



## AGENDA ITEM SUMMARY

### BACKGROUND

The Fish and Wildlife Commission will consider a modification to OAR 635-056-0075 to allow stocking of grass carp into Devils Lake (Lincoln County) for the purpose of weed management, subject to terms and conditions determined by the department.

Controlling invasive aquatic vegetation in lakes is challenging. Successful treatment generally relies on a combination of chemical, mechanical, and/or biological methods. Sterile grass carp have been used as a biological control throughout the world and were stocked into Devils Lake (near Lincoln City) in 1986 (10,000 fish), 1987 (17,000 fish) and 1993 (5,000 fish) to reduce aquatic plant biomass and restore popular recreational uses. Sterile grass carp do not reproduce, therefore the restocking or treatment period is dependent on the lifespan of the fish. The last grass carp stocked in 1993 are at the end of their life expectancy.

Devils Lake is currently experiencing a rapid re-growth of invasive aquatic vegetation, primarily Brazilian elodea and Eurasian milfoil. This vegetation forms large, dense mats and impedes recreational activities including boating, angling, and swimming. Further, seasonal die-off and decomposition of invasive plant material may contribute to lower dissolved oxygen that is detrimental to the health of the waterbody.

The Commission approved Devils Lake for stocking with sterile grass carp on an experimental basis in 1986, 1987, and 1993. But, the Commission has since adopted administrative rules governing the use of grass carp in this way. Currently, under OAR 635-056-0075, the department may issue grass carp stocking permits for small (under 10 acres), privately held lakes, ponds, and reservoirs, as well as ditches and canals, provided that the waterbody is closed to angling and other uses by the general public. Under the current administrative rule, the Commission may grant an exception to the waterbody size and ownership restrictions; however, it cannot grant an exception to the angling and public use prohibitions. As a result, there is currently no opportunity for the department or Commission to consider issuance of a grass carp stocking permit for Devils Lake without closing the lake to public recreational uses.

### PUBLIC INVOLVEMENT

Department staff discussed the proposed modification of OAR 635-056-0075 directly with the Devils Lake Water Improvement District manager, multiple homeowners around the lake, state legislators, anglers, and the media. There have been numerous public inquiries into re-stocking grass carp in coastal waterbodies, but no public meetings on the subject have occurred. This issue was presented to the Commission by the Devils Lake Water Improvement District and a landowner during Public Forum on August 5, 2022.

### ISSUE

Stocking of non-native, sterile (triploid) grass carp in Devils Lake as a biological control for invasive aquatic weed growth.

## ANALYSIS

The proposed modification to OAR 635-056-0075 will afford the Devils Lake Water Improvement District the opportunity to continue to stock grass carp for weed management under terms and conditions determined by the department. Coho salmon, steelhead, cutthroat trout and Pacific Lamprey are native to the basin. The department has no evidence that the prior stockings negatively impacted these species. The department's primary concern is to prevent the spread of grass carp into other basins where they may impact otherwise functioning ecosystems.

To mitigate risks of escape to other waterbodies, negative impacts to other recreational uses in the lake, and further degrading water quality, the terms and conditions will include, but are not limited to:

- (1) requiring the use of certified sterile and disease-free grass carp;
- (2) limiting stocking to Devils Lake which drains directly over a short distance to the ocean where grass carp cannot survive;
- (3) limiting the stocking density;
- (4) requiring screening where appropriate; and
- (5) requiring public notice of stocking and penalties for removal of grass carp.

***Certified Sterile (Triploid) and Disease-Free Grass Carp.*** The U.S. Fish and Wildlife Service (USFWS) provides a triploid grass carp inspection service to help states and other entities protect their aquatic habitats. The inspection program provides assurance that shipments of sterile grass carp do not contain fertile diploid carp. Under current and proposed rules, grass carp imported into Oregon can only be provided by an approved vendor and must be certified by the USFWS as triploid. Use of sterile grass carp ensures that their presence in a waterbody will be limited to the life expectancy of stocked grass carp. Additionally, the supplier of grass carp works with their state or university pathology departments to certify that fish are free of disease. Currently, the only approved grass carp supplier is located in Arkansas. This supplier implants passive integrated transponder (PIT) tags in each fish stocked.

***Limiting stocking to Devils Lake.*** Devils Lake has a history of grass carp stocking and the lake outlet drains through a short channel directly into the ocean. Because of this, there is no risk of grass carp migrating into neighboring watersheds. Grass carp survival is extremely low at salinities greater than 14 parts per trillion (ppt) and they do not survive for more than a few hours above 17 ppt. This provides sufficient assurance that grass carp would not survive if they migrate to the ocean where salinity levels are 35 ppt. There have been no observations or reports of grass carp migrating into tributaries to Devils Lake, which are not suitable habitat for grass carp.

***Limiting stocking density.*** Overstocking can result in excessive removal of aquatic vegetation and associated impacts on water quality and warmwater fish production. The department will limit the stocking rate to promote controlled vegetation management and attempt to achieve a balance with other recreational uses and species needs. Future stocking would require another permit application and discussion with the department and would be dependent on results of vegetation monitoring.

Grass carp stocking will help reduce the amount of aquatic vegetation but will not address underlying issues such as excessive nutrients that are contributing to the problem. The department will encourage the Devils Lake Water Improvement District to undertake additional efforts, such as weed harvesting, manual removal, and possibly limited aquatic herbicide applications to aid in the control of non-native aquatic vegetation.

**Requiring screening where appropriate.** Prior to issuing a permit, the department will evaluate if any inlets or outlets require screening to prevent movement of grass carp. During prior stockings, the department determined that no additional screening was needed.

**Requiring public notice of stocking and penalties for removal of grass carp.** Existing statutes prohibit possession, transport, or release of grass carp (ORS 498.222) without a permit from the department and any violation is considered a Class C felony if committed intentionally or knowingly. In Devils Lake, where grass carp have been stocked in the past, angling regulations prohibit harvest of grass carp. Permit conditions established by the department will require permittees to maintain signage at all public access sites regarding prohibitions and penalties related to grass carp angling and removal.

**Summary:**

Devils Lake is experiencing moderate to severe growth of invasive aquatic weeds and the department recommends approving biological control with sterile grass carp as an appropriate tool to aid in invasive aquatic weed control with minimal risk to native species. The proposed rule modification is required to authorize sterile grass carp stocking permits for Devils Lake while maintaining public access to the lake.

**OPTIONS**

- Option 1. Accept the proposed rule changes as recommended by staff.
- Option 2. Modify the proposed rule changes.
- Option 3. Reject the proposed rule changes and retain the status quo.

**STAFF RECOMMENDATION**

- Option 1. Accept the proposed rule changes as recommended by staff.

**DRAFT MOTION**

I move to amend OAR 635-056-0075 as proposed by staff in Attachment 3.

EFFECTIVE DATE: Upon Filing