



MUCKLESHOOT INDIAN TRIBE
Fisheries Division

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November 18, 2011

Ms. Kathy Hamel
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: Draft Aquatic Noxious Weed State Waste Discharge General Permit –WAG 99300

Dear Ms. Hamel:

We have reviewed the Draft Aquatic Noxious Weed State Waste Discharge General Permit. This permit affects the application of herbicides to control aquatic noxious weeds around or near water. The following comments are provided in the interest of protecting and/or restoring the Muckleshoot Indian Tribe's fisheries resources.

We support the control of invasive aquatic plants and understand the need for chemical control in some or even many situations; however, we want to ensure that herbicide treatment does not result in unintended impacts to fisheries resources as discussed below.

General comments:

1. The previous NPDES permit (issued in 2008) included requirements to apply fish timing windows when applying herbicides, however, no mention of the fish timing windows restricting herbicide application is included in the current draft permit. The rationale for this should be explained.
2. Some noxious plants may provide habitat for salmonids, such as instances where reed canarygrass provides low velocity habitats in channelized streams that have little other native plant habitat structure. In some cases, controlling or removing these plants may adversely impact salmon habitat. Therefore, the permit should require restoration of native vegetation when the aquatic noxious vegetation is removed. This will improve the adjacent habitat areas and may also eventually reduce the need for future chemical applications as the reed canary grass or other noxious weeds are shaded out.
3. The permit should require removal of dead plants after treatment for all treated areas to ensure that dissolved oxygen sags are not induced from these activities. Even selective herbicides may not provide sufficient protection to prevent low DO at certain sites.

4. Complete permit applications should include a pre- and post project report detailing the genus, species, and stem density of all treated weeds; the date, time and method of control; and an affidavit from the herbicide applicator that the report is correct and complete.
5. The permit should require that chemical and mechanical plant management activities be discontinued in the event that dead salmonids are observed on site during the application or live salmonids are present where there is potential for adverse effects by the treatment activity.

Specific comments or questions:

1. S3 Discharge Limits

Page 8, Section E: other waterbodies that have native vegetation along them should also be protected from pesticide applications, not just wetlands.

Page 8, Section F.3

It is not clear if the WSDA Integrated Pest Management Plan (current or future version) is applicable to all permittees or just those managing noxious plants through the WSDA or its contractors. Item F.3 should be rewritten so that the Integrated Pest Management Plan applies to all permittees seeking coverage under the permit and a requirement to demonstrate how they have complied with the plan. Permit applications could include a checklist to demonstrate that various pest management techniques in the Plan were considered, used in the past, or proposed to document compliance with this permit requirement.

2. S5 Notification and Posting Requirements

There may be potential impacts to Muckleshoot Indian Tribal members fishing salmon/trout, and shellfish at times when herbicides are applied in WRIAs 8, 9, and 10. Herbicide applications could overlap with the time of year when tribal members are conducting fisheries activities and may result in chemical exposure to tribal fishers. Since there is no requirement to provide the Muckleshoot Indian Tribe notice in Section S5, we request that Ecology send the MITFD any applications within WRIAs 8, 9, and 10 with a full 30 days to comment on the proposal prior to approval by WDOE. In addition, the MITFD should also be notified if any experimental use permits are issued within WRIAs 8, 9, and 10.

3. S6 Monitoring Requirements, page 14

In waters where salmonids are present, the following monitoring requirements should be required in the permit:

Pre and Post-treatment water column monitoring after herbicide treatment that may have an adverse effect on salmonids; monitoring should be conducted within 48 hours of completed treatments and should represent the water within the perimeter of the treatment area.

The permit should require a Quality Assurance Project Plan (QAPP) for monitoring activities listed in Section 6. Without a QAPP, one will not be able to determine whether a permittee followed standard protocols and if equipment was functional. A QAPP should be required and filed with the application.

4. G5 General Permit Modification or Revocation, G5.D, page 18

The permits states *“the permit may be revoked, modified, etc....when information is obtained, which indicates that cumulative effects on the environment from dischargers covered under this general permit are unacceptable.”*

It is unclear how this standard is triggered as there appears to be no plan to actually determine cumulative impacts.

We appreciate the opportunity to comment on this draft general permit. Please let me know if you have any questions. You can reach me at 253-876-3116.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Walter", with a long, sweeping underline.

Karen Walter
Watersheds and Land Use Team Leader