned into that. He wanted to reinforce that. The challenge of spending new money is hard. He encouraged staff to understand that they're building, but the effects will come when they actually get out there. He liked that staff were being very open-minded. He comes from a generation where they focused on one species and that's what they did. They didn't look at other things. They didn't always do well looking at that minute in

ecological context. He thought was staff describe says that they are looking towards ecosystem balance and ecosystem health, and those are really important. He would say that the work and conservation kind of comes in spurts and sputters, sometimes goes backwards, before big steps forward are taken. He wanted to commend staff for taking big steps forward in what they're doing, and thought staff need to appreciate that. In a transition that has been talked about for five decades. How do we get to the ecosystem-based management? He thought what staff are doing is really important when their work is combined with what goes on with the habitat group here and everything else. He thought there was a dynamic and wonderful opportunity. He wanted to thank staff and hopes that they will be as optimistic as they possibly can be, because sometimes it's hard to be that way when facing such big challenges. ([Begins at 27:43 mark](#))

Commissioner Smith wanted to go back to the 8 required SWAP elements, noting that one of them was conservation actions. She asked that when that part of the plan is put together, at some point, are there dates or steps that have to be taken to achieve those conservation actions? Wendy replied that for some things, yes. Staff have a menu of conservation actions by species, habitats, and ecosystems. It would depend a lot on how urgent and feasible those things are, as well as how much engagement and prep that needs to be done in order to deliver those things. Some things may have more, like a horizon date, as in we need to do this in 10 years, rather than by a specific date. Commissioner Smith followed up stating that there is a big shrub steppe initiative, which is collaborative and has lots of partnerships. She asked what the next best collaborative effort for that, that might be associated with what is found out in the SWAP? She wondered if there's something else on the horizon like that? Wendy replied that she's looking forward to learning about that. The subject matter experts are putting together the nuts and bolts and that a lot would be learned in the engagement series, from the subject matter experts, and our conservation partners. Then, as staff start to synthesize all that information and patterns begin to evolve, she believes they'll start to see some next best opportunities to do this kind of big landscape skill work. ([Begins at 30:50 mark](#))

Margen commented that she appreciating that question and wanted that add to Wendy's excellent answer, that where and tie it together with the other part of the question related to dates. Where we already have existing collaborations and there are many. Wizry is a huge one. There's a collaboration called the Puget Sound Near Shore Ecosystem Partnership Project that led to the Duckabush Project. The fish program does a ton of work with marine fish species recovery. She thought that were there already are collaboratives like that, that have already produced, are well thought out in specific plans, there's an opportunity in the SWAP to capture that, elevate it, and shine spotlights on those things. By looking back, we can identify if there's an unaddressed threat or a threat that's known, but a think we haven't cracked. For example, we really need an action to address this aspect of climate change in the Columbia plateau that the SWAP will probably capture in a commensurate level of detail, and maybe note that there is a need for additional collaboration and problem solving. She thought both thinks could be done. Like, highlight and learn what's out there, as well as hopefully prompt more action by highlighting the need for collaboration in some of these spaces. ([Begins at 33:03 mark](#))

Chair Baker commented that when they were part of a much larger workgroup to get some additional money for biodiversity, two things happened. She did a few meetings with Tom McBride and some various Legislators. They took the SWAP with them to the meeting. The reorganization and refocus on landscape being talked about, will that make access to the document for people like them more useful? The second question she had was that all this work is done and there is a beautiful set of documents, and at most, the agency thinks there is 10% of the funding needed to implement, chipping away at making progress. Will that number go up? Wendy responded that the reorganization is more about speaking to people who want to use the plan. She didn't want someone to have to go to five different places to get the info about one thing. She would like to synthesize that by the systems and scale it all the way down to species in the same space, so it can be seen how those things relate. She also thought that because they will have some easier ways to put info online that can be searchable and usable. Margen responded to the second part of Chair Baker's question that she would say that they're just now realizing, or broader people outside of the agency and outside of sportsmen and conservation partners are realizing, that the true cost of protecting and perpetuating Washington's fish and wildlife on the landscape. She thought there were a lot of issues that without seeing the updated SWAP, but knowing a bit of the existing content and the work here that all partners of fish and wildlife have done, a lot of the impacts that are even seen now, that have some of those species in the emergency room or waiting room to the emergency room, are a result of what she'd call 'Legacy Impacts'. It's the fish and wildlife response to choices that that have made as people, about how we live, work, and play, and develop our landscape. She thought part of that cost was going up is the true cost of what we have today. We also know that not only is Washington's human population growing quite a bit now, but it's likely to continue doing so. She went on to say that there's a few sources that posit that the Pacific Northwest will be a climate refugia of sorts over time, because we're likely to see significant, but milder effects than other parts of the country and world. What that means, is it's one of the reasons some of these changes that Wendy was



highlighting are so important. There are additional costs to seeing that future and looking out ahead to those horizon issues. The other thing she would say relates to something Wendy highlighted, which is not all of that work is just for the Department of Fish and Wildlife to do. Not only do we already have existing conservation partners out there doing a lot of this work already, and we have a chance to highlight and amplify that. There's lots of sources for financial and in-kind contributions to conservation. One of the things she's really excited about is that we have growing populations of people, young people, maybe people focused on climate change or equitable distribution of nature in green space. She felt there was a lot of potential for overlapping conservation actions that serve both needs. That's another way of harnessing lots of additional people's efforts towards some of the same types of actions that will be highlighted in this SWAP. ([Begins at 35:20 mark](#))

#### **8. Diversity Program Update – Briefing**

Staff briefed the Commission on the Wildlife Diversity Division and emphasized the work to conserve and recover Species of Greatest Conservation Need. ([Begins at 40:31 mark](#))

Commissioner Linville asked a question relating to the coast/flyway. She was wondering if that takes into account the birds that are in the flyway that are in the interior of the state as well? Hannah responded that was correct. She went on to say that there is sort of pairing the two main committees, the study committee that Kyle Spragens sits on and the non-game technical committee that Jessica sits on. ([Begins at 1:06:36 mark](#))

Commissioner Smith asked if the artillery fire bothers the birds? Hannah responded that its difficult to monitor animals in that area because it not safe to wander around, but she would imagine that yes, it does. ([Begins at 1:12:32 mark](#))

Commissioner Smith commented that the connection between the SWAP and this program, seems like this is part of the implementation for SWAP, and was wondering if it's kind of seamless? Hannah responded that she was correct. She went on to add that their division is deeply engaged in the development of the SWAP. Their biologists right now are working on identifying SGCN, describing range/distribution/threats, and the actions of those things. So, they're partial and some of the authors behind the development of the document. Then they use that and then implement, so she would say it's seamless in that way. ([Begins at 1:29:03 mark](#))

Vice Chair Ragen was wondering if this group had a publicist or someone telling their story? He felt the staff were there because people ahead of them started telling stories about the importance of this kind of work. He thought this was as good of an overview as they could expect to see anywhere. It seemed to him, that telling their story would be really important for the next younger generation and inspiring them. He thought they ought to be working with PR people to make all of this information known. Hannah replied that she appreciated the command and they in fact are. Nate, with the CAPE program, is doing exactly that. Nate hired a staff person focused explicitly on biodiversity communication. His name is Anuor Esa and he is wonderful. She is very impressed with his work. ([Begins at 1:34:11 mark](#))

Chair Baker had an organizational question. She didn't want to get into the non-game and game, but she understood both are buckets in wildlife. She asked if there were any other buckets? Hannah responded that there are 6 divisions in the wildlife program. Diversity, game, the lands division, landowner services (conflict work and private lands), the science division, and the administrative division. The wolf and grizzly bear policy lead also falls under there as well. ([Begins at 1:35:42 mark](#))

#### **9. Trapping Rule – Briefing, Public Comment**

Staff briefed the Commission and received public comment on the proposed trapping rule. ([Begins at 1:39:32 mark](#))

Chair Baker asked for staff to verify that they said that in the whole state, only 3 foxes were trapped? Stephanie responded that the average in the last 10 years, is probably around 2 foxes a year. Basically, in 2020, there was 2, in 2021 there was 1, and the data for 2023 hasn't been completed to update for that year. Staff don't have data for the last 2 years. Chair Baker followed up commenting that the only way to really clearly distinguish between the two species is through DNA. She asked how it's known what species the trapped fox is? Stephanie responded that staff don't currently test. Basically, if a fox were to have been trapped before this rule in those areas, that would be the protocol that staff should look into. If a fox is trapped, they should probably be tested. That's really the only thing staff can do in the meantime, which is why they're protecting such a large area. To try and not only protect their known areas, but also the possibility of presence of the Cascade Red Fox. So they're trying to protect a little bit of an extent larger than where they might be. Chair Baker followed up again asking, that when a

trapper does trap a fox, do they have a responsibility to bring it in or do anything? Stephanie responded no, there hasn't been. ([Begins at 1:43:25 mark](#))

Commissioner Rowland asked the question of how do staff know how many Cascade Red Foxes have been trapped if the DNA testing isn't done. If trappers don't bring the animal in, and staff haven't been testing, then where did the numbers of how many have been trapped? Stephanie responded that they have the counties that the animals were trapped in. So as long as they're trapped in counties or areas that are not what has been designated here in rule, or that they're trying to designate in rule as a protected area, then it's more than likely the Lowland Red Fox. They can't say for sure if there's been hybridization or anything like that, but the only instance they've had that's been of question has been one fox that was trapped this year, and that's what put the emergency rule into effect. Commissioner Rowland followed up saying that she still isn't understanding, because when staff are saying how many have been trapped each year, or reported to have been trapped, so someone else decided that they had trapped a Cascade Red Fox? Stephanie clarified that those numbers were only for the Lowland Red Fox. The harvest that has been reported has only been for the Lowland Red Fox. The one instance that staff had was from earlier this year, and that's what put the emergency rule into place. ([Begins at 1:44:58 mark](#))

Vice Chair Ragen commented that what staff are talking about is a precautionary approach when they don't have the ability to quite tell what's going on and Stephanie confirmed that statement. ([Begins at 1:46:21 mark](#))

Commissioner Linville commented that she doesn't know anything about trapping for hunting purposes. She was wondering if it was possible for a fox to get into a bobcat trap? Stephanie confirmed that could happen, but from what she understands, it is in the rule that a trapper would have to release the animal and report it. Anis clarified that you can still trap in the protected areas for bobcat, but it makes it clear that if you catch any fox (these are live box traps), that the trapper is to release it. So, yes, there is a possibility, but it makes it illegal to keep any foxes that are trapped in that area. The hunting part is different. Obviously, once something is shot and dead, you're not able to revive it. But trapping has a little bit more leeway. Commissioner Linville followed up asking if a trapper would have to get very close to release a fox if it got into a bobcat trap? Anis responded that it would be a box trap, so the trapper would have to get to the box trap. He went on to say that all leg-hole trapping in Washington is banned and all trapping is done with box traps. ([Begins at 1:46:54 mark](#))

Commissioner Smith asked that given the possibility that a hunter could shoot a Cascade Red Fox within those boundaries, why would that not be prohibited? Anis clarified that it is prohibited. It's hunting or trapping. The hunting was already in place for a long time. ([Begins at 1:48:40 mark](#))

Public Comment: Please see the attached list of commenters. To listen to the audio, please click this [link](#). Public comment begins at the 1:49:21 mark.

#### **10. Beaver Relocation Rule – Briefing, Public Comment**

Staff briefed the Commission and received public comment on the proposed beaver relocation rule. ([Begins at 2:16:53 mark](#))

Chair Baker commented that the talk about translocation of beavers is pretty well accepted thing to do, so now some sideboards are being put on it. The same thing is done with fishers. But when Julia was previously talking about relocation of endangered species, she said that the diversity unit considers it only when we're right up against extirpation. So, there's a value difference there that she doesn't understand. The reason she asked the question was because she's thought for a while now that wolves should be looked at for translocation. She's trying to figure out the difference of why wolves are such a big deal, or endangered species per Julia, and then why for beavers it's an accepted alternative to solving a problem. Hannah responded that when you're dealing with a really small population, the risk that comes with conservation translocation is so much, it's outsized. It's outsized, because if you have trouble, which sometimes you do, you want to be really careful to do that. The first step is to protect what remains and keep the system intact and do the best to encourage natural recolonization as much as we can, create habitat so that you can build it, and they will come. That would be the first step, and if we get to a place where a population is clearly not going to have that happen, then it can't be done. Then, we step in with more extreme measures, handle and actually actively move, and sometimes we're successful. Sometimes there are challenges and so we really take it seriously. Shawn followed up that one aspect she may have not emphasized enough, is that beaver relocation is only lawful in Washington State through this program if all other coexistence options have been exhausted, and the only other next step would be lethal removal. So these are only beavers that otherwise would be killed. Chair Baker asked the follow up question that sometimes when beavers are relocated they are subsequently trapped and wanted to know if there was anything in this rule to fix that.

Shawn replied that there isn't anything in this particular rule and they're just hoping to be able to move forward with this program and allow it to persist. There are projects going on in the habitat program to understand more about how beavers are present on the landscape and what sort of effect we might be able to change in landscapes to encourage beavers to be more successful. She also felt the number of trappers that are in the areas where beavers are being relocated is quite limited and there's a strong chance that trapper presence and activity may not really be affecting the number of beavers being relocated. Stephanie elaborated that this is something that has been thought a lot about lately. Basically, where staff are is that they're not prepared to recommend closure of trapping for specifically every relocated beaver. What they are doing, is working with relocators to place signage in these areas to deter trapping. The department is also working with the habitat program to determine how to assess which areas most need the presence of beavers for ecosystem function, and will consider trapping closures of those identified areas preferably, whenever necessary. There's also some other considerations, such as staff needing to determine the spatial and temporal extent of such closures. So, how long will the closure remain, assuming the beaver stays in the area. What area extent of the watershed would be protecting. Again, assuming the beaver doesn't relocate itself and negate the protections. There's a lot of caveats if staff were to make this into rule. There are a lot of things to consider. There's also enforcement concerns, like how to enforce this for every single new relocation. The rule can't be reopened for each one in that instance. They'd have to really work around to try to figure something out and staff just aren't there at the moment. ([Begins at 2:26:44 mark](#))

Commissioner Linville commented that Stephanie may have already hit on this, but she wanted to know if there was a set of standards for the receiving areas and is that something that they need to be considering in this rulemaking for the site selection? She was wondering if someone could volunteer to have their property considered as a relocation site for beavers, or is that a process to that? Shawn responded that they have folks that are landowners that come to her and suggest their landscape as being good for beaver relocation. However, that's not enough. Staff need to make sure there's enough forage, that predators aren't on that landscape very often, and that flows/shape of the waterway are adequate. They have worked with models to be able to assess each individual reach in Washington State. That GIS data associated with forage and areas of potential conflict, who owns what property, and a number of other GIS tools that work as a very coarse filter first. All relocators are also required to assess each site in-person with boots on the ground before relocation can occur. That process of evaluation is time consumptive, because many different aspects are considered. But, survivorship is something staff are very concerned about and so far, it seems like the metric has been working out. ([Begins at 2:32:52 mark](#))

Public Comment: Please see the attached list of commenters. To listen to the audio, please click this [link](#). Public comment begins at the 2:35:08 mark.

Anis commented that there was a lot of discussion about preventative measures not being done. He wanted to clarify that the agency has conflict specialists throughout the regions that do that work and there are resources on our website. He felt there was a lot said that the agency isn't doing these other things and only one person is working on this. He went on to say that it's not just one person, and the person working on this item right now, is only working on the rule. A lot of people are working on how beavers are managed across the landscape. He didn't want it to seem like the department isn't doing all the other stuff that's going on. He wanted to make sure everyone knew that the department is doing that work. He wanted to make it clear that a rule change was brought forward by staff, not an overview of everything staff are doing for beaver management. He didn't want anyone to leave with a bad taste in their mouth about beaver management because staff do care about that species as well. ([Begins at 3:12:09 mark](#))

Commissioner Smith asked a clarifying question as to whether or not there is some kind of guidance for how to look at what goes along with this program, is there some sort of manual or something? She knew there was the training program, so she thought there would be other materials. In addition to that, she's assuming that would include how to analyze the site where the beavers might be released. Anis responded that yes, materials exist, training exists, and that work is prepared with all the partners that have been mentioned. Shawn added that the manual is updated when new science is presented. So, each year, there is a new digital version of the same manual with more information each time. Hopefully, staff will be able to keep the relocators as educated as they can without overloading them. ([Begins at 3:13:34 mark](#))

Commissioner Rowland commented that this seems like a particularly good thing for our new landowner services division, and she wanted to ask is the helping of landowners to live with beavers, like the fencing of trees, and also when they build a beaver dam, you can put a hole in it and they can't keep damming the water up like that. She asked if landowner services was a piece of it now. Anis responded that yes, it is a piece of it and that whole program used to be in his division. It was broken off to give it more emphasis. There are roughly 16 staff members across the state that work with landowners on conflict issues, including beavers. Part of their job is, if

someone has a problem, to give the solutions. Obviously, the last solution would be the removing of the beaver lethally or non-lethally, depending on whether it's a place to put it or not a place to put it. He added that there is a deck pack currently in place to put a person in that division that's specifically related to beavers, so it would be a whole FTE. Then, not only would they be in charge of the relocation program, but also would be working on some of the non-lethal and ways to coexist. So, yes, they already have it and are hoping to build on it if the funding is received. ([Begins at 3:14:46 mark](#))

### **11. C-3621: Grays Harbor Salmon Management Policy – Briefing**

Staff briefed the Commission on the recommended Grays Harbor Basin Salmon Management Policy language and revisions. ([Begins at 3:18:19 mark](#))

Kelly Cunningham opened by correcting the record. In the fish committee yesterday, he incorrectly stated that the Quinault Indian Tribe had signed onto Commission policy C-3633 the Joint Co-Manager Hatchery policy. That was not correct. The reason that's important for this conversation outside of being factually correct, is that there is a footnote in the policy where staff where the policy refers to the appropriate hatchery policy and that reference is incorrect as a result of a misunderstanding. The version of the mark-up strikethrough that will be presented today, will include the correct information.

Commissioner Lehmkuhl commented that on line 40 of the policy, that staff talked about one thing that popped out to him, which was item 2 said sustainable fishing levels for both recreation and commercial fisheries that maximize harvest opportunities. In a presentation on a policy the day before, they decided to change the word maximize to optimize. When you talk about maximization, it means you're trying to maximize one single goal, and is that supposed to be commercial fishing or recreational fishing, or is it conservation. He felt that if it was intended to maximize the three goals, then it's considered an optimization. He felt it would be cleaner to use the language to optimize harvest opportunity or something like that, because the Commission constantly gets in trouble with the mandate that says they're going to maximize something, but they have all these other things that need to be accomplished too. Marlene responded in agreement with the statement and offered to make the change to the draft if there wasn't anyone in opposition of it. Commissioner Anderson followed up stating he thought it could cause some significant concern because it deviates from previous language and might be seen as a way that is lessening opportunities. I felt it needed to be looked at in the construct of, number 2 of the sustainable fishing levels for both recreational and commercial fisheries (not three items, but two), and maximize harvest opportunity, so he wasn't sure it was necessary to make the change to optimize. Commissioner Rowland added that she understood there might be some concerns with taking away the word maximize, but felt it was something that they should be doing with every document they have, because it has caught every document that's in the process of being changed. She clarified that she wasn't saying they need to go look every time the word maximize has been used, but when it comes up to the Commission to adopt something new, she thought they only got in trouble by using maximize because that creates an ambiguity and doesn't make it clear that conservation is the first goal, which he's said earlier, but then this seems to contradict it. People could also argue that this contradicts it and the Commission has already have changed it from maximize to optimize in other documents. She felt changing it would make things more consistent. Commissioner Anderson followed up noting that he disagreed with Commissioner Rowland, because he didn't think they were making it all consistent. He thought the idea here wasn't around talking about conservation, and it was being dealt with elsewhere. This is around the fishing levels for both recreational and commercial fisheries that maximize harvest opportunities. He didn't think there was that much ambiguity there, any more than the term optimize. He felt they were just substituting one term for another. Commissioner Rowland responded that it is unclear because it says sustainable fishing levels for both recreational and commercial fisheries, that maximize harvest opportunities. She asked if that meant that they have to maximize harvest opportunities for recreational fishing and they have to maximize opportunities for commercial fishing? That didn't make sense to her and she felt optimize is the correct word, because they're talking about relating different pieces that interact, and what they're after is optimizing, and that just makes it very clear. Commissioner Linville added that she would prefer to use the word optimize, however, the Commission's mandate uses the word maximize very specifically for maximizing fishing, and it says commercial in there as well. So she's uncomfortable veering away from the mandate. Commissioner Smith commented that this particular phrase veers away from the mandate where it says protect, preserve, perpetuate. This says sustain. Sustain is really different than conserve, perpetuate, protect. She would say if they're sticking maximize in, then they ought to add the mandate in as written, and if they're not doing that, then she thought optimize is a better expressing of what they're talking about. ([Begins at 3:38:34 mark](#))

Kelly Cunningham commented that there were two points he wanted to make. The first, is at the beginning of the policy, conservation is at the forefront. From staff perspective, just in terms of the intent, they're talking about maximizing the harvest opportunity after the conservation objectives have been met. He was offering that to the

Commission for consideration from the staff perspective. The second, was that he wanted to remind everyone that this is draft language and there will be a lot of opportunity to debate this and he thought that some help will be provided from the comments received from the public. His reminder is that this is draft language, it's preliminary, and staff have noted the maximize vs. optimize language and will bring that back with the comments received from the public. ([Begins at 3:44:31 mark](#))

Vice Chair Ragen commented that he thought this was a really interesting discussion and an interesting point. How they do it is a difficult thing to do and to figure out. But it is a very broad issue that affects almost everything that they do or that is in the mandate. He thought it warranted a separate discussion in order to get to it. He went back to what Commissioner Lehmkuhl had mentioned with regard to the Big Tent, these concept discussions, and he thought this might be one that would be good for that kind of discussion, because it isn't always clear that everybody understands what they're talking about when they say maximize in a restricted context vs. optimize vs. other things. He didn't think that would be a bad thing for them to talk about because they're all interesting concepts, but he's not sure that there's room for misinterpretation. Rather than due it out on this one, he would prefer to stick with where they are, and then come back to have that broader discussion. ([Begins at 3:45:30 mark](#))

Commissioner Smith commented that she wanted to bring attention to one more thing, and that's a chance from the previous policy, where they used the word wild fish and now the word natural is being used. She knew she had this discussion with several staff members about why they're using the word natural for the fish in this particular watershed. But then it says in river and that kind of calls into question the whole concept of PHOS. Just because a fish is spawning in the river, doesn't mean it's a natural fish. It could be one of the hatchery fish that is causing the PHOS problem. She thought the wording might need to be straightened out a little bit as well. Marlene responded that she thought it was a good point that was something that staff discussed quite a bit when they were reviewing the Willapa Bay Salmon Management Policy. The intent of the language is that natural origin fish was spawned in the gravel. Commissioner Smith replied that she understood that, but was saying that if it is not clear, because the in-river parenthesis could mean hatchery origin fish that are spawning in the river. She felt that one could interpret it that way. Commissioner Anderson replied that he thought that under the guidance principles talked about performance measures, and it does include the proportion of natural spawners that are hatchery origin/PHOS issue. He felt it tends to get to that context and thought it was one of a number of different metrics that would be used. He did think it kind of answers some of what Commissioner Smith was getting at. Commissioner Smith requested that staff think about that language again. ([Begins at 3:46:37 mark](#))

Vice Chair Ragen commented that one of the challenges in doing something like this, is to imagine the presentation board was filled with the diagram that says this is how we're going to manage this area and some of it contains broad objectives. So, there are the objective that were read for the Commission in the presentation. Other parts of it are more technical elements of how the work is carried out, how the managers do it, what science is brought to bear to accomplish all of these things. The objectives might be things like appropriate densities for the local environment. Then the science may get more complicated. When these are all put together, they both form what has been discussed here. All the elements of what he would consider a good adaptive management approach. Adaptive management is really important here, because they don't know exactly how to get their objectives and have to have the flexibility of changing things and proving them and so on, to get to where they want to go. They still have to agree at some point. He posed the questions of how they measure those things and how do they talk about them. But the notion that they have now got a diagram or a plan for how they're going to go about some of this or some of it is in process (the more scientific parts of it). As they discussed in their committee, that's all really helpful. For him, the most important part, and he said it in part for people who might be listening elsewhere, is that it gives the flexibility to try things, to learn things, and to change so that the objectives can be achieved. Over time, they'll still have to work on how they agree what the objectives are. Those would be the discussion in terms of maximizing the catch vs. maximizing something else to do with the stock. It has felt to him like a bit of a leap of faith that staff are going to pull together that model, and that's what he thought staff were doing. Then, staff will have to get into it and try it. They won't know how well it works, or if it'll work perfectly, for several years. But it is a way to improve and perfect the way fisheries are managed. He said he's very anxious to get it out to see what other people think about it, see what their concerns are, but also to enter into that agreement that this is the direction we're going to go and this is how they will try to correct it as they learn from it. It gives him some optimism that that he wouldn't have if they were just arguing different points of view and trying to argue either for fisheries or conservation. It's a way to blend all of these things in a meaningful way. He was trying to explain why he's supporting going out for this to get all the comments. It reflects the thinking that they've heard for several years from staff, both in Willapa Bay and then with the management's. Even with steelhead, they talked about the management performance, the value strategy valuations (that's a key concept that makes adaptive management work). He wanted to continue to encourage people to know who are still wondering and questioning why he supports moving in this direction. Knowing that

nothing is going to be perfect right away, but it's a step in the right direction. He would say to his fellow Commissioners, that he would encourage them to go out and hear what people have to say about it, what their concerns are, and then they can have another good discussion about it. ([Begins at 3:49:31 mark](#))

Commissioner Smith posed the question to hold their comments and other markups until after they see what comes back from the public and consider that the better way to go? Kelly Cunningham responded that process wise, yes, that's how other policies have been dealt with and how he would foresee it moving forward. Staff would put it out for public comment, receive the comments, brief the Commission on what they received, there would be a public hearing where folks could come and share with the Commission in-person and virtually what they think about the policy and ideas they have. Staff would then take direction from the Commission and make revision that they suggest, before they move to ask for a final decision. Commissioner Anderson added that he believed that they probably pre-empted staff's discussion about that very schedule, and thought it would be appropriate to hear what that is. Staff then reviewed the proposed revision timeline. ([Begins at 3:53:58 mark](#))

*Commissioner Lehmkuhl asked if staff needed a motion to move forward with the proposed timeline. Vice Chair Ragen confirmed they needed one and offered to do it by consensus. He asked if anyone objected and there were no objections and the proposed timeline was approved. ([Begins at 3:59:41 mark](#))*

The Chair recessed the meeting at 6:33pm

## **Saturday, August 10, 2024**

Chair Baker called the meeting to order at 8:00am

### **12. Open Public Input**

Please see the attached list of commenters. To listen to the audio please click this [link](#). Public input begins at the 1:14 mark.

Commissioner Lehmkuhl responded to the public input stating that he appreciated all the comments, but there were some that he didn't. He stated that he didn't appreciate comments that impugn the integrity of the staff, of the Commissioners or their motivations for doing things. He asked that if people could avoid doing that, it would make him happy. ([Begins at 1:03:07 mark](#))

Commissioner Smith wanted to point out that when it came to the White Tailed Deer population situation in NE Washington, that it appears to be a difficult situation. She went on to say that the Commission gets periodic yearly updates on the status of the hunted wildlife populations. She felt staff had done a good job of assessing the situation. It appears that habitat loss, pure and simple, to development is a big issue. That is a really tough one to address. When it's compounded with severe winter, drought, fire conditions, disease outbreak, that their own description of what's going on with White Tailed Deer don't include that predators are much of a causative factor in the population decrease. It's certainly true that when populations reach a certain endangered desperate level like occurred with Mountain Caribou, everything that affects the population is an issue. But in general, they've not found with the White Tailed Deer population that predation is the problem. ([Begins at 1:03:45 mark](#))

Chair Baker commented that they had a good discussion today that reminds them that their decisions have consequences downhill in the ecosystem. But they were reminded by several of their commentors that protecting predators and carnivores may hurt the ungulate population. They have always had people saying there's less deer, there's more deer, there's plenty of deer, etc. But the welcome to their world part is that they had back-to-back commentors today, one saying that their policies are decimating the White Tailed Deer population and asked the Commission to follow their science. The next commentor made the same point, but said that the science is trash. A long-standing, multi-year predator/prey study. So, she's not wedded to either view, but her point is that they're faced with this every day. They can't make a decision without being criticized about the science, and that's why they're working on the Best Available Science Policy, to give them a decision tree, some guidance, and an agreement about how they deal with that very important issue. She wanted to point it out that the Commission does try. The other thing, is that whenever she talks to hunters (and it's often), she most often talks to hunter groups, is that she tries to make the point that citizen science is really important in hunting. They have a reciprocal obligation that someone gets a license and then they help the Commission. One of the most important parts of citizen science in bear hunting is tooth submission. Yet, 70% of successful hunters don't submit that tooth. They probably think it's not a bit deal and they'll pay the \$10 fine when they buy their license the next year. That's why she raised the issue yesterday. She thought the fine should go way up. But they get a lot, the teeth are analyzed. She wasn't sure about DNA, but she know they do gender, age, and figure out a lot of things about

the bears that are being harvested by those teeth submissions. She would ask anyone who is listing and part of a hunter group, to urge their members to help the Commission help them. She's heard it's hard to send a tooth, they don't have the envelopes, they don't want to do postage, etc. If there are any impediments to submitting a tooth, please contact staff and let them know. She wanted staff to know that they'd support whatever needed to be done to have hunters help them. The other thing she heard, was someone say that the Commission doesn't have to live with cougars, so they don't understand how it feels. Cougars are remarkably distributed evenly across the state. There are cougars in downtown Olympia. So, at least with that carnivore, pretty much everyone in the state, has to deal with them. She wasn't sure if big cities like Tacoma and Seattle deal with them. But they look at the web every day and see people lose their cats or dogs in the more suburban areas. Cougars probably aren't taking moose calves. She felt the statement was an erroneous conclusion and she hears it often. The last thing she wanted to say is that she appreciated the person who said to please use recreational hunters to deal with management problems as a first alternative, rather than sending out either enforcement or the feds to take care of it. She thought that's what this Commission has said. It's been asked that some sort of a prioritization when they need to do a management hunt, and there's science to back it up, they want to prioritize recreational hunters to do that. She hoped that would be reflected in the Game Management Plan and that'll be something she looks for when she gets to see it. Her point, is that everyone wants the same thing, Commissioners listen to the testimony, and it's a lot to take first thing on a Saturday morning. Today was particularly intense. But the Commission is listening, will continue to listen, and will try to respond appropriately. ([Begins at 1:05:23 mark](#))

Commissioner Linville commented that she's been on the Commission since 2019 and the years are starting to blur together. But she remembers coming on and immediately there was an acknowledgement at which coincidentally, was not long after the Director and Deputy Director had been on board. It was made apparent really early in her tenure on the Commission that the department wanted to work on some culture issues that were going on within the department. The Deputy Director is a really great people person, and really set forward to change that culture. First, to find out what the culture was and then to change that. Part of that culture piece was the safety issue. That was worked on immediately, but this is an agency of 2,000 people. They have to ask for money to work on those things and that money isn't just received instantaneously. This was brought up over and over and they're hearing about the steps. Then, after the just unimaginable tragedy, the Commission was asked for \$7m. She was kind of ashamed of herself now, because \$7m for safety improvement was shocking to her. But that request was approved and \$7m was dedicated to work specifically on safety, with the plan of onboarding regional safety directors. All the programs, all the trainings, and immediately her inbox was flooded with take your personal flotation safety training class. It was immediate. She couldn't let this implication that they heard over and over today go, that nothing got done. It's simply not true and it started before the first tragedy. They were working on it and it's not a fast process with such a big agency. She couldn't let that sit because they have been aware of this, knew there was a problem in 2019, and set forward to work on it. She felt it was awful they didn't get across the finish line in time. ([Begins at 1:11:17 mark](#))

### **13. Petition Delegation – Discussion**

The Commission discussed the pending petitions and considered them for delegation to the Director.

Commissioner Smith noted that she had an email in front of her from a petitioner offering to withdraw the three petitions he submitted. She felt that might be the best solution for now and it would allow the Commission the time to deal with the process question. Then, the petitioner could decide whether they want to resubmit the petitions or not. Chair Baker responded that she had the same email, but she understood it to say that they would withdraw the petitions after a decision was made. She wasn't sure if they could rely on withdrawing before that decision is made. She noted that one of the petitioners is in the room, and that it's really unusual, but might save some time if they hear specifically from him where they are on the CCA petitions. She was speaking to the process and not the substance of the petitions. ([Begins at 1:16:50 mark](#))

Heath Heikkila responded that Nello Picinich was the petitioner and he has been in communication with Mr. Picinich. The email that the Commissioners received last night was from Mr. Picinich. Yes, he would be willing to withdraw the petitions. He was hoping to get a commitment to work on these three issues with staff and the Commission in hopes to try and advance something in lieu of, or could include in rule, depending on the determination. Of course, if that isn't promising, then they could always be resubmitted. He didn't know what the process going forward would be there, but hoped that answered the question. Chair Baker noted that they'd consider the three petitions withdrawn for today. ([Begins at 1:17:57 mark](#))

Commissioner Linville responded that her comments were not intended to be offensive to Mr. Heikkila, but she asked that if he's not the petitioner, is there any sort of legal concern about taking Mr. Heikkila's word to withdraw them? She just wanted to make sure they don't get themselves in trouble as well. Mr. Heikkila did clarify that Mr.

Picinich did reference himself as someone to contact about the request with any questions. ([Begins at 1:18:44 mark](#))

Chair Baker restated that they'd consider the petitions withdrawn, and if Mr. Picinich and CCA could resubmit them right away if that is an error. ([Begins at 1:19:24 mark](#))

Vice Chair Ragen commented that what Mr. Heikkila just said was that he expected the Commission to move forward with this and he wanted to say on the record that he would like to do that. He has talked to Kelly Cunningham about doing a blue sheet, but really about doing a rigorous evaluation. This topic has been batted back and forth for almost two years now. He'd really like to have all the different parts come together have the Commission do a good review, and through the review, to make informed and thoughtful decisions. He reiterated that he's saying this to put himself on the line. He will be following up with the petitioners, with Kelly Cunningham, and will try to work and arrange this in the best way possible. Commissioner Rowland asked Vice Chair Ragen to clarify if he was talking about all three petitions, or if he was speaking in particular to the petition regarding the gillnet buyback. Vice Chair Ragen responded that he was thinking more of the gillnet buyback and the observer issue. ([Begins at 1:19:37 mark](#))

Commissioner Anderson commented that he thought the intent to withdraw the petitions at this point seems to be a good step. He thought they have a lot of moving parts, not just in the short-term with petitions, but they have longer-term issues, and Mr. Heikkila mentioned that in his comments with regard to Oregon and the like. It's not without a bigger context and the like. He thought, as the fish committee chair, and as one whose been looking at this, it behooves us to have a good and solid perspective, that informed by staff (and maybe even history), so they're prepared to do stuff and do it right. Part of that, is that in the past, the idea of just going in incrementally on any one thing, isn't in our state's best interest. He thought they needed to really figure out how to identify what those critical components are. He thought it would ultimately involve some serious discussions with Oregon. There's a Tribal component out there that can't be ignored. He also thought that it need to be grounded clearly in what the staff have been observing and experiencing and know so they really set themselves up. He went on to say that timing is always a key question on this. They have stuff going on in Oregon, and he wasn't exactly sure what happens when, where, and how. But even in our own state, we've got elections, the Commissioner appointments coming up, and he thought that all of that could affect how they would want to ultimately proceed. ([Begins at 1:20:58 mark](#))

Chair Baker agreed with everything that was said. She noted there were 3 petitions that were being discussed for withdraw, and one that they still needed to deal with. One of the attributes of a petition for rulemaking, is to get the Commission's attention. The Executive Committee considered all 4 of the petitions and made a unanimous recommendation to delegate all 4 to the Director. However, in that discussion, at least two Commissioners were looking for and exploring options to have some of these issues be raised again or for the first time. The idea was that the petitions would be denied, but the Commissioners would thoroughly and thoughtfully review the issues with staff – all the things that Commissioner Anderson just mentioned. In terms of Oregon, she stays in pretty close contact with the Chair of the Oregon Commission, and was just speaking for herself when she said, that the Chair of the Oregon Commission has floated the idea of going back to the Oregon/Washington negotiation table. It's much bigger than these few petitions, but they're all embedded in that process at some point. She asked the Oregon Chair to meet with Commissioner Anderson, which she did at the WAFWA meeting, so that avenue has been opened. She went on to say that they could go forever on this and not get to any resolution, and that they need to get to resolution, especially on the gillnet one. It's been batted back and forth for years. She was involved in the process for the three years that the proviso was being considered, so she has her own opinions about what the intent was. What she knows for sure, is that none of them can retroactively determine legislative intent. So, they need to look at this going forward, look at the problem going forward, and figure out the best way to deal with the situation. Vice Chair Ragen said he would like to do a blue sheet, and she felt that as part of the blue sheet, he should make sure he talks to staff with the agency Director, fish program Director, and the fish committee chair. She didn't want the Commission to commit to looking at it and somehow think that it obviates Vice Chair Ragen's right to do a blue sheet at a future meeting, to get more immediate and specific responses. She encouraged any Commissioner wanting to do a blue sheet, to do a blue sheet, but encouraged them to talk to the right people. She mentioned Commissioner Lehmkuhl as being another Commissioner interested in a blue sheet on the petition topics. She would like to proceed accordingly and go from there. She thanked the petitioners for withdrawing their request at this time. ([Begins at 1:23:42 mark](#))

Commissioner Lehmkuhl commented that he agreed with Chair Baker. He was definitely interested in learning more about this. He didn't think discussing it as a petition is the best way to go, because that supposes that the Commission would amend or reject some rules. He wasn't sure rules were the best way to deal with all these



issues. In terms of the process, his preference would be at the beginning, that the details can be worked out, and the main discussants would have a chance to present their case. For example, CCA would have a representative there that would speak to what their goals are, the issues they brought up, and why it has/hasn't been achieved. Then Mr. Sudar, who's been coming to Commission meetings and contesting these issues, perhaps he gets a chance. There's always the issue then of who else gets to come to the table and state their case, so that could be problematic. Just because it's an issue, doesn't mean the Commission shouldn't try and do something like that. A limit would have to be drawn, and the Commission would have to commit to a process and decide that they're going to get the public's opinion on a topic, but in a very controlled fashion. The, the Commission could have discussions once all the arguments for and against are known, and proceed with a more detailed discussion amongst themselves. Otherwise, if they do it all themselves, then they're going to hear all the other outside people come back with the points that didn't get addressed. If it's done at the very beginning, everyone gets their say, and then the Commission proceeds. [\(Begins at 1:27:24 mark\)](#)

Commissioner Smith agreed with Commissioner Lehmkuhl to the point that they need, along with a blue sheet, some development of a committed timeline, knowing that things can slide for various reasons. But they have been dealing with these thorny issues for quite awhile without resolution. It would be good to at least have some aspirational timelines that they could try to work under. She didn't want petitioners to feel like they're withdrawing their petitions and now their concerns go away. Their concerns are going to still be on the table and there will probably be some additional concerns. [\(Begins at 1:29:47 mark\)](#)

Commissioner Anderson commented that it might be premature to put timeframes on it right now, because they don't even know what the range of topics might be, but felt it was logical to have that. He thought the model they might want to look at, is how they did the hatchery briefing approach that occurred over the court of 2023. He wasn't suggesting that they need that exact model, but in terms of framing up the terms of reference, that helped guide how they got educated and talked amongst themselves. The next step would be what are the things that they're going to try and accomplish with that? If they get into this, over time, it's going to require a whole bunch of delegation or commitment on a part of a group, it wouldn't be all of the Commission, but all that stuff would have to be sorted out. It seemed to him that it was important that they have an educational component first that would help them make decisions on how to restructure things, and how that might lead to things going forward. Commissioner Smith responded that they still had the Oregon piece to figure out. She suggested that WA could do our piece first, or have a meeting with Oregon and go back to the table, but that process would be to be worked out. Commissioner Anderson replied that would be the assumption if Oregon wanted to talk, but he noted that they may not want to. [\(Begins at 1:30:30 mark\)](#)

Chair Baker confirmed that they do want to talk and have invite the Commission a couple years in a row now, to have a full Commission meeting down there. It hasn't been done and commented that maybe it's time for that to happen. She stated that was the point she was trying to make. They could have all the panels they want, but these fisheries are managed through a statutorily required compact, and they are required to agree with Oregon, and they don't. That will be a big issue going forward. Reopening this is a pretty huge deal and thought the petitioners know that and would like to see that happen. The question of what was meant, whether it was meant to turn the fishing on, at least the WA side of the Columbia River, into a marked selective fishery and supposedly get a conservation benefit from that or simply a fleet reduction. It doesn't matter. That is old news and old history. What they are obligating themselves to do today, is look at the way that fishery is managed going forward, and can take the benefit of reducing the fleet as much as they did, and see if they can turn that into a conservation benefit if they want to. That isn't going to be a small amount of work. They'll look to see what Vice Chair Ragen comes up with, what Commissioner Anderson comes up with, in terms of the future of the fish committee, and hopes they'll merge together. But if not, then they'll just take whatever comes and go with it. [\(Begins at 1:32:49 mark\)](#)

Commissioner Anderson commented that he thought they really needed to figure out the synergy and not run cross-purposes at all. He thought they simply have to figure out a way that syncs their efforts, and from his point of view, he agrees with Oregon. He thought we seek concurrency with them and they seek concurrency with WA. [\(Begins at 1:34:52 mark\)](#)

Vice Chair Ragen commented that what he's heard are there are issues with timing, format, process, participants, purpose, and topics (at a minimum). So, to keep things moving forward, he will keep in touch with each of the different parties to develop a blue sheet. He thought by doing this in a right and thoughtful way that integrates into their plans, that a much better job can be done. In the long-term, that's going to be the most useful end point. [\(Begins at 1:35:24 mark\)](#)

Chair Baker added as a small side note, that in the old days, the Commission had panels. The panels were outsiders that came and had more than two or three minutes to talk to the Commission. ([Begins at 1:36:09 mark](#))

Commissioner Lehmkuhl commented that he wanted to make sure they have a laser-focused focus on the very topic they need to answer, because this could be an amoeba in terms of them starting to talk about reducing the gillnet fleet, and then they start talking about allocations, and then start talking about take on endangered species, and all kinds of things. He thought they should be laser-focused on this, so they can get it done quickly, and they don't go on and on about it. ([Begins at 1:36:32 mark](#))

Voce Chair Ragen commented that he didn't disagree with that statement, but felt that taking this comprehensive look at what the issues are related to these topics, he personally thought it would educate him a lot and hoped it would others as well, but he thought they had to have some lines drawn as to how far there're going to go so they don't end up opening up every topic in the world. He plans to follow up on that and get back to everyone so they can see what that might look like. He plans for everyone to get a chance to see it with he final blue sheet and get to vote on it. ([begins at 1:37:12 mark](#))

Commissioner Anderson commented that he thought it was implied with the blue sheet that it's a real close connection with the staff because it's critical in order to have one, that they start off together. ([Begins at 1:37:54 mark](#))

Director Susewind expressed his appreciation for the last comment in particular, because this could get out of hand pretty quickly. So, staff will work closely with the Commissioners to develop an outline. ([Begins at 1:38:14 mark](#))

Chair Baker noted they still had the first petition to consider, and reminded everyone that the Executive Committee suggested that it also be delegated to the Director. The basis of the petition, would make it so that kids that accrue hunting points would keep them as they age out of the youth category. This was another one, that they said they should delegate, this one even more because most hunting details are delegated to him, but also because there was interest in the Executive Committee to thoroughly understand the point system. Especially after the issues had with it earlier in the year. The first thing they needed to decide was whether or not to delegate this decision to the Director. ([Begins at 1:38:41 mark](#))

*Chair Baker moved to delegate the remaining petition decision to the Director and it was seconded by Commissioner Smith. The Commission voted unanimously (7-0, Commissioners Parker and Myers excused).* ([Begins at 1:39:35 mark](#))

Commissioner Anderson had a question prior to finalizing the vote regarding the bonus points. He was fin with delegating to the Director, but thought there were a couple of other issues around points that they need to get more educated on. There's also a question that he's seen over time about extra opportunities for those that are aging out in terms of the other end of the spectrum and are unable to climb the hills like they used to. He thought there are different pieces on the points that might be useful to look at and have the Commission receive an update on them with an educational component, so that they know more about the point system. ([Begins at 1:39:50 mark](#))

Chair Baker suggested dealing with the delegation first because there was a vote in process. She didn't hear any nays to the vote just taken and none were received at that point. Motion passes. ([Begins at 1:41:18 mark](#))

Chair Baker came back to the issue of the Commission figuring out more about the point system. She noted there are lots of ways to do that. When issues come up as a result of a rule, her process point is to have them come before the whole Commission instead of a committee, because they've all evidenced interest. On this one, the point system is complicated enough and the department understands enough, that she didn't personally feel she needed to understand the whole process. But if others did, then they'll put it on an agenda for a briefing. If there are specific questions that need to be answered, that can either be a blue sheet or they can put it on the agenda. She stated that was the joy of being the chair, because you can do that. But she wasn't sure specifically, the breadth of what's being requested. ([Begins at 1:41:23 mark](#))

Commissioner Anderson responded that they'd talked briefly about it the day before, and left it up in the air that it might be staff directed to come back. The other option was a blue sheet to try to frame that up. He kind of tried to duck it yesterday, but he's willing to draft up a blue sheet to try and frame this up for regular order. ([Begins at 1:42:30 mark](#))

Commissioner Smith commented that when she first came onto the Commission, Nate Pamplin gave her a very thorough briefing on the point system. It was very understandable, very complicated, but he tried to break it down. She thought the public would appreciate a video or something from the CAPE folks on our website, explaining the point system if that isn't already being done. That may be something in addition to or in lieu of a full Commission presentation. ([Begins at 1:43:07 mark](#))

Commissioner Lehmkühl commented that there isn't a WAC right now about the point system. It's just a process the department does. He noted he wouldn't be in favor of having a WAC on the point system, but he would be interested in hearing about how the point system works as he doesn't know much about it. He is hesitant to think that they would actually start getting into micromanaging the point system, because that isn't really their role, it's complicated, and there's lots of ways to do these things. Commissioner Anderson responded to clarify that he wasn't suggesting that they have a role besides understanding and giving broad/general guidance. That would be his end-goal and he's willing to draft a blue sheet that might pick up the different ideas that have been talked about. . ([Begins at 1:43:57 mark](#))

Commissioner Rowland commented that she doesn't know anything about the point system and would like to know the basics of it. She asked Commissioner Smith to clarify how long the presentation that Nate gave her was. Commissioner Smith replied that it was no more than an hour, but she was glad she had that indoctrination. She also added that she had no desire to dabble with it. Commissioner Rowland agreed that she didn't plan to either, but she asked because she thought an hour would be enough time to answer her questions. She didn't want it to get so complicated that the presentation would go on forever. She didn't want it to be a huge thing because it's something they need to understand, but didn't want to be involved in, in any detail. ([Begins at 1:44:55 mark](#))

Chair Baker commented that the reason she keeps pounding on blue sheets, is not just because they are setting aside their time for those briefings. But it's because they're setting aside staff time, who could actually be doing whatever their actual job is, preparing long power points for the Commission. Then they vote on it and see if it's considered worth it to them or not. Her guess, is that this one will be voted yes on, so she's tempted to short-circuit the process, but wanted to start getting in the habit of doing those again. She noted that Commissioner Anderson could do the blue sheet and that they'd go from there. ([Begins at 1:46:04 mark](#))

Director Susewind responded that staff can work directly to make sure they get all the topics covered and solicit questions. He added that as a teaser, especially given this petition, he still has youth points and he'll soon be eligible for over 65 points., so he can have both at the same time. He noted he can only apply them in categories he's eligible for, so he'll retain his youth points, because he isn't eligible to apply them. ([Begins at 1:46:46 mark](#))

Commissioner Smith commented that there is a spot on the website that deals with the point system and special hunts. She asked if the point system only applied to so-called special hunts and staff confirmed that correct. So, she pointed out again, that there is information available on the WDFW website for anyone that wanted to read it as a primer. ([Begins at 1:47:25 mark](#))

#### **14. Petition Process – Discussion, Decision**

Chair Baker commented that the Commission was going to have the discussion that they've tried to have over the last 6 months. The Commissioner has talked about how they should deal with the increase in petitions. These are petitions for rulemaking. That's different than someone asking the Commission to be interested in something. They had a long discussion about it at their retreat, and it was the keynote part of the retreat. It has been massaged at several meetings since, unsatisfactorily. They don't know yet how all of them agree to deal with petitions for rulemaking. To clarify, at the retreat, they'd decided to have a consent agenda, fast forward a few months, and that didn't work. That's not the process anymore. For now, the process is, and it's interim at that pending this discussion, but the executive committee reviews the incoming petitions and makes a recommendation to the full Commission for action. The unknown after that, is what if they disagree, which is kind of unlikely given this Commission. How do they deal with that disagreement? The easy way to do that is to vote on it. There's a bunch of harder ways, so she wasn't going to go into those. But to her personally, not as the chair and only as a member of this Commission, has her own suggestions about how to deal with petitions for rulemaking. She wanted to start there. Currently, when a petition is received, the executive committee reviews them and makes a recommendation to the full Commission. To swing back and give a tiny bit of history, it used to be that the Commission didn't get the petitions, and she referred to Attorney General Panesko to explain why, and then the Commission will figure out how to handle them. ([Begins at 1:47:54 mark](#))

Attorney General Panesko explained the history of petitions to the Commission. He specifically noted that there is a lot of flexibility on deciding who handles the petitions themselves. As far as legal options, the Director could

handle petitions without any written guidance from the Commission legally, because the Director is part of the department, and petitions could just go to the Director with no written guidance. Another option, is that the Commission could decide to address them expressly in the delegation order. In a delegation motion, the vote would be to delegate those decisions to the Director, under whatever parameters the Commission decides. Another option, and this has a historical component, there was an old rule under the Department of Game, which turned into the Department of Wildlife, and stayed in place for a few years after the merger. Whereby the rule, the Department of Game, and then again, carried forward into the Department of Fish and Wildlife, by rule, delegated rulemaking petitions to the Director. ([Begins at 1:50:14 mark](#))

Commissioner Rowland asked if the rule that the Attorney General had cited was still in effect. Attorney General Panesko responded no, that it wasn't, and the interesting thing about it, is that it was adopted in 1984 and repealed in 1997. The bizarre part, is that the process of its repeal, had nothing to do with that rule. It was a very small rule package in 1997, focusing 100% on hunting and fishing license suspension, revocation, and reinstatement. So, there was a rule that was completely revamped and updated as part of that rulemaking package. Then, as is done sometimes with rulemaking packages, some things are listed out that are being repealed. This was repealed as part of that, even though it has nothing to do with license suspensions. If you looked at the CR-101, CR-102, and the CR-103 forms, yes, this rule was clearly identified for repeal with zero explanation. ([Begins at 1:53:16 mark](#))

Commissioner Lehmkuhl asked if the motion of the rule was repealed? Attorney General Panesko confirmed her was correct, and that is the rule that was repealed in 1997. ([Begins at 1:55:13 mark](#))

Commissioner Baker asked if the Director receives a petition for rulemaking on an issue that the Commission has decided, and is in policy, is the Director bound by that policy? Attorney General Panesko asked her to reframe the question. She followed up asking that if the Director receives, or the Commission delegates a petition for rulemaking to the department, may the Director, must they comply with the policies that have been set and are current in effect of the Commission? Attorney General Panesko responded that a policy adopted by the Commission is not legally binding to the point where there are external, fixed ramifications for the failure to abide by it. There are all sorts of legal impacts of that, or practical impacts of that. One, the Director, as their employee, if the Director starts departing, or anyone in the department starts departing from Commission adopted policies, the Commission has the freedom to exercise its supervisory authority and suspend or let go of its employee. That's one clear option if they believed that the Director, or the Director's oversight was departing from official Commission policy. Secondly, while it may not be legally binding in a court of law, an agency that departs from internal policy, will easily be accused of being arbitrary and capricious in court and there are cases where agencies have been accused of being arbitrary and capricious for failing to follow their policy. It's not legally determinative how a court will reach the outcome of the case. But it is certainly one relevant factor that a court will look into. Another line of cases are where agencies have flip-flopped on their policies. There are some cases like that, they've done a complete 180. Courts have looked at it and some people have alleged it's arbitrary and capricious. Some cases courts have suggested that might be. Some cases, courts have said no, they're like no, the agency articulated a reason for switching their policy. But pure violation of their own internal policy, again, is an adverse issue that he wouldn't like to have to defend in court against an arbitrary and capricious claim. ([Begins at 1:55:46 mark](#))

Commissioner Smith commented that her concern with the Commission believing and relying on that, is that it puts the Director in the position of having to interpret, in many cases, what did that policy mean. They don't have that many adopted policies. It would be more likely that he/she was trying to look back in history and, did the Commission express through some action, how they think this should go. Since the Commission doesn't have very many policies, she thought that if they chose to delegate to the Director, she thought they'd have to give the Director the leeway and discretion, because it would be very difficult to put that kind of requirement sidebars on somebody making a decision like that without specifying which policies and actions they wanted the Director to be consistent with. Attorney General Panesko responded that the Commission hires the Director to run a very large agency, with over 2,000 employees, and a budget of nearly three-quarters of a billion dollars. That's the operating arena and they don't have policies dictating everything that happens under that. They hire and expect that to happen, so he didn't see this rulemaking petition context being any different than that. Commissioner Smith agreed and replied that's was her point. ([Begins at 1:28:11 mark](#))

Chair Baker asked the question that if they chose to delegate all petitions to the Director, can they do that by a statement, by a vote, by a policy, or would they have to have a rule. Attorney General Panesko responded that they don't have to have a rule as a matter of law and it is optional. Chair Baker followed up to clarify that even if the Commission is directly petitioned. Attorney General Panesko responded that the statute for the petition process

says it goes to the agency. Legally, he didn't care if someone addressed it to Kelly Cunningham as the Director of the Fish Program. It doesn't matter. It's to the agency, and then is the legal structure of the agency and authority within the agency, to decide how to process it. [\(Begins at 1:59:42 mark\)](#)

Commissioner Smith stated that she didn't have a lot to say on this subject, except that she feels very strongly and always maintains the position that the Commission needs to play a role in reviewing the petition, so that they come to the Commission, and they decide if it's appropriate to delegate some of them to the Director. She would be opposed to just a blanket delegation of all petitions to the Director. [\(Begins at 2:00:40 mark\)](#)

Commissioner Lehmkuhl agreed with Commissioner Smith. He thought the way they started out by having the executive committee review the petitions, the Commissioner have the opportunity to look at the petitions themselves (those Commissioners not on the executive committee), the executive committee makes a recommendation, and then the Commission accepts or not. In this case for example, they only have one right now, but if they had 3 or 4, if the recommendation was to delegate all of them, there should be an option for a Commissioner to request that one or more be reviewed and decided by the full Commission. Then that would be a vote. One of the petitions could be excluded and the others could then be delegated. [\(Begins at 2:01:14 mark\)](#)

Commissioner Linville commented that the piece about petitions for her is that they result in a rule, or not if they're not accepted. They heard from the enforcement captain yesterday, that having law enforcement officers is challenging. Getting the county prosecutors to prosecute is challenging. So, from her perspective, needing to do a rule on whatever the topic is, it better be a big hairy deal in her mind, because that's another thing to enforce and figure out. She thought that sometimes the Commission specifically, and she included herself in the statement, loses sight of what a big deal rulemaking is. It's something they need to care about. So, when they accept a petition, they should care about the item. She's just concerned about the results. She would be more comfortable delegating to the Director, just because she thought the Director is always going to have an eye to what the actual end result is. Which is a rule, which in her mind, is a big hairy deal. [\(Begins at 2:02:08 mark\)](#)

Commissioner Lehmkuhl commented that Commissioner Linville had an interesting take, but he viewed it a little differently. He viewed it as an opportunity to discuss that issue, and then decide whether it merits a rule or not. He doesn't go into these petitions thinking, yes, this should or shouldn't be a rule. He's looking at it in terms of what is the issue, and if it's important and it needs a rule, then yea, the Commission could vote on that. He's looking for more information and that's how he's approaching the gillnetting buyback topics. He doesn't know if it needs a rule or not. He's not really keen on rules per se. But he's like to learn more about it. They sort of settled the issue through a different process. He's happy that they're going to get information on it. But that's how he views the petitions, and he would ask to take on out of the delegation and review it as mostly to get information and determine whether it actually merits a rule because they're important. He agrees with Commissioner Linville that they're not to be taken lightly. The rulemaking process is very time consuming for the staff and basically an expensive and time-consuming process. [\(Begins at 2:03:52 mark\)](#)

Commissioner Rowland commented that was just about what she was going to say. She completely agreed with Commissioner Lehmkuhl, but also wanted to point out that this is not the first time that the issue has come up. To her, when the Commission says they don't want to accept a petition because they don't want another rule, they don't want the staff to have to do all that, all the things that they're talking about. That is not what voting yes on a petition does. She commented that she says this every time a petition comes up, that they're not voting yes to enact a rule when they vote to accept a petition. She would like to accept some petitions for exactly the same reasons that Commissioner Lehmkuhl said, which is that she wants to see whether it needs a rule. There's enough in the petition to get her interested and concerned, but that doesn't mean that she's going to vote to pass a rule just like it was put in the petition. [\(Begins at 2:05:18 mark\)](#)

Chair Baker recommended that they clarify that with the Attorney General since he was present in the room. Her belief was that when they accept a petition, they were opening rulemaking. Attorney General Panesko clarified that it's skipping over the CR-101 phase and jumping straight to the CR-102 phase. It's not a commitment that the Commission would adopt the rule at the end of the rulemaking process, but it is leaping headfirst into the rulemaking process. That is a commitment that the Commission will come up with a draft rule and circulate it to the public for the potential adoption. Policy, that's more than more than merely studying something. This is the Commission issuing a draft rule for potential consideration and adoption. That's where they're at the CR-102 phase of the rulemaking proceeding. [\(Begins at 2:06:30 mark\)](#)

Commissioner Rowland replied that what she understood, and ahs seen when looking at the website, is that there have been a ton of rulemaking processes that started and just didn't go anywhere. Attorney General Panesko

responded that does happen due to workloads and other considerations. The beaver relocation rule was postponed. It did come back. But there are others. More often, it's CR-101s that are issued that that will float out. There are more CR-101s that will float, and then eventually just dissolve. It's less often that it happens with the actual CR-102, where there is a draft rule that's issued for publication. Most of those do usually march forward because they're being pursued for a reason and a need, not just for a desire to think about the topic. Commissioner Rowland replied no, that if the Commission thinks it's a need, but needs more information see whether it is or not. It doesn't pass a rule. Attorney General Panesko replied that one other response, a vote to deny a petition doesn't not at all foreclose the Commission, and this has been articulated on many denials, that the Commission doesn't think they're ready to commit to go to a draft rule on the topic at that time, but they absolutely want to talk about it, and department staff have given the Commission a commitment that it is going to be addressed in the future or studied. So, denying a petition does not at all foreclose a deep dive into the topic. ([Begins at 2:07:16 mark](#))

Commissioner Smith commented that they're missing a key point, that once the Commission accepts a petition, they haven't landed on language in a CR-102, or which elements of that petition they want to send forward into a CR-102. They can cherry pick, they can pick one element of that and send it forward into a CR-102. Between the petition and the actual CR-102 publication, that's where they do their homework to figure out and decide as a Commission, what they want to send forward. ([Begins at 2:08:56 mark](#))

Commissioner Ragen commented that a lot of really good points are being made, because this is a difficult topic. For him, this is all about the flow of information, and as Commissioners, they have a public that's very interested in many of the issues that they're involved in. It would be sort of foolish of the Commission to not be interested in what they're thinking. Given that, the problem that arises is not that the Commission gets that information, but that it constrains what they can do, or where they can go. That constraint almost makes it impossible in some ways. It forces the Commission to maybe supersede other topics that they're going to do, with focus on the petition topic or something else like that. To him, it's kind of where the problem lies. In the last few months, the Commission has taken situations like the resident trout, where they denied the petition, but said that the department was going to incorporate that into a larger project and they are doing that, and the Commission is going to be able to comment on it. What he's thinking about is that he doesn't want to eliminate that connection with the public, but he also doesn't want to necessarily constrain how they the timeframe, or anything else that they have in order to address an important problem. He thinks they struggle is that they try to touch or deal with really difficult problems in too short of a period of time. This approach where they're just talking about, even with the petitions from Heath and Nello, gives the Commission more time to do a good job, and he thinks the Commission does better work when they do that. He would like to find a way that they could say no, they're going to decline a petition, but yes, they believe it's an important topic. They need to figure out how to incorporate it into their other priorities. The Commission never gets to everything they want to get to. If they can do that without those constraints, then he's not as bothered. He was bothered by one person who kept submitting these repeated things. He thinks there should be a way to say that this ground has already been covered, there is nothing new, and they don't need much. He also thought they should minimize the amount of time that the staff needs to look at some of these. They can till if it's something that they want to put forward. They need some justification for saying no. So, if they get a short summary of what it is, in some cases, they could have just dropped a number of those things. He'd like to get that short summary. He didn't want to see that staff have put a ton of work and details in it. If they maintain the connection, give themselves some flexibility to deal with them, and control their own agenda, he thought that would be a better situation. He didn't think they were too far from that right now in the sense that they have said no, because the staff is going to pick it up someplace else. So what do they say? He isn't sure where he would be on this, but he actually liked the direction it was going. Saying no because they're going to tackle this in a more direct and thoughtful way. ([Begins at 2:09:48 mark](#))

Commissioner Anderson commented that he had some of the same thoughts that Vice Chair Ragen has expressed. First off, he supports and likes delegation to the Director/department, because he thinks they're the experts on all things and would be the most capable of framing up the issues with all that they have to deal with in the context, etc. He does that that the problem with being in the mode of just accepting petitions at the Commission level, is that they have seen a number of times where it does precipitate them into a path that then forces them, even if they say they don't need, will not, or don't need to necessarily adopt regulations, and things have been hanging out there for 60 days, 90 days, 120 days and it's time to get on with this, that kind of thinking. He wasn't comfortable with that. A good example would be the cougar petition He thought after the past 6-8 months, that they've seen some of the shortcomings of that process and the fact that they've got more work to do, that if they had taken more time and had backed up, they would have gotten to that point in a smoother way, that what they did through adopting rulemaking, etc. His point is that he trusts staff and the Director to be professional and to

incorporate or review and incorporate, the things that need to be looked at in the analysis. He thinks they're better prepared for that than the Commission in most cases. ([Begins at 2:13:35 mark](#))

Commissioner Linville echoed a lot of what Commissioner Anderson said and she brought up the cougar rulemaking process because she felt like when they start going along to get along on this Commission, that's when things like rulemaking seem to get weaponized and it suddenly becomes something very different than what one thought it was. She noted she didn't vote for the rulemaking, and it wasn't because she didn't agree with most of what was in there. It was because of the so-called process that they got there on. What she heard was staff say, hey, we've got this new information and we believe we're heading in the same direction that you're talking about, and we would like you to deny this petition so we can put thoughtful work into it, and they didn't. She thought that sometimes they say, oh yea, no, we're just going to talk about it, until it's something they really want, and then they're going to use rulemaking to get it, and that hasn't been a good process for her, personally. ([Begins at 2:16:18 mark](#))

Director Susewind commented that he wasn't going to weigh in on the merits one way or the other, but thought the elephant in the room that they're starting to get to, again, not on the merits, is the efficiency piece of this. The problem is, that the petition process is a great process. But it's become a tool to control the Commission's agenda and priorities. Today's example, a good idea to withdraw it. But it took executive committee time to make a decision and recommendation and it took up time on today's agenda. The one thing he hears, and the Commissioners all agree on (one of the only things) is they can't get to everything they need to get to. So, to a degree, the more they put into addressing petitions and spending Commission time on those petitions, the more that controls their agenda and priorities. The priorities are being set by others. So be it if that's where they want to go. He wasn't pushing for any particular outcome, but he thought the main thing is these things need to be efficient, where a bunch of Commission time isn't eaten up debating petition processes and they actually spend that time on the issues. ([Begins at 2:17:45 mark](#))

Chair Baker commented that her point was something quite like what the Director stated. She felt another thing that they lose sight of is that they are the only independent of the executive policy setting commission in this state. They are, even though some of them don't think of themselves this way, very important. They are very important to set policy for fish, wildlife, land, and shellfish as the mandate points out, for the entire state. To do that, they've set up all these processes. They have committees and committee chairs, and they have different ways to figure out how to get issues in front of them. They aren't particularly good at it, but they have processes. For many years, they never had a petition to the Commission or a petition for rulemaking. They had people ask them to take things up and to consider things, but this goes way beyond that. Petitions for rulemaking are not asking them to consider issues. They are insisting that the Commission makes a decision about whether they have a new law in the state and anybody can do it. Once person can do it, a group of people can do it, an interest group can do it. They're figuring that out. So, what this has shown, is that they can get the Commission's attention by giving them a petition for rulemaking. She's not saying that's good or bad, that's just the effect of it. Again, like Commissioner Linville said, this is a big hairy deal when they're setting law in the state. She herself, didn't believe that they should give any citizen of the state, more authority than any of them have individually, because they can't do this. They can't come up and say, hey, I want us to decide whether there will be a new rule on (in her case) duck ponds. That is something she cares a lot about, but they have a process by which they decide as a group, whether they're going to have their own time and the staff's time, put onto a topic. She's heard everyone say today that they don't really think they need to agree to the petition, but it's something I'm really interested in. This is something that they have the ability to get in front of the entire Commission. They know how to do it. They don't have to be told to do it by an outsider to make that decision. She was trying to protect their authority and give them a reason to want to come to Olympia. Commissioner Linville wanted to get bitten by a snake rather than come to the meeting today. Her point was, they have to protect their own authority and be responsive to the public. She thought they were more responsive to the public than any other agency in the state. Her particular position on this would be that the Commission delegates all petitions for all those reasons. If any Commissioners are interested in the issues that the petitions raise, they need to go through the normal channels. She wanted to end by saying she's done a little vote count, and wasn't sure if the decision could be made without Commissioners Parker and Myers. She had three people who seem to say something like, the current situation is the way they should go. In other words, having the executive committee review and make recommendations to the full Commission, they all discuss, and then decide. And she had three that say the Commission should delegate all petitions. She knew Vice Chair Ragen was sort of in the middle, so she wasn't sure where he landed. She's trying to figure out how they come to resolution on this, or if they have to wait another meeting. ([Begins at 2:18:53 mark](#))

Attorney General Panesko commented that he wanted to remind all about the legal constraint, and the 60-day timeframe. The current process that they've been utilizing, which hasn't been in place very long, and he didn't believe there was a petition yet that's gone through this process where the Commission has decided to keep itself. But when they do end up doing that, it necessarily kicks the topic out to the next Commission meeting to give staff time and be able to prepare a more detailed report to bring to the Commission. The Commission could be skirting against their 60-day time limit under that, and it could pinch everyone. The risk of that process is time. Depending on when the petition comes in with respect to the meeting cycle, they could really find themselves even further constrained if they were to choose to continue that particular approach going forward. ([Begins at 2:23:12 mark](#))

Commissioner Smith agreed with the Attorney General's statement. She wanted to talk about the cougar/bear petition because they weren't constrained by time on that petition, except that they'd decided by majority that they wanted to get it in place for the 24 hunting season, and that's what put them in the time constraint. Not the petition process, because once a petition is accepted, there's no timeline/statute that she's aware of, dictating when they have to issue the CR-102. Once the CR-102 is published, that the timeclock for actually going through rulemaking begins. She thought there's been petitions that have sat out there, having been accepted, but no CR-102 prepared for some period of time. That's what happened on the cougar rule. Once they got into the published CR-102 and started the clock, then they were on a very tight timeline, which was uncomfortable for everyone. She wanted to make the point that they can take their time, they can say they think this petition has some merit, but frankly isn't at the top of their list of priorities, and tell staff they would like it in priority. Chair Baker responded that they needed to figure out how they're going to resolve this today. ([Begins at 2:23:59 mark](#))

Commissioner Rowland commented that she agreed with Commissioner Smith and wanted to point out with respect to the cougar petition, it was a petition for cougar and bear rulemaking. She wanted to point out that they have done nothing yet as far as she knew, about bears. The petition was passed, but people are acting like the Commission adopted the petition. They have to get going on bears. They don't and they're not. So, accepting a petition doesn't suddenly put them into this timeframe. And, as Commissioner Smith stated, the reason they went with cougars was because they were on a tight timeframe because the intent was to have it for one year, and that year was coming up. They had to do that. She went on to say that she didn't get it. She thought this has been working pretty well. Have they been flooded with petitions? And she acknowledged that they can delegate a lot of them. She didn't want to talk about the six petitions constantly filed by the same person. That's already happening and they've done away with it. Those, will just be delegated to the Director. But there are petitions that she believed the Commission should consider and not delegate to the Director. That doesn't mean that suddenly they're in this process where they have to put it as their highest priority. It just doesn't mean that. ([Begins at 2:25:44 mark](#))

Chair Baker responded that it does mean that they have agreed to make a law, so that's important. They have agreed to do that. She thought if they're going to go back and do history, in both the cougar/bear and today's fish petitions, those petitions were filed by interest groups that were very frustrated that the Commission wasn't doing things that they said they would do. That is for years. The Commission has been talking about a cougar rule since they passed the first set of cougar rules in 2020, and never got there. They just let it sort of atrophy and sit around. What there are, are a kick in the butt. If that's what other Commissioners want, a kick in the butt, that's fine. But she doesn't want that. She thought that the Commission should do what they say they're going to and work on the processes they have. But saying that they're going to make a law is a big deal to her. ([Begins at 2:27:31 mark](#))

Commissioner Smith wanted to point out that entering into the rulemaking process, doesn't assume they'll end up with a new law. ([Begins at 2:28:39 mark](#))

Commissioner Anderson stated that his point is different than Commissioner Rowland's, with regard to the Commission accepting petitions and jamming themselves up, and create problems for themselves. He said they can say what they want about that, but that's what he thinks has happened. Commissioner Rowland asked Commissioner Anderson to clarify what he meant, and he specified the cougar rule. Commissioner Rowland responded that the timing had to do with the year, not with the fact they had to accept the petition. Commissioner Anderson asked why that was there? Commissioner Rowland responded that it was because the Commission wanted it, the substance of it. Commissioner Anderson replied that they jammed it. ([Begins at 2:28:50 mark](#))

Chair Baker commend that they had two members missing, and to her knowledge, neither one of them are tuned in, so they've heard none of this. The Commission needs to do one of two things. Either they have this discussion again next month with the two Commissioners not present today, or they make a decision today by vote. She's



willing to go either way, but there are two people here that she doesn't know how they'd vote. ([Begins at 2:29:36 mark](#))

Vice Chair Ragen commented that he's inclined to say that as a group of people, they have to struggle to work together. By getting this right, involving them, he thought they would end up with a more lasting decision. His inclination right now, would be to say let's wait to hear from them. Chair Baker asked if anyone disagreed with that and to pend this discussion for the next meeting. ([Begins at 2:30:12 mark](#))

Commissioner Linville replied that she personally didn't want to make this decision without the other two Commissioners. Her gut says that. But they have said in the past, if Commissioners miss meetings, they miss votes. So, she's struggling between what her sense of collegial is and what has been said in the past. She felt torn. Commissioner Smith expressed her agreement with Commissioner Linville's statement and suggested they just do it. ([Begins at 2:30:43 mark](#))

Commissioner Lehmkuhl asked if just a simple majority vote with the people that are Commissioners here now pass the motion, or would it have to be five? Chair Baker responded that in the legislature, they have that all spelled out. The majority, super majority, what are the people there and all of that. The Commissioner doesn't have that and she would just say it would be a majority. Attorney General Panesko confirmed that it would just be a majority and that's statutory. A quorum is five members and a majority of the quorum carries the day. If they only had five Commissioners show up, a vote of three carries the day. It's legally effective. Chair Baker asked if they'd need four to pass the motion and Attorney General Panesko confirmed that to be correct. Commissioner Lehmkuhl said that if someone makes a motion, he thought they should vote on it. The other Commissioners weren't there because they elected not to be or were unable to be. ([Begins at 2:31:30 mark](#))

*Commissioner Linville moved to delegate the authority to the Director for all petitions and it was seconded by Commissioner Anderson. ([Begins at 2:32:25 mark](#))*

The roll call for the vote is as follows:

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

*The vote count was 4-3 in favor of the motion; motion passes.*

Chair Baker commented that for now, petitions for rulemaking are delegated. She felt this would be a continued discussion and they have just shifted the process. Director Susewind add that he felt implied in that, is there will be cases where he thinks it is best for the Commission to make a decision, rather than himself. So he liked to have the ability to punt it back up to the Commission. Because there are times when it could clearly be a policy call, and the Commission is the policy setting body. He will have that in mind when he's going through the petitions. ([Begins at 2:33:07 mark](#))

Commissioner Smith asked for clarification that under this system, the petitions will go to the Director. She wasn't sure if the Commission would see them. She asked if the Director could establish a process where he informs the Commission what's come in, which were denied, the reasoning, etc. If a petition is accepted, that's where they didn't really answer what happens next, because what is the Commission's involvement in developing the CR-102, the rule, at that point in time? Attorney General Panesko responded that it would depend on the topic of the rule. Because if the topic of the rule is something that is already exercised at the Commission level, the acceptance of a petition by the Director would necessarily kick the topic back into the Commission for the rulemaking process. But not all rules are adopted by the Commission. There are some that are by statue, or by delegation, handled by the Director. Char Baker replied that the point is that the Director will keep them posted and report out during the Director's report. And if a petition is accepted, and she wasn't sure how often that happens on an executive level, but if one was accepted, the Commission would like to hear about it. ([Begins at 2:33:58 mark](#))

Attorney General Panesko added that the Commission choosing to delegate can always rescind that delegation or modify it. It could be done on a case-by-case basis. If a petition comes in, that just in the briefing Commissioners hear about and they raise the issue at a meeting, they could vote at a meeting and say they want that one. Even if the Director hadn't referred it to the Commission. The Commission could choose to take it back on a case-by-case basis. That's the scope of the Commission's authority. ([Begins at 2:35:25 mark](#))

### **15. Meeting Debrief and Future Meeting Planning**

Deputy Director Windrope covered the debrief of meeting items listed below. ([Begins at 2:37:44 mark](#))

- Director's report: The presentation on CWD and the point system
- Lands transactions: None
- Agency requests: None
- Operating capital budget: Request to have a quarterly update from CFO around budget development
- SWAP: None
- Diversity Program Update: Generalized (please come more often)
- Trapping rule: None
- Beaver rule: None
- Grays Harbor Salmon Management Policy: Continue to be worked on and bring an updated draft
- Open Public Input: None
- Petition Process: Blue sheet on gillnet buyback and observers that Vice Chair Ragen will work with staff on. They've already received communication from the Fish Program Director saying he's going to get together with Commissioners Anderson and Ragen. Commissioner Anderson to do a blue sheet on the point system. The Director recommended that there be a third blue sheet about the compact process/notification piece.

Future Meeting Planning ([Begins at 2:39:56 mark](#))

Commissioner Smith asked if they really want to do a briefing in public on the Colville situation, and also asked if there they're waving a red flag on the wolf protocol in Spokane? Commissioner Linville replied that she believed that why those items were scheduled, to be in the community where those who are directly impacted by both of those topics and felt it was a positive thing. Chair Baker added that the answer is they're there now and the Commission certainly isn't going to change them, because the Commission is going to be in Eastern Washington. The 2024 briefing is kind of their last ditch of seeing Tom McBride. He negotiated that bill that Commissioner Smith referred to with the Governor's Office, and he's probably the best person to talk to about what it requires the Commission to do. Commissioner Smith followed up to confirm that Chair Baker was the one who wanted the lethal removal protocol for the full Commission and Chair Baker confirmed that to be correct, and stated the thought on that is that she tries to be principled about these things. If the Commission is deciding on a petition or have decided, and there's an agenda item relevant to that, then as a whole Commission they should all hear the information. So, if they're all going to get reminded about the wolf lethal removal protocol, which all that is is a briefing on what is currently being done and how it happens. It's basically just an update and she thought that should come to the whole Commission. ([Begins at 2:40:20 mark](#))

Commissioner Linville commented that she responded without really understanding, so she is genuinely curious of what Commissioner Smith's concern was. Commissioner Smith responded, joking that it was PTSD from a wolf related meeting in Spokane before. But she understood Commissioner Linville's point and noted those are the people that have been implementing these things and are affected by it. So she sees the value in that. ([Begins at 2:42:56 mark](#))

Commissioner Lehmkuhl commented that he was going to bring it up in a previous discussion, but wasn't sure if it was appropriate. But since the meeting is in Spokane, every meeting the Commission hears from folks in the NE about white tail deer and what's happening with them. He spoke briefly with Director Susewind during one of the breaks, and he thought it might be useful to have some sort of an update. He wasn't sure if this was too soon, but it would be the perfect place to do it. The question is, what's up with the white tail deer in the NE? Can we improve the population? Yeah. Maybe it doesn't need to happen, but it's a good spot for it. Chair Baker asked him to clarify if the request is to have a full briefing on the status of white tail deer in the NE? Director Susewind thought it was something they should be able to do. He was slightly hesitant on staffing, but thought staff are on top of it. At a minimum, Mike Kuttel will be doing a presentation on the region and could make sure that if there isn't time for a full briefing, that he'd make that a significant component of the Regional Director's Report. Commissioner Lehmkuhl replied that he's like to see it addressed in some sort of way. ([Begins at 2:43:42 mark](#))

Chair Baker reminded the committee chairs that the October meeting in Ellensburg, will be doing Tribal Training and there won't be committee agendas in October, unless it's going to be done on a different day. Commissioner Anderson added that their intent was to have an out of cycle fish committee meeting the week of the 21<sup>st</sup> to help stay on schedule. ([Begins at 2:45:43 mark](#))

Commissioner Smith commented that it's possible they're going to have a draft of the GMP, but it hasn't been discussed how they should roll that out. This is the point the full Commission is exposed to what's been done so far with the GMP. Her question would be if that was an agenda item, if it should just be distributed to the Commissioners, or how does the Commission want to handle that? Chair Baker responded that she thought it should be handled by thinking about it and coming up with a plan, and that'll be done in the next two weeks. ([Begins at 2:46:36 mark](#))

Vice Chair Ragen commented that this was marginally related and is not in any way intended to be criticism, but he's requesting that the Director and Deputy Director assist to the extent that they can, to try and get folks to get their presentation materials out a little earlier. He's often arrived at a meeting and sees there's new slide in it. He does spend the whole week before trying to prepare and that would help. Chair Baker agreed with that request and stated it's imperative that they receive the materials sooner than the night before the meeting. The other thing that they received a complaint on was what they needed for safety sake to do the fieldtrip, came out the night before the meeting. Many of the Commissioners were in Olympia already and weren't equipped. Commissioner Smith hesitated to complain because it was a great trip, but she only had her street shoes and it would have been nice to have her boots. ([Begins at 2:48:18 mark](#))

Commissioner Smith commented that they should be getting the bear science report in October and didn't know where it was on the schedule, and asked if it had been moved to November, and it was confirmed by the Executive Assistant that the topic was moved to November. Chair Baker commented that the framework is hunting structure and that the Commission still hasn't seen the science. Commissioner Smith confirmed that will be the science piece. Chair Baker asked if it could be left in October or if they needed to talk to Dr. Martorello. Commissioner Smith confirmed it's all going to be at the same time. Chair Baker stated that makes it a little hard for the Commissioners to have an opinion. Commissioner Smith replied that the whole purpose of what they've been working on is to create the new hunting framework. That's the science they've been working on, the modeling, and everything. It's the distribution that they're going to feed into the hunting framework. Director Susewind added that they're a bit mixed. There's the science, and it's straight up science that will be used to develop the framework, and there's science behind the framework as well. That's why it's a little bit of both. He didn't think the Commission has had a formal presentation just on what the science in itself is relative to the populations. He'll have to check with staff as to whether they're going to roll them into one. He's heard that both have been considerations. Commissioner Smith replied that she thought they were rolling it together because there was an interest in having those separated. Vice Chair Ragen replied that for him, separation is better, because he'd like to see the foundation for where they're going and see how that's built. It'll take a little while to figure that out. But it's hard to get it all at once in the whole framework and absorb it. In many respects, he'd really like to see what the foundation is and then how it's going to be developed, if that's at all possible. Commissioner Smith offered to speak with Wildlife staff about it. ([Begins at 2:50:05 mark](#))

Chair Baker commented that her last agenda item is to let everyone know that she spoke with Larry Delgado about the DEI/ADAC committee, which the Commission has one committee that reports to them. Their conversation surrounded how they handle the Americans with Disabilities Act, how they make the things that people love to do accessible to people who may not be able to go tromp around in the woods. It's the ADA committee. They used to have Kim Thorburn as the Commission delegate. She did a really good job of that and the Commission always knew what was going on with them. It was kind of always on the table when they needed to do something. Since they haven't paid much attention to that, and the committee is struggling as well. They have several vacancies. Her and Larry met to talk about it, sent out a letter, and they're working with licensing to get a list of hunters/anglers who are handicapped in some way to do recruitment. The Commission will need to be receptive to meeting with them, having a report, and possibly some meetings about it. As soon as Commissioner Myers got on the Commission, he indicated interest in this, and was sort of informally delegated to the position. She wasn't sure that he has followed through with respect to meeting with the group or not. She just wanted everyone to know this is percolating if anyone else is particularly interested. She didn't think Commissioner Myers would mind having someone else take that position, but until it's decided or formalized a bit more, and regroup, she's offered to be the point person. Attorney General Panesko added that this committee is the one advisory committee that's actually statutory. It's in 7704, out of all the rest of the ones there. So, if she was going to do a legal tiering of them, this is the top tier of a function within the department structure that the legislature has put the stamp on. Chair Baker followed up that even though they report to the Commission, she was asking the

Commissioners to help out a bit here. Something is going on with this committee that she doesn't understand or have time to figure out. Deputy Director Windrope offered to work with Larry Delgado on this. Commissioner Smith added that she didn't think they'd had a meeting and that's her perception because they've had this problem with people falling off the committee. ([Begins at 2:52:31 mark](#))

**16. ~~Executive Session~~**

This Commission and Attorney General didn't have any topics outlined for this item. Ultimately, they decided to strike it from the agenda and hold it at a future meeting date. ([Begins at 2:37:02 mark](#))

The Chair adjourned the meeting at 11:33 am.

  
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Jamie Caldwell, Executive Assistant

Agenda Item #2 – Open Public Input

In-Person	Zoom
1. Claire Davis	1. Rachel Bjork
2. Francisco Santiago-Avila	2. Josh Rosenau
3. Lynn Okita	3. Ann Prezyna
4. Bernard McDevitt	4. Jeff Holbrook
5. Josh Caple	5. David Moskowitz
6. Cory Maxwell	6. Kelsey Ross
7. Liz Carr	7. Brandon Ross
8. Kirby Wendt	8. Kevin Dickey
9. Hannah Thompson-Garner	9. Andy Schneider
10. David Linn	10. Patricia Arnold
11. Dnitra Ayers	11. Don Peaker
12. Alison Anderson	12. Ron Reed
13. Bob McCoy	13. Rachel Haymon
14. Heath Heikkila	14. Judith Akins
15. Robert Sudar	15. Nello Picinich
16. Mandy Carlstrom	16. Dave Hedrick
17. Josh Reynolds	
18. Maddy Nikola	

Agenda Item #9 – Trapping Rule

In-Person	Zoom
1. Alison Anderson	1. Clarence Rushing
2. Claire Davis	2. Kelsey Ross
3. Hannah Thompson-Garner	3. Patricia Arnold
4. Francisco Santiago-Avilla	4. Rachel Haymon
5. Rex Bakel	5. Tim Coleman
	6. Ron Reed

Agenda Item #10 – Beaver Relocation Rule

In-person	Zoom
1. Alison Anderson	1. Alexa Whipple
2. Claire Davis	2. Clarence Rushing
3. Hannah Thompson-Garner	3. Kelsey Ross
4. Francisco Santiago-Avilla	4. Lisa Foster
5. Rex Bakel	5. Mandy Carlstrom
	6. Patricia Arnold
	7. Rachel Bjork
	8. Rachel Haymon
	9. Timothy Coleman

Agenda Item #12 – Open Public Input

In-Person	Zoom
<ol style="list-style-type: none"><li>1. Claire Davis</li><li>2. Francisco Santiago-Avila</li><li>3. John Rosapepe</li><li>4. Heath Heikkila</li></ol>	<ol style="list-style-type: none"><li>1. Andy Schneider</li><li>2. Ann Prezyna</li><li>3. Dale Magart</li><li>4. Don Peaker</li><li>5. Erin Gubelman</li><li>6. David Moskowitz</li><li>7. Judith Anderson</li><li>8. Kelsey Ross</li><li>9. Kevin Dickey</li><li>10. Kirby Wendt</li><li>11. Laura Welp</li><li>12. Mandy Carlstrom</li><li>13. Marjorie Millner</li><li>14. Mark Leed</li><li>15. Tim Coleman</li><li>16. Windora Bradburn</li><li>17. Judith Akins</li><li>18. David Linn</li></ol>