



Minutes

## Washington Fish and Wildlife Commission

September 26-28, 2024 Hybrid Minutes

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### **Attendance**

#### **Commission**

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

#### **Staff**

Kelly Susewind, Director  
Amy Windrope, Deputy Director  
Joe Panesko, AGO  
Jamie Caldwell, Executive Asst.  
Mike Kuttel Jr, Region 1 Director  
Samantha Montgomery  
Mick Cope  
Stephanie Landry  
Shawn Behling

Richard Tveten  
Tom McBride  
Kelly Cunningham  
Lorna Wargo  
Heather Hall, Region 6  
Director  
Marlene Wagner  
Mike Scharpf  
Dr. Donny Martorello

#### **Non-Staff**

Rebecca Hunt, Director of Natural  
Resources for the Confederated  
Tribes of the Colville Reservation

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### **Friday, September 27, 2024**

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

Chair Baker called the meeting to order at 8:02am. ([Begins at 0:02 mark](#))

#### Commissioner's Discussion

Commissioner Lehmkuhl discussed going for a walk the day before, and how it reminded him of the importance of providing urban wildlife habitat. He spent time by a retention pond near the venue that was full of red-wing blackbirds. ([Begins at 1:30 mark](#))

Commissioner Rowland commented that she was given a book as a gift called, I sing the Salmon Home, Poems from Washington State. She noted it was edited by Rena Priest, a member of the Lummi Nation, and the introduction was written by Billy Frank Jr, a Nisqually Tribal member. She learned the book was giving the annual Washington State Book for poetry. ([Begins at 2:18 mark](#))

Commissioner Anderson commented that he was able to go visit the Chapman Lake land acquisition. He reported that the project was approved by the Commission and is underway and is projected to be completed within the next two years. It will provide fishing access on Chapman Lake, and facilities like parking, restrooms, a road, and small launch area will be installed. ([Begins at 4:03 mark](#))

Commissioner Linville highlighted that former WDFW Carnivore Section Manager, Stephanie Simek, is now the New Hampshire Fish and Game Director, and how sad she was for WDFW to lose her, but was also very proud of Stephanie's accomplishment. She also expressed her appreciation to Eric Gardner as the Wildlife Program Director and welcomed Mick Cope into his seat. ([Begins at 5:48 mark](#))

#### Meeting Minute Approval

Commissioner Baker commented that there would be a discussion tomorrow afternoon surrounding the structure of the meeting minutes. ([Begins at 7:34 mark](#))

*Vice Chair Ragen moved to approve the August 8-10, 2024 hybrid meeting minutes and it was seconded by Commissioner Lehmkuhl. The Commission voted unanimously (8-0, Commissioner Smith excused); motion passes. ([Begins at 8:30 mark](#))*

## **Committee Meeting Updates:**

### Big Tent Committee

Committee members in attendance: Lehmkuhl, Baker, Parker, Smith. To review the full meeting recording for September 26, 2024, please click this [link](#).

Commissioner Lehmkuhl reported out that the meeting started out with an update on the two active polices that are currently being drafted. He noted that the Conservation and Best Available Science (BAS) polices were both still active but are on hold at the moment, pending consultation with the Tribes. The BAS consultation is scheduled for October 7<sup>th</sup>. There was also a discussion about planning for the annual budget and legislation cycles. Ultimately, they decided to have the Commission provide their input early in the process to help prevent last minute surprises towards the end of the cycle. They'll move forward with that plan in the spring of 2025 to align with the planning cycle and this will mainly be committee work. There was also a discussion surrounding the decision-making process and how to better structure the way the Commission makes decisions. The committee recommended moving forward, so they'll start structuring the elements of these "rules of procedure" as he's initially calling them, and outline how decisions are considered. Future topics will include policy updates, budget and legislation planning, and the decision making rules. They've also started a small critical concepts series, discussing concepts that are the foundation of the Commission's work. The committee also plans to start working on descriptions of regional collaborative projects, to learn Big Tent collaborative principles. ([Begins at 9:03 mark](#))

### Habitat Committee

Committee members in attendance: Linville, Lehmkuhl, Ragen, Myers. To review the full meeting recording for September 26, 2024, please click this [link](#).

Commissioner Linville reported out that the committee received a presentation on working lands. Her goal was to make sure people were aware of why working lands are valuable to the habitat and why the department should consider any form of working lands on public lands. Chris Conklin and Mick Cope gave the presentation on how important working lands are, how the department interfaces with working land partnerships. ([Begins at 13:20 mark](#))

### Fish Committee – Special Meeting

Committee members in attendance: Anderson, Linville, Ragen, Parker. To review the full meeting recording for September 26, 2024, please click this [link](#).

Commissioner Anderson reported out that the committee discussed the Coastal Dungeness Crab Management policy due to the department having to develop a more comprehensive crab management program consistent with ESA and marine mammals. The full Commission has it on the agenda to be briefed on what's been drafted so far, and to decide whether or not to open that draft up for public comments. They also discussed the Grays Harbor Basin Salmon Management policy. The committee is drafting the policy so the department can then fully manage the fishery. The previous policy had expired, and the current effort is being done to revise the old policy. This policy is also on the full Commission's agenda to be briefed on the public comment that's been received thus far. The final item they reviewed was the Resident Native Trout Policy that's been in the works for about a year or so, and it still has another 6-9 months to go before that policy will be completed. The policy is being drafted to provide guidance to the department in subsequent management actions. ([Begins at 15:10 mark](#))

### Wildlife Committee

Committee members in attendance: Smith, Rowland, Myers. Commissioner Anderson was excused. To review the full meeting recording for September 26, 2024, please click this [link](#).

Due to Commissioner Smith being excused from the meeting after an auto accident, Commissioner Rowland reported out that the two presentations. The first the committee received was on Non-Lead Partnership. The department is a partner in the non-lead partnership, which is a large group that is pushing voluntary measures, education, and outreach to persuade hunters to use non-lead ammunition. The second presentation was focused around the Wolf/Livestock Interaction Protocol. She noted the department had recently authorized the removal of wolves from various wolf packs due to livestock depredation. The presentation focused on what the wolf/livestock inaction protocol was, how it formed, the participation of

the Wolf Advisory Group, and the current status of how decision are made to use lethal removal of wolves. There was some discussion surrounding the letter sent by the Governor directing the Commission to draft a rule surrounding the lethal removal of wolves by the department. ([Begins at 21:15 mark](#))

## **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 26:11 mark. Commissioner response to the public comments received begins at the 2:19:50 mark.

Commissioner Anderson responded to the comment made about baiting, to notify constituents that there was a comprehensive brief scheduled that afternoon with regard to the actions taken due to Chronic Wasting Disease being detected in Washington State. He also acknowledged the possibility for collaboration around the issues going on in the Northeast part of the state.

Commissioner Rowland spoke to one of the comments made in regard to the demise, decline, and possible extinction of Mountain Caribou in Northern Washington and Southern Canada. She noted that the biggest issue for the species is that they eat lichens in the winter, and those are disappearing mostly due to logging. Here point was that yes, there are predators, but the decline of ungulate prey populations is usually due to a combination of factors.

Commissioner Lehmkuhl wanted to echo what Commissioner Anderson had said. He felt that the department could use more citizen involvement, because it'll lead to better solutions.

Director Susewind noted that he usually doesn't weigh in at this point, but due to the comments surround the suggestion of collaboration, he felt it was appropriate. He felt it was impactful having upwards of 20 sheriffs show up. He was impressed with Sheriff Manke's comments, because he came with criticism and constructive suggestions. He offered to set up a meeting with the Sheriff's Coalition, that the Commissioners could join if they wanted to, so they could have a discussion about where the collaboration could be applied. Chair Baker supported the idea. Vice Chair Ragen requested that the conflict specialists within the department be included in the conversation.

Chair Baker wanted to address the feedback about the Commission's decision to delegate rulemaking petitions to the Director. The increase in the petitions the Commission was receiving was getting to the point that they were repetitive and requiring so much staff and Commission time, that the Commission couldn't spend the time needed on them and still address the work at hand. She noted that the Director will be reporting out to the Commission on the petitions received and the decisions he rendered. If there is a petition that the Commission disagrees with the Director's decision on, they can pull it back for the full Commission to review and decide on.

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

Director Susewind reported out that the department recently met with Seattle City Light about the FERC licenses around the Skagit River. The meeting was positive and they're in the process of reviewing the settlement offer that includes billions of dollars being expended. This is a big deal because work can be done on the river that supplies most of the Chinook to the Puget Sound. The Regional Awards were recently wrapped up and the Centennial Accord did occur. He clarified that the department banned baiting in a small area as a response to Chronic Wasting Disease being detected in the state, but he wanted to leave the bulk of that conversation for later in the day when the presentation was given. Due to the Legislative Director, Tom McBride, taking a new position, they're actively recruiting for his replacement. He also noted that Eric Gardner is wrapping up his career with the department as he prepares to retire. His replacement, Mick Cope, will begin as the Wildlife Program Director on October 1<sup>st</sup>. He also provided an update on the petitions he recently made a decision on. There were two that were requesting rulemaking that would allow the hunting of invasive bullfrogs with a blow gun. He approved both of those with the idea that they'll go into the regular annual rulemaking. There is still a bear petition that he hasn't gotten to yet, so there wasn't an update on that one at the moment. Commissioner Rowland requested that they receive copies of petitions received so they could take a look at them and the Director was happy to provide those to the Commission. ([Begins at 2:31:07 mark](#))

The Region 1 Director, Mike Kuttel Jr, provided an update on happenings in the area. ([Begins at 2:35:14 mark](#))

#### **4. Trapping Rule – Decision**

Staff reviewed the trapping rule and requested a decision from the Commission. ([Begins at 3:28:06 mark](#))

Commissioner Linville asked the question as to what would trigger staff to reopen trapping in those areas and if there was a way to add that into rulemaking? Mick responded that Cascade Red Fox are quite rare, so they'd go through the normal periodic status review for listed species. As those reports are done and the situation is tracked, staff are looking to see if they're not in an area of concern anymore. If they weren't, then staff would revisit that. He was hesitant to try and write that into the rule for trapping. He articulated her forward thinking, but the current process addresses it without having to include it in rulemaking. ([Begins at 3:30:26 mark](#))

*Commissioner Rowland moved to approve the rule recommended by staff and it was seconded by Vice Chair Ragen. The Commission voted unanimously (8-0, Commissioner Smith excused); motion carries.* ([Begins at 3:33:33 mark](#))

#### **5. Beaver Relocation Rule - Decision**

Staff reviewed the beaver relocation rule and requested a decision from the Commission. ([Begins at 3:35:01 mark](#))

Commissioner Rowland noted that the third comment in opposition was relocation without restrictions on trapping is futile. She had also wondered about relocating during the current program but not prohibiting trapping in the areas they were relocated to. She understood that it could be difficult with everything that would have to go into that, but she was wondering if that's been considered as a possibility? Shawn responded that it was a topic of conversation. Staff have been working with both the relocators folks that are working on riparian restoration, and with the trapping community. There aren't a large amount of trappers working in areas where relocation is occurring, and for the most part, when staff have talked with the trappers about this topic, trappers are saying that beavers are being brought to areas where beavers were missing previously and want to allow the population to expand in those areas. That would allow for trapping to expand beyond that space. It is definitely a sticky topic, but discussions about it are ongoing. Stephanie added that staff are working with the habitat program to come up with management guidelines that will hopefully identify those really critical areas where they could really use beavers in the ecosystem, and how to move forward with protecting areas like that. ([Begins at 3:38:24 mark](#))

*Vice Chair Ragen moved to accept the adoption of WAC 220-450-230 on beaver relocation permitting and it was seconded by Commissioner Rowland. The Commission voted unanimously (8-0, Commissioner Smith excused); motion carries.*

#### **6. 4-0 Ranch 2024 Forest Restoration Project – Briefing, Decision**

Staff briefed the Commission in order to request a decision on the 4-0 Ranch 2024 Forest Restoration Project. ([Begins at 50:40 mark](#))

Commissioner Anderson asked if staff were going to be able to do the recommended logging in October/November with winter weather moving in? Richard responded that last winter there was logging that occurred during that time and the snow wasn't very bad. They had people working down there and preparing the project, so that logging could occur most of the winter last year. It's possible for horrible conditions to move in this year and that could really compromise staff's ability to get it completed. But the foresters are pretty confident that they can get the project done because it's at the lower timber line, where the snow doesn't get too deep very often, and if it does, it doesn't stick around very long. ([Begins at 58:24 mark](#))

Commissioner Rowland stated that she wasn't on the Commission for previous projects and was wondering if he came to the Commission for approval on all of these types of projects? Richard responded yes, that staff come to the Commission for approval on any and all projects that are over a million board feet, whether there's been a fire or not. He said normally he tries coming to the Commission in January or February and bundles all the projects for a given year to ask for approval. But they didn't know the area was going to burn in July, so he's coming in now for this specific request. ([Begins at 59:38 mark](#))

Commissioner Lehmkuhl stated that there were area that burned in low and high intensity. He asked Richard if in terms of his prescription, or what he wants the state to look like afterwards, how those two are different? How would those two severity types look afterwards? Are they going to have the same prescription in terms of density of large trees, spacing, and that kind of thing or are they going to look a lot different? Richard responded that the prescription for the leave trees is going to be very similar and will have similar spacing. Before the fire, they could put their dense leaf patches anywhere they wanted to in order to provide security for the elk and other species. The fire changed where those patches could be, because they can only be located where some dense fur didn't burn intensely. ([Begins at 1:00:40 mark](#))

*Commissioner Lehmkuhl moved to approve the 4-0 forest restoration project as presented by staff and it was seconded by Commissioner Parker. The Commission voted unanimously (8-0, Commissioner Smith excused); motion passes.* ([Begins at 1:02:56 mark](#))

Commissioner Lehmkuhl asked a follow up question wanting to know if staff have a ready market for the wood that's being taken out of the stand or where it's supposed to go? Richard replied that there are two mills in Clarkston The economics for this project, they're hoping it'll break even. It's not a slam dunk that they're going to want to buy the wood. It's possible they won't bid on it and will leave the forest as is. But they're doing work on a adjacent private property that's in similar condition. So, they're hoping they'll be interested in taking the wood and helping the department get the forest condition back the way they want it. ([Begins at 1:03:40 mark](#))

## **7. Legislatively Directed Update of Cooperative Management Agreement – Briefing**

Staff briefed the Commission on the legislatively directed update of the Cooperative Management Agreement between WDFW and the Confederated Tribes of the Colville Reservation. Tribal representative, Rebecca Hunt, was present to provide comments to the Commission. Tom explained that the legislature directed the 1998 management agreement to be updated for the former Norther half. The original agreement was negotiated and agreed to before there were gray wolves back on the landscape, so the agreement is going to be updated for the presence of gray wolves. ([Begins at 2:13 mark](#))

Chair Baker noted that it was her understanding of the legislation that the agreement was much broader than just gray wolves, and was wondering if it was Tom's understanding that this was basically because of the change and gray wolves are going to be the subject of the agreement? Tom responded that it was the priority focus, but it is broader in the sense that it speaks to gray wolves and other listed species. Some other things like law changes, so it'll be a broader negotiation, but the legislature's primary purpose was to update it relative to gray wolves. ([Begins at 7:19 mark](#))

Commissioner Lehmkuhl asked what the legislature's interest in doing this? The who and the why, because they had a reason for doing it other than the stated reason. Tom responded that it was his opinion that after a number of the natural resource committee members from both the Senate and House went on a tour to visit the former northern half of the Colville Reservation, and talked about how management was done, how conflict was handled, and it was of interest to them. They hear a lot about the northeast like the Commission does. At the time, he didn't think they were aware that there is a pretty extensive agreement. But as previously mentioned, they need to be updated. So, his opinion is that was what the interest was. ([Begins at 11:28 mark](#))

Commissioner Ragen noted the point regarding delegation to the Director and then having the Director ratify it. He understood the point, but he had a couple of issues arise for him. The first is if doing that completely removes the Commission from it, which he wasn't sure was appropriate at this point, but thought they may be able to get around by creating side-boards themselves, so the Director has that available when he goes in to negotiate. The second is that the law itself he thought said that when this was negotiated, then it would be brought back to the Commission for approval. He was wondering if doing that mor or less undercut that part of the law? Tom responded that the second question, he would say is the legislation says they ratify it, how the Commission ratifies, he felt could be done by delegation. He thought it was one of those things that the Commission does a lot already, so he didn't see that as a stumbling block. The first question, he felt was a bigger issue. What he suspects is that they can get all the benefits, but also have an expectation that the final product could be a discussion between all of the Commissioners and the Director for input before he would actually finalize the deal. That's not the same as the Commission controlling that. There would be some trust from the Commission, if they had points very important to them, that he would take those into

account. He found it difficult to have the Director negotiate, when he can't make the commitment, and expect that same commitment on the other side. [\(Begins at 12:27 mark\)](#)

Commissioner Parker noted he had a fundamental question. He assumed that the plan of engagement was developed jointly with a representative of the Colville Tribe. Tom responded no, that the plan of engagement was developed mainly from him taking two existing Commission policies, and the legislation, and putting together a short bullet-pointed start to the process. The plan of engagement doesn't change anything. It's just moving forward. He went on to say that with the Colville's, it's interesting because he views this as something the legislature directed the agency to do and to start the process. He wasn't really sure that the legislature can direct the Colville's agree to this one way or the other. He encouraged the Commission to hear from their representative, and is hopeful they want to work with the department on this. He doesn't view it as the same thing. The department has obligations from the state legislature because they directed the department to do this. Commissioner Parker replied that his concern was handing a completed plan of engagement to the Colville Tribe saying, here, this is what we want you to do for us, rather than engaging at the front end, saying we need to find a way to engage on this issue, let's jointly develop something. Tom responded that was really good sensitivity to have, and he viewed this as direction to the department and the Director, not direction to the Colville. Commissioner Parker replied that this is sort of the institutional culture here to develop a product and then give it to the Tribe and say here. Commissioner Anderson commented that he viewed the plan of engagement as an internal document for the department and staff, as a way to acknowledge that this is how the department is going to go forward at this point without specifying the details. Whether it's through delegation of authority to the Director or some other means, and then everything goes from there. [\(Begins at 16:47 mark\)](#)

Commissioner Rowland commented that it was her understanding that the Colville Tribe could legally kill wolves outside their reservation and wanted to know if her understanding of that was correct under the current management agreement. Tom responded that it had nothing to do with the management agreement, but it did relate to some information earlier in his presentation. They have a legal right based on the negotiation done in 1892, to hunt and fish on the former Northern half of the reservation for time and memorial. So, that right isn't going to be affected by the kind of engagement or negotiation under the agreement to manage up there. That created between congress and the Colville Nation, not something the agency will be negotiating with them. Commissioner Rowland responded by asking that the fact they have that treaty right to hunt and fish, if that meant the Commission could put no restrictions on the hunting of endangered species, like wolves, for the Colville in that particular area? Tom replied that he thought it's why this discussion is held. To the extent that a legal right is being exercised superior to state law, that won't be getting negotiated in this process. Attorney General Panesko elaborated stating that a management agreement, can through cooperation, voluntarily imposed side-boards or data sharing agreements, but all cooperatively. The only thing that is in law with respect to when a Tribe is exercising a right, whether under an express treaty, which is typically the area he works in, or the Colville situation, it's just like a treaty. It's not formally a treaty, but the US Supreme Court said it's no different than a treaty to the extent that it operates under the Supremacy Clause of the US Constitution, because it was an 1891 agreement between a presidential commission, that was ratified by congress in 1892. So, it is a supreme law of the land, so the state is preempted. The only thing according to the US Supreme Court case law, the Puyallup Tribe vs. the Department of Game, a state could hypothetically intervene in a Tribe's hunting or fishing activity under a supreme right, only if there was an extreme conservation issue at stake, as in the population was at peril of being extirpated. He's never seen a case or circumstance where either Washington State or any other state dealing with Treaty Tribes, has successfully invoked that escape clause where they are otherwise not able to regulate Tribal activity, that is under the Supremacy Clause. Tom added that the parameters of whether that could occur or not are also not going to be controlled by this plan of engagement and updated agreement. Commissioner Rowland asked for clarification that this wasn't a subject of this agreement being talked about, and that the Colville Tribe have a legal right to kill an endangered species in that upper area, and that isn't a subject of the document they're talking about now. Tom responded, yes, that nothing about the document is trying to define or limit the existing legal rights of the Tribe on the Colville Reservation. Commissioner Rowland asked Attorney General Panesko that at this point, there is case law that says that if they have the right to hunt and fish in a particular area, the department can't manage their hunting and fishing in that area, including prohibition of killing endangered species and if that was in law? Attorney General Panesko responded yes, and that's the Supremacy Clause of the US Constitution. The state, under the Supremacy Clause, the US Constitution, all federal laws and treaties are the Supreme Law of the Land. What that means is that states are preempted, fundamentally, from doing anything that restricts any of

those supreme provisions. The state can't do anything contrary to federal law. They can't do anything in a regulatory capacity that impinges in any fashion, something that's protected by a treaty. Commissioner Rowland replied that the treaty, at least from what she's heard here, is not at all specific as to the hunting and fishing that the Tribe has the right to do, it's just anything they want to do, they can do on that land? They could kill every wolf in that area and that's protected by that treaty? Attorney General Panesko replied stating that again, the only exception that the Supreme Court has hinted at, that he's never actually seen carried out, is if the survival of a species is being threatened. The Puyallup Tribe vs. the Department of Game cases that went to the Supreme Court three times, but one of the Justices made the statement that of course, no Tribe could fish the very last fish. That's the context of the only time that a state could step in and complain about it. If you take a step back and ask what it is that are protected by the treaties or protected by this agreement with the Colville? These were the Sovereign Rights of the Sovereign Tribes to do what they wanted when they were in charge of their own lands before the settlers came in. So, as their sovereign rights, they could do whatever they want with those rights. Those rights are what are being protected by those treaties or being protected by this agreement. Another angle that some have proposed, is that they should only be able to fish with 1850 technology. Yes, but in their sovereignty, they could have come up with new inventions on their own, and adapt to technology. They could decide to shift new species that they may not have previously utilized. That's all under the scope of the nature of them exercising their sovereign rights. So, yes, this is core and fundamental to Tribes interests in these resources. It is their sovereignty, and a state's efforts to try and tell them what to do with their hunting or fishing, isn't going to fly, and there's no legal basis for a state to do that. ([Begins at 21:09 mark](#))

Rebecca Hunt, the Natural Resource Director of the Colville Nation commented that she's reached out to the Tribal Leadership to discuss the engagement plan, and they're making the same recommendation that Tom made. They would really like to see the authority delegated to the Director so that they could engage and negotiate directly with him. That's really the only comments she had to share on this particular issue. Chair Baker asked Rebecca if this a negotiation something that the Colville Tribe is amenable to and maybe even happy to enter into or is this something that they're getting drug into? Rebecca replied that her conversation with Tribal Leadership indicated that they're amenable to these kinds of negotiations, and that they're always looking to cooperate and work together. So, she didn't feel like it's something that they're really being forced into and is something they'd like more say in. ([Begins at 29:39 mark](#))

Commissioner Parker asked Rebecca if she had thoughts on the business council on the subject and if she knew what manner they preferred to engage with the department? Rebecca responded that she wasn't given specifics, but expected how they've engaged prior to this point with regard to other agreements, is something that they're looking for. Sometimes the Council has been reached out to directly, but they've also been working with the Natural Resource Department and the Tribe's fish and wildlife department. So, she thought they'd be pretty satisfied with now negotiations have been done in the past. ([Begins at 40:30 mark](#))

Commissioner Ragen asked if this agreement is one that's exceptional to the general pattern of moving to interact more with other Tribes, as there are requests from the Tribes to engage on pretty much almost any issue that might affect that. He wanted to know if this put the Commission in a position that would be inconsistent with how they might to about that? He also wanted to know if the Director was comfortable with the idea of soft sideboards, and what he thought Commissioner Parker was suggesting as a staged negotiation. The first question would be, what does he want to engage in or how he wants to engage? He wanted to know if that kind of flexibility enters into it or is this process much more fixed and straight forward? Director Susewind responded that he didn't think anything was fixed yet. As far as the staged negotiations, he would advise against that with the full Commission. But that would be exactly how he'd proceed if this were delegated. The delegation tells him to go work with the Tribes on these issues and come back with something good. So, he'd go there and say, this is where we'd like to start, or would you like to start, and then they would adjust the whole negotiation. He didn't think this was unique or precedent setting for other tribes because there is a direction to go engage early on. Everybody brings their ideas to the table early on, so there's no predetermined outcome, which is what has gotten the agency sideways with some Tribes already. The uniqueness of this, is this work in some form, would have occurred anyway. The legislature just put additional emphasis on it, and he'd like to turn that into momentum to get some legislative dollar support to do more good work. But he didn't think it was precedent setting or jumping the gun. It's just saying here's some ideas for consideration. He felt like this is a good example of how not to get in your own way. Go do good stuff, he'll be accountable for it, and will report back to the Commission. They can one and done with this, it'll be a lot of work for staff in two regions, but it could be dispensed of. He

heard Rebecca's statement, that they are in support of Tom's recommendation, and they prefer to go directly with the Director. He thought everything was there for a decision to be made. ([Begins at 41:47 mark](#))

Chair Baker made the suggestion of holding off on delegating the negotiations to the Director until the meeting next month to give Commissioners a chance to look into everything, and that suggestion was supported by Commissioner Anderson. She asked if there were any Commissioners that wanted to definitely vote today, and there weren't any that indicated they were. ([Begins at 46:27 mark](#))

## **8. C-3604: Management Objectives for the Coastal Dungeness Crab Background Policy – Briefing**

Staff briefed the Commission on updates to the policy that guides the management of the Coastal Dungeness Crab Fishery. The updates are intended to modernize the policy and align it with the need to implement a Conservation Plan, pursuant to seeking an Incidental Take Permit under ESA for listed whale impacts. The next step would be to go out for public comment. ([Begins at 1:47:54 mark](#))

Chair Baker commented about the process on the policy, and that at this point, the Commission was just going to be approving the current draft for public review and comment. She was wondering if the Commission needs to have the duplicate fish committee meeting, send it out for public review, then the briefing, then the next iteration/final decision, etc. Her question was, would it be more efficient to send it out for public review with the decision to be made by the committee, and then just have it come back to the Commission after that for a final decision. Commission Linville commented that the issue is that the committee structure has changed, so this is definitely a repeat. She shares the same feelings as the Chair, and thought the committee is the right place for the decision to send it out for public comment should be made. It's not a done deal and the committee wouldn't be deciding on anything other than if it's ready for public comment. With all the Commissioners showing up to committee meetings, it's no different than a full Commission meeting. Her point was that going over everything once was plenty. ([Begins at 2:11:44 mark](#))

Chair Baker asked if there was anyone opposed to sending out the policy for public input and there was no opposition. ([Begins at 2:21:52 mark](#))

## **9. C-3621: Grays Harbor Basin Salmon Management Policy – Briefing, Public Comment**

Staff briefed the Commission on the public comments received regarding the draft Grays Harbor Basin Salmon Management Policy language and revisions. ([Begins at 1:04:54 mark](#))

Commissioner Lehmkuhl asked what a net free day is? Marlene clarified it would be a day without gillnetting in the marine area. ([Begins at 1:13:34 mark](#))

Commissioner Lehmkuhl asked that when the policy says the management of the state share of harvestable salmon, does that mean all the harvestable salmon? He imagined that the Chehalis Reservation has their own share. Mike clarified that the Chehalis Tribe is federally recognized tribe that didn't sign the treaty. Other litigation says their catch, which they have a right to, doesn't go onto the treaty allocation. So, the catch that the department works with for them, are those available surplus fish that the state has that reaches the reservation. ([Begins at 1:15:40 mark](#))

Please see the attached list of commenters. To listen to the audio, please click this [link](#). Public input begins at 1:17:21 mark.

Vice Chair Ragen brought up a comment made about conservation vs. use and asked what it is they have to wrap their hands around that? What kind of goals and numbers do they have? How will they judge those things and how can the public or the fishing industry judge those things? The balance isn't certain and he understands that it's coming with the management strategy evaluation. Mike replied that he thought the bottom line is there are escapement goals that are agreed to by our co-managers and that is the conservation objective. They are within the policy, so what staff did in the policy, is say that we understand that some of those conservation goals are getting old and need to be re-addressed. But at this point in time, we haven't initiated some of that, except for the fall Chinook. But, as a Stock Assessment Biologist, he is judged by whether or not he achieved the stocks and escapement goals. Those are the bottom line conservation measures that are in the policy that staff have been working on for a long time. Commissioner



Ragen responded that the policy itself is about Conservation, so the question is, does simply having that escapement goal lead you to the conservation? We don't know what that is, and Mike's statement almost suggests that they don't have much control over those escapement goals. They may have to be negotiated, but all of that needs to be put in the context of how we are assuring conservation. When you have fixed escapement goals, how does a population grow if you're only limiting yourself to that escapement goal? Marlene responded wanting to expand a bit on what she knows about the management strategy evaluation process. This is sort of a new thing that the department is endeavoring in currently, and our scientists are building the packages for this currently. What's going to happen, is staff will take data from the Chehalis Basin and elsewhere, then it's going to be put into an integrated population and projected forward with various scenarios of fishing. She doesn't know how many that will be at this time, and the Commission could certainly have input. Maybe it will produce five scenarios, five harvest controls as an example, and then it will be up to policy makers what the risk tolerance is for each of those scenarios. Some of this is just a bit down the road. Staff plan to come back to the Commission in December to give the Commission an update on where they're at with that work. Kelly added that the approach Marlene explained is cutting edge. It's relatively new, but it ups staff's adaptive management games significantly. Right now, they're right. They can talk about the escapement goals, whether they're accurate or not, they can assess and advise on those. But what they're going to be able to do is consider things like what the climate is projected to do in the next 5, 10, or 50 years. It gives staff a model by which to have policy makers and fisheries managers assess what the appropriate harvest control should be, given those scenarios. ([Begins at 1:37:34 mark](#))

Chair Baker stated it was her understanding that the previous policy that sunset was going to at least loosely stay in effect until a new one is passed and wanted to know if that was accurate. Kelly responded that he didn't believe so because it was sunset, and recommended that the Attorney General to weigh in on. ([Begins at 1:45:21 mark](#))

#### **10. Chronic Wasting Disease Update – Briefing**

Staff provided the Commission with an update on Chronic Wasting Disease in Washington State. ([Begins at 2:22:39 mark](#))

Chair Baker asked, that with no baiting and feeding by the public, she was wondering how that applied to department feeding stations? Donny asked to come back to that question. He added that the department doesn't have feeding stations in this area. They are in other areas of the state, so there does need to be a conversation about that. ([Begins at 2:40:10 mark](#))

Commissioner Linville asked if the urine based scent lures is just a restriction on those three GMUs mentioned or is it all the ones in the 100s. Donny replied that it's just the three GMUs. ([Begins at 2:40:32 mark](#))

Chair Baker commented that a lot is spent on carcass sanitation when talking about carnivores/predators. How does, 'we want you to debone it and leave it all there' interact with our admonishing producers and ranchers to pick up all the pieces and take them somewhere safe? Donny replied that the department is started to grapple with that too. They're trying to make sure the CWD recommendations from the department, is not counter to what's being recommended in the carnivore world. Those conversations are being had right now. He's just speaking to the ungulate harvest. Wherever that animal died, leave those pieces and parts there. ([Begins at 2:43:22 mark](#))

Commissioner Anderson said he was a bit confused on the not removing a carcass out of where it died. So, if a hunter lives outside of the region, some of the options of taking it home, don't work. The hunter would have to debone it in the region they killed the animal in, and dispose of it according to the carcass disposal options. Donny replied that was correct. ([Begins at 2:44:20 mark](#))

Commissioner Linville commented that she's been asked by folks if it's ok to give the bones and stuff to their dogs? Melia replied that their recommendation is to not feed wildlife parts to your pets. While this disease is not known to cause disease in other species outside of the surveyed deer family, the recommendation is that you don't do that, simply because they don't want to introduce it to other animals. But also, they don't know the impact of them consuming these prions and then potentially depositing it somewhere else. Commissioner Linville agreed. Her follow up question was, if you leave these parts laying around, they'll be consumed by something like a coyote. Melia replied that there is research, not specific to coyotes, but they've looked at

other scavenger species, and recent studies have looked at cougars. They've found that not only do these animals develop a TSC-like disease, but also their contribution to spreading it, and they've found that this appears to strictly be a disease of deer. But also that those animals do break down a lot of the prions, so they are potentially cleaning up the area. Unfortunately, they can pass some of the infectious prions in their feces. So, they don't actually know the contribution these animals have to transmission on the landscape and there's still a lot of research that needs to be done. But if the carcasses are left where they came from, then if they are diseased and the disease is already there, then you're not taking it to somewhere new. ([Begins at 2:46:57 mark](#))

Commissioner Anderson noted that slide 15 shows the number of different things, including check stations. He's wondering if someone isn't near a check station if they have to double back to go to one to have an animal checked. Melia responded that they did have to move some check stations, and one in particular was because it was outside of region one, and they didn't want folks to come inadvertently, bring a whole carcass out, and violate the transfer restrictions on requirements. Staff didn't want to confuse people by sending mixed messaging. From a disease standpoint, does a couple of miles really matter, no. So that check station was moved into region one to help keep from confusing folks. ([Begins at 2:49:03 mark](#))

Melia wanted to address a frequent question they've gotten about consumption, which is, can hunters and salvagers eat animals that test positive? To date, this disease doesn't appear to impact or infect people. There's no evidence that CWD can be transmitted to humans. However the US CDC does recommend against consuming meat from an animal that has tested positive for CWD. ([Begins at 2:51:58 mark](#))

Commissioner Myers had several questions. The first, what is the amount of time between infection and CWD detection in the animal? Melia wasn't sure off the top of her head, but they know that clinical disease likely doesn't show up until 16-24 months, but it is detectable prior to that. That's why adult yearling to adult samples are the best samples. It is detectable in calves, but likely not as powerful as in adults, because they haven't been on the landscape as long. She would have to look that information up and get back to him with it. Commissioner Myers followed up by asking if that individual, before showing clinical signs of the disease, is it shedding? Melia replied that yes, it absolutely is. That's the issue with the disease. Unfortunately, before they show clinical signs, they are shedding those prions in their bodily fluids (urine, feces, and saliva), and are spreading it. That's why testing is so important. He then followed up again to ask what the frequency is of false negatives from testing? Melia replied that it is pretty rare, but does happen. One of the tests the lab is using is the ELISA test, which is the first screening test and is highly sensitive. It catches over 95% of positive cases. It's possible to have a false positive with that test, which is why all positive ELISA tests are sent for the confirmatory (IHC test). That test is highly specific for CWD. So, it weeds out those false positives. He then asked if there was any research done in Wyoming, or if other researchers mapped/modeled the spread of this disease across the landscape over time, and if so, what does a typical pattern look like, realizing that prevalence would be influenced by density, season, etc? Melia replied that in her research model that she didn't. She looked at the population impacts, but others have modeled the spread of CWD and it's highly correlated to densities of animal and where animals occur. So, those habitats that are strongly associated with occurrences of elk and moose. It's highly correlated with the density of animals and that's how it's spread. ([Begins at 3:03:47 mark](#))

Commissioner Rowland asked if anyone testing dead deer carcasses that have been hit by motor vehicles. Melia replied that yes, and it's a huge source of where they're getting their samples, even prior to the detection. There is testing done of roadkill that staff find, but also they've been working with the Washington Department of Transportation, and they contact staff about known road kills, or they have certain sites where they dump carcasses that they've collected. So, staff have been working with them the last several years to go to those sites and collect those samples. Commissioner Rowland followed up asking if any of them had been identified as having CWD, and Melia said no, the one detection was from a dead deer found in North Spokane. ([Begins at 3:07:43 mark](#))

Commissioner Lehmkuhl asked if it was possible to detect in feces if it's spread by feces? Melia replied that it's possible to detect in many different ways. From a research perspective, it takes different types of tests. For surveillance though, they're looking at those lymph nodes. There's also a sample called the OBEX, that is part of the brainstem. Those are areas of high concentration and are the best tissues to test for detection in an individual. There are other tests for research purposes, but for surveillance, they really do need to test the lymph nodes. ([Begins at 3:08:53 mark](#))

Commissioner Parker commented that this was both depressing and fascinating. He found it to be a great presentation and was kind of uncertain what level of urgency he should feel. He was wondering if this disease can become explosive across the landscape or if it's fairly slow moving/predictable? He went on to say that it seemed to him that the notification to hunters and logistics of getting prepared for the sampling, sounded like it was a huge lift that he was wondering if they ought to be considering rulemaking sooner than March, to give staff time to ramped up and everything in place. Melia responded that in North America, it has been a slow moving disease. How the outbreaks play out on the landscape, there's a lot of different factors. It depends on the species infected, the densities of those populations, even harvest can impact the prevalence and distribution. During the initial parts of an outbreak, it's probably primarily spreading by infected animals contacting each other. But as more and more animals become infected, those prions accumulate in the landscape, so then it probably becomes more indirect contact with the contaminated landscapes that are driving the epidemic. The urgency right now is higher, because they want to do everything they can to contain this disease. Donny added that at this stage with the first detection, the information they have, they have had ongoing surveillance, pre-detection surveillance going on, and haven't detected it anywhere else. It's getting those things in place right away in the affected GMUs, and keeping those in place during the hunting season so that they're not adding to the distribution of the disease by moving bones or carcasses. The really important part right now is getting the message out to all the hunters and salvagers, the salvagers being a smaller group, and making sure they're aware of the change. We'll always have CWD now and eradication is just not feasible to do. So, we're entering into a phase right now where the culture of our hunting community is going to be different looking forward and that's the most important part right now. Creating that cultural change so folks realize they have to debone their animals all the time and the parts of them can't just be moved around. They need to be diligent with what they do with them. Those things are in place through this hunting season, but if the Commission's desire is to act sooner, then they can bring staff in. ([Begins at 3:09:44 mark](#))

Commissioner Ragen asked what staff look for prevention measures and mechanisms, and what their utility may or may not be. Donny responded that if there is a positive in any of this, it's that this disease has been around for quite awhile and they've learned from other jurisdictions and states. Staff are incorporating what works, so the things they see now, have been put into motion through emergency rules. They're key items and he knows staff will on top of that stuff if there are other things that they can do, or a body of science that suggests that this will help limit the distribution and prevalence of the disease, then staff are all ears. ([Begins at 3:17:27 mark](#))

Commissioner Myers noted that the goal right now for staff is to reach a certain number of samples that would put them in a certain realm of being able to detect the disease. He went on to say that a number of states that have experienced CWD have gone into areas that they've identified as hotspots, to lower deer densities and slow the spread. He wanted to know if staff are considering something like that in the future? Melia replied that it's one of many options in the toolbox. Being that there's been one detection, staff are really in the dark of what's happening on the landscape right now. So, their focus is to learn, collect samples, get as many as they can from that area to know the prevalence and distribution. She didn't think anything is off the table. But currently, what they're exploring, is where they can get samples from hunters an other opportunistic avenues to learn about the disease. ([Begins at 3:18:28 mark](#))

The Chair recessed the meeting at 4:21pm

### **Saturday, September 28, 2024**

Chair Baker called the meeting to order at 8:02am

#### **11. Open Public Input**

Please see the attached list of commenters. To listen to the audio please click this [link](#). Public input begins at the 7:36 mark.

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

Deputy Director Windrope covered the debrief of meeting items listed below. ([Begins at 1:43:25 mark](#))

- Big Tent Committee: Requests for budget were to create opportunities for early input starting in March of each year. The Director will share the direction he provides to the program with the Commission and staff will look for ways between March and June to engage committees and the full Commission. Moving forward with decision making structures, explore how to implement decision making structures and to help with next iteration of what that would look like.
- Habitat Committee: Land 20/20 presentation to committee in advance of full Commission. Needs to be added to YAAG.
- Fish Committee: Nothing super specific except for the stuff that's already on the YAAG, so nothing additional was noted.
- Wildlife Committee: Briefing on lead and shooting areas and swan areas. Some updates on lead in California relative to reintroduction of condors. The wolf protocol presentation lead to the request to bring options to the full Commission in October. Commissioner Ragen noted that was a lot like the Big Tent list, and they'll be discussing with staff, and then may go further to Commission discussion.
- Open Public Input (Friday): Explore collaborative coexistence, how to engage in the community, and have productive conversations. The Director will meet with the Sheriff's Coalition to explore collaboration options.
- Director's report: Updated the Commission on outcome of petitions that a decision was rendered on. No additional actions.
- Trapping Rule: Approved with no actions.
- Beaver Relocation Rule: Approved with no actions.
- 4-0 Ranch 2024 Forest Restoration Project: Approved with no actions.
- Legislatively Directed Update of Cooperative Management Agreement: The executive committee will explore options for satisfying the bill 2424.
- C-3604 Coastal Dungeness Crab Policy: Approved for public comment with no additional actions.
- C-3621 Grays Harbor Basin Salmon Management Policy: No actions.
- CWD Update: No actions, except to be kept appraised
- Open Public Input (Saturday): An update on offshore wind energy generally and OLPACO specifically. Deputy Director suggested an initial email with details to Commissioners and then make staff available to answer questions.
- Add the Ruckelshaus Report to the December agenda.
- Decisions for approving items to distribute for public comment to be made at committees. Deep dive on the topic should be happening in the committees that provide recommendation to the full Commission. Condensed version should be presented to full Commission and final decisions remain with the full Commission. (further discussion to happen in the future).
- Meeting Minutes: Shorten and condense. Focus on major talking points and keep timestamps.
- Petition Delegation Decision: Director will brief the Commission on decision(s) rendered. The Commission can choose at any time to pull a petition back from the Director or override a decision he rendered. Executive Assistant will email out the link to where the petitions are located on the webpage once received for Commissioners to review at their leisure.
- Proposed 2025 schedule to be reviewed by executive committee and presented to full Commission in October.
- Commissioner Parker suggested a hatchery tour while in Cle Elum.
- Vice Chair Ragen requested a Commissioner Retreat in early next year, possibly around spring time.

## **13. Executive Session**

This Commission went into executive session at 11:00am and announced that they'd be back by 12:30pm ([Begins at 2:34:21 mark](#))

The Vice Chair came back from the Executive Session and adjourned the meeting at 1:04 pm.

  
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Jamie Caldwell, Executive Assistant

Agenda Item 2 – Open Public Input

<p>In-Person</p> <ol style="list-style-type: none"> <li>1. Senator Short</li> <li>2. Representative Joe Schmick</li> <li>3. Commissioner Wes McCart</li> <li>4. Commissioner Robert Rosencrantz</li> <li>5. Commissioner Brian Smiley</li> <li>6. Sheriff Brad Manke</li> <li>7. Hannah Thompson-Garner</li> <li>8. Elizabeth Carr</li> <li>9. Ronald Reed</li> <li>10. Francisco Santiago-Avila</li> <li>11. Laura Welp</li> <li>12. Andy Schneider</li> <li>13. Linda Carroll</li> <li>14. Dan Wilson</li> <li>15. Dale Magart</li> <li>16. Kim Thorburn</li> <li>17. Josh Caple</li> <li>18. Peter Hapke</li> <li>19. Jerry Anderson</li> <li>20. Rita Kinney</li> <li>21. Mike Petersen</li> <li>22. Claire Davis</li> <li>23. Rysen Soliday</li> <li>24. Steve Dell</li> <li>25. Don Peaker</li> <li>26. Chris Bachman</li> <li>27. Kathleen McKay</li> <li>28. Lon Ottosen</li> <li>29. Cheryl Mitchell</li> <li>30. Daniel Curry</li> <li>31. John Andrews</li> <li>32. Kelly Tansy</li> <li>33. Jesse Skyles</li> </ol>	<p>Zoom – No comments taken due to time constraints</p>
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Agenda Item 9 – Grays Harbor Salmon Management Policy

<p>In-Person</p> <ol style="list-style-type: none"> <li>1. Rep. Joe Schmick</li> <li>2. Francisco Santiago-Ávila</li> </ol>	<p>Zoom</p> <ol style="list-style-type: none"> <li>1. Teri Wright</li> <li>2. Heath Heikkila</li> <li>3. David Moskowitz</li> <li>4. Ann Prezyna</li> <li>5. Martha Hall</li> </ol>
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Agenda Item 11 – Open Public Input

In-Person	Zoom
1. Hannah Thompson-Garner	1. John Rosapepe
2. Lindsey Soffes	2. Susan Kane-Ronning
3. Ronald Reed	3. Stephanie Bell
4. Francisco Santiago-Avila	4. Rachel Bjork
5. Ryan Garrett	5. David Linn
6. Linda Carroll	6. Gabrielle Gilbert
7. Dan Wilson	7. Patricia Arnold
8. Dale Magart	8. Marjorie Millner
9. John Magart	9. Kelsey Ross
10. Claire Davis	10. Windora Bradburn
11. W. Thomas Soeldner	11. Ann Perzyna
12. Don Peaker	12. Brenda Skinner
13. Dan Paul	13. Shari Tarantino
14. Glenn Miller	14. Norris Carlson
15. Kevin Dickey	15. VALERIE YATES
16. Dylan Hendershot	16. Heather Nicholson