

## Agenda Item Summary

### BACKGROUND

#### Issue 1

At the April 25, 2014 Commission Meeting, the Commission directed staff to initiate rulemaking to consider amending the Wildlife Integrity Rules to classify Barramundi (*Lates calcarifer*) as a Controlled species to allow the possession and rearing of for the purpose of aquaculture with regulation similar to Tilapia as requested by a petition from Mr. Robert Camel, president of Tumalo Fish and Vegetable Farms Inc.

#### Issue 2

On May 22, 2014, the Wildlife Integrity Panel met and reviewed a request submitted by Angela Goodwin to classify Brush Tailed Bettong (*Bettongia penicillata*) as a Noncontrolled species. Angela Goodwin submitted information that address the criteria found in OAR 635-056-130 and 635-056-0140.

#### Issue 3

In the last decade or so, nonnative crayfish from the family Cambaridae, which include species such as Red Swamp crayfish, Ringed crayfish and the Rusty crayfish, have established and expanded their populations in Oregon. Currently this family of crayfish species are classified as a "Prohibited" species in OAR 635-056-0050 (A) (iii) and therefore by rule cannot be imported, possessed, sold, purchased, exchanged or transported in the state without a Department-issued permit. In the Fishing regulations "crayfish" are classified as a nongame shellfish with harvest methods, catch limits and restrictions associated with their harvest. By these regulations the department is encouraging both the recreational and commercial harvest of crayfish, but at the same time unintentionally setting up the public to violate OAR 635-056-0050 if they happen to take a non-native crayfish. By reclassifying non-native crayfish as controlled crustaceans, the Commission can implement conditions that would allow the legal harvest and importation of these species.

The crayfish family Parastacidae is native to Australia, New Guinea, New Zealand and parts of South America. Recently, they have been promoted in the aquaculture trade under the common name of Freshwater lobster for personal consumption in home aquaponic systems. At this time there is no documentation that species in this family have become invasive in other parts of the United State or other parts of the world. As a species; crayfish are very adaptable to new environments and if introduced could have similar affect as crayfish species in the family Cambaridae to Oregon waters.

#### Issue 4

The status of species abundance in its native range or in captivity is not currently addressed in the classification request criteria. Without this information we could unintentionally allow a species to be depleted beyond recovery from its native range. Including information from the International Union for Conservation of Nature ("IUCN") on a species' population status and abundance in the private sector would provide another tool that could help in the decision process for classification of a species on a more global scale.

Determining if a species is abundantly bred and raised in the private sector could help determine if the species should be classified as either: prohibited, non-controlled or as a controlled species. As a controlled species an animal still may be allowed to be possessed but with conditions such as the species is not allowed to be imported in the United States. This could help prevent depleting populations currently found in the

wild. For example, if a species is listed in the IUCN as a “Critically Endangered” species and they are not raised commonly in the private sector this may warrant a classification as a prohibited species rather than a non-controlled or controlled species even if they would pose a low degree of risk to Oregon wildlife.

#### **Issue 5**

1. General Housekeeping: Change the temporary rule for the “catch and release of Tiger muskellunge in Phillips Reservoir (Baker County)” to permanent rule in OAR 635-056-0075.
2. Replace the temporary rule that classified “Turacos, Plantain eaters and Go-away birds – Musophagidae – All Species” and the “Order Sphenisciformse: (A)Penguins –Spheniscidae – All species” as a non-controlled species into permanent rules in OAR 635-056-0060.

#### **PUBLIC INVOLVEMENT**

Members of the public had the opportunity to view the petition and staff summaries on the ODFW website and to testify at the September 2013 Commission meeting. A press release will also be issued prior to the Commission meeting to inform the public on pending modification to the Wildlife Integrity Rules for Barramundi, Brush Tailed Bettong and Non-native crayfish. Members of the public will also have the opportunity to review the packet as part of the Commission meeting where revisions to the rules could be adopted and submit comments.

#### **ISSUE 1**

#### **STAFF RECOMMENDATIONS TO AMEND THE WILDLIFE INTEGRITY RULES TO CLASSIFY BARRAMUNDI AS A CONTROLLED FISH SPECIES SUBJECT TO CONDITIONS AND RESTRICTIONS.**

#### **ANALYSIS**

The sponsor of the petition requested that the Commission classify Barramundi as a Controlled Fish for the purpose of aquaculture and to be regulated similar to Tilapia. The Commission accepted the petition at the April 25, 2014 meeting and directed staff to initiate rulemaking. The Commission is not obligated to reach any particular outcome with respect to these proposed amendments, and should consider the amendments in the normal course.

A member of the perch family, Barramundi are a large opportunistic predatory fish which can grow in excess of 130 lbs. and approximately 6 feet in length, but typically range between 18-30 inches and 11-22 lbs. They are native to the Asian coast from China to the Persian Gulf, the Indo-Australian Archipelago and the Northern coast of Australia.

Barramundi have a very unique and complex life cycle, which includes estuarine, freshwater and marine phases. This species is protandrous hermaphroditic, meaning they begin life as a male and transform after six to eight years into females. In the wild, Barramundi can live up to 20 years. A large female Barramundi can produce as many as 32 million eggs during a spawning season. Barramundi are also a catadromous species, meaning they begin life in salt water and migrate upstream into freshwater to grow and mature. Barramundi are broadcast spawners. Spawning occurs during the night on slack or incoming tides following a new or full moon. The fertilized eggs drift into estuarine nursery swamps where the larvae will settle and develop into fry within a few days. The fry remain in the estuarine nursery for several months until migrating upstream at the beginning of the dry season. Barramundi remain in coastal rivers and creeks to mature for three to four years as males before migrating downstream during the wet season to the coastal estuaries to spawn. After spawning and depending on their size, the males will turn into females at about 6-8 years of age. Both sexes generally return to the nearby

coastal streams and creeks during the start of the dry season; returning to the marine environment at the beginning of the wet season for spawning. If Barramundi cannot have access to freshwater they will remain in the coastal and estuarine areas. Barramundi that have been introduced into freshwater impoundments for recreational fisheries remain as male. Because of this, restocking is the only way to replenish populations in freshwater impoundments.

Barramundi prefer water temperatures around 20°C (68°F) for growth. For this species, lethal water temperature is 13°C (55.4°F).

In the United States Barramundi are currently legal to raise in several states such as Massachusetts, Michigan, Texas and Florida. Currently, there have been no reports of feral populations. In northern states, Barramundi are raised in indoor enclosures. In southern states, Barramundi can survive in outdoor ponds, but only if they have access to warm water during cold periods. Once water temperatures drop below 18°C (64°F), Barramundi are known to be susceptible to mass die-offs. However, lethal water temperature is 13°C (55.4°F).

The Wildlife Integrity Panel met on May 22, 2014 to review the petition and proposed rules and determined the Barramundi would be a low risk to Oregon wildlife under the conditions proposed.

Due to Barramundi's very unique and complex life cycle, this species would be considered a low degree of risk of becoming invasive in Oregon. Staff recommends that Barramundi be classified as a Controlled fish species and be allowed to be imported and reared under the following conditions:

**Controlled Fish Species – OAR 635-056-0075(T)(1)**

**(d) Barramundi (*Lates calcarifer*); the possession, propagation, transportation, sale, purchase, exchange and disposition of Barramundi are controlled according to the following restrictions and standards:**

**(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing propagation;**

**(B) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live Barramundi imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed;**

**(C) Fish health certification must be reviewed and found acceptable by ODFW Fish Health personnel or veterinary staffs before fish are purchased or transported;**

**(D) Possession of live Barramundi outside of an approved facility or without a transport permit is prohibited;**

**(E) No live Barramundi or their gametes, fertilized eggs, or larvae may be released into water of the State, as defined in ORS 506.006;**

**(F) Propagation must occur indoors (enclosed structure capable of excluding predators) and only in closed recirculating systems;**

**(G) Access to production facilities must be through secure locked gates;**

**(H) Permittee must provide adequate veterinary care as directed by a veterinarian and adhere to Fish Health Management Policy OAR 635-007-0960 through 635-007-0995 to identify and minimize the spread of disease originating from the animals being held;**

**(I) Effluent water may not be discharged directly into any waters of the state.**

**OPTIONS**

- 1. Accept staff recommendation to amend the Wildlife Integrity rules for Barramundi.
- 2. Modify staff recommendation.
- 3. Classify Barramundi as a prohibited species.

**STAFF  
RECOMMENDATION**

Option 1

<b>DRAFT MOTION</b>	1. I move to adopt staff recommendation to amend the Wildlife Integrity Rules OAR 635-056-0075 to classify Barramundi ( <i>Lates calcarifer</i> ) as a Controlled Fish Species.
<b>EFFECTIVE DATE</b>	Upon Filing

**ISSUE 2**

**STAFF RECOMMENDATIONS TO AMEND THE WILDLIFE INTEGRITY RULES RELATED TO CLASSIFICATION OF BRUSH-TAILED BETTONG AS A NONCONTROLLED SPECIES.**

**ANALYSIS**

Angela Goodwin submitted a request and information to address the criteria in OAR 635-056-0140 to the Wildlife Integrity Panel to classify the Brush Tailed Bettong or Woylie (*Bettongia penicillata*) as a Noncontrolled Species. Under current rules the Brush-tailed Bettong has not been classified so therefore are a Prohibited Species classification (OAR 635-6056-0130).

The Brush Tailed Bettong or Woylie (*Potoroidae Bettongia penicilla*) is a small and compact marsupial with short rounded ears, short muscular forearms, and well developed, muscular hind legs and brushed tipped furred tail. This small marsupial was endemic to all of Australia but now is reduced to three locations in Western Australia.

The Wildlife Integrity Panel reviewed the information submitted by Angela Goodwin to address the criteria found in OAR 635-056-0140. Of the nine criteria listed in OAR 635-056-0140, the panel determined that the Brush Tailed Bettong was a low degree of risk in eight of the criteria and a medium degree of risk for criteria (e) "Whether the species has the potential to degredate the habitat of native wildlife".

The Wildlife Integrity Panel agreed that the Bettong would be a low degree of risk to Oregon wildlife and could be considered a Noncontrolled species. But due to the reduction of populations in its native range and that it is listed in IUCN as a Critically Endangered species, the Panel recommends that the Brush Tailed Bettong be classified as a Controlled Mammal in 635-056-0070 (1). As a Controlled species, a person would have the options similar to a Noncontrolled classification, but could only import Bettongs from other breeders within the United States.

**Proposed Rule:**

(1) Controlled Mammals:

**(a) Brush Tailed Bettong or Woylie (*Bettongia penicillata*): The possession, transport, sale, purchase, exchange and the offer to sell, purchase or exchange is allowed. Importation from outside of the United States is prohibited.**

**OPTIONS**

1. Accept staff recommendations to classify Brush-tailed Bettong as a Controlled Mammal.
2. Classify Brush Tailed Bettong as a Noncontrolled Species as requested by petitioner.
3. Classify Brush-tailed Bettong as a Prohibited species

**STAFF**

**RECOMMENDATION**

Option 1.

**DRAFT MOTION**

1. I move to adopt staff recommendation to amend Wildlife Integrity Rules OAR 635-056-0070 to classify Brush-tailed Bettong or Woylie (*Bettongia penicillata*) as a Controlled Mammal.

**EFFECTIVE DATE**

Upon filing

## ISSUE 3

### **STAFF RECOMMENDATIONS TO AMEND THE WILDLIFE INTEGRITY RULES TO RECLASSIFY THE CRAYFISH FAMILY CAMBARIDAE FROM A PROHIBITED SPECIES CLASSIFICATION TO A CONTROLLED SPECIES CLASSIFICATION AND TO ADD THE CRAYFISH FAMILY PARSTACIDAE AS A CONTROLLED SPECIES.**

## ANALYSIS

In the last decade or so, nonnative crayfish from the family Cambaridae, which include species such as Red Swamp crayfish, Ringed crayfish and the Rusty crayfish, have established and expanded their populations in Oregon and worldwide. Currently this family of crayfish species are classified as a "Prohibited" species in OAR 635-056-0050 (1)(g)(A) (iii) and therefore by rule cannot be imported, possessed, sold, purchased, exchanged or transported in the state. In our Fishing Regulations, "crayfish" are classified as a nongame shellfish with harvest methods, catch limits and restrictions associated with their harvest. By these regulations the department is encouraging both the recreational and commercial harvest of crayfish, but at the same time setting up the public to violate OAR 635-056-0050 which does not allow the possession and transport of non- native crayfish species. As a control and possible eradication method, we would want to encourage people to harvest this species without being in violation of current rules.

In Oregon we have many families, groups and cities which have events which include crayfish for consumption. These events may include the use of the native crayfish, which the department would encourage, but often they use non-native crayfish due to price, time of year, needed quantity or tradition. Under current rules they are required to apply for and be granted a permit before purchasing, importing or transporting in the state (OAR 635-056-0050(2).) In most cases an application is never received, which may be due to the fact that most people are not aware that the importation of live non-native crayfish species is illegal in Oregon or of the harm non-native crayfish inflict on an ecosystem. The same holds true for many educators that use live crayfish as part of their classroom curriculum. Unfortunately in many cases, educators will release their classroom crayfish project at the end of the session. We believe that this may be one of the factors contributing to the spread of invasive crayfish in Oregon.

The intent of these proposed rules is to:

- 1) Reclassify "Crayfish – Cambaridae – All species" from a Prohibited classification to a Controlled classification in order to allow the legal harvest for both commercial and recreational purposes,
- 2) Streamline the process for personal consumption and education use of non-native crayfish species, and
- 3) To classify crayfish from the family Parstacidae to the Division 56, Wildlife Integrity rules as Controlled. Crayfish, from the family Parstacidae are starting to appear within the pet trade and is being promoted as a species to be used in aquaponic systems.

At this time there is no documentation that species in this family have become invasive in other parts of the United State or other parts of the world. As a species, crayfish are very adaptable to new environments and if introduced could have effects in Oregon waters similar to crayfish species in the family Cambaridae.

(3) Controlled Crustaceans:

**d) Crayfish – Cambaridae and Parastacidae –All species: The importation, possession, propagation, transportation, sale, purchase, exchange and disposition of non-native crayfish is controlled according to the following restrictions and standards.**

**(A) Non-native crayfish shall be harvested, possessed and sold commercially pursuant to OAR 635-005-0855 through 635-005-0885 or harvested recreationally pursuant to ORS 496.162 from waters of the State as defined in ORS 503.006;**

**(B) Live non-native crayfish shall not be used as bait except in the water body in which they were taken;**

**(D) Non-native crayfish or their gametes, fertilized eggs, or larvae shall not be released into waters of the State, as defined in ORS 503.006;**

**(E) Propagation is not allowed;**

**(F) Non-native crayfish shall not be imported except by recognized educational institutions or for immediate consumption (Immediate consumption means within one week from date of delivery):**

**(i) Prior to purchase and importation, a person must apply for and receive authorization from Oregon Department of Fish and Wildlife;**

**(ii) Crayfish must be euthanized after educational section is completed;**

**(iii) Non-native crayfish must remain in an indoor secure facility and can only be removed when transporting for immediate preparation for consumption;**

**(iv) An Oregon Department of Fish and Wildlife fish transport permit shall accompany non-native crayfish imported into Oregon;**

**(G) Fish health certification must be reviewed and found acceptable and be on file by ODFW Fish Health personnel or veterinary staffs before crayfish are imported into the State.**

**OPTIONS**

1. Accept staff recommendations to re-classify the crayfish family Cambaridae from a "Prohibited Species" to a "Controlled Species" and add the crayfish family Parastacidae to this classification.
2. Modify staff recommendation.
3. Leave the crayfish family Cambaridae under its current classification.
4. Classify the Crayfish family Parastacidae as a Prohibited Species

**STAFF  
RECOMMENDATION**

Option 1.

<b>DRAFT MOTION</b>	1. I move to adopt staff recommendation to amend OAR 635-056-0050 and OAR 635-056-0075 to re-classify the crayfish family Cambaridae from a Prohibited Species to a Controlled Crustacean species and to classify the crayfish family Parastacidae as a Controlled Crustacean species.
<b>EFFECTIVE DATE</b>	Upon filing.

## ISSUE 4

### **STAFF RECOMMENDATIONS TO AMEND THE WILDLIFE INTEGRITY RULES RELATED TO THE REQUEST TO CLASSIFY A SPECIES BY ADDING TWO QUESTIONS TO THE CRITERIA IN OAR 635-056-0130 AND 635-056-0140**

## ANALYSIS

The status of species abundance in its native range or in captivity has not been used as criteria in the classification request for a species. Based on the department classification of a species, we may be unintentionally allowing a species to be depleted beyond recovery from its native range. Information from the IUCN on a species' population status and abundance in the private sector would provide another tool that could help in the decision process for classification of a species on a more global scale.

Determining if a species is abundantly bred and raised in the private sector could help determine if the species should be classified as either: prohibited, non-controlled or as a controlled species. As a controlled species an animal still may be possessed but with conditions such as the species is not allowed to be imported in the United States. This could help prevent depleting populations currently found in the wild. For example; if a species is listed in the IUCN as a "Critically Endangered" species and they are not raised commonly in the private sector this may warrant a classification as a prohibited species rather than a non-controlled or controlled species even if they would pose a low degree of risk to Oregon wildlife.

The proposed addition to Taxonomy and criteria classification request

#### **635-056-0002**

##### **Taxonomy**

**(3) "The IUCN Red List of Threatened Species" means the list published by the International Union for Conservation of Nature (IUCN) which is available at [www.iucnredlist.org](http://www.iucnredlist.org).**

#### **635-056-0130**

##### **Classification Requests**

**(i) How is the species categorized in "The IUCN Red List of Threatened Species?"**

**(j) Is the species commercially propagated? Unknown, rarely, moderate, common**

#### **635-056-0140**

##### **Noncontrolled Classification**

**(k) How is the species categorized in "The IUCN Red List of Threatened Species?"**

**(l) Is the species commercially propagated? Unknown, rarely, moderate, common**

## OPTIONS

1. Accept staff recommendation
2. Modify staff recommendations
3. Leave current criteria in place.

**STAFF RECOMMENDATION** Option 1.

<b>DRAFT MOTION</b>	1. I move to amend OAR 635-056-0130 and 635-056-0140 as proposed by staff.
<b>EFFECTIVE DATE</b>	Upon filing.

**ISSUE 5**

General Housekeeping: Adopt the temporary rule for the “catch and release of Tiger muskellunge in Phillips Reservoir (Baker County)” to permanent rule in OAR 635-056-0075. Also, adopt the temporary rule that classifies “Turacos, Plantain eaters and Go-away birds – Musophagidae – All Species” and the “Order Sphenisciformse: (A)Penguins –Spheniscidae – All species” as a non-controlled species into permanent rules in OAR 635-056-0060.

**ANALYSIS**

On March 21, 2014 a Temporary Administrative Rule was filed that authorized the “Catch and Release” of Tiger muskellunge in Phillips Reservoir (Baker County).

In June of 2013, 25,000 sterile tiger muskie were released into Phillips Reservoir to reduce the abundance of illegally introduced yellow perch. Due to their fast growth rate it was anticipated that the tiger muskie would potentially be large enough to be harvested by anglers. Any harvest of tiger muskie, particularly during this stage of the introduction program, would be contrary to the management intent of reducing yellow perch, and ultimately improving the rainbow trout fishery.

On April 15, 2014 a Temporary Administrative Rule was filed to reinstate the Order Sphenisciformes: “Penguins –Spheniscidae –All species and the Order Cuculfiromes: Turacos, Plantain eaters and Go-away birds –All species” as Noncontrolled species in OAR 635-056-0060. These species were inadvertently removed for the Noncontrolled species list when it was amended in June of 2011; previous to June 2011 these species were classified as Noncontrolled species.

**OPTIONS**

1. Accept staff recommendation
2. Modify staff recommendations
3. Allow Temporary rule to expire which would revert rules to the original language.

**STAFF RECOMMENDATION** Option 1.

<b>DRAFT MOTION</b>	1. I move to adopt the temporary rules to permanent rule as proposed by staff.
<b>EFFECTIVE DATE</b>	Upon filing.