

**WAPMS
Reno, NV
April 1, 2014**

**Western Aquatic
Plant Management
Society
Annual Conference**

Reno, NV
April 1, 2014

**The New
2014
California
Aquatic
Pesticide
NPDES
Permit**

Mike Blankinship
Blankinship & Associates Inc.
Agricultural & Environmental Consultants



Today's Talk

- The Problem
- A Solution: NPDES
- Do I Need an NPDES Permit?
- The New 2014 California NPDES Permit
- Follows SWRCB Seminar Series in Fall 2013



2

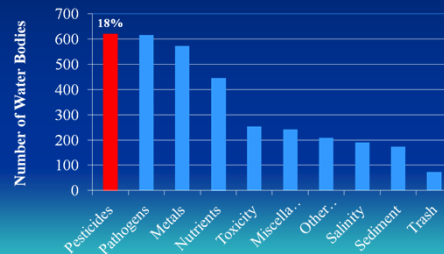
What's the Problem?

- Pesticides and Water Quality
- 1996 Talent Irrigation District
 - leaking gate releases acrolein-treated water; 92K steelhead die
- On-going Clean Water Act 303(d) List



Why Regulate Pesticides

- Pesticides are the #1 cause of impairment in many water bodies in CA.



4



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Why Regulate Pesticides

- The courts require it:
 - 9th Circuit: Talent
 - 6th Circuit: National Cotton Council
- Regulated community wants it.
 - Association of California Water Agencies (ACWA) concerned with citizen suits
 - Mosquito Vector Control Association of CA requested Adulticides Permit.



5

Why Do I Need a Permit?

- 6th Circuit Court says you need a permit when applying pesticides at, near, or over water.
- Pesticide applications into US waters without a permit is a violation of the Clean Water Act and the California Water Code.
- You are taking a risk if you apply pesticides at, near, or over water without a permit.

6

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
 - Manages risk



7

NPDES Program Framework

- “Discharge of pollutants”
- From a “point source”
- Into “waters of the US”



- Must obtain an NPDES permit from EPA or an approved* state

*Delegated State program
(CA is authorized to issue NPDES permits)

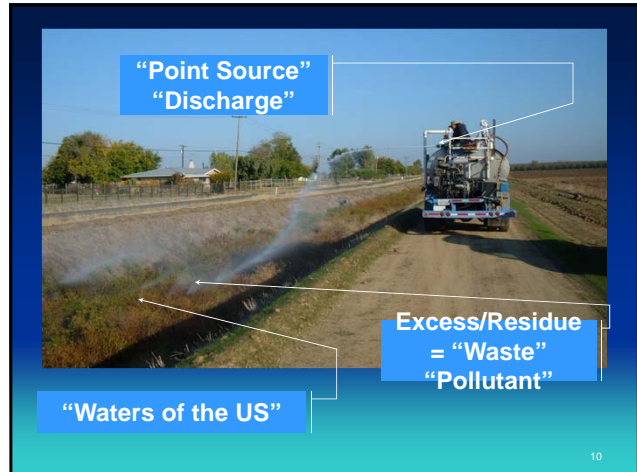
8



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Pollutant – Title 40 Code of Federal Regulations (CFR) 122.2

- Broadly defined to include any type of industrial, municipal, and agricultural waste discharged into waters of the US.
- Biological pesticides and chemical pesticide residues are considered pollutants.



**Waters of the US
“WOUS”**

- All interstate waters & wetlands used yesterday, today or tomorrow for interstate commerce;
- All other waters, including intrastate waters the use, degradation or destruction of which could affect interstate or foreign commerce
- Waters which are or could be used:
 - by interstate or foreign travelers for recreational or other purposes;
 - for industrial purposes by industries in interstate commerce
 - to take fish or shellfish and sold in interstate or foreign commerce; or

11

“Waters of the US”

- Adjacent Wetlands and Ponds
- Tributaries (think “connectivity”)
- Dry or seasonally intermittent streams ultimately emptying into a WOUS

Excludes:

- Artificial lakes/ponds created by excavating/diking dry land to collect/retain water used exclusively for stock watering, irrigation, settling basins, or rice growing
- Above the “ordinary high water mark”

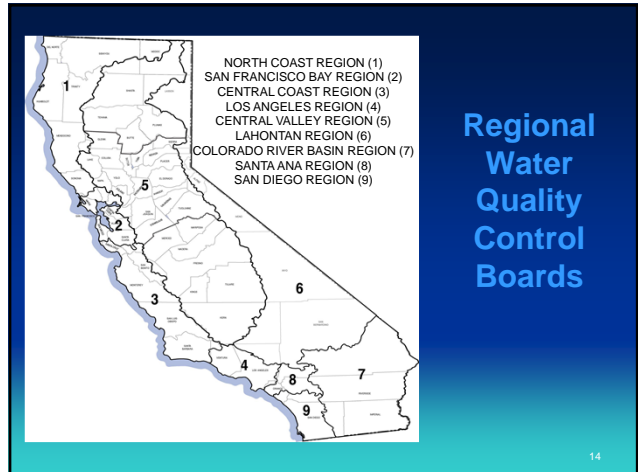
12



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Who Enforces this ?

- **Unlikely:**
 - SWRCB
 - Ag Commissioner
 - CDFG
- **Possible:**
 - RWQCB
- **Likely:**
 - Environmental Advocacy Groups



Approved Aquatic Herbicides

- Currently only 12 registered for Use in CA



- Acrolein *
- Copper *
- 2,4-D
- Diquat
- Endothall
- Fluridone
- Glyphosate
- Imazamox
- Imazapyr
- Penoxsulam
- Sodium Carbonate Peroxyhydrate
- Triclopyr

Non-Approved Herbicides

(Lack either DPR registration or Addition to the Permit or Both)

- Carfentrazone ethyl (Stingray)
- Bis-Pyribac Sodium (Tradewind)
- Flumioxazin (Clipper)
- Chlorine (Agrichlor)



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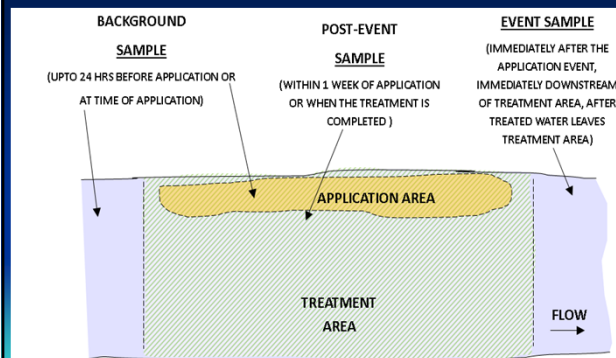
**Old v. New
Key Differences**

- 3 samples, not 4
- Glyphosate “1 and Out” per setting
- All Others: “6 and Out” per setting
- Group Formation



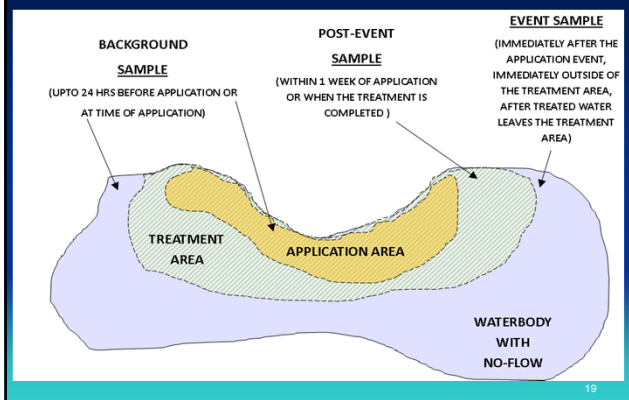
17

**SAMPLE TYPES & LOCATIONS
FLOWING WATER**



18

**SAMPLE TYPES & LOCATIONS
NO FLOW**



19

To Comply, You Must:

- Be below the WQO in the Event and Post Event Samples
- Therefore:
 - Correct Timing and Location of Sample Collection is CRITICAL
 - Understanding the concentration that defines a residue is CRITICAL

20



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**Old v. New
Key Differences (con't)**

- Email APAP as a .pdf
- Regular mail wet signature on NOI
- Corrective Action for Exceedance

21

**Old v. New
Key Differences (con't)**

- Prohibits:
 - Take of endangered species
 - Use of non-aquatic adjuvants



**Old v. New
Key Differences (con't)**

- Notify potentially affected public agencies each year 15 days prior to 1st application.
- Adverse Incident Notification
 - National Marine Fisheries Service (anadromous or marine)
 - U.S. Fish and Wildlife Service (terrestrial or freshwater)

23

**Old v. New
Key Differences (con't)**

- Notify the SWRCB and RWQCB:
 - Via phone within 24 hours of becoming aware of non-compliance;
 - Via written report within 5 days of becoming aware of non-compliance.

24



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Summary & Wrap-up

- California Aquatic Pesticide Permit (“Weed Permit”)
 - http://www.waterboards.ca.gov/water_issues/programs/npdes/aquatic.shtml
- Join both Lyris Distribution lists
- Look for a recorded Webinar in February on the ACWA and SWRCB webpages



25

Summary & Wrap-up

- **Philip Isorena**, Chief of NPDES Wastewater Unit, Division of Water Quality, SWRCB
 - (916) 341-5544, philip.isorena@waterboards.ca.gov
- **Russell Norman**, NPDES Wastewater Unit, Division of Water Quality, SWRCB
 - (916) 323-5598, russell.norman@waterboards.ca.gov
- **Mike Blankinship**, Blankinship & Associates, Inc.
 - mike@h2osci.com, (530) 757-0941

26

**Past Success with
our New Product
Introductions:**

The Aqua-Cow[®]



27

**Our Most Recent
New Product
Introduction:**

The Spud[®]



28



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