Let the record show that it is 3:02 PM on Monday, October 4th, 2010 and this hearing is being held at the Lacey Community Center, Room A and B, 6729 Pacific Avenue SE, Lacey, Washington. This hearing is about the proposed draft aquatic plant and algae management general permit. The legal notice for this permit was filed with the state code reviser's office on August 18th, 2010 and was published in the Washington State Register, issue #10-17-121. Information about the workshops and hearings were posted on the agency public involvement calendar. In addition, Ecology also directly notified permit holders, various government agencies and interested parties about this proposal.

When I call your name, please come up to the front of the room, have a seat in the chair here, speak into these microphones. And, again, if you represent a company or an organization also, please let us know.

First person on my list that indicated they wanted to provide testimony is Richard Bruskrud and he will be followed by Don Russell.

My name is Richard Bruskrud. I am a lake property owner.

I would like to thank the Department of Ecology for all the work on the NPDES Permit revisions for addressing numerous issues with this permit. It appears that notification, applicant certification, and review of appropriate management have been improved. Direct notification improvements at the permit application should help residents and property owners to become aware of pending actions in a timely manner. Hopefully this will resolve many issues at the permit stage and assure that the proper management techniques are utilized. Applicant and sponsor certification should increase accountability in submitting a complete and accurate application. Certification that the sponsor has legal authority to administer treatment should assure that rogue groups do not inflict harm on others. And, the discharge management plan should help with reviewing environmental conditions as well as alternative management methods and impacts.

Overall, it appears that the permit coverage application review and notification has been improved. No two conditions are the same. To be responsible, management techniques need to be tailored to the conditions.

With that said, there are still many issues, some minor, others critical if this permit is going to protect individuals and the environment when applying toxic substances to our surface waters. We need to be careful how we manage our environment. The following is a brief overview of concerns with the draft permit.

Regarding permit coverage: when calculating the percentage of allowed treatment in control applications, only littoral zones with plant growth should be included. Otherwise, a control application could become an eradication effort.

Regarding application for coverages: the chemicals proposed to be used are listed in the notice of intent. If more than one chemical is proposed, target plant, location and treatment timing should be included to assure the chemicals are not mixed. Although an effort has been made to assure that

applicants have a legal authority to treat, allowing treatment without current legal authority could result in trespass. No treatment should be allowed prior to obtaining legal authority.

Notification of permit coverage applications should include the property owner, not just the resident. As well, notification should be delivered to all agencies with jurisdictions, local agencies, local government agencies, and political subdivisions whose public services could be changed as a result of the proposal. This is a basic premise of the SEPA guidelines.

I'm also concerned about the one quarter mile notification limit. In smaller water bodies, it would be easy to be more than a quarter-mile away from an individual lot treatment, yet still impacted by a drift of the chemical. And, there is less water volume to dissipate the chemical.

And, I think it would be helpful if the permit itemized the permit process, from application to review, commenting, determination and appeal.

Concerning discharge limits: The discharge management plan is a good start to environmental review. My question is, and I think I have better understanding of this now…will or can Ecology condition or deny coverage based on environmental and management information. My new question on this, after the meeting, is - will they even read the discharge management plans. They should review and make recommendations. The draft permit appears ambiguous as to the results of the discharge management plan review.

Furthermore, all discharge management plans should undergo public review, whether for initial application or for continuing coverage. It's the purpose of the discharge management plan.

Regarding application of products: although additional restrictions and limitations have been added to tables 3 through 5, the tables do not contain all the recommended mitigations in the environmental impact statements, nor do I think they should. It may be better to review this information on an individual coverage application for the conditions that pertain to the individual circumstances. We know that chemicals drift. Yet drift has not been addressed in the permit. This appears to be a major problem with aquatic applications. Especially with individual lot applications. How does Ecology propose to eliminate drift that has the potential and is likely to trespass onto neighboring properties?

Potable water mitigations are still limited and do not provide adequate restrictions or adequate alternate sources when disturbed. Supplying drinking water does not take into account personal hygiene or sanitary purposes. Disturbance of potable water source should require an alternate source, other than just drinking water, until the water tests show potable water standards are met.

Regarding notification inspection and posting requirements. I believe the actual treatment should be performed by someone other than the applicator. Inspection of one's own work is difficult, if not biased. And, the residential and business notification should also be sent to the property owner.

I'd like to clarify this comment. The permit states that it goes to the resident. The resident may or may not be the property owner, and the property owners on the individual lakes are often recreational and do not reside at that address. So, it should go to the address of the registered property owner.

Monitoring requirements: It is well known that the listed herbicides do not behave in the natural environment as the tested active ingredient does in the laboratory. The only way we know how it behaves and its persistence in the environment is to monitor the applications. This will not only provide us with better understanding of how to minimize impacts, but how well it performs. Monitoring of all treatments should be performed. Help us learn more and adjust, to be more efficient in aquatic plant management.

Finally, the analysis of the risks and effects of the herbicides we are currently using are based on the listed active ingredient only. We do not even know what the other ingredients are. Nor do we know how they act when combined. Until we start testing and analyzing the actual pesticide, we do not really know what we are working with. Testing and environmental impact statements should be performed for all listed pesticides. However, this issue probably needs to be dealt with on a legislative level.

And, thank you for the opportunity to comment. Our water is a very precious and infinite resource. We need to protect it. Our water is far too important for reasons other than aesthetic boating and recreation. Introducing toxic chemicals should only be done with extreme care and with thorough analysis of risks and effects.

I have prepared a list of code items that I believe should be revised. This comment list will be submitted to Ecology for review. Hopefully, this will help everyone be more responsible to others and our environment. Thank you for your time.

905 Next is Don Russell. Followed by Don Darker?

My name is Don Russell. I'm a citizen.

I just want to make a few comments. Back in 2005, I worked with G. G. Telcott, to introduce the program that led to the freshwater algae control program. And, generally, I've been pleased that that program had disclosed that the state has a very serious problem in Western Washington with toxic blue-green algae, or cyanobacteria. I participated as a Lake water quality monitor on several of the lakes that have been afflicted with these algae. And my concern is that, whereas we have probably a leadership position in the United States regarding toxicity and presence of these algae, I think we lag many of the states in actually controlling these cyanobacteria blooms. And, I've been a little disappointed in the way that phosphorus inactivation treatments have been dealt with in the past permits.

Essentially, most of the focus has been on the toxicity of herbicides and algaecides and the fact that they generally have an adverse impact on the environment if they aren't properly controlled. However, by contrast, phosphorus inactivation treatments are a restorative act. Essentially, the lakes that need to be treated are polluted and the addition of or treatments by phosphorus inactivation methods is a restorative act, not an act of pollution. So, I have problems, essentially with the congruence of what's being advocated with a lot of other information that has been passed by the legislature, and I have documented essentially what I feel is a dichotomy. On the one hand, herbicides and algaecides are a pollutant. Phosphorus inactivation treatments essentially are an act of restoration. And, in Western Washington, one of the problems we have is that those treatments that are listed aren't relevant to the

condition that we face in many of the lakes in Western Washington. Most of the phosphorus is coming into these kettle lakes and a glacial floodplain setting are from surface water runoff that's infiltrated into the ground from septic system effluent that goes into the ground, which loads the aquifers that feed these lakes with phosphorus. And, this groundwater enters these lakes and if one is going to prevent toxic algae blooms, one has to intercept groundwater flowing into a lake and treat it to remove the phosphorus. And, the alum treatments to do this would require a shore-based large tank of alum, pumping stations, metering stations, manifold distribution systems. It seems to me that the active ingredients in trying to inactivate phosphorus are really iron, calcium and aluminum. And, I would like to see experimental work going on in this state so that it could claim leadership in the area of controlling the toxic algae blooms using elemental iron and elemental aluminum. There are techniques to be able to do this and essentially there is a lot of information out there that attests to the effectiveness of these various treatments. Aluminum is a little different because there are some techniques one has to use to get elemental aluminum to go into solution, but those are available.

So, I would really like to see an examination by Ecology of how do we advance the state of the art in the control of toxic algae blooms so that we can take a leadership in the United States as we have in the area of toxicity and posting and warning the public of all the hazards associated with these cyanobacteria blooms. I have a paper that I will give you a copy of, and I have others – enough for anybody who wants them – that really elaborate further on what I've had to say. Thank you very much.

So, Dom Darker?

OK, so that's everyone I had signed up to testify. Is there anyone who's changed their mind who would like to come up now?

I'll ask one more time, just to make sure.

OK.

If you'd like to email or send written comments, they must be postmarked or emailed no later than 5 PM on October 15th, 2010. All written comments should include the commentor's name and address and when possible, refer the specific section or text. Ecology would like to receive comments electronically at the following address:

Aquaticpermitcomments@ecy.wa.gov.

You may also send written comments to

Kathy Hamel
Department of Ecology
Water Quality Program-Comments
PO Box 47600
Olympia WA 98504-7600.

This information was also on the Focus Sheet that is a handout outside the room if you want to pick up a copy of that.

One last time Is there anyone who wants to provide comment before we close?

All testimony received at any of the two public hearings, along with any written comments received by the end of the comment period, 5 PM October 15th will become the a part of the official record for this proposal. Whether the comment is received orally or in writing, it will all receive equal weight in the decision making process. After the comment period, Ecology staff will review all comments submitted and prepare a document called the Response to Comments Summary. People who gave testimony or submitted comments will be notified when the summary is available. Issuance of the Aquatic Plant and Algae Management General Permit is currently scheduled for around March, 2011, and if signed by Water Quality Manager Kelly Sussewind, will become effective 31 days later. On behalf of the Department of Ecology, thank you for coming this afternoon. I appreciate your cooperation.

Let the record show that this hearing is adjourned at 3:22 PM.

End