



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

OFFICE OF PREVENTION, PESTICIDES  
AND TOXIC SUBSTANCES

March 29, 2010

MEMORANDUM

SUBJECT: Effects Determinations for EPTC (PC Code 041401) Relative to the Delta Smelt and Designated Critical Habitat for the Delta Smelt

FROM: Melissa Panger, Ph.D. *Melissa* 3/29/10  
Biologist, ERB 4  
Environmental Fate and Effects Division

TO: Arthur-Jean B. Williams, Associate Director  
Environmental Fate and Effects Division

Attached is the assessment of potential direct and indirect effects to the federally threatened delta smelt (DS, *Hypomesus transpacificus*) arising from FIFRA regulatory actions regarding all registered uses of the herbicide EPTC (PC Code 041401). In addition, this assessment evaluates whether the action is expected to result in modification of designated critical habitat for Delta smelt. The attached ecological risk assessment addresses potential risk to DS for which EPTC was alleged to be of concern in a complaint made by the Center for Biological Diversity against United States Environmental Protection Agency on May 30, 2007 (Case No: 07-2794-JCS).

The attached assessment was conducted consistent with the Agency's Overview Document<sup>1</sup>. Effects determinations for this assessment are summarized below:

Based on the best available information, the Agency makes a May Affect, and likely to Adversely Affect (LAA) determination for DS from the labeled uses of EPTC as described in Table 1.1 (in the attached document). The effects determination is based on both potential direct and indirect effects to DS. The LAA determination applies to all currently registered EPTC uses in California. Additionally, the Agency has determined that there is the potential for modification of designated critical habitat of the DS from the use of EPTC.

As required by the Alternative Consultation Agreement EPA entered into with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services), I have been trained by the Services to make such determinations. Additionally, this assessment was subjected to internal Agency peer review throughout its development. The review panel included another scientist who has been trained by the Services to make such determinations (Greg Orrick).

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<sup>1</sup> Overview of the Ecological Risk Assessment: Process in the Office of Pesticide Programs, U.S. Environmental Protection Agency: Endangered and Threatened Species Effects Determinations: January 23, 2004.

Please let me know if you have any questions regarding this assessment and effects determination for EPTC relative to the DS and potential modification to designated critical habitat.

**Attachments**

041401 SF Bay DS EPTC Effects Determination.doc