



AGENDA ITEM SUMMARY

ISSUE 1

The Commission will be asked to approve an exception to land ownership requirements as permitted in ODFW grass carp permit rules to allow stocking by Oregon Parks and Recreation Department at Beverly Beach State Park.

BACKGROUND

Grass carp are classified as a controlled species under OAR 635-056-0075 due to their potential negative impacts on fish and wildlife habitat. The Department allows stocking of sterile grass carp for aquatic vegetation control in accordance with OAR 635-056-0075.

The Oregon Parks and Recreation Department (OPRD) has requested permission to stock a limited number of sterile grass carp in an isolated wastewater treatment pond at Beverly Beach State Park to manage vegetation. Current rules permit grass carp stocking only in ponds located entirely on private land or on land owned or controlled by a special district as defined in ORS 198.010. Because OPRD manages public land and does not meet the definition of a special district, they have submitted an exception request.

Under OAR 635-056-0075(1)(a)(A)(xv), the Commission may grant exceptions to the ownership requirement. No rule changes are proposed or necessary. The proposed use of sterile grass carp complies with all other provisions of the grass carp rules. The ownership requirement is the sole reason ODFW could not issue the permit through standard administrative processes.

PUBLIC INVOLVEMENT

This exception request does not require changes to existing rules, and there is no fiscal impact. Public notification of this request to the Commission for an exception to the land ownership requirements occurred through the mailing list for March Commission meeting agenda items. ODFW has posted the exception request (Attachment 2) and this staff report on the Commission meeting webpage. The public may provide comments in writing before the meeting or orally during the meeting.

ANALYSIS

OPRD's proposed stocking plan and location are consistent with grass carp stocking provisions in the existing OARs, except for the specific land ownership provisions in section (1)(a)(A)(i):

“(1)(a)(A) The following restrictions and standards will govern the issuance of grass carp permits:

(i) Stocking will occur only in water bodies which are:

(I) Completely within private land; or

(II) On land owned or controlled by special districts defined in ORS 198.010.”

Because the request is for publicly owned land and OPRD does not meet the definition of a ‘special district’, it has submitted an exception request to the Commission (Attachment 2).

The Department considers the use of sterile grass carp at this site to be safe and appropriate. The wastewater treatment pond is isolated and has no stream inflow or outflow. Water is pumped from OPRD’s disposal system, treated, and then used for irrigation. The pond is just over one acre in size and lies outside the 100-year floodplain. Even in the unlikely event of flooding, water would eventually flow to the Pacific Ocean, where any grass carp would not survive. The pond is not open to angling and is not accessible to the public. OPRD’s plans to stock 15 fish; less than the maximum allowable of 22 per acre.

The pond has a recurring problem with duckweed that OPRD has had difficulty controlling through other methods. Future alternatives to sterile grass carp would likely involve chemical treatments.

ODFW’s District Fish Biologist has inspected the site, and staff support issuing a permit if the exception is granted. The point of contact for OPRD has prior experience with sterile grass carp use.

Under OAR 635-056-0075(1)(a)(A)(xv), the Commission may grant exceptions to land ownership provisions as follows:

The Commission may grant an exception to OAR 635-056-0075(1)(a)(A)(i) or (1)(a)(A)(ii). Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements***:

(I) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(II) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be over-topped by a 100-year flood. The Department reserves the right to have a licensed engineer

retained by the agency review and approve or deny the plan or drawing submitted by the applicant.”

The additional requirements*** are not applicable because the OPRD pond is smaller than 10 acres and is located outside of the 100-year floodplain. The Department finds this location provides protections equivalent to those identified in the additional requirements.

OPTIONS

1. Approve the OPRD exception request.
2. Approve the OPRD exception request with modifications.
3. Deny the OPRD exception request.

DRAFT MOTION:

Issue 1: I move to approve the Oregon Parks and Recreation Department’s request for an exception to the land ownership provisions in the controlled fish species rule, as outlined in Attachment 2 related to its permit request to stock sterile grass carp in an isolated wastewater treatment pond at Beverly Beach State Park.

EFFECTIVE DATE: If approved, a permit will be issued by ODFW staff.