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Marla Koberstein
Department of Ecology
Water Quality Program
PO Box 47696
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RE: Proposed Revisions to WAC 173-201A (Aquatic Life Toxics Criteria) comments

Dear Ms. Koberstein,

Thank you for the opportunity to review and comment on Ecology's proposed revisions to WAC 173-201A (Aquatic Life Toxics Criteria).

Kennewick Irrigation District (KID) is a public agency established in 1917 under RCW 87.03 that provides irrigation water to 20,201 acres of agricultural and urban customers in parts of Kennewick, Richland, West Richland, and unincorporated Benton County. We are actively involved in working with numerous partners and stakeholders on issues of land use, water supply, and environmental stewardship in the mid-Columbia region and beyond.

The efficient delivery of irrigation water is paramount to the mission of KID and other irrigation districts in the State of Washington. Aquatic pesticides are the most efficient and cost-effective management tool to keep our canals flowing and free of aquatic vegetation. When such chemicals are used consistent with the product label and within the limits of our state issued Irrigation System Aquatic Weed Control NPDES General Permit, aquatic life in receiving waters is protected while ensuring that irrigation systems remain free of aquatic weeds.

KID is submitting the following comments for your consideration:

1. The technical support document, "Proposed updates to Aquatic Life Toxics Criteria, WAC 173-201A-240" states that: "Washington does not currently have acrolein criteria in the surface water quality standards. In this rulemaking, we are proposing to adopt EPA recommendations for acrolein. Future acrolein permits may include a lower limit given that current limits are based on outdated EPA criteria."

KID requests that Ecology reconsider setting both the acute and chronic toxicity criteria for acrolein at the EPA recommended level of 3.0 µg/L (or ppb). Currently, the maximum instantaneous concentration allowed under the state issued Irrigation System Aquatic Weed Control NPDES General Permit is 21.0 µg/L 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 new standards will have an enormous impact on the current effluent limit allowed under the state issued Irrigation System Aquatic Weed Control NPDES General Permit. These proposed 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) 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. 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 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.

2. The technical support document, "Proposed updates to Aquatic Life Toxics Criteria, WAC 173-201A-240" states that: "The freshwater copper criteria are currently hardness-based, which requires hardness data. The copper criteria proposed are based on the MLR model and will now require hardness, pH, and dissolved organic carbon levels to calculate criteria. The proposed copper criteria will also include default copper criteria based on a 5th percentile of criteria calculated from concurrently monitored hardness, pH, and dissolved organic carbon collected throughout the state. If there is sufficient water quality data, a

copper criterion will be calculated use site-specific data. If there is not water quality data available for a water body, Ecology may decide to use the 5th percentile default criteria in the irrigation general permit or require permittees to sample hardness, pH, and dissolved organic carbon in receiving waters or compliance points for this permit. Copper criteria may increase or decrease compared with current irrigation permit requirements based on the unique water quality of a site-specific location or water body."

KID requests that 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? Also, please explain what DOC is when talking about water quality in freshwater and explain its relationship or correlation to copper. 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 the standards and permits?

Again, we appreciate the opportunity to comment on the proposed revisions.

Sincerely,

Gene Huffman
Board President

cc: John Stuhlmiller, Executive Director, WSWRA