

REGIONAL GENERAL PERMIT NUMBER 27
LAKE PEND OREILLE
PEND OREILLE RIVER
IDAHO

Effective Date:
April 2, 2015

Expiration Date:
April 1, 2020

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. Attachment A shows the geographic area covered by Regional General Permit 27 (RGP 27) and Attachment B shows the types of structures covered.

PLEASE NOTE: The 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 (1) 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. In no case shall the pier or dock extend more than 100 feet waterward of the ordinary high water mark (OHWM), 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 waterward of the OHWM (elevation 2,062.5 NGVD). Total deck area of a joint-use pier or floating dock, including portions of the access ramp extending waterward of the OHWM (elevation 2,062.5 NGVD), shall not exceed 1,100 square feet.
5. Only open-pile pier construction is authorized. The maximum size for steel piles is 10-inch 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. 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.

7. Floating docks shall be designed to contain encapsulated flotation material under all conditions. Open cell polystyrene (beaded Styrofoam) and the reuse of industrial drums is not authorized under any circumstance.

8. 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.

9. In-water pile driving requires the use of a bubble curtain AND a 6-inch minimum thick wood, rubber or synthetic cushion block between the driving apparatus and the pile while driving the piles.

B. MARINE LAUNCHING RAILS: One (1) 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 the area is bedrock, they may be fastened by drilled anchor bolts. 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 (elevation 2,062.5 NGVD).

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, 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 will use a bubble curtain AND a 6-inch minimum thick wood, rubber or synthetic cushion block between the driving apparatus and the pile while driving the piles. Steel piles may not be larger than 10-inches in diameter.

D. PORTABLE BOAT LIFT STATIONS: A maximum of two (2) 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.

E. SMALL DIAMETER WATERLINE INTAKES: A maximum of one (1) small diameter waterline intake per private riparian property ownership is authorized under the following terms:

1. Waterline intakes will be for non-commercial use.
2. The diameter of the intake line shall not exceed 2 inches.
3. The waterline can be attached to an existing dock or pier, placed on the lake bottom and held down by concrete blocks or similar means, or trenched into the lake bottom in the dry during the lake drawdown period.
4. A submersible pump can be part of the structure, either attached to a dock or pier, or lying on the lake bottom.
5. Waterlines will not extend more than 120 feet waterward of the OHWM (elevation 2,062.5 NGVD).

F. MOORING BUOYS: A maximum of one (1), single boat mooring buoy per private riparian property ownership is authorized under the following terms:

1. Mooring buoys will be for non-commercial use.
2. Mooring buoys 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.

II. GEOGRAPHIC AREA OF COVERAGE

The geographic area covered by Regional General Permit (RGP) 27 (See Attachment A) 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 RGP 27 as listed in the note on Attachment A of the drawings. The excluded areas are discussed below in Section III.

III. EXCLUSION AREAS

Certain areas are excluded from coverage under RGP 27. These areas are shown on Attachment A of the drawings. A separate Department of Army Permit is required for work in the following 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 as follows:
 - 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 that provides 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 a 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 - For the purposes of this regional permit, riparian property is the property that borders the shoreline of the lake or waterway 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 interested in constructing 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
2065 W. Riverstone Drive, Suite 201
Coeur d'Alene, Idaho 83814

A. Completed application for a Department of the Army Permit (Joint Application for Permits, Form NWW 1145-1). Application forms are available on the Walla Walla District Regulatory webpage at:
<http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/JointApplicationforPermit.aspx>.

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. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Pre-construction notifications must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(c) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the

Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

3. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in 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. The Idaho Department of Environmental Quality issued water quality certification for projects covered by this RGP on March 16, 2015. You shall comply with the conditions specified in the certification as special conditions of this permit. A copy of the certification can be found at:

<http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/RegionalPermits.aspx>

6. Inspections. You shall allow representatives from this office to inspect the authorized activity at 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. The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

2. An Encroachment Permit shall be obtained from the Idaho Department of Lands before commencing work on any activity authorized by this Regional Permit.

3. Activities not specifically authorized by this Regional Permit require a separate Department of the Army Permit.

4. This Corps permit does not authorize you to take an endangered species, in particular, the bull trout. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA); e.g. an ESA Section 10 permit, or a BO under ESA Section 7, with "incidental take" provisions with which you must comply.

The U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BO), dated February 25, 2015, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the "incidental take" that is also specified in the February 25, 2015 BO. [Link to Biological Opinion](#)

Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with the incidental take of that BO, which terms and conditions are incorporated by reference in this permit.

Failure to comply with the terms and conditions associated with incidental take of the BO, where take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with ESA.

5. Use of structures authorized under RGP 27 may not interfere with navigation.

6. Structures proposed within boundaries of the Albeni Falls Dam site, or any Federal Government fee-owned lands, are not authorized under this Regional Permit.

7. 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.

8. 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.

9. 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.

10. Disturbed soils shall be re-vegetated with native plant species.

11. All construction debris shall be disposed of in an upland location in a manner that precludes it from reentering Waters of the United States, including wetlands. Disposal must be in compliance with all state and local regulations with regard to open burning of construction debris.

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, rubber or synthetic block, between the driving apparatus and the pile, shall be used at all times when using hammer-driving equipment. Bubble curtains shall be maintained according to manufacturer's specifications.

13. Steel piles shall 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) is required for docks constructed between 100 yards and ¼ mile on each side of the mouth of exclusion streams. Light penetrative decking is 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 is 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).

15. All contractors operating under RGP 27 are required to have a spill response kit onsite. Additionally, any equipment operating over water will be required to replace hydraulic fluid with vegetable or mineral oil, which is far less toxic to fish and other aquatic organisms.

16. No in or overwater concrete pouring is authorized.

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 may 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 five (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.

This general permit becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.

Timothy R. Vail
Lieutenant Colonel, Corps of Engineers
District Engineer

Date

Attachments