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Lawsuit Stems Plan To Spray Herbicide On Delta Hyacinth Activists say state needs permit

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(06-24) 04:00 PST SACTO -- A lawsuit filed by environmentalists has put the state's 16-year-old war on the pesky water hyacinth in the Delta on hold, just as officials were gearing up to begin spraying herbicides to keep waterways clear.



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In a lawsuit filed this week in federal court in Sacramento, San Francisco BayKeeper and DeltaKeeper claim the state Department of Boating and Waterways needs to obtain a permit and undergo a public hearing.

Boating department spokeswoman Megan Standard said the agency is flabbergasted by the environmentalists' suit. Before using herbicides, she said, the department tried everything from mechanical harvesting to voracious boll weevils to destroy the thick mats of water hyacinth that clog boating routes and crowd out native species.

``We are not irresponsible," Standard said. ``We just didn't get a (permit)."

Caught in the middle are marina operators such as Elmo Wurts, the owner of the Seahorse Marina at Bethel Island. He said he is exasperated by lawsuits over the herbicides used to control water hyacinth. He said another lawsuit a few years ago halted spraying in an area called Orwood, halfway from Bethel Island to Discovery Bay.

``There were harbors in Orwood that were closed completely," Wurts said. Water hyacinth can grow as tall as three feet in sheltered areas with still water, he said.

``Unfortunately we're protecting ourselves to death," Wurts said. ``They're going to have to make a decision on whether we're going to let man live or let things go back to nature."

The boating agency has state authority to control water hyacinth in an 80,000-acre area around the Sacramento-San Joaquin River Delta and its tributaries, stretching roughly from Tracy north to Sacramento. The plant, a non-native import from South America, can expand from an acre to two acres within 10 days during the peak growing season.

Both sides agree that the plant must be attacked, and both maintain they have bent over backward to settle the conflict.

DeltaKeeper Bill Jennings said he wants to see the figures the state relied on to reject mechanical harvesting, less-toxic chemicals and other possible methods. He said the lawsuit does not ask the state to stop the spraying program while officials seek the proper permits.

Standard said the spraying program includes water quality monitoring to ensure that levels of the herbicides do not reach levels that could harm people or fish. Last year, about 521 acres were sprayed using about a gallon an acre of herbicide solution.

The program is working, Standard said, because more than 2,400 acres had to be treated in 1998.

“If we can't start spraying at the end of March, theoretically we could lose some ground,” she said.

The agency halted spraying after the BayKeeper suit was filed, and applied for a permit from the Central Valley Regional Water Quality Control Board. The board has not yet made a decision.

But William White, an attorney for BayKeeper, said environmentalists want to guarantee the issue is studied through a permit process even if the water board does not think it is necessary.

The environmental groups are not seeking monetary penalties through the lawsuit, although they claim the state boating department violated the federal Clean Water Act by spraying without a permit.

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