

August 30, 2006

MEMORANDUM

TO: Oregon Watershed Enhancement Board

FROM: Melissa Leoni, Senior Policy Coordinator
Wendy Hudson, Grant Program Coordinator
Tom Shafer, North Coast Program Representative

**SUBJECT: Agenda Item F: Coastal Salmon Fishing Emergency Response
September 19-20, 2006 OWEB Board Meeting**

I. Introduction

This report provides an update on OWEB's response to the 2006 Salmon Season State of Emergency, seeks Board approval to add funds to the emergency response grants, and seeks Board authorization to enter into permanent administrative rulemaking.

II. Background

Due to a combination of factors causing a dramatic decline in the number of Klamath River Basin Chinook Salmon available for harvest along the coasts of Oregon and California, commercial fishing along the Oregon coast has been severely restricted by the National Oceanic and Atmospheric Administration's Fisheries Service. These restrictions will have a significant negative economic and social impact to coastal communities.

On April 24, 2006, Governor Kulongoski issued Executive Order No. 06-06, declaring a state of emergency for Oregon's coastal counties impacted by the fishing restrictions. A copy of the Executive Order is contained in Attachment A. In response to the Executive Order, OWEB staff developed five concepts that (1) create immediate opportunities to employ displaced fishers in salmon recovery-related activities; (2) develop future employment opportunities for fishers for additional salmon recovery restoration work; and (3) significantly expand state and local efforts to recover salmon populations on the Oregon coast. The five concepts included:

1. **Funding Work Opportunities for Displaced Fishers to Gather Ocean Salmon Research Data.** This concept would employ displaced fishers to collect critical information and document the location, species, and DNA signature to identify the escapement and distribution of salmon stocks in coastal ocean waters.
2. **Funding to Implement Restoration Projects.** Funding for this concept would provide employment opportunities for displaced fisher crews to implement an assortment of restoration projects as soon as possible.
3. **Funding Work Opportunities for Displaced Fishers for Inventory and Assessment Activities.** Under this concept, OWEB funds would employ crews to perform land-based inventory and data collection activities to support salmon recovery efforts.

4. **Funding Accelerated Development of Restoration Projects.** Under this concept, OWEB would fund work by local conservation groups to develop salmon habitat restoration projects in high priority areas on an accelerated basis.
5. **Funding Recovery Planning Outreach.** This concept involves the allocation of OWEB funds to employ displaced fishers to raise local awareness of Oregon's salmon recovery plan efforts.

The OWEB Board unanimously approved an allocation of \$40,000 of non-capital funds to purchase equipment for salmon-related ocean research to address the first concept, and directed staff to request expenditure limitation from the Legislative Emergency Board (E-Board) of no more than \$3 million in Measure 66 Lottery Funds for the purposes described above. The Board also delegated authority to the Executive Director, contingent upon and consistent with the expenditure limitation approval from the E-Board, to enter into appropriate grant and interagency agreements to distribute funds for these purposes.

The June 2006 E-Board allocated \$2.2 million in Measure 66 Lottery Funds to allow OWEB to carry out these efforts. The approved allocation was to be apportioned as follows: Ocean Research, \$586,391; Restoration Implementation, \$700,000; Inventory & Assessment, \$250,000; Development of Restoration Projects, \$500,000; and Recovery Plan Outreach, \$175,000. The current status of these funds are provided in Attachment B.

III. Update on Salmon Season State of Emergency Response

A. Ocean Salmon Research

Of the Board's May 2006 awards to the pilot chinook DNA research project, \$40,000 was awarded for immediate use for equipment purchase, and \$586,391 was awarded, contingent upon E-Board authorization, to implement the initial year of the project. Because of the timing of OWEB's involvement, OWEB worked quickly with the Cooperative Research on Oregon Ocean Salmon (CROOS) Group, a coalition of salmon fishermen, the Oregon Salmon Commission (Commission) and Oregon State University (OSU) staff, to capture as much of the remaining limited season as possible.

The \$40,000 for immediate equipment needs went quickly to purchase the equipment necessary to get the project off the dock by the June 4, 2006 opener. Five fishermen volunteered their time and vessels for the first three June openers to begin testing the equipment, project logistics, protocols, and methodologies. The OSU staff involved in the CROOS Group volunteered their time, offices, and labs to be ready on their end of the project.

OWEB staff worked closely with the CROOS Group to make it possible to begin project implementation as soon as the E-Board authorized OWEB's request for funds. The Interagency Agreement between OWEB and the Commission became effective immediately upon that action; and the project began in earnest on Sunday, June 25, 2006, the date of the start of the last June opener.

Beginning on June 25, 2006, the same five vessels that had volunteered their time earlier, with nine fishermen aboard, began implementing the project and further testing of the equipment and methodologies. The Commission also began recruiting fishermen interested

in participating in the project. During the break between the end of the June opener and the beginning of the first July opener (June 29 - July 9), the CROOS Group trained roughly 90 fishermen in the protocols and methodologies to be used in the project.

Since June 25, 2006:

- 81 vessels have signed up to participate.
- Five openers have occurred: one in June, three in July, and one in August.
- 46 different vessels have taken part, with 74 fishermen involved.
- 40 of the vessels have taken part in more than one opener.
- In the July and August openers, all vessels that wanted to participate did so, with a high of 34 vessels participating in one opener (August) with an average of 29 vessels/opener.
- 35 of the 81 vessels registered have yet to take part but have indicated that they want to do so during the fall openers.
- Vessels were paid at the rate of \$500/day if they carried a crew and \$400/day with no crew. At the end of the August opener, fishers have been paid a total of \$136,700 for their work in the project. Average vessel earnings from the project are \$2,972, with a high of \$6,000 and a low of \$800.

A combination of poor weather and poor fishing during the openers led to only 1,848 fish being landed by the participating boats, which is roughly 20 percent of what would have been possible if each boat had caught their limit of fish during each opener. The 46 vessels fished a combined total of 301 days out of a possible 368 during the five openers. Not a single one of the participating fishers landed their 75 fish/opener quota during any of the openers.

The original goals of the project were to hire 50 vessels and analyze tissue samples from 2,000 fish. It's expected that those goals will be reached and surpassed by the project end. One of the fundamental components of the project was that the information on the river of origin of each fish landed would be available within 48 hours after landing and that information would be available on a website. By mid-July, the lab was able to process the samples in exactly 24 hours and one minute and the analysis could be done in another 24 hours, so that goal was accomplished. The project has yet to be able to provide the information on their website within the desired timeframe because they encountered unexpected issues. Those should be resolved by early September and real-time identification of river of origin within 48 hours should be realized.

Preliminary results of the DNA analysis indicate that 51, or less than 4 percent, of the fish sampled (total of 1,330) came from the Klamath Basin; 491 fish came from Coleman National Fish Hatchery in the Sacramento Basin, and another 187 originated from Feather River, also in the Sacramento system.

Cooperation among all the project participants has been superb, with all parties – fishers, researchers, technicians, and administrators – enthusiastically engaged in ensuring that the project is as successful as possible. Future funding possibilities for the project are being actively explored; including a growing possibility of cooperation with California to expand the project to both states should federal funding become available. The fishing industry,

researchers and governors’ offices from both states are working with their congressional delegation to find funding to continue the project for three to four more years.

B. 2006 Salmon Season Grants

OWEB staff have developed and implemented a special grant program since the May 2006 Board meeting and the June 2006 E-Board approval of OWEB’s funding request.

1. Grant Solicitation and Review Process

OWEB Grant Program staff developed an expedited competitive grant process for three activities: 1) restoration, 2) project development, and 3) inventory and data collection. The 2006 Salmon Season Grant (SSG) information was posted on our website and a letter describing the effort was mailed to watershed councils, soil and water conservation districts, and tribes at the end of June. As an incentive, applicants are required to show only a 10 percent match of the OWEB request.

OWEB encourages applications that: 1) employ displaced fishers (defined as owners, operators, crew, and nuclear family members of same) in all project labor opportunities to the greatest extent possible over a period of up to 12 months; 2) offer displaced fishers a “living wage” (defined as anywhere in the range of \$12-\$20 an hour); and 3) put a greater percentage of personnel costs toward the hiring of displaced fishers.

In general, award preferences are given to projects that:

- Directly address limiting factors for the recovery of coastal coho in watersheds that drain directly to the ocean, including the Umpqua and Rogue basins; or the recovery of Klamath River salmon stocks in the Klamath River;
- Focus on “high-intrinsic potential salmon habitat”;
- Provide multiple benefits to the affected areas along the Oregon coast or the Oregon portion of the Klamath River Basin;
- Are identified in an existing watershed-scale assessment and action plan, or that address a restoration need identified in the Coastal Coho Recovery Plan; or
- Are part of an ongoing watershed-scale effort where previous work has been done.

Applications are accepted on a rolling basis and reviewed weekly by a small team of staff and experts, which includes:

Name	Agency	Location
Ken Bierly	Oregon Watershed Enhancement Board	Salem
Todd Confer	Oregon Department of Fish and Wildlife	Gold Beach
Rick Craiger	Oregon Watershed Enhancement Board	Redmond
Douglass Fitting	Oregon Watershed Enhancement Board	Salem
Michael Gray	Oregon Department of Fish and Wildlife	Charleston
Mark Grenbemer	Oregon Watershed Enhancement Board	Medford
Chris Knutsen	Oregon Department of Fish and Wildlife	Tillamook
Eric Nusbaum	Oregon Department of Agriculture	Eugene
Tom Shafer	Oregon Watershed Enhancement Board	Tidewater
John Spangler	Oregon Department of Fish and Wildlife	Newport

The Oregon Salmon Commission (Commission) in June 2006 decided that to be eligible for participation in one of the OWEB funded jobs, an individual would have to meet the following criteria:

1. Be an Oregon resident; and
2. Be the owner, operator, or crew of an Oregon licensed ocean salmon troll vessel during any of the 2004, 2005, and/or 2006 salmon seasons, or be a nuclear family member of same. “Nuclear family member” was defined as: the spouse, son(s) or daughter(s).

The Commission began to develop a list of eligible fishers that were interested in any potential land-based jobs. The Commission developed an “eligibility registration form” that fishers interested in jobs could fill out and the information is put into a database, which is updated weekly. OWEB grantees then contact the Commission administrator, Nancy Fitzpatrick, with information on how many fishers are needed and where the work will be done. The OWEB grantee notifies the Commission of the fishers hired as well as those interviewed and not hired and the Commission updates their database.

As of August 28, 2006, the list of interested fishers stands at 63, with 18 in Curry County, 22 in Coos County, four in Lane County, 11 in Lincoln County, one in Marion County, and seven in Tillamook County. Twenty-nine of the fishers are owners, seven are operators and 26 are crew. Thirty-three have expressed a willingness to work outside of their county of residence. Additional information on the fisher eligibility process is contained in Attachment C.

2. Current Status

As of the date of this staff report, OWEB has received 15 applications, one of which is a resubmission. Six applications have been funded—three restoration, one project development, and two inventory and data collection—with the promise of employing a total of 28 fishers. An additional application has been recommended for funding if the grantee can adjust its budget to increase the percentage of funding going to fishers. (See Attachment B for a tabular description of received and funded applications.) To date, OWEB has funded \$559,927 in restoration, project development, and inventory and data collection projects.

Staff sent letters with a detailed summary of reviewer concerns to the other applicants, and asked them to resubmit once they have addressed the concerns.

3. Additional Funding Needed

Staff would like to continue assisting displaced fishers and recommend that the Board allocate additional funding for continuing the 2006 Salmon Season Grant process. The June 2006 E-Board funds for Restoration have largely been spent. Based on an analysis of need, staff estimate that \$500,000 of capital funding would allow the special grant program to continue. If qualified applications are not submitted, these funds will not be used and they will be available for allocation by the Board in March 2007.

C. Recovery Planning Outreach

On August 8, 2006, OWEB staff met with Jay Rasmussen and Kaety Hildenbrand of OSU Sea Grant Extension to discuss the proposed scope of work for a project that would hire up to five displaced fishers, one full time and four half-time, for 16 months to conduct a variety of outreach activities relating to the state's salmon recovery planning efforts. The project is named "Fishermen Extending Salmon Restoration Information" (FESRI). The purpose is to equip displaced salmon fishers (owners, operators, crew or nuclear family members) to inform and raise awareness about the State's watershed programs and the Oregon Plan for Salmon and Watersheds (OPSW) to Oregonians.

Oregon Sea Grant Extension has adopted a team leadership approach for the program with each of the team members from one of Oregon Sea Grant's three focus areas: watersheds (Frank Burris), fisheries (Kaety Hildenbrand), and marine education (Shawn Rowe). The team, with support from other OSU Extension staff, will provide management oversight and training for the FESRI information specialists. The team will officially report to OWEB on a twice-a-year basis. Project goals and additional information on the FESRI training can be found in Attachment C.

IV. Administrative Rules

In response to legal advice, staff developed temporary (emergency) administrative rules to give OWEB the ability to apply award preferences related to the employment of displaced fishers, providing fish habitat benefits, and addressing identified watershed needs. The Board met by conference call on Thursday, July 20, 2006 and adopted the proposed rules. (Attachment D) These temporary rules expire January 21, 2007.

In addition to giving OWEB the ability to apply these preference to the 2006 Salmon Season Grant program, the adopted rules contain a provision that these preferences may also be applied to other OWEB grants, including the regular Restoration, Education and Outreach, Monitoring, and Assessment and Action Plan grants.

A. Rule Application Options

The next regular grant application deadline is October 16, 2006. Staff have discussed how to apply these rules to this grant cycle and have identified a number of issues and concerns. As an alternative, staff also discussed extending the existing 2006 SSG program through the January 2007 Board meeting. These two options are outlined below.

1. Apply Preference to Regular Grants

Applying the temporary rule criteria to the regular grants would allow staff to identify those projects that could hire displaced fishers and reward these projects with a higher priority ranking or other funding incentive. Staff are concerned that the 21-week lapse between the regular grant deadline in October 2006 and Board action in March 2007 defeats the intent of assisting displaced fishers quickly.

2. Extend Salmon Season Grant program

An additional allocation by the Board towards the 2006 SSG program would extend the existing expedited application submission and review process, and assist local watershed councils and conservation districts with hiring displaced fishers now rather than in spring 2007. Staff recognize that any additional allocation would come from the Board's

existing Lottery capital funds, and would decrease the amount of funding available for awards in March 2007.

B. Permanent Rulemaking

To continue to apply these award preferences, either by continuing the 2006 Salmon Season Grants or by applying the preferences to regular grants, beyond the January 21, 2007 expiration of the temporary rules, OWEB would need to adopt permanent administrative rules. For the Board to consider permanent rules at its January 2007 meeting, staff recommend the following rulemaking process.

Date	Actions
September 2006	Decide on scope of rulemaking, and stakeholders who should be involved. Identify Rules Advisory Committee (RAC), if needed. Develop materials and schedule meeting(s).
October 2006	RAC Meeting(s) and rule language development.
By October 13, 2006	File notice of rulemaking hearing(s) with Secretary of State for publication in November 1 st Oregon Bulletin.
November 1-30, 2006	Public comment period for rules. Draft rules available.
November 15-30, 2006	Public Hearing(s)
December 1-18, 2006	Staff drafts summary of public comments with responses, revises rules to incorporate public comments, and prepares January Board Meeting staff report.
January 24-25, 2007	OWEB Board considers adoption of permanent rules.

Based on the Board’s discussion of the rule application options outlined above, staff will identify and further refine the issues to be presented in a permanent rulemaking and will determine whether a rules advisory committee is needed.

V. Recommendation

Staff recommend the Board:

- A. Direct staff to begin permanent rulemaking, and
- B. Allocate \$500,000 of capital funding toward continuation of the 2006 Salmon Season Grants through January 21, 2007, and delegate to the Executive Director the authority to enter into appropriate grant agreements to distribute funds for the purposes outlined in this report.

Attachments

- A. Executive Order No. 06-06 and 06-07
- B. 2006 Salmon Season State of Emergency Applications Received and Funded
- C. Port Outreach Specialists and FESRI Training
- D. Temporary (Emergency) Administrative Rules