



Roza-Sunnyside Board of Joint Control (RSBOJC)

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RSBOJC Board Committee Members

March 20th, 2023

Washington State Department of Ecology
Water Quality Program
Attn: Danielle Edelman
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■
Ric
Valicoff
Chairman

Dear Ms. Edelman,

■
Doug
Simpson
Vice
Chairman

On behalf of the Roza-Sunnyside Board of Joint Control (RSBOJC), we have attached the following public comments on the Department of Ecology's (Ecology) **Draft Irrigation System Aquatic Weed Control (ISAWC) General Permit WAG0991000**. This National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge (SWD) permit is one regulatory license that RSBOJC holds in serious regard as it allows the irrigation districts to carry out the fundamental purpose of delivering irrigation water to landowners in an efficient manner at the lowest possible cost while consistent with good management practices. In addition, each district maintaining coverage under this permit allows RSBOJC to achieve its mission statement goal to enhance water supplies by improving water conveyance and quality, supporting storage development, and increasing management efficiency throughout the Lower Yakima River Basin.

■
Scott
Revell
Secretary/
Auditing
Officer

RSBOJC takes pride in our accomplishments as being responsible and strong environmental stewards. We appreciate you and Ecology allowing us the opportunity to provide public comments and/or input on this important matter. The ability for us to all work together as partners during this process will provide future generations with sustainability of water resources, and support the viability of agricultural production.

■
Lori
Brady
Treasurer

Sincerely,

A handwritten signature in black ink, appearing to read 'Forrest Chapin', is written over a horizontal line.

Forrest Chapin
Water Quality Supervisor

CC: Scott Revell, Lori Brady

Attachment: **Public Comments by RSBOJC on Draft ISAWC (NPDES and SWD) GP WA0991000**

Public Comments by Roza-Sunnyside Board of Joint Control (RSBOJC), sometimes referred to as “Commenters” on the Irrigation System Aquatic Weed Control (ISAWC) DRAFT General Permit WA0991000, a National Pollutant Discharge Elimination Permit (NPDES federal) and State Waste Discharge Permit (SWD state)

***Yellow highlighted public comments are of most critical concern to Commenters under the draft permit**

1. **S1.A. on page 10** – The language *“This permit also covers the treatment of emergent vegetation on the banks of conveyances within the irrigation system, where pesticides may enter the water.”* should be removed. This permit historically has covered and should continue to cover exclusively “chemicals”, as defined, that are applied to water carried through irrigation conveyance systems operated and maintained by Commenters. Neither Roza nor SVID use aquatic herbicides to treat emergent vegetation along the banks of irrigation conveyance systems within each district. Instead, each district may use mechanical control, such as mowing, as another method of aquatic vegetation management for emergent plant species along the banks of the irrigation conveyance systems. But irrespective of means employed to control vegetation adjacent to irrigation conveyance systems, those functions are beyond the jurisdiction of this permit.
2. **S1.C.3. on page 10** – In the sentence *“Terrestrial pesticide treatments applied outside the canal system.”* the word *“canal”* should be changed to *“irrigation conveyance system”* or *“irrigation canal and laterals system”*. Both Roza and/or SVID perform aquatic herbicide treatments on laterals, which are offshoot branches from the main canal, and also require aquatic vegetation management for irrigation water distribution purposes.
3. **S2.A. on page 11** – Ecology should confirm the scope and meaning of “water companies” eligible for permit coverage.
4. **S2.B.1.d. on page 11** – Change *“Integrated Pest Management Plan”* to *“Integrated Vegetation Management Plan”* for consistency purposes, and because the pest of concern to the irrigator/permittee are aquatic vegetation and algae. This will also ensure consistency with the Integrated Vegetation Management Plan provisions under Section S6.E.1. of the permit.
5. **S2.B.2. on page 12** – In this sentence change *“S8.D”* to *“S8.G”* to track with the **How to Submit Documents to Ecology** provisions under **Section S8. Reporting.**

6. **S2.D.2.** on page 12 – In this paragraph change “S8.E” to “S8.G” to track with **How to Submit Documents to Ecology** provisions under **Section S8. Reporting**.
7. **S2.D.2.a.** on page 14 – The proposed prohibition against *any* Permittee modification to permit coverage prior to Ecology approval threatens safe and efficient irrigation water delivery – particularly during emergencies and in connection with critical structural and/or operational changes, including construction of a new re-regulation reservoir and/or spillway or wasteway facilities, which may trigger the addition of a new point of compliance (POC). Based upon recent experience, we have grave concerns that ongoing Ecology staffing and workflow constraints will delay – if not prevent – timely Ecology approval of critical permit coverage changes. Further, and because Commenters (and, in some instances, the federal Bureau of Reclamation) independently own, operate, and/or maintain their separate irrigation system facilities under both Chapter 87.03 RCW and federal law, the construction or operational functions potentially triggering a new POC are already subject to extensive statutory and regulatory oversight. It is inappropriate and beyond Ecology’s authority to impose additional permit coverage approval requirements in connection with urgently needed structural or operational changes – particularly when such requirements contradict or are otherwise inconsistent with these additional authorities governing operation and maintenance of Permittee facilities.
8. **S2.F.1.a.** on page 14 - In this paragraph change “S8.E” to “S8.G” to track with **How to Submit Documents to Ecology** provisions under **Section S8. Reporting**.
9. **S2.G.1.** on page 15 - In this paragraph change “S8.E” to “S8.G” to track with **How to Submit Documents to Ecology** provisions under **Section S8. Reporting**.
10. **S3.A.1.** on page 15 – By definition, the permit establishes requirements exclusively for the application of “chemicals” into permittee irrigation conveyance systems. As such, proposed requirements under S3.A.1.b and S3.A.1.c that permittee complies with groundwater quality and sediment management standards under WAC 173-200 and 173-204, respectively, are outside the authority of the permit and should be removed. For illustration purposes, WAC 173-200 establishes compliance points and monitoring locations outside the jurisdictional boundaries of the permit. (Commenters do not suggest that certain aspects of their irrigation conveyance facilities and/or operations may not subject them to requirements under WAC 173-200 and/or 173-204; however, those are separate compliance matters more appropriately addressed directly with Ecology staff having jurisdiction thereover.). In addition, S3.A.1.d. should be removed because those criteria are beyond the jurisdiction of this permit.

11. **S3.A.2.g.** on page 16 – While we are under the assumption the acronym SOPs stands for “Standard Operating Procedures” in this sentence line, the Commentors request that Ecology clarify whose SOPs are referred to, e.g., Roza/SVID? WDFW? Other? Without further detail on this item, suggest eliminating “and SOPs” from this sentence.
12. **S3.C. on page 16** – Similar comment as to S3.A.1., above. While Commenters acknowledge their obligation to ensure that pesticide applicators be current on required pesticide licensing, certification, and training requirements, such requirements are separately promulgated and enforced by WSDA. Suggest the prefatory language under S3.C be revised to read, “*The Permittee must comply with the Product Label when using pesticides. Permit requirements do not reduce the requirements on the Product Label. The Washington Department of Agriculture (WSDA) separately regulates pesticide application, including licensing, certification, and training requirements, and Permittee is advised to consult directly with WSDA concerning those regulations.*” Also, eliminate subparagraphs S3.C.1.-3. in their entirety.
13. **S4.A. on page 18** – Commenters only perform aquatic herbicide treatments within their respective irrigation conveyance systems (e.g., canal and laterals). Each such system is strictly designed and operated to deliver water to landowners/users for irrigation usages, including under varying seasonal conditions. Higher water temperatures in the irrigation conveyance systems, especially during the warm or hot summer months, directly lead to increased aquatic plant and/or algae growth. Therefore, while Commenters are mindful of potential impacts of aquatic herbicide treatment on dissolved oxygen levels in receiving waters, there will inevitably be need for such treatment (including, where practicable, on a phased basis) in order to manage or prevent the excessive aquatic vegetation growth when higher water temperatures are present in the irrigation conveyance systems. As long as the terms and conditions are met in this permit and the federal and/or state product label requirements are followed there is no further reason to include this excessive section S4.A. Eliminate Section S4.A. in entirety.
14. **S4.B.** on page 18 – Remove “, and emergent vegetation on banks of conveyances,” from the first sentence in this section. Commenters do not use aquatic herbicide chemicals to treat emergent vegetation along the banks of irrigation conveyance systems within their respective systems. Refer also to public comment #1 above.
15. **Table 2: Active Ingredients to Control Aquatic Weeds and Algae on page 19** – Remove Diquat Dibromide; Flumioxazin; Topramezone; Glyphosate; 2,4-D; and Imazamox from Table 2. These herbicides are predominantly used for terrestrial applications; and Commenters do NOT use these for aquatic herbicide applications. In addition, Commenters do NOT use aquatic herbicides (or even the eight chemicals referenced

above) to treat emergent vegetation along the banks of irrigation conveyance systems within their respective service areas. Both Roza and SVID also have Annual Report treatment records dating as far back as 2012 when this general permit was first issued that provide evidence the irrigation districts have never used these products for aquatic applications. Refer to public comments #1 and #14 above.

16. **S4.B.4.** on page 20 – The grammar in this paragraph is awkward unless the word “conduct” is removed. Also, in this same paragraph change the word “canals” to either “irrigation conveyance systems” or “irrigation canals and/or laterals”. Refer to public comment #2 above.
17. **S4.C.2.** on page 20 – Eliminate “; and emergent vegetation on the banks of conveyances,” from this sentence. Commenters do not use aquatic herbicide chemicals to treat emergent vegetation along the banks of irrigation conveyance systems within each district. Refer also to public comments #1, #14, and #15 above.
18. **S4.D.1.a.i.** on page 20 – Eliminate the entire sentence “Permittees must make reasonable efforts to reduce the use of acrolein in favor of more environmentally sensitive pesticides”. Acrolein is used by Commenters – and by most major Yakima Basin districts and private irrigation water providers – as a “best practices” matter to consistently control aquatic vascular weed and/or algae species within their irrigation conveyance systems. Peer-reviewed research studies demonstrate this chemical herbicide will degrade quickly with water, and does not bioaccumulate with a half-life ranging from 6 to 48 hours depending on conditions. In addition, this statement is already provided on page 59 of the draft Environmental Impact Statement (EIS) for Irrigation System Aquatic Weed Control (ISAWC). If and when equally effective and cost-efficient aquatic weed and algae control alternatives are commercially available, Commenters will prioritize the use of such alternatives.
19. **S4.D.1.a.ii.** on page 21 – In this paragraph change “S6.E.4” to “S6.E.6” to track with the **Acrolein Application Plan at Section S6. Best Management Practices.**
20. **S4.D.1.c.** on page 21 – In this paragraph change “S6.E.4” to “S6.E.5” to track with the **Fluridone Application Plan at Section S6. Best Management Practices.**
21. **S4.D.2.a.** on page 22 – In the first sentence of the first paragraph of this section change “endothall” to “Teton”. The WDFW timing windows only apply to the active ingredient Mono(N,N-dimethylalkylamine) salt of endothall, also known as Teton. Furthermore, timing window discharge effluent limits (or maximum instantaneous concentrations) are only listed for the Teton chemical compound in **Table 2. Active Ingredients to Control Aquatic Weeds and Algae** on page 19 of this draft permit.

22. **S4.D.2.a.** on page 22 – Remove the sentence, “*Timing windows do not apply to treatments conducted for emergent vegetation.*” In the fourth and last paragraph of this section. Commenters do not use aquatic herbicide chemicals to treat emergent vegetation along the banks of their respective irrigation conveyance systems. Refer also to public comments #1, #14, #15, and #17 above.
23. **S5.A.** on pages 24 and 25 – In the entire section S5.A. change “*treatment event*” to either “*treatment*” or “*application*”. Unless Ecology is able to define a “treatment event”, this could imply or be interpreted as multiple treatments (or applications) along an irrigation canal and/or lateral on the same day which may have different concentration rates and chemical product amounts used depending on their location within the irrigation conveyance system, and/or proximity to the point of compliance(s).
24. **S5.A.3.b.** on page 25 – This requirement that a permittee confirm that treated water did not reach a Point of Compliance (POC) contradicts Section S1.C.2. on page 10, which confirms that if an herbicide treatment applied to an irrigation conveyance system (canal and/or laterals) does not flow through a POC to waters of the state, such activity is excluded from the coverage of this permit. Therefore, remove S5.A.3.b. requirement as another example of a proposed compliance item under the permit that, by its terms, is beyond the jurisdiction of the permit.
25. **S5.A.4.a.** on page 25 – There is a difference between the time of travel it takes to “reach” a downstream location vs. the time of travel it takes to “pass” through a downstream location due to variable input/output flows along an irrigation conveyance system (canal and/or lateral) between the application site(s) and closed gate(s)/spillways/POC(s); and the duration of the application. Therefore, Ecology must clarify which time of travel concept or metric is intended to be subject to the “double the time of travel” closure requirement.
26. **S5.B.** on pages 27, 28, and 29 – In the entire section S5.B. change “*treatment event*” to either “*treatment*” or “*application*”. Unless Ecology is able to define a “treatment event”, this could imply or be interpreted to include multiple treatments (or applications) along an irrigation canal and/or lateral which may have different concentration rates and chemical product amounts used depending on their location within the irrigation conveyance system, and/or proximity to the point of compliance(s). Lastly, refer to public comment #23 above.
27. **S5.B.1.b.i.** and **S5.B.1.b.ii.** on page 28 – Under these items, the requirement that sampling be conducted “*at each treatment site*” implies an obligation to sample at or immediately downstream of the treatment (or application) site. Neither Roza nor SVID

has ever sampled precisely at the point of application because the intention under the permit is to ascertain the diluted concentration of the chemicals much further downstream in a well-mixed location (for endothall applications only) and/or at the point of compliance. Accordingly, we suggest that sampling be required “downstream of each treatment site or at the POC”.

28. **S5.B.2.a.⁵ footnote** on page 29 – Include the word “*apply*” after the word “permittees” in this footnote; otherwise, this sentence reads awkwardly.
29. **S5.C.2.b. and S5.C.2.c. on page 30** – Eliminate the parameters: “*Settleable solids*”, “*Temperature*”, “*Conductivity*”, “*pH*”, and “*Turbidity*” from each of these items, as they are not among the subject chemicals mandated for monitoring and reporting under this permit. The chemical product labels (FIFRA and/or SLN) will advise permittees whether monitoring and recording of the above-referenced physical and chemical water quality properties of a treated conveyance system (or waters) is required – in which case that data will be documented in the chemical application records. Again, we object to proposed compliance items under the permit that, by their terms, are beyond the jurisdiction of the permit.
30. **S5.C.3.c. on page 31** – Remove the sentence “*Keep this documentation as part of the permit file.*” from this paragraph. Commenters already maintain specified facility operation and maintenance records, including flow monitoring data, for review by the Bureau of Reclamation, as required by federal law. Strike this proposed documents retention requirement as beyond the jurisdictional scope of this permit.
31. **S6.A.1. on page 31** – The Commenters operate and/or maintain their respective irrigation system facilities.
32. **S6.B.1. on page 31** – This permit allows the regulated use of aquatic herbicides and water tracer dyes to control aquatic vascular plants and/or algae in irrigation conveyance systems, in order to maintain the capacity to convey surface water(s) for irrigation purposes. Use and handling of oil and petroleum products (e.g., fuel, etc.) is outside the scope of this permit and inclusion of such products as an additional spill prevention and control compliance item is unwarranted. Both Roza and SVID are already subject to federal and state regulations of oil and other hazardous substances, which includes agency oversight of proposed spill prevention and emergency response protocols. Eliminate the words “*oil, fuel,*” from the sentence line S6.B.1.a., as well as S6.B.1.b. in its entirety.
33. **S6.B.2. on page 31** – In this sentence change “*S8.E*” to “*S8.F*” to track with the **Reporting Noncompliance and Spills** item at **Section S8. Reporting**.

34. **S6.B.3.a.** on page 31 – Should either remove the word “*Material*”, or include the phrase “*either in the Safety Data Sheet (SDS) or Material Safety Data Sheet (MSDS) prior to 2012*” in this sentence for clarity purposes. Safety Data Sheets (SDSs) are the current standardized format for instructing how to handle hazardous chemicals.
35. **S6.C.1.c.** on page 32 – Eliminate “, *and emergent vegetation on the banks of conveyances,*” from this sentence. Neither Roza nor SVID use aquatic herbicide chemicals to treat emergent vegetation along the banks of their respective irrigation conveyance systems. Refer also to public comments #1, #14, #15, #17, and #22 above.
36. **S6.D.1.a.** on page 32 – Eliminate “, *and emergent vegetation on the banks of conveyances,*” from this sentence. Neither Roza nor SVID use aquatic herbicide chemicals to treat emergent vegetation along the banks of their respective irrigation conveyance systems. Refer also to public comments #1, #14, #15, #17, #22, and #35 above.
37. **S6.D.1.d.ii.** on page 33 – In this sentence the word “*canals*” should be changed to “*irrigation conveyance systems*” or “*irrigation canal and laterals*”. Both Roza and SVID perform aquatic herbicide treatments on laterals, which are offshoot branches from the main canal, and which also require aquatic vegetation management for irrigation conveyance and distribution purposes. Refer also to public comment #2 above.
38. **S6.D.2.** on page 33 – The phrase “*when applying any chemical treatment.*” in this sentence reads awkwardly. Suggest Ecology change the end of this sentence to either “*when applying any chemical.*” or “*when performing any treatment.*”
39. **S6.D.2.a. and S6.D.2.c. on page 33** – Commenters appreciate that posting requirements do not apply upstream of application sites in private, restricted areas with prohibited site accessibility to the public. That said, inclusion of “*public road crossings of canals or drainage ditches*” at S6.D.2.c. as examples of private, restricted areas not subject to posting requirements is odd; such public road crossings are, in fact, *more* likely to be encountered or accessed by the “public”.
40. **S6.D.2.e.iii.** on page 34 – Eliminate “, *and emergent vegetation.*” from this sentence. Neither Roza nor SVID use aquatic herbicide chemicals to treat emergent vegetation along the banks of their respective irrigation conveyance systems. Refer also to public comments #1, #14, #15, #17, #22, #35, and #36 above.
41. **S6.D.2.e.iv. on page 34** – Commenters – and, we gather, nearly all irrigation districts and major canal companies – object to these “pictogram” requirements. Common sense and decades of on-the-ground experience confirm that post of unambiguous “**NO**

TRESPASSING”, “DO NOT ENTER”, “AUTHORIZED PERSONNEL ONLY” and/or **“RESTRICTED AREA”** signage is the best and safest way to advise the public concerning chemical application and other operation-related risks associated with irrigation conveyance systems. The excessive inclusion of pictogram(s) will likely cause more – not less – concerns and confusion from the public. Also, we suggest Ecology carefully consider how much required information under these signage requirements is “too much”, i.e., when the volume and complexity of required signage elements leads to less thoughtful reading and understanding of chemical-related risks by the potentially most vulnerable members of the public. [Note that chemical product labels (federal FIFRA and/or state SLN) already require strict signage postings around the perimeter of the application equipment area(s).]

42. **S6.D.2.f.** on page 34 – Remove the last sentence *“Remove signs by the end of the treatment season”*. If this permit includes new and expensive signage requirements, the permittees will reasonably expect to install and maintain such signage on a long-term basis.
43. **S6.E.1.** on page 34 – In this section and paragraph Ecology has this permit plan listed as *“Integrated Vegetation Management Plan”* whereas in **Table 1: Required Permit Reports and Submittals** on page 8, and in **Section S2.B.1.d.** on page 11 the terms used are *“Integrated Aquatic Vegetation”* and/or *“Integrated Pest Management Plan”*. Ecology needs to provide clarity on this issue whether these referenced plans are the same or different; or provide consistency of term usages to prevent confusion for the permittees (or other readers). Also, refer to public comment #4 above.
44. **S6.E.1.a.** on page 34 – Eliminate *“The engineering report must be developed in accordance with Chapter 173-240 WAC – Submission of Plans and Reports for Construction of Wastewater Facilities.”* Commenters cannot see the relevance of reports prepared in connection with wastewater facilities to matters within the scope of this permit. (Note that an engineering report *specific to the construction design, operation, and maintenance of irrigation conveyance systems* was submitted to and approved by Ecology in 2004 in connection with issuance of the predecessor permit.)
45. **S6.E.3.a.** on page 35 – In this paragraph include the words *“and/or lateral”* after the word *“canal”* since some of the irrigation districts also have lateral waterways with application site(s) where treated water could flow to a POC. Alternatively, replace the word *“canal”* with *“irrigation conveyance system”* in this paragraph.
46. **S6.E.3.c.i.b.** on page 35 – Similar comment as #45 above. In this entire paragraph include the words *“and/or lateral”* after the word *“canal”* since some of the irrigation districts also have lateral waterways with application site(s) where treated water could flow to a

POC. Alternatively, replace the word “canal” with “conveyance system” in this entire paragraph.

47. **S6.E.3.d. on page 35** – Eliminate this entire paragraph section. Travel times from an application site to a POC along will always be highly variable due to different input/output flows through conveyance systems, due in substantial part to permittee operational determinations and end-user water requirements throughout the season. This proposed requirement is unrealistic and should be removed.
48. **S6.E.6. on page 36** – In this section the alphabet lettering of the bullet points is listed incorrectly. It should read “a., b., c., d.” not “a., b., e., c.”
49. **S6.E.6.d.ii. on page 36** – Ecology must clarify or define what a “narrative threshold” is. Suggest including a definition in the glossary section as well. In addition, this section is listed incorrectly as S6.E.6.c.ii., based on public comment #48 above.
50. **S8.A.1.b. on page 37** – In order to timely provide DMRs to Ecology, accredited laboratories retained by the permittees must timely process and provide data on herbicide samples. From time to time, there are laboratory testing and reporting delays for reasons beyond the control of the permittees, which must not be considered a violation of permit terms and conditions. Suggest inclusion of qualifying language here to address this contingency.
51. **S8.A.2.b.ii. on page 38** – In this sentence change “S8.E” to “S8.G” to track with the **How to Submit Documents to Ecology** provisions under **Section S8. Reporting**.
52. **S8.B. on page 39** – Firstly, note that this Section S8.B. begins with subsection “2”, rather than “1”. Additionally, items a.-c. should be clearer as to manner and format for submittal of specified data documented on monthly DMRs, the sample chain of custodies and analytical lab results reports provided to permittees by laboratories, product application records, or field data sheets recorded at the time of sample collection. Unless Ecology will allow permittees to develop their own template records to meet the requirements in this section, Ecology should provide detailed, example templates to all permittees.
53. **S8.B.2.c. on page 39** – This paragraph mentions the inclusion of Acrolein calculations on records according to section S4.D.1. However, when one reads S4.D.1. there is no mention or listed requirements for Acrolein calculations. Ecology should provide clarification on this, or simply eliminate “*Include in your records the calculations required in S4.D.1.*” from this paragraph.

54. **S8.B.2.d.i. on page 39** – The first sentence and example paragraph in this section should be removed as inconsistent with the analytic approach employed by testing laboratories. The only way to determine the concentration amount of the simultaneously applied dipotassium salt (Cascade product brand) and the amine salt (Teton product brand) under endothall lab results is to also review initial concentration (or rate) data for these elements under the application records themselves. Endothall lab results reflect a combination of the Cascade and Teton inputs; therefore, a more helpful approach would be to allow the permittees to record Teton application concentration data in the comments section of the monthly DMR. In any case, section S8.B.2.d.ii. satisfactorily addresses these distinctions.
55. **S8.C.** on page 40 – 1) Edit subsection 1 to read as *“The permittee must keep complete application records on a report form provided by Ecology.”*; 2) Edit subsection 3 to confirm the annual report submitted to Ecology by February 1st is to address treatments conducted during the previous calendar year.
56. **S8.A.** and **S8.C.** on pages 37-38 and 40 – Ecology should clarify whether permittees may continue to submit DMRs utilizing the same format employed during prior permit cycles and/or develop new DMR templates of their choosing. If not, Ecology should provide pre-approved templates to all permittees.
57. **S8.D.1.a.** on page 40 – Change *“treatment event”* to either *“treatment”* or *“application”*. Unless Ecology is able to define a *“treatment event”*, this could imply or be interpreted to include multiple treatments (or applications) along an irrigation canal and/or lateral on the same day which may have different concentration rates and chemical product amounts used depending on their location within the irrigation conveyance system, and/or proximity to the point of compliance(s). Refer also to public comments #23 and #26 above as well.
58. **S8.D.1.b. on page 41** – This proposed *“unplanned treatment event”* provision fails to distinguish between events and conditions that are reasonably within the control of permittees and those that are not. Unforeseeable circumstances and/or environmental factors beyond permittee control, including rapid increases in ambient air and water temperatures and variable water nutrient levels within irrigation conveyance systems (or waters) often require emergency chemical treatment to mitigate excessive aquatic plant and/or algae growth and to ensure efficient irrigation water delivery. Commenters suggest Ecology either meaningfully revise this provision to avoid unfairly penalizing prudent operators or eliminate it entirely.
59. **S8.D.2.** on page 41 – Edit this sentence to confirm that the public notice(s) submitted to Ecology by February 1st to confirm that the published legal notice or affidavit thereof is

with respect to the notice(s) published by the permittees during the previous calendar year. Refer also to public comment #55 above.

60. **S8.E.2.a.i.** on page 41 – Eliminate “, and emergent vegetation on the banks of conveyances,” from this paragraph. Neither Roza nor SVID use aquatic herbicide chemicals to treat emergent vegetation along the banks of their respective irrigation conveyance systems. Refer also to public comments #1, #14, #15, #17, #22, #35, #36, and #40 above.
61. **S8.E.3.b.** on page 41 – Ecology should review the incorrect special condition cited at the end of this provision. Might be that the writer(s) intended to cite “S6.E.” rather than “S8.D.”.
62. **S8.E.4.b.** on page 42 – Ecology should review the incorrect special condition cited at the end of this provision. Might be that the writer(s) intended to cite “S6.E.” rather than “S8.B.”.
63. **S8.E.5.** on page 42 – Ecology should review the incorrect special conditions cited at the end of each provision in subsections S8.E.5.a.ii. and S8.E.5.b. Might be that the writer(s) intended to either cite “S6.E.” or “S6.E.4.” rather than “S5.E.4.” and “S8.B.”.
64. **S8.E.6.** on page 42 – Ecology should review the incorrect special conditions cited at the end of each provision in subsections S8.E.6.a.ii. and S8.E.6.b. Might be that the writer(s) intended to either cite “S6.E.” or “S6.E.5.” rather than “S5.E.5.” and “S8.B.”.
65. **S8.E.7.** on page 43 – Ecology should review the incorrect special conditions cited at the end of each provision in subsections S8.E.7.a.ii. and S8.E.7.b. Might be that the writer(s) intended to either cite “S6.E.” or “S6.E.6.” rather than “S5.E.6.” and “S8.B.”.
66. **S8.F.1.** on page 43 – In this subsection, either change the word “waste” to “chemical,” or eliminate this word. The application equipment used when performing a treatment is not being used to collect and/or contain waste. Additionally, permittees should NOT be deemed out of compliance and subject to additional reporting requirements for “acts of nature” and similar occurrences, which, by definition, are beyond the reasonable ability of permittees to control. Remove “, or causes such as acts of nature.” from this paragraph.
67. **S8.F.3.a. and S8.F.3.b.** on page 44 – Remove these two subsections as unnecessary and duplicative of permittees’ separate reporting requirements under state and federal law. Without limitation, chemical product labels, manuals, safety data sheets, and/or irrigator spill response plans separately obligate and instruct permittees appropriate emergency

actions to perform when any person(s) are experiencing any toxic and/or allergic reaction reasonably linked to chemical exposure, as well as which authorities to contact. For example, depending on the circumstances and/or severity of symptoms experienced by exposed persons, permittees may be required to contact one, several, or all of the following: the chemical(s) manufacturer; Washington State Department of Labor and Industries (L&I); Washington State Department of Health (DOH); Washington Poison Center; local healthcare authorities (e.g., EMS personnel, physicians, health districts); and CHEMTREC.

Concerning suspected chemical impacts on fish or fauna, the Washington State Department of Fish and Wildlife (WDFW) has primary jurisdiction. Furthermore, the requirement for notification concerning stress or mortality to fish and fauna “outside of a treated area” suggests an inappropriate extension of Ecology authority beyond the jurisdiction of the permit.

68. **G8 on page 48** – This entire paragraph must be eliminated as overreaching the jurisdictional scope of this permit. If Ecology believes groundwater resources may be negatively impacted by permit-compliant chemical application within irrigation conveyance systems, legislative or publicly noticed rulemaking processes are available to address such impacts.
 69. **Appendix B: Glossary** on pages 55-60 – The following terms and definitions need to be removed from the glossary section at the end of this draft permit: “Ground water”, “Industrial wastewater”, “Process wastewater”, and “Wastewater”. These topics are only tangentially related to issues addressed under the permit and, in any case, are beyond its jurisdictional scope.
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70. **General Comment** – In the previous versions of this permit, its unique NPDES and SWD permit identification number (WA0991000 or WAG-991000) would be listed on the first cover page, and at times referenced throughout the document. Nowhere is this found in this draft permit.
 71. **General Comment** – Inconsistent usage of term throughout draft permit where the words “pesticide(s)” and “chemical(s)” are used back and forth. Pesticide is too broad of a term where this permit only deals with aquatic herbicide and algaecide chemicals. Suggest Ecology stick to using just the term “chemical(s)” based on what they describe at the beginning of the draft permit in section S1.A.
 72. **General Comment** – Include these terms and definitions in the glossary Appendix B section: Water company, treatment event, narrative threshold, safety data sheet, material safety data sheet, water tracer dye.

73. **General Comment** – Include these acronyms and abbreviations in Appendix A: SDS, MSDS.