

## NPDES Update

The National Pollution Discharge Elimination System (NPDES) has been in place since October 31 and the world hasn't ended. Of course that's scheduled for December 2012 according to the Mayan calendar. The last few states have brought their programs on line – Tennessee and Kentucky within the last few days.

Some interesting developments on the state fronts:

1. Within twenty-four hours of the first Notice of Intent (NoI) filed in Alabama for a treatment to take place in May, the first state challenge to an NOI was filed in Washington, D.C. with the EPA.
2. Applicators in Illinois crashed the Department of Natural Resources computer several times trying to comply with Illinois Endangered Species Act requirements associated with the applications to the broad definition of "waters of the state".
3. Applicators in Kentucky could not file an NoI because the state permit wasn't final. AERF was told they've been hoping for a congressional fix since one of their U.S. Senators was Mitch McConnell the Senate Minority Leader.
4. Connecticut officials had to schedule a hearing on their rule to accommodate two persons who didn't think the permit went far enough and one of whom asserted that we just don't know enough about these pesticides.

I'm sure there are more stories out there that haven't been sent to us yet. Feel free to keep AERF informed. What were the outcomes of the aforementioned cases?

1. The Alabama Department of Environmental Management informed the applicator that he wasn't to worry. They would monitor the application. It should be OK given the applicator involved, but state agencies that fail to respond appropriately to objections to herbicide treatments may be creating a circumstance where all the elements exist for a citizen's suit under the Clean Water Act. Remember the Talent Irrigation case?
2. The Illinois NPDES general permit defines waters of the state as all waters. To comply with the permit, applicators have to check a website to be sure their proposed treatment site is not home to an endangered or threatened species. Despite verbal assurance that such a website analysis was unnecessary for waters smaller than ten acres. Applicators (one in particular) persisted until the wildlife agency responsible finally gave up and put it in writing. What looks good on paper often doesn't translate well during implementation.
3. In spite of Kentucky official's hopes and dreams House Bill 872 is still stuck on Senator Harry Reid's desk with holds on the bill by Boxer and Cardin. While the bill appears to be solidly mired with no real movement expected soon, efforts are ongoing to make something happen. The KY permit has now been finalized.
4. The Connecticut permit should have cleared by the time you get this. Jim Skillen, formerly of RISE, represented AERF and the aquatic community at the hearing and was able to present a more than adequate counter to the assertions of the pesticide naysayers who requested the hearing. The cost to the State for what ended up being a huge waste of time has not been toted yet.

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The takeaway message from the four examples is that when members ask for AERF involvement, we'll do all we can to respond effectively. States aren't particularly happy with this court-ordered mandate either, but failure to respond to lawfully filed objections may open the door to bigger and more expensive problems for aquatic managers. Persistence can pay off. Don't settle for the "Don't worry about that" responses from regulators. Get it in writing.

RISE is currently calling applicators and aquatic managers with a survey. AERF may be assisting in the distribution of it (at least we offered). The survey is an attempt to get some real-world feedback on the impact of the various NPDES requirements on individuals and businesses. The results will be taken to the hill to show Senators and Representatives how NPDES is affecting their constituents. The hope, not just for Kentuckians, is that this effort will shake loose HR-872 and let it come up for a vote. If you receive a call or a survey form, please be as helpful as you can be. Perhaps this effort will work.

I look forward to hearing from you, seeing you at the various meetings around the country, and responding to your requests. Thanks go out for those of you who became part of the AERF family this year and we are most grateful for those who renewed their sponsorship in the difficult economic times. Without your support, we could not do the things you have come to expect from us.

Carlton R. Layne  
Executive Director

### **USACE's Aquatic Plant Control Research Program Saved By Congress**

In response to a national letter-writing campaign, Congress restored partial funding for the US Army Corps of Engineers Aquatic Plant Control Research Program (APCRP). The APCRP is the only Federally authorized program for aquatic plant management, and had been scheduled for termination by the Corps of Engineers. Although the Program survived the budget chopping block, the APCRP received only \$3 million for Fiscal Year 2012, representing a 25% reduction in funds from FY 2011. Support for reinstating the Program was spearheaded by Senators Leahy (D-VT) and Schumer (D-NY), and Representative Hinchey (D-22nd, NY). Funding to continue the Program for FY 2013 is uncertain at this time.

The AERF and its members and friends sent letters supporting the reinstatement of this important program to the USACE HQ and key members of Congress. The APCRP provides scientifically sound guidance to public water resource managers and stakeholders on the selective control of nuisance aquatic plants and algae. The AERF collaborates with the APCRP via a Cooperative Research and Development Agreement, which has been in force since 1996.

### **Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters**

The Coast Guard is amending its regulations on ballast water management by establishing a standard for the allowable concentration of living organisms in ships' ballast water discharged in waters of the United States. The Coast Guard is also amending its regulations for engineering equipment by establishing an approval process for ballast water management systems. These new regulations will aid in controlling the introduction and spread of non-indigenous species from ships' ballast water in waters of the United States.


The AERF website is a wealth of information for aquatic applicators, lake managers and waterfront property owners. Do you need information on the new Pesticide General Permit requirements? We keep in contact with the regulators from each state, and provide links to their draft or final permits as they become available. And don't forget our Best Management Practices Manual. Find information on management practices, techniques, and impacts. The EPA consulted and referenced this publication in preparing their Pesticide General Permit, and we provided a copy to the responsible regulator in each state for them to consult as they prepared their permit requirements. Other things you can find on our site include our economic analysis of the cost/benefits of aquatic plant management, links to our member applicators if you are looking for help to control a weed problem, and even a page with automatic unit conversions. Please check us out at [www.aquatics.org](http://www.aquatics.org), and remember that all these services are funded by your sponsorship.

## NEW PUBLICATIONS

The AERF has produced a 15-year anniversary retrospective magazine. It is currently being printed and approximately 7500 copies will be mailed to aquatic and weed science stakeholders during the month of March. If you receive this newsletter, you are on that mailing list. If you don't get your copy, don't worry, it will also be available on the website, and at our table at the various conferences.

This one-time magazine reviews the origin and history of the AERF, how it has developed over its lifetime, and where we envision it heading in the future. It contains articles by various sponsors and officers, including a series of personal perspective articles on how the AERF has positively impacted various member types and organizations.

Be on the lookout for your copy, and please share it with colleagues who may not be sponsors, and use it to encourage them to become one today.



“Dreissenid Mussel Prevention and Contingency Plans” is a special report prepared by the AERF for the State of Idaho. The comprehensive report is available as PDF from our website (look for the main menu link), and will soon be available in hard copy. The Executive Summary reads:

The Idaho State Department of Agriculture convened a panel of dreissenid experts in the Spring of 2011 to review the Department's prevention program and to debate contingency plans that could be undertaken if prevention efforts fail and invasive mussels become established in waterbodies in the state. Idaho has implemented an aggressive boat inspection and mussel prevention program; as a result, several boats contaminated with dreissenid mussels have been intercepted and decontaminated in the past three years. Invasive mussel eradication efforts have also been undertaken in relatively small waterbodies in other states. These efforts have not been uniformly successful but they have been uniformly expensive, with costs ranging from \$4,000 to greater than \$30,000 per acre. The few options available for control of mussels – even in small systems – further highlights the importance of prevention programs. These prevention programs should be expanded to a regional level because many very large watersheds in Idaho originate from neighboring states.

Most molluscicides are lethal (or have the potential to be lethal) to non-target fish and aquatic invertebrates. The presence in Idaho of several endangered species, coupled with the state's large, hydrologically connected lakes, makes eradication and control measures expensive and unlikely to succeed. Suggestions to the Department include: 1) the registration of molluscicides before a crisis occurs; 2) coordination and education of tribal, federal and state stakeholders; 3) development of a rapid response program to treat or contain mussels in marinas, bays or other enclosed areas (the most likely points of introduction) before mussels can establish reproducing populations in larger systems; and 4) the development of contingency plans for containing exotic mussels in all watersheds. The panel unanimously agrees that boat inspections and educational programs are critical and constitute the most effective means that are under Idaho's jurisdiction that can protect Idaho's waters from exotic dreissenid mussels.

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## BIOLOGY AND CONTROL OF AQUATIC PLANTS



A Best Management Practices Handbook

Lyn A. Getty, William T. Haller and Marc Belland, editors

## Sponsorship

The AERF respectfully requests that you consider sponsorship. AERF will continue to work on your behalf, and as a member, you will greatly benefit from our work on regulatory and research aspects of aquatic plant management. With changes in the regulatory environment now and in the future, it is essential to be involved and to support all the hard work of your AERF associates.

Please contact Carlton Layne for information on how you can best participate.

### The AERF Mission

The Aquatic Ecosystem Restoration Foundation supports research and development that provides strategies and techniques for the environmentally sound management, conservation, and restoration of aquatic ecosystems. Our research provides the basis for the effective control of nuisance and invasive aquatic and wetland plants and algae.

### Strategic Goals

- Provide the public information concerning the benefits and value of conserving aquatic ecosystems including the aquatic use of herbicides and algaecides in the aquatic environment.
- Provide information and resources to assist regulatory agencies and other entities making decisions that impact aquatic plant management.
- Fund research in applied aquatic plant management at major universities.

## Upcoming Meetings

- May 7-10** Aquatic Weed Control Short Course, Coral Springs, FL  
**Jul 22-25** APMS, Salt Lake City, UT  
**Oct 8-11** FAPMS, St. Augustine, FL  
**Oct 22-24** TAPMS, Bandera, TX

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