

**Selah-Moxee Irrigation District**  
**113 East Moxee Avenue**  
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March 17, 2023

Danielle Edelman  
Washington State Department of Ecology  
P.O. Box 47696  
Olympia, WA 98504-7696

Re: Irrigation System Aquatic Weed Control General Permit Public Comments

Dear Ms. Edelman,

Thank you for the opportunity to provide comments on the Draft Irrigation System Aquatic Weed Control General Permit. The Selah-Moxee Irrigation District (SMID) provides irrigation water to over 9,000 acres of land with a crop value of over \$110 Million annually.

SMID operates and maintains over 50 miles of canals and ditches, of which the vast majority are earthen canals that rely on our ability to properly maintain the canal system that is impacted by aquatic vegetation every year. Without the ability to control aquatic vegetation within the conveyance infrastructure, the canal systems will likely fail in a number of circumstances that include decreased water conveyance capacity that will dry up irrigated lands, changing flow characteristics within the canal thereby causing a canal to fail and as a result will cause catastrophic flooding of nearby neighborhoods and property owners and life threatening to those in the area.

For these reasons, SMID is genuinely interested in our ability to utilize all tools, including all tools to control aquatic vegetation, available to us to properly maintain the canal systems and prevent the scenarios stated above. Therefore, SMID is submitting the attached comments to address concern pertaining to the Draft Permit

If you have any questions, please do not hesitate to contact me at 509-469-0449 or by email at [smidistrict@qwestoffice.net](mailto:smidistrict@qwestoffice.net).

Sincerely,



Nathan Draper, Manager  
Selah-Moxee Irrigation District

**Public Comments by Selah-Moxee Irrigation District[sometimes referred to as “Commenters”] on the Irrigation System Aquatic Weed Control (ISAWC) Draft General Permit, a National Pollutant Discharge Elimination Permit (NPDES federal) and State Waste Discharge Permit (SWD state)**

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 SMID.
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”*.
3. **S2.A.** on page 11 – Ecology should confirm the scope and meaning of “water companies” eligible for permit coverage. Perhaps “irrigation water supplier” should be used as it had been in previous permits.
4. **S2.B.1.d.** on page 11 – Change *“Integrated Pest Management Plan”* to *“Integrated Vegetation Management Plan”* for 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 new 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 SMID independently own, operate, and/or maintain their separate irrigation system facilities under Chapter 87.03 RCW, 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, SMID requests that Ecology eliminate “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. Therefore, 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.
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.
16. **S4.C.2.** on page 20 – Eliminate “, and emergent vegetation on the banks of conveyances,” from this sentence.
17. **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.
18. **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.**

19. **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.
20. **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.
21. **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).
22. **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.
23. **S5.B.** on pages 27, 28, and 29 – In the entire section S5.B. change “*treatment event*” to either “*treatment*” or “*application*”.
24. **S5.B.2.a.**<sup>5</sup> **footnote** on page 29 – Include the word “*apply*” after the word “*permittees*” in this footnote; otherwise, this sentence reads awkwardly.
25. **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.
26. **S5.C.3.** on page 31 – Remove all sections.

27. **S6.A.1.** on page 31 – Remove section. This section implies that the permit grants the authority to Ecology to dictate how an irrigation conveyance system is to be properly operated and maintained generally.
28. **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.
29. **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.
30. **S6.C Education and Outreach** – This section places additional burdens on irrigation water suppliers, particularly those that already have limited resources to conduct such requirements. Typically, these irrigation water suppliers already work closely with their communities to ensure public and environmental safety. If this section becomes part of the permit, Ecology must provide funding to implement this program.
31. **S6.C.1.c.** on page 32 – Eliminate “; and emergent vegetation on the banks of conveyances,” from this sentence.
32. **S6.D.1.a.** on page 32 – Eliminate “; and emergent vegetation on the banks of conveyances,” from this sentence.
33. **S6.D.1.a.i.** on page 32 – Change to “Post the public notice on the permittee’s website, or distribute the notice to known interested parties through email or other electronic methods”. Not all permittees have websites or are otherwise required to maintain a website.
34. **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”.
35. **S6.D.2.** on page 33 – Posting procedures section should be eliminated as it is not practical to implement. Based upon how the statement is interpreted one could assume that signs must

be posted on every section of a canal, where another could interpret that no signs are needed at all. Typically, if the public would be trespassing if they encountered treated water.

36. **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.
37. **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.)
38. **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.
39. **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.”
40. **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.
41. **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.
42. **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**.
43. **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.

44. **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 1<sup>st</sup> is to address treatments conducted during the previous calendar year.
45. **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.
46. **S8.D.1.a.** on page 40 – Change *“treatment event”* to either *“treatment”* or *“application”*.
47. **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.
48. **S8.D.2.** on page 41 – Edit this sentence to confirm that the public notice(s) submitted to Ecology by February 1<sup>st</sup> 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.
49. **S8.E.2.a.i.** on page 41 – Eliminate *“, and emergent vegetation on the banks of conveyances,”* from this paragraph.
50. **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.

51. **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.

52. **G9 and G10** on page 48 - Remove, not applicable.

53. **G22** on page 52-53 - Remove, not applicable.

54. **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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55. **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.

56. **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.

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