

Public Correspondence

**Public correspondence received
as of November 24, 2009**

-----Original Message-----

From: Benton H Elliott [mailto:b.elliott@juno.com]
Sent: Thursday, November 05, 2009 3:48 PM
To: ODFW Commission
Cc: Martin.Nugent@state.or.us
Subject: Peregrine Falcon Harvest

Commissioners:

I am writing in support of limiting the harvest of wild Oregon peregrine falcons to eyasses taken from bridge eyries by qualified biologists/climbers. These youngsters are in peril if they fledge over busy highways or waterways. By focusing the harvest on "bridge birds", ODFW would offer protection to this resource while avoiding the disturbances, risks, and liabilities associated with the taking of "cliff birds" as were experienced in Port Orford this summer. This would be a sustainable solution which provides wild birds to falconers beyond the captive-bred birds already available to them.

By way of background, I began practicing falconry in the mid-1960s. I was involved in late-1970s legalization efforts in Oregon, and served as the first president of the Oregon Falconers Association.

Thank you for considering my input.

Sincerely,

Benton Elliott
1313 Lincoln Street, #605
Eugene, Oregon 97401
541.484.7010
b.elliott@juno.com

Senior Living Locator

Free assistance finding the right senior housing anywhere in the US.
<http://thirdpartyoffers.juno.com/TGL2141/c?cp=LU09oxjDao1GrTrwuirSugAAJ1BuEvHTCXFjieFic4eGzbcAAAQAAAFAAAAHOGOT4AAANSAAAAAAAAAAAAAAAAAAAAiXAQAAAAA=>

Michelle Tate

From: John Koloszar [eaglbats@aol.com]
Sent: Monday, November 16, 2009 3:45 PM
To: 'Michelle Tate'
Subject: RE: Peregrine Falcon Rules
Follow Up Flag: Follow up
Flag Status: Red
Attachments: Exhibit D_Attachment 4_DRAFT OAR 20091116JGK Comments.doc

Michelle,

I have attached the document with my comments regarding the Falconry Licenses, Permits and Requirements. I also added a comment about the Capture Methods below. Let me know if you have any questions.

John

635-055-0045 Capture methods

This section does not reflect the new requirements that they be present at all times while trapping post-fledgling peregrines. And I found that for other species, the Department only requires a Swedish Goshawk trap to be checked every eight hours. The book, "Raptor Research and Management Techniques" (Bird and Bildstein, 2007), suggests that the traps should be checked at least every 3 hours. As a raptor biologist that has used these traps extensively, I have observed injuries to trapped birds in less time. I would recommend encouraging attending Swedish Goshawk traps at all times, or checking the trap at least every 2 hours for all other raptor species.

John Koloszar
Mailing address:
PO Box 3964
Salem, Oregon 97302
Mobile#: 503-602-0669
Eaglbats@aol.com

From: Michelle Tate [mailto:michelle.l.tate@state.or.us]
Sent: Friday, November 06, 2009 9:49 AM
To: John Koloszar
Subject: RE: Peregrine Falcon Rules

Good morning John.

I have attached the draft rules that are up for review and comment. If I can get your comments back before the 19th I will be able to make necessary changes before I present the draft rules to the director for his review. Your feed back would be greatly appreciated.

Thank you, Michelle

From: John Koloszar [mailto:eaglbats@aol.com]
Sent: Friday, November 06, 2009 9:41 AM
To: Michelle.L.Tate@state.or.us
Subject: Peregrine Falcon Rules

11/19/2009

Michelle,

As you probably know, I have turned in the report for the 2009 peregrine monitoring report. I have not heard about specific changes to the falconry rules, please let me know when the comment period is open, or give me a ring if I can provide any input at the outset.

Let me know, John

John Koloszar
Faculty Research Assistant
Oregon Cooperative Fish & Wildlife Research Unit
Oregon State University Corvallis, OR
Mailing address:
PO Box 3964
Salem, Oregon 97302
Mobile#: 503-602-0669
Eaglbats@aol.com

**DIVISION 55
FALCONRY LICENSES, PERMITS AND REQUIREMENTS**

635-055-0000

Definition of Terms

For the purpose of these rules, the following definitions apply:

- (1) "Captive bred" means any raptor, including eggs, hatched in captivity resulting from parents that mated in captivity, or are the progeny of artificial insemination.
- (2) "Falconry" is caring for and training raptors for pursuit of game, and the sport of hunting wild game with raptors.
- (3) "Indigenous raptor", for purposes of falconry, means golden eagle (*Aquila chrysaetos*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), northern goshawk (*Accipiter gentilis*), red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), merlin (*Falco columbarius*), prairie falcon (*Falco mexicanus*), peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), and great horned owl (*Bubo virginianus*).
- (4) "Passage" means first year migrant raptors capable of flight.

(5) "Post-fledgling" means a young first-year bird which has recently flown from its nest.

Comment [B1]: Comment: I am concerned that the definition does not use the phrase, "capable of flight". The word "flown" could potentially be interpreted as ability to glide to the ground, which could leave the door open for birds to be "encouraged" to fledge before they can actually fly. Adding the phrase "capable of flight" in the definition might remedy that gray area.

~~[(5)]~~**(6)** "Raptor" means any species or hybrid of the families Strigidae, Falconidae and Accipitridae.

~~[(6)]~~**(7)** "Raptors at hack" means the intentional release of a raptor as a training technique, with the expectation of recapture after a period of time.

~~[(7)]~~**(8)** "Take", for the purposes of these rules, means to trap, capture, or attempt to trap or capture a raptor from the wild for the purpose of falconry.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0035

Capture and Transportation of Raptors

A raptor capture permit is required prior to capturing or attempting to capture any raptor. A non-resident falconer from a state having a federally approved falconry program may obtain a capture permit for a red-tailed hawk, Cooper's hawk, sharp-shinned hawk, prairie falcon, peregrine falcon, great horned owl, golden eagle or American kestrel only. All non-resident applications must include copies of current state and federal falconry permits. All applicants for golden eagle

capture must include a copy of the federal authorization to take golden eagles. Only 20 non-resident capture permits will be issued in total each capture season. All non-resident capture permits, except for capture permits for peregrine falcons, will be issued on a first come first served basis.

(1) A [a] **nonrefundable** application fee of \$15.00 (plus a \$2.00 license agent fee) will be charged for each capture permit allowing the capture of one raptor per permit.

(2) Except for take of [nestling-(eyas)] peregrine falcons, the Department will issue capture permits in the order applications are received. The permit process will begin January 1st of each year, and applicants must hold a valid Oregon falconry license. The category of species shall be listed on the permit (e.g. "golden eagle", "gyrfalcon", "[eyas] peregrine falcon", or "other raptor") and the falconer is authorized to take only one raptor from the category specified. A falconer may apply for a capture permit in more than one category. The falconer whose name appears on the permit must do the capturing except for peregrine falcon nestlings; the permit is not transferable.

(3) Capture permit applications for [nestling] peregrine falcons may be submitted to the Department beginning January 1st and received no later than March 1st of each year. The Department will issue peregrine falcon capture permits by way of a lottery draw pursuant to OAR 635-055-0037.

(4) Of the number of permits available for issuance annually, the Department will make one such permit available to nonresidents. Each permit will include conditions crafted by the Department on a case by case basis to address the particular proposal to capture peregrine falcons. Such conditions may include, but are not limited to, requirements to protect the safety of falconers and other humans during capture of peregrine falcons, and shall specify where the permittee may capture peregrine falcons. The following general conditions apply to all peregrine falcon capture permits:

~~{(a) Young falcons may be removed from their eyries from May 15th to June 30th daily and when only between 15 and 24 days of age. At least one nestling must be left in each eyrie prior to fledging. A young (fledgling) peregrine falcon may be taken up to 30 days after leaving the nest.}~~

(a) Nestling (eyas) peregrine falcons may not be removed from the nest by falconers.

EXCEPTION: nestling peregrine falcons may be removed from nests on man-made structures (e.g. bridges or buildings) by persons authorized by the department during nest-site management activities. Such nestlings may be made available to

Comment [B2]: When does the falconer have to provide the information for a trapping site to be approved (January 1st to March 1st)? I could not find that mentioned anywhere. If it is in the initial application, do they only provide one site? At that point in the year they will not even know if the site is occupied. Do they provide multiple sites for approval and then give the 7 day notice on the one they finally selected?

master falconers who possess an unfilled peregrine capture permit for the current capture season. [Permittee must be present when the nestling is being removed from the eyrie.]

[(a)](b) A young (post-fledgling) peregrine falcon may be taken (trapped) by a permitted master falconer after the young bird of the year flies from its nest-ledge through August 31st.

(A) Trapping attempts will only be permitted at locations approved by the Department.

(B) Permittee must be present at all times whenever a trap is in operation while attempting to take a post-fledgling peregrine falcon.

(c) Take of passage peregrine is unlawful.

(d) A permit holder must notify the Department's Falconry Program at the Salem headquarters office seven days prior to the proposed date of any peregrine falcon capture attempts. Details of proposed capture locations must be disclosed to the Department program staff prior to attempting to capture a post-fledgling peregrine falcon.

~~(d)~~ **(e)** Each falconer who takes a peregrine falcon from the wild must report the sex and precise capture location to the Department and the U.S. Fish and Wildlife Service within 5 days after. If the falconer later determines that the sex of any peregrine falcon taken was reported incorrectly, then the falconer must submit a corrected report as soon as possible after discovering the error.

~~(e)~~ **(f)** Falconers must band each peregrine falcon taken with a band provided by the Department.

~~(f)~~ **(g)** After a captured falcon reaches 30 days of age, the falconer must pluck breast feathers from the falcon and submit them to the U.S. Fish and Wildlife Service, along with a written record of the precise location of where the bird was taken from in the wild. The address for submission is U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, Virginia 22203-1610.

~~(4)~~ **(5)** Upon taking the raptor authorized, the permittee shall immediately validate the permit by recording the date, species, sex, county, and capture method and signing his/her name in the space provided. At the time of capture, the permittee shall affix the permanent plastic band, issued with the permit, to one leg of the bird. Within five business days of capture, the permittee shall take the bird to a Department office to have the permit certified.

~~(5)~~ **(6)** Lost, raptors at hack, or captive bred raptors may be re-trapped at anytime without a capture permit. All other raptors captured shall be immediately released.

~~(6)~~ **(7)** Exportation of wild caught raptors - No raptor taken from the wild in Oregon shall be transferred to another person residing outside the state except those Oregon wild caught raptors held for six months or longer may be transferred to another person residing outside the state.

Comment [B3]: (A), (B) etc. I think these are still under (4) and should these be (c), (d) etc.? Yes/No?

Comment [B4]: I would also like to say that I do not advocate closing of any particular area of the state to falconry, but, areas in close proximity to State Parks, Federal Wildlife Refuges, and other areas that do not allow take of wildlife, should be of special concern when considering trapping locations.

Comment [B5]: Should 635-055-0045, Capture Methods reflect this change also.

Comment [B6]: Seven **business** days would avoid any holiday and weekend issues which could reduce actual time down to 4 days for the Department.

Comment [B7]: With the new rules, the falcon should already be 30 days old, unless it's a bridge bird.

[(7)](8) An Oregon licensed falconer is allowed to retain legally captured raptors in their possession if they move from Oregon.

[(8)](9) Falconers are responsible for treatment and rehabilitation costs of raptors taken for falconry and injured during trapping efforts.

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

635-055-0037

Peregrine falcon capture permits process

(1) The Department will conduct the lottery to award peregrine falcon capture permits by drawing names of eligible entrants at random. To participate in the lottery, a person must:

(a) (if an Oregon resident) possess a current Master Falconers license as per OAR 635-055-0002; or

(b) (if a nonresident) possess a Master Falconers license from a state having a federally approved falconry program. [and]

(2) The Department will not accept applications from any person who:

(a) is awaiting prosecution for, or has been convicted of any violation of the animal cruelty or animal abuse laws;

(b) is awaiting prosecution for, or has been convicted of a wildlife violation involving the illegal take of wildlife;

(c) is awaiting prosecution for, or has been convicted of aiding in the illegal take of wildlife;
or

(d) has had his or her hunting or fishing license suspended for a wildlife violation.

[(b)](3) [pay the Department] A \$15.00 application fee (plus a \$2.00 license agent fee) **must be submitted with the application.** Application fees are nonrefundable, whether or not an applicant is successful in the drawing.

[(2)](4) Peregrine capture permit applications (including fees) must be submitted to the Department's Salem headquarters office no later than March 1 each year.

(a) If hand delivered, an application must be received at Department headquarters office (3406 Cherry Ave, NE, Salem, OR, 97303) by 5:00 p.m. on March 1

(b) If sent via postal mail, an application must be postmarked no later than March 1.

[(3)](5) If an applicant violates any of the following restrictions, the Department will remove his or her application from the drawing.

(a) An applicant may submit only one peregrine capture permit application per capture season.

(b) An applicant must submit a completed application containing name, license number, address, and phone number.

~~[(4)]~~**(6)**(a) During each year's lottery, the Department will draw six Oregon resident applications and two alternates, plus one non-resident application and a non-resident alternate.

(b) The Department will notify successful applicants and alternates by mail. If the applicant does not reply in writing (mail, fax, or email) within 10 calendar days, the applicant will be disqualified and the Department will offer the permit to the next alternate. If neither alternate replies in the required time, the permit will not be issued.

~~[(5)]~~**(7)** Peregrine falcon capture permits are not transferable.

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

635-055-0070

Revocation of License and Permits

~~[Conviction or forfeiture of bail for any falconry or game regulation violation while hunting with a raptor may result in suspension or revocation of any falconry license or other permit used under these regulations and the seizure of any raptors held.]~~ **(1) The Department must revoke a falconry license or permit if the holder is convicted of, or admits to a violation of any wildlife law, or any rule, order or permit issued under the wildlife laws. Upon revocation, the Department may seize any raptors held.**

(2) Failure to comply with permit conditions is grounds for revocation or suspension of a capture permit.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496