



SERVING AGRICULTURE SINCE 1906

May 6th, 2024

Washington State Department of Ecology
Water Quality Program
Attn: Marla Koberstein
P.O. Box 47696
Olympia, WA 98504-7696
(360) 628-6376
Marla.koberstein@ecy.wa.gov

Dear Ms. Koberstein,

On behalf of the Sunnyside Valley Irrigation District (SVID), we have attached the following public comments on the Department of Ecology's (Ecology) rule proposal to **revise Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington**. SVID also supports all public comments on this rulemaking proposal update provided by the Washington State Water Resources Association (WSWRA) Executive Committee and its members, irrigation districts and water companies in the State of Washington, Roza Irrigation District (Roza), and the Roza-Sunnyside Board of Joint Control (RSBOJC). There are a few chemicals under the Aquatic Life Toxics Criteria section either being added or updated which SVID utilizes as management tools 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, through sound stewardship practices and continued usage of herbicides for aquatic vegetation management, the District will maintain the ability to enhance water supplies by improving water conveyance and quality, supporting storage development, and increasing management efficiency throughout the Lower Yakima River Basin.

Managing aquatic vegetation in the District's conveyance system only by physical and mechanical control methods is and would be unfeasible due to the massive size and scale of SVID's irrigation infrastructure. The requirements for these methods involve costly labor and expenses, and even risk additional unintended consequences, such as check structure failure, canal lining damage, and/or overtopping. Meanwhile, the implementation of chemical control methods will eliminate virtually all aquatic vegetation and pose no risk of damage to critical irrigation facilities.

SVID 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 rulemaking process will provide future generations with sustainability of water resources, and support the viability of agricultural production.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Felman", is written over a light blue horizontal line.

David Felman
District Manager

Attachments: **#1 SVID Public Comments on Rule Proposal to Revise Chapter 173-201A WAC (May 2024)**
#2 SVID Public Comments on EPA Acrolein Registration Review 07-05-2022
#3 SVID Letter of Support for Magnacide H FIFRA Label Revision 06-16-2022
#4 SVID Letter of Support for SLN Reregistration of Magnacide H 10-26-2021



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Sunnyside Valley Irrigation District (SVID or District) Public Comments on the Rule Proposal to Revise the Aquatic Life Toxics Criteria of Chapter 173-201A WAC, Water Quality Standards for Surface Waters in the State of Washington (May 2024)

- 1. Establishment of new aquatic life toxics criteria for Acrolein in freshwater** – We earnestly request Ecology to reconsider establishing both the acute and chronic toxicity criteria for acrolein at 3.0 µg/L (or ppb). Many irrigation districts and companies in the State of Washington rely on the usage of this chemical tool for aquatic vegetation management in their respective irrigation conveyance systems. There is major concern that the establishment of these newly low standards will have an enormous impact(s) on the current discharge effluent limit allowed under the NPDES and SWD General Permit: Irrigation System Aquatic Weed Control (ISAWC). This chemical is the most effective and reliable herbicide tool on the market that provides broad spectrum control of large vascular plants and algae in irrigation conveyance systems throughout the western United States and worldwide. When applied in accordance with the product labels and manual this herbicide will provide results in a short time frame of hours opposed to days, and its non-selective mode of action will eliminate all types of aquatic vegetation pests such as pondweeds, elodea, watermilfoil, and algae. Irrigation Districts and water companies have the responsibility to deliver satisfactory water supply to landowners and/or growers when they need it. The ability to control overgrowth of aquatic weeds and algae with acrolein must be available to operate the conveyance system(s) efficiently and economically as possible. By setting very low WA state surface water quality standards (and potentially lowering future NPDES and SWD effluent limits) for acrolein, it will cause major disruption on the sustainability of designated agricultural water uses and the continued viability of agricultural production in the State of Washington.

These proposed low standards do not align with the practicable usage of an EPA and WSDA registered herbicide product and its FIFRA and SLN approved labels: Magnacide H™ (EPA Reg. No. 10707-9 and EPA SLN WA-040017) which contains the active ingredient acrolein. The Magnacide H™ (or acrolein) federal FIFRA label was approved for reregistration by EPA in 2014, and the WA State SLN label was approved by WSDA in 2022. Since the mid-1970s, the District has worked very hard to follow and comply with all of the state and federal product label requirements when applying Magnacide H™ (or acrolein). Many best management and operational practices, such as closing spillway gates or rediverting treated irrigation water, are implemented by SVID to contain acrolein within the conveyance system and protect the water quality of receiving waterbodies. The District has always been very diligent and responsible when it comes to preventing acrolein discharges and/or meeting its NPDES and SWD General Permit requirements with Ecology. Please consider the amount of current and past operational and/or compliance efforts performed by the District and other permittees which have resulted in positive impacts on the water quality and aquatic life throughout the State of Washington. Establishing a 3.0 µg/L standard for acrolein will only lead to additional economic and operational costs for managing the aquatic vegetation within the District's vast irrigation conveyance system.

Lastly, it is also important to highlight that EPA has issued an interpretive statement and regional guidance in the past to clarify that the application of an aquatic herbicide consistent with the FIFRA label to ensure the passage of irrigation return flow is a nonpoint source discharge not subject to NPDES permit requirements under the CWA. The current federal FIFRA and WA State SLN label requirements for Magnacide H™ (or acrolein) already serve to prevent unreasonable adverse effects on the environment. Therefore, as long as all current product label requirements are met by SVID when applying Magnacide H™ (or acrolein) within its irrigation conveyance system, it should not be necessary to include additional water quality regulations on acrolein in return flows from irrigated agriculture.

- 2. Revision of existing aquatic life toxics criteria for Copper in freshwater** – First, 1) We are requesting Ecology clarify the frequency (i.e., term “concurrently”) of sampling water pH, hardness, and dissolved organic carbon (DOC) that would need to occur in order to calculate (or adjust) acute and chronic criteria for copper at a site-specific location or water body. How often and for how long does sampling data for pH, hardness, and DOC need to be collected. 2) Also, please explain what DOC is when talking about water quality in freshwater and explain its relationship or correlation to copper. 3) Please elaborate on the rulemaking process if adjusted acute and chronic criteria for copper at a site-specific location or water body is established and a request is made to use these criteria instead of the default criteria. Will these adjusted criteria be applied to WA State Surface Water Quality Standards (Chapter 173-201A WAC) only? Can they be applied to discharge effluent limits in NPDES and SWD permits? or both?

Second, SVID, as well as many other irrigation districts in the State of Washington, greatly value the usage of copper as an aquatic herbicide tool. Copper is one of the most abundant products on the market within the irrigation and agricultural industries. It is very effective at controlling aquatic weeds, mainly algae species that constantly thrive in irrigation conveyance systems. Revising the copper criteria in Eastern Washington to a default value of 2.5 µg/L (or 0.0025 mg/L) will have significant impact(s) on the current discharge effluent limit allowed under the NPDES and SWD General Permit: Irrigation System Aquatic Weed Control (ISAWC). By restricting the permitted copper effluent discharges it will remove the ability to use copper algaecide products that SVID relies on to manage and eliminate specific aquatic weed species in its conveyance system(s), which actively grow every year during the warm irrigation season months. We request that Ecology reconsider setting the Eastern Washington default copper acute criteria at 2.5 µg/L and default copper chronic criteria at 1.8 µg/L as these such low standards are going to make irrigation water conveyance more difficult to support agricultural growers and production in the State of Washington.

Finally, it is also important to highlight that EPA has issued an interpretive statement and regional guidance in the past to clarify that the application of an aquatic herbicide consistent with the FIFRA label to ensure the passage of irrigation return flow is a nonpoint source discharge not subject to NPDES permit requirements under the CWA. The current federal FIFRA label requirements for copper herbicide and algaecide products already serve to prevent unreasonable adverse effects on the environment. Therefore, as long as all current product label requirements are met by SVID when applying copper within its irrigation conveyance system, it should not be necessary to include additional water quality regulations on copper in return flows from irrigated agriculture.

July 5th, 2022

Office of Pesticide Programs
Environmental Protection Agency (EPA)
1200 Pennsylvania Ave. NW
Washington, D.C. 20460-0001

RE: Comments on EPA Registration Review for Acrolein (Docket #: EPA-HQ-OPP-2015-0571)

The Sunnyside Valley Irrigation District (SVID) appreciates the opportunity to provide comments on the Acrolein Registration Review process. We wish to note that we concur with the comments submitted by others in our industry, specifically Quincy-Columbia Basin Irrigation District (QCBID), South Columbia Basin Irrigation District (SCBID), East Columbia Basin Irrigation District (ECBID), Washington State Water Resources Association (WSWRA), and Oregon Water Resources Congress (OWRC).

SVID maintains an extensive water distribution system that serves roughly 92,000 acres within the Lower Yakima River Basin. The District's main purpose is to serve the mutual benefit of its landowners by delivering irrigation water in an efficient and safe manner. To effectively accomplish this important goal, the SVID canal and its laterals must be maintained during the irrigation season to ensure water deliveries are met. As water temperatures rise during the irrigation season, the growth of aquatic weeds and algae will proliferate in the canal and laterals. This increase in aquatic vegetation causes the overall conveyance system to be overwhelmed and impedes water flow to landowner deliveries.

While currently operating under a Washington State Department of Ecology National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge (SWD) permit, SVID responsibly applies aquatic herbicides to its canal and laterals to control aquatic weeds and algae with approved herbicide chemicals. Several of these chemicals, including Acrolein, are crucial to have as water management tools to maintain the conveyance infrastructure and provide sufficient water to landowners. Acrolein is the only herbicide listed for use under the NPDES and SWD permit that both provides broad spectrum control of larger vascular plants and algae and has a half-life of hours as opposed to days. The relatively fast degradation rate and quick-acting effects of Acrolein on aquatic vegetation allows the District operations manager to utilize it as a chemical option when immediate relief is required, or when emergency aquatic weed bloom conditions occur.

SVID is aware that the Environmental Protection Agency (EPA) is drafting an Acrolein risk assessment that is currently open to the public comment for the Draft Risk Assessments in support of the Acrolein registration review. The following comments respond to questions posed in the document entitled "Acrolein Draft Risk Assessments: Guide to Commenters" (Docket #: EPA-HQ-OPP-2015-0571):

1. Questions on the consumption of fish from irrigation canals.

SVID facilities are not open to the public and are not intended for recreational activities, such as fishing. There are signages posted throughout the district and at owned and operated facilities which state "NO TRESPASSING", "KEEP OUT", "NO FISHING, and "NO SWIMMING". Also, temporary signage with danger warnings and/or symbols are positioned during each Acrolein treatment within 15 feet of the application site.

2. **Questions on local public education and outreach**

The District currently offers plenty of resources on their website about the aquatic treatment program. This information can range from treatment schedules, district facility maps, agricultural extension program links, etc. SVID also sends out local radio advertisements reminding the public about canal waterway hazards and risks of drowning. Furthermore, before the start of each irrigation season SVID will post a public legal notice in the local newspapers about the aquatic herbicide treatment and NPDES permit programs.

3. **Questions on the use of tracking dyes.**

SVID uses Rhodamine WT liquid tracer dye to perform time of travel studies during treatment events to determine the amount of time it takes for the dye and herbicide chemical(s) to reach downstream compliance locations from an application site. The ppm concentration of Acrolein is also determined using a colorimeter instrument to determine the intended application rate for responsibly applying Acrolein that meets both federal FIFRA and Washington State Special Local Needs (SLN) label requirements.

The District has the responsibility to deliver satisfactory water supply to our landowners and growers when they need it. We must control the growth of aquatic weeds and algae to operate the system efficiently and economically as possible. Weeds and algae plug canal structures and irrigation equipment. They increase water loss through evaporation by slowing delivery speeds and increasing the surface area of the flowing water.

Application of Acrolein is uniquely different than applications to terrestrial weeds. Each application is applied to flowing water, which is utilized as the carrier to distribute the aquatic herbicide downstream. In respect to Acrolein being used as an herbicide, no residual remains once the product has moved past a given point in the application area. In reality, applications are not made to the same site as the previous application has moved downstream and is no longer active. We must have the flexibility to control these unwanted aquatic weeds and algae on their schedule, not ours.

Acrolein is a vital tool for the irrigation district for the control of nuisance aquatic vegetation. SVID currently adheres to a multitude of regulatory and safety measures to ensure Acrolein is applied in a responsible manner that prioritizes both the environment and human health. The continued registration of Acrolein is necessary to maintain the sustainability of water resources and support the viability of agricultural production.

Sincerely,



Lori Brady
District Manager
Sunnyside Valley Irrigation District

June 16th, 2022

Miles Rhea
Senior Manager Global Regulatory Affairs
Baker Hughes
12645 West Airport Boulevard
Sugar Land, Texas 77478

Dear Miles,

Please consider this formal request to revise the current MAGNACIDE™ H HERBICIDE label regarding the removal of the statement, “**Maximum number applications: 8 per year**”.

Currently, there is only a small number of aquatic herbicides/algacides that may be utilized in irrigation canals during the times of active water delivery in the growing season; these are (in no specific order) Cascade (EPA Reg. #:70506-176); Teton (EPA Reg. #:70506-175); MAGNACIDE H HERBICIDE (EPA Reg.#10707-9); and numerous chelated copper formulations such as Argos® (EPA Reg. #: 81927-53), Captain™ XTR (EPA Reg. #: 67690-9), Cutrine™ Plus (EPA Reg. #:67690-93), etc. Of these registered herbicides, MAGNACIDE H HERBICIDE is the one product that may be applied successfully in intervals of less than 4 hours without regard to the weed species present in the irrigation canals. The repeated use of some of these other chemistries in irrigation canals has resulted in a species shift to less sensitive weed species, predicating higher rates to maintain control during water delivery season. MAGNACIDE H HERBICIDE is the one broad-spectrum biocide that does not see differential response by target weed species in the field.

All aquatic herbicides are employed in what could be considered environmentally sensitive areas, and as such, are held to higher requirements for pesticide registration both by the US EPA and the various state entities. Additionally, the US EPA and State Departments of Agriculture have instituted increased safety precautions; to include, required applicator certification, annual applicator training, fit testing and competency evaluation. Further, return flows to sensitive waters are already carefully monitored to prevent inadvertent non-target organism exposures. This request is made not to reduce any of these requirements but to have the ability to maintain the flow of irrigation water when the conditions require treatment.

In the **Sunnyside Valley Irrigation District** our irrigation season runs from **April to October**. Our water supply comes from the **Lower Yakima River** located within the Yakima Basin and/or Water Resource Inventory Area (WRIA) 37 in central Washington State.

With the current drought situation in the Western US, increased temperatures, water clarity from well water, and increased nutrient loads from upstream reservoirs and other water sources has exponentially increased aquatic weed and algae growth in our conveyance systems.

The Sunnyside Valley Irrigation District, has the responsibility to deliver a clean, quality water supply to our landowners and growers when they need it. We must control the growth of aquatic weeds and algae to operate the system efficiently and economically as possible. Weeds and algae plug canal structures and irrigation equipment. They increase water loss through evaporation by slowing delivery speeds and increasing the surface area of the flowing water.

Application of MAGNACIDE H HERBICIDE is uniquely different than applications to terrestrial weeds. Each application is applied to flowing water, which is utilized as the carrier to distribute the aquatic herbicide downstream. In respect to MAGNACIDE H HERBICIDE, no residual remains once the product has moved past a given point in the application area. In reality, applications are not made to the same site as the previous application has moved downstream and is no longer active.

Given the current drought situation, increased temperatures, and the fact that each application is not made to the same site, we are requesting removal of the restriction of **“Maximum number applications: 8 per year”**. We must have the flexibility to control these unwanted aquatic weeds and algae on their schedule, not ours.

The manufacturer and registrant of MAGNACIDE H HERBICIDE, Baker Petrolite LLC, and the sole vendor and distributor, Alligare LLC fully support the request being made herein.

Respectfully,



Lori Brady
District Manager

CC: Dave Blodget
Regional Sales Manager, West
Alligare, LLC
661-599-3231
dave.blodget@alligare.com

October 26th, 2021

Matt Sunseri
Registration Specialist, Pesticide Management Division
Washington State Department of Agriculture
(360) 902-2078
msunseri@agr.wa.gov

Dear Mr. Sunseri;

It is with great importance that we write a letter of support regarding the Washington State Department of Agriculture (WSDA) Special Local Needs (SLN) re-registration of Magnacide H, also known as by its chemical name as Acrolein. The continued usage of this aquatic herbicide in the State of Washington is crucial for the successful operation and maintenance of our irrigation conveyance systems within the Lower Yakima River Basin.

Magnacide H (i.e., Acrolein) has acted as an effective tool decades long for this irrigation district and many others located within Eastern Washington. It is vital to managing the aquatic vegetative growth that will occur each year and constantly throughout the warm summer months and most of the irrigation season (April to October). Unlike the other current aquatic herbicides on the market, Magnacide H is the only product that is able to control particularly hardy, larger plants such as elodea and milfoil. It also undergoes rapid chemical degradation and can be used in emergency aquatic weed bloom situations within a day, providing the district with a strong water management tool. We very much require the continued use of this herbicide in order to deliver irrigation water to landowners in an efficient and structured manner while consistent with good management practices.

In conclusion, Sunnyside Valley Irrigation District (SVID) fully supports the renewal efforts towards the re-registration of the SLN label for Magnacide H (i.e., Acrolein) usage as an aquatic herbicide within the State of Washington. We appreciate your time and consideration on this issue, as we value the collaborative nature of our relationship.

Sincerely,



Lori Brady
District Manager

CC: Dave Blodget
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661-599-3231
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