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September 24, 2021

Ms. Danielle Edelman
Water Quality Department – Aquatic Pesticides
Washington State Department of Ecology
PO Box 47600
Olympia WA, 98504-7600

Dear Ms. Edelman,

Thank you for considering our collective comments ahead of the draft release of the 2022 Irrigation System Aquatic Weed Control NPDES Permit (Permit). We believe that our comments would be most complete if we had a copy of the draft Permit. We would appreciate receiving a copy as soon as possible to assist you in finalizing the Permit.

We hope the comments below will provide information valuable to crafting a successful Permit. Additionally, we are seeking clarity on some topics so we can be more of an effective partner as the process continues.

The Permit issued June 2012 (2012 Permit) requires a notification 24 hours prior to any pesticide treatment that eventually flows to a point of compliance (POC). The new proposed requirement for notifications is one business day prior to those treatments. The language of "one business day" has the potential to be more restrictive than the current 24-hour requirement if not clarified. Irrigation districts operate during weekends and holidays and require the ability to conduct treatments when conditions are deemed necessary. We would like to suggest that the upcoming Permit require notification of treatment by 4:00 PM on the day prior to treatment. Additionally, poor flow conditions caused by aquatic vegetation sometimes need immediate attention. For this reason, we suggest that an allowance be made for the occasional treatment on the same day as the notification.

We would also prefer to maintain the flexibility that weekly notifications to Ecology be provided. This flexibility allows districts to operate under best management practices to ensure the proper use of chemical during the optimal conditions afforded during that week.

To satisfy requirements for the 2012 Permit regarding public notifications, activities related to aquatic pesticide usage are posted in the newspaper prior to each season, and many districts post the notice to a website, social media, etc. This method of notification encourages the public to assume that there is the potential for pesticides to be present in the water at any time, and that applications are being conducted at numerous locations every week. Providing specific information such as treatment dates and locations to the public promulgates a message that trespassing is acceptable when treatments are or are not occurring. Furthermore, supplying dates and locations of treatments introduces added legal liability in the event of human error. We suggest that the method for public notification in the 2012 Permit is already sufficient and provides more protection to the public than the public notification requirements proposed under the 2022 draft release.

Regarding signage requirements, district facilities are not intended for recreational activities or any other type of public access. Many districts have already invested a considerable amount of funds to purchase and deploy signage designed to deter trespassing altogether. We feel this encourages the public to always avoid district facilities; not just during chemical treatments, as there are numerous safety reasons for the public to keep off district facilities. We suggest that "no trespassing" is a commonly understood and simplified, yet more restrictive, form of signage language.

The 2012 Permit requires hardness samples to be taken in conjunction with all other copper samples unless a district qualifies for reduced hardness monitoring; In which case, one hardness sample is taken at each POC during the month of July. Consequently, districts have submitted numerous hardness results to Ecology over the life of the 2012 Permit. As such, we feel that an additional sampling program would place an unnecessary burden on the districts' resources. Additionally, moving the hardness sampling location into the receiving water body is not consistent with toxicity information provided on copper algaecide labels. For example, the Environmental Hazards section of the Captain Liquid Copper Algaecide label states the following:

"In soft water, trout and other species of fish may be killed at application rates recommended on this label. Do not use in water containing trout or other sensitive species if the carbonate hardness of water is less than 50 ppm"

Other copper product labels have similar statements. Because irrigation districts discharge copper-treated water episodically into the receiving waters at orders of magnitude below label rates, and some districts may not discharge at all, we suggest that sampling for hardness in the receiving water body is unnecessary, and that existing hardness data are sufficient.

On the topic of fish screens, requirements are being sufficiently administered elsewhere by multiple government agencies. We suggest that additional regulatory oversight within Ecology's Permit would be unnecessarily redundant and as such provide no additional value.

The proposal to cap the acrolein treatment rate at 21 µg/L is of major concern. Acrolein does not control vascular weeds or algae at rates that low. The Magnacide® H Herbicide Application and Safety Manual (Manual) advises a range of treatment rates dependent on weed growth

conditions. These rates are given in gallons of acrolein per cubic feet per second of canal water but have been converted here to milligrams per liter for comparison purposes. In order to control mature vascular weeds 36 inches long, the manual recommends a treatment rate of 4 mg/L or more depending on the conditions. Even the recommended maintenance rate of 0.67 mg/L won't control vascular weeds of any significant length. If the maximum allowed treatment rate becomes 21 µg/L, acrolein will no longer be useful for irrigation districts' aquatic weed control. For this reason, we strongly suggest that the maximum allowable treatment rate remain at the current 8 mg/L afforded by the current version of the special local needs label.

In addition to the comments above, we are asking for clarification on a couple of topics discussed in the August listening sessions:

(1) Fish timing windows currently apply solely to Teton (alkylamine salt of endothall) treatments. After reviewing a transcript from the listening session, the blanket word Endothall was used in the discussion of timing windows. We would like to request confirmation that these timing window will not be applied to pesticides other than the alkylamine salt of endothall.

(2) We would like to request clarification about which reporting, and planning requirements would be included on the implementation schedule. Are there additional documents required for the 2022 version of the Permit that were not included in the 2012 Permit?

We appreciate your time and consideration on these matters, and we value the collaborative nature of our relationship. If you have any questions, please let me know.

Sincerely,



Tom Myrum
Executive Director