

# The MidSouth Aquatic Plant Management Society

Volume 19 No. 2

June 2001

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## A Message From the President

Spring is springing, birds are singing, and aquatic plants are bursting on to the scene. Don't you just love this time of the year? I am sure that many of you may not have a chance to read this newsletter until the hot days of summer, but I finally sat down to write my two cents worth on a wet, spring afternoon. This time of the year the speed and urgency of the awakening plant world always amazes me. However, I know the budding and blooming is soon followed by the ringing of the phone or the pond owner coming by the office with a bucket of "moss, grass or slime" that is messing up his fishing. I am sure if Thoreau had found Walden Pond covered in duckweed he would have had his own little hissy fit.

I truly enjoyed our annual meeting at Lakepoint State Park last October, and I would like to thank all of you who helped put it together. A special thanks goes out to Dr. David Bayne and his staff for all of their work in conducting the aquatic plant identification short course, and to Frank Dukes and the staff of the Eufaula National Wildlife Refuge for the tour of the refuge. Both of these events were very interesting and informative.

Finally, I would like to challenge each member to take an active role in insuring that the MidSouth Aquatic Plant Management Society remains the strong, stable organization that it is today, dedicated to advancing the knowledge of aquatic plant management. Over the last several years I have found out just how much effort is involved in keeping the MidSouth flying. One thing always remained clear: it takes a team effort to maintain a successful organization. When a member of the nominating committee calls you in the near future, remember the words of a wise old bank teller: "You only get something out if you put something in."

---Ken Weathers

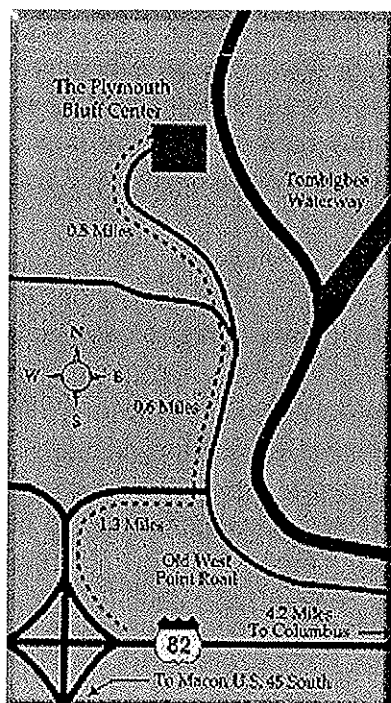
## Inside This Issue...

- \*\* 2001 Meeting Announcement and 1st Call for Papers
- \*\* Proposed MSAPMS By-laws change
- \*\* NPDES Permits for Aquatic Herbicide Application?
- \*\* Product Updates



## MSAPMS 2001 ANNUAL MEETING

President-elect David Franks has selected the location for this year's MSAPMS Annual meeting. The meeting will be held on October 24-26, 2001 at the Plymouth Bluff Center near Columbus, Mississippi. The Plymouth Bluff Center is a 190-acre educational and recreational facility located in a secluded area high above the historic Tombigbee River. The beautiful woodlands of east-central Mississippi and the thriving sun belt provides the ideal setting for learning, growth, and recreation in a natural setting. The Center is operated by the Mississippi University for Women.



### Scholarship Golf Tourney

The annual MSAPMS scholarship golf tournament will be held at the Elm Lake golf course. Those wishing to participate should contact Larry Pugh at

[larry.pugh@dwfp.state.ms.us](mailto:larry.pugh@dwfp.state.ms.us)

**Lodging** at the meeting site is limited to 24 (2-beds) cabins. Please make plans for shared double occupancy of cabins when possible. The cabin rates are \$55 plus tax, and are available for Tuesday evening arrival if necessary. Reservations may be made direct at 1-662-241-6214 (ask for Rhonda), or through the MUW at 1-877-462-8439 ext. 6214. Reservations may also be made via e-mail at [rgentry@muw.edu](mailto:rgentry@muw.edu). Be sure to include your credit card number and expiration date.

Overflow lodging is available in nearby Columbus. David suggests the Comfort Inn at the junction of Hwy 45 and 82. Reservations by phone at 1-800-228-5150 or 662-329-2422. There is also a Hampton Inn, 662-328-6720, located at 2015 Military Road. Information for other popular hotel listings, as well as information on Columbus, is available at <http://www.columbus-ms.org/hotel.html>.

If anyone plans on flying into the Golden Triangle Regional Airport, please fax your flight information to David in advance and he will arrange transportation to the meeting site.

### First Call for Papers

Those wishing to make a presentation at the meeting should submit a title along with presenter name, affiliation, and other contact information to Program Chairman David Franks. Booth space for exhibitors will be available in the social area at the meeting site.

**FAX - 662-256-3914**

[larry.pugh@dwfp.state.ms.us](mailto:larry.pugh@dwfp.state.ms.us)



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## **GET WELL SOON!!!**

The MSAPMS wishes a complete and speedy recovery for Doug Powell, who had a recent battle with cancer,

*and for*

Mrs. Janice Franks, who recently underwent surgery to remove an abdominal tumor.

Get well soon, our thoughts and prayers are with you.



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## **Are new permit requirements in our future?**

By Steven de Kozlowski, Manager, Aquatic Nuisance Species Programs, South Carolina Department of Natural Resources

Aquatic herbicides, which are designed for use in water, have never been considered a pollutant in the past, but that may change. The United States Ninth Circuit Court of Appeals ruled last month that the application of the aquatic herbicide Magnacide H (acrolein), in irrigation canals in Oregon requires a National Pollutant Discharge Elimination System (NPDES) permit, and that the EPA-approved label under the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) does not eliminate the obligation to obtain a NPDES permit.

This ruling overturns a lower District Court ruling that recognized the active ingredient in Magnacide H, acrolein, as a "pollutant" because it can be toxic to fish and other wildlife. However, the

lower court ruling also stated that a NPDES permit was not needed because the herbicide label, as approved by the EPA under FIFRA, did not require the user to acquire a permit.

On the surface this ruling appears to indicate that NPDES permits may be in the cards for all aquatic herbicides. Maybe, but hopefully not. A closer look at the Oregon case bears out some extenuating circumstances.

For one, Magnacide H is a "restricted use" product. That is, it is much more toxic to fish and other aquatic life, which places it in a different category of herbicides than all the other aquatic products that we use. Hopefully, any federal permit requirements would be limited to restricted use products. Second, Magnacide H is only labeled for use in canals and ditches. It is not labeled for use in lakes, streams, and ponds, and should not be applied to drainage areas where runoff or flooding will contaminate other bodies of water. In fact, the label clearly states "Do not release treated water (from the canal) for 6 days after application into any fish bearing waters or where it will drain into them." In the case in Oregon, the treated canals discharged water into fish bearing streams during the 6-day holding period and on two occasions the discharged treated water caused fish kills. It seems that the applicant in this case was in clear violation of the label and enforcement of the current label would have been sufficient to protect water quality conditions. Third, the herbicide was applied to the canals by a single hose from a truck, which can be clearly defined as a point source discharge. Diffuse areal application of an herbicide to a water body may not be so clearly defined as a point source discharge.

On the other hand, there are statements by the EPA and several interpretations by both the



## Proposed Changes to the MSAPMS Bylaws

Current language in our bylaws defines the office of "secretary-treasurer" to be one person. By voice vote approval at the last annual meeting, the officers and board of directors at the mid-winter meeting discussed separation of duties for that office. The language to accomplish this will affect Article V, Section A, D, and F of the MSAPMS Bylaws to the extent that two officers will serve in place of one. Election of those officers will be consistent with existing bylaws as described in Section F.

Proposed changes to be voted on at the October 2001 annual meeting:

**Section A: Officers of the Society shall be: (a) President, (b) President-elect, (c) Secretary, (d) Treasurer, and (e) Editor**

**Section D: The Secretary shall maintain membership records and serve on the membership committee. The Secretary shall also keep minutes of all meetings, mail out minutes and notices as directed by the Board, and perform all other duties usually associated with the office.**

**The Treasurer shall be custodian of all dues and funds of the Society. The Treasurer shall pay all bills exceeding \$100.00, as authorized by the Board of Directors, and shall pay bills of less than \$100.00 at his or her discretion, and at the annual meeting give a true and complete report of the financial status of the Society. The**

**Treasurer shall before assuming office be required to make and execute a good and sufficient surety bond in an amount of not less than Five Thousand (\$5,000.00) Dollars conditioned on the faithful performance of the duties of his office, the expense of said bond to be borne by the society. The Treasurer shall deposit all receipts in a bank designated by the Board, and the signatures of the Secretary, Treasurer, or President shall be authorized on Society checks. An annual audit of the books shall be made by the Auditing Committee, and a report of the audit presented to the Society membership at the annual meeting.**

**Section F:**  
(as a clarification, the following statement is amended)

**Secretary and Treasurer, elected annually, may serve up to three (3) consecutive years.**

Anyone wishing to have a copy of the MSAPMS Bylaws should fax a request to David Franks at 662-256-3914 (no, he doesn't have e-mail!)



Federal District and Circuit Courts that lean toward the possibility of requiring NPDES permitting for aquatic herbicide applications in public waters. For one, although the EPA administers both FIFRA and the Clean Water Act, it stated in an amicus brief that "EPA approves pesticides under FIFRA with the knowledge that pesticides containing pollutants may be discharged from point sources into the navigable waters only pursuant to a properly issued CWA (NPDES) permit." Also, in 1995, the EPA issued a public notice that a label's failure to include the possible need for a NPDES permit does not relieve a producer or user of such products from the requirements of the Clean Water Act. These statements seem to indicate that if a product violates conditions of the Clean Water Act it should require a permit.

To establish a violation of the Clean Water Act one must show that there is a discharge of a pollutant to navigable waters from a point source. The courts definitions of the underlined words in the previous sentence are critical. The courts have found that the direct application of an herbicide into water qualifies as a "discharge" and although the definition of a "point source" is not clear from the ruling issued by the Circuit Court, it seems reasonable that a discharge from application equipment could easily be interpreted as a "point source" as opposed to diffuse runoff which is "nonpoint source." Both the District and Circuit Courts define a pollutant as any "toxic chemical" and even though all other aquatic herbicides are not "restricted use" products like acrolein, they will likely be defined as toxic since they are designed to kill plants. It seems to be the opinion of the Circuit Court that the definition of "navigable waters" includes all surface waters that receive water from or are tributary to navigable waters of the United States. This includes the canals in Oregon and most other public waterways.

The final interpretation and implementation of this ruling either by higher courts or EPA will likely be a defining moment in the profession of aquatic plant management. When this will be worked out, is unclear. But what is clear is that we are on the brink of what could be a significant change in the way we do business in the Carolinas and across the U.S.

### **NPDES Permit Program**

Facilities which discharge pollutants from point sources (such as discharge pipes) into waters of the United States are required to obtain National Pollutant Discharge Elimination System (NPDES) permits. The NPDES program falls under Section 402 of the Clean Water Act. Typically, wastewater discharges regulated under the NPDES program include industrial wastewater, storm water, and treated effluent from municipal sewage treatment plants, but the recent ruling may expand the definition of "point source" and "pollutant".

### **FIFRA Licensing**

The Federal Insecticide, Fungicide, Rodenticide, Act (FIFRA) provides the overall framework for the federal pesticide program. Under FIFRA, EPA is responsible for registering, or licensing pesticide products for use in the United States. Pesticide registration decisions are based on a detailed assessment of the potential effects of a product on human health and the environment, when used according to label directions. These approved labels have the force of law, and any use which is not in accordance with the label directions and precautions may be subject to civil and/or criminal penalties. FIFRA also requires that EPA reevaluate older pesticides to ensure that they meet more recent safety standards. FIFRA requires EPA and states to establish programs to protect workers, and provide training and certification for applicators as well.

## Product Updates

**Cerexagri, Inc.** ([www.cerexagri.com](http://www.cerexagri.com)) announced an agreement with nufarom Americas, Inc. to market **AquaKleen** (2,4-D) granular aquatic herbicide for control of watermilfoil and other aquatic plants and **AquaNeat** (glyphosate) aquatic herbicide to control emergent plants.

**SePro** ([www.sepro.com](http://www.sepro.com)) announced the addition of **AquaPRO** (glyphosate) aquatic herbicide for emergent plants. **AquaPRO** will be available in 1 gallon containers.

**Griffin LLC** ([www.griffinllc.com](http://www.griffinllc.com)) announced the introduction of **Eagre** (glyphosate) aquatic herbicide for control of emergent plants. **Eagre** will be available in 1, 2.5, and 30 gallon containers.

### **Applied Biochemists**

([www.appliedbiochemists.com](http://www.appliedbiochemists.com)) announced the introduction of their own branded **Copper Sulfate Crystals**. **Copper Sulfate Crystals** are available in cases of 6 x 5 lb. pails.

updates from "The Cygnet News" March, 2001

## 2001 MEMBERSHIP DUES

NAME: \_\_\_\_\_

AFFILIATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

Make checks payable to:  
**MidSouth Aquatic Plant Management Society**

**Full Membership** \$10

**Student** \$ 5

**Sustaining** \$50

**Amount enclosed:**

**Remit to:** Renee Beam  
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Auburn University  
Auburn, Alabama 36849



**The MidSouth Aquatic  
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**C/O**

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