
EVIDENCE OF DUNCAN PETER GRAY

FRESHWATER ECOLOGY AND WATER QUALITY

DATED 1 MARCH 2024

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Introduction

1. My full name is Duncan Peter Gray. I am employed as a senior water quality and ecology scientist by the Canterbury Regional Council (Environment Canterbury/the Council). I have held this position for eleven years.
2. I confirm that I have read and agree to comply with the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2023. Other than where I state that I am relying upon the evidence of another person or source, the evidence in this statement is within my area of expertise. I have not knowingly omitted to consider material factors known to me that might alter or detract from the opinions I have formed.

Qualifications and experience

3. I hold an MSc Hons and PhD in stream ecology from the University of Canterbury and am a member of the New Zealand Freshwater Sciences Society (**NZFSS**).
4. I have 20 years' experience in freshwater ecology.
5. On completion of my PhD in 2009, I worked for two years as a consultant ecologist for Golder Associates in Christchurch. In this role, I was primarily involved in the provision of expert advice to Environment Canterbury on the review of flow and allocation regimes, particularly regarding the Wainono Lagoon catchment, Selwyn/Te Waihora catchment, and the Orari and Waiau Uwha rivers. I was also involved in assessing the ecological impacts of development projects, such as wind farms and coal mining operations.
6. Following that, I commenced my role at Environment Canterbury. I have worked for eight years on the development of variation one of the Canterbury Land and Water Regional Plan (LWRP), and sub-regional processes for the South Canterbury Coastal Streams, Upper and Lower Waitaki, Wairewa and assorted Omnibus amendments. These sub-regional plans have variously dealt with both the flow and water quality impacts upon the ecological value of streams and rivers.

7. I have published eight peer-reviewed scientific papers and a number of reports detailing original research on invertebrates, fish and water quality. My PhD focused primarily on ecology within braided rivers.
8. I remain actively involved in research through my association with the NZFSS, various universities and Crown research institutes. I am lead chapter author on an update of the Freshwaters of New Zealand book.

Engagement

9. I was initially asked by Rivers to provide advice upon the potential effects of herbicide usage by Rivers in their routine activities. The focus of the first part of this evidence is on the use of generic products that have glyphosate, diquat and triclopyr as their active ingredients. This work was completed in May 2023.
10. Subsequently I was asked to provide comment on the draft S42A report and documents contained therein. That advice is contained within this document below the initial piece of evidence as an evidential addendum. The reason for completing these comments based on the draft documents was to provide this assessment prior to the end of my employment at Environment Canterbury.

Materials

11. In forming my opinion, I have relied upon a range of materials cited in this statement. In addition, I have reviewed the following documents in preparing this evidence:
 - (a) The Canterbury Land and Water Regional Plan (LWRP)
 - (b) Draft evidence on water quality and ecological effects by Laura Drummond addendum to the Section 42a officers report.
 - (c) A set of draft proposed conditions appended to the S42A report.
 - (d) Draft evidence prepared by Mel Shearer for the applicant.
 - (e) Draft evidence on groundwater quality by Marta Scott for the applicant.

Assessment

12. Environment Canterbury has a role in managing river environments. Operationally, this work includes, but is not limited to maintaining flood protection and drainage schemes in the region, managing biosecurity risks, and enhancing associated wetland and riverine environments. Agrichemical spraying is used for vegetation control in fairways and berms of larger rivers, as well as smaller drainage scheme waterways. Both terrestrial and aquatic vegetation is targeted as required, which may involve spraying over water in the case of macrophytes.
13. Rivers currently hold resource consent to use Glyphosate, Triclopyr and Diquat with associated surfactants. In the future Rivers would like to establish a pathway to use other agrichemicals when deemed appropriate. However, the use of alternative agrichemicals is envisaged to require an internal assessment of effects prior to use. Specific additional agrichemicals are not considered further in this document.
14. There is a large body of research on the fate and impacts of pesticides within the environment and yet there remains considerable controversy around the appropriateness or otherwise of the use of this multitude of different chemicals. There follows a brief review of human health and aquatic ecological risks associated with glyphosate, triclopyr and diquat use on or near rivers, lakes and wetlands.

Glyphosate

15. In the U.S a broad scale survey of Glyphosate in ground and surface waters, sediments and precipitation totalling 3732 samples concluded that Glyphosate and its breakdown product AMPA were mobile and occur widely in the environment (Battaglin et al., 2014). Glyphosate was detected in more than 50% of samples of sediments, water in ditches and drains, precipitation, large rivers and streams, but in less than 40% of samples of lakes, ponds and wetlands, soil water discharges and groundwater. Glyphosate was routinely detected alongside AMPA. Concentrations were typically less than toxicological levels of concern for humans and wildlife (Battaglin et al., 2014).
16. A New Zealand wide survey of groundwater in 2018 found contamination by glyphosate in 1 well from 135 (Close & Humphries, 2019). However, a Canterbury

specific survey of stream bed sediments in 2019 found glyphosate and AMPA at 9 out of 13 sites (unpublished Canterbury Regional Council data). An experiment to determine the persistence of glyphosate and AMPA in drains near Rangiora found there was a background presence of both chemicals and both chemicals remained present in the sediments 14 weeks after spraying (Collins & Harding, 2017).

17. Acute and chronic toxicity of glyphosate to humans appears to be low although additional chemicals in some formulations may cause greater irritation of the skin and eyes than the chemical itself. Glyphosate is poorly absorbed from the digestive tract and mostly excreted unchanged by mammals leaving only minute amounts in the body after 10 days (US-EPA, 1987). Glyphosate is considered to have no significant potential to bioaccumulate in the environment, although elevated levels in manatee plasma have been found associated with chronic exposure (Maria et al., 2021).
18. The World Health Organisation (WHO) (2005/2011/2017) states that because glyphosate in the environment occurs at concentrations well below those at which human toxic effects are observed, it is not considered necessary to derive a guideline value. WHO (2017) did develop a health-based value of 0.9 mg/L for AMPA alone or in combination with glyphosate. Because of their low toxicity, the health-based value derived for AMPA alone, or in combination with glyphosate, is orders of magnitude higher than concentrations of glyphosate or AMPA normally found in drinking-water. For this reason, a maximum acceptable value for NZ drinking water standards has not been derived.
19. The active chemical in Glyphosate is considered moderately persistent in soils with an estimated half-life of 47 days. The compound is strongly adsorbed to soils so not considered a risk of leaching despite being highly soluble in water. In aquatic systems the chemical is strongly adsorbed to particles and broken down by microorganisms. Half-lives range from 12 days to 10 weeks, although AMPA (the breakdown product) may persist much longer. AMPA is considered to have similar toxicity to glyphosate and elevated levels in soils have been linked to effects on earthworm populations (Dominguez et al., 2016). Glyphosate may be translocated extensively throughout a

plant. However, while it is metabolised by some plants it remains intact in others (Kidd & James, 1991).

20. Toxicological studies on birds, fish, bees and earthworms have found the specific glyphosate chemical to be slightly toxic to non-toxic. However, some formulations may be more toxic due to differences in the salts and parent compound or the surfactants included (Annett et al., 2014). For example, while glyphosate was found to be not toxic to bumble bees an additional chemical found within Roundup Ready-to-use caused 90% mortality (Straw et al., 2021).
21. Most guidance on safe levels are based on toxicity bio-assays for single species that do not provide information on sub-lethal impacts, chronic effects and effects on ecosystems (Rodrigues et al., 2017; Vera et al., 2010). Although evidence is limited and piecemeal due to the complexity of ecological systems there exists a growing number of studies that have identified impacts of glyphosate based herbicide use on ecosystems (Annett et al., 2014; Griesinger et al., 2011; Kelly et al., 2010; Vera et al., 2010). For example in lakes glyphosate exposure had species specific effects on diatom community development with the potential to impact benthic habitats and whole aquatic ecosystem function (Corrales et al., 2021).
22. Glyphosate has also been linked to the proliferation of cyanobacteria through the suppression of green algae and elevation of phosphorus concentrations which is a breakdown product (Berman et al., 2020; Vera et al., 2010). Lakes tended to shift from clear to turbid states and there was a general shift in the diatom/phytoplankton community. In another study soil mycorrhizal communities were significantly altered after glyphosate application and changes in earthworm behaviour changed general soil leaching rates (Zaller et al., 2014).
23. Glyphosate application has been regarded as a successful tool for the control of Grey Willow in New Zealand wetlands (Griffiths et al., 2018). Relative to equivalent triclopyr applications, glyphosate substantially reduced the dominance of tall Grey Willow and increased the cover of most native plant groups. However, the authors also noted that the effect was not enduring as Grey Willow seed from outside the sprayed area allowed the species to re-establish over time and the aerial spray

method did result in non-target species impacts when the willow canopy cover was initially patchy.

24. Terrestrial invertebrates in the Whangamarino wetland responded to the control of Grey Willow by glyphosate with a decline in all metrics after 27 days (Watts et al., 2015). However, this was attributed to changes in available habitat with the death of the grey willow canopy and after 1 year all metrics of invertebrate communities showed an increase over the starting point.
25. A laboratory based study comparing glyphosate and triclopyr based herbicides on the growth of *Lemna minor*, a common floating pond weed, a green algae and on enzymatic activity in soil found that the triclopyr product had an order of magnitude greater inhibitory effect than glyphosate, but that all herbicides were toxic to non-target species (Tajnaiova et al., 2020).

Triclopyr

26. Triclopyr comes in two available forms; an ester and an amine-based product. MSDS documents indicate that the ester-based product is highly toxic to fish and aquatic invertebrates and should not be used close to waterways or over shallow groundwater. The Garlon XRT MSDS describes the ester-based compound as a risk to groundwater contamination particularly in areas with shallow, permeable soils. These constraints are not considered to apply to the amine-based products which, based on toxicological tests have been found to be only slightly-toxic to non-toxic to a range of non-target organisms.
27. Triclopyr amine and ester compounds are considered to have low toxicity to humans if swallowed in small quantities, although respiratory and eye irritation may occur with prolonged exposure. In general, the compound is not considered to be a single exposure toxicant, although some formulations cause significant eye irritation in rabbits according to the Extension Toxicological Network Pesticide Information Profile (EXTOXNET). The NZ drinking water standards have set a provisional MAV of 0.1 mg/L triclopyr (MoH 2018).

28. Biodegradation is rapid under controlled laboratory conditions, but under OECD test guidelines the compound cannot be considered readily biodegradable. EXTOXNET states the half-life in soil ranges from 30-90 days, although a breakdown product, trichloropyridinol, had a half-life of 279 days. Triclopyr does not readily bind to soils so can be highly mobile. Reported half-lives in water are 2.8 to 14.1 hours, depending on season and depth of water.
29. The compound is readily translocated throughout plant tissues after uptake through foliage. Cowberries contained residues of 2.4 ppm at 6 days, 0.7 to 1.1 ppm at 30 to 36 days, and 0.2 to 0.3 ppm at 92 to 98 days after application. Half-life in above ground drying foliage is estimated to be 2-3 months (EXTOXNET). Bioaccumulation potential is considered low. Accordingly, while caution is advised for handlers of the chemical there does not appear to be a high risk of effects due to ingestion of plant or animal material subsequently collected from the sprayed area, provided a suitable period of time has elapsed for breakdown in soils or water.
30. A Canadian study into the risk of bioaccumulation of triclopyr in browsing mammals found an acceptable level of risk for acute exposure (a single application). However, there was deemed to be an unacceptable level of risk for chronic toxicity in moose (Voinorosky & Stewart, 2021). The study suggested site- and species-specific information was needed to determine the actual risks of bioaccumulation in browsing species.
31. Similar to the glyphosate suite of herbicides, results have been found whereby various formulations using triclopyr showed different degrees of genotoxicity in a freshwater eel (Guilherme et al., 2015). However, some DNA damage occurred in the presence of both the triclopyr and proprietary formulations. These results highlight the importance of keeping triclopyr out of water.
32. Aerial application of triclopyr (amine) was found to be ineffective at targeted grey willow control and resulted in a decrease in the dominance of non-target native species (Griffiths et al., 2018). In another study, applications of Garlon 360 (triclopyr amine) were found to be highly effective against alder, water celery and purple loosestrife, but grey willow showed regrowth after 1 year (Champion et al., 2011).

33. A study overseas found that a cocktail of herbicides were more effective at controlling woody vegetation, including willow species and promoting a mosaic of herbaceous plants (Hutchinson & Langland, 2010). Control of tamarisk in American Southwest rangelands has resulted in triclopyr residues in soils at levels that effect non-target species up to 89 days after application (Douglass et al., 2016). There was an interaction between herbicide degradation variability due to localised soil properties and the sensitivity of non-target species that influenced the overall trajectory of plant communities. These interactions could be exploited or should at least be understood to inform the design of long term herbicide usage projects with the intent of restoring native vegetation or controlling infestations.
34. Further evidence to support the need for carefully designed site and community specific herbicide regimes come from the differential effects of both glyphosate and triclopyr on lichens in North-eastern Ontario (McMullin et al., 2012).
35. A Canterbury specific survey of stream bed sediments in 2019 found Triclopyr at 1 out of 19 sites in water samples and at zero sites in sediment samples (unpublished Canterbury Regional Council data). However, across 269 surface water samples at 76 sites collected in Canterbury between 1988 and 2001 triclopyr was detected on 37 occasions with a maximum concentration of 5.6 µg/L. Triclopyr was the third most commonly detected herbicide behind Simazine and Terbutylazine (unpublished Canterbury Regional Council data).

Diquat

36. Diquat bromide is a non-selective, fast acting herbicide and plant growth regulator causing injury only to the part of the plant to which it is applied. EXTOXNET states it is considered moderately toxic via ingestion with cows being particularly sensitive. Diquat is also considered moderately toxic via exposure to the skin. Chronic effects include damage to the eyes and skin. Ingested and dermal doses of Diquat are rapidly excreted from the body with complete elimination after 4 days by rats.
37. The chemical is considered slightly to moderately toxic to birds and moderately to practically non-toxic to fish and aquatic invertebrates. However, certain fish species

have been found to suffer significant respiratory stress at diquat concentrations in water similar to those used for aquatic vegetation control (Johnson & Finley, 1980).

38. The majority of toxicology studies on Diquat have been classical acute or chronic exposure mortality assays. However, this approach has been criticised as unrealistic given the very short periods of exposure wrought by rapid adsorption to particles (Clayton, 2021). Based on the application instructions for some Diquat based products for aquatic plants in water, exposure is more likely to take the form of multiple short term pulses (McCuaig et al., 2020).
39. Bouetard et al. (2013) found results indicative of oxidative stress in the cosmopolitan water snail *Lymnea stagnalis* after a single short exposure. A subsequent study found that repeat doses of Diquat altered cellular level processes in juvenile Rainbow trout that had implications for growth rates (McCuaig et al., 2020). Both these studies make the point that the effects on benthic macroinvertebrates and potentially fish have not yet been adequately assessed (Emmett, 2002).
40. Field based studies on the negative effects of Diquat have typically found no response to the target organism (Breckles & Kilgour, 2018). Neither aquatic invertebrate community structure nor amphibian growth and condition showed any effect in separate studies (Cooke, 1977; Wilson, 1968). A study in New Zealand examined the effects of Diquat exposed Shortfin Eel (*Anguilla australis*) in the Avon River, Christchurch, during the treatment of a weed infestation. Various measures of stress were taken and no response to herbicide application detected (Tremblay, 2004).
41. It should be noted that Diquat was banned by the EU in 2019 based on concerns related to the exposure of bystanders, residents and birds. The use of diquat in the EU remains a topic of considerable controversy.
42. Diquat is considered to be highly persistent in soils because it binds so strongly to organic matter and clay particles (EXTOXNET). It may remain present for long periods of time (months), but it is considered biologically inactive whilst bound. When applied to water the chemical disappears rapidly due to particle binding. Diquat is

rapidly adsorbed into plant tissues, but kills the tissue immediately preventing further movement of the compound around the plant. While it would not be considered appropriate to swim or gather aquatic food sources immediately after the application of diquat, the rapid adsorption of the compound to particles and consequent non-mobility in the environment or bioaccumulation mean these activities will be safe after an elapsed period of time. A Canterbury specific survey of stream bed sediments and water in 2019 found Diquat at zero out of 8 sites (unpublished Canterbury Regional Council data).

Advice on the actual and potential effects due to the use of Glyphosate, Triclopyr and Diquat: water quality, aquatic and terrestrial fauna, flora and ecosystems

43. Effects of herbicide use on water quality, fauna, flora and ecosystems will be variable between site types, receptor sensitivities, the chemical(s) used, and the application regime; discrete or periodic. A review of the literature shows science is barely scratching the surface of understanding the range of effects herbicides have on the natural environment (Kohler & Triebskorn, 2013).
44. However, the information to hand suggests that each chemical or formulation has the potential for a range of deleterious effects. Thus, while effects on water quality, fauna, flora and ecosystems are very difficult to quantify, describe or predict, there remains the potential for effects to occur. Accordingly, a cautious approach should be taken to herbicide use alongside a strategy to reduce, minimise or avoid their use if possible.
45. The inappropriate use of herbicides could demonstrably result in a loss of ecological values and biodiversity. Therefore, each proposed use of herbicides should occur within a strategic framework or plan that outlines the measures taken to ensure the protection of biodiversity (through avoidance of effects on water quality, fauna, flora and ecosystems) and alternative management options that should be explored.

46. For example, many stable flowing waterways are prone to growths of nuisance levels of exotic macrophytes that, amongst other unfavourable outcomes, exacerbate flooding. Current practises may involve herbicide application to reduce or clear aquatic macrophyte growth. Clearance is an appropriate strategy for achieving eradication of pest macrophyte species (such as *Egeria*, *Lagarosiphon*, or *Ceratophyllum*). However, most other exotic macrophytes contribute significantly to the structure of aquatic ecosystems and need only to be prevented from reaching excessive or nuisance biomass levels. It is therefore important to have clear objectives of the purpose and outcome of herbicide application to aquatic macrophyte communities.
47. The excessive application of herbicides to waterways and riparian areas may cause impacts beyond the targeted objective, and exert effects on fauna and flora, and the die back and rotting of weeds may reduce dissolved oxygen in the water (Jewell, 1971). Manual clearing or mechanical clearing may be a more appropriate method.
48. As a further alternative to using agrichemicals, weed growth in narrow (<2m) waterways can be suppressed by shading from riparian vegetation. The ongoing, targeted use of a herbicide might be justified as a transitional tool while riparian vegetation is established. However, the accumulative effects of routine herbicide management of the waterway in perpetuity would not appear to put the health of the waterway or wider environment first.
49. An additional effect that should be considered in the context of riparian vegetation is the increased degree of runoff and bank erosion associated with denuded vegetation. At a time when there is a growing emphasis on the planting of stream banks for a variety of reasons including water quality it would seem quite anachronistic to risk damage to riparian vegetation with a non-selective herbicide. Intact riparian buffers not only provide shading to waterways to naturally reduce weed growth, but they also may form corridors of biodiversity along waterways (including drains) that sit within otherwise biodiversity depauperate farming systems.

50. I recommend that a strategic herbicide plan outline the pathway to decrease the reliance on herbicides (promoting non-chemical methods) or otherwise justify their continued use only when no viable alternatives exist.
51. For example, fairway clearance on braided rivers frequently involves the use of herbicides to maintain a bare gravel or low stature vegetation community that doesn't impede flood flows, promote lateral erosion or impact negatively on the natural character and ecology of the braided river. The invasive woody vegetation species causing the issues in the fairways are rapid growing and apparently ubiquitous in the seed bank of braided rivers. There is no obvious alternative control other than damaging mechanical clearance, and considerable doubt about the possibility of eradicating these species from a catchment even with the use of herbicides. In this situation the potential negative effects of herbicide use might be outweighed by both the benefits of maintaining river flood capacity and of restoring riverbed habitats, unless alternatives such as a wider unrestricted fairway with less intensive vegetation control are possible.
52. It is also important to note that herbicide application in this context may increase the potential for nesting success of braided river birds. Strategic herbicide use might also help maintain some of the natural bed movement erosional processes characteristic of braided river that would otherwise be lost to invasive woody weed invasion.

The potential effects on human and animal food sources

53. Glyphosate has been found to show variable degrees of metabolism within plants, being broken down in some, but remaining present in others. In the absence of plant species specific information on breakdown of glyphosate or the environmental fate of additional chemicals mixed with the herbicide it appears there is a residual risk of ingestion of the chemical through the consumption of plants not otherwise killed by the herbicide. Glyphosate itself has a low potential to bioaccumulate although may be present at elevated levels due to chronic exposure. Glyphosate is poorly absorbed by the human gut and mostly excreted leaving only trace amounts in the body. Glyphosate is considered to have low chronic and acute toxicity to humans although

this topic remains an area of active research and controversy. Provided application rates and any stand down periods stipulated by the New Zealand Environmental Protection Agency (NZ-EPA) are followed, there should be an acceptably low risk to human or animal health through secondary ingestion.

54. A frequently voiced concern over Glyphosate levels in foodstuffs is the incorporation of genes for Glyphosate tolerance in cultivated plants. This has allowed regular spraying of such food crops with glyphosate throughout the growth phase from emergence through to harvest. This issue is not present in New Zealand as we do not approve the use of such genetically modified organisms (GMO) that can lead to this issue.
55. Triclopyr is similarly metabolised or excreted rapidly by humans and extensive testing by the US-EPA identified little to no concerns around human health from dietary exposure provided NZ-EPA application rates and stand down periods are observed.

The potential effects on drinking water

56. Glyphosate binds rapidly to particles upon entering water and so is not considered likely to travel far in water. Therefore, the risks of the chemical getting into groundwater drinking water supplies are slim. In a national survey of pesticides in 135 groundwater wells glyphosate was only detected in 1 (Close & Humphries, 2019). Drinking water sourced from surface water is at greater risk of contamination and applications should avoid proximity to community water supply intakes.
57. Triclopyr may travel much further in water and is consequently not recommended for use over water or shallow groundwater. This raises the question of the appropriateness of the use of triclopyr on riverbeds and berms where groundwater may be <1m below the surface of highly permeable gravels and thin soils. Although considered to have generally low toxicity to humans triclopyr may be long lasting in the environment and should not be used in proximity to community water supply intakes without considerable caution.

Advice on testing for agrichemicals in surface and groundwater samples. Focusing on glyphosate and triclopyr

58. Current spray operations undertaken by Rivers require monitoring of water quality for glyphosate and triclopyr. For glyphosate, water downstream of the spraying operation shall not exceed 0.1 g/m³ and for triclopyr not more than 0.01g/m³. It is assumed that these thresholds have been previously deemed appropriate (after reasonable mixing), but it is helpful to put them into context of guideline concentrations that are available.
59. The Australian and New Zealand Environment and Conservation Council (ANZECC) 2021 water quality guidelines include default trigger values for glyphosate in freshwater. The 99%, 95%, 90% and 80% species protection levels are 0.18 g/m³, 0.32 g/m³, 0.46 g/m³ and 0.76 g/m³, respectively. The currently consented maximum value downstream of spraying is ~50% of the 99% trigger level and is ~1/3rd of the 95% trigger level and so would appear suitably conservative. However, the ANZECC (2000) documents note that toxicity varies greatly between formulations suggesting that the trigger values for glyphosate should be divided by 40 if the common roundup formulation is used.
60. Ideally, formulation specific trigger values would be available from the NZ-EPA or ANZECC ([2021](#)) to inform monitoring. However, in the absence of product specific guidance from the NZ-EPA or general literature a conservative approach should be taken. Therein, I would recommend that the current consent trigger values are retained, but that consideration be given to additional sampling of the stream bed sediments that are the ultimate receiving environment of glyphosate and its break down products. Although surveys to date suggest that glyphosate and AMPA are common in stream bed sediments additional data on the specific role of waterway maintenance as opposed to other sources will inform future consenting processes.
61. In addition, the use of sprays over large, swift rivers such as the Waitaki, Waimakariri and Rakaia is unlikely to produce any discernible impact on aquatic communities in the main stem of the river given the massive degrees of dilution. Accordingly, I would recommend that water quality sampling focus on small rivers, streams and drainage

networks rather than the main stems of large braided rivers. Small lateral habitats adjacent to, but part of, the braided rivers should be considered for monitoring.

62. Triclopyr ester-based herbicides should not be used over or near water due to their toxicity to aquatic life. Accordingly, any detection of triclopyr ester-based formulations (above the detection limit) in water associated with this consent would indicate an inappropriate use of the chemical.
63. There are no aquatic life trigger values for Triclopyr formulations in the ANZECC guidelines. There is an ANZECC recreational bathing trigger of 0.02 g/m³ that is double the current consented value. The current consented value would appear to include a degree of conservatism if it is deemed that the use of triclopyr amine-based formulations around water is unavoidable.

Evidential Addendum: Herbicide consent conditions

Introduction

64. The following information and opinion was collated subsequent to the provision of a draft (sent via email 09/02/24) addendum to the Section 42A officers Report that included a report on ecology and water quality by Laura Drummond and a set of draft proposed consent conditions (document date 30/01/2024). Reference lists for the two components have been combined for brevity.
65. I will provide any required update between the abovementioned drafts and the final submitted Section 42A officers report at hearing. The reasoning for completing these comments based on the draft documents was to provide this assessment prior to the end of my employment at Environment Canterbury.

Triclopyr over shallow groundwater

66. Triclopyr is not strongly adsorbed to soil particles, and adsorbed particles may later detach into water moving through soils (USEPA 1996, Close et al. 2003). Triclopyr is adsorbed mainly to organic particles in soils, that are generally lacking in the thin

soils over braided rivers. Accordingly, Triclopyr, particularly on a riverbed or berm is considered to present a high risk of leaching to groundwater.

67. Due to the highly porous nature of river gravels and low levels of organic matter within any soils present I consider the risk of triclopyr reaching shallow groundwater and subsequently surface water in these areas is high. When using ester based formulations, known to be more toxic to fish, this situation therefore presents a high risk of negative effects on ecological values. It is my opinion that the ester based triclopyr formulations should be used on river fairways and berms with considerable caution.
68. Interception by foliage might prevent or reduce chemical residue alighting on and entering soils, gravels and shallow groundwater. Interception of triclopyr spray by foliage in a West Virginian watershed resulted in non-detectable soil residues in heavily wooded areas and gradually increasing soil concentrations in lightly wooded and open areas (USDA 1984). Modelling studies have shown that a number of variables effect foliar interception of spray, particularly time of day, plant species and morphology, formulation surface tension, static contact angle, droplet size and velocity (Dorr et al 2014).
69. While it appears that dense vegetation might reduce the amount of spray reaching the ground, I can find no information on the spray interception characteristics of willow, gorse or broom foliage to inform this consent. It should also be noted that vegetation on river fairways tends to be heterogenous, or patchy, in terms of species and canopy density presenting an issue for the application of the herbicide to achieve a consistent kill and prevent environmental impacts.
70. I suggest this might be a useful topic for investigation if the inability to apply the ester based triclopyr formulations to river fairway or berm area significantly compromises the management of flood and erosion risk.

Sites of ecological interest

71. The council holds a number of datasets and maps detailing the location and characteristics of Threatened and At risk species and habitats. The Land Ecology team will be able to provide maps and species lists for wetlands, riparian zones and the

dry areas of braided rivers. The NPS-FM requires mapping of the critical habitat of threatened freshwater dependant species, many of which should, and already are, considered in this consent. This mapping is underway at Environment Canterbury and should be referred to in this consent.

72. In terms of aquatic species and habitats the Land and Water Regional Plan (LWRP) Planning Maps identify 'Critical Habitat' of nationally and regionally threatened fish and mega-invertebrates (Allibone & Gray 2019). These sites should be included in a register, but the ramifications of herbicide usage should be considered specifically for each species and addressed accordingly in consent conditions. By way of example the Canterbury mudfish - Nationally Critical (Dunn et al. 2018) lives in weedy streams and drains, spawning on macrophytes. Herbicide application to macrophytes has the potential to significantly impact mudfish populations through the removal of spawning habitat as well as causing direct impacts on the fish due to declines in dissolved oxygen when the dead weeds rot.
73. Conversely, the upland longjaw galaxias, Nationally Vulnerable (Dunn et al. 2018) occupies the margins of fast flowing streams and side channels of braided rivers. The upland longjaw is therefore less vulnerable to impacts from herbicide applications (provided the chemical does not enter the water) and might benefit from the removal of weeds that bind previously braided rivers into a single channel. It is my view that, any agrichemical use in these known habitats should be done in accordance with advice provided by the CRC Science Section, or other adequately qualified and independent experts in the field.
74. I agree that inanga spawning sites should be given particular consideration in this consent due to this fishes habit of spawning in dense growths of bank side vegetation. The year-on-year accumulation of vegetative matter and the formation of organic matter rich soils are key to the successful spawning of inanga. Accordingly, herbicide application to spawning habitat should be avoided if possible and abide by the dates prescribed in the proposed consent conditions at least.
75. The spawning habitat of salmon is detailed Schedule 17 of the LWRP and is referenced in the consent conditions. However, these fish spawn in the open

channels of rivers and streams, where they are able to excavate loose gravels in the bed with which to subsequently bury their eggs. Dense growths of macrophytes are not conducive to salmon spawning and therefore there is unlikely to be spraying of emergent macrophytes in salmon spawning habitat. Where the target of herbicide application is riparian vegetation there should be control over any application allowing the chemical to enter water, but otherwise spawning salmon are unlikely to be affected. Accordingly, I think a lesser degree of conservatism for herbicide applications around salmon spawning habitat is appropriate, e.g. rather than the proposed 50m buffer a smaller set back and controls on herbicides entering water is sufficient to avoid any potential effects.

76. Salmon spawning may however be affected by bank erosion after spraying that denudes the banks and contributes fine sediment to the stream bed. All riparian spray programmes should be designed and undertaken so as not to denude banks of vegetation or increase rates of erosion and runoff, unless that is the natural and hence desirable condition, e.g. braided rivers. Vegetation holds the banks together, but also filters contaminants out of surface runoff.
77. Trout, particularly brown trout, are ubiquitous in Canterbury Streams and rivers where conditions remain suitable and these fish are not considered threatened in terms of distribution or number. Spawning habitat, particularly in the lowland and spring-fed streams, is considered to be a limiting factor for trout in those areas (Taylor & Good 2006). However, to my knowledge there is no recent mapping of the habitat or spawning habitat of trout other than nationally modelled [outputs](#) provided by MPI. Similarly to salmon, I believe trout spawning habitat is unlikely to be significantly impacted by herbicide applications provided riparian zones remain intact as contaminant filters and bank erosion is prevented.
78. In summary I consider a register of sensitive ecological sites to be a useful component of this consent provided that conditions or work plans are species and habitat specific and commensurate to the degree of risk posed by herbicide application. In the case of low risk species, such as salmonids, notification of the statutory managers prior to spraying and avoidance of denudation of banks and damage to riparian buffering capacity would be sufficient to ensure effects are

minimised. In the case of Canterbury mudfish and inanga, I believe avoidance of herbicide use, set-backs and controlled timing of herbicide application are required to avoid impacts.

Water quality and aquatic ecology monitoring and management

79. The proposed consent condition 49 (a) requires that water samples be taken from at least six sites classified as having high ecological values. However, I note that this consent generates a disincentive to apply herbicides in these sites and it may be that the applicant does not undertake herbicide application at six sites in a given year. I would recommend that the conditions are amended to allow for a lesser number of samples to be taken in the event that an inadequate number of suitable sites are subject to works, or that the total number of sites required can be made up from a varying proportion of high ecological sites. It would also be helpful if the term high ecological value could be clarified. Does this refer to sites listed in a register or sites that meet some other criteria?
80. The proposed consent condition 49 (a) includes a requirement to test for the presence of the applied herbicide in water; one upstream, one within the reach before application and two downstream afterwards of the application. This approach is a standard assay for assessing the potential effects of any chemical that enters water although the inclusion of two controls, upstream and within before could be considered redundant sampling. In my opinion a single sample upstream prior, during or after the spray is sufficient to determine background levels of herbicide to compare with the downstream afterwards sample.
81. However, the cost of analysing these samples is not insubstantial. In my opinion it is acceptable to undertake an initial analysis of the sample collected 25m downstream and immediately after spraying has concluded, prior to analysing the other samples. This sample has the greatest likelihood of containing an elevated concentration of the applied chemical. In the event that no chemical (i.e. below the laboratory detection limit) is detected immediately afterwards and downstream it is a reasonable assumption that the upstream, within and subsequent downstream samples will not contain detectable quantities of chemical either. My comments assume that sufficient time has elapsed post spraying for the potentially

contaminated water to have travelled to the location of the downstream sampling point.

82. The proposed consent conditions include a requirement to sample benthic macroinvertebrates at six sites (cond. 51). However, it is not clear what the design and intent of the monitoring is going to achieve. However, assuming that the monitoring takes the same format as the water quality, macroinvertebrate samples will be collected in a partial before and after or upstream/downstream design.
83. Triclopyr, in the ester formulation, should not be sprayed where it can enter water and is not considered further in terms of effects on aquatic macroinvertebrates. There is limited field-based research on the effects of glyphosate on macroinvertebrate communities. A recent review of the topic concluded that effects were generally short term or absent and in most cases involved subtle shifts in the relative abundance of different taxa (Breckles & Kilgour 2018, Rzymiski et al. 2013).
84. In my opinion, the assessment of such subtle changes to community structure require a quantitative, research calibre approach to macroinvertebrate sampling such that at least three replicate samples within each 'site' sample will be required. A meaningful assessment along these lines in accordance with proposed condition 51 will require a substantial effort and investment that I consider is inappropriate in a routine consent monitoring situation. The study would also need to examine whether the change in macroinvertebrate communities was driven by the direct impact of agrichemicals or due to the resulting physical change (change in vegetation cover, water temperature, sediments). The information with respect to herbicide applications from such a study are likely to be uncertain.
85. However, if the commissioners considered it necessary to include macroinvertebrate sampling, to gather more information on the effects of glyphosate application this study could take the form of a discrete investigation. This investigation could occur during the early stages of the consent and would inform a review of ongoing monitoring and herbicide application. This investigation should be specifically designed to determine any effects of herbicide application and not constrained by the design of the water quality monitoring. Should no effects of glyphosate be

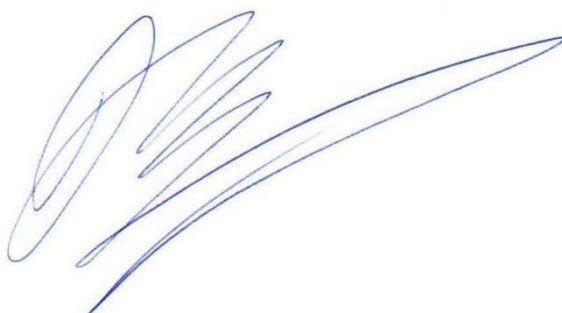
detected monitoring effort and resource could be channelled to addressing other questions such as methods to reduce the reliance on herbicides or improve practises around sensitive habitats and species.

86. I note that condition 54 requires the results of benthic invertebrate sampling to be compared against outcomes set in Canterbury Land and Water Plan. However, the LWRP outcomes require 5 years of annual monitoring to assess compliance. In addition, comparison with a region wide outcome would not answer the specific question of the effects of herbicide application. Rather the comparison should be between the upstream and downstream samples, those subject to herbicide and those not.

Dissolved oxygen

87. Herbicide applications to dense growths of emergent macrophytes in drains and small waterways may result in a complete dieback of a large biomass of weed. As this weed decomposes there is an increase in the demand for oxygen by organisms breaking down the organic materials. The resulting sag in dissolved oxygen in the stream can be highly detrimental to aquatic life such as fish and macroinvertebrates.
88. The greatest risk from this sag is during the night in the weeks that follow the spraying, due to the absence of photosynthesis to maintain DO during the hours of darkness. The potential for detrimental effects to occur as a result of the proposed agrichemical applications could readily be monitored using loggers that measure temperature and dissolved oxygen every 15 minutes. The loggers should be deployed for 3+ weeks; 4 days before spraying and 21 days thereafter. Similarly, to benthic macroinvertebrates this monitoring need only occur for a suitable period of time at a sub-set of sites to determine that either there is no potential effect on stream ecosystems or practises need to be refined such that effects are minimised.

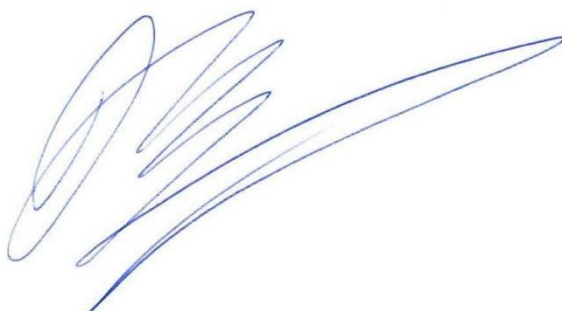
18 May 2023

A handwritten signature in blue ink, consisting of a series of loops and a long, sweeping tail.

Duncan Peter Gray

With regard to the evidential addendum.

28 February 2024

A handwritten signature in blue ink, identical to the one above, consisting of a series of loops and a long, sweeping tail.

Duncan Peter Gray

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