

Cache Creek Conservancy
April 18, 2012

**Cache Creek
Conservancy**

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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?


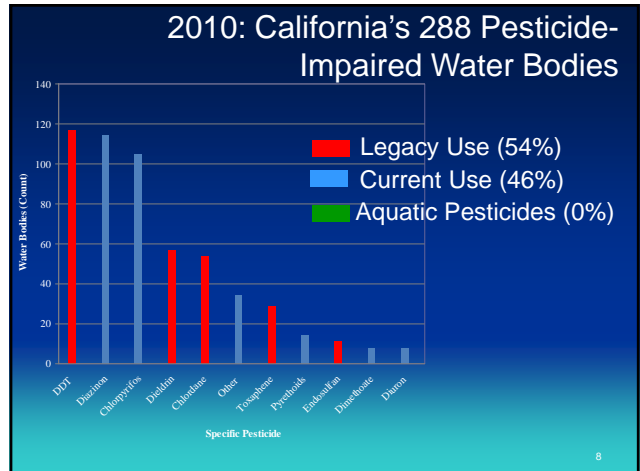
Because there is a Problem



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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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What's a Solution? NPDES

- **N**ational **P**ollutant **D**ischarge **E**limination System
- Part of the Federal Clean Water Act
- Typical Uses: stormwater, construction, industrial discharges
- Benefits:
 - Protect water quality
 - Allows discharge
 - Provides legal protection



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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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Waters of the US
“WOUS”

- All interstate waters and wetlands currently, formally or potentially used in 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

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“Waters of the US”

- Adjacent Wetlands and Ponds
- Tributaries
- Seasonally intermittent streams ultimately emptying into a WOUS

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“Waters of the US”

Excludes:

- Pre-1985 converted cropland
- Waste treatment ponds
- Artificial lakes/ponds used for stock watering, irrigation, settling basins, or rice growing
- Above the “ordinary high water mark”

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“Waters of the U.S.”



Ask: Could I Be Conected?”

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Remember

- No NPDES permit is needed for terrestrial applications



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“Waters of the US”

Yes or No?

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Ordinary High Water Mark

- "...that line on the shore established by the fluctuations of water and **indicated by physical characteristics** such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas."

Source: 33 CFR 328.3(e)

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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



**The Future: Stay
Informed**

- California Aquatic Pesticide Permit (“Weed Permit”)
– 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™**



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