



# STATE OF NEVADA

Department of Conservation & Natural Resources

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

DIVISION OF ENVIRONMENTAL PROTECTION

Colleen Cripps, Ph.D., Administrator

## NOTICE OF PROPOSED ACTION

February 11, 2011

The Administrator, Division of Environmental Protection, Carson City, Nevada is issuing the following notice of proposed action under the Nevada Revised Statutes and the Clean Water Act. The Administrator is proposing to issue a new General National Pollutant Discharge Elimination System (NPDES) permit: [NVG870001](#).

The proposed permit will authorize discharges associated with various pesticide application activities to **Waters of the United States**. The Clean Water Act provides that the discharge of pollutants to **Waters of the United States** from any point source is prohibited, unless the discharge is in compliance with an NPDES permit. [NVG870001](#) was developed in response to a decision by the Sixth Circuit Court of Appeals (*National Cotton Council, et al. v. EPA*); this decision designated the application of pesticides a "point source." This Court's decision established that pesticide discharges to **Waters of the U.S.** require NPDES permits. [NVG870001](#) was developed to authorize pesticide discharges of pesticides to **Waters of the State** pursuant to Nevada Revised Statutes [NRS 445A.465](#); this regulation prohibits discharge of pollutants from a point source without a permit. This permit will allow NDEP to provide coverage to operators and establish requirements to ensure that pesticide discharges will not adversely impact public health, water quality or the environment. **Terrestrial applications to control pests on agricultural crops or forest floors are exempted and thus not covered by this permit.**

Discharges from the following four (4) pesticide application categories are required to obtain coverage under [NVG870001](#) prior to any pesticide discharge activity: Category 1 - Mosquito and Other Flying Insect Pest Control, Category 2 - Weed and Algae Control, Category 3 - Nuisance Animal Control, Category 4 - Forest Canopy Pest Control.

On the basis of preliminary review of the requirements of the Nevada Revised Statutes, as amended and implementing regulations, and The Clean Water Act, the Administrator proposes to issue a General National Pollutant Discharge Elimination System (NPDES) Permit [NVG870001](#) for a five (5) year period, subject to the effluent limitations as described above.

Persons wishing to comment upon or object to the proposed determinations by the Administrator regarding permit issuance, or request a hearing pursuant to the Nevada Administrative Code, Water Pollution Control, should submit their comments or request, in writing, within thirty (30) days of the date of newspaper publication, hand-delivered or postmarked no later than 5:00 P.M. on [March 18<sup>th</sup>, 2011](#), either in person or by mail to:

Nevada Department of Conservation and Natural Resources  
Division of Environmental Protection  
Bureau of Water Pollution Control  
901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701-5249

The request must be filed within the comment period and must indicate the interest of the person filing the request and the reasons why a hearing is warranted. All comments or objections received within the thirty (30) day period will be considered in the formulation of final determinations regarding the application. If written comments indicate a significant degree of public interest in the proposed permit, the Administrator shall hold a public hearing. A public notice of such hearing will be issued not less than thirty (30) days prior to the hearing date.

If no hearing is held and the determinations of the Administrator are substantially changed from the tentative determinations, the Administrator will give public notice of the revised determinations. Additional comments and objections will be considered at that time.

The application, proposed permit, comments received, and other information are on file and may be copied or copies may be obtained by writing to the above address or by contacting [Alexi Lanza, P.E.](#) Bureau of Water Pollution Control at (775) 687-9468, or at [alanza@ndep.nv.gov](mailto:alanza@ndep.nv.gov). The office facsimile number is (775) 687-4684. This notice and the Fact Sheet for this facility are also available on the NDEP website at [www.ndep.nv.gov/admin/public.htm](http://www.ndep.nv.gov/admin/public.htm).

Please bring the foregoing notice to the attention of all persons whom you know would be interested in this matter.