

# REGIONAL GENERAL PERMIT – Management of Aquatic Invasive Species

Discharge of Fill, Structures and/or Work Associated with the Management  
of Invasive Aquatic Plants and Mollusca  
in certain Waters of the State of Idaho

**Effective Date:**

**Expiration Date:**

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The Walla Walla District of the U.S. Army Corps of Engineers is evaluating the scope of the described action and is modifying the Regional General Permit Benthic Barriers (RGP-BB) to authorize additional treatment methods to control aquatic invasive species certain waters of the United States (U.S.), within the State of Idaho.

## **I. AUTHORITY**

**AUTHORITY:** This permit will be issued or denied under the authority of Section 404 of the Clean Water Act (33 U.S.C. 1344). A Department of the Army permit is required for the discharge of dredged or fill material into waters of the U.S., including wetlands.

**AUTHORITY:** This permit will be issued or denied under the authority of Section 10 of the Rivers & Harbors Act of 1899 (33 U.S.C. 403). A Department of the Army permit is required for work or structures waterward of the ordinary high water mark located in or over navigable waters of the U.S., including the excavation, dredging or deposition of material in navigable waters, or any alteration obstructing or affecting the course, location, condition, or capacity of the navigable waterway.

## **II. AUTHORIZED ACTIVITIES**

The following activities would be authorized under the RGP-Invasive Species provided they meet the required terms and conditions of the permit:

- 1. The discharge of fill material, structures and/or work associated with the placement of temporary benthic (bottom) barriers to control growth of invasive, noxious aquatic vegetation as designated by the Idaho State Department of Agriculture and usually associated with docks and swimming areas for safety and navigation purposes.*
- 2. The discharge fill material, structures and/or work associated with the placement of temporary benthic (bottom) barriers to control growth of non-native aquatic mollusca as designated by the Idaho State Department of Agriculture in areas identified with infestations.*

The State of Idaho Departments of Lands and/or Water Resources may also require separate approvals for these activities.

## **III. PROCEDURE OBTAINING APPROVAL**

Individuals who want to place benthic barriers as described in this Regional Permit shall **notify** the appropriate agency as noted below:

1. Individuals proposing to place benthic barriers in cooperation with Idaho Department of Agriculture, and the removal of vegetation by hand or raking under 500 square feet would NOT be required to provide notification to the Corps of Engineers.
2. Individuals, agencies or commercial entities proposing to place benthic barriers that are not in an Idaho Department of Agriculture sponsored program, or the use of mechanical harvesting, raking or pulling vegetation by hand and/or divers utilizing vacuum suction in areas exceeding 500 square feet would notify the Corps of Engineers by mail or by e-mail of the proposed activity. The notification shall include name, address, GPS location, and square footage of treatment area, treatment period, and a list of vegetation or invasive species that is targeted for removal. Applicants must receive authorization from the Corps of Engineers prior to conducting the activity. Project must also be compliant with all General Conditions, listed below.
3. Individuals, agencies or commercial entities proposing to place benthic barriers or other forms of invasive species treatments that exceed 5 acres of continuous coverage or do not meet the conditions of the RGP-Invasive Species must apply to and receive authorization from the Corps of Engineers prior to conducting the activity. Applicants are required to use the Joint Application for Permits process. Applications are on-line at <http://www.nwww.usace.army.mil/BusinessWithUs/RegulatoryDivision/JointApplicationforPermit.aspx>

Completed applications should be mailed to the appropriate Corps of Engineers Office:

U.S. Army Corps of Engineers  
 Walla Walla District  
 Coeur d'Alene Regulatory Office  
 2065 W. Riverstone Drive, Ste 201  
 Coeur d'Alene, ID 83814

U.S. Army Corps of Engineers  
 Walla Walla District  
 Idaho Falls Regulatory Office  
 900 North Skyline Drive, Suite A  
 Idaho Falls, ID 83402

U.S. Army Corps of Engineers  
 Walla Walla District  
 Boise Regulatory Office  
 10095 West Emerald Street  
 Boise, ID 83704

**APPLICANTS WHO ARE NOT WORKING IN COOPERATION WITH THE IDAHO DEPARTMENT OF LANDS ARE NOT AUTHORIZED TO PLACE BARRIERS UNTIL THEY RECEIVE VERIFICATION FROM THE U.S. ARMY CORPS OF ENGINEERS THAT THE WORK COMPLIES WITH THE REGIONAL GENERAL PERMIT.**

#### IV. CONDITIONS

##### A. GENERAL CONDITIONS

1. Clean Fill. Fill utilized to anchor benthic barriers must be free of fines and contaminants.
2. 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 the Walla Walla District, which may require restoration of the area.
3. 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 the Walla Walla District of what you have found. The Corps 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.

4. 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.
5. Water Quality Certification. You shall comply with the conditions specified in the water quality certification as special conditions of this permit.
6. Inspections. You shall allow representatives from the Walla Walla District 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**

### PROPOSED CONDITIONS TO MANAGE VEGETATION:

1. The placement of no more than 500 square feet of benthic barriers **is authorized** for each riparian property owner for the control of invasive, noxious aquatic vegetation, unless this criterion is waived in writing by the District Engineer.
2. Agencies or commercial entities proposing the use of benthic barriers, mechanical harvesting, divers with suction vacuums or any combination shall not exceed 5 acres at a given location for the control of invasive, noxious aquatic vegetation, unless this criterion is waived in writing by the District Engineer.
3. Invasive, noxious aquatic vegetation will be verified by a qualified individual, prior to any treatment identified above.
4. Barriers shall be placed below the high water mark and below the surface of waters to the maximum depth of invasive aquatic noxious vegetation (typically 12-15 feet, but may be deeper in water bodies with greater clarity that allow deeper penetration of sunlight).
5. Barriers with gas permeable fabric may be anchored with PVC frames, sand bags or other means that will not impact water quality degrade and can be safely removed at the end of the treatment period.
6. Divers or permittees will place and move the barriers onto the densest populations of vegetation. The barriers will typically in place for 6 to 10 weeks to prevent substantial build up of sediment and must be removed at the end of each season, or not later than October 31<sup>st</sup> of each year.
7. The installations will be checked periodically throughout the treatment window to assure that barriers remain in the designated areas of treatment.
8. Equipment or materials shall be thoroughly cleaned before being transferred between water bodies to eliminate the spread of invasive, noxious vegetation.
9. The applicant must provide a GPS location for the proposed bottom barriers in the application.

10. All construction waste (i.e. PVC pipe and fittings, geotextile fabric, etc.) and vegetation removed must be disposed in an appropriate upland location, such that it will not reenter waters of the U.S.
11. Activities not specifically authorized by this Regional General Permit require a separate Department of the Army Permit.
12. To comply with Section 7 of the Endangered Species Act (ESA), the Corps will initiate consultation on a programmatic level with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) for those actions which may affect listed species or their designated critical habitat. Any additional terms and conditions which come out of that consultation will become part of the final Regional General Permit.
13. Use of bottom barriers authorized under Regional General Permit may not interfere with navigation.
14. The permittee shall obtain the legal right to use and occupy the affected submerged land.

#### PROPOSED CONDITIONS TO MANAGE MOLLUSCA INFESTATIONS

1. Placement of no more than 5 acres of continuous barrier is authorized by each agency or commercial operation at a given location, unless this criterion is waived in writing by the District Engineer.
2. Bi-valve or gastropod identification and extent of infestation will be verified by a qualified individual, prior to barrier installation.
3. Divers or permittees will place the barriers onto the lakebed to the extent necessary to cover an infestation up to 5 acres. The barriers will remain in place for prescribed treatment periods based on species biology.
4. Bi-valve or gastropod barriers shall be constructed with non-gas permeable barriers or other proven barrier material and held in place with frames, sand bags or other means that will not impact water quality, degrade and can be safely removed at the end of the treatment period.
5. Equipment or materials shall be thoroughly cleaned before being transferred between water bodies to eliminate spread of non-native invasive species.
6. The applicant must provide a GPS location for the proposed bottom barriers in the application.
7. All construction waste (i.e. fabric, and anchoring materials, etc.), vegetation, bi-valve and or gastropod remains must be disposed in an appropriate upland location, such that it will not re-enter waters of the U.S.
8. Activities not specifically authorized by this Regional General Permit require a separate Department of the Army Permit.
9. To comply with Section 7 of the ESA, the Corps will initiate consultation on a programmatic level with the UFWS and the NMFS for those actions which may affect listed species or their designated critical habitat. Any additional terms and conditions which come out of that consultation will become part of the final Regional General Permit.
10. Use of bottom barriers authorized under Regional General Permit may not interfere with navigation.
11. The permittee shall obtain the legal right to use and occupy the affected submerged land.

## V. GEOGRAPHIC AREA OF COVERAGE

All waters of the United States within the State of Idaho, with the exception of those areas identified in Section VI: Exclusion Areas.

## VI. EXCLUSION AREAS

Certain areas are excluded from coverage under RGP-Invasive Species and are proposed to be excluded from the modification of the RGP. These areas are listed in *Table 1. Watersheds Excluded From Use of Benthic Barriers* and shown on the attached map entitled *Regional General Permit for Invasive Species Exclusion Areas* dated *February 2013*. The reason to exclude certain areas is to protect aquatic flora and fauna which may be listed as threatened or endangered under the ESA. A separate Department of Army Permit is required for work in these areas.

## VII. DEFINITIONS

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

Benthic Barrier – Also known as benthic mats or bottom barriers are mats that are installed on the bottom of a lake to control the growth of invasive aquatic plants and or members of the Phylum Mollusca. Barriers consist of gas permeable fabric that is held at the bottom of the lake with a PVC frame or other anchoring devices.

Ordinary High Water Mark – The line on the shore established by the fluctuations of the water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in 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.

Invasive Noxious Aquatic Vegetation and or Mollusca – An invasive species that is injurious to natural habitats and/or ecosystems. Typically they grow aggressively, multiply quickly without natural controls and adversely affect native habitats and or species.

Weed – A weed is a plant that is growing in a place where it is not wanted.

Gas Permeable Fabric – A fabric that has "breathing" capabilities which allow gases from decomposing biomass to pass through the barrier and escape to the surface.

Non-Gas Permeable Fabric – A fabric which does not allow an exchange of gasses resulting in an anoxic environment under the fabric.

Geotextile Fabric – Permeable fabrics which have the ability to separate, filter, reinforce, protect or drain. Typically made from polypropylene or polyester, geotextile fabrics come in three basic forms: woven (looks like mail bag sacking), needle punched (looks like felt), or heat bonded (looks like ironed felt).

List of Invasive Noxious Aquatic Vegetation in Idaho, covered By this Permit:

Common Name	Scientific Name	Common Name	Scientific Name
Brazilian Elodea	<i>Egeria densa</i>	Water Chestnut	<i>Trapa natans</i>
Common/European Frog-bit	<i>Hydrocharis morsus-ranae</i>	Yellow Floating Heart	<i>Nymphoides peltata</i>
Fanwort	<i>Cabomba carolinana</i>	Eurasian Milfoil	<i>Myriophyllum spicatum</i>
Feathered Mosquito Fern	<i>Azolla pinnata</i>	Parrotfeather Milfoil	<i>Myriophyllum aquaticum</i>
Giant Salvinia	<i>Salvinia molesta</i>	Curlyleaf Pondweed	<i>Potamogeton crispus</i>
Hydrilla	<i>Hydrilla verticillata</i>	Flowering Rush	<i>Butomus umbellatus</i>
Policeman's Helmet	<i>Impatiens glandulifera</i>	Yellow Flag Iris	<i>Iris pseudacorus</i>
Variable-Leaf Milfoil	<i>Myriophyllum heterophyllum</i>	Common Reed	<i>Phragmites australis</i>

List of Invasive Molluscs in Idaho, covered by this Permit:

Common Name	Scientific Name
Asian clam	<i>Corbicula fluminea</i>
New Zealand mud snail	<i>Potamopyrgus antipodarum</i>
Zebra mussel	<i>Dreissena polymorpha</i>
Quagga mussel	<i>Dreissena rostriformis</i>

**VIII. FURTHER INFORMATION**

1. Limits of this Authorization
  - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations, as required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize the interference with any existing or proposed Federal project.
  
2. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. 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.
  - c. Damages to persons, property or other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
  
3. Re-evaluation of Permit Decisions: The Walla Walla District 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:
  - a. Permittee fails to comply with the terms and conditions of this permit.
  - b. The information provided by permittee in support of the permit application proves to be false, incomplete, or inaccurate.

c. Significant new information surfaces which the Walla Walla District 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 the Walla Walla District, and if the permittee fails to comply with such directive, the Walla Walla District 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.

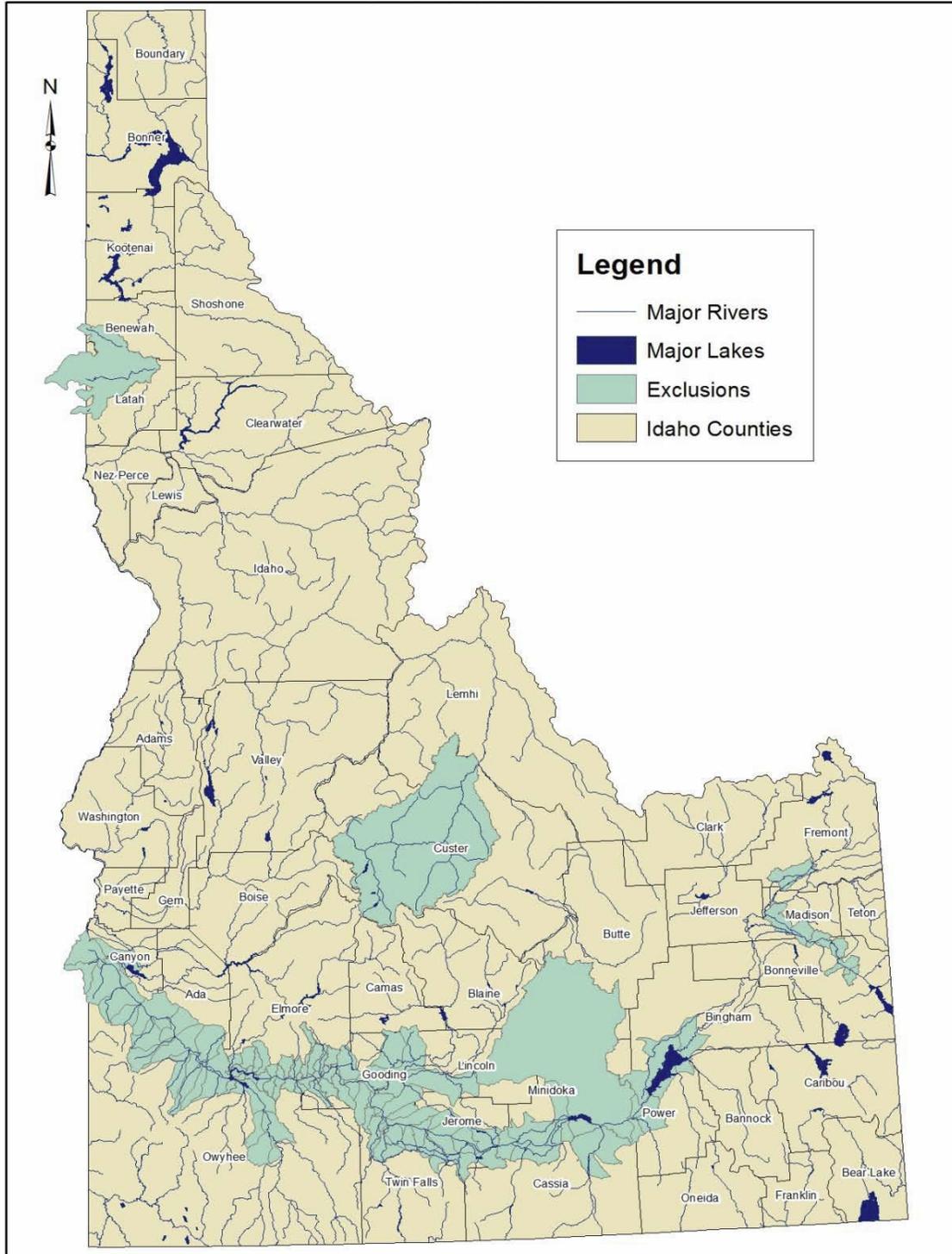
4. Expiration: This regional permit expires 5 years from the date of issuance and will be subject to public review prior to being reissued.

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

Enclosures

# Regional General Permit for Invasive Species Exclusion Areas



February 2013