

## **FINAL FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

### **Dreissenid Mussel Rapid Response Action Plan Idaho, Montana, Oregon, and Washington**

**November 2019**

#### **I. Project Description and Background Information**

The US Army Corps of Engineers, Walla Walla District (Corps), proposes to implement a Rapid Response Action Plan (Plan) for the eradication of potential zebra (*Dreissena polymorpha*) and quagga mussel [*D. bugensis* (collectively referred to as dreissenids)] infestations in the Columbia River Basin (CRB), as well as across infested waterbodies in the states of Washington, Oregon, Idaho, and Montana. Authorized through Section 104 of the River and Harbor Act of 1958, as amended by Section 1039(d) of the Water Resources Reform and Development Act of 2014 and Section 1178 of Water Infrastructure Improvements of the Nation Act of 2016, the Corps began laying the ground work for the Plan in 2017 by developing the *Final Integrated Letter Report and Programmatic Environmental Assessment for Federal Participation in Watercraft Inspection Stations, Columbia River Basin* (Appendix A to the Rapid Response Action Plan Environmental Assessment).

The significance and impact of the establishment of dreissenid mussels in the CRB and surrounding region cannot be overstated. The potential is high for dreissenid invasion in Idaho, Montana, Oregon, and Washington. The primary vector for the spread of dreissenids is recreational boaters. Boaters from across the nation travel to the CRB to enjoy the renowned fishing and boating opportunities, and may bring dreissenids with them. Dreissenids threaten the diversity and abundance of native species, ecological processes, and natural resources as well as commercial, agricultural, aquaculture, cultural, and recreational activities. Their rapid reproduction, prodigious capacity to filter the water, and biofouling behavior would permanently harm the region's aquatic ecosystems and create costly and logistically difficult maintenance concerns throughout the region's waterways.

#### **II. Proposed Action**

The Corps is proposing to assist the states of Idaho, Montana, Oregon, and Washington with establishing and executing rapid response measures if discovery of dreissenid mussels within the four-state area (FSA) occurs. Expenditures for rapid response actions may be reimbursed to the States of Idaho, Montana, Oregon, and Washington, or other local bodies that entered into a cost-share agreement with the Corps, up to 50 percent of the total costs to include federal cost to administer the program, in accordance with Section 1178(b) of the Water Resources Development Act of 2016. Rapid response actions could also be conducted by the Corps or by other federal land managing agencies at federally owned/managed water resources projects and related facilities (e.g., dams, boat ramps, etc.) within the CRB.

### **III. Purpose and Need**

The purpose of the action would be to protect water bodies and related facilities in the CRB from economic and ecological damages resulting from dreissenid mussel infestation. The proposed action is needed because the risk of water bodies, and ultimately Corps reservoirs, in the CRB being infected is high and the introduction and establishment of dreissenids has the potential to cause billions of dollars in damage and increase operation and maintenance costs to water-related infrastructure, and untold damage to the ecosystem and the species dependent upon it. Dreissenids present a direct threat to Corps authorized purposes including hydropower, navigation, and fish and wildlife mitigation.

### **IV. Project Alternatives**

Three alternatives are evaluated in the Environmental Assessment (EA):

- 1) Alternative 1: No Action/No Change (States act alone-current practice)
  - a) States act under their plans for non-Federal water areas and related facilities within their respective states.
  - b) Corps does not implement its own plan (Plan) for Corps owned and managed Federal submerged lands and water related facilities (e.g., dams).
  - c) Corps does not implement a cost share program to assist the states.
- 2) Alternative 2: (States act alone plus the Corps acts independently)
  - a) States act under their plans for non-Federal water areas and related facilities within their respective states.
  - b) Corps acts under the Plan for Corps owned and managed Federal submerged lands and water related facilities.
  - c) Corps does not implement a cost share program to assist the states.
- 3) Alternative 3: (States act with Federal cost share and the Corps acts independently)
  - a) States act under their plans for non-Federal water areas and related facilities within their respective states, or under the Corps' rapid response Plan and supplemented by the Federal cost share program.
  - b) Corps acts under the Plan for Corps owned and managed Federal submerged lands and water related facilities.

The Corps developed screening criteria to evaluate alternatives as part of identifying the purpose and need for the proposed action. Only those alternatives that met the screening criteria were moved forward for further evaluation. The exception was the No Action Alternative. As a requirement under NEPA, this alternative was carried forward to serve as a comparison. Alternative 2 may not act aggressively enough to satisfy all screening criteria, however, given Corps ownership of shoreline along the lower Columbia and Snake Rivers, there is the potential for independent Corps action to address an infestation. Therefore, Alternative 2 was carried forward for consideration. Alternative 3 met all screening criteria and was carried forward for consideration.

## **V. Environmental Effects**

The Proposed Action Alternative (Alternative 3), the No Action Alternative, and Alternative 2 were analyzed for potential effects to the following resources: aesthetics and the visual environment, aquatic resources, historic and cultural properties, recreation, socioeconomics, terrestrial resources, water quality, and cumulative effects. This analysis is detailed in Section 3 of the EA. The analysis concluded there would be no significant adverse effects to any of the resources from implementation of any of the Alternatives, including the Proposed Action Alternative.

The Corps also considered the cumulative effects of the Proposed Action Alternative along with other past, present, and reasonably foreseeable future actions in the four States. The Corps concluded that the Proposed Action Alternative would not cause a significant cumulative effect.

## **VI. Consultation and Compliance with Other Laws and Regulations**

In compliance with Section 7(a)(2) of the Endangered Species Act, the Corps prepared a Biological Assessment (BA) and initiated Section 7 consultation with the USFWS and NMFS (the Services) in May 2018. The Corps determined the proposed alternative “may affect, and is likely to adversely affect” 19 ecologically significant units of salmon and steelhead under the jurisdiction of the National Marine Fisheries Service, 51 ESA-listed species under the jurisdiction of the US Fish and Wildlife Service, and critical habitat for all species while protecting the species and habitats from the severe risk of aquatic invasive species. The Corps also determined that this project would result in no take of species listed under the Migratory Bird Treaty Act, no disturbance or take under the Bald and Golden Eagle Protection Act, no effect to yellow-billed cuckoo, and no effect on essential fish habitat pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act.

The Corps requested formal programmatic framework consultation with the National Marine Fisheries Service (NMFS) on October 23, 2018 and formal consultation with the U.S. Fish and Wildlife Service (USFWS) on October 23, 2018 (collectively the Services). Consultation will be complete when the Corps receives Biological Opinions from the Services which are accepted by the Corps for implementation.

As of November 2019, consultation with the Services has not been completed, though the Corps expects that the Services will issue non-jeopardy Biological Opinions for activities under the Plan. The Services have indicated a reluctance to consult on the Plan due to the lack of specificity regarding where and when treatment activities would occur in the action area. The USFWS has indicated a preference the Corps follow emergency ESA consultation procedures if an infestation is discovered in the CRB. The Corps continues to request and pursue programmatic consultation as required under ESA. Congress has directed the Corps to work with the states to develop a rapid response plan, pursuant to Section 104 of the River and Harbor Act of 1958, as

amended. It is specifically this requirement to develop a rapid response plan that has persuaded the Corps to request programmatic consultation.

If dreissenids are discovered in the FSA prior to the completion of programmatic consultation, the Corps would act to implement response actions under emergency ESA consultation procedures. Under emergency consultation, the Corps would notify the Services of the location and details of the emergency action and receive measures to minimize impacts from the Services within 48 hours. The Corps would act according to the draft proposed Plan and implement the measures recommended by the Services, as well as the Best Management Practices and Conservation Measures listed in Section 4 of the EA. After treatment is complete, The Corps would identify any incidental take of a species or an adverse effect to critical habitat that resulted from the emergency response action and initiate formal consultation following normal procedures.

The Corps anticipates entering into a cost-share agreement with the States of Idaho, Montana, Oregon, and Washington (or an agent for those states) prior to completing consultation. Some preparatory elements of the Proposed Action, including equipment purchases and training, would need to be implemented prior to receiving Biological Opinions from the Services to ensure the States are prepared to respond to an infestation if discovered. These preparatory elements are outlined in Section 2.2.3 of the EA.

After initiation of consultation, Section 7(d) of the ESA prohibits federal agencies from making "any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures. . . ." (16 U.S.C. § 1536(d)). Should a state request cost sharing for preparatory elements of the Proposed Action, the Corps may fund those actions if it determines they would not have any adverse effect on ESA listed species or critical habitat, or foreclose consideration of alternative measures. Such a determination would be documented in a memorandum for record. Additionally, preparatory actions that do not violate Section 7(d), as outlined above, would likely also qualify (individually or collectively) for a "No effect" finding under the ESA.

See Section 4 of the EA for a discussion of how the proposed action complies with other laws, regulations, and Executive Orders.

## **VII. Public Involvement**

The EA and draft FONSI were distributed to Federal, state, and local agencies, Tribes and the public for a 30-day review and comment period beginning July 19, 2019. Ten comments were received during the comment period. Five of ten comments were letters in support of the Proposed Action from regional agencies involved in natural resource management. Four comments were regarding matters outside the scope or authority of the proposed project, were informative in nature, or were already addressed in the EA. The remaining comment inquired about the evidence the Corps possesses that would confirm the efficacy of the proposed project. The Corps notes that while no

treatment protocol can guarantee complete eradication of invasive mussels should they be detected in the CRB, the treatments outlined in the EA are supported by the best available science. These treatment options were selected as they were the most effective and least environmentally harmful options.

### **VIII. Findings and Decision**

Having reviewed the Dreissenid Mussel Rapid Response Action Plan EA and supporting appendices, I find that the documents provide sufficient discussions on the purpose of and need for the proposed action, alternatives, the environmental effects of the proposed action and the alternatives, and a listing of agencies consulted. These documents provide sufficient evidence and analysis to meet the Corps requirements pursuant to the National Environmental Policy Act. Corps requirements pursuant to the Endangered Species Act would be met by acting only where there is no effect to listed species or critical habitats, through emergency consultation, or ultimately, through the successful conclusion of programmatic framework consultation.

Based on this information, I find that implementation of the proposed action would not result in significant impacts on the quality of the human environment and that an Environmental Impact Statement is not required. The Corps will proceed to fund the proposed project under the authority of Section 104 of the Rivers and Harbors Act of 1958 (as amended), when funds are made available for that purpose.



CHRISTIAN N. DIETZ  
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Commanding

11/26/19  
Date