

**WAPMS San Diego**  
**April 4, 2012**

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San Diego, CA  
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*The Aquatic  
NPDES  
Permit: A  
Sharing  
Experience*

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**Today's Talk**



- Rules
- Tools for Following the Rules
- Questions

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**Some Rules You May Know:**

- **General Rules:**
  - Never lick a steak knife
- **Rules of Probability:**
  - The probability of being watched is directly proportional to the stupidity of your act.
- **Meeting Rules:**
  - “It is better to be thought a fool than to open one’s mouth and remove all doubt.” (Benjamin Franklin)

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**Better Not Break the Rules...**



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### **Rules**

- **Registrations**
  - USEPA
  - DPR
  - Emergency Exemptions (Section 18)
  - Special Local Need (Section 24c)
- **Permits**
  - County Ag Dept: Restricted Materials
  - CDFG: Project-Specific 1600
  - Local County Requirements (Marin, Santa Clara, SF)
  - State Water Resources Control Board: NPDES
- **Injunctions**
  - Environmental Advocacy Driven
  - Court Enforced
  - Three to Know About



### **Why Have Rules?**


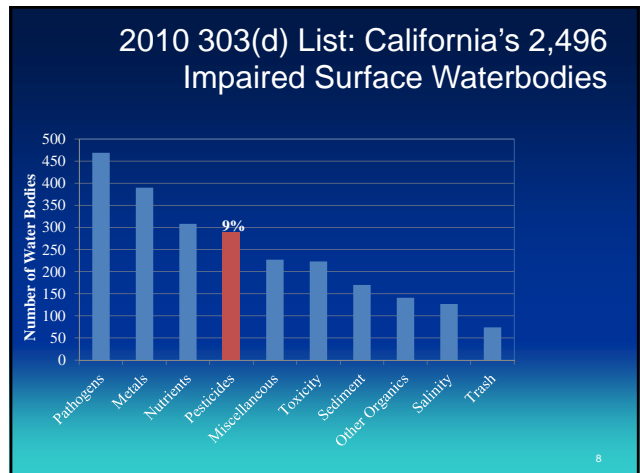
**Because there is a Problem**



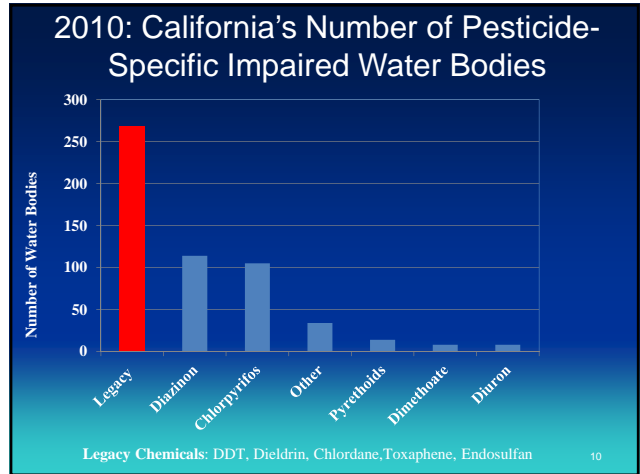
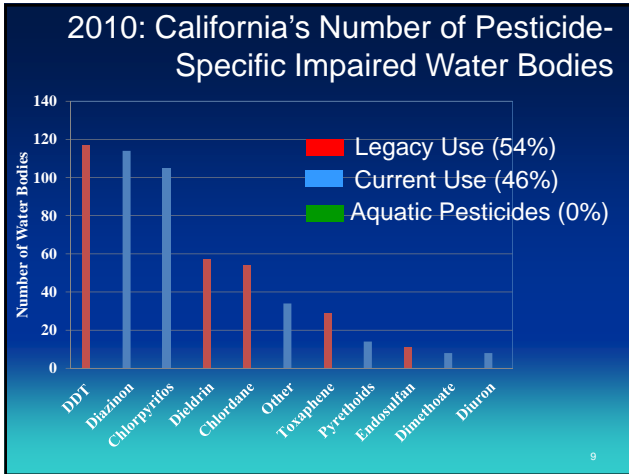
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### **What's the Problem?**


- People don't like pesticides
- People really don't like pesticides in their water
- Risk = Toxicity, right?
- 1996 Talent Irrigation District
  - leaking gate releases acrolein-treated water; 92K steelhead die
- On-going Clean Water Act 303(d) List

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**“The vast majority of studies in California that have included TIE evidence have demonstrated that water toxicity is caused by pesticides.”**



Source: “Toxicity in California Waters”, SWRCB October 2011.

### What's a Solution? NPDES

- National Pollutant Discharge Elimination System
- Part of the Federal Clean Water Act
- Typical Uses: stormwater, construction, industrial discharges
- Benefits:
  - Protect water quality
  - Allows discharge
  - Provides legal protection




### Do I Need an NPDES Permit?

- You “discharge” a “pollutant” to “Waters of U.S.”
- Your pesticide application leaves a “residue”
- The residue is present >7 days in the treatment area
- Perceived CWA Violations and Subsequent Citizen Lawsuits Concern You



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### The EPA Pesticide General Permit (PGP)

- Does not apply in CA
- NOI was due Jan 12, 2012
- Does not apply in CA



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### The Ca NPDES Aquatic Pesticide Weed Permit

- Submit Notice of Intent (NOI)
- Prepare and Execute an Aquatic Pesticide Application Plan (APAP)
- APAP requires sampling & analysis
- Report Annually



### Permit "Sharing"

- 2001-2004: Emergency Permit Options
  - Individual
  - Regional
- Regional Approach Required:
  - "Similar pesticides and application methods"
  - "Representative projects"

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### Permit "Sharing"

- Formal
  - Joint Exercise of Powers Agreement (JEPA)
- Informal
  - Hand Shake
  - Trust Factor



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### Permit "Sharing"

- Advantages
  - Cost
  - Simplicity
  - Speed
- Disadvantages
  - Weakest Link
  - Risk Management
  - Bureaucracy



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### Permit "Sharing"

- Common Sharing Scenarios
  - Neighbors
  - Good Examples:
    - Irrigation Districts
    - Flood Control Agencies
  - Bad Example:
    - Drinking Water Reservoirs
- Can I share now?
  - Depends.....



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### Permit "Sharing"

- Can I share now?
  - No regional monitoring using representative projects available
  - Document sharing works well
  - Volume analytical lab purchase
  - "Tag Team" field work

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### The Future: Stay Informed



- California Aquatic Pesticide Permit ("Weed Permit")
  - [http://www.waterboards.ca.gov/water\\_issues/programs/npdes/aquatic.shtml](http://www.waterboards.ca.gov/water_issues/programs/npdes/aquatic.shtml)

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### Breaking News: New Aquatic Weed Tool Available & Requires No Permit Introducing: Aqua-Cow<sup>tm</sup>



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