

Tuesday, July 07, 2015

To:  
Nathan Lubliner  
Washington State Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

From:  
Carl Strode  
33040 S. Badger Lake Road  
Cheney, WA 99004

**Re: Proposed Draft Fisheries Resource Management General Permit**

The subject *Draft Fisheries Resource Management General Permit* should be revised to provide protections to the health and safety of surface water users, residents and property owners. The June 3, 2015 revision of the *Draft Permit* does not provide adequate assurances that the State of Washington Department of Fish and Wildlife (WDFW), will effectively notify residents and property owners of pesticide applications to public waters, nor does it recognize, or seek to protect, legal claims and adjudicated entitlements of water rights holders.

The WDFW, in support of its proposal *DS/Adoption15-008: Programmatic Lake and Stream Rehabilitation*, has developed a *Determination of Significance and Adoption of Existing Environmental Documents*.

On page 2 of *DS/Adoption15-008*, WDFW makes the following statement:

***WDFW has determined that this proposal is likely to have a significant adverse impact on the environment. To meet the requirements of RCW 43.21C.030 (2) (c), WDFW is adopting the documents described above. Under WAC 197-11-630, there will be no scoping process for this EIS. After independent review, WDFW has identified and adopted the documents as being appropriate for this proposal. The documents meet our environmental review needs for the current proposal and will accompany the proposal.***

One of the documents incorporated by reference is *WDFW Statewide Lake and Stream Rehabilitation Final Programmatic Environmental Assessment (September 30, 2008)*.

On page 36 of the *WDFW Statewide Lake and Stream Rehabilitation Final Programmatic Environmental Assessment* is a subsection section entitled Surface water withdrawals:

*Surface water withdrawals*

*The labels for use of rotenone read: “Do not use water treated with rotenone to irrigate crops or release within 1/2 mile upstream of a potable water or irrigation water intake in a standing body of water such as a lake, pond or reservoir.” Because the **WDFW does not control water uses on lakes or streams that it may treat**, the agency obtains letters from the holders of surface water rights which confirm that the holder of a surface water withdrawal permit agrees to not withdraw water from the water body for up to eight weeks following treatment or until notified by the department that the water is safe for use. If a holder of surface water rights does not agree to cease withdrawals of treated water, treatment with rotenone products will not commence.*

In light of the fact that WDFW has clearly recognized that **this proposal is likely to have a significant adverse impact on the environment**, and that it has not, will not, and **does not control water uses on lakes or streams that it may treat**, the *Proposed Draft Fisheries Resource Management General Permit* should be revised to include the complete text of the Surface water withdrawals subsection of the *WDFW Statewide Lake and Stream Rehabilitation Final Programmatic Environmental Assessment* quoted above.

Furthermore, on page 10 of the *Draft Permit*, a distance of ¼ mile is specified for notification of property owners. This is in conflict with the ½ mile distance as presented in the *Environmental Assessment*. The *Draft Permit* should be revised accordingly.

Additionally, the *Draft Permit* limits notification to property owners only. All residents, including those renting, leasing, farming, ranching, etc. within the notification boundary should be included in the notification process. The *Draft Permit* provides no assurances that actual notice of impending pesticide application will be made. The methods described in the *Draft Permit* for serving notice to water rights holders, adjacent property owners, and other bona-fide users of public waters are inadequate, non-traceable, and self-serving. The *Draft Permit* should be revised accordingly.

The *Draft Permit*, in its present form, provides no assurance that property owners, residents, or holders of sacrosanct certificated, perfected, and adjudicated surface water rights will be recognized or protected. The *Draft Permit* does not even require that actual notice be given to property owners, residents, or other users of pesticide application to public waters.

Please revise the *Draft Permit* to correct the above described deficiencies so that the rights of surface water users will be preserved and that their health and safety will be protected.

Carl Strobe  
33040 S. Badger Lake Road  
Cheney, WA 99004