



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

OFFICE OF PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

June 15, 2009

MEMORANDUM

SUBJECT: Effects Determinations for Alachlor Relative to the California Red-Legged Frog and Delta Smelt and Their Designated Critical Habitat

FROM: Melissa Panger, Ph.D. *Melissa Panger* 6-15-09
ERB 4
Environmental Fate and Effects Division

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

Attached is an assessment to evaluate potential direct and indirect effects on individuals of the federally threatened California Red-legged Frog (*Rana aurora draytonii*) (CRLF) and Delta Smelt (*Hypomesus transpacificus*) (DS) arising from FIFRA regulatory actions regarding all registered uses of alachlor in California. In addition, this assessment evaluates whether the action is expected to result in modification of designated critical habitat for the CRLF and/or DS. This ecological risk assessment has been prepared consistent with the settlement agreement in *Center for Biological Diversity (CBD) vs. EPA et al.* (Case No. 02-1580-JSW(JL)) which addresses the CRLF and was entered in Federal District Court for the Northern District of California on October 20, 2006. This assessment also addresses the DS for which alachlor was alleged to be of concern in a separate suit (*Center for Biological Diversity (CBD) vs. EPA et al.* (Case No. 07-2794-JCS)).

The attached assessment was conducted consistent with the Agency's Overview Document¹. Effects determinations for this assessment are summarized below:

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

¹ 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.

Adversely Affect (LAA) determination for the DS from the labeled uses of alachlor as described in **Table 1.1** (in the attached document). The effects determination is based on potential indirect effects to the DS. The LAA determination applies to all currently registered alachlor 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 the alachlor.

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 two other scientists who have been trained by the Services to make such determinations (*i.e.*, Donna Randall and Thomas Steeger).

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

Attachments