



# Oregon Fish and Wildlife Commission Minutes

Meeting: Thursday, June 6, 2013 – 8:00 a.m.  
Embassy Suites Washington Square  
Regency One Room  
9000 SW Washington Square Road  
Tigard, Oregon 97223

Meeting: Friday, June 7, 2013 - 8:00 am  
Embassy Suites Washington Square  
Regency One Room  
9000 SW Washington Square Road  
Tigard, Oregon 97223

1  
2 *Commission minutes are considered draft until approved by the*  
3 *Commission at its next meeting.*  
4

5 Notice of these meetings had been made by press release of statewide media  
6 circulation. Those attending part or all of the meeting included:  
7

Bobby Levy, Chair  
Michael Finley, Vice-Chair  
Bob Webber, Commissioner  
Holly Akenson, Commissioner  
Gregory J. Wolley, Commissioner  
Laura Anderson, Commissioner

Roy Elicker, Director  
Curt Melcher, Deputy Director  
Steve Sanders, Assistant Attorney General  
Teri Kucera, Executive Assistant

## 8 **MEETING**

9 On Thursday, June 6, 2013 at 8:05 a.m., Chair Bobby Levy called the Oregon Fish and  
10 Wildlife Commission (the Commission) meeting to order. She said the Commission  
11 reserves the right to continue a Thursday, June 6, 2013 agenda item to Friday, June 7,  
12 2013, and reserves the right to begin a Friday, June 7, 2013 agenda item on Thursday,  
13 June 6, 2013. Chair Levy said the Commission will go into Executive Session during  
14 their lunch pursuant to ORS 192.660 (2)(h). Immediately following Executive Session  
15 the Commission will ratify the Department's administrative temporary rules no matter  
16 what the order on the agenda.  
17

## 18 **Exhibit A: RESTORATION AND ENHANCEMENT PROJECTS**

19 Josie Thompson, Restoration and Enhancement (R&E) Program Coordinator, presented  
20 the Cycle 1 proposals the R&E Board recommended for funding at their April 26 meeting.  
21 She displayed a map with project locations and highlighted a few of them. Thompson  
22 said the R&E Board recommended funding for eight restoration projects totaling  
23 \$550,133 and 12 enhancement projects totaling \$469,031. The recommendation's total  
24 for the first funding Cycle of the biennium is \$1,556,444 that includes \$537, 280 for  
25 administration costs. If all of the projects are approved by the Commission, 33% of the  
26 funding limitation for 2013-2015 biennium will be allocated and \$3,108,449 will remain.  
27

28 **Public Testimony:** There was no public testimony.  
29

30 *Action: Vice Chair Finley moved to approve the recommendations of the Fish*  
31 *Restoration and Enhancement Board as provided in the Commission's document*  
32 *information. Commissioner Akenson seconded the motion and the motion carried*  
33 *unanimously by a vote of six.*  
34

1 **Exhibit B: 2013 COASTAL FALL CHINOOK AND COHO TERMINAL FISHERIES**  
2 **REGULATIONS**

3 Ed Bowles, Special Assignment to the Director's Office, distributed the **Coastal Multi-**  
4 **Species Conservation and Management Plan, Oregon Department of Fish and**  
5 **Wildlife, Summary – May 2013**, and said this plan deals with harvest, hatchery and  
6 conservation issues. Staff is planning to brief the Commission in October and then  
7 present the administrative rules for their consideration in December.

8  
9 Chris Kern, Ocean Salmon Program Manager, noted several edits to *Attachment 5 –*  
10 *Draft Oregon Administrative Rules.*

11  
12 **Chinook Ocean Terminal and River Sport Fisheries.**

13 Kern said most fisheries reflect permanent rules but the differences are described in  
14 *Revised Attachment 3 – 2012 and Proposed 2013 Chinook Fisheries*. The return is  
15 similar to 2012 and reflects a continued improvement in abundances. Populations met all  
16 management obligations under Pacific Salmon Treaty (PST) and Pacific Fisheries  
17 Management Council (PFMC) in 2012 and are projected to meet them in 2013. During a  
18 slide presentation, Kern discussed long term averages, the 2012 return and this year's  
19 forecast for North Coast (including PST indicators stocks), North Coast, Mid-Coast, and  
20 Southern Coast stocks. Staff will watch Floras Creek and Winchuck since their 2013  
21 numbers are down.

22  
23 Kern discussed 2013 Ocean Terminal Area fishery proposals:

- 24 1. Elk River: include Floras Creek into seasonal aggregate bag limit for Elk and  
25 Sixes River.
- 26 2. Chetco: sport date change; 1 Chinook per day; 5 per season October 1-13; run  
27 first two weeks of season ending on Sunday (October 13).

28  
29 Kern discussed River Fisheries proposals.

- 30 • Northern section: 2 non fin-clipped Chinook per day; 10 per year. The Salmon,  
31 Siletz, and Yaquina are altered from permanent rule.
- 32 • Alsea River and south: permanent rules for daily and seasonal bag limits. Most  
33 places: 2 fish per day; 20 fish season limit. Floras Creek: 1 fish per day; 10 per  
34 season due to low abundance. Elk and Sixes 1fish per day; 10 per season under  
35 permanent rules in effort to focus harvest on hatchery fish.

36  
37 Kern discussed proposed regulation changes to open fishing areas (see Revised  
38 Attachment 3). For Siletz River move the deadline upstream 10 miles to Hee Hee Ilahee  
39 Park based on the improving status of the Siletz. He said this allows more fishing in the  
40 area which the public has requested in the past. In 2012 the deadline was upstream from  
41 Ojalla Bridge to River Mile (RM) 30.

42  
43 **Oregon Coast Coho Inland Fisheries**

44 Mike Gray, District Fish Biologist for Coos, Coquille and Tenmile Fish District, discussed  
45 the history and 2013 proposal for inland fisheries on wild Oregon Coast Coho. He  
46 showed a graph of Oregon Coastal wild coho fishery exploitation rates (1970 to 2012).

1 Another graph showed Oregon coast wild adult coho spawners (1950 to 2012). Gray  
2 said the estimate is 150,000 for this year for streams where fisheries are proposed.

3  
4 Gray discussed Inland Wild Coho Fisheries. In 2007 quotas and creel sampling was  
5 removed from Siltcoos and Tahkenitch Lakes. In other coastal rivers and Tenmile Lakes  
6 these fisheries continued under quotas and creel sampling. Due to low harvest level  
7 rates, Tenmile was managed with a fixed season and daily and seasonal bag limits in  
8 2012 with no quota or creel sampling. Development of wild coho harvest levels is  
9 determined annually by PFMC's Amendment 13 Harvest Matrix which allows 30% in  
10 2013. The combined expected impact rate for the ocean and estuary and freshwater  
11 fisheries is 23.1%. Table 1, page 7, *Attachment 1 – Agenda Item Summary* shows  
12 projected 2013 abundances, quotas, and exploitation rates. Staff included a 3% buffer  
13 putting the estuary freshwater impact rate at 10%.

14  
15 Gray discussed Proposed 2013 Wild Coho Fisheries. Staff structured the fisheries to  
16 remain within exploitation caps and a buffer in the event of higher catch rates. The table  
17 in slide *Proposed 2013 Wild Coho Fisheries* (page 11) was modified (from Table 1) and  
18 includes the *Forecast (preharvest)* column. He said most are open 7 days per week  
19 except for Tillamook, Nestucca, Beaver, and Floras. Six fisheries have quotas and creel  
20 sampling. No quota is proposed for the Coos coho fishery but creel data will be available  
21 through sampling for the Coos fall Chinook monitoring and evaluation project.

22  
23 Gray discussed Proposed Regulations, bag limits, and season dates. He said Open  
24 Areas are the same as 2012 with two exceptions:

- 25 1. Siletz: move deadline 10 miles upstream to Hee Hee Illahee Park to match  
26 proposed Chinook deadline.
- 27 2. Alsea: consistent with permanent Chinook rules put into place in 2013.

28  
29 Gray discussed New Fisheries and bag limits in Beaver Creek and Floras/New River.  
30 The season runs November 1 through November 30:

- 31 • Beaver Creek open Saturdays and Sundays from lower deadline footbridge at  
32 Ona State Park to upper deadline at South Fork confluence.
- 33 • Floras Creek/New River open Fridays, Saturdays, and Sundays. Proposed upper  
34 deadline is county boat ramp at outlet of Floras Lake down to BLM boat ramp.

35  
36 Gray said long term these fisheries provide angling opportunity while allowing for the  
37 conservation and recovery of ESA-listed wild coho. Staff is building a track record of  
38 conservative fisheries with a low harvest impact to allow for coho recovery and habitat  
39 seeding. Conducting creel sampling on every basin is expensive and labor intensive and  
40 not fiscally sustainable with the number of fisheries that staff is proposing. Staff  
41 proposes to move these fisheries towards fixed regulations without annual quotas and  
42 creel sampling where possible, similar to the management in Siltcoos, Tahkenitch, and  
43 Tensile Lakes. Where quotas are not proposed the establishment of seasonal lengths,  
44 open areas, days per week, daily and seasonal bag limits control harvest.

45  
46 Gray said if Commission approves this today, staff will submit a report to NOAA by July 1  
47 with the 2012 Report results and staff's proposal for the upcoming 2013 fisheries.

1  
2

**Public Testimony:**

<p>Aaron Duzik South Beach, OR</p>	<p>Aaron Duzik, Coordinator for Siletz Watershed Council (SWC), discussed why the Siletz deadline change is not needed:</p> <ol style="list-style-type: none"><li>1. ODFW's Coastal Research and Monitoring Program documents that the 5-6 miles above the Ojalla Bridge deadline are some of the most fertile spawning grounds and are more productive in low flowing years. SWC believes these salmon should not be disturbed or angled during this stage in their life cycle.</li><li>2. Local stakeholders and ODFW staff are working on the Coastal Plan, and agreed that the 2012 deadline at Ojalla Bridge should be adopted as the permanent deadline; as expressed in the recent draft he downloaded this morning from ODFW's website.</li></ol> <p>He said since ODFW is trying to get consistent in their regulations he does not see the logic in changing the deadline 10 miles upriver for the 2013 fall season when it is probable it will be switched back to a permanent deadline at Ojalla Bridge in 2014. He asked the Commission to wait for the adoption of the Coastal Plan before making any changes to the 2013 regulations.</p>
<p>Jim Myron Canby, Oregon</p>	<p>Jim Myron, Native Fish Society (NFS), distributed a letter and commented on two issues.</p> <ol style="list-style-type: none"><li>1. NFS opposes moving the deadline from 1,000 feet above Ojalla Bridge to Ilahee Park in the Siletz. They reviewed information submitted to the Commission from Don Larsen. NFS supports Larsen's and SWC's position.</li><li>2. For several years NFS has opposed the direct harvest of wild coho salmon and sees no reason to change their position. There have been increases in wild coho on the coast because ODFW took steps in the recovery plan by eliminating harvest and hatchery influences but a 150,000 projection this year is a long way to recovery.</li></ol> <p>NFS is concerned past mistakes will be repeated if you keep expanding the harvest opportunity without adequate monitoring.</p>
<p>Robert Moxley Newberg, Oregon</p>	<p>Robert Moxley, member of Columbia River Advisory, said a marked selective fishery was held above Tongues Point on September 10-16, 2012. A seven-day marked selective fishery will be held again September 8-14, 2013. He had numbers for an estimated 3,000 to 5,000 angling trips and</p>

	<p>said 753 hatchery Chinook were kept of which 517 native fish kings were killed through release mortality; an estimated 21%. We do not have a study on king released mortality in the fall. He cautioned the Commission about adopting marked selective fisheries and said we are almost killing as many native fish to put on these marked selective fisheries at a low marked rate; this is counter-productive and disrespectful to the resource.</p>
<p>Tom Wolf Hillsboro, Oregon</p>	<p>Tom Wolf, Chair of Oregon Council Trout Unlimited (TU), said overall TU supports the current ODFW management plan with two exceptions:</p> <ol style="list-style-type: none"> <li>1. Reflecting SWC, TU supports keeping the Siletz deadline at the current bridge. It will protect a lot of crucial salmon spawning habitat and also it would not reflect the wishes of the current Coastal Plan.</li> <li>2. Wild coho recovery on the coast is a success story. TU recognizes that guides and the fishing industry have been hit hard and TU understand the need for those businesses there. Wolf said on a cautious level TU supports the harvest of wild coho as long as the Commission does it in a monitored way. If the numbers don't meet up with projections or next year's return is not as great, TU asks the Commission to not harvest coho there next year.</li> </ol>
<p>Bob Spelbrink Siletz, OR</p>	<p>Bob Spelbrink, commercial crab fisherman, licensed guide on the Siletz and Coastal Plan stakeholder, said it was news to him that it was decided in the stakeholder process to move the deadline down to Ojalla Bridge permanently. He supports the staff proposal to move the deadline up to Ilahee Park and believes it meets the goals of a good balance between conservation and fishing opportunity. He discussed the self-regulating nature of the Siletz sport fishery. When the Siletz fall Chinook run is healthy he averages 40-50 trips for fall Chinook. In 2001-2003 the catch rates were high. When the population crashed in 2007, he never ran a fishing guide trip. He said the proposed regulation allows fishing on the popular drift boat run around the town loop and gives a little more access, but it still moves the permanent deadline down 11.5 miles from where it currently is under the permanent regulations at Moonshine Park.</p>
<p>Grant Scheele Albany, OR</p>	<p>Grant Scheele, guide and member of Mid-Coast Multi Species Board, supports moving the Siletz deadline down to Ilahee Park to maintain some opportunity. He said it was news to him that there was agreement in the stakeholder</p>

	<p>group to have Ojalla be the permanent rule and he does not agree. He agrees to be flexible but if it is a cruddy year of fishing to move that back down. He said to make it a permanent rule does not seem necessary. The deadline has been at Moonshine or higher since he was a kid and it hasn't affected the runs; that is not what caused the crash. He agrees with being conservative on the low abundance years.</p>
<p>Don Larsen Toledo, OR</p>	<p>Don Larsen, SWC and sports fishing representative from Mid-Coast Watershed Council, said we need to protect the wild fish run so long term there are good fish runs; they don't want a hatchery run supplementing the wild run. At the last SWC meeting it was unanimous to protect spawning salmon above Ojalla Bridge. Larsen said there are guides that keep fishing on what few fish there are. The area above Ojalla Bridge contains premier spawning habitat. If this area is open to anglers it would target spawning salmon already subjected to heavy harvest. He said the public was not able to weigh in on where the deadline should be this year. There needs to be a balance between sports fishing and the sustainability of the wild Chinook run. He asked the Commission to keep the deadline at 1,000 feet above Ojalla Bridge and then asked two questions:</p> <ol style="list-style-type: none"> <li>1. How does the Siletz deadline compare to other coastal rivers for fair fishing opportunity? Below Ojalla Bridge there are 33-miles of fishable river.</li> <li>2. What is the total harvest impact rate on Siletz Chinook if it stays at the Ojalla deadline? He heard it is about 50% which is on the high side.</li> </ol>

- 1
- 2 Ed Bowles said the Siletz deadline was discussed in the Coastal Plan workshops with
- 3 the mid-coast stakeholder team but not resolved. What is in front of the Commission
- 4 today is for 2013 only and is also the placeholder in the stakeholder draft of the Coastal
- 5 Plan sent out this morning. Staff will begin the public process and take up the long term
- 6 issue at the Commission's December meeting. The Commission will deal with changing
- 7 bag limits and moderating impacts when runs are low. He said we are well above our
- 8 escapement goals for the Siletz.
- 9
- 10 Bob Buckman, District Fish Biologist, referred to slide *Siletz Basin fall Chinook spawner*
- 11 *estimates* and said it shows the goal for the Siletz and the abundance trend staff has
- 12 seen. Due to a few real problem years, 2007 in particular, staff has been reacting ever
- 13 since and making progress. This year we have the best forecast since that downturn.
- 14 Using a slide map, he noted the deadline at Moonshine Park and its location in previous
- 15 years. He discussed how many miles are open to Chinook harvest.
- 16

1 Commissioner Akenson asked if ODFW had done any research on the effects of fishing  
2 on spawning ground and how that impacts the success of spawning. Buckman was not  
3 aware of any specific research. He said we assume if they are trying to spawn and the  
4 public is fishing on them, then that is harassment and it will disrupt the activity and is  
5 detrimental. Staff relies on angler knowledge and ethics and the fact that they are  
6 knowledgeable that these spawning fish should not be fished on.

7  
8 Commissioner Akenson asked if there is information on the website; how that education  
9 is portrayed to new fishermen or people who don't know those ethics. Buckman said in  
10 downstream areas of the Siletz staff places large informational signage. Staff also  
11 communicated through the creel surveyor. With this staff recommendation is the intent  
12 to highlight that there is known and expected spawning; it is ODFW's expectation that if  
13 you're going to keep this open that you avoid those areas.

14  
15 Commissioner Webber said spawning areas and fishing areas are different. Does just  
16 drifting by disrupt their spawning? Bowles said staff will discuss with ODFW's  
17 Information & Education Division how to enhance education opportunities on the website  
18 and through signage. The Oregon Marine Board regulates boating; not the Commission.

19  
20 Commissioner Anderson referred to slide "*Siletz Basin fall chinook spawner estimates*  
21 *based on spawner survey-habitat expansion methodology*". She sees an uptrend since  
22 2006-2007 which indicates something is working and protecting some of this mainstem  
23 spawning area. With the PST goal and this being one of three indicator river systems for  
24 setting salmon seasons is there an impetus to be more conservative in the Siletz than  
25 other streams because it is an important indicator and feeds other processes? Is it just a  
26 matter of exceeding that threshold and you hit a level or does it scale up and down with  
27 actual counts?

28  
29 Kern said under the PST the conservation requirements that are written into PST in  
30 terms of required action for parties of the PST kick in at the threshold. As long as you  
31 are over that threshold, the PST itself does not say that there is an action required for  
32 Oregon. We want to manage the fish to be productive regardless of whether it's a treaty  
33 requirement. He said there are two separate distinctions: 1) regulatory requirements  
34 under PST agreement; and 2) what we would do in addition to that to maintain  
35 productive stocks. Kern said another impact to PST is the way the abundance number  
36 itself plays into the PST, not just whether it is above or below the goal. The aggregation  
37 of stocks for the North Oregon Coast go into the PST calculations to derive fishing limits  
38 for aggregate abundance based managed fisheries in Canada and Alaska. Part of the  
39 consideration is what the abundances on aggregate stocks are doing. As the Siletz  
40 contributes to an aggregate of several populations, if they are all up and a number of  
41 other stocks are up, including ones not in Oregon, harvest limits for those northern  
42 fisheries would go up. Kern said conversely, when they are down those go down.

43  
44 *Action: Commissioner Anderson move to adopt the 2013 Regulations for fall*  
45 *Chinook in ocean terminal and inland fisheries and for coho in inland fisheries as*  
46 *proposed by staff in Attachment 5 with the amendment that the deadline for the*

1            *Siletz River remain at River Mile 31 which is approximately 1,200 feet upstream*  
2            *from the Ojalla Bridge. Vice-Chair Finley seconded the motion.*

3  
4 Legal Counsel Steve Sanders asked if the motion referenced *Revised Attachment 5*  
5 submitted by staff today.

6  
7            *Commissioner Anderson clarified in reference to Revised Attachment 5 received*  
8            *today. Vice-Chair Finley seconded the motion, and the motion passed by a vote of*  
9            *five. Commissioner Webber voted nay.*

10  
11 **Exhibit C:            COLUMBIA RIVER FISHERIES MANAGEMENT: 2013 AND BEYOND**

12 Ed Bowles, Special Assignment to the Director's Office, said there were three  
13 components before the Commission today:

- 14        1. Consider updated Fiscal Impact Statement (FIS) information.
- 15        2. Revisit framework and rules adopted by the Commission December 7, 2012.
- 16        3. Provide additional opportunity for public input.

17  
18 During a slide presentation, Bowles provided background starting with Governor John A.  
19 Kitzhaber's, MD, (the Governor) letter dated August 9, 2012 giving direction to the  
20 Commission and Director Elicker to initiate rule-making. The Commission adopted rules  
21 at their December 2012 meeting. He said the Washington Department of Fish and  
22 Wildlife (WDFW) adopted a complementary policy in January 2013.

23  
24 Bowles said ODFW received litigation in January. A suit was filed on behalf of the  
25 commercial interests in the Court of Appeals that contested the rules and requested a  
26 stay for enforcement of those rules. The stay was granted in February and the case was  
27 abated pending revisiting the rules; the case is abated through mid-month. Bowles said  
28 the stay prohibits the enforcement of the rules pending judicial review; it did not remand  
29 or remove those rules. ODFW issued a new Notice of Proposed Rulemaking and new  
30 Fiscal Impact Statement (FIS) mid-March and planned on a hearing at the Commission's  
31 May 10 meeting. At the litigant's request, the agenda item was pulled from that meeting  
32 and delayed another three weeks for additional time for public comment, which is why  
33 the Commission is here today.

34  
35 Bowles discussed *Interim Management Actions* by staff with the stay in place:

- 36        • Implementation began this spring.
- 37        • Allocation and production shifts (Division 500) are constrained by the stay.
  - 38            ➤ Allocations: Oregon entered Columbia River Compact (Compact)
  - 39            negotiations with WDFW advocating the prior year's allocation.
  - 40            ➤ Production: staff was able to implement most releases scheduled for 2013
  - 41            after coordinating with the Court.
- 42        • Barbless hook and sturgeon rules were implemented; not part of Division 500.
- 43        • Working with WDFW to consider a full-fleet tangle net fishery for hatchery coho
- 44        this fall to reduce strays on spawning grounds in the Lower Columbia River (LCR)
- 45        tributaries and to provide important commercial economic benefits.
- 46        • Alternative gear research continues.



1 Bowles said successful implementation of the full package includes four legislative  
2 elements. He discussed the status of Senate Bill (SB) 830 and House Bill (HB) 5013:

- 3 1. SB 830 repeals current commercial fixed gear and seine constraints. Would allow  
4 the Commission to contemplate other gear types on CR.
- 5 2. SB 830 creates Transition Fund; financial support for commercial fishers to aid  
6 gear switching and mitigate economic harm from allocation shifts if it occurs.
- 7 3. SB 830 creates Enhancement Fund to implement rules. Fund designed on  
8 assumed fee (\$9.50) to sport fishers in CR basin and tributaries for salmon,  
9 steelhead, and sturgeon; approximately \$1.7 million for the biennium.
- 10 4. HB 5013 - approve agency budget. Includes base program and policy option  
11 package 114 (POP) for alternative gear research. POP 125 for off-channel  
12 enhancement includes \$2 million General Fund and \$1.6 million Lottery-backed  
13 bonds for additional research and expanding off-channel areas. POP 125 was  
14 pulled out of HB 5013 by the Ways & Means Natural Resources Subcommittee.  
15 HB 5013 is scheduled today in Joint Ways & Means Committee.

16  
17 **Issue 1. Determine whether the FIS in combination with other information is**  
18 **adequate. Determine whether to readopt rules for non-Tribal CR recreational and**  
19 **commercial fisheries management framework for 2013 and beyond, including the**  
20 **use of adaptive management principles (AMP).**

21  
22 Fiscal Impact Statement was filed mid-March and updated from December 2012:

- 23 • Includes number and type of small businesses affected.
- 24 • Slight increase in value added to the modeled commercial baseline.
- 25 • Slight decrease in off-channel coho harvest after 2015.
- 26 • Slight reduction in value of off-channel coho fishery.
- 27 • Result: reduced overall ex-vessel value for commercial fishery during transition  
28 but still positive value in each year of transition period. Bowles said the analysis  
29 showed no negative effect each year based on ex-vessel value.

30  
31 Bowles discussed additional fiscal information since March 15, 2013 filing of FIS:

- 32 • Commercial tule fall Chinook (Chf) harvest was underestimated in FIS during first  
33 three years of transition. There were additional tule impacts (ESA) that were  
34 available to the commercial fisheries that were not allocated in initial assessment.
- 35 • Results in slight increase in commercial value during transition.
- 36 • Overall result: FIS plus additional information indicate a positive ex-vessel each  
37 year relative to baseline. Bowles referred to the Joint Washington and Oregon  
38 Work Group (Work Group) recommendations that set a working policy guidance of  
39 no more than 0-5% negative impact to ex-vessel value during transition and  
40 positive value long term (relative to baseline). He said this new information is very  
41 consistent with that direction.

42  
43 Fiscal Impact Advisory Committee (FIAC). Bowles said Director Elicker appointed the  
44 FIAC made up of two commercial representatives; two sport representatives; and three  
45 agency employees informed on this issue relative to fiscal information: budget manager  
46 Cameron Smith, Acting Deputy Director Nick Myatt, and Tony Nigro, Ocean Salmon and

1 Columbia River Program Manager. FIAC met April 3 and May 14 and made the following  
2 recommendations:

- 3 • Rules do have an economic effect.
- 4 • Effects described were adequate to inform those potentially affected and alert  
5 them to provide public comment now to inform Commission decisions.
- 6 • FIS in conjunction with other information provided to the Commission is adequate  
7 to understand the likely fiscal impacts and inform rulemaking.

8  
9 Rules and Framework. Staff recommends no changes from December 2012. Most  
10 information today is similar to December 2012. New information to inform rulemaking:

- 11 • Updated FIS and other fiscal information just discussed.
- 12 • WDFW adopted their policy in January 2013 complementary to the Commission's  
13 adoption in December 2012.
- 14 • Initial implementation is proceeding except for allocation shifts.
- 15 • Clarification provided that lined out the rules four objectives in the staff's report  
16 and clarified the AMP approach at request of the litigant's counsel:
  - 17 1) Maintain or enhance the overall economic viability of commercial and  
18 recreational fisheries;
  - 19 2) Optimize overall economic benefits to the State;
  - 20 3) Provide conservation of native fish; and
  - 21 4) Promote orderly and concurrent fisheries with Washington.

22  
23 Bowles presented the Overarching Elements of the Guiding Principles and Approach  
24 (see page 6 of slide handout) and gave a detailed overview of the following:  
25

26 **Transition (2013 – 2016+):**

- 27 • Allocations, no change from December:
  - 28 ➤ 65:35 in 2013, then 70:30 sport/commercial for spring Chinook.
  - 29 ➤ 70:30 for sockeye.
  - 30 ➤ 60:40 initially (2013-2014) for summer Chinook; then 70:30
  - 31 ➤ ≤70:30 for tule fall Chinook and upriver Brights (URB).
  - 32 ➤ No substantive change for coho.
- 33 • Off-Channel Enhancements: 2013+. Bowles said despite the stay, staff was able  
34 to get the majority of the fish released and still has the Select Area Bright (SAB)  
35 fall Chinook fish to release next month.
  - 36 ➤ 1 million spring Chinook (750k OR, 250k WA); 83% increase.
  - 37 ➤ 920,000 coho (720k OR, 200k WA); 24% increase.
  - 38 ➤ 500,000 SAB bright fall Chinook (OR); 33% increase.
- 39 • Reasonable fall Chinook sport fishery objective. No change from December:
- 40 • Commercial characteristics. No change from December. Bowles said during the  
41 transition this maintains mainstem opportunity in the spring, summer, and fall.  
42 Tangle nets and gillnets are allowed in the mainstem; plus alternative gear if  
43 approved. A full fishery in Oregon requires statutory change in the Oregon  
44 Legislature for those alternative gears for an actual economic fishery.  
45

1 Bowles discussed outcomes relative to two primary metrics that the Work Group  
2 embraced for determining the economics (see page 7, PowerPoint handout):

- 3 • Angler trips. Recreational fishery impacts estimated 13% (45,000 angler trips)  
4 increase.
- 5 • Ex-vessel value. Commercial fishery is 6% to 9% increase over transition (\$214k  
6 to \$718k). In December the estimate was 0.5% to 20%; \$18,000 to \$760,000.  
7 Assessment includes “pilot” seine fishery for hatchery tules and coho, and full  
8 harvest expectations for available Upriver Bright fall Chinook.

9  
10 **Long Term (2017+):**

11 Bowles said the Allocations, Off-channel Enhancements, “Reasonable” fall Chinook  
12 sport fishery objectives and Commercial characteristics were the same as December  
13 (see page 8, slide handout).

- 14 • Recreational Fishery Impacts: 22% expected increase: 75,000 angler trips.
- 15 • Commercial Fishery Impacts: 5% to 12% increase for ex-vessel value. Fairly  
16 similar to December which was a 6% to 14% increase. Characteristics include:  
17 alternative gear harvest of hatchery tules, coho, and upriver bright fall Chinook in  
18 mainstem; full harvest of available upriver bright fall Chinook; and increased  
19 gillnet harvest of off-channel salmon. Does not include cost of new alternative  
20 gear. Bowles said at the end of the transition period the Commission will be  
21 required to do new rulemaking based on research and results of that research on  
22 alternative gears for full fleet fisheries.

23  
24 **Sturgeon (2013+):**

25 Bowles said if harvest is allowed there is a 10% additional conservation buffer set aside  
26 from the harvestable surplus. The remaining harvestable surplus is allocated at the  
27 current 80:20 sport/commercial. This does not effect the catch and release fishery and is  
28 what the Commission adopted in December 2012.

29  
30 **Conservation Impacts.** Bowles highlighted the impacts:

- 31 • Provides overall conservation benefit; affirmed by Hatchery Science Review  
32 Group (information provided in December 2012).
- 33 • Small escapement increase for some wild runs (e.g., spring Chinook, coho).
- 34 • Increased harvest rate on hatchery salmon:
  - 35 ➤ Selective mainstem gears allow leverage of more hatchery fish for a given  
36 wild fishery impact because of selective handling and release of wild fish.
  - 37 ➤ Production shifted from hatcheries in tributaries below Bonneville to off-  
38 channel areas is over 30 times more likely to be commercially harvested.
- 39 • Reduced hatchery fish on spawning grounds, particularly tules, coho and spring  
40 Chinook (LCR tributaries, Sandy, Willamette).
- 41 • Increased protection for white sturgeon with 10% set aside buffer.
- 42 • Monitoring and adaptive management important. Using metrics related to the  
43 spawning ground surveys and proportion of hatchery fish on spawning grounds.

44  
45 **Adaptive Management.** Bowles discussed provisions in OR and WA Commission rules.

- Commissions track implementation and results with an initial review in 2014. Comprehensive review at the end of transition.
- If initial assumptions prove wrong, the Department helps determine causes and recommends adjustments for the Commission's consideration to correct the course and stay on track. He cited examples that could trigger adaptive management (see page 10, slide handout).

**Issue 2 – Sturgeon. Determine whether to readopt rules prohibiting the retention of white sturgeon in the Columbia River downstream from Bonneville Dam, lower Willamette and in Oregon coastal waters beginning in 2014.**

Bowles said the Commission approved this in December. It is the additional conservation piece beyond the 10% set aside if harvest occurs. There was concern from OR and WA Commissions about the health of the sturgeon population and recent declines. Both Commissions adopted no-retention fisheries beginning in 2014 until the status improves with the expectation this would be revisited after there are indications of an upturn. He said no action by the Commission would continue these rules.

**Issue 3: Barbless Hooks. Determine whether to readopt rules requiring barbless hooks when angling for salmon, steelhead or trout in the mainstem CR, selected tributaries and off-channel areas.**

Bowles said the Work Group recommended a more comprehensive package for all CR mainstem and tributary salmon and steelhead fisheries. In December, the Commission adopted barbless hooks for salmon, steelhead and trout sport fisheries in the CR mainstem, off-channel areas, lower Clackamas and lower Willamette below the falls beginning in 2013. He said this was implemented in January 2013 so the summer and spring fisheries have been under that rule.

**Public Testimony:**

<p>Rod Moore Portland, Oregon</p>	<p>Rod Moore, Executive Director of West Coast Seafood Processors Association (WCSPA), said the passage of SB 830 is critical for this management program to go into effect and the Legislature's acceptance of the Governor's package on off-channel enhancement. Those are part of a safety net constructed to mitigate the economic effects of moving the commercial fishery to the off-channel areas and neither has been adopted by the Legislature. Without those you don't have the safety net. Moore urged the Commission to stay further action on implementation of the new management program until all of the elements are in place.</p>
<p>Jim Myron Canby, Oregon</p>	<p>Jim Myron, Native Fish Society (NFS), said they are not convinced that the proposed package will actually work. He spoke to conservation issues:</p> <ul style="list-style-type: none"> <li>• NFS does not think the idea that if you increase the harvest rate on hatchery fish you will have a higher impact on wild fish has been carefully analyzed.</li> <li>• The transfer of hatchery fish from upstream locations to</li> </ul>

	<p>downstream makes sense and will benefit streams like the Mckenzie and Sandy. But what kind of increased impact are you making for the wild runs in the lower river? NFS does not think that has been carefully analyzed.</p> <ul style="list-style-type: none"> <li>• He referred to Mr. Moore's comments and said you cannot do this without the funding. Maybe there is validity in waiting to see what the Legislature does. Myron has spoken with legislators to wait and see how the litigation plays out before any funding should take place.</li> <li>• NFS sees barbless hooks as the biggest conservation benefit in the proposed plan.</li> </ul>
<p>Bill Bakke N/A</p>	<p>Bill Bakke said at one time ODFW used barbless hooks as a regulation. After 2009 it became an advisory rule. His prime concern is most of the information he looked at deals with adult salmon and steelhead; a lot is related to trout. He said some of the research was not incorporated in the ODFW literature review in 2008. The impact of barbless hooks and barbed hooks on juvenile salmon and steelhead, considering that most of these populations in the CR basin are threatened with extinction, it seems appropriate to provide a barbless hook rule. He is grateful to the Commission for moving in that direction and he encouraged them to look at what Washington has done who expanded this to the upper CR and tributaries. He hopes Oregon will follow suit and take barbless hooks into that direction and apply it to the tributaries to achieve more juvenile salmonid protection.</p>

1  
2 Vice Chair Finley said the Commission supports the safety net as described in SB 830.  
3 He asked Rod Moore if he or his commercial allies lobbied on behalf of that safety net in  
4 the Capitol or has he lobbied against it. Moore said WCSPA has not been involved with  
5 the Legislature this year. There are other issues that affect their association members  
6 that are broad ranging; there is only him.  
7

<p>Tom Wolf Hillsboro, OR</p>	<p>Tom Wolf, Chair of Oregon Council Trout Unlimited (TU), said they support the staff's recommendations.</p> <ul style="list-style-type: none"> <li>• TU has been lobbying hard to pass SB 830 and other parts of the ODFW budget to support this.</li> <li>• TU supports NFS on barbless hooks. Wolf has read many studies; what is left out is that barbless hooks allows you to remove those fish easier, especially for new and less skilled newcomers to fishing. Barbless hooks are the true way of conservation. TU asks the Commission to look at expanding it to other parts of the</li> </ul>
-----------------------------------	--

	<p>CR and someday to the whole state.</p> <ul style="list-style-type: none"> <li>• Wolf asked the Commission to stay the course and continue with decisions they have made.</li> </ul>
<p>Robert Moxley Newberg, OR</p>	<p>Robert Moxley, member of Columbia River Advisory, spoke to three issues:</p> <ol style="list-style-type: none"> <li>1. His earlier testimony on marked selective fishery (during Exhibit B) was intended for this exhibit. We killed as many fish through released mortalities as we did retention because of the low marked rate.</li> <li>2. He is against barbless hooks. Some studies have shown it makes no difference whether the hook has a barb; it's where it is placed in the fish's mouth. Hook vendors are coming out with new hooks and the amount of hook going into the fish's mouth is huge. A lot of people are now using three hooks instead of two and there is more damage done to the fish. He agrees fish come off easier with barbless hooks but the same goes for when you are fighting them. If you keep fishing you are impacting more fish.</li> </ol>
<p>Bruce Hansen Portland, OR</p>	<p>Bruce Hansen lives on Sauvie Island and has been a sports fisherman for 60 years. He sent an email to the Commission on Tuesday evening. He is against the barbless hook, especially for spring salmon fishing. He said Mr. Bakke wanted to do away with the immortality of immature fish, but he thinks we should start with the cormorants and the terns at the coast. Last year he counted 268 cormorants from Rocky Point in the slough up to the Sauvie Island Bridge. He and his family depend on spring salmon for their needs and are not getting it with the barbless hook. He asked the Commission to please give us our fish back and not sell them to the highest bidder.</p>
<p>Henry Willener Portland, OR</p>	<p>Henry Willener lives on Sauvie Island. He said there was a crisis to take the nets off the CR. The Commission got suckered into the barbless hook. He doesn't believe there is a conservation issue especially as it applies to adult fish. He said the Willamette run is in desperate straits and the Commission wants to take the hatchery fish off the Willamette and move them to the estuaries. The Willamette is supposed to have 100,000 fish return to it, right now it is 16,000. If you take the hatchery fish what will you have left for people to fish? Willener said creel checkers took advantage of what they saw; 90% of those fish were eight to ten pounds. When he moved to Sauvie Island an average fish was 20-pounds. How will you get that run re-established</p>

	<p>when you breed fish because you put nets on the brooding stock in February and March until you created a run of fish? He said 10 years ago he wrote a letter to the Commission that this would happen and it did. You have a run of runts and you're going to have to get new brood stock because you can't get runts to reproduce big fish.</p>
<p>Dean Graham Castle Rock, WA</p>	<p>Dean Graham, independent business owner, spoke against the 2013 and beyond fishing because:</p> <ul style="list-style-type: none"> <li>• There is no science involved in the management of this fishery. They have these formulas and no numbers that plug in. The hatchery people cannot predict hatchery fish and they know what they are planning. How do they know what is natural?</li> <li>• The clipped and non-clipped issue is not accurate. He wants to be allowed to use his regular gillnets and have them scientifically DNA'd or some way honor the catch so we know what the components of the runs are there.</li> <li>• Lewis River fishing only in the fall is wrong. It has been many years and we haven't rye fished the lower rivers; the tules and silvers are not coming back. It is the environment, but people do not understand that. These closures have not shown anything.</li> <li>• With these new rules he has yet to hear anybody say when these fish will recover or if they will recover. We have tried this experiment before with summer runs and it did not work.</li> <li>• The Governor and CCA do not want to buck the system, environmentalists, ESA, Bonneville Power or other government entities when it comes to habitat restoration. Why increase hatchery production to just take it away from the public and give it to the guides?</li> <li>• Stockpiling these fish for spawn banking has not worked. He estimates that this fall we will probably under harvest by 200,000.</li> </ul>
<p>Blaine Ackley Hillsboro, Oregon</p>	<p>Blaine Ackley, a licensed sports fisherman and member of Coastal Conservation Association (CCA), distributed written testimony and made the following points:</p> <ul style="list-style-type: none"> <li>• The Commission's action to remove gillnets from the CR will help endangered wild fish species to recover.</li> <li>• OR and WA are working together to protect endangered salmon and steelhead species.</li> <li>• If funds in the Governor's budget are passed, research on alternative fishing techniques can begin this summer. He urged the Commission to influence their legislators</li> </ul>

	<p>as he has to pass this legislation.</p> <ul style="list-style-type: none"> <li>• Besides saving fish these new rules will generate millions of dollars of new revenue for businesses that rely on a strong and continued strong salmon and steelhead fishery.</li> <li>• He urged the Commission to move forward with the new rules to insure abundant salmon and steelhead stocks for our children and grandchildren to enjoy.</li> <li>• Barbless hooks. He said it doesn't matter if you have a barbless or barbed hook. If the fish swallows the hook so deeply in its mouth it is still hard to get out without harming the fish. He asked the Commission to consider the effect of the new hooks coming online to circumvent the barbless hook rule.</li> </ul>
--	--

1  
2 Vice Chair Finley asked Willener whether he saw any value to differentiating barbless  
3 hooks by hook size. Willener did not have a lot of experience with it but he does not  
4 think it would make a difference because they come out so easily unless they are deep  
5 hooked. He said that almost never happens. If it does he doesn't bother trying to take it  
6 out, he snips the leader and the fish will handle the hook on its own; they rust out in a  
7 few days. He challenged the Commission to do a report on the Willamette River run  
8 because it is almost gone.  
9

<p>John Abele  West Linn, OR</p>	<p>John Abele said his family history in the Willamette Valley goes back 200 years. He said we have a problem with our spring Chinook in the lower Willamette River. He doesn't think the attention that needs to be paid is being paid to it. He agrees with Bruce Hansen about the numbers of fish and the barbless hook impact. He agrees with Willener on the problems of trying to keep a reasonable gene pool when, in fact, it is deteriorating rapidly. The fish being put in from the hatcheries are now roughly the size of what they were 20 years ago. He said we no longer measure runs in terms of poundage, but now do so by numbers of fish.</p>
<p>Thomas Dulcich  Portland, OR</p>	<p>Tom Dulcich grew up in Astoria. His opportunities for higher education were washing dishes in a commercial fish plant and pulling nets on the CR. He is concerned if the Commission adopts this rule the opportunities to finance higher education by providing fish to the consumer will be seriously impaired. His concern is for the next generation. He spoke but to the effect of the precise rule language.</p> <ul style="list-style-type: none"> <li>• Allocation shifts in the rule for adoption. Right now other than a spring Chinook, 65:35, your harvest regime is based upon an allocation of 50:50 in most of the runs. Day one you adopt this rule the shift goes from about</li> </ul>



	<p>50:50 to 70:30; the transition period. After the transition period, it's 80:20.</p> <ul style="list-style-type: none"> <li>• Regarding 70:30 and the impact upon availability to Oregon consumers of Oregon fish, if you go to 70:30 from 50:50, if the consumer's share is 50% and you move that to 30% that is a 40% reduction. What did the Oregon consumers do to deserve a reduction of 40% in their availability of surplus (you only harvest the surplus) relatively healthy fish.</li> </ul> <p>Dulcich said we know that there will be no replacement fish for two to four years because if you release additional fish in the SA today they will not come back as adults to be harvested for two to four years. He said to protect the consumers the allocation shift should not occur until the adult fish come back to be harvested.</p>
<p>Bruce Buckmaster Astoria, OR</p>	<p>Bruce Buckmaster, Salmon for All (SFA), distributed written testimony and said he is disturbed by the direction and speed in which these rules are moving. The policy before the Commission now deviates from a precautionary principle used in the past. The principle states if an action or policy has a suspected risk of causing harm to the public or the environment in the absence of scientific consensus that the action or policy is harmful, the burden of proof that it is not harmful falls on those proposing the action. The principle demands that there is social responsibility to protect the public from exposure to harm.</p> <ul style="list-style-type: none"> <li>• The Tribes in the lower river communities have provided evidence that great harm will come if these rules are adopted as is.</li> <li>• Repeated use of "win-win" by proponents of the policy may have led the Commission to believe that all parties are willing to move forward. In making a decision the Commission should strive for informed consent. What is consistent in research and medical ethics is lacking in the configuration of this policy.</li> <li>• Today finds no funding from the State for expansion of the SA; no federal approval for use of seines; no change in BPA's decision to end current funding of the SA; and salmon returns to SA is falling far short of the financial projections put forward by the plan's authors.</li> </ul> <p>Buckmaster said now is not the time to abandon the precautionary principle under the pressure of political or social whim. He speaks for the lower river community in offering their participation in crafting a policy in which they can give their informed consent. They request that the Commission table any action until the agency delivers a</p>

	policy that meets your individual and institutional principles.
--	---

1  
2 Vice Chair Finley asked Dulcich how a shift from 50:50 to 70:30 is a 40% reduction.  
3 Dulcich responded that 50% is his whole share; that is his 100%. He said if you take  
4 20% of his 50% that is 40%. He said when you go to 80:20 that is a 60% reduction for  
5 the consumer. He does not know the numbers but it is tens of thousands of fish that the  
6 consumer won't have and millions of dollars to the local communities that are rural.

7  
8 Vice Chair Finley asked whether Buckmaster had been working in support of the  
9 legislative safety net at the Capitol or against it in his lobbying. Buckmaster said he  
10 testified against SB 830 for the same reasons he testified against this action. If it were  
11 merely to fund additional production it would be fine, but as part of a package that  
12 violates the precautionary principle he morally cannot defend SB 830 as it stands.

13  
14 Commissioner Anderson said Buckmaster was part of FIAC who was tasked with  
15 answering three questions (see Attachment 8 – Minutes from April 9, 2012 Meeting of  
16 FIAC). She said he and another were the dissenting opinion on question two (see page  
17 9) that asks whether the FIS would notify people that their economic interests would be  
18 affected. She understands from reading his testimony that it is inadequate to tell them  
19 necessarily how they would be affected but, in fact, it would tell them that they would be  
20 affected. It does not tell them necessarily how in your opinion. She said is this something  
21 you struggled with as a member of the committee?

22  
23 Buckmaster said he did not struggle with it; he was vehemently opposed to it. If the vote  
24 had been on Items 2 and 3 with just the public and no staff they would not have passed.  
25 He and Hobe Kytr voted no. They did not feel people were adequately informed or that it  
26 clearly identified the dollars at stake. There were errors in looking at the entire fleet as  
27 opposed to looking at individual fishermen. The questions as posed were simply a yes or  
28 no. We hoped to make changes but were informed those changes would not be allowed  
29 under the format of that FIAC.

30

Ben Miller Eugene, OR	Ben Miller, Attorney for Harrang Long Gary Rudnick, P.C., represents petitioners Steve Fick, Jim Wells and Fishhawk Fisheries, Inc., in a rule challenge to the rules the Commission passed last December. Miller said a number of people agreed to cede their time to him: Russell Fowler, Tom Bond, Duffy Duncan, Brian Stanley, and James Long.
--------------------------	--

31  
32 NOTE: The following minutes are the public testimony by Ben Miller. It is not put in a  
33 box and each line is numbered for reference, but it is all part of public testimony.

34  
35 Ben Miller said during the staff presentation the reasons the rules were stayed was not  
36 covered. When he filed the stay he made two different showings:

- 37 1. There was a substantial likelihood that his clients were going to be irreparably  
38 harmed by the rules.

1 2. There was a substantial likelihood that he was correct and that he would prevail.

2  
3 Miller referred to the rulemaking notice and encouraged the Commission to repeal the  
4 rules and appoint a rulemaking advisory committee to further refine the process and the  
5 substance of the rules. He explained procedural and substantive problems with the rules:

- 6 1. Process to adopt these rules is flawed; specifically, the manner in which the FIAC  
7 was composed and the questions presented to them.
- 8 2. Under current law the Department lacks authority under either state law or under  
9 incidental take provisions of the federal Endangered Species Act (ESA) to  
10 implement certain selective fisheries. He said your economic model and analysis  
11 assume that you will implement those fisheries beginning as early as this fall.
- 12 3. Department's rules are inconsistent with current recovery plans for the Lower  
13 Columbia River (LCR) for salmon and steelhead.
- 14 4. The allocations, whether the 70:30 or 80:20, are inequitable.
- 15 5. Because a hard look at the economic impact of these rules shows that there will  
16 be a significant adverse impact on small businesses, ORS 183.540 requires the  
17 Department modify the rules in some manner.

18  
19 Miller asked the Commission to vote to repeal the rules and revisit this matter after  
20 further deliberation and consideration with the affected groups. He discussed three  
21 issues to be put into the record.

22  
23 1. Explanation of how the process has been flawed in this rulemaking.

24  
25 He said the Department elected to appoint a FIAC that operates under: ORS 183.333(1)  
26 and Oregon Administrative Rule (OAR) 137-001-0087(3) that allow an agency to appoint  
27 a FIAC but require that the committee's members represent the interests of persons  
28 likely to be affected by the rule, which didn't happen in this case. In this case, the  
29 agency appointed three staff members as voting members rather than ex-officio to  
30 FIAC. Rather than having a two-two tie, the agency personnel, some of whom have been  
31 involved in development of these rules and may not be the most impartial, voted to  
32 recommend that these rules were adequate and that the FIS they had contributed to and  
33 had written was adequate. He said you didn't have objective personnel looking at this.

34  
35 Miller encouraged the Commission to ask the Director to appoint members of the public,  
36 the Tribes, and lower Columbia communities; other people who are likely to be affected  
37 but are not staff.

38  
39 Miller said "What the Committee was asked to consider". When a FIAC is appointed to  
40 review a rule it has three tasks it asks input on:

- 41 1. What the extent of the fiscal impact will be.
- 42 2. Whether the rules will have a significant adverse impact on small business.
- 43 3. If so, recommendations on compliance with ORS 183.540, which requires  
44 modifications to help small businesses.

45 Miller said those were not the questions presented to the FIAC. The FIAC was asked:

- 46 1. Whether the rules have a fiscal effect.

- 1 2. Whether the FIS is “adequate” to: (a) notify people that there is an effect; and (b)  
2 whether the Commission could be generally apprised of what the impact is going  
3 to be.

4 Miller said those are not the same questions the statute requires the committee to  
5 consider. As a result, the format by which the committee evaluated the FIS is flawed.  
6 The Commission is receiving flawed analysis from the work group.

- 7  
8 2. The Department lacks authority under federal or state law to implement some of  
9 these selective fisheries.

10  
11 Miller said Bowles said as much that in terms of seines those would have to be  
12 authorized at some further rulemaking. ORS 509.216(1) bars the use of seines and is  
13 currently under discussion in the Senate Bill as to whether that will or won't remain.  
14 Absent anything the Legislature does the federal ESA as take prohibitions on listed  
15 species. He said there is an incidental take that covers commercial and recreational  
16 fisheries in the Columbia River and a biological opinion that covers that harvest as part  
17 of the *2008-2017 U.S. vs. Oregon Management Agreement*. However that incidental  
18 take statement only covers certain types of fisheries: hook and line, gillnet, drift net, and  
19 set hoop nets. It has never considered and does not cover the use of a seine. He said  
20 that is important because seines with their heavy lead line disturb the bottom, much of  
21 which is designated as critical habitat. The use of a seine fishery even if allowed by state  
22 law at some point in the future does not have federal approval. He questioned whether it  
23 could receive federal approval given its impact to critical habitat for listed species.

24  
25 Miller said if a seine fishery is implemented it will result in prohibited take and you are  
26 likely to see further litigation or a lawsuit from some group. He said the Department has  
27 not done its due diligence in this point to acquire the necessary authority to implement  
28 these alternative fisheries.

- 29  
30 3. The Department rule changes are inconsistent with its already adopted recovery  
31 plans.

32  
33 Miller said Commissioner Webber and Chair Levy were on the Commission in 2010  
34 when the Department passed the *Lower Columbia River Conservation and Recovery*  
35 *Plan for Oregon Populations of Salmon and Steelhead* (the Plan) adopted as OAR 635-  
36 500-6575. The Plan serves as a federal recovery plan for Oregon fish populations and a  
37 State of Oregon conservation plan, and is designed to address limiting factors and  
38 threats for independent and mixed populations within the LCR. He said as part of that  
39 multi-year process, your staff presented and the Commission approved three hundred  
40 and eight (308) action items that they would take to recover fish in the LCR; salmon and  
41 steelhead stocks and protect them. Miller said removing gillnets from the mainstem of  
42 the CR was not one of those 308 action items. Neither was having an allocation shift  
43 between sport and commercial fisheries. He said it was not part of your Plan or your rule  
44 and not necessary for conservation.

45  
46 He said for many of these fisheries including spring Chinook the Plan states, “...current  
47 fishery management is proposed to continue.” While the Plan considered the

1 implementation of marked selective fisheries it stated, "...the feasibility of such fisheries  
2 is currently being explored and full implementation, if feasible, will occur within 20 years."  
3 He said the timeline for looking at these selective fisheries was 20 years, not three. In  
4 2010, the Department further questioned whether these fisheries were even possible. He  
5 read excerpts from footnote 73 on page 252 of the Plan (see his written testimony, fourth  
6 paragraph, page 4):

7  
8 "There are large uncertainties related to implementing a mark-selective fall Chinook  
9 fishery in the Columbia River. These includes: a) a low mark rate of upriver Brights  
10 returning at the same time might cause a mark-selective fishery to have the same  
11 mortality on wild fish as a non-selective fishery; b) unlisted upriver Brights are the  
12 preferred catch of fall Chinook; c) successful live capture and release during the harvest  
13 period will be difficult due to increased mortality of handled fish in this warm period; and  
14 d) commercial gear to efficiently access fall Chinook will be more difficult to develop than  
15 for other species given their migration location (near the bottom of the main channel) and  
16 timing (they migrate and move through the fishery quickly)."

17  
18 Miller said in 2010, the Department was telling you we don't know even if these fisheries  
19 will work. Now they propose to implement these things beginning this fall. The  
20 Commission needs to take more time and find out which of those statements is actually  
21 true. In the Plan, the Department prioritizes limiting the terminal fisheries in particular to  
22 protect late returning coho (action item 115 for Youngs Bay; 129 for Big Creek). The  
23 Department has been reintroducing chum salmon into Big Creek which flows out into one  
24 of the SA. As Bowles said, when you release a smolt into these SA, harvest is 30 times  
25 higher. Miller said what are the impacts going to be if you're releasing listed fish into an  
26 area that is supposedly proposed for enhanced fisheries, and you have a Plan that says  
27 you need to reduce these fisheries to protect late returning fish?

28  
29 Miller said he has looked through everything and he has not seen where this rulemaking  
30 ever considered the policies and plans that were already adopted in the Plan. He asked  
31 the Commission to revisit that to see whether these actions are consistent with this Plan.

#### 32 33 4. Allocations.

34  
35 Miller said ORS 506.109 provides among other things, "It is the policy of the State of  
36 Oregon that food fish shall be managed to provide the optimum economic, commercial,  
37 recreational and aesthetic benefits for present and future generations of the citizens of  
38 this state." He said in furtherance of this policy it sets forth a number of goals. The third  
39 one is "To permit an optimum and equitable utilization of available food fish." He said  
40 salmon are a food fish. The last time the Department considered these allocations was  
41 five years ago in 2008. In the minutes from the December 12, 2008 meeting the  
42 Commission members engaged in a long discussion of what it meant to have an  
43 equitable allocation and what was equitable and what wouldn't be, and the need to treat  
44 all user groups as co-equals with respect to this fishery, and to resist efforts to prioritize  
45 one group over another.

46  
47 He said almost all of this Commission was not on the Commission in 2008; only Chair  
48 Levy. At the time she stated, "She doesn't think 65/35 is equitable, and believes it's  
49 costly for both the sport and commercial fisheries." (see page 25 of December 12, 2008

1 minutes). He said later you voted for a 55/45 split (see page 26). The statute has not  
2 changed in the past couple of years. Miller asked Chair Levy, if 65:35 was not equitable  
3 in 2008 how 80:20 is equitable today.  
4

5 5. Department rules do not prescribe new gear types.  
6

7 Miller said what the rules do in eliminating gillnets and reducing allocation has not been  
8 captured in the economic information that staff provided the Commission. One of the  
9 tables he did not see posted (on staff's slide presentation) was Table C.4 or C.5 that are  
10 contained in the Plan generally. They list the different fisheries and expected  
11 contributions during the current year, following years, in the transition period and later  
12 on. But those models include seine fisheries and alternative gear fisheries that have not  
13 been implemented and can't be implemented because there is a lack of authority to do  
14 so. It increases the amount of money you think that you might otherwise be bringing in.  
15 Miller's table uses the Department's numbers that eliminates those fisheries for which  
16 there is no authority under federal or state law. He said assuming that all these fisheries  
17 are fully implemented using the Department's same numbers; we continue 2.5 to 1.9  
18 percent through 2016. But the allocation shifts and the elimination of gillnets proposed  
19 by these rules result in 2017 in a 41% reduction of the current commercial fishery value.  
20 Miller believes the Commission wants to avoid that cliff but no one could guarantee who  
21 is going to be on the Commission in the future and what they are going to do.  
22

23 NOTE: Joseph Parker and Duffy Duncan gave their testimony time to Ben Miller.  
24

25 Miller said the actual economic impact of these rules result in a 41% reduction in the  
26 commercial ex-vessel value in 2017. The Oregon Administrative Rules Procedure Act  
27 requires that we look at the current rules and see whether there will be a significant  
28 adverse impact on small businesses. In three years a 41% reduction in the ex-vessel  
29 value is a significant adverse impact on small business. He said ORS 183.540 provides  
30 ways that the agency shall reduce the economic impact on its rules on small business:  
31 by establishing different compliance or reporting requirements; clarifying, consolidating  
32 or simplifying the rules; utilizing objective criteria or standards to insure that if something  
33 hits a certain floor actions will be taken rather than, as Mr. Bowles said, an expectation  
34 that they would. Miller said a requirement, not an expectation. Miller said you can  
35 exempt small business from any or all of the requirements of those rules or otherwise  
36 establish less intrusive or less costly ways to go about the alternatives to your rules.  
37

38 Miller said he requested from the Department a statement of the objectives of the rules.  
39 They provided four things listed but none of those is a public health or safety reason. As  
40 a result, ORS 183.540 requires modifications to these rules to reduce that economic  
41 impact. Miller encouraged the Commission to do that in this process.  
42

43 Miller said the process was flawed in December before he got involved; there are still  
44 fundamental flaws that are vulnerable to a challenge. Miller asked the Commission to  
45 repeal these rules and go back to the drawing board on what to do. His clients and the  
46 commercial industry are interested in insuring that the substance, the mission behind  
47 these is achieved. We all want successful fisheries and to preserve our wild stocks.

1  
2 Miller asked the Commission to vote to repeal OAR 635-500-6700 through OAR 635-  
3 500-6765 and refer the topic of guiding principles and management strategies for non-  
4 Tribal commercial and recreational fisheries in the Columbia River mainstem and  
5 tributaries to an administrative rule advisory committee of people of the Commission's  
6 choosing to further refine and draft these rules.

7  
8 Commissioner Wolley referred to the 41% reduction. Are you saying that would be the  
9 outcome if seines were not approved and gillnets were removed? Miller said correct. He  
10 handed Commissioner Wolley a copy of revised Table C.5 from the Department's plan  
11 and said it eliminates those fisheries for which there is no authority to implement. The  
12 current rules eliminate gillnet use on the mainstem after 2017. Table C.5 shows what the  
13 Commission is actually voting on; it results in a huge reduction at the end of 2017.

14  
15 Vice Chair Finley said Miller did not address tangle nets. Miller said the economic model  
16 assumes that tangle nets are implemented fully. All this does is remove those fisheries  
17 listed in Table C.5 that purport to show you a 16% increase; in reality it is a 41%  
18 decrease. Without some rulemaking at some point in the future we don't know what it is.  
19 He said this rulemaking results in what he handed the Commission (see Table C.5).

20  
21 Vice Chair Finley referred to ORS 183.333(1) and said it requires representation of the  
22 affected group. Are there requirements that require what percentage of the group should  
23 constitute representation by any one faction within a community to qualify? Miller said  
24 the administrative rule says if the agency appoints a fiscal impact advisory committee the  
25 agency shall make a good faith effort to insure that the committee's members represent  
26 the interests of persons likely to be affected by rule.

27  
28 Vice Chair Finley said but there is no requirement for whether that is 20%, 30% or less  
29 than half. Miller read the statute from his handout (see paragraph 2, page 2) and said  
30 while there is no requirement of its makeup, the legislative intent is clearly that it be  
31 composed of members of the public that represent persons likely to be affected by the  
32 rule. Vice Chair Finley responded, it's discretionary on the part of the agency.

33  
34 Commissioner Wolley asked Miller to elaborate on what a sufficient or complete small  
35 business impact analysis would entail beyond ex-vessel values. Miller said having  
36 additional representatives on FIAC other than commercial and recreational interests. His  
37 Tribal friends have been disappointed in this process and the lack of consultation. There  
38 are LCR processors, marinas, communities, and representatives of the consuming  
39 public, or public members. He would start with a broader base appointed to look at the  
40 fiscal impact and to be intellectually honest; in many places it ignores facts. He asked the  
41 Department to wait and see what authorities and monies it will receive. The FIS forecasts  
42 a best case scenario; they should at least inform you what a worst case scenario is.

43  
44 Commissioner Webber said Miller did not agree with the questions that were given to  
45 FIAC. With regard to those same questions how is this FIS deficient? Miller said it did  
46 not consider the impact on small business and proposed modifications of the rules to  
47 lessen the effect on those small businesses.

1  
2 Commissioner Webber said the questions were: is it adequate to notify the people whose  
3 economic interest would be affected; that their interests would be affected. You are  
4 saying it does not tell people who would be affected that they may be affected? Miller  
5 said it certainly does that, but that is not one of the requirements of the statute.

6  
7 Commissioner Webber said if you look at these questions, you agree that these rules will  
8 have an economic impact? Miller said correct.

9  
10 Commissioner Webber said he assumed that the people whose interests will be affected  
11 are aware that their interests will be affected. Miller said no because, the first time, the  
12 Department provided minimal notice of this and it was not distributed to people. They did  
13 a much better job the second time.

14  
15 Commissioner Webber said it does notify the people whose interests will be affected.  
16 Miller said it notifies some of them.

17  
18 Commissioner Webber asked who it does not notify. Miller said it does not adequately  
19 notify the consumer nor contain any information about barbless hooks, sturgeon harvest,  
20 or contain different topics about what the effect is going to be. It notifies people that a  
21 rule is going to have an impact but it is so general that people can't really be apprised  
22 that it is going to impact them in some cases.

23  
24 Commissioner Webber said Miller noted a statute that talks about optimum and equitable  
25 distribution. Are those terms defined in the statute? Miller did not believe so, nor are  
26 they defined by rule. They typically look to a dictionary definition to define those rules.  
27 The Merriam-Webster Dictionary defines "equitable" as "having or exhibiting equity:  
28 dealing fairly and equally with all concerned." He said there is room in there but it  
29 doesn't have to be 50:50 to be equitable. You have discretion to consider a number of  
30 different things and making that determination. He questioned whether he could ever  
31 find 70:30 or 80:20 to be equitable. In 2008, the Commission said it wasn't.

32  
33 Commissioner Webber said are we bound by prior Commissions? Miller said no.

34  
35 Commissioner Webber said that Miller mentioned he was hearing a lot of concerns from  
36 his Tribal friends. Miller could not speak on the Tribes behalf but said that they submitted  
37 a number of letters to the Commission and the Legislature in concern to SB 830.

38  
39 Commissioner Anderson referred to her question to Mr. Buckmaster about FIAC and  
40 Question 2. She said Question 3 asks if the Commission understands what the general  
41 fiscal effects are going to be. Given the statute wording regarding the kinds of questions  
42 that would be asked, what is the appropriate question to ask in terms of the statute's  
43 intention? Miller said the statute itself lists the questions to be asked. Two were not  
44 asked of the FIAC. 1) Whether the rule will have a significant adverse impact on small  
45 business; and 2) If so, what are the Committee's recommendations for compliance with  
46 ORS 183.540 that requires modifications?



1 Chair Levy said the Commission would meet in Executive Session and take lunch. They  
2 would return to ratify the temporary administrative rules and return to public testimony.  
3

#### 4 **EXECUTIVE SESSION**

5 Chair Levy stated for the record, the Oregon Fish and Wildlife Commission will now meet  
6 in executive session for the purpose of conducting deliberations related to litigation filed  
7 against the Department. The Executive Session is held pursuant to ORS 192.660(2)(h)  
8 which allows the Commission to meet in Executive Session to consult with legal counsel  
9 concerning current litigation or litigation likely to be filed. Representatives of the news  
10 media and designated staff shall be allowed to attend the executive session. All other  
11 members of the audience are asked to leave the room. Representatives of the news  
12 media are specifically directed not to report on any of the deliberations during the  
13 Executive Session, except to state the general subject of the session as previously  
14 announced. No decision may be made in Executive Session. At the end of the  
15 Executive Session we will return to open the public meeting in this room and welcome  
16 the audience back into the room to hear me open this public meeting.  
17

18 Chair Bobby Levy reconvened the public meeting at 2:00 p.m.  
19

#### 20 **DIRECTOR'S REPORT**

##### 21 **Adopt Temporary Rules**

22 Director Roy Elicker asked the Commission to adopt the 15 temporary rules listed in  
23 today's agenda starting on page 2 with OAR 635-010-0090 through page 4 with OAR  
24 635-019-0090.  
25

##### 26 **1. 635-019-0090**

###### 27 **Sport Chinook Fisheries on the Umatilla River Close**

28 Adopted May 13, 2013: effective May 16, 2013 through June 30, 2013.

29 This amended rule closes the recreational spring Chinook fishery on the Umatilla River  
30 effective 12:01 a.m., Thursday, May 16, 2013.  
31  
32

##### 33 **2. 635-042-0022, 635-042-0145 and 635-042-0170**

###### 34 **Additions and Modifications to Non-Indian Commercial Spring Chinook Fisheries**

35 Adopted May 14, 2013: effective May 15, 2013 through July 31, 2013.

36 These amended rules allow a non-Indian commercial tangle net fishery for spring  
37 Chinook in the mainstem Columbia River on May 15, 2013 in the area from the mouth of  
38 the Columbia River upstream to Beacon Rock (Zones 1 through 5). The authorized drift  
39 gillnet fishing period is from 10:00 a.m. through midnight (14 hours). Other rule  
40 modifications were made consistent with Joint State Action taken May 14, 2013 by  
41 Columbia River Compact agencies of the states of Oregon and Washington.  
42

##### 43 **3. 635-023-0095**

###### 44 **Recreational White Sturgeon Fisheries in Bonneville Pool Set for June 14, 15, 21 45 and 22**

46 Adopted May 14, 2013: effective June 14, 2013 through September 30, 2013.

47 This amended rule sets two 2-day seasons for the recreational harvest of white sturgeon

1 between 38-54 inches in fork length in the Bonneville Pool of the Columbia River.  
2 Fishing is authorized for Friday-Saturday, June 14-15, and Friday-Saturday, June 21-22,  
3 2013. Rule modifications were made consistent with Joint State Action taken May 14,  
4 2013 by Columbia River Compact agencies of the states of Oregon and Washington.  
5

6 **4. 635-041-0065**

7 **Sales of Fish Caught in Yakama Nation Spring Commercial Tributary Fisheries**  
8 **Allowed**

9 Adopted May 20, 2013: effective May 21, 2013 through June 30, 2013.

10 Rule amendments allow sales in Oregon of fish caught in Yakama Nation Treaty Indian  
11 spring commercial fisheries in Washington Columbia River tributaries from 2:00 p.m.,  
12 Tuesday, May 21, 2013 until further notice. Modifications are in response to a Yakama  
13 Nation request for authorized sales of fish caught in Yakama Nation tributary fisheries.  
14 Modifications are consistent with action taken May 20, 2013 by the Columbia River  
15 Compact agencies of Oregon and Washington in cooperation with the Yakama Nation.  
16

17 **5. 635-042-0022**

18 **Commercial Spring Chinook Fishery Set In the Mainstem Columbia River**

19 Adopted May 20, 2013: effective May 22, 2013 through May 31, 2013.

20 This amended rule allows a non-Indian commercial spring Chinook fishery in the  
21 mainstem Columbia River to commence on May 22, 2013 from the mouth of the  
22 Columbia River upstream to Beacon Rock (Zones 1 through 5). The authorized fishing  
23 period is from 7:00 p.m., Wednesday, May 22, through 7:00 a.m., Thursday, May 23,  
24 2013 (12 hours). Modifications were made consistent with Joint State Action taken  
25 May 20, 2013 at a meeting of the Columbia River Compact agencies of the states of  
26 Oregon and Washington.  
27

28 **6. 635-042-0145**

29 **Youngs Bay Commercial Select Area Spring Chinook Fishery Modified**

30 Adopted May 20, 2013: effective May 22, 2013 through July 31, 2013.

31 This amended rule prohibits retention and sale of non-adipose fin-clipped Chinook  
32 salmon caught in the Youngs Bay Select Area commercial spring fishery during the  
33 period from 7:00 p.m., Wednesday, May 22, through 12:00 noon, Thursday, May 23,  
34 2013. Modifications were made consistent with Oregon State Action taken May 20, 2013  
35 at a meeting of the Columbia River Compact agencies of the states of Oregon and  
36 Washington.  
37

38 **7. 635-023-0125**

39 **Columbia River Recreational Spring Chinook Season Set**

40 Adopted May 20, 2013: effective May 25, 2013 through July 1, 2013.

41 This amended rule sets a Columbia River recreational spring Chinook season that  
42 begins Saturday, May 25, and runs through Saturday, June 15, 2013. Fishing is  
43 authorized in an area from Tongue Point/Rocky Point line upstream to Beacon Rock  
44 (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville  
45 Dam deadline. The daily bag limit is two (2) adult salmonids but only one may be a  
46 Chinook. Only adipose fin-clipped fish may be kept. All sockeye must be released.  
47 Revisions are consistent with action taken May 20, 2013 by Columbia River Compact

1 agencies of the states of Oregon and Washington.

2  
3 **8. 635-019-0090**

4 **Daily Bag Limits for Kokanee at Wallowa Lake Increased**

5 Adopted May 21, 2013: effective May 24, 2013 through November 19, 2013.

6 This amended rule increases harvest of Wallowa Lake kokanee from ten (10) fish to  
7 twenty (20) fish per day. Current regulations that stipulation no more than five (5)  
8 kokanee may be over twelve-inches in length will remain unchanged. These  
9 modifications will be proposed as part of the **2014 Oregon Sport Fishing Regulations**  
10 modification process in August 2013.

11  
12 **9. 635-110-0009**

13 **Lethal Take Authority Related to Wolf Depredations Confirmed Between January**  
14 **28, 2013 and May 15, 2013**

15 Adopted May 23, 2013: effective dates May 23, 2013 through November 17, 2013.

16 This rule addresses wolf depredations on livestock that occurred between January 28,  
17 2013 and May 15, 2013. The rule identifies qualifying depredations and time periods for  
18 future qualifying depredations that would allow the Department to initiate lethal take  
19 authority to address chronic livestock depredation.

20  
21 **10. 635-110-0010 & 635-110-0020**

22 **Amend Rules Relating to Oregon Wolf Conservation and Management Plan**

23 Adopted May 23, 2013: effective dates May 23, 2013 through November 17, 2013.

24 Amend rules to change process and thresholds for use of lethal force to respond to  
25 chronic wolf depredation.

26  
27 **11. 635-041-0063**

28 **Treaty Sturgeon Setline Fishery**

29 Adopted May 23, 2013: effective May 24, 2013 through June 15, 2013.

30 This amended rule sets a Treaty Sturgeon Setline Fishery season that begins 6:00 a.m.,  
31 Friday, May 24 and runs through 6:00 p.m., Saturday, June 15, 2013. Fishing is  
32 authorized in the Dalles pool downstream of the Grain Elevator at Rufus, Oregon. White  
33 Sturgeon taken in The Dalles Pool must be 43-54 inches in fork length. Revisions are  
34 consistent with action taken May 23, 2013 by Columbia River Compact agencies of the  
35 states of Oregon and Washington.

36  
37 **12. 635-014-0090**

38 **Trask River Angling Regulations Modified Effective June 1, 2013**

39 Adopted May 24, 2013: effective June 1, 2013 through October 31, 2013.

40 The success of new fly-angling and bobber-angling only rules in the Trask River hatchery  
41 hole area has led the District to propose a permanent rule change for 2014 to extend the  
42 Trask River hatchery hole open period through July 15. We want anglers to have the  
43 same opportunity this spring. As such these rule modifications delay the spring Chinook  
44 fishery closure at the Trask River Hatchery Hole from June 1 until July 16, 2013 in the  
45 area between 200 feet upstream and 900 feet downstream of the hatchery.

1 **13. 635-042-0022**

2 **Commercial Spring Chinook Fishery Set for May 29, 2013 in the Mainstem**  
3 **Columbia River**

4 Adopted May 28, 2013: effective May 29, 2013 through June 15, 2013.

5 This amended rule allows a non-Indian commercial spring Chinook fishery in the  
6 mainstem Columbia River to commence on May 29, 2013 from the mouth of the  
7 Columbia River upstream to Beacon Rock (Zones 1 through 5). The authorized fishing  
8 period is from 7:00 p.m., Wednesday, May 29, through 7:00 a.m., Thursday, May 30,  
9 2013 (12 hours). Modifications were made consistent with Joint State Action taken  
10 May 28, 2013 at a meeting of the Columbia River Compact agencies of the states of  
11 Oregon and Washington.

12  
13 **14. 635-042-0145**

14 **Youngs Bay Commercial Select Area Spring Chinook Fishery Modified**

15 Adopted May 28, 2013: effective May 29, 2013 through July 31, 2013.

16 This amended rule prohibits retention and sale of non-adipose fin-clipped Chinook  
17 salmon caught in the Youngs Bay Select Area commercial spring fishery during the  
18 period from 7:00 p.m., Wednesday, May 29, through 12:00 noon, Thursday, May 30,  
19 2013. Modifications were made consistent with Oregon State Action taken May 28, 2013  
20 at a meeting of the Columbia River Compact agencies of the states of Oregon and  
21 Washington.

22  
23 **15. 635-019-0090**

24 **Spring Sport Chinook Fishery on Lookingglass Creek**

25 Adopted May 28, 2013: effective June 1, 2013 through November 26, 2013.

26 This amended rule allows recreational anglers opportunity to harvest adipose fin-clipped  
27 jack Chinook salmon, which are in excess of the Department's hatchery production  
28 needs in Lookingglass Creek. This fishery is scheduled for the period from Saturday,  
29 June 1 through June 21.

30  
31 *Action: Commissioner Webber moved to approve the administrative temporary*  
32 *rules set out the agenda and numbered 1 through 15. Vice Chair Finley seconded*  
33 *the motion, and the motion carried unanimously by a vote of six.*  
34

35 **Exhibit C – Public Testimony** continued.

Henry Balensifer  
Warrenton, OR

Henry Balensifer, Vice Chair of Warrenton City Commission, spoke for himself and Warrenton Mayor Mark Kujala. He said Tuesday a fire that destroyed Pacific Coast Seafoods damages the livelihood of 200 employees in a town of 5,000. Much of the commercial fishing fleet dock at the city marina and other ancillary businesses will feel the impact. Many in state and federal government have asked how they can help. He said help us get our fishing industry back on track. This rule change does not help.

- They do not see a data-backed reason to discontinue the use of gillnets. It is not sound policy to eliminate gillnets without first knowing the full economic impacts to

	<p>municipalities and the businesses that use gillnet caught fish and if the funding is there to implement this.</p> <ul style="list-style-type: none"> <li>• If seines will even pass muster with NOAA fisheries, how long with the fleet be held in abeyance until NOAA makes a decision. What happens if federal regulators say no?</li> <li>• These rule changes threaten local markets and other seafood businesses.</li> <li>• City of Warrenton needs and wants both sports and commercial fisheries to thrive and be sustainable. But they do not believe that seine nets are a viable alternative given the regulatory climate, barriers to entry, and economic conditions at this time.</li> </ul> <p>Balensifer urged the Commission to postpone taking any action until the economics can be assessed with consideration to communities as a whole.</p>
<p>Bart Oja Astoria, OR</p>	<p>Bart Oja, a commercial fisherman, is concerned about adding that many fish in a small pen area. Extensive aquaculture has its drawbacks and he does not see any discussion over the affluent sediment loads coming out of those pens. He worked at Klaskanine Fish Hatchery and Big Creek Hatchery and those facilities have off-channel sediment ponds; those contaminants are not allowed to enter the main stream. He would like to see more consideration in this. Worldwide extensive net pen aquaculture has its drawbacks.</p>
<p>Peter Edison Banks, OR</p>	<p>Peter Edison, vice-president and partner of Ocean Crystal Seafood Company, has been a wholesaler to major west coast urban markets for 30 years and across the country and extensively marketed Columbia River salmon. In the last 10 years the demand has increased as well as its value. As an industry they need a steady supply of this product to take care of these markets. The upriver Bright Chinook drives the demand in these markets. If the current proposed plan and the SA fisheries come into effect it will exclude them from being able to market these fish. They support the present allocation; it is fair and allows all groups quality access. Edison is also the Mayor of Banks. He said there is always a perceived if not real conflict between urban and rural. That is what this feels like to him and people in his community.</p>

- 1  
2 Brett Brownscombe, Natural Resources Advisor to the Governor, distributed a copy of  
3 the Governor's letter dated June 6, 2013 to Chair Bobby Levy. He said the Governor:  
4     • Remains engaged with this issue daily in the Legislative Session and with federal  
5     entities and others to move forward.

- 1 • Encourages the Commission to move forward knowing he is committed to the  
2 following objectives and outcomes:
  - 3 1. Maintaining or enhancing the overall economic viability of commercial and  
4 recreational fisheries;
  - 5 2. Optimizing overall economic benefits to the state;
  - 6 3. Promoting conservation of native fish; and
  - 7 4. Promoting orderly and concurrent fisheries with the state of Washington are  
8 the objectives that should continue to drive and guide implementation of the  
9 Commission's rules and guide Adaptive Management around these rules.

10  
11 Brownscombe discussed the Governor's 2013-2015 Recommended Budget and other  
12 legislation in the Oregon Legislature.

- 13 • Includes \$3.6 million of Lottery Funds and General Funds to enhance the fish  
14 numbers for commercial off-channel fisheries, and to develop alternative gears for  
15 mainstem commercial fisheries.
- 16 • SB 830 would advance the policy pieces under the rules adopted by the  
17 Commission in December (2012):
  - 18 ➤ Repeals the limitation in gear types that can be used in mainstem CR.
  - 19 ➤ Creates an Enhancement Fund funded by a fee paid by recreational fishers to  
20 enhance CR fisheries and conservation objectives around fisheries  
21 management. The Governor appreciates the commitment of the recreational  
22 fishing community.
  - 23 ➤ Creates a Transition Fund operated at the county level to assist fishers with  
24 conversion to alternative gears. Would assist fishers if the assumptions and  
25 contingencies under the rules and framework adopted here are not playing  
26 out. Transition Fund would provide support while the Commission considers  
27 Adaptive Management on how to correct course.

28  
29 Brownscombe said some of the interests behind the litigation over the Commission's  
30 rulemaking do not support the advancement of the budget or legislation in Salem. The  
31 Governor appreciates those who do support it and understands that the risks of the rules  
32 adopted in December and moving forward are borne disproportionately by the commercial  
33 community. Any work to undermine the budget and legislation tied to this work only  
34 exacerbates the risk of failed assumptions.

35  
36 Brownscombe discussed Adaptive Management. He said the Governor does not feel  
37 that less than a year after adoption of the rules and while sorting out the litigation and  
38 legislature that there is a need to change course.

- 39 • The Governor urges the Commission to move forward and to trust in the rules  
40 adopted and adaptive management provisions knowing that they set out a front-  
41 loaded review period and check-ins by adopting a transition period to buffer  
42 potential adverse impacts by allowing the Commission, as long as funding and  
43 authorizations on the policy moves forward, to develop new mainstem alternative  
44 selective gear fisheries and to enhance and create new off-channel fisheries.
- 45 • The Governor expects at the one year mark the Commission would evaluate what  
46 has happened in the rule implementation, the Legislature, and in the judicial  
47 system. The Commission would evaluate if there were any obstacles to moving

1 forward and obtaining the rule objectives and if so why and what to do. The  
2 Governor feels there are options (not detailed in this letter) to make adjustments  
3 without abandoning the overall framework and fundamental elements of the rules.  
4

5 Brownscombe said in December (2012) the Commission discussed the concept of a  
6 recreational fishing closure, the buffer zone, adjacent to Youngs Bay. In the Governor's  
7 letter he refers to Adaptive Management options and feels it prudent for Department staff  
8 and commercial and recreational stakeholders to start now (does not involve rulemaking)  
9 and design what a buffer would look like to minimize the interception of hatchery fish  
10 bound for the Youngs Bay off-channel commercial fishery; but that does not mean  
11 implementing it immediately. During the review you determine that:

- 12 1. Enhancements and funding for enhancements that are producing continued and  
13 increased numbers of fish in those off-channel fisheries has been advanced and  
14 the enhanced fish numbers that any kind of buffer would be designed to protect or  
15 address are happening; and
- 16 2. So long as the litigation has not resulted in the Commission's inability to  
17 implement the rules as a whole, the Governor would support the Commission's  
18 decision, if they felt it appropriate, to move forward with that buffer in the final year  
19 of the transition once you have had more on the end of shifts and allocations; or  
20 earlier than that point in time if the Commission deemed necessary.

21  
22 Brownscombe said the Governor's thanks the Commission for their service and that  
23 moving ahead, staying the course and relying on adaptive management is the way he  
24 sees this issue best playing out.  
25

26 Commissioner Wolley said there has been a lot of study and analysis around the  
27 economic benefits of the sports fishing industry. We know that there is a big ripple effect  
28 and a lopsided economic benefit. Has there been any study or analysis around the  
29 community or economic impact to the commercial fishing industry? He has not seen a  
30 community economic analysis like that. If it does not exist, does Brownscombe feel there  
31 is a benefit to having that type of analysis done prior to their rulemaking decision today?  
32

33 Brownscombe has seen a lot of information provided by commercial and recreational  
34 fishing interests on the economics of their industries. It is clear from the Governor's  
35 perspective that one industry or another you got to look outside of just the boat and the  
36 person in it doing the fishing to really understand what the value and the importance of  
37 the economics of what that industry are. With regard to economic analysis he suggested  
38 asking Department staff if they had documents to share. Since December we have met  
39 with members of the commercial, recreational and travel industry. The Governor feels it  
40 is time to move forward and not wait on additional studies to do so.  
41

42 Commissioner Wolley said are you saying that such a study, as I referred to, you believe  
43 does exist and it is something I could put my hands on or not? Brownscombe said in  
44 terms of the exact study he did not know if that exists in the form Commissioner Wolley  
45 was looking for. Maybe it best to ask the folks who looked into the economic analysis.  
46

- 1 Chair Levy asked Director Elicker if the Department already had that study. Director
- 2 Elicker recommended that if the Commission wanted to discuss further economic issues,
- 3 they could take it up when staff returns after public testimony.
- 4

<p>Steve Fick Astoria, OR</p>	<p>Steve Fick, member of Salmon for All (SFA) and West Coast Seafood Processors Association (WCSPA,) distributed a petition letter signed by 17 people in the coastal community who oppose the Governor’s plan. He said:</p> <ul style="list-style-type: none"> <li>• Gary Morlock, head salmon buyer from Pacific Coast Seafood (PCS), wanted to express his grave concern over this plan because PCS is dependent on CR fish.</li> <li>• There is still no support from the coastal communities, Tribes, and our industry for this Plan as written. We never made a deal that we accepted any of this part, but we are willing to work in a group to come to consensus on what can address many different user groups concerns.</li> <li>• Fiscal process should have been members of the public and not the Department that had a vote. He said on one of your taped meetings Steve Sanders had suggested the information given to you didn’t necessarily have to be correct but procedurally correct. Do we want what is best for everybody? Then we need accurate information.</li> <li>• We did not address social economics; this will further hurt us.</li> <li>• No guaranteeing on the funding. He’s afraid for two years there will be a little money and then the money will go away. BPA said they’re not interested in funding after 2017. No guarantee after this fiscal cycle that the State will be a player.</li> <li>• In the past the people that are promoting this are the ones that testified against funding these SA and implementation of additional fish.</li> <li>• Right now we meet the four objectives that Bowles reported earlier. We don’t have to spend an additional \$5 million on a chance that they can catch a few more fish or not. Modeling has shown whether catch sharing agreements with the Tribes that they may not be able to access them anyway; particularly in the spring.</li> <li>• Protect our own citizens and look for legislation that did not allow out-of-state guides this time of the year in LCR. We could increase the benefits of our recreational fishing. Fick said Washington does not allow guide boats below Longview Bridge; so, they buy an Oregon Marine Board license and come to Oregon. He said this rule suggests we’re giving those people precedent over</li> </ul>
-----------------------------------	---



	<p>the fishing community that fishes for the consumer. He said this is not right.</p> <ul style="list-style-type: none"> <li>You have hatchery production of mid-Columbia Brights of 100,000 coming on line in the next decade. You are going to double the summer run through the hatchery program in the upper basin. He doesn't see why the Commission needs to eliminate one of your partners and advocacy for salmon – their group.</li> </ul>
<p>Dave Schamp Hillsboro, OR</p>	<p>Dave Schamp, Chairman of Board for CCA, referred to the Commission's rulemaking in December and said the fundamental principles of that compromised plan were to require that all mainstem fisheries be selective to protect ESA-listed salmon and steelhead and to maximize the economic values of these fisheries to our region through enhanced off-channel commercial gillnet fisheries, selective mainstem commercial fisheries, and a mainstem recreational priority. When fully implemented the plan will allow for the harvest of more hatchery reared salmon while minimizing the impacts to wild salmon. Both Commissions have insured that the adopted rule changes initially proposed by the Governor would benefit both commercial and recreational. He said the extensive details in the FIS show that from an economic benefit both sides gain at full implementation of the plan. We're here today to address part of a continual campaign of obstruction - a lawsuit. The recreational fishing community largely remains supportive of the comprised plan. CCA remains committed to the overall plan.</p>
<p>Dennis Havens Cathlamet, WA</p>	<p>Dennis Havens, commercial fisherman, lives in a small community. He said they are losing jobs and these are the only opportunities for young people. Every county up and down the CR is losing people. You're taking another job away from the young people. One job down there is more important than 100 jobs in Portland because you have them. Overall, we need to get back and raise the fish. When you reduce that population there is no fish to catch. Where are the hatcheries going? There should not be all these jacks coming back. There is a problem somewhere in the system and we need to figure that out. The plan looks good on paper but you got to get the funding and get the fish started.</p>
<p>Cary Johnson Astoria, OR</p>	<p>Cary Johnson, a fourth generation commercial fisherman, SFA, said their livelihood depends on their success. Without commercial fishermen the salmon would lose a strong advocate for their continued recovery.</p> <ul style="list-style-type: none"> <li>If these policies move forward it spells the end of</li> </ul>

	<p>commercial fishing on CR. The allocation shift to an inequitable sport priority will no longer allow for any type of viable commercial fishery on the CR.</p> <ul style="list-style-type: none"> <li>• Consumers who pay for raising these fish will no longer have a share and the people that harvest the fish on their behalf are left with nothing.</li> <li>• Years of investments are rendered worthless; our businesses will not survive.</li> <li>• The same amount of salmon will be harvested by one group; there is no real conservation benefit.</li> <li>• It is not a win for people who live in the small towns; it is not a win for the recreational fishers who will only gain a few extra days of fishing a year and not worth the destruction of an entire industry.</li> <li>• He agrees with the Governor that the ballot box is not the proper way to manage fish and wildlife policies but he doesn't believe that the Governor has the right to strong arm this body into making a policy decision motivated by opinion.</li> </ul> <p>Johnson asked the Commission to say no to this plan</p>
<p>Terry Osling Cathlamet, WA</p>	<p>Terry Osling, a fourth generation commercial fisherman, said this plan is not right. If they implement this seining is there going to be 40 seiners? What does that do to 160 of them? He has put every dime into this and started gillnetting when he was 7-years old in Alaska. This is a livelihood and this is our living which is why he is here. He makes a good share of his money in Alaska and makes almost half of it gillnetting here on CR. He asked the Commission to treat them with respect and not shove another plan down them; they're gillnetters not seiners. You have to have fish and not close the hatcheries.</p>

1  
2 Commissioner Anderson said to Mr. Johnson, we are being asked by the commercial  
3 industry to say no to this plan recognizing that will land you back at the ballot box again.  
4 What is your response to that kind of a trade-off if you get what you want? Cary Johnson  
5 said every time this issue has been before the voters it has been a wider and wider  
6 margin. The last time it was on the ballot we did not ask the Governor to step in. It was  
7 a 2-to-1 margin and we think we would have been successful in defeating that without  
8 the Governor weighing in. He said we will take our case to the Oregon voters but he  
9 does not believe that is the proper venue to decide such a complicated issue. The  
10 people of Oregon will see what is right and what is just.  
11

<p>David Davis Warrenton, OR</p>	<p>David Davis, commercial fisherman for 40 years, has lived in Oregon for 47 years and has held a CR gillnet permit for over 30 years. Not once did it every say that he would have</p>
--------------------------------------	--

	to go fish in a ditch or a mud puddle. He said there are faces and families behind these permits. He asked the Commission to be fair and equitable to them.
Don Heiner Astoria, OR	Don Heiner, a commercial fisherman, said his latest job was in March when they shut the sea lion trapping down in Astoria. He would rather be gillnetting but it's not going to happen. Ten generations he can count that his family has fished this river. He had a newspaper article from 2011 on the Governor who announced his first job creation ideas and now he's taking ours away and will leave us with nothing. Heiner owns two boats. He said it is disturbing because they foot the bill to help everybody. What are we suppose to do? Go buy a seine boat? They can't afford to buy them. Is there room for 50 of us? No. He asked the Commission to visit Youngs Bay on a minus tide or low water; there isn't room for 150 boats. He asked the Commission to not let this go through; let the voters vote them out.
Jesse Kinnanen Astoria, OR	Jesse Kinnanen, a commercial fisherman, said: <ul style="list-style-type: none"> <li>• There is trickle effect for the sports fishing community but no economic commercial impact if this all falls through.</li> <li>• We provide salmon to local businesses. If this fails where will the leave our local businesses and us?</li> <li>• He got into this without going to a bank; the start-up cost for a seine boat is easily \$100,000.</li> <li>• There is no funding approved to raise the fish or move the fish. He feels it is empty promises.</li> <li>• What if he spends \$150,000 to become a seiner and then someone decides they don't like our seine nets dragging the bottom and will implement something else. What protects them from this same thing happening 10 years down the road? He just bought a \$1,800 silver tooth net that he will use for one year.</li> <li>• No one from Astoria or local region supports this. He asked the Commission to let them go to work. The economic impact of this is going to be catastrophic to their local region and young fishermen.</li> </ul>
Otis Hunsinger Astoria, OR	Otis Hunsinger, a fourth generation commercial fisherman, said where is he going to get the money to buy the seine and boat? How long will he seine? How is he going to support his family and pay the bills if the fish don't show up that you are going to put in the terminals? For the last four years you have put the same amount or more fish in the terminals and have had a one-third decline from 2010. He

	<p>said you're going to raise more fish but you're going to create a Mecca for predators to eat all those smolts. Hunsinger said the Sea Shepherds are protecting the sea lions that are also eating the salmon that we are supposed to harvest. Let's let the sports fishermen fish them before they ever get to us. He said there is no way I am winning. Only two on the Commission are listening to us.</p>
<p>Steve Gray Seaview, WA</p>	<p>Steve Gray, part owner of Bell Buoy Crab Co. and with Northwest Gillnet Association, said he has done this his whole life. He has two sons here and this is how they feed their children.</p> <ul style="list-style-type: none"> <li>• He asked the Commission to stop and not rush into this. Fick and others said let's sit down with people that do this to figure out where there might be answers. This should not be one group over the other.</li> <li>• Would the Commission jump into a business if they believed that there will be no negative impact? You have not seen one person support this from the processing, restaurant trade, or commercial fishermen.</li> <li>• The Governor said it was \$5 million and today the gentleman said \$3.6 million. There is no money. Washington has offered you no money. Would you put your home up with this business guess? Will these fish come back? Will the sports catch them all? Will there be funding? He said not a person here can tell you that.</li> <li>• Gray said if you come to my shop you are going to look at \$300,000 of gear and three boats; that is our living.</li> <li>• Our tangle tooth net on spring salmon is easily as effective as sports gear. That fishery runs itself. We don't do any more impact than the sports fishery and probably less.</li> <li>• 100,000 upriver Brights were surplused this year and in the next decade another 100,000. He and his son tried alternative gear. He described the beach seine fishery on sloped beaches with no trees or rocks. They've done it for years. You fish August 15 – September 15 when the main body of the upriver Brights run is there, but so are the sports fishermen. They've tried all their life to fish at night and not on weekends or holidays to stop all conflict. Gray said there are several dredge spoiled beaches with that slope. They'll put a sand block on the beach and set the beach seine out. They'll pull it into the box and sort through the fish. He asked Steve Williams what he was going to do from August 15 to September 15 because every sport fishermen wanted to fish those upriver Brights. Williams' answer was if you're going to</li> </ul>

	<p>have 80, 90, or 100 guys running up and down this river doing beach seines the sports fishery will have to be closed. Gray said where do you think that is going to put our industry? Will alternative gear work? Not unless you close the sports fishery and that's a disaster for all of us.</p>
<p>Ryan Gray Seaview, WA</p>	<p>Ryan Gray, gillnetter for last 10 years, seconded Otis's comments and his dad Steve Gray. Regarding predation he'd like to see the two groups come together to work on that; we could all win. He said it's a game of pointing fingers. We bend over backwards to protect the wild fish with boxes and other things to stay out of conflict, fish at night. He's worked on charters and out of 40 silvers caught to get their 20; they're just dumping all of the wild fish off the hook and not putting them in a box. We're not going to any length to make sure they survive like we have been in the gillnetting.</p>

1  
2 Vice-Chair Finley referred to Steve Gray's comment about closure of beach areas for  
3 beach seining. He said as Gray pictured it that if we close some of these beaches to  
4 sport fishing it would be a disaster for everybody. Is there a way to time zone this  
5 sensitively? He said for example, with beach seining where you don't have to put up  
6 with trying to avoid or going out there at night, that it's actually your day for allocation.  
7  
8 Steve Gray said fish seining happens in the daytime. It's about fish seeing that heavy  
9 tarred web and they hold in it for awhile. About every 30 minutes you have to pull it to the  
10 beach. For spring season they fish at night and don't on the weekends; they set Tuesday  
11 aside in case their fishery gets to fish and the sports fishery doesn't. If they fished in the  
12 fall on the surplus of upriver Brights in Zones 4 and 5 at a terminal area there are  
13 hundreds of miles the sports fishery can fish in and not have a problem with us. Gray  
14 said the cormorants and terns that live on Sand Island are 60% over populated and eat  
15 40 million CR salmon; 20% of the entire run. We need to sit down to get to a sustainable  
16 number and nobody does a thing. He suggested spraying the nest eggs with oil.  
17

<p>Hobe Kytr Astoria, OR</p>	<p>Hobe Kytr, staff person for Salmon For All (SFA), distributed two handouts:</p> <ol style="list-style-type: none"> <li>1. <i>Columbia River Main Stem Compared to Select Areas</i>, a graphic representation of difference between Mainstem commercial fishing Zones 1 through 5 from the mouth of the river up to Beacon Rock providing 140 miles of fishing area available to the commercial gillnet fleet. The area by Astoria has yellow marks that represent the off-channel enhanced fishing areas that the Governor is talking about – the SA Fishery Enhancement Program terminal fisheries.</li> <li>2. Map of <i>Young's Bay – Astoria, Oregon</i> at low tide. He said when the Commissioners toured Young's Bay staff</li> </ol>
----------------------------------	---

	<p>was very careful to take them there at high tide; it looks like there is a lot of space there. Kytr said most of that space is not fishable. The channel areas (in green) are the fishing area available in Young's Bay. Once you start to get a few boats in there it is so crowded you cannot continue.</p> <p>3. <i>SAFE Program Bibliography</i>. Kytr said if you are familiar with them you would not believe the Governor's plan will work. You cannot continue to stuff endless numbers of salmon smolts into these little backwaters and successfully provide an area for people to fish. You will run into problems with Clean Water Act, ESA, and with the LCR Conservation and Recovery Plan for Oregon populations of salmon and steelhead which has strong cautionary concerns about straying from the SA to the natural spawning grounds of the LCR.</p> <p>Kytr asked the Commission to consider the plan that was adopted by the Commission on August 6, 2010. It is your official policy and what you adopted in December violates it.</p>
<p>Jim Wells Astoria, OR</p>	<p>Jim Wells, a lifetime commercial fishermen, said he represented SFA and the young guys. It's his goal to leave something for them. He distributed a 4-page handout:</p> <ol style="list-style-type: none"> <li>1. <i>Quote from Washington Director Phil Anderson</i>, "the changes outlined in the policy will allocate more salmon and steelhead to recreational fisheries, but will not necessarily reduce the incidental catch of wild salmon and steelhead protected under the federal ESA." Wells said no conservation involved in the policy as far as Director Anderson is concerned.</li> <li>2. <i>Summary of Alternative Commercial Gear Testing in the Lower Columbia River, 2009-2012</i>. He highlighted numbers in the "Marked Catch" column; they have to sort through everything to keep those numbers. For instance, purse gear in summer season they kept 380 Adult Chinook but handled 3,643 sockeye. In the fall the catch is 16,206 adult Chinook; the Marked Catch is 6,394. For coho they caught 14,404 and kept 8,829 caught; 2,282 steelhead was in that. Wells said you have a tremendous amount of bycatch in this testing. For this fishery to be effective you have to have a very low release mortality rate to make the economics the State is putting out to work; especially on a 80:20 split in the impacts in we're headed after 2016. He asked the Commission to ask what kind of released mortality rate is the State plugging into their model to make the economics work. He has heard about 5% and less than that for steelhead.</li> </ol>

	<p>3. <i>Email to Wells from Kendall Henry, Puget Sound Commercial Salmon Fishery Manager, WDFW.</i> Wells read, "In the majority of Puget Sound purse seine fisheries we use a mortality rate of 26% for coho and 33% for Chinook (45% for smaller Chinook)." Wells asked her about water temperature, "...the warmer the water temperature, the higher the mortality rate will be." Wells said the CR has 70-degree water in August and September. He said this is an ongoing fishery for chum salmon in November (Puget Sound) and she could not give me the water temperature. He thinks it is in the fifties. This is a real commercial fishery and not a test where you're sorting out of a skiff.</p> <p>4. <i>Oregon and Washington Departments of Fish and Wildlife Joint Staff Report: Spring Fact Sheet No. 4, Columbia River Compact/Joint State Hearing, May 28, 2013.</i> Wells referred to table 2013 Spring Chinook Observation Summary _All date preliminary. On May 15 using a 4.25-inch mesh net; they told the states it would not work; there was too many shad in the river. The state looked at 47 drifts; 1,900 shad were in that net. On May 22 an 8" mesh net was used; 51 drifts were monitored and there was zero steelhead and six shad. Those shad are the same size as sockeye who go through our nets. We need to keep our upper ends on four and five gillnet fishery, 8" and 9", and we don't hurt a thing. He said that proves by State numbers how selective a gillnet can be.</p>
David Quashnick Astoria, OR	David Quashnick, commercial fisherman, said his father is a gillnetter and is 80-years old. Both his brothers and his two sons are also gillnetters. He said that is six small businesses that will be affected by this. He hopes the Commission will listen to their experts: Ben Miller, Tom, and Jim Wells.

1  
2 Commissioner Anderson referred to Jim Wells' handout and the State's release mortality  
3 number of 5% that it is using. She said in the fishery in Puget Sound they are looking at  
4 six times that. If we can have such a low mortality in a test fishery by being ethical and  
5 doing the right thing and releasing fish, why couldn't we achieve those lower mortality  
6 numbers in Oregon in a fully fledged seine fishery? Are they doing something wrong up  
7 there; could we do it better down here? Do you thing that we'd be looking at that 33%  
8 number if we were in a full seine fishery here?  
9  
10 Wells was not sure the state estimate was 5%, he heard that from staff. Ten percent  
11 was initially tried and the economics did not work out. He hopes the Commission will ask  
12 staff what release mortality they're putting into the models to make this work. He said in  
13 Puget Sound they are running a real commercial fishery. For the testing in the river here

1 they are not paid by how much fish they catch; they're getting paid on a contract basis  
 2 and making \$2,000 a day (or whatever) contracting with the State. If you put us down for  
 3 a limited amount of fish that is available in this river there is going to be competition for it.  
 4 There will four or five guys on the boat to be paid. By the State's numbers they are  
 5 admitting \$190,000 to gear up for a seine operation. You have to pay back that loan,  
 6 crews have to be paid, and when they run the costs insurance is not factored on the  
 7 purse seine costs. In Alaska it cost him \$3,000 and they fished for two weeks.

9 Vice Chair Finley referred to Kytr's map and said he had two yellow lines bridge to bridge  
 10 in Young's Bay. There have been discussions about where you might move a buffer line  
 11 between sport and commercial in and adjacent to Young's Bay. Using the map's scale  
 12 Vice Chair Finley drew an imaginary line across three-quarters of a mile out toward the  
 13 CR but still within incoming hatchery fish. He asked what would be the opinion of that as  
 14 an added opportunity to harvest that would provide both space and fish.

16 Quashnick said there are two major sandbars: a little gutter that slides down on the  
 17 Warrenton side where the flats all dry up; and there is a red light where it starts getting  
 18 deeper and goes into deeper water there. For the most part the only place there is any  
 19 water is out near the channel. He said there is a little bit of water, as much at low water,  
 20 above Young's Bay Bridge. If you could move the buffer zone out to the buoy line you  
 21 would have a lot deeper water. He said there is a test fishery going on there around  
 22 Terrabochia by the State. It's not a whole lot different than what is going on in the bay.  
 23 He said they could tell you the numbers. It is very little water.

25 Vice Chair Finley said so that is not a real benefit then? Quashnick said if you move the  
 26 boundary out to the green line it would be very beneficial; if you moved it out to Pier 3  
 27 down to the Skipanon, right on the outside edge is deep water that goes 25-feet  
 28 depending on where they put the line. There is not that much more room there to  
 29 accommodate a bigger fleet. Jim Wells said that is the way we have it now. Young's Bay  
 30 Bridge is our deadline; it's very easy to enforce. If you move it out to the mud flats what  
 31 do you line it up with as a boundary? It makes it tougher for enforcement.

33 Vice Chair Finley said if a commitment was made by the Commission and others to put a  
 34 buoy line out there it is a line that is visible to both fishermen and enforcement, which is  
 35 why he asked the question.

<p>William Hunsinger Astoria, OR</p>	<p>William Hunsinger, handed a newspaper article from The Daily Astorian – “<i>There were flames 150 feet in the air</i>” to Chair Levy and said all of these jobs are gone with closure of this fish processor (Pacific Coast Seafood); the largest in Oregon and Washington. A lot of the guys in the audience, their families work there. He asked the Commission to not take away more of our jobs. You don't realize the economic impact on the commercial fishery. If you come there with a charter fisherman or sport where does it go? It goes home. Where does my fish go? The processor, truckers, seafood markets, restaurants, workers, stores, etc. You are taking it</p>
--	--



	<p>away from coastal families. He would take this issue to the voters again. This Governor wants you to vote to take away our jobs. He said the Commission is going too fast. He as a port commissioner needs good information to make good decision. Hunsinger said Sea Shepherd has three organizations protecting the seals. They are losing their moorage there; they're everywhere and on our docks. Why do we fight amongst the commercial and sports? We should figure out the predation and there would be more than enough fish for everybody. He asked the Commission to look at the number of seals.</p>
<p>Bruce Polley Sherwood, OR</p>	<p>Bruce Polley, volunteer with CCA, said sports fishermen have paid the vast majority for management and conservation of salmon and steelhead stocks for years.</p> <ul style="list-style-type: none"> <li>• In 2008, a bi-state sports commercial work group created a collaborative plan – the Columbia River Fish Work Group. At the December 2008 Commission meeting the agreement was scrapped but Commissioners insisted that one million spring Chinook smolts be transferred from tributary streams to the terminal areas. Those smolts are an allocation transfer from sport to commercial.</li> <li>• Last year CCA members backed a ballot initiative to remove gillnets. CCA members were asked to trust the Governor and this Commission to implement the new compromise plan.</li> <li>• Since then sport anglers were asked to shift to barbless hooks with no adjustment in mortality rate. Polley said as of May, gillnetters harvested more combined spring Chinook than sport fishermen if you count mainstem and terminal area fisheries.</li> <li>• The gillnet lobby has filed suit to delay these rules. Polley asked the Commission to re-adopt the policies they voted for in December (2012).</li> </ul>
<p>Dana Roberts Salem, OR</p>	<p>Dana Roberts, volunteer with CCA, said he was in firm support of re-adoption of the rules that the Commission implemented in December (2012). As Polley said they have already given up to the Commission's plan. They recognize there are alternatives to gillnets. You have created the SA. He referred to Table C4 and said 151,000 fish is anticipated to be harvested by commercial fishers. Of that amount, 79,000 are coming from the SA, which is really hatchery fish that you have taken away from recreational fishers and moved to the SA. He said 72,000 is through gillnets on the mainstem. When the plan is fully implemented the SA is</p>

	<p>anticipated to go from 80,000 to 105,000; so, half of the increase is suppose to come from SA and the mainstem is suppose to go from 72,000 to 98,000. Of that amount 22,000 is from tangle nets. So there is another 78,000 that the plan anticipates coming from either seines or alternative gear, which is why SB 830 is critical. Today the commercial fishermen have opposed that. We need to work out a joint plan so everyone benefits.</p>
<p>Nathan Rogol Warrenton, OR</p>	<p>Nathan Rogol, fisherman, read from his written testimony and said many people statewide are feeling disrespected, dismayed and disenfranchised. Highlights from letter:</p> <ul style="list-style-type: none"> <li>• Voters defeated Ballot Measure 81 but the Governor ignored the ballot and pushed a plan.</li> <li>• People promoting the Governor's Plan said it is about selective fishing and saving wild salmon, but the science and evidence do not agree.</li> <li>• After several years of test fishing alternative gear, there is no data to show that seines will have lower impact or advantage over gillnets or tangle nets.</li> <li>• Buoy 10 sport fishery has kill rates as high as 50%; worse than a tangle net. Sport by catch last year on blueback was 10 times higher than gillnet bycatch.</li> <li>• When CCA supports little seines as preferred fishing method of sport fishing at Buoy 10, he will give them credibility about seines being the best selective method to fish.</li> <li>• Gillnets deployed at right place at right time result in very selective, sustainable, management fishery. 200 to 300 businesses are working compared with estimated 20-30 if Governor's plan is implemented.</li> <li>• Governor's plan reallocates more to sport interests.</li> <li>• They claim SA can be enhanced; a win-win for everybody. He said production there would have to triple; best current information suggests this is impossible.</li> <li>• Sea lions make fishing impossible much of the time.</li> <li>• Other positive steps to take: implement permanent impact sharing rules. Current policy of negotiating every year contributes to the controversy. Work together to reduce the predation by sea lions, cormorants and terns.</li> </ul> <p>Rogol said there is no benefit into rushing into the Governor's plan. He asked the Commission to vote no.</p>
<p>Lynn Buerer Beaverton, OR</p>	<p>Lynn Buerer, member of CCA, agreed with CCA's position. He urged the Commission to support the Governor's plan.</p>

<p>Brenda Wall Astoria, OR</p>	<p>Brenda Wall, SFA, said her family has fished on the CR for over 100 years. She said:</p> <ul style="list-style-type: none"> <li>• Last year Oregon voters said yes to gillnets as a means to harvest their share of CR fish; 90% of people do not sport fish. It is up to the Commission to make sure the public gets their fair share.</li> <li>• Equitable sharing is how the fish are to be allocated. This is not an environmental issue but a personal preference by a few people.</li> <li>• There is no scientific reason to keep wasting money and time to make all the changes.</li> <li>• Gillnet industry allows many young families in a rural community an opportunity to operate their own business, unique in rural Oregon, to supply the markets with a commodity desired by many.</li> <li>• The Governor does not care about the families or rural communities. This rule change will remove the most economically efficient method of harvest and replace it with an inefficient method.</li> <li>• How will young families finance such an upgrade to expensive seine boats, skiffs, and gear? They will have to hire a crew of at least four people. There is not enough profit to make seining work on the CR.</li> <li>• They have no faith in state funding for a full transition of their businesses. They are self-employed and know how to manage a business. It is laughable to have state employees tell them how to operate a business successfully while they get a government salary.</li> <li>• Her industry wishes their biggest problem was barbless hooks.</li> </ul> <p>Wall asked the Commission to do the right thing for rural communities on both sides of the river and vote no.</p>
<p>Robert Sudar Longview, WA</p>	<p>Robert Sudar, a small marketer of CR River fish mostly to Seattle/Tacoma area and he is on the Commercial Advisory Group. Highlights of his testimony were:</p> <ul style="list-style-type: none"> <li>• There is already a sport priority in the river. Despite increased runs there are no more angler trips now than 10 years ago. There is a declining trend in fishing license purchases.</li> <li>• All of these goals suggested by the Governor don't fit the reality of what is going on right now.</li> <li>• The 75,000 angler trips mentioned as a gain from eliminating our mainstem fishery would not even provide one angler trip for an Oregon angler; those would be spread between the two states.</li> </ul>

	<ul style="list-style-type: none"> <li>• The staff report states there may be one more day of spring Chinook fishing. There would be no more harvest of hatchery fish. There probably would be more spring Chinook hatchery fish getting over Bonneville Dam than if our fishery stays intact.</li> <li>• At every meeting he gets a new economic model. The one today shows we went from a 5% improvement this year in the first model to a half percent in the second model and now we're back up to 6%. All improvements allotted to their fishery are all assigned to our current gillnet fishery. The benefits we're getting from the new plan are all in our existing fishery. The thing that is holding our industry up is our existing fishery and that is the one that would be removed.</li> <li>• The seine fishery for coho and Chinook in September is included in this model. He does not think it correct to include that because the money would just go to a handful of test fishermen, it would not go to the industry. The sale of those fish to the marketplace has not been approved, worth about 7% of the value.</li> <li>• Models shows a fall conventional gillnet harvest of 25,000 coho. We have had one harvest of that range in the last five years; last year we had 2,800. At North of Falcon meetings this year we've been assigned about 8,000. Using a value of 25,000 is a huge benefit to our numbers that just is not realistic under the current framework; that's another 7%. If you take roughly 15% out you end up outside the 0% to 5% range that Chair Levy requested in the modeling when this process was in place last fall. The model fails just on those without looking ahead to the proposed seine fisheries.</li> <li>• If the plan goes into effect it puts a cap on our fishery. It eliminates businesses like his that don't buy in the SA. It removes the fish that made the Columbia famous in the commercial fishery. Preventing us from growing is not reasonable since this is a "win-win" situation.</li> <li>• Sudar objects to the description of their fishery as a non-selective gillnet fishery. The State has its own publications identifying how our fishery is selective with our current gear. He has shown tables where he looked at all the fisheries that occur and their fisheries are some of the best in terms of being selective. Mr. Wells identified aspects of our fisheries that are very selective.</li> <li>• Not everything in this plan is bad but he doesn't like much of it. If there is money and fish to release in SA that should be proceeded with regardless of the plan because everybody benefits.</li> </ul>
--	---

	<ul style="list-style-type: none"> <li>• Sudar believes a tangle net fishery in the fall to remove more hatchery fish is a good idea. But overall the plan itself is flawed and should not be approved.</li> <li>• There was promotion of SA fishery has having a good return this year showing releases from 2010. This year the SA harvest has been about 45% of the prediction. We have caught a third of our income and the industry has come mainly from the mainstem fishery. The SA fishery has not performed as predicted and that is a risk we continually pointed out from continuing to promote this plan.</li> </ul> <p>Sudar said the Kitzhaber Plan is ill conceived. It's a political solution to a social problem. There is no scientific basis for removing our industry. He encouraged the Commission to vote on the plan.</p>
<p>Lee Clark Chinook, WA</p>	<p>Lee Clark, representative for Northwest Gillnetters Association (NGA), spoke to several issues:</p> <ul style="list-style-type: none"> <li>• Neither the gillnetters nor sports own this fish; it's a public resource. The public expects the agencies to take care of it and perpetuate it.</li> <li>• Conservation. The more we can do for the fish the more they can do for the consumers and sport fishery.</li> <li>• When we have no equity or equality how can you talk about economic benefits? If we gave the gillnetters 80% and the sports fishermen 20%, what would the gillnetters be worth? But we're not talking about 80%, we're talking equity. He said conservation should be shared equally and it's not.</li> <li>• He is a Port of Chinook commissioner. Their gillnet fleet has been wiped out because they are going to stay out of the lower river to meet conservation. They will fish this fall from St. Helens up to protect the wild tules; a big give to the commercial fishery.</li> <li>• Clark favors adaptive selective management. He test fished for State of Washington and perfected some of the tooth nets; last year he was at 100%. He has observers on his three boats every day.</li> <li>• What are we going to tell the ratepayers if we put the gillnetters in SA with less quality and more than likely less fish? We have 516 valid licenses in Washington and Oregon. He said with \$5.2 million that is about \$10,000 each. If it is \$3.6 million that is less than \$7,000 each.</li> <li>• All the risk is on the commercial fishermen. It is very discriminatory. If we put everybody in the SA they will go down the tube.</li> </ul>

	<ul style="list-style-type: none"> <li>• Economy is like a chain. The sports fishery is very important to the Ports and the commercials. If you break that link you no longer have a chain.</li> </ul>
Tim Buckendahl Castle Rock, WA	<p>Tim Buckendahl, a life time sports fisherman, has fished both states. In 1997 Washington had a petition to ban gillnetting; he signed it. Fifteen years ago he met some commercial fishermen on the river and learned the facts; 10 years ago he started fishing. Two years ago he built his own boat and bought a license and drift right. He said now you're telling me I can't fish there and have to go live on a 24-foot boat in a SA or "mud puddle" for half the year. He said this doesn't make sense. Regarding how equitable the SA is, he fishes in there and it's dead this year. Sea lions are killing more than any of them are catching. If you want to put more fish in there it will bring that many more sea lions in to feed on them. He does not want a welfare check or food stamps. He asked the Commission to make the right decision.</p>
Jonathan Anderson Warrenton, OR	<p>Jonathan Anderson, commercial fisherman, said he represents the younger generation of gillnet fisherman. He's gillnetted since he was 15 starting in Bristol Bay. He's run a boat on CR for five years. He put himself through college. He loves commercial fishing and has worked really hard.</p> <ul style="list-style-type: none"> <li>• It bothers him that people want to take his livelihood away; this is what he wants to do.</li> <li>• He is against a switch to seines because he cannot get a loan to purchase a seine boat and does not know if he will even get to fish.</li> <li>• Reducing allocation means less fishing time. If he invests \$200,000 in a seine boat maybe he gets one 4-hour opener and then the allocation is met. Do you wait for next year to go fishing again? He does not see that as an option.</li> </ul> <p>Anderson said he is against the Governor's plan.</p>
Chad Huddleston Astoria, OR	<p>Chad Huddleston, commercial fisherman, said he agrees with Jonathan Anderson and others. He opposes the Kitzhaber plan. He will not have a seine boat and will not be able to afford it; he doesn't know how to do it.</p>
Joe Quashnick Astoria, OR	<p>Joe Quashnick, fourth generation commercial gillnet fisherman, has fished for seven years now in his own boat. He opposes the Governor's Plan and he hopes the Commission will reconsider.</p>
Russell Bassett	<p>Russell Bassett, Executive Director of Association of</p>

Milwaukie, OR	<p>Northwest Steelheaders (ANWS), distributed written testimony and spoke to two issues.</p> <ol style="list-style-type: none"> <li>1. He fishes a lot and his neighbors, family, and friends eat the fish he provides. If you look at the plan and talk about people who buy fish caught by commercial fishing, this plan provides more to the market; it's not less. The economic impacts modeling by the agency has been approved and supported by the commercial industry up until now.</li> <li>2. Bassett said he went fishing yesterday on the Sandy and a guide said he is planning on buying a destination resort in Astoria that will house 20 people. There is a financial viability that recreational anglers can give.</li> </ol> <p>Bassett encouraged the Commission to stay the course and send the same message to the Legislature and the courts.</p>
Trey Carskadon Tualatin, OR	<p>Trey Carskadon said he served on the FIAC along with Kytr, Buckmaster, and Bridewell. It was a thorough process on many points. Long term there is a very bright future if we can pull the trigger on this. The status quo is under serving these communities and that was the take away from the FIAC meeting. He had asked FIAC what's the growth plan with status quo. Today the Commission heard concern the wheels will come off the bus with this plan. The Governor testified to a Senate Committee his assurance that he would personally see to it that there were net gains on both sides. Carskadon said the Governor wants to optimize the economics on the CR. He asked the Commission to stay the course and listen to what happened in the FIAC.</p>
B.G. Ilertson Sherwood, OR	<p>B.G. Ilertson is a native Oregonian who has worked in the sports fishing industry for 37 years and is currently employed at Fishermen's Marine. He and 160 employees receive wages and benefits based on sports fishing opportunity. Previous to that he worked for G.I. Joes who employed 1,200 people. He said there is a lot of opportunity for taking advantage of the sport fishing opportunities in the CR; hundreds of thousands of dollars that could be done in the spring Chinook season that would help insure their livelihood until the holiday retail period. We need that spring salmon season to be consistent and dependable. He asked the Commission to adopt the Plan and bring management of the CR into the 21<sup>st</sup> Century.</p>
Jim Martin Mulino, OR	<p>Jim Martin, Conservation Director for Pure Fishing, member of NSIA, said the Commission and Governor are on the right track to accomplish the major objectives of the Plan:</p>

	<ol style="list-style-type: none"> <li>1. Improve economics for both sports and commercial fisheries and CR region as we move forward.</li> <li>2. Improve conservation benefits through better utilization of hatcheries and less strays.</li> <li>3. Reduce bycatch impacts on non-targeted species.</li> <li>4. Improve economic support for conservation.</li> <li>5. To manage in close coordination with Washington to try to reduce the conflict on the river over the transition.</li> </ol> <ul style="list-style-type: none"> <li>• Martin said the 2013 spring Chinook fishery run was over predicted run and fishing was slow. Your analysis will show a drop in out-of-state fishermen who bring the most on a per fish basis to the economy. We could have extended that season and had 15,000 extra angler days if the plan was in place. He said the commercial fishermen would have been better off with expanded catching in the SA than they ended up having. The fishery was closed when the average catch rate was 14.5 angler days per fish so we could gillnet 45% of the impacts and sell them for \$100 a fish. Sports fishermen were spending \$100 a day on expenditures. This is an outdated economic model.</li> <li>• They have lobbied the Legislature for SB 830 and the transition budget. The gillnetters are fighting against the safety net that would keep them whole and then they come before the Commission and say there is no money to do this.</li> </ul> <p>Martin asked the Commission to stay the course and adopt the rules and staff recommendation.</p>
<p>Tom Hester Oregon City, OR</p>	<p>Tom Hester, owner of Paulsen Cascade &amp; Tackle, said they manufacture fishing tackle. The economic impact on the community via employment, sourcing supplies regionally and filling customer needs is directly impacted by the decisions made by this body. He urged the Commission to continue and bring to fruition a plan that keeps both fisheries whole; benefits north westerners by preserving our fisheries, and the economic good that results from them. He asked the Commission to include language that would prevent all hatchery produced salmon from benefitting only one fishery. We need to insure that catch and keep opportunities are preserved for sports fishing. Hester said his business supports three employees and me. The economic impacts on his business because of allocation have been very deleterious. When a season is closed not one more item is sold related to that fishery. We need consistency and stability and this plan is the key to that. He encouraged the Commission to continue and asked them to recognize sport</p>



	fishing as an industry and not just a hobby.
Liz Hamilton Oregon City, OR	<p>Liz Hamilton, Northwest Sport Fishing Industry Association (NSIA, said:</p> <ul style="list-style-type: none"> <li>• Seven out of the last 10 years there has been more fish landed and sold commercially out of the SAFE areas than the entire 140 miles of sport fishing in the mainstem. We feel we have been transferring fish to that area. We have stepped up to do more and want this to be a win for everybody.</li> <li>• Tens of millions of smolts have been moved out of tributary fisheries in order to have viable commercial fisheries in the SA. Most of the ocean is commercial salmon fishing and there is also a Tribal commercial fishery. The public will continue to have access to fish.</li> <li>• Funding disappearing. She spoke with the Chairman of the Power and Conservation Planning Council and the chairman of their fish committee; both are committed to continue this through BPA funding.</li> <li>• She is excited to be in a place that will move forward to protect jobs in both industries. NSIA looks forward to working with the Commission in adaptive management.</li> </ul>
Mike Backman Cathlamet, WA	<p>Mike Backman, a Cathlamet County Commissioner, said he represents their whole Board.</p> <ul style="list-style-type: none"> <li>• They do not want to lose their commercial fishery that is very important to their local economy, not only from the money they make but also from the fishing money they bring back from other fisheries in Alaska.</li> <li>• This is an all citizen fishery; it is not right to take the fish from one user group to give to another.</li> <li>• The sports fishery only represents 3% of the population. The commercial fishermen put fish in the market for the other 97% who pay taxes and helped raise those fish.</li> <li>• Backman does not support getting rid of one fishery and putting an alternative fishery in its place.</li> <li>• The Governor said he was going to set aside \$5 million for this and today his letter said \$3.6 million; a big difference. What happens when we get to the point to need that cash? Is there going to be any?</li> <li>• When you go against your own public there is a good chance you will not be re-elected. Will the Governor even be here? The Commission needs to worry about what he wants but this is long-term. He said this is our livelihood.</li> </ul>

1 Commissioner Anderson said Bowles indicated that successful implementation of the  
2 plan is contingent on the success of SB 830 and HB 5013. She heard a lot of concern  
3 about what will happen if we are not granted the authority to authorize the seine fishery  
4 and the money is not there. What happens if that is the case?  
5

6 Bowles responded that the transition period has three elements to SB 830: 1) removing  
7 the prohibition on fixed gear and seines that would allow actual fish sales in the future; 2)  
8 the transition fund; and 3) enhancement fund. If that bill does not go forward in this  
9 legislative session there would be no authorizations for those. Over the transition period  
10 staff would go each year that is available to seek that authorization. Right now there is  
11 nothing that would cause the plan to stop related to the authorization. He said gillnets  
12 are allowed through the transition period. Staff hopes to get the opportunity to use  
13 alternative gears. The economics would be better during the transition if we got that  
14 authorization but it is not necessary until the end of the transition. At that point the  
15 Commission will look at the research on alternative gears and decide which ones to  
16 authorize. The statute would not authorize those but would remove the prohibition.  
17

18 Regarding HB 5013, Bowles said we have the ability to implement much of this with our  
19 base program. Under status quo some of the production could still be shifted; we were  
20 able to do that this year. Alternative gear research will continue, it is the existing budget,  
21 in concert with Washington. The main dollars in the budget is for research, adding new  
22 sites and expanding those sites. If the budget does not occur we are not able to do those  
23 expansions this biennium and would ask for that budget in another legislative cycle. In  
24 January staff will report on what has happened relative to moving things forward. The  
25 Commission would be able to assess that budget wise, policy wise and legal wise.  
26

27 Commissioner Wolley said there was testimony stating that the data on the trials showed  
28 that the alternative gear has shown no more success than the gillnetting in terms of  
29 bycatch. He asked how that research is going.  
30

31 Bowles said the purpose for the transition period and the reason the Commission is not  
32 doing rulemaking today on alternative gear is because we need to learn more. You are  
33 going to catch more non-targeted fish in the seines than you would in large mesh gillnets  
34 because several species will pass through large mesh gillnets.  
35

36 Tony Nigro referred to Jim Wells' handout (*Summary of Alternative Commercial Gear*  
37 *Testing in the Lower Columbia River, 2009-2012*) and said this is where we stand in  
38 terms of results. To date for summer seining we do handle quite a few sockeye. In fall  
39 seining we handled quite a few steelhead. We expected to encounter these large  
40 numbers of bycatch. He said Washington is in its final year of long term mortality studies  
41 for fall seining relative to steelhead, Chinook, and coho. We are initiating this fall a long  
42 term mortality study associated with the coho tangle net fisheries. The purpose of the  
43 transition period is to complete those kinds of assessments so we can come forward with  
44 an overall assessment of the gear with respect to its effectiveness of catching the target  
45 species, a clear determination of what the bycatch is, and what we believe the ultimate  
46 mortality is of those fish that are handled and released in the seine fisheries.  
47

1 Bowles added that his Washington counterpart is very pleased with the initial results of  
2 some of the handle of steelhead, which is less than two percent.

3  
4 Commissioner Wolley clarified that the reasoning behind the testimony saying that there  
5 was actually higher incidences of non-targeted species in the seines is: 1) the larger  
6 mesh size; and 2) the handling issue. You are saying in gillnets there is higher mortality  
7 due to excessive handling of fish and stressing them?

8  
9 Bowles said fish caught in gillnets are caught in their gills, problematic if you want to  
10 release the fish. Tangle net mortalities are 14%, much better than larger mesh gillnets at  
11 40%. In the tangle net they are getting caught in their teeth and they have to be pulled  
12 out. With a seine none of these fish are entangled; some of them do get rolled and get  
13 crowded. It is a net and does not gill or entangle them the same way. Initial studies on  
14 mortality show that most of them are doing quite well.

15  
16 Chair Levy asked Bowles to state the size of all those nets for the record.

17  
18 Bowles said eight inch (8") for the large mesh; four and a quarter inch (4-1/4") for the  
19 tangle net; six inch (6") for coho, and three and a half inch (3-1/2") for a seine gap.

20  
21 Commissioner Akenson was interested when the Commission would hear about new  
22 gear and research. She asked to know as soon as possible in every year:

- 23 • What is being learned about those new gears so we all understand whether they  
24 are working, how they are working, and what kind of problems we might have?
- 25 • Also with the economic situation, particularly with the commercial fishermen  
26 because of so much uncertainty about how many fish are coming back. Whether  
27 this plan really will turn out to be an economically a win for them.

28 She said originally we would have a one year update and then at the end of the four-year  
29 period. Are we now thinking every year we would have an update on all of those issues?

30  
31 Bowles recalled that in December (2012) the Commission said they would like an annual  
32 update particularly with respect to the implementations of the actions. As we get to  
33 appropriate decision points on gear types the Commission could take those up.

34  
35 Commissioner Akenson asked staff to keep track of the guiding principles and insure that  
36 we are following what we need too. She said the more information we can get the better  
37 to know where we are each year as we progress.

38  
39 Bowles said staff is planning that for January 2014.

40  
41 Commissioner Webber also supported the yearly review. He said to look at what is  
42 happening based on how it is going versus our assumptions, updates in selective gear  
43 that have been tested to a greater degree, and out how we can make it work better.

44  
45 Vice Chair Finley was still interested in ways to enhance the opportunity for commercial  
46 fishermen in the side channel areas. Having managed a national sea shore, the Florida  
47 Bay and Everglades, he is aware of tidal actions and what that does in transporting

1 sediments and sand. He said he understands the ecological role the Department has in  
2 protecting mud flats and other wildlife values. Are there ways to enhance Young's Bay in  
3 terms of dredging or something that is not going to be fighting nature with redepositing?  
4

5 Bowles said most ports are really interested, but struggling with federal permitting  
6 processes to get resources to maintain their shipping channels and ports via dredging.  
7 He said it is something that could be looked at. Usually there is a reason where  
8 sediments are deposited and without addressing that reason you would have to  
9 continually dredge if you were creating holes. He suggested as part of the budget  
10 package to look at expanding time, size and areas in response to the commercial  
11 interests' concerns that there is not the space there. If we are not allowed to have that  
12 budget we will not be able to proceed. The first thing is to get the money to do the  
13 research to see what options are available. He said Washington Director Phil Anderson  
14 assured him they are definitely ready to evaluate a site on the north side of the river with  
15 a focus on Cathlamet slough. Bowles said it is important to get a site on the north side of  
16 the river.  
17

18 Commissioner Anderson asked what was the mortality rate used for the seine fishery in  
19 determining the numbers of fish that could be harvested in Tables C4 and C5.  
20

21 Bowles said the mortality rate for the three species in question was five percent. Are you  
22 referring to the bycatch or handling mortality? Commissioner Anderson said the number  
23 that the federal government would use to restrain the fishery. Bowles said when you hit  
24 those impacts it could stop the fishery? Commissioner Anderson said exactly. Bowles  
25 said the preliminary information indicates at least for the initial mortality that it is less than  
26 two percent; so, five percent for planning purposes until further research comes in.  
27

28 Commissioner Anderson asked how that number could be so different from what is being  
29 presumably reported from the actual seine fisheries in Puget Sound. She said if it is five  
30 percent during a test fishery if we find that it is much higher than that, then how much are  
31 we over estimating the value of a future seine fishery if we are off by a high factor?  
32

33 Bowles said these are projections which we will be revisit on the economic side, the fish  
34 catch and the assumptions. Before you remove gillnets from the river and defer to a  
35 seine approach, the Commission will have all the best information possible before they  
36 ever did that as the actual replacement gear. Both Oregon and Washington scientists  
37 feel this is a reasonable estimate to use until other information comes in.  
38

39 Commissioner Anderson said we are being asked if we feel confident in what the  
40 possible effects of the rules are through the FIS, a big "if" on certainty. What we've  
41 prepared is a best case scenario.  
42

43 Bowles said this is not a best case scenario. It is based on the scientists looking at the  
44 best available information and using that information. Nigro said we should have the  
45 results of the long term mortality studies for the fall purse seining that Washington is  
46 doing in time for the Commission's annual review. You will be able to look at their  
47 numbers versus our assumptions in that plan. In Table C4 the seine fisheries in the early

1 years are pilot fisheries that only assume a 12 person participation level. He said what  
2 you see there is a much smaller fishery, so it's a smaller part of the economic package  
3 during the transition period.

4  
5 Commissioner Anderson said it is hard to say that the FIS is adequate in terms of  
6 helping me judge even the general or initial affects of the proposed rulemaking; there is  
7 so much uncertainty. We are assuming:

- 8 • The seines will work.
- 9 • An impact rate that may or may not be accurate.
- 10 • SB 830 and HB 5013 are going pass; funds are going to be here.
- 11 • Space is going to be available in off-channel areas and that commercial fishers  
12 will actually have an opportunity to catch the enhanced runs of fish.

13 She said these are huge assumptions. The question is if there is enough information to  
14 make a reasonably informed estimate of what the effects will be.

15  
16 Commissioner Wolley said Bowles mentioned research for expanding into new areas but  
17 funding has to follow the results of that for those areas to be developed. Even though  
18 there is three years that commercial fishing can still use gillnets they could run out of  
19 space and the research and funding will not yet be available to expand into those areas,  
20 then they are maxed out. He said they have nowhere to go because the allocation shifts  
21 have already started. Is there any assurance that you can provide that there will be  
22 areas for them to fish into the future in a timely enough way?

23  
24 Bowles said as a Commission you have set a vision for a presumptive path into the  
25 future. As you implement that path, consistent with the Governor's direction, if either the  
26 assumptions or the results are not panning out you are expected as a Commission to  
27 investigate through staff why that is not occurring, e.g., crowding in off-channel areas or  
28 alternative gear, and to question if there are ways to address that and implement actions  
29 to adjust course. He said the transition period is part of adaptive management. If none of  
30 that is occurring you as a Commission can change course at any time.

31  
32 Chair Levy asked for a motion on **Option 1: Determine whether the Fiscal Impact  
33 Statement is adequate and whether to adopt a non-Tribal Columbia River  
34 Recreational and Commercial Fisheries Management Framework for 2013 and  
35 Beyond, including the use of adaptive management principles.** She said on pages  
36 14-15 of *Attachment 1- Agenda Item Summary* it clearly outlines the Adaptive  
37 Management principles the Commission discussed in December 2012.

38  
39 Commissioner Webber said there are three options; two are barbless hooks and  
40 sturgeon. Are we separating those out? Chair Levy said we can do it all as a whole  
41 issue but there is still unanswered questions. If we separate them those questions would  
42 be asked.

43  
44 Commissioner Akenson asked to start with the FIS first as a precursor to the main vote.

45  
46 Legal Counsel Steve Sanders said procedurally the Commission has to determine the  
47 FIS is adequate before you can even determine whether to do the rest of the package.

1  
2 Commissioner Wolley said his quandary is the linkage. The FIS meets the legal  
3 requirement and it is defensible but it doesn't say very much. He said which does not  
4 prevent him from supporting the Governor's plan in the aggregate in the spirit of moving  
5 forward and the legislation can be passed. He concurs with Commissioner Anderson  
6 that it is not an adequate analysis; agreement with that is a precursor to a vote.  
7

8 Chair Levy said you are willing to take the vote on; you're not comfortable with the vote  
9 and you're not sure you want to vote for the FIS because you don't agree that it has met  
10 the three criteria for you. Is that correct?

11  
12 Commissioner Wolley said he would agree with that.

13  
14 Commissioner Anderson said she made clear her concerns with the FIS and the  
15 assumptions that it makes are too broad for her to support the FIS. If the FIS was found  
16 inadequate by this Commission there would be another twenty (20) days for people to  
17 file additional comments or direct staff to develop and file a new fiscal impact statement.  
18 She asked does that have a time period attached to it.

19  
20 Legal Counsel said no. Your two options are to start the entire process over, that would  
21 be filing a new fiscal impact statement; or the intermediate one would be to grant from  
22 twenty (20) to ninety (90) days.  
23

24 Chair Levy said that Commissioners Anderson and Wolley are still in agreement; she  
25 doesn't believe Commissioner Wolley would vote for it. Commissioner Wolley said that  
26 he would not vote for what? Chair Levy said the FIS. Commissioner Wolley said that is  
27 correct; that is what he said.  
28

29 Commissioner Webber referred to page 2 of *Attachment 10 – Recommendations of the*  
30 *Fiscal Impact Advisory Committee (FIAC)* and made a motion:

31  
32 *Action: Commissioner Webber moved that: 1) the Commission find that the rules*  
33 *as proposed have an economic effect; and 2) that the Commission find that the*  
34 *Fiscal Impact Statement filed is adequate to notify the people whose economic*  
35 *interests would be affected that their interests would be affected and now is the*  
36 *time to testify regarding those interests; and 3) that the Commission find that the*  
37 *Fiscal Impact Statement filed is adequate to apprise the Commission at least*  
38 *initially on the general fiscal effects of the rules.*  
39

40 Chair Levy said the "at least initially" is what makes her okay with this because it is at a  
41 point in time for today and we are moving on and that is where she made her decision on  
42 that statement right there. She asked Legal Counsel if the motion was said correctly.  
43

44 Legal Counsel Sanders said Commissioner Webber had three points and the  
45 Commission would be adopting three findings: 1) the rules have a fiscal impact; 2) they  
46 are adequate for notifying people to come and testify, and 3) they were adequate for the

1 Commission's purposes combined with the other information that you have heard to  
2 make an informed decision.

3  
4 *Vice Chair Finley seconded the motion. Commissioners Wolley, Akenson,*  
5 *Webber, Finley, and Chair Levy voted yes. Commissioner Anderson voted nay.*  
6 *The motion passed by a vote of five with one nay vote.*  
7

8 Chair Levy moved to **Issue 2 – Sturgeon. Determine whether to readopt rules**  
9 **prohibiting the retention of white sturgeon in the Columbia River downstream**  
10 **from Bonneville Dam, lower Willamette and in Oregon coastal waters beginning in**  
11 **2014.**  
12

13 Bowles said the Commission is ready to consider a motion to adopt administrative rules  
14 proposed by staff in *Attachment 3 – Draft Oregon Administrative Rules*. The Commission  
15 needs to decide whether they are combining this with barbless hooks and sturgeon. If  
16 you are, the Commission will take line three (3) (of the draft motion) and move it all the  
17 way down to the end. If the Commission is not combining it with barbless hooks and  
18 sturgeon, you will take the move from line three and take it all the way down to the  
19 comma at the second to the last line. Legal Counsel Sanders said and after the Beyond.  
20

21 Vice Chair Finley said there is a minimum three year phase-in. He does not see an  
22 immediate economic harm. The Commission has agreed it will revisit this at any time  
23 because we have a dual goal to make sure that we preserve commercial fishing and  
24 keep people employed. He finds that the affected persons were not deprived of  
25 procedural due process; that the Department's proposed rule changes supersede the  
26 Lower Columbia Management Plan and this Commission is free to amend the Plan.  
27 These are rules and not a plan. He finds that the allocations are not inequitable and he  
28 does not find that there was severe economic impact on small business.  
29

30 *Action: Vice Chair Finley said considering the Commission's vote on the FIS, I*  
31 *move to adopt the administrative rules proposed by staff in Attachment 3 relating*  
32 *to the guiding principles and management strategies for non-Tribal commercial*  
33 *and recreational fisheries in the Columbia River mainstem and tributaries for 2013*  
34 *and Beyond, and relating to white sturgeon retention and barbless hooks.*  
35 *Commissioner Webber seconded the motion.*  
36

37 Commissioner Akenson said regarding this motion the most important thing about our  
38 rule is adaptive management. As we have heard today there is a lot of uncertainty  
39 whether there is funding, are fish coming back, and of things we don't know about and  
40 cannot be adequately addressed in a FIS. Our Commission is committed to following the  
41 guiding principles and insuring that there are not economic losses for commercial or  
42 recreational and we do have conservation benefits. We will look at these very closely  
43 every year and insure that this process does work for the intention our guiding principles  
44 show us. If our current plan does not work we will change them to make it work.  
45

46 Vice Chair Finley added that it will change his vote if on future proceedings if things do  
47 not work out or we do not see the path headed into the direction it should.

1  
2 Commissioner Anderson said from industry's perspective adaptive management is  
3 somewhat of a catch phrase. The fear surrounding it is that political will changes,  
4 Commissions change and the speed with which Government makes decisions is not  
5 nearly the pace with which businesses need to make decisions, especially small  
6 businesses vulnerable to seasonal changes. She put the impetus on this Commission to  
7 be prepared to act swiftly and without too much hesitation if need be because that is the  
8 way business is.

9  
10 Chair Levy said we constantly do fish counts of the fishermen at the docks. If we see the  
11 numbers not going the direction that we expect them, she expects staff to set up a time  
12 to visit with the Commission regarding those, sooner than later.

13  
14 *Commissioners Wolley, Akenson, Webber, Finley, and Chair Levy voted aye.*  
15 *Commissioner Anderson voted nay. The motion passed by a vote of five with one*  
16 *nay vote.*

17  
18 Immediately after the Commission voted 5 to 1 to re-affirm their rules on Columbia River  
19 fishing reform, Chair Levy said the Commission needed to take care of another issue  
20 that came as direction from the Governor's letter (see letter dated June 6, 2013), and this  
21 does not require a vote, just as direction to the Department - designing the restrictive  
22 recreational fishing zone adjacent to Youngs Bay.

23  
24 She said the Commission would like to see, along with the direction from the Governor,  
25 the Department begin doing the study and figure out how to reasonably reduce the  
26 interceptions of hatchery fish intended for commercial harvest in the off-channel area, as  
27 we discussed in December. I am glad to see that the Governor is also seeing that it is  
28 important. So, if you can bring that back to us in a reasonable timeframe. She said she  
29 didn't know what that reasonable timeframe is; maybe the Commission should set a time  
30 limit for them to come back and discuss it with us.

31  
32 Director Roy Elicker said we are coming back in January 2014 for the annual review.  
33 We will have had a chance to look at what has happened in the important fall fishery. We  
34 will also come back with options on a potential closure outside of Youngs Bay to protect  
35 the interception of hatchery fish. He asked staff if that would be adequate time.

36  
37 Bowles said yes. We had planned, based on the December (2012) direction, to include  
38 this for your (the Commission) consideration in January (2014) and is consistent with the  
39 direction that we had.

40  
41 Chair Levy said that would be great and the other Commissioners agreed.

42  
43 **ADJOURN**

44 Chair Levy adjourned the public meeting at 5:50 p.m.