



MEETING SUMMARY

Fish Health Policy Board (FHPB)

October 27, 2015, 10 AM to 2 PM
UDAF, Second floor Main Conference Room

The Utah Fish Health Policy Board (FHPB) met at 10:00 a.m. at the Utah Department of Agriculture and Food in the second floor main conference room on October 27, 2015.

The following Board members were present: Neal Barker (Utah Aquaculture), Robert Judd (Utah Aquaculture), Dr. R. Paul Evans (BYU - Microbiology & Molecular Biology), Paul Dremann (Sport Fish Representative), Michael Canning (DWR – Assistant Director) and Anna Marie Forest (UDAF - Fish Health Specialist).

Other attendees: Cody James, (UDAF – Director, Animal Industry), Barry Pittman, DVM (UDAF - State Veterinarian), Melissa Ure (UDAF – Policy Analyst), Martin Bushman (Utah Attorney General’s Office), Greg Hansen (Utah Attorney General’s Office), Bill Durler (UDAF), Drew Cushing (UDWR), Wade Cavender (UDWR – Fisheries Experiment Station).

Call to order, welcome and introductions – R. Paul Evans, Chair.

Cody James, Director of Animal Industry for UDAF introduced the new State Veterinarian, Barry Pittman.

Paul Evans mentioned that the Governor’s Office gave formal notification that Mike Canning as well as Anna Marie Forest is now official members of the board. In addition, there is the issue of replacing Dr. Chris Wilson’s board seat which is now vacant with his retirement. Anna Forest stated that UDAF and DWR representatives are to submit names for Dr. Wilson’s position. This position is also to have expertise in Fish Pathology.

Approval of the minutes / summary from August 11, 2015 (handout)

Paul Evans motioned that the minutes from the previous meeting on June 1, 2015 be approved. Robert Judd wanted his strong objection noted in that the transfer of Colorado River Cutthroat Trout from North Fork to Middle Fork of Sheep Creek in August 2015 was not, in fact, a hardship transfer. R Paul Evans wanted it noted under the Management Hardship Transfer section of the meeting notes that it was a planned movement and that it very well should have gone through the normal process – which it did not. Paul Evans stated that there was no evidence of any hardship. Mike Canning concurred. With those suggested changes to be made in the 08/11/2015 FHPB meeting notes, the vote was unanimous in favor of approving the minutes.

RULE CHANGE DISCUSSION: Discuss / Approve changes to Rule 58-17: Aquaculture and Aquatic Animal Health

Anna Forest reviewed the case of the Dutch Boy Farms (Grace, ID) that was discussed in the June 1, 2015 FHPB meeting. To wit:

Dutch Boy Farms in Grace, Idaho sent Ms. Forest a proposal to ship in Vietnamese Catfish and sell them at Asian and Hispanic markets. Dutch Boy Farms regularly receive shipments of tilapia, Vietnamese Catfish and barramundi fry on a regular basis.

In order to import live aquatic animals into Utah, you need:

(A) An official ENTRY PERMIT is required to import live aquatic animals or their gametes into Utah.

(B) Each shipment of live aquatic animals must be authorized.

(C) All import shipments of live aquatic animals must originate from sources that have been health approved by the Department pursuant to R58-17-15(A)(2) and (B).

(D) All importations must be species that have been authorized by the Wildlife Board and the Division pursuant to R657-3, R657-59-16, and 4-37-105(1).

R657-3-11. Certificate of Registration also says that:

(1)(a) A person shall obtain a certificate of registration before collecting, importing, transporting, possessing or propagating any species of animal or its parts classified as prohibited or controlled, except as otherwise provided in this rule, statute or rules and orders of the Wildlife Board.

Because the Vietnamese Catfish are nonnative species, they are prohibited for collection, and controlled for importation and possession. Rule 657-3-23(c) states:

R657-3-23. Classification and Specific Rules for Fish.

(c) all native and nonnative species and subspecies of fish that are not ornamental aquatic animal species and not listed in Subsections (2) through (30) are classified as prohibited for collection, and controlled for importation and possession.

COR is required for importation and possession

Whoever received the Vietnamese Catfish would have to have a COR (Certificate of Registration).

Seafood exemption - Why is it needed

- Writers of R58-17. Aquaculture and Aquatic Animal Health Rule did not consider seafood restaurants or fish markets when writing the rule (Ron Goede).

- Restaurants and fish markets are in violation of state code
 - Need CORs
 - Variances
 - Entry Permits
 - Fish Health Certificates
 - Office would not be able to keep up

New Definitions

R657-3. Collection, Importation, Transportation, and Possession of Animals.

- (20)(a) "Marine aquatic animal" means a member of any species of fish, mollusk or crustacean that spends its entire life cycle in a marine environment.
 - (b) "Marine aquatic animal" does not include:
 - (i) anadromous aquatic animal species;
 - (ii) species that temporarily or permanently reside in brackish water; and
 - (iii) species classified as invasive or nuisance by state or federal law.

R58-17-2. Definitions.

- (23)(a) "Marine aquatic animal" means a member of any species of fish, mollusk or crustacean that spends its entire life cycle in a marine environment.
 - (b) "Marine aquatic animal" does not include:
 - (i) anadromous aquatic animal species;
 - (ii) species that temporarily or permanently reside in brackish water; and
 - (iii) species classified as invasive or nuisance by state or federal law.

R657-3-11. Certificate of Registration Proposed Change

- (8)(a) A certificate of registration is not required to import, possess, or transfer a live marine aquatic animal classified as noncontrolled, controlled or prohibited, provided the marine aquatic animal is:
 - (i) imported, possessed, or transferred for purposes of immediate human consumption;
 - (ii) possessed live no longer 30 days from the date of importation or the date of receipt, if acquired from an intrastate source;
 - (iii) held in a tank or aquaria with an effluent that discharges into a sewage treatment system or other area that does not drain into any surface water source;
 - (iv) never released in any water source, including sewer systems;
 - (v) acquired from a lawful source and documentation of purchase is retained; and
 - (vi) imported and possessed in compliance with applicable state and federal laws, including the importation requirements in R657-3-25.
- (b) A certificate of registration is not required to import, possess, or transfer a dead aquatic animal or its parts classified as noncontrolled, controlled or prohibited, provided it is:
 - (i) imported, possessed, or transferred for purposes of immediate human consumption;
 - (ii) acquired from a lawful source and documentation of purchase is retained; and
- (b) imported and possessed in compliance with applicable state and federal laws.

Proposed Change

R58-17-13. Importation of Aquatic Animals or Aquaculture Products Into Utah.

- (L) An import permit or certificate of veterinary inspection is not required to import a live marine aquatic animal into the state, provided it is:
 - (1) imported and possessed for the singular purposes of immediate human consumption;
 - (2) possessed no longer than 30 days from the date of importation;
 - (3) acquired from a lawful source and documentation of purchase is retained;
 - (4) not released in any water source, including sewer systems; and
 - (5) imported and possessed in compliance with applicable state and federal laws, including the importation and possession requirements in R657-3-11(8).

Chairman Evans said that with the proposed rule changes to be approved by the Board he wished to proceed piece by piece on those which the FHPB had reached consensus on – specifically as it relates to R58-17. This is the rule that this board specifically has authority over.

Neal Barker had questions re: the purpose and intent of the wording made in R58-17-5. Specifically, does this wording give UDAF Fish Health the ability to go back to those facilities issued COR's years ago and change the species allowed? Anna Forest replied that the intent of the changes in wording were made to align the COR's UDAF Fish Health rules with the stocking policies of the Division of Wildlife (DWR). Mr. Barker said that from discussions in previous FHPB meetings he has attended, it was his understanding that the species allowed in existing COR's could be kept until there was a property or ownership change. The idea was that as soon as the ownership changed then the COR would have to be renewed. It is Mr. Barker's understanding that these existing COR's would be grandfathered in because for the last 20 or 30 years they've been stocking these fish in their ponds. The impression Mr. Barker received from these previous discussions was that the right of the facilities to stock fish listed in their existing COR's was not to be taken away – until the ownership changed.

Ms. Forest replied that when she sent out the most recent COR Renewals she asked what species of fish the facilities have on their property. In a few of the renewals that were returned, the Division identified some species that were a risk to their mitigation efforts. Ms. Forest has not been to these facilities or contacted them. Each of these properties will be looked at on a site-by-site basis, not an across-the-board study.

Drew Cushing mentioned that the changes in R58-17-5 are meant to provide consistency between the UDAF and DWR rules. Heretofore the two rules were not in alignment.

Mr. Barker stated his concern that we need to respect the property owner's rights. He suggested that if you talked to these property owners and asked if they would be willing to make a change in the species they have you would find that many of these property owners would agree to this. But it is those owners who do not want to remove some species on their property Neal is worried about. Neal said that some of these owners have been operating for 20 or 30 years – we should respect their property rights. They've done everything legal, they've been given their permits (COR's).

Paul Evans asked what were the parameters whereby a COR could be revoked? Ms. Forest replied that according to R58-17-17 she could revoke a COR if the owner did not comply with the renewal procedures – or submit the appropriate documentation.

Mr. Canning said that the DWR does not have the authority to just go in and restore native cutthroat wherever they want. They have to go through a formal, public process so that everyone knows what they are doing. Drew Cushing stated that it is DWR's first job to work with private land owners within the drainage where they are doing the work. That's job #1. You cannot successfully restore a stream if you do not have public support for that action – it just can't happen.

Anna Forest mentioned she has no intention of telling owners, without looking at their facility, whether there is any risk in telling them they cannot have x species anymore – if it is a legal species to have. If it is something illegal like Murray Cod (freshwater Australian Bass), then it is more clear-cut - they cannot stock that species.

Neal Barker said that their concern is with reproductive capability. Some fee-fishing ponds are allowed to stock brown trout, brook trout and rainbow trout. These facilities just want to be able to have brown trout. Neal stated he does provide sterile and reproducing trout. There are times when sterile brown and sterile brook fish are not in stock. So there are times when these fee-fishing ponds have been able to buy reproducing brook or brown under their COR. He feels as long as these ponds have their screens in place and the fish are not escaping they should be able to keep those species.

Ms. Forest stated that if these fish are not a risk (re: escaping) it is her understanding this would not be a problem.

Greg Hansen mentioned that the general guidelines in the private pond rule does allow for exceptions when issuing new COR's. As an example, if you have your screens correctly placed and there is no biological connectivity, DWR would meet with Anna then go out and double-check that the screens are in place and everything is in order. Then you would be able to get the exception after the site visit.

Robert Judd brought up the issue of short-term COR's (such as Special Event COR's). He proposed that short-term COR's be eliminated. In its place he suggested that we follow the proposal that's been made with marine species: if an event is held within a 30-day window it should fall under the stocking rule. If they hold the fish longer than 30 days then they should be licensed as a fee-fishing operation. He feels it is not advantageous to go through the COR process for such a short-term events.

Anna Forest said that DWR has authority for short-term events. UDAF Fish Health has authority if these short-term charge money for these events. Martin Bushman stated that if the events are non-commercial it falls under DWR. If it is fishing where somebody pays to fish, it is fee-fishing. There is a fish health concern that if, for example, a fish is caught and later thrown into a public waterway, could this impact the health of the fish in this public water?

Mr. Cushing mentioned that DWR has looked at these short-term events on a case-by-case basis depending on the impact on public waters: If an event had the potential of introducing fish into public water then they would go through the short-term event COR process. On the other hand there have been many times DWR goes through the exemption process. DWR recognizes that it's not worth their time, for example, for DWR to inspect a visiqueen tarp in the middle of parking lot. The exemptions are free.

Neal Barker said the concern is that a person who has a visiqueen pond in their background with no connectivity – they have to get a short-term COR. Yet the person who lives next door and has pond in

the ground with possible connectivity – they do not have to get a short-term COR. Neal said they would like to clarify matters in this regard.

Paul Evans proposed that at this time the board not take action in regard to a change in short-term commercial fee-fishing events. Mr. Evans asked that this topic be put on a future action-items list to be dealt with in a future meeting.

The board then voted on and approved unanimously the following **R58-17** changes: definitions of aquatic animal rather than fish; defined marine aquatic animal R58-17-2; COR changes R58-17-4; marine aquatic language in R58-17-13.

After this the board discussed the wording changes to R58-17-5 and R58-17-8. Mr. Bushman asked that there be a change in the wording on R58-17-8(3)(b):

From The Division shall review COR applications to ensure site suitability, allowable species, and potential impact to adjacent aquatic wildlife populations, consistent with this rule and state code.

To The Division will review COR applications to ensure site suitability, allowable species, and potential impact to adjacent aquatic wildlife populations, consistent with this rule and state code.

Mike Canning moved to approve the wording from **shall** to **will** in R58-17-8(3)(b). In addition, Paul Evans moved to approve the changes made in to R58-17-5. The changes to R58-17-8 as well as R58-17-5 were approved unanimously.

Electronic Meeting discussion and vote

Chairman Evans entertained a motion to approve the R58-17-21 and R58-17-22 additions. It was seconded and approved unanimously by the board.

Bluegill and Bass Inspections

Anna Forest went through a review on bluegill and bass sampling.

Variance granted in 2011

- Allowed for sampling 30 bluegill and 30 bass instead of 60 fish of each species
 - Reduce inspection costs
 - Variance expires March 31, 2016
- Bluegill and Bass are equally susceptible to prohibited pathogens.
- Division often collects a sixty (60) fish composite sample of equally susceptible species for fish health approval of reservoirs.

Current Inspection Requirements

- R58-17-15. Aquatic Animal Health Approval
 - (B) Basis for Health Approval:
 - (1) Health approval for salmonid aquatic animals is based on the statistical attribute sampling of each lot of aquatic animals at the facility in accordance with current Blue Book procedures. This shall require minimum sampling at the 95% confidence level, assuming a 5% carrier prevalence for the prohibited pathogens, pursuant to R58-17-15(D)(2) and (3). Health approval is applied to the entire facility, not individual lots of fish.
 - (2) All lots of fish shall be sampled
 - (6) Health approval for non-salmonid aquatic animals is based on specific pathogen testing for that identified aquatic animal as per R58-17-15(D).
 - (C) Approval Procedures:
 - (3) Applicable to non-salmonid aquatic animals:
 - (a) For approval of facilities, one inspection of aquatic animals to be approved from the pond, reservoir, or holding facility and negative testing of an appropriate attribute sample for any applicable prohibited pathogen pursuant to R58-17-15(D)(2) and (3) is required. A composite sample of 60 fish of the same lot from all ponds in the shipment from the same water source may be accepted in lieu of a full attribute sample.

Proposed change to requirements

R58-17-15. Aquatic Animal Health Approval

- (C) Basis for Health Approval:
- (6) Health approval for non-salmonid aquatic animals is based on specific pathogen testing for that identified aquatic animal as per R58-17-15(D). This shall require minimum sampling at the 95% confidence level, assuming a 5% carrier prevalence for the prohibited pathogens, pursuant to R58-17-15(D)(2) and (3). In addition, the agency having responsibility pursuant to R58-17-15(A)(1) and (2) will discuss the disease history of the facility with the producer, and then contact acceptable fish health professionals to identify other existing or potential disease problems.
- (a) An exemption for a statistical attribute sampling of each lot of fish may be granted for non-salmonid species that reside in the same water source throughout their life history and are of equal pathogen susceptibility. In which case, an equal number of each species be used to form a composite sample of 60 fish.
-

Paul Evans asked for a motion to approve the following changes: On R58-17-6a:

From (a) An exemption for a statistical attribute sampling of each lot of fish may be granted for non-salmonid species that reside in the same water source throughout their life history and are of equal pathogen susceptibility. In which case, an equal number of each species be used to form a composite sample of 60 fish.

To (a) An exemption for a statistical attribute sampling of each lot of fish may be granted for non-salmonid species that reside in the same water source throughout their life history and are of equal pathogen susceptibility. In which case, a representative composite sample of 60 fish.

Removal of the following language from R58-17-7(a):

(i) If bass and bluegill occupy the same pond throughout their life history, a sample of 30 [~~fish~~] aquatic animals from each species may be used for virology testing.

(ii) If bass and bluegill occupy separate ponds at a facility, 60 [~~fish~~] aquatic animals must be tested for each species.

The motion was approved unanimously.

Variance Proposal – Provo Canyon PacifiCorp Power Plant penstock and channel

Wade Cavender received a phone call from Mike Slater of the Central Region. He had a request to transfer some fish from the Provo River.

The PacifiCorp channel is inaccessible to the public and directly connected to the main stem of the Provo River and is fed by the same Provo River water. The power plant is being decommissioned and therefore the channel will be drained. The fish that are currently present in the PacifiCorp channel are to be collected / salvaged and simply moved over a matter of yards and placed into the main stem of the Provo River. This area is known to have several trout. To prevent public scrutiny and preserve the fish it is proposed they be transferred to the main stem of the Provo River. A dam will be constructed to prevent any of the transferred fish from getting back into the PacifiCorp channel prior to the completion of construction / decommissioning the plant.

This activity is proposed to take place after the brown trout spawn (eggs have hatched) in the spring of 2016. Work will be performed by a contractor under the direction of DWR or by DWR.

The request for the variance motion was approved unanimously by the board.

Triploid Grass Carp

In order to import grass carp currently the fish must be certified as sterile (triploid). This issue came up because people inquired about growing grass carp. There is a potential that non-sterile grass carp could be imported and grown in the state of Utah – and then be stocked in other water bodies. So a change was made so that if grass carp was imported into the state of Utah they must be sterile.

R58-17-13. Importation of Aquatic Animals or Aquaculture Products Into Utah.

(E) To import live grass carp (*Ctenopharyngodon idella*), the fish must be verified as being triploid (sterile) by a laboratory and method acceptable to the Department. A U.S. Fish and Wildlife Service triploid verification form must be obtained from the supplier as required in R657-16-7.

Proposed Change

(E) To import or sell live grass carp (*Ctenopharyngodon idella*), the fish must be verified as being triploid (sterile) by the National Triploid Grass Carp Inspection and Certification Program [~~a laboratory and method acceptable to the Department.~~]. A U.S. Fish and Wildlife Service triploid verification form must be obtained from the supplier as required in R657-16-7. Both this form and the Department's statement verifying treatment or testing for [the] Asian tapeworm must be on file with the Department prior to shipment or stocking of the fish. Copies of the entry permit, treatment or testing statement for Asian tapeworm, and [the] triploid verification forms must accompany the fish during transit. The statement verifying treatment or testing is also required for all aquatic animal species that are known or reported hosts or carriers of the Asian tapeworm.

The inclusion of the word **sell** was made to maintain a high standard of protection for the state against the possible introduction of grass carp (diploid) and released into the environment.

A motion was made to accept the language as presented – and seconded. The proposed change passed with a 5-1 vote.

Anna Forest bought up some wording changes to R58-17-15:

Proposed change to Requirements

R58-17-15. Aquatic Animal Health Approval

- (D) Prohibited and reportable pathogen list:
 - (2) Emergency prohibited pathogens.
 - (a) Infectious hematopoietic necrosis virus (IHNV).
 - (b) Infectious pancreatic necrosis virus (IPNV).
 - (c) Viral hemorrhagic septicemia virus (VHSV).
 - (d) **Oncorhynchus masou* virus (OMV).
 - (e) Spring viremia of carp virus (SVCV).
 - (f) *Epizootic hematopoietic necrosis virus (EHNV)#.
 - (g) White spot syndrome virus (WSSV)***#.
 - (h) Yellow head virus (YHV)***#.
 - (i) Taura syndrome virus (TSV)***#.
 - (j) Infectious hypodermal and hematopoietic necrosis virus (IHHNV)***#.
 - (3) Prohibited pathogens.
 - (a) *Myxobolus cerebralis* (whirling disease)**.
 - (b) *Renibacterium salmoninarum* (bacterial kidney disease (BKD)).
 - (c) **Ceratomyxa shasta* (ceratomyxosis disease)**.
 - (d) *Bothriocephalus* (Asian tapeworm disease bothriocephalosis)**.
 - (e) **Tetracapsuloides bryosalmonae* or PKX (proliferative kidney disease (PKD))**.
 - (f) Emerging [fish] aquatic animal pathogens the State Veterinarian considers a threat to state aquatic resources, including any filterable agent or agent of clinical significance as determined by the Board.
 - (4) Reportable pathogens.
 - (a) *Yersinia ruckeri* (enteric redmouth disease)**.
 - (b) *Aeromonas salmonicida* (furunculosis disease)**.
 - (c) *Centrocestus formosanus*.**

- (d) Any ~~[E]~~emerging ~~[fish]~~ aquatic animal pathogens the State Veterinarian considers a threat to the state aquatic resources ~~[(]including any filterable agent or agent of clinical significance as determined by the Board[)]~~.

The language above was approved unanimously by the board.

In addition another motion was made to approve all of the word changes, numbering, modifications, etc. made in the rest of the R58-17 rule except for the following language:

R58-17-5. Species Allowed.

—(A)(1) Pursuant to Division of Wildlife Resources rules R657-3, R657-59, R657-16, and Utah Code sections 23-15-10 and 23-13-5, only those species authorized by the Division or the Wildlife Board may be imported, possessed, or transported in conjunction with the authorized activity.

—(2) The species, strains, and reproductive capabilities of aquaculture product that may be stocked in fee fishing facilities are generally described in R657-59-16(3) and (4).

—(B)(1) Pursuant to 4-37-105(1), 4-37-201(3)(B) and 4-37- 301(3)(B) the Department shall coordinate with the Division to determine which species the holder of a COR may propagate, possess, transport or sell.

—(2) Notwithstanding the site restrictions described in R657-59-16(3) and (4), the Department may authorize stocking in fee fishing facilities after formally coordinating with the Division on a site suitability for areas generally closed to stocking aquaculture product.

—(C) The Department will monitor sales receipts to insure that the species described on CORs, sales receipts, and entry permits issued by the Department are those authorized by the Division.

The Fish Health Policy Board will next meet on March 15, 2016.