

Department of Water and Power



the City of Los Angeles

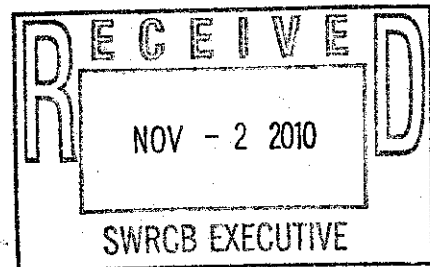
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November 2, 2010

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Dear Ms. Townsend:

Re: Comment Letter – Draft Vector Control Permit

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the draft *NPDES Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Pesticide Discharges to Waters of the United States from Vector Control Applications* (Permit). LADWP commends the State Water Resources Control Board (Board) on developing a permit that balances receiving waters protections with those offered by pesticide applications for vector control. However, the permit as written does not appear take into consideration the necessary balance between the operational needs of the dischargers and environmental benefits. Most importantly, the permit requires toxicity testing, without any means of linking toxicity test results to specific dischargers and/or operations.

LADWP has concerns in the following areas and provides the comments below:

1. Toxicity Testing

The monitoring program that is mandated will be labor-intensive and represents a significant allocation of Discharger resources, but without a definable environmental benefit. Since toxicity testing cannot necessarily pinpoint sources or application events that might have caused exceedances, or that are sufficient to reach receiving water trigger levels, the purpose is not clear. Multiple dischargers, historic, and non-point sources have all contributed pesticides/pesticide residue. Therefore, a positive toxicity test does not necessarily indicate that the toxicity is due to pesticide applications of the discharger. Per the second bullet point after "Question No. 2" in

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111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700  
Telephone: (213) 367-4211 Cable address: DEWAPOLA



Attachment C, Page C-2, Pesticide Application Plans (PAPs) are designed to assist with: "identification of critical gaps in knowledge (e.g., inability to document impacts, lack of knowledge about *potential* (emphasis added) sources, absence of trend-monitoring components) relevant to the Coalition's or Discharger's circumstances." Per Section VIII.C. of the Permit (Page 15), PAPs are expected to serve as an outline of the Dischargers' pesticide application plans. The requirements to identify knowledge gaps, etc. fall outside the scope of a PAP, and better describe a study. For example, a review of the 303(d) list shows that toxicity impairment in numerous water bodies is frequently attributed to "unknown" and "nonpoint sources." It is unclear how a PAP could identify such sources. From a human health perspective, there appears to be an insufficient amount of data regarding appropriate toxicity limits. It would follow that the data are also insufficient for purposes of stipulating toxicity triggers, and that any triggers would therefore be arbitrary.

LADWP therefore recommends the elimination of the toxicity testing program as written and to substitute it with a Best Management Practices (BMP) strategy, coupled with establishment of a five-year stakeholder work group. The group would review relevant literature and existing test results, conduct collaborative field studies, and/or recommend pilot/scientific studies.

2. Definition of Receiving Water - Attachment C, Third paragraph of Section IV. B., Monitoring Requirements, Page C-6

This item stipulates that the "monitoring area information shall include a description of the *study area*...." Water monitoring samples must be taken from the pesticide application or target area. One could assume that "study area" and "application and target areas" are one and the same, but this is not stipulated. Nor does the Permit clearly define "receiving waters." It is therefore unclear whether monitoring is to take place in man-made canals, ditches, or other similar conveyances.

LADWP recommends consistent language throughout the Permit and that the toxicity testing in man-made structures be eliminated.

3. Narrative Effluent Limitations and Receiving Water Monitoring Triggers - Section III.G., Water Quality-Based Effluent Limitations, Pages 9-10

The purpose of receiving water monitoring triggers is unclear. The Permit acknowledges the unknown nature of effluent containing pesticides and the short duration of intermittent pesticide releases in **Section III.L., Antidegradation Policy, Page 11**: "While surface waters may be *temporarily degraded*; water quality standards and objectives will not be exceeded." The Permit therefore calls for the employment of BAT (Best Available Technology Economically Achievable) and BCT (Best Conventional Pollutant Control Technology) for the restoration of water quality following pesticide applications. In other words, the Permit is predicated upon a Best

Management Practices (BMP) strategy. Per the testimony of Board staff during the October 19, 2010, hearing, there is a paucity of data pertaining to toxicity limits and health impacts, yet the data were used to establish trigger limits. Also, the use of triggers does not account for the fact that, in any body of water (receiving water), multiple dischargers and non-point sources (residences, agricultural concerns) may contribute trigger ingredients via runoff. In addition, some water bodies are already listed as impaired for toxicity due to past pesticide uses by unidentified sources. Without mechanisms for addressing all sources of toxicity, including agricultural and nonpoint runoff, numeric triggers exceedances would not necessarily indicate a failure by Dischargers to comply with narrative toxicity objectives. The use of numeric triggers is not a guarantee of a reduction in ambient toxicity.

LADWP therefore recommends the elimination of the triggers and that the State Board establish a working group to undertake a small-scale pilot study that examines the relative contributions of toxics from sources other than permitted Dischargers.

4. Monitoring Requirements – Attachment C, Section IV.B. Items 1-3, Pages C6 & C7

This section stipulates that: "Selection of monitoring areas must be scientifically based and sufficiently representative to characterize water quality for all waters of the US that may be affected by applications within the Coalition's or individual Discharger's boundaries." "Scientifically based" is not defined. The meaning of "sufficiently representative to characterize water quality" is very broad, so would be difficult for a Discharger to know what would be considered "representative." This appears to mean that Dischargers would have a general knowledge of, or could characterize, all surface water conditions in their regions. "All surface waters" is presumably much broader than a Discharger's "receiving waters," so the purpose of characterizing surface waters is unclear.

LADWP recommends that this section be revised to provide more precise guidelines, and that the references to characterization of water quality be quantified or better defined.

5. Sample Types - Attachment C. Section III.A. 2., Page C-4

This section stipulates that "grab samples" can be taken outside the application area of influence. It is unclear whether "grab samples" are the same as the "background" samples referenced in Section IV.B.1, and in Tables C-1 and C-2, Pages C-8 & C-9. "Area of influence" is also unclear; it appears that this phrase may be as a synonym for the pesticide application and/or target areas.

LADWP recommends supplementing the phrase "area of influence" with this text: "(outside or beyond the application and target areas.)" In addition, "background samples" should be used in lieu of "grab samples."

6. Monitoring Frequencies - Footnote 1, Tables C-1 & C-2, Coalition or Individual Monitoring Requirements for Larvicides and Adulticides respectively, Pages C-8 & C-9

These footnotes stipulate 6 physical, chemical and toxicity samples per year. This appears to be an arbitrary number; there is no benefit to requiring a greater number of samples than applications events. LADWP recommends that sampling schedules coincide with Dischargers' application events, which are inherently variable.

7. Pesticide Application Plan (PAP) - Attachment C, I.A., Page C-2

This section indicates: "All samples shall be taken at the anticipated monitoring locations specified in the Discharger's or Coalition's PAP, unless otherwise specified. The Discharger shall modify the PAP to include specific monitoring locations, recognizing that with vector control efforts, the precise locations may not be determined until after surveillance. The revised PAP, including the updated monitoring locations, shall be submitted to the State Water Board for approval." **Section II.C.3. on Page 5** requires submittal of a PAP to the Board. Upon approval of the PAP, the Board will issue a Notice of Applicability (NOA) that allows the Discharger to apply pesticides. Yet the Permit includes no time limit for the Board review of original or updated PAPs and the issuance of NOAs. Without NOAs, Dischargers could be precluded from responding to infestations in a timely manner, which could imperil public health.

Infestations may occur at different locations during different seasons and years, due to variations in precipitation and weather. The Permit seems to imply that Dischargers may have to continuously update PAPs as new areas of infestation are discovered through surveillance. The PAP is intended to provide a general overview, while the Pesticide Application Log is the document that provides detailed application data. LADWP recommends that the State Board approve the original PAP within 10 business days. Once the original PAP is approved and an NOA issued, Dischargers who use pesticides for public health purposes should have the authority to apply pesticides to areas not described in the original PAP. Such Dischargers could then provide written, after-the-fact notice to the Board (within five business days).

8. Public Notice Requirements - Section VIII.B., Page 15

This Section specifies: "Every calendar year, prior to the first application of pesticides, the Discharger shall notify potentially affected government agencies." Due to the possible extensive notice required, this could be challenging or impractical to implement.

In lieu of this, LADWP recommends implementation of a statewide notification system, such as that used for hazardous material spills. Otherwise, notification to the Board should be sufficient.

Item 5 of the same Section states notification should also include "General time period and locations of expected uses." Vector control applications are scheduled when presence and density of the species merits this. This item implies that applications occur at regular intervals. Mosquitoes/larvae are more prevalent during certain seasons, but that may be the as "precise" as the notice (or PAP) can be.

LADWP recommends that notification be provided when needed: when infestations occur and applications are required, and that only the State Board be notified.

9. Technical Report - Section IX. Standard Provisions, A, 10.d, Page 18

This Section states: "...all technical reports must contain a statement..." It is unclear if a "Technical Report" is the same receiving water monitoring data," which is referenced in Section V.B.1.b of Attachment C (Annual Reports, Page C-11).

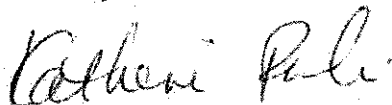
LADWP recommends substituting the following language: "...all technical reports containing receiving water monitoring data...."

10. Five-Day Written Report - Section IX. C.3.b.vii, Page 19

This Section requests "any available ambient water data for pesticides applied." It is unclear if "ambient water data" is the same as "background" water samples, which are referenced in Table C-1, Page C-8, and Table C-2, Page C-9. For purposes of uniformity, LADWP recommends that the terminology "ambient water data" be substituted for "background" and "control" throughout the Permit.

Thank you for this opportunity to provide comments. LADWP looks forward to working with State Board staff on the development of this Permit. Should you have any questions, please contact Ms. Jennifer Pinkerton of the Wastewater Quality and Compliance Group at (213) 367-4230.

Sincerely,



Katherine Rubin  
Manager of Wastewater Quality and Compliance

JP:aq

c: Ms. Jennifer Pinkerton