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

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Ms. Laurie Allen
Acting Director, Office of Protected Resources
National Marine Fisheries Service - 13th floor
1315 East-West Highway
Silver Spring, MD 20910

Dear Ms. Allen,

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. This consultation request addresses 3 Evolutionarily Significant Units (ESUs) of Pacific salmon and steelhead and certain uses of one pesticide registered by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pesticide subject to this request is the active ingredient **triclopyr BEE** which is registered for forestry and forest tree uses within the range of listed salmon and steelhead. 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 forestry and forest uses of Tricolpyr BEE and its potential effects on 3 ESU's - the California coastal Chinook, the Southern Oregon/Northern California coastal Coho, and the Central California coast Steelhead for which NMFS has responsibility (see enclosure).

Triclopyr BEE is registered for use as a herbicide in forestry and forest tree applications for controlling broadleaf weeds and woody, deciduous trees in conifer forests. It is approved for a wide range of noxious weeds and woody plants. A principal use of the agent is in commercial and government lands in the process of reforestation following harvest or in the aftermath of fire related tree loss. Triclopyr BEE can also be applied to any coniferous forest. Application times vary, but are generally early summer, after broadleaf plants have fully extended their leaves, or early fall as conifers enter the winter dormant period. Triclopyr BEE is effective only on actively growing plants.

Within the areas of concern there are focal zones where triclopyr BEE is used in significant quantities. This is seen in the California Coastal Chinook Salmon ESU and the Southern Oregon/Northern California Coho ESU. Due to the high acute toxicity of the chemical, the possibility of an isolated event occurring can not be disregarded. However, this event, based

on noted chemical half life and rapid dissipation, would be of a transient nature and should not have a significant effect on the endangered species. In this regard I refer to the long history of use and the presence of only one recorded fish kill, not associated with forestry application.

In the Central California Coastal Steelhead ESU, a heavily populated location, forestry is not a major activity. Use of triclopyr BEE for forest management is therefore very minimal and will have no effect, transient or otherwise, on this endangered steelhead ESU. OPP has determined that there will be no effect from the forestry use of triclopyr BEE on one ESU; and that the use of triclopyr BEE may affect, but is not likely to adversely affect two ESUs.[1]

Despite our finding of "no effect" from the forestry and forest tree uses of this pesticide to one of the subject ESU's and a finding of "not likely to adversely affect" for the other two subject ESU's, I am requesting formal consultation on these determinations. My request for such consultation is compelled by the language in a Consent Decree into which the Agency entered with the Californians for Alternatives to Toxics (CATs), regarding the potential effects of various pesticides' uses on plants and on certain listed salmon or steelhead.

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 Dr. Michael Patterson, of my staff, at (703) 605-0649.

Enclosure

Sincerely,

/s/ May 10, 2004

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

cc: Craig Johnson

[1] *See* Memorandum, with attached analysis, from Michael Patterson, Ph.D., Environmental Field Branch, OPP, EPA, to Arthur-Jean B. Williams, Chief, Environmental Field Branch, OPP, EPA, May 10, 2004 (attached).