



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

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MAR 30 2011

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 of pesticides registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) containing **azinphos-methyl** (AZM) to the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), San Joaquin kit fox (*Vulpes macrotis mutica*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), California clapper rail (*Rallus longirostris obsoletus*), California tiger salamander (*Ambystoma californiense*), and the Bay checkerspot butterfly *Euphydryas editha bayensis*) and their designated critical habitat. Our assessment resulted in a determination that the use of AZM on apples, cherries and pears (the only registered uses in California) is likely to adversely affect the subject species with the exception of the San Francisco garter snake for which a No Effect determination is made. Further, EPA's analysis concludes there is the potential for effects to critical habitat designated for the Valley elderberry longhorn beetle, California tiger salamander and the Bay checkerspot butterfly.

The assessment of potential effects of AZM to the subject species was limited to use on apples, cherries, and pears. These are the only uses for which AZM is currently registered in the state of California. These uses of AZM are subject to a cancellation order that will result in a complete phase out by September 30, 2012. At that time, use of AZM will no longer be permitted in the United States as there is no provision for use of "existing stocks" after that date. Therefore, as of September 30, 2012, AZM will have no effect on any listed species or critical habitat throughout the United States.

The scope of this assessment is consistent with an Order and Stipulated Injunction in a suit brought by the Center for Biological Diversity against EPA under the Endangered Species Act (Civ. No 07-2794-JCS). As a result, this assessment focuses only on the species noted above. EPA acknowledges that use of pesticides containing AZM is not limited to the geographic scope of this assessment. However, as of September 30, 2012 its use will be prohibited throughout the United States and will therefore, have no effect on any listed species or designated critical habitat after that time.

While our determination for use of AZM between now and September 30, 2012 is that it is likely to adversely affect certain subject species as noted above, this determination does not necessarily apply throughout the geographic range of those species. Further, the use of AZM will be prohibited in 2012. EPA believes these two factors need to be thoroughly considered during consultation to determine how any necessary incidental take statement might be developed.

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/espp/litstatus/effects/redleg-frog/>.

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, appearing to read "Arthur-Jean B. Williams".

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

cc: Donald Brady
Richard Keigwin
Steven Bradbury