Diana Forman
1213 East Shelby Street
#4
Seattle, Washington 98102
October 15, 2010

Kathy Hamel
Water Quality Program – Comments
aquaticpermitcomments@ecy.wa.gov

Dear Ms. Hamel,

Thank you for accepting public comment on the Draft Aquatic Plant and Algae Management General Permit under consideration for issuance in March of 2011. Development of a revised permit is a huge undertaking, and I appreciate the many hours you and your staff have spent evaluating and improving the existing general permit to make it more responsive to the needs of Washington citizens and more protective of the environment.

My comments focus on the following areas:

1) The new Discharge Management Plan

I applaud Ecology's requirement that prospective sponsors and applicators complete a Discharge Management Plan for all permit coverages. (S2 B 3) When properly used, this instructive document provides an introduction to integrated pest management principles for first-time sponsors. Its serious preparation by applicators working in concert with sponsors can also spur meaningful conversation and produce a relationship focused on sound and environmentally responsible decisions about weed management. As it stands, however, without evaluation and response from Ecology, the DMP requirement may be only an admirable but empty step toward meaningful decision making and stewardship.

The DMP process could be greatly improved if Ecology actually *reviewed* each DMP and engaged in dialog with sponsors and applicators. Further, if sponsors were primarily responsible for the preparation of the DMP, rather than applicators, the language of the plan could avoid boilerplate justifications and reflect thoughtful weighing of all non-chemical means of control before turning to chemicals. With implementation of sponsor authorship and departmental review, this new requirement could move from being merely an exercise to becoming a meaningful part of every application for coverage.

2) Applying for coverage

It appears that applications for coverage under the general permit are granted largely on the basis of "applicability of this permit to the proposed aquatic plant or algae management activity." (S2 B final paragraph). This makes sense, of course, as far as it goes, but I suggest that decisions regarding the granting of permits do not go far enough.

Specifically I am concerned that coverage permits appear to be granted without regard for whether aquatic herbicides have recently been, or are currently being, applied to adjoining or neighboring portions of the same waterbody. This is particularly worrisome in waters such as Lake Washington, Portage Bay, and the north shore of the Ship Canal where just three years ago Ecology reported 35 separate treatments with aquatic herbicides at 19 different sites: two in Portage Bay, one on the north shore of the Ship Canal, and 16 in Lake Washington. The treatments discharged 273 gallons of liquid triclopyr, diquat dibromide, and glyphosate into these waters in addition to 2,022 pounds of granular triclopyr, endothall, and fluridone, raising the question of whether multiple treatments of adjoining properties could produce unintended consequences for the target areas as well as neighboring waters by compounding the total amount of active herbicide.

In addition all of the herbicides being introduced into the Lake Washington Ship Canal from roughly Gas Works Park east through the Montlake Cut, including all of Lake Union and Portage Bay – 11 such applications in 2007 – were made to Category 5 impaired waters defined under Section 303(d) of the Clean Water Act as "Polluted waters that require a TMDL" or pollution control

plan that "establishes limits on pollutants that can be discharged to the waterbody and still allow state standards to be met." The same could apply to parts of Lake Washington, as well, for the Section 303(d) map of the lake prepared for the 2008 Water Quality Assessment indicates that 16-22 areas on Lake Washington are also Category 5 impaired waters, depending on how one interprets the map, and in 2007 there were 24 treatments on the lake.

To me this raises the following question: On a large waterbody with multiple jurisdictions and large numbers of landowners, wouldn't it be prudent – even important – to determine which waters have been or are already being treated with aquatic herbicides before granting another permit for application of herbicide to an adjoining or neighboring site, particularly when the herbicides are being discharged into Category 5 impaired waters?

3) Sponsors as legal entities

I appreciate the draft general permit's requirement that each sponsor of an application for permit coverage be or become a legal entity. (S2 A 1 a) This requirement has particular appeal because such entities are often democratic, inclusive lake associations where all members have a say in lake management decisions and share whatever costs are associated with those decisions.

Because individual lot treatments can still occur, (S2 B c) it seems important, however, that those applying for treatment of their own lots on a water body with multiple sponsors and permit coverages do so as individuals rather than "signing on" to treatments for which permits are being secured by neighboring legal entities.

4) Treatment timing windows

Retaining the treatment timing windows created by the Washington Department of Fish and Wildlife is a vital protection for vulnerable species, and I am pleased to see that this protection has been enhanced. (S4 D 4) As a resident of Portage Bay, a Tier I area for salmon habitat restoration, I am especially aware of the need for effective timing windows to "protect salmon, steelhead, bull trout, other aquatic sensitive species, waterfowl nesting areas, and critical habitats."

5) Children's Camp Notification

The requirement requested by the Washington Department of Health that managers of children's camps notify parents of impending herbicide treatments seems important for public health. (S5 D 1 2) Even though fish timing windows often restrict application of the most toxic aquatic herbicides to the very cool months in order to protect migrating salmon and other species, application to some Washington waters is permitted for part of the summer. In addition, chemicals such as fluridone, glyphosate, and triclopyr, which do not affect protected salmon, can be applied throughout the summer months when day sailing programs flourish – generally from mid-June to roughly Labor Day.

As a result I strongly believe that the Children's Camp Notification requirements should apply to children's sailing programs as well. Parents signing their children up for such programs – both members of the public and individuals associated with sailing program sponsors – have the right to know when aquatic herbicides will be applied to the water their children may be ingesting as they learn to sail.

Again, many thanks for considering my remarks and for your very good work,

Diana Forman
1213 East Shelby Street
#4
Seattle, WA 98102