



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

OFFICE OF PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

June 16, 2009

MEMORANDUM

SUBJECT: Effects Determinations for Pendimethalin Relative to the California Red-Legged Frog and Designated Critical Habitat

FROM: *Jean Holmes* 6/16/09
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ERB 2
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 California red-legged frog (CRLF) and potential modification to designated critical habitat from uses of the herbicide Pendimethalin. While the Endangered Species Act requires we assess uses of pesticides relative to any potentially affected listed species, this assessment focuses only on the CRLF, including designated critical habitat, addressing provisions of a settlement agreement entered into by the federal government to resolve claims made by plaintiffs against EPA in a court case (CBD v. EPA¹).

The attached assessment was conducted consistent with the Agency's Overview Document². 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 the CRLF from the use of pendimethalin. Additionally, the Agency has determined that there is the potential for modification of CRLF designated critical habitat from the use of the chemical. These conclusions are based on potential effects of pendimethalin to the terrestrial-phase and aquatic-phase CRLF and its food items, including aquatic non-vascular plants, insects, small mammals and terrestrial-phase frogs.

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 one other scientist who has been trained by the

¹ Settlement agreement of October 20, 2006: Center for Biological Diversity v. United States Environmental Protection Agency. Civ. No: 02-1580-JSW(JL).

² 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.

Services to make such determinations (Edward Odenkirchen).

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

Attachments