



JOHN A. KITZHABER, MD
Governor

June 6, 2013

Bobby Levy, Chair
Commission Members
Oregon Fish & Wildlife Commission
3406 Cherry Avenue, NE
Salem, OR 97303

Dear Chair Levy and Members of the Oregon Fish & Wildlife Commission:

As you review updated fiscal information and revisit the lower Columbia River non-tribal fishery rules adopted by the Commission last December, please know I remain committed to the outcomes of overall economic benefits for both commercial and recreational fisheries and conservation improvements. I urge you to stay the course and continue to implement, based on ODFW staff recommendations, the rules and adaptive management based on the objectives and associated guiding principles clearly stated in your materials for today's meeting:

1. Maintain or enhance the overall economic viability of commercial and recreational fisheries;
2. Optimize overall economic benefits to the state;
3. Promote conservation of native fish; and
4. Promote orderly and concurrent fisheries with the state of Washington.

Consistent with these objectives and the Commission's adopted rules, my 2013-2015 proposed biennial budget includes funding for enhancements of lower river off-channel gill net fisheries, the advancement of mainstem alternative gear fisheries, and transitional assistance to fishers as the management regime changes. I am also working alongside members of Oregon's Legislature on legislation that advances policy elements central to successful implementation of the approach adopted by the Oregon and Washington commissions, especially those elements central to fishery enhancements.

As you may know, the Commission's rulemaking is under litigation, and interests associated with this lawsuit also oppose the advancement of the above-mentioned proposed budget and legislation, despite the economic risks of doing so. While the Legislature deliberates, a court-imposed temporary stay has delayed full implementation of the rules, resulting in a re-shaping of, among other things, the allocation discussions over the 2013 fisheries as compared to what was contemplated in the rules. Despite the stay, ODFW has worked to avoid the undesirable consequences of litigation by implementing the approach adopted by the Commission wherever possible, including the transfer of juvenile hatchery fish from upper tributaries to the lower river for commercial off-channel fishery enhancement, implementation of barbless hook regulations, and advancement of an October full-fleet selective commercial coho fishery. These items and the recreational fishing fee proposed in legislation either impose new requirements on the recreational fishing community or provide proportionately more benefit to the commercial fishing community, and given this, I appreciate the recreational community's support for the Commission's rules, my proposed budget, and the legislation in Salem.

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The fishery management changes advanced by the Commission's December 2012 rulemaking and Washington's subsequent policy adoption are significant, and the risks associated with the assumptions around this reform approach are borne disproportionately by the commercial gill net industry. My proposed budget and the legislation in Salem are aimed at elements needed to make this approach succeed in practical and economic terms. While I understand the inclination to stand on principle, efforts by some to undermine these pieces actually exacerbate the risks of failed assumptions.

I realize the challenges you face advancing the public's interest in fish and wildlife within a politically charged setting and the sensitivity you have to people affected by the Commission's rules and ODFW actions. I share this sensitivity. Given this, the following points are relevant:

- The Commission decided to review the status of the December 2012 rulemaking after one year. At that time, and at each subsequent annual review mark, I anticipate the Commission would take stock of all that has happened in the administrative arena to implement the rules, in the court system, and in the Legislature. I anticipate this review would consider what is responsible for any obstacles to the ability to attain the objectives of the Commission's rules, including actions aimed at undermining the objectives, and how to respond in light of those obstacles.
- The transition period for phasing non-tribal gill nets off the mainstem lower Columbia River and shifting harvest allocation levels is intended to buffer potential adverse impacts by first allowing further enhancements in off-channel fisheries, creation of new off-channel fisheries, and development of new mainstem alternative selective gear fisheries. If these actions do not take effect during the transition period, or if the anticipated economic and conservation gains do not materialize, I would anticipate the Commission would seek to immediately determine why and adjust through adaptive management.
- I remain committed to the fundamental elements of the rules adopted by the Commission, and in this context, adaptive management is an essential principle. Adaptive management does not mean abandoning the rules or their core elements, but there are many ways the Commission and Department can react to new facts and issues by adjusting elements within the overall management framework if unanticipated conditions arise and the objectives of the rules are not being met despite the good faith of those involved.
- Along these lines, and starting now, I believe it is prudent for ODFW to begin designing a restricted recreational fishing zone adjacent to Young's Bay. This should be done in consultation with affected interests and the area should be minimized to what is needed to reasonably reduce interceptions of hatchery fish intended for commercial harvest in the off-channel area. This issue was part of the December rulemaking discussion and the underlying work group recommendations. Undertaking this design does not demand any rule change today and would not be implemented immediately. But so long as funding for lower river fishery enhancements has been advanced and litigation does not prevent overall implementation of the rules, I would support the Commission's adoption and application of this restricted area as part of the final year of the transition period or earlier if the Commission deems appropriate.

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Since December 2012, staff from my office and ODFW have met with members of the commercial and recreational fishing communities and tribes. People remain uneasy about the present and future of the lower Columbia fisheries management approach adopted by Oregon and Washington. Though motivated by different issues, these interests would all like to see changes. This is understandable, but now is not the time to switch course. Key elements of the rules are just being implemented or are under consideration in the Legislature and in court. Instead of making fundamental changes before even a year has passed since the Commission's adoption, now is the time to move forward with the rules, take stock at the designated check-in points, and understand that adaptive management options exist if necessary. Thank you for your consideration of this ongoing, challenging issue. And thank you for your public service to Oregon and to those who treasure Oregon's proud fish and wildlife heritage.

Sincerely,

A handwritten signature in black ink, appearing to read "John Kitzhaber". The signature is fluid and cursive, with the first name "John" being larger and more prominent than the last name "Kitzhaber".

John A. Kitzhaber, M.D.

Governor