

OREGON AND WASHINGTON RAPID RESPONSE WORKING GROUP MEETING SUMMARY

This document summarizes the outcomes of the Rapid Response Working Group meeting on December 11, 2013, that convened state, federal, and regional representatives associated with a rapid response to an introduction of invasive dreissenids in Oregon or Washington.

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RAPID RESPONSE WORKING GROUP WORKSHOP

Background _____	3
Workshop Attendees _____	5
Workshop Agenda _____	6
Key Information Learned at the Workshop _____	8
Workshop Outcomes – Action Items _____	10



Prineville Reservoir in Central Oregon. Source: Wikipedia.

Cover Photo: Quagga mussels along the shore of Lake Mead. Source: Felicia Fonseca, Associated Press.

Background

Quagga and zebra mussels (*Dreissenid* spp.) are the most economically damaging aquatic organisms to invade the United States, costing an estimated \$5 billion in prevention and control efforts since their arrival in the late 1980s. Because of the threat posed by these invasive mussels to the Northwest, there is a compelling need to define and implement a region-wide prevention and response strategy.

Recognizing this need, The Pacific NorthWest Economic Region, the Northwest Power and Conservation Council, Portland State University Center for Lakes and Reservoirs, and the Pacific States Marine Fisheries Commission sponsored a workshop on May 15, 2013 entitled, "Preventing an Invasion: Building a Regional Defense against Quagga and Zebra Mussels." The workshop convened 90 individuals representing Canadian and Pacific Northwest irrigation and water districts, water suppliers, legislators, state and federal agencies, tribal sovereign nations, nonprofit organizations, recreational boating interests, consortiums, and others in Vancouver, Washington. Workshop outcomes included the development of a set of regulatory/policy, outreach, funding and research action items addressing the challenges and barriers to prevent the introduction of invasive mussels to the Pacific Northwest.

One of the priority action items developed included creating a Rapid Response Working Group to update control options and permitting requirements needed for eradicating dreissenid mussels in Columbia River Basin states. Once the control and permitting information was updated, states would host workshops to simulate eradication scenarios. The Pacific States Marine Fisheries Commission, in cooperation with the Bonneville Power Administration, was designated as the lead agencies to coordinate this important task.

The first of the state workshops following the May 15, 2013 meeting was held December 11, 2013 in Vancouver, Washington. Because of the similarities in how Oregon and Washington process permits associated with control options for invasive mussels, the workshop was focused on scenarios for both Oregon and Washington.

The objectives of the workshop were to:

- Discuss existing state and federal permitting processes associated with a potential management action in response to the introduction of invasive Dreissenids in Oregon or Washington.
- Conduct scenario exercises for both states to reinforce actions that will need to be taken to implement a management response.
- Create a list of action items and associated timelines to address any unresolved issues and to further advance the ability of Oregon and Washington to respond to an introduction of invasive Dreissenids.

RAPID RESPONSE WORKING GROUP WORKSHOP

Workshop attendees included key federal and state agency representatives associated with invasive dreissenid control and permitting issues, as well as several other individuals representing other states and organizations from the Rapid Response Working Group.

An emphasis was placed on the development of key action items to advance the ability of the states of Oregon and Washington to respond to an introduction to invasive mussels.

RAPID RESPONSE WORKING GROUP WORKSHOP

Workshop Attendees

FEDERAL

Jana Grote, US Fish and Wildlife Service
Bob Kibler (via phone), US Fish and Wildlife Service
Robyn Draheim, US Fish and Wildlife Service
Nancy Munn, National Oceanic and Atmospheric Administration
Dirk Helder (via phone), Environmental Protection Agency
Tawanda Maignan (via phone), Environmental Protection Agency

STATE

Oregon

Rick Boatner, Oregon Department of Fish and Wildlife
Michele Weaver, Oregon Department of Fish and Wildlife
Glenn Dolphin, Oregon Marine Board
Rian Hooff, Oregon Department of Environmental Quality
Beth Moore, Oregon Department of Environmental Quality
Rose Kachadoorian, Oregon Department of Agriculture

Washington

Wendy Brown, Washington Invasive Species Council
Steve Foss, Washington Department of Agriculture
Nathan Lubliner, Washington Department of Ecology
Allen Pleus, Washington Department of Fish and Wildlife
Jesse Schultz, Washington Department of Fish and Wildlife

Idaho

Lloyd Knight, Idaho Department of Agriculture
Tom Woolf, Idaho Department of Agriculture

Others

Terry Toland, Clark Public Utilities

FACILITATORS

Lisa DeBruyckere, Creative Resource Strategies, LLC
Stephen Phillips, Pacific States Marine Fisheries Commission

ADMINISTRATIVE/STAFF SUPPORT

Susan Anderson, Pacific States Marine Fisheries Commission
Van Hare, Pacific States Marine Fisheries Commission (GIS/mapping support)

RAPID RESPONSE WORKING GROUP WORKSHOP

Workshop Agenda

OBJECTIVES:

- *Discuss existing state and federal permitting processes associated with a potential management action in response to the introduction of invasive Dreissenids in Oregon or Washington.*
- *Conduct scenario exercises for both states to reinforce actions that will need to be taken to implement a management response.*
- *Create a list of action items and associated timelines to address any unresolved issues and to further advance the ability of Oregon and Washington to respond to an introduction of invasive Dreissenids.*

8:45am-9:00am	Introductions, agenda review, and housekeeping details
9:00am-9:15am	Navigating the federal and state permitting processes in Oregon and Washington – an overview – Lisa DeBruyckere, Creative Resource Strategies, LLC
9:15am-10:00am	Oregon permitting processes* Oregon Pesticide General Permit – Beth Moore, Oregon DEQ The role of ODFW in a response - Rick Boatner (Oregon ODFW) Michele Weaver (ODFW Fish Division) Rian Hooff (Oregon DEQ and ex-officio member of Oregon Invasive Species Council) Glenn Dolphin (Oregon Marine Board)
10:15am-11:00am	Washington permitting processes Washington Pesticide General Permit – Nathan Lubliner, Washington Department of Ecology FIFRA label requests and Special Use Exemptions, 24c and Zequanox® – Steve Foss, Washington Department of Agriculture The role of the Washington Department of Fish and Wildlife in a response - Allen Pleus (Washington DFW) Wendy Brown (Washington Invasive Species Council)
11:00am-11:30am	Bob Kibler (USFWS), Jana Grote (USFWS), Nancy Munn (NOAA) – overview of ESA
11:30am-11:45am	Overview of afternoon breakout sessions
NOON-1:45pm	BREAKOUT SESSIONS - State participants form Oregon and Washington breakout groups to work through permitting scenarios related to water bodies selected for the meeting. Federal participants move between the

RAPID RESPONSE WORKING GROUP WORKSHOP

two breakout sessions to answer questions and provide guidance for navigating through federal permitting issues.

Washington (American Lake, Banks Lake, Columbia River – Lake Wanapum/Squilchuck State Park, Crescent Bar Recreation Area, Snake River – Lake Sacajawea/Charbonneau Park, Lake Washington – Ship Canal/Fisherman’s Terminal)

Oregon (Prineville Reservoir, Wallowa Lake, Lake Billy Chinook (Simtustus), Port of Arlington (Columbia River))

1:45pm-2:00pm	Dirk Helder and Tawanda Maignan (EPA - Section 24c and Section 18) will be available via conference call to answer any questions specific to federal EPA permitting processes.
2:15pm-3:00pm	BREAKOUT SESSIONS (continued)
3:15pm-4:00pm	Representatives from Oregon and Washington share the results of working through their water body scenarios, identifying key actions associated with permitting as well as outstanding questions or issues that require further research/investigation.
4:00pm-4:15pm	Meeting Summary and Next Steps
4:15pm	ADJOURN



The Port of Arlington along the Columbia River. Source: Condon Chamber of Commerce.

Key Information Learned at the Workshop

- Discharges of pesticides to waters of the states require NPDES permits. EPA authorizes the states of OR and WA to administer NPDES permits.
 - On all lands other than tribal lands, invasive mussel control can occur exclusively under an Oregon state permit. On tribal lands, an EPA permit is needed.
 - On all lands other than federal and tribal lands, control can occur exclusively under a Washington state permit. There are “gray areas” in which a state permit may be legal to use on some federal and tribal lands.
- EPA registers all pesticides under the federal insecticide, fungicide, and rodenticide act of 1979 (FIFRA), which assures pesticides are properly labeled and will not cause harm to the environment if used in accordance with label.
 - Section 3 FIFRA – EPA has reviewed and approved information and uses on product label.
 - Section 24(c) FIFRA – allows states to grant registrations for additional uses of a product to meet local needs – for sites already listed on the label. Oregon and Washington do not have Section 3 registrations for the most commonly used pesticides that would be used to control invasive mussels.
 - Section 18 – states, or the region, may petition EPA for section 18 emergency exemption from full section 3 registration – temporarily expands the terms of the pesticide label to include additional emergency uses – users must obtain directions from lead agency.
 - A Section 18 can be applied for regionally whereas Special Local Needs must be applied for on a state-by-state basis.
- Oregon Department of Fish and Wildlife’s Pesticide Discharge Management Plan (under its NPDES Pesticide General Permit for control of Nuisance Animals) needs to be amended to include the types of pesticides and control options that would likely occur upon an introduction of invasive mussels.
- To use a pesticide to control invasive mussels in Washington, the pesticide product must be registered federally, by the state (WDA), in the states NPDES Aquatic Invasive Animal General Permit, and the applicator has to have covered under the NPDES permit. Oregon also requires state and federal registration of the pesticide product, but Oregon’s NPDES permit is not specific for any pesticide. Both states have may have additional constraints on the pesticide products that may be used if the waterbody being treated is listed on the states list of impaired waterbodies (303d listings).

RAPID RESPONSE WORKING GROUP WORKSHOP

- Oregon is well poised to access funds to support initial activities associated with an introduction of invasive mussels, using the Oregon Invasive Species Control Account (Oregon Invasive Species Council) as well as funds associated with the Aquatic Invasive Species Permit Program (Oregon Marine Board).
- Options exist for how Columbia River Basin states could navigate through permitting requirements to respond to an introduction of invasive mussels, from the development of a Habitat Conservation Plan or programmatic Environment Impact Statement to using existing emergency procedures, such as a Section 18. Federalizing the Columbia River Basin plan by the EPA is a key step. It is likely that any of these options would require:
 - Best Management Practices for the mainstem Columbia River and tributary watersheds.
 - A joint programmatic opinion from NOAA and the USFWS.
 - Inclusion of terrestrial species (in terms of potential effects of a control action).
 - Identification of the pesticides that would most likely be used in a control action.
 - Identification of sensitive, threatened, and endangered species in the control area (and downstream of the control area, if applicable).
 - Addressing downstream habitats and how they might be affected by control actions.
 - Setting goals and geographic scope to any likely control action.

RAPID RESPONSE WORKING GROUP WORKSHOP

Workshop Outcomes – Action Items

Several key actions were identified to help the states of Oregon and Washington advance their ability to respond to an introduction of invasive mussels:

STATES	
Both Oregon and Washington	
1. Pesticide Registration—Refine the list of registered Section 3 pesticides for Oregon and Washington, designating which would most likely be used to control an introduction of invasive mussels.	<p><u>Section 3 Registered Control Products</u>—Registered Section 3 pesticides that would most likely be used to control an introduction of invasive mussels in the CRB include:</p> <ul style="list-style-type: none"> ▪ Copper-based algaecides <ul style="list-style-type: none"> ○ Copper sulfate; copper carbonate ▪ Endothal ▪ Potassium salts ▪ Bacterial toxins <ul style="list-style-type: none"> ○ <i>Pseudomonas fluorescens</i> (Zequanox®)
2. Take steps to ensure the most likely products to be used for invasive mussel control are listed as Section 3 (or Section 24c) pesticides in each state.	<p>Washington has 21 products registered with Section 3 labels for control of mussels; Oregon has 21 products registered, except for Lo Temp Sanitizer; it also has one supplemental registration for Sanibrom Biocide. As of January 2014, Marrone Bio Innovations, the makers of <u>Zequanox®</u>, are applying to EPA for expanding the registration (<i>Active ingredient: Pseudomonas fluorescens</i>) for open water applications.</p>

RAPID RESPONSE WORKING GROUP WORKSHOP

<p>Oregon</p> <p>3. Amend Oregon Department of Fish and Wildlife's existing Pesticide Discharge Management Plan to incorporate pesticides that would likely be used in the control of invasive mussels.</p>	<p>Lisa contacted Rick Boatner to get a status update on January 2. No response. Recontacted on February 6.</p>
<p>Washington</p> <p>4. Take steps to identify possible sources of funding that would be used to support control of an introduction of invasive mussels.</p>	<p>If the WDFW AIS bill passes this session (2014) and has the funding mechanism that has been proposed, WDFW would receive \$1.4 million more annually for their program, out of which they would fund \$250,000 for local invasive species grants – like lake prevention programs, response, control, etc. There are no provisions for keeping a reserve portion for rapid response management, but a provision exists to petition the Governor for emergency measures, which may include additional funding.</p>
<p>REGIONAL</p>	
<p>5. Section 18 of FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act)—Explore opportunities to respond to an introduction of invasive mussels by developing the components of a Section 18 (which would authorize an unregistered use of a pesticide for a limited time if EPA determines emergency conditions exist) that can be applied for regionally.</p>	
<p>6. Establish a communication network to ensure the Columbia River Basin states are aware of emerging products that could potentially be used to control invasive mussels.</p>	<p>Such a network already exists through the 100th Meridian, Western Regional Panel . . .</p>
<p>7. Maintain a website that contains the latest updated information relative to control and management of invasive mussels.</p>	<p>Planning is underway to merge elements of http://www.aquaticnuisance.org/, http://preventinganinvasion.psmfc.org/documents/, http://www.psmfc.org/ballast/, http://crbais.psmfc.org/ and WEST911 to create one robust website with the latest information for AIS Coordinators.</p>
<p>8. Begin taking steps to conduct a programmatic consultation for the region by working with NOAA and the USFWS to assimilate</p>	<p>NOAA has provided examples of consultations with other entities. Once USFWS examples are received, initial steps will be taken to assimilate information</p>

RAPID RESPONSE WORKING GROUP WORKSHOP

existing information and identify key information gaps needed to inform its development.	and consolidate materials necessary for development of a consultation (February 2014).
9. Define an entity that would work with pesticide registrants to complete Section 24(c) paperwork that could be shared with all states.	
10. Ensure the Columbia River Basin plan is federalized by the EPA.	
FEDERAL	
11. NOAA and USFWS representatives will provide PSMFC with copies of regional consultations to serve as a template for what Columbia River Basin states could produce.	Nancy Munn provided a SLOPES Programmatic Consultation with the US Army Corps of Engineers and a HIP consultation with BPA. Other programmatic consultations are available on their website . USFWS is exploring examples that relate specifically to invasive species, in this region and other regions.
12. EPA will respond to two questions asked by the states: <ul style="list-style-type: none"> a. Are there any environmental concerns associated with the product Zequanox®? b. Is Potassium Chloride is registered for use as a pesticide, and if not, would the states need a Section 18 to use this product? 	<p>Answer to A: provided by Tawanda Maignan: When Zequanox® was registered a lot of environmental studies were requested to address non-target organisms and to the best of my knowledge the data is still pending.</p> <p>Answer to B: provided by Tawanda Maignan: Potassium Chloride is not registered and a section 18 would be required which we have issued in the past to Texas however, it was for a confined area.</p>
13. EPA (Dirk Helder) is exploring with legal staff whether or not a state permit is legal to use on some lands other than state lands, which would then involve NMFS and USFWS in permit development that includes restrictions for endangered species.	Answer: If the State is the lead agency and operating under Washington's Pesticide General Permit (PGP), then all treatments throughout the State including federal lands would be fine and covered under that permit. If applications were being made on Tribal lands, EPA's PGP would be needed.