



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

APR 1 2003

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Don R. Knowles, Director
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Knowles,

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) consultation. This consultation request addresses 26 Evolutionarily Significant Units (ESUs) of Pacific salmon and steelhead that have been listed as Federally endangered or threatened, along with one chinook salmon ESU that has been proposed for listing, and one pesticide registered by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for uses within the range of the listed ESUs. The pesticide subject to this request is the active ingredient chlorpyrifos which is currently registered for a large number of crops that may be grown within the range of listed salmon and steelhead. EPA completed an Interim Reregistration Eligibility Decision (IRED) document that was approved on September 28, 2001. As a result of this IRED, all homeowner uses of chlorpyrifos products, except containerized ant and roach baits in child resistant packaging have been cancelled and removed from further sale or distribution. Termiticide uses have been limited to preconstruction use, and these are scheduled to be phased out by the end of 2005. Mosquito adulticide use and treatment of individual fire ant mounds are the only remaining uses in residential areas. EPA has also initiated a number of measures to reduce the potential ecological risks of chlorpyrifos for agricultural and a few remaining non-crop uses. Our long term intent is to make effects determinations and consult, as appropriate, relative to all listed species and locations. However, as per agreement with the National Marine Fisheries Service, this request is limited to Pacific salmon and steelhead for which NMFS has responsibility (see enclosure).

Chlorpyrifos is currently registered as both granular and liquid formulations. The additional changes that are not yet final include reduced rates, fewer numbers of applications and "setbacks" or no-spray buffer zones around bodies of water. Additional changes are possible. Even with the deletion of homeowner uses there is still significant usage of chlorpyrifos, although it is anticipated that of the approximately 20,000,000 pounds ai used per year in the past, half will no longer be used, primarily in the residential sector. Substantial agricultural usage can be expected even though it will be somewhat reduced. OPP has determined that the

use of chlorpyrifos may affect 19 Evolutionarily Significant Units (ESUs) of federally listed Pacific salmon and steelhead and that it may affect, but is not likely to adversely affect, 6 ESUs, and that there will be no effect for 2 ESUs.¹ For the 22 ESUs, OPP recommends working with NMFS to develop protective measures that can be implemented to avoid jeopardy and limit incidental take. While we propose to work with states, the primary form of protection has typically been as a buffer along aquatic habitats. OPP requests concurrence on our not-likely-to-adversely-affect findings for the six ESUs, and a biological opinion for the last 19 ESUs that may be affected by chlorpyrifos.

The 26 listed and 1 proposed salmon and steelhead ESUs occur throughout western watersheds, except the Colorado River, that drain into the Pacific Ocean. The primary threats for these ESUs have been the continued development of the western states for a variety of human-related activities, including residential and commercial development, agriculture, and forestry, along with genetic swamping of certain ESUs by unrelated hatchery stocks. These activities have resulted in barriers to up stream and down stream migration, loss of available water, reduced water quality, physical modification of aquatic and riparian habitat. Excessive harvesting may also have played a role in their decline. Listing of these salmon and steelhead ESUs has sensitized the public to the need to provide protection. As a result, California has included them in their "Interim Measures" county bulletins for protecting endangered and threatened species, thus providing protection from pesticide use. Washington state has formed a task force which is working with NMFS and others to address pesticide use in that state. Oregon has developed specific projects that involve pesticide use and salmon and steelhead. We are unaware of any specific measures in place in Idaho that address pesticides.

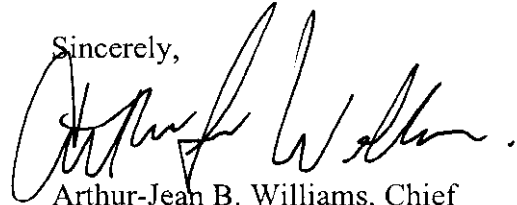
OPP is currently working towards a final endangered species program. We are developing county-specific bulletins to address pesticide use and endangered and threatened species. It is through such county bulletins, along with pesticide label references to these bulletins, that OPP intends as its primary means of implementing its protections for salmon and steelhead and other listed species. Since transmitting our previous consultation requests, we have issued a *Federal Register* Notice (67FR231, 71549-71561, December 2, 2002) proposing to implement our program in the field primarily through a system of labeling of pesticide products and reference to these county bulletins. The inclusion of a mandatory statement on pesticide product labels will make the program enforceable under FIFRA. At this time, most of the public comments have been reviewed, and there is the expectation that a final program Notice will be issued this year. Any Reasonable and Prudent Alternatives or Measures that may be specified in biological opinions, and which are of a nature to be implemented through limitations on the use of chlorpyrifos can then be incorporated into the county bulletins that will be referenced, and therefore enforceable under FIFRA, on product labels.

We look forward to working with NMFS to protect and help recover listed species. If you have any questions, please feel free to call me at (703) 305-5239, or your staff may contact my Senior Scientist, Dr. Larry Turner at (703) 305-5007.

¹ See Memorandum, with attached analysis, from Larry Turner, Ph.D., Environmental Field Branch, OPP, EPA, to Arthur-Jean B. Williams, Chief, Environmental Field Branch, OPP, EPA, April 1, 2003 (attached).

Enclosure

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur-Jean B. Williams". The signature is fluid and cursive, with a large initial "A" and "J".

Arthur-Jean B. Williams, Chief
Environmental Field Branch (7506C)

cc: Craig Johnson