

01-262054  
POTENTIAL WATER SOURCE



01-262054  
BLACKBERRY/HERBICIDE HANDOUT

## Information Handout-Himalayan Blackberry

- Himalayan Blackberry occurs on approximately 63 acres within the limits of contract 1.
- Caltrans has obtained support that the use of herbicides to control non-native blackberry within the project limits is justifiable, based on the proposal and best management practices identified in the November 13, 2014 Herbicide Use Plan prepared by Caltrans for the Mitigation project. This document does not approve the use of herbicides, it was a document provided to the Water Board to support the concept of using herbicides as a strategy on blackberry.
- Only Himalayan blackberry can be controlled with herbicides.
- Preliminary coordination with the Regional and State Regional Water Quality Control Board indicate a NPDES-permit for Residual Aquatic Pesticide Discharges to Waters Order 2013-0002-DWQ is needed for applying herbicides on the blackberry.
- This Water Order clarifies the requirements and submittal items needed to apply for this NPDES permit. Specifically it clarifies that a Notice of Intent and an Aquatic Pesticide Application Plan (APAP) is needed, and that these documents need to meet the requirements of the order. There are examples of both documents on the Water Boards webpage ([http://www.waterboards.ca.gov/water\\_issues/programs/npdes/pesticides/weed\\_control.shtml](http://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/weed_control.shtml)).
- The APAP clarifies the herbicide(s) that will be used and needs to provide a discussion of herbicides considered, based on effectiveness to control blackberry and known toxicities. A disclosure of the evaluation of potential chemicals including those considered and those disregarded is recommended to be included as part of the application.
- The APAP must be prepared in coordination with a licensed Pest Control Advisor and must include such items as application schedule, rates, and proposed monitoring. Because the project treatment limits does not include lakes or live streams, water quantity monitoring would be limited in the absence of standing water.

- This permit will require a public notice period and any comments (of which many are expected) be responded to. Caltrans will assist with this effort.
- The estimated time for processing of the permit (including the public notice period), once the application is accepted by the Water Board, is approximately 90 days.

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## National Pollutant Discharge Elimination System (NPDES) - Pesticide Permits

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### WEED CONTROL

#### Overview



The State Water Resources Control Board adopted the Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications, Water Quality Order 2013-0002-DWQ, for the reissuance of General NPDES Permit CAG990005 in June 2013. Order 2013-0002-DWQ became effective on December 1, 2013.

Except for discharges on tribal lands that are regulated by a federal permit, this General Permit covers the point source discharge to waters of the United States of residues resulting from pesticide applications using products containing 2,4-D, acrolein, copper, diquat, endothall, fluridone, glyphosate, imazamox, imazapyr, penoxsulam, sodium carbonate peroxyhydrate, and triclopyr-based algaecides and aquatic herbicides, and adjuvants containing

ingredients represented by the surrogate nonylphenol.

This General Permit covers only discharges of algaecides, and aquatic herbicides that are currently registered for use in California, or that become registered for use and contain the above-listed active ingredients and ingredients represented by the surrogate of nonylphenol.

To apply for coverage under Order 2013-0002-DWQ, submit Items 1-3 to the address shown in Item 4 below:

1. A Notice of Intent shown as Attachment E of Order 2013-0002-DWQ, signed in accordance with the signatory requirements of the Standard Provisions in Attachment B;
2. An application fee of \$2062 (*New fee amount for FY13/14.*) A fee is required only for new dischargers. Dischargers that were enrolled under Order 2004-0009-DWQ should have been billed in October 2013. If they have paid their bill and are applying for coverage under Order 2013-0002-DWQ, they do not need to submit a filing fee since they will be billed during the regular billing cycle;
3. An Aquatic Pesticide Application Plan (APAP). Dischargers that were enrolled in Order 2004-0009-DWQ may not have to submit a new APAP, but will have to amend their existing APAP to comply with requirements of the Order 2013-0002-DWQ. See Section VIII.C, page 9, of the Order 2013-0002-DWQ for details; and
4. Mailing Address: NPDES Wastewater Unit, State Water Resources Control Board, 1001 I Street, 15th Floor, Sacramento, CA 95814

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#### Hot News!

**Staff is proposing the following amendments to Order 2013-0002-DWQ (as amended by Order 2014-0078-DWQ): add calcium hypochlorite and sodium hypochlorite as active ingredients; add State Water Board delegation that allows the Executive Director to add (1) active ingredients to Order 2013-0002-DWQ (as amended by Order 2014-0078-DWQ) and (2) agencies to the SIP exception list; add three agencies to the SIP exception list; and modify the SIP exception for the Department of Water Resources.**

Draft Order Amending Order 2013-0002-DWQ (as amended by Order 2014-0078-DWQ)

Notice of Public Hearing

CEQA Documents

James Irrigation District [16.21 MB]

Madera Irrigation District [13.16 MB]

Reclamation District 1000 [14.37 MB]

Department of Water Resources [18.78 MB]

**Exception**

**Sixth Circuit Court Ruling on National Cotton Council of America v. U.S. EPA (553 F.3d 927 (6th Cir., 2009))**

On January 11, 2009, the Sixth Circuit Court of Appeals ruled that pesticide applications at, near, or over water must be covered by an NPDES permit. Thus, algacide and aquatic herbicide applications in California must be covered by the Aquatic Weed Control Permit currently being implemented under State Water Board Order 2013-0002-DWQ.

**State Implementation Policy Exception for Acrolein and Copper**

Section 5.3 of the State Water Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California or SIP allows exceptions to meeting priority pollutant criteria/objectives if the State Water Board or Regional Water Quality Control Boards determine the exception to be necessary to implement control measures either:

1. for resource or pest management (i.e., vector or weed control, pest eradication, or fishery management) conducted by public entities or mutual water companies;
2. for drinking water conducted to fulfill statutory requirements under the federal Safe Drinking Water Act or the California Health and Safety Code.

**Dischargers do not need a SIP exception to get covered under State Water Board Order 2013-0002-DWQ.**

However, since the order allows an exception to receiving water limitations for acrolein and copper, which are the only two priority pollutants regulated by the order, dischargers may apply for an exception at their discretion. To get an exception, dischargers must submit the following information to the address shown in Item 4 above:

1. A detailed description of the proposed action, including the proposed method of completing the action;
2. A time schedule;
3. A discharge and receiving water quality monitoring plan (before project initiation, during the project, and after project completion, with the appropriate quality assurance and quality control procedures);
4. Documentation of compliance with the California Environmental Quality Act;
5. Contingency plans;
6. Identification of alternate water supply (if needed); and
7. Residual waste disposal plans.

Upon completion of the project, the discharger shall provide certification by a qualified biologist that the receiving water beneficial uses have been restored.

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**Current Permit**

**Current Permit:** Water Quality Order 2013-0002-DWQ (effective 12/01/2013, expires 11/30/2018)

Weed Permit Changes

Order 2014-0078-DWQ Amending Order 2013-0002-DWQ (effective 5/20/2014)

New Fee Amount - See Fee Schedule for updated fee amount

Notice of Intent (NOI) Form (for use with 2013-0002-DWQ)

Notice of Termination (NOT) Form (for use with 2013-0002-DWQ)

List of Enrollees »» Use Order Number "2013-0002-DWQ" to Run Report

[Presentation Slides](#) »» (used during outreach efforts)

**Expired Permit: [Water Quality Order 2004-0009-DWQ](#) (expired 11/30/2013)**

[List of Enrollees](#) »» Use Order Number "2004-0009-DWQ" to Run Report

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**Fees**

[Fee Schedule](#) (NPDES Permit Fees)

Vector Control - See Section 2200(b)(6) for the permit term fee.

Other Pesticides Permits - See Category 3 of Section 2200(b)(9) for the base annual fee. Add a 21 percent surcharge for the total annual fee.

**Please Note:** The California Water Code requires the State Water Board to adjust the fees each fiscal year to conform with the revenue levels set forth in the California Budget Act. Thus, the fees could change every year.

**Ex Parte Disclosure Requirements for Pending General Orders**

Any pending Board item is subject to the ex parte communication disclosure requirements of Water Code section 13287. Any communications between interested persons and board members (other than at a noticed board meeting or submitted as a comment letter in compliance with the public notice) must be disclosed by the interested person within seven days of the communication. Sample disclosure forms are available.

Beginning 14 days before scheduled adoption by the Board, ex parte communications between interested persons and board members concerning any Board item are prohibited.

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**Notice of Intent (NOI), Aquatic Pesticide Application Plans (APAP), and Notice of Terminations (NOT)**

Applicant/Discharger	Notice of Intent (NOI) / Aquatic Pesticide Application Plan (APAP)	Comments Due	Revised Aquatic Pesticide Application Plan (APAP)	Notice of Termination (NOT)
California Department of Water Resources		06/06/14	<a href="#">NOI &amp; APAP</a>	
City of Poway	<a href="#">NOI &amp; APAP</a>	06/06/14		
Lake Alhambra	<a href="#">NOI &amp; APAP</a>	06/06/14	<a href="#">NOI &amp; APAP</a>	
Naraghi Lake	<a href="#">NOI &amp; APAP</a>	06/06/14	<a href="#">NOI &amp; APAP</a>	
San Bernardino County Flood Control District	<a href="#">NOI &amp; APAP</a>	06/09/14		
Reclamation District 833	<a href="#">NOI &amp; APAP</a>	06/09/14		
Madera Irrigation District	<a href="#">NOI &amp; APAP</a>	06/13/14		
Central California Irrigation District	<a href="#">NOI &amp; APAP</a>	06/13/14		
Resource Conservation District of Monterey County	<a href="#">NOI &amp; APAP</a>	06/23/14		
Casitas Municipal Water District	<a href="#">NOI &amp; APAP</a>	06/23/14		
Imperial Irrigation District	<a href="#">NOI &amp; APAP</a>	06/23/14		

Green Valley Lake Recreation	<u>NOI &amp; APAP</u>	07/11/14		
Town of Tiburon	<u>NOI &amp; APAP</u>	07/14/14		
Los Angeles Department of Water and Power	<u>NOI &amp; APAP</u>	07/24/14		
Clean Lakes, Inc. - Lake Machado	<u>NOI &amp; APAP</u>	07/24/14	<u>NOI &amp; APAP</u>	
California Department of Fish and Wildlife	<u>NOI &amp; APAP</u>	12/01/14	<u>NOI &amp; APAP</u>	
Reclamation District 900	<u>NOI &amp; APAP</u>	08/21/14		
Madera County Flood Control and Water Conservation Agency	<u>NOI &amp; APAP</u>	09/05/14		
East Bay Regional Park District	<u>NOI &amp; APAP</u>	09/05/14		
City of Vacaville	<u>NOI &amp; APAP</u>	10/13/14		
Ventura County Watershed Protection District	<u>NOI &amp; APAP</u>	11/14/14	<u>NOI &amp; APAP</u>	
City of Escondido	<u>NOI &amp; APAP</u>	11/21/14		
Helix Water District	<u>NOI &amp; APAP</u>	11/26/14		
San Diego County Water Authority	<u>NOI &amp; APAP</u>	01/12/15		
Woodbridge Mutual Water and Property Owners Corporation	<u>NOI &amp; APAP</u>	01/19/15		
Solano County Water Agency	<u>NOI &amp; APAP</u>	01/19/15	<u>NOI &amp; APAP</u>	
Coastal San Luis Resource Conservation District	<u>NOI &amp; APAP</u>	02/06/15		
Orland Unit Water User's Association	<u>NOI &amp; APAP</u>	02/06/15		
County of Los Angeles Department of Parks and Recreation	<u>NOI &amp; APAP</u>	02/13/15		
Stone Lake National Wildlife Refuge	<u>NOI &amp; APAP</u>	02/27/15		
Santa Fe Irrigation District	<u>NOI &amp; APAP</u>	02/27/15		

Comments may be submitted via email to: Russell Norman, WRCE at [Russell.Norman@waterboards.ca.gov](mailto:Russell.Norman@waterboards.ca.gov) or by mail to: Russell Norman, WRCE at State Water Resources Control Board, Division of Water Quality, 1001 I St, 15th Floor, Sacramento, CA 95814. Comments received after Noon on the comment due date will not be considered.

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**Contacts**

**AQUATIC ANIMAL  
INVASIVE SPECIES  
&  
WEED CONTROL  
PERMITS**

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**SPRAY APPLICATIONS  
&  
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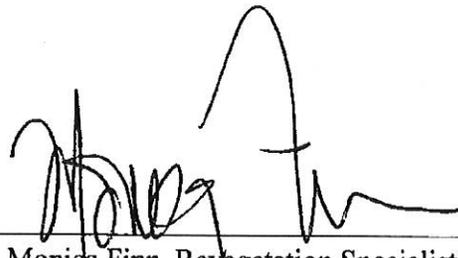
**GENERAL  
INFORMATION**

**Philip Isorena**  
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Herbicide Use Plan  
For  
Highway 101 - Willits Bypass  
Off-site Riparian and Wetland Mitigation Lands  
WDID No. 1B10019WNME

Men-101-PM 43.1/52.3  
EA 01-26200 EFIS 0100000005  
Revised November 13, 2014

Prepared by:



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Approved by:



Carolyn Brown, Branch Chief  
North Region Office of Environmental Stewardship

## INTRODUCTION/BACKGROUND

The California Department of Transportation (Caltrans) has committed to controlling invasive species and establishing riparian vegetation on the Willits Bypass off-site wetlands and riparian mitigation lands, as part of the roadway project's Mitigation Monitoring Plan (MMP) commitments associated with the project's regulatory permits. There are 32 plant species that have been identified which are subject to invasive species performance criteria (Table 8.1, attached), as part of the successful establishment and rehabilitation of mitigation lands. Most of these plants can be controlled with manual means. Himalayan blackberry (*Rubus armeniacus*), which occupies approximately 67.0 acres of the mitigation lands, is an aggressive, non-native plant that spreads vegetatively and forms large impenetrable stands. The dense thickets make it extremely difficult to cut by hand and require a long treatment time to have an effect. Canes can grow 23 feet in a single season, forming new rooting points along the way. Root crowns can be up to eight inches in diameter, and individual roots have been measured more than 35 feet long, with suckers (new plants) arising from as much as 1.5 feet deep. Manual cutting will take 3-5 years, to as many as 7 years before blackberry plants are controlled to a point that mitigation planting can occur and planting areas would be free from the disturbance of weed control activities (Bennett, 2007 and personnel communication with Restoration Contactors, 2014). Himalayan blackberry is currently growing over large areas of Riparian Rehabilitation and Establishment mitigation areas, covering an estimated 67.0 acres of the total 288.0 acres (see attached Target Weed Maps). With multi-year treatment needs and the large acreage to treat, planting in Establishment areas will need to be delayed several years until the blackberry can be controlled.

## PROPOSED ACTION

Caltrans is requesting approval to use pesticides (i.e. herbicides) to treat Himalayan blackberry on the Willits Bypass off-site mitigation lands. Pesticide use would be targeted to blackberry plants only and limited to hand application, no broadcast spraying. The expectation is to treat re-sprouts and new plants over the entire blackberry occurrence acreage the first year, with decreasing treatment needs and decreasing treatment acreage each year, over the 3- year plant establishment period. There will be no broadcast spraying allowed. Any chemical approved shall be safe for aquatic sites. Blackberries are concentrated on upper creek banks, but extend into adjacent meadows, wetlands and fields. Treatment is proposed for late summer and fall when water is not present. Application will not be allowed when surface water is present.

## JUSTIFICATION

Pesticide treatment, on either fully leafed out plants or on resprouts, is currently considered to be the most effective strategy for controlling Himalayan blackberry. Caltrans believes there is a compelling reason to use herbicides on blackberry, based on the tenacious nature and growth pattern of this plant, the substantial occurrence on the mitigation lands (in acres, see attached Target Weed Maps) and the delay to the planting schedule that manual removal would require. Best Management Practices will be implemented through the mitigation project standard specifications.

BEST MANAGEMENT PRACTICES:

Contract specifications will include the requirements for:

1. Limiting herbicide use to the targeted treatment of Himalayan blackberry, in the areas shown on the Target Weed Maps, attached.
2. Limiting the application to a hand method.
3. Prohibiting the use of broadcast spraying.
4. Prohibiting the use of chemicals when surface water is present.
5. Herbicides should not be applied if rain is forecasted within the 24 hours of the proposed application event.
6. Limiting the use of approved chemicals to only those approved safe for aquatic sites. Labels for. Examples of pesticides that would be acceptable for use on the mitigation lands are, two glyphosate products, Rodeo and Aquamaster and two Imazapry based chemicals Stalker and Habitat.
7. The contractor to submit a copy of the licensed pest control adviser's recommendation, at least 60 days before the start of work, or the proposed application of any pesticide for Caltrans and Water Board review and approval.
8. The pest control adviser's recommendation will be prepared for all pesticide under the Food and Agriculture Code, and must include the pesticides to be used, rates of application, methods of application and application areas.
9. Upon award of the mitigation contracts, the Contractor will prepare a Weed Management Plan, which will address all weed control activities on the project. This plan will incorporate the recommendations of the pest control adviser, along with specific contact information of the applicator(s), schedule of proposed chemical use, general time period and location of expected use, description of the treatment area, application method, amount of project to be used, any water use restrictions or precautions during use, measures to prevent pesticide spills, and a plan for education of the applicators and staff on potential adverse affects of the pesticide application. The Weed Management Plan will be submitted to Caltrans and the Water Board for review and approval.
10. The pesticide applicator to have an active and valid qualified applicators license or certificate for the Department of Pesticide Regulation.
11. Pesticides must comply with the Department of Pesticide Regulation.
12. The contractor to submit a copy of the registered label for the pesticide, before mixing a pesticide. If the contractor is unable to provide a copy, the Construction Engineer will be allowed to read the label on the container.
13. The contractor to mix and apply pesticides under the requirement of the Department of Pesticide Regulatory and the instructions on the pesticide product label.
14. Pesticides cannot be applied on Saturdays and holidays unless authorized.
15. Pesticides cannot be used whenever weather and wind conditions are unsuitable for application.

16. Use of a pesticide with a photosensitive dye that produces a contracting color when applied. The dye must not stain surfaces or injure plants or wildlife when applied at the manufacturer's recommended application rate.
17. The Construction Engineer must be notified of pesticide application times at least 24 hours before each application.
18. At the end of each week, when pesticides are used, the contractor will submit a report documenting the application of all pesticides as an informational submittal. This information will be provided to Caltrans using the Caltrans form, Report of Chemical Spray Operations.