

# 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

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*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.

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.

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## 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)

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## 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*<br>Oregon Pesticide General Permit – Beth Moore, Oregon DEQ<br>The role of ODFW in a response - Rick Boatner (Oregon ODFW)<br>Michele Weaver (ODFW Fish Division)<br>Rian Hooff (Oregon DEQ and ex-officio member of Oregon Invasive Species Council)<br>Glenn Dolphin (Oregon Marine Board)   |
| 10:15am-11:00am | Washington permitting processes<br>Washington Pesticide General Permit – Nathan Lubliner, Washington Department of Ecology<br>FIFRA label requests and Special Use Exemptions, 24c and Zequanox® – Steve Foss, Washington Department of Agriculture<br>The role of the Washington Department of Fish and Wildlife in a response - Allen Pleus (Washington DFW)<br>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 two breakout sessions to answer questions and provide guidance for navigating through federal permitting issues.<br><br><u>Washington</u> (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) |

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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).
- 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).

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- 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.

## 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.
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.

#### Oregon

1. 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.

#### Washington

1. Take steps to identify possible sources of funding that would be used to support control of an introduction of invasive mussels.

### REGIONAL

1. 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.
2. 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.
3. Maintain a website that contains the latest updated information relative to control and management of invasive mussels.
4. Begin taking steps to conduct a programmatic consultation for the region by working with NOAA and the USFWS to assimilate existing information and identify key information gaps needed to inform its development.
5. Define an entity that would work with pesticide registrants to complete Section 24(c) paperwork that could be shared with all states.
6. Ensure the Columbia River Basin plan is federalized by the EPA.

### FEDERAL

- 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.
- EPA will respond to two questions asked by the states:

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- a. Are there any environmental concerns associated with the product *Zequanox*®?
- b. Is Potassium Chloride registered for use as a pesticide, and if not, would the states need a Section 18 to use this product?
- 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.