



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

**OFFICE OF PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES**

SEP 30 2010

Gary Frazer
Assistant Director for Endangered Species
U.S. Fish and Wildlife Service
1849 C Street NW .
Washington, D.C. 20204

Dear Mr. Frazer:

The Office of Pesticide Programs (OPP), U.S. Environmental Protection Agency (EPA) respectfully requests the initiation of Endangered Species Act (ESA) section 7(a)(2) formal consultation under 50 CFR Part 402.46, Optional Formal Consultation Procedures for FIFRA Actions. This consultation request addresses the potential effects to listed species and critical habitat nationwide, from use of a product registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) containing the active ingredient chlorophacinone. The product assessed and subject to this consultation is Rozol Prairie Dog Bait (EPA Reg. No. 7173-286). This ecological risk assessment and effects determination is conducted specific to Rozol Prairie Dog Bait (EPA Reg. No. 7173-286) to address potential product-specific risks raised in pending litigation.¹

Our assessment resulted in a determination that the use of this product is likely to adversely affect (LAA) 21 federally listed threatened or endangered species. Further, the assessment resulted in a determination that there is a potential for effects to the designated critical habitat of 9 species. For all other federally listed threatened or endangered species and all other designated critical habitat, our assessment resulted in a determination that the use of this product will have no effect (NE).

This assessment was conducted consistent with the scientific procedures outlined in the Agency's Overview Document² and reviewed by the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS)³. The effects determination was made by staff in the Environmental Fate and Effects Division (EFED), who have been trained by FWS and certified to make effects determinations. Further, the attached assessment and effects determination has undergone review by our internal Peer Review Panel, which included one or more reviewers also trained by FWS and certified to make effects determinations. The FWS, after having carefully reviewed the Overview Document, concluded that EPA's ecological risk assessment process "will produce effects determinations that reliably assess the effects of pesticides on endangered

¹ Defenders of Wildlife v. U.S. EPA, Case No. 09-1199 (D.C. Cir., 2009); Defenders of Wildlife v. Jackson, Case No. 09-cv-1814 (D.D.C., 2009); NRDC v. U.S. EPA, Case No. 10-cv-1063, (D.D.C., 2010).

² U.S. EPA. 2004. Overview of the Ecological Risk Assessment Process in the Office of Pesticide Programs. Office of Prevention, Pesticides, and Toxic Substances. Office of Pesticide Programs. Washington, D.C. January 23, 2004.

³ USFWS/NMFS. 2004. Letter from USFWS/NMFS to U.S. EPA Office of Prevention, Pesticides, and Toxic Substances. January 26, 2004. (<http://www.fws.gov/endangered/pdfs/Consultations/Pest/Pestevaluation.pdf>)

and threatened species [] and critical habitat pursuant to Section 7 of the [ESA] and [its] implementing regulations”, and that “this approach also will produce all information necessary to initiate formal consultation where appropriate.”

While our determination is that the chlorophacinone containing product Rozol Prairie Dog Bait (EPA Reg. No. 7173-286) is likely to adversely affect 21 species, this determination does not necessarily apply throughout the geographic range of each of these species. EPA believes the precise geographic scope of potential effects is dependent upon both the specific locations and sizes of populations of the species in relation to actual use of the pesticide and upon the locations and attributes (e.g. population of prey species) of the various relevant habitats. This location information relative to the species and the attributes of their various types of habitat are not available to EPA. We look forward to the FWS bringing this species-specific information to the consultation process to appropriately characterize the spatial and temporal extent of any potential effects to the subject species or their habitat.

As agreed to in the past, the subject assessment and effects determination, attachments and appendices may be accessed within the next several days by your staff from our web site at <http://www.epa.gov/oppfead1/endanger/litstatus/effects/> . Also, when reviewing appendices relative to ECOTOX citations, you may wish to access the Code List for ECOTOX at <http://cfpub.epa.gov/ecotox/blackbox/help/codelist.pdf>.

Please let me know if you have any questions regarding this request or the materials we have developed to initiate formal consultation.

Enclosures

Sincerely,

A handwritten signature in blue ink, reading "Arthur-Jean B. Williams".

Arthur-Jean B. Williams, Associate Director
Environmental Fate and Effects Division (7507P)

cc: Donald Brady
Lois Rossi
Richard Keigwin
Steven Bradbury