

REGIONAL PERMIT NUMBER 27
LAKE PEND OREILLE
PEND OREILLE RIVER
IDAHO

Effective Date:
March 22, 2010

Expiration Date:
March 21, 2015

The Walla Walla District of the U.S. Army Corps of Engineers authorizes work in Lake Pend Oreille, Pend Oreille River, and their tributaries, as described in this Regional Permit and shown on the attached drawings, 2 sheets. The State of Idaho Department of Lands requires separate approval for these activities.

I. AUTHORIZED ACTIVITIES

A. PIERS AND FLOATING DOCKS: Single-use and joint-use piers and floating docks are authorized under the following terms:

1. One pier or floating dock is authorized for each riparian property owner.
2. The facility shall be for non-commercial activities only.
3. Piers or floating docks shall extend into the waterway no further than the line of navigation. This limit is generally 55 feet, but in no case shall the pier or dock extend more than 100 feet waterward of the ordinary high water mark, regardless of depth.
4. Total deck area of a single-use pier or floating dock, including the access ramp, shall not exceed 700 square feet. Total deck area of a joint-use pier or floating dock, including the access ramp, shall not exceed 1,100 square feet.
5. Only open-pile pier construction is authorized. The maximum size for steel piles is 10" in diameter. Piling shall be driven or set in excavated footings. No more than 10 cubic yards of lakebed may be excavated for footings. Footings shall be backfilled with native material, concrete, sand, gravel, grout or epoxy. All excavation and filling of footings shall be done in the dry during low water conditions. All excess excavated material shall be disposed of in an upland location in a manner that precludes it from reentering waters of the United States. Piles may be bolted to bedrock if conditions preclude other attachment methods.
6. In-water pile driving shall utilize a bubble curtain AND a 6-inch minimum thickness wood block (or rubber /synthetic equivalent) between the driving apparatus and the pile while hammer-driving driving piles. Steel piles may not be larger than 10- inches in diameter.
7. No other structures, such as living quarters, toilets, fueling facilities, or hard-covered boat moorages shall be constructed or installed on any float or pier.

8. Floating docks shall be designed to contain flotation material under all conditions. White bead Styrofoam *may not* be used under any circumstances.

9. Piers and floating docks shall be constructed perpendicular to the shore and no more than 8 feet of shoreline vegetation shall be disturbed at the access point to the pier or dock.

B. MARINE LAUNCHING RAILS

One marine launching rail per riparian property ownership is authorized under the following terms:

1. The marine launching rail shall be for non-commercial use.
2. Marine launching rail systems shall be anchored to the surface of the bed of the waterway or on low profile concrete plank ties, poured concrete footings, untreated wood ties, or similar structures resting on the bed. If a boat launching ramp exists on the property, the marine launching rail system can be installed on the existing ramp surface.
3. Marine launching rail systems shall not extend more than 120 feet waterward of the ordinary high water mark.
4. Construction of marine launching rails shall be done in the dry during low water conditions.

C. MOORING PILES

A maximum of four (4) mooring piles per riparian property ownership is authorized under the following terms:

1. Mooring piles shall be for a non-commercial use.
2. Piles shall be single and separate and not constructed so as to form a multi-piled dolphin.
3. Mooring piles shall not be installed more than 55 feet waterward of the ordinary high water mark or to length of the permitted dock, whichever is less.
4. In-water pile driving shall utilize a bubble curtain AND a 6-inch minimum thickness wood block (or rubber /synthetic equivalent) between the driving apparatus and the pile while hammer-driving driving piles. Steel piles may not be larger than 10- inches in diameter.

D. PORTABLE BOAT LIFT STATIONS

A maximum of two portable boat lift stations per private riparian property ownership are authorized under the following terms:

1. Portable boat-lift stations shall be for non-commercial use.
2. Portable boat-lift stations shall not be installed more than 55 feet waterward of the ordinary high water mark or the length of the permitted dock, whichever is less.
3. Portable boat-lift stations shall be located adjacent to existing authorized floating docks and piers. They shall not extend waterward of the existing, authorized float or pier.
4. Canopies shall be made of canvas or synthetic cloth and can be part of the boat-lift station or a framework attached to the floating dock or pier.

II. GEOGRAPHIC AREA OF COVERAGE

The geographic area covered by Regional Permit 27 (Sheet 2 of the drawings) includes Lake Pend Oreille, Pend Oreille River and their tributaries that are inundated by the summer pool elevation of 2062.5 feet, NGV Datum, in Bonner and Kootenai Counties, Idaho. This includes navigable waters of the United States that are located upstream of the Albeni Falls Dam. Several areas within the geographical area described above are excluded from coverage under Regional Permit 27 as listed in the note on Sheet 2 of the drawings. The excluded areas are discussed below in Section III.

III. EXCLUSION AREAS

Certain areas are excluded from coverage under Regional Permit 27. They are shown on Sheet 2 of the drawings. A separate Department of Army Permit is required for work in these areas.

1. Areas within ½ mile of a bald eagle nest.
2. Mouths of Gold Creek, West Gold Creek, Granite Creek, Trestle Creek, Lightning Creek, Strong Creek (near Hope) and Priest River for a radius of 100 yards.
3. Areas that provide important wildlife habitat and are listed below:
 - A. Clark Fork Delta, from the confluence of Lightning Creek and the Clark Fork River, west to the range line between Range 1E and Range 2E.
 - B. Denton Slough, located in Sections 7, 18 & 19, T.56N., R.2E.
 - C. Pack River including the Pack River Flats, north of Trestle Creek on the east, and north of Sunnyside Sportsman Access (Hawkins Point) on the west.
 - D. Sagle Slough, south of the north section line of Section 11, T.56N., R.2W.
 - E. Morton Slough, including the left bank (east shoreline) of the Pend Oreille River from the half section line of Section 16, T.56N., R.3w., south to the south section line of Sec. 21, T.56N., R.3W.

F. Cocolalla Slough/Creek, upstream from the Spokane International Railroad bridge across the slough.

G. Scenic Bay of Lake Pend Oreille which provides important kokanee spawning habitat.

IV. AUTHORITIES

This Regional Permit is issued under the following authorities:

- A. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- B. Section 404 of the Clean Water Act (33 CFR 1344).

V. DEFINITIONS

The following definitions are applicable for the purpose of this Regional Permit:

A. Navigable Waters - All waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce.

B. Ordinary High Water Mark - The line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. For the purposes of this regional permit, the ordinary high water mark upstream from Albeni Falls Dam is defined as elevation 2062.5 feet (National Geodetic Vertical Datum).

C. Riparian Property - Property bordering the shoreline of the lake or waterway. For the purposes of this regional permit, riparian property is the property that borders the shoreline at the ordinary high water mark (elevation 2062.5 feet).

D. Line of Navigation - A line connecting the pierheads of existing piers and docks located 200 yards along the shoreline in both directions from the proposed pier or dock.

VI. PROCEDURE FOR OBTAINING APPROVAL

Individuals who want to construct an activity described in this Regional Permit shall submit the following information to:

U.S. Army Corps of Engineers
Walla Walla District
Coeur d'Alene Regulatory Office
3815 Schreiber Way
Coeur d'Alene, Idaho 83815-8363

A. Completed application for a Department of the Army Permit (Joint Application for Permits, Form NPW 304). Application forms are available on the Walla Walla District Regulatory webpage at: http://www.nww.usace.army.mil/html/offices/op/rf/joint_app.asp.

B. Drawings of the proposed project, including plan-view and cross-section view drawings refer to the drawing checklist for more details.

C. Vicinity map, including a copy of the plat map of the property where the work is proposed.

APPLICANTS ARE NOT AUTHORIZED TO BEGIN CONSTRUCTION UNTIL THEY RECEIVE WRITTEN VERIFICATION FROM THE ARMY CORPS OF ENGINEERS THAT THE WORK COMPLIES WITH THE REGIONAL PERMIT.

VII. CONDITIONS

The following General and Special Conditions shall be followed:

A. GENERAL CONDITIONS:

1. Maintenance. You shall maintain the activity authorized by this Regional Permit in good condition and in conformance with the terms and conditions. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 3 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you shall obtain a modification of this permit from this office, which may require restoration of the area.

2. Historic properties. Any activity proposed on a known historic or archaeological property, either listed or eligible for listing in the National Register of Historic Places, will not be permitted if found not to be in compliance with the National Historic Preservation Act. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you shall immediately notify this office of what you have found. We will initiate the Federal, Tribal, and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing on the National Register of Historic Places.

3. Transfer of Permit. If you sell the property associated with this permit, the new owner shall request, in writing, that the permit be transferred to them.

4. Water Quality Certification. If a conditioned water quality certification has been issued for your project, you shall comply with the conditions specified in the certification as special conditions of this permit.

5. Inspections. You shall allow representatives from this office to inspect the authorized activity any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

B. SPECIAL CONDITIONS

1. An Encroachment Permit shall be obtained from the Idaho Department of Lands before commencing work on any activity authorized by this Regional Permit.
2. Activities not specifically authorized by this Regional Permit require a separate Department of the Army Permit.
3. Activities may not jeopardize any Federally listed, threatened or endangered species. All applications submitted under this Regional Permit, will be reviewed by the Corps of Engineers to determine if the work will have any effect on a listed species. If the Corps of Engineers determines a specific project may affect a listed species, we will initiate consultation with the responsible federal agency as required under Section 7 of the Endangered Species Act.
4. Use of structures authorized under Regional Permit 27 may not interfere with navigation.
5. Structures proposed within boundaries of the Albeni Falls Dam site, or any Federal Government fee-owned lands, are not authorized under this Regional Permit.
6. The permittee shall obtain the legal right to use and occupy the affected submerged land. An easement or lease of the submerged land may be required from the Seattle District of the Corps of Engineers.
7. Existing native shoreline or riverbank vegetation shall be protected to the extent possible to minimize soil disturbance, erosion, delivery of sediment to the waterway and minimize the affect of construction activity on aquatic biota, including bull trout.
8. Disturbed shoreline or riverbank shall be protected by appropriate soil erosion control practices to minimize sediment delivery into the water, which may result in an adverse impact to aquatic biota, including bull trout.
9. Disturbed soils shall be re-vegetated with native plant species.
10. All construction debris shall be disposed of in an upland location in a manner that

precludes it from reentering waters of the United State, including wetlands. Disposal must be in compliance with all state and local regulations with regard to open burning of construction debris.

11. Wood materials used to construct any of the activities described in this Regional Permit 27 shall comply with the Environmental Protection Agency (EPA). Contact the EPA at <http://www.epa.gov/oppad001/reregistration/cca> or Idaho Department of Environmental Quality at http://www.deq.state.id.us/about/policies/pm97_1.cfm for further information on use of CCA treated wood products.
12. Hammer or vibratory pile-driving equipment is allowed when driving steel piling into the lakebed during in-water work. A bubble curtain in the water AND a wood or synthetic block between the driving apparatus and the pile must be used at all times when using hammer-driving equipment. Bubble curtains shall be maintained according to manufacturer's specifications.
13. Steel piles must be 10-inches in diameter or less. Wood pile diameter is not limited.
14. Installation of light penetrative decking (e.g. grating or clear translucent material) will be required for docks constructed between 100 yards and ¼ mile on each side of the mouth of exclusion streams. Light penetrative decking will also required for construction of docks near known kokanee spawning areas to reduce potential impacts to kokanee as they are a potential prey base for bull trout. Grating or clear translucent material will be required to cover the entire surface area of the piers and ramps; grating must have at least 60% open area and clear translucent material must have greater than 90% light transmittance (as rated by the manufacturer).

VIII. FURTHER INFORMATION

A. Limits of this Authorization

1. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. This permit does not grant any property rights or exclusive privileges.
3. This permit does not authorize any injury to the property or rights of others.
4. This permit does not authorize the interference with any existing or proposed Federal project.

B. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

2. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

3. Damages to persons, property or other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

4. Design or construction deficiencies associated with the permitted work.

5. Damage claims associated with any future modification, suspension, or revocation of this permit.

C. **Reevaluation of Permit Decisions:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

1. Permittee fails to comply with the terms and conditions of this permit.

2. The information provided by permittee in support of the permit application proves to be false, incomplete, or inaccurate.

3. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such reevaluation may result in a determination that it is appropriate to use the suspension, modification, or revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring permittee to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. Permittee will be required to pay for any corrective measures ordered by this office, and if the permittee fails to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

D. **Expiration:** This regional permit expires 5 years from the date of issuance and will be subject to public review prior to being reissued.

The permittee shall comply with all conditions contained in this regional permit or the permit is not valid and a separate Department of the Army Permit will be required to authorize the work.

David B. Barrows
Chief, Regulatory Division

Attachments