

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTER FOR BIOLOGICAL DIVERSITY,

Case No. C07-02794 JCS

Plaintiff(s),

v.

**ORDER APPROVING STIPULATED
INJUNCTION AND ORDER** [Doc. #104]

ENVIRONMENTAL PROTECTION
AGENCY,

Defendant(s).

Plaintiff Center for Biological Diversity (“Plaintiff”) and Defendant Environmental Protection Agency (“EPA”) filed a Joint Motion for Entry of Stipulated Injunction (the “Motion”). Intervenor Reckitt Benckiser, Inc., CropLife America and RISE (the “Intervenors”) opposed the Motion. A hearing was held on March 26, 2010. All parties appeared through counsel. Plaintiff and the EPA filed additional evidence and briefing on April 23, 2010 and Intervenor filed additional briefs on May 7, 2010. For the reasons stated at the hearing, and for the reasons stated below, the Motion is GRANTED.

The Court has carefully reviewed the record in this case and finds that, with the modification set forth below, the proposed stipulated injunction is fair, reasonable and equitable and does not violate the law or public policy. *See, Sierra Club, Inc. v. Electronic Controls Design, Inc.*, 909 F.2d 1350, 1355 (9th Cir 1990); *see also, Washington Toxics Coalition v. EPA*, 413 F. 3d 1024, 1035 (“We have held that the appropriate remedy for violations of the ESA consultation requirements is an injunction pending compliance with the ESA”). The EPA violated its regulations by failing to making an effects determination. As a result, the EPA did not comply with §702(a)(2) of the Endangered Species Act (“ESA”). The remedy for this non-technical violation is an injunction. The

1 proposed injunction is narrowly tailored to buffer areas directly tied to habitat where listed species
2 may be present. There has been no showing by defendants that the enjoined actions are non-
3 jeopardizing. The Court notes that the parties have begun the review contemplated by the Stipulated
4 Injunction and the EPA has concluded that, for the pesticides reviewed thus far, consultation with
5 the United States Fish and Wildlife Service is required under the EPA.

6 The Court also rejects, for the reasons stated at the hearing, the challenges made to the
7 Stipulation Injunction by the Intervenor, with one exception. The Injunction does not violate the
8 Due Process Clause, and is not inconsistent with FIFRA. However, at the hearing, the parties
9 disputed whether the Stipulated Injunction as written purported to modify Intervenor's existing
10 pesticide registrations. To clarify this matter, the Court orders as follow:

11 The proposed Stipulated Injunction [Doc. #104-1] is adopted as an Order of this Court with
12 the following additional language: Nothing in this Stipulated Injunction shall be construed to modify
13 any existing pesticide registrations.

14 IT IS SO ORDERED.

15
16 Dated: May 17, 2010

17
18 
19 JOSEPH C. SPERO
United States Magistrate Judge

The following stipulated injunction is that
which was filed with the court and to which
the Order refers.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,)	Case No.: 07-2794-JCS
a non-profit corporation,)	
)	STIPULATED INJUNCTION AND
Plaintiff,)	[PROPOSED] ORDER
)	
v.)	
)	
ENVIRONMENTAL PROTECTION)	
AGENCY <i>et al.</i> ,)	
)	
Defendants, and)	
)	
CROPLIFE AMERICA, RISE, AND)	
RECKITT BENCKISER, INC.,)	
)	
Intervenor-Defendants.)	

1 Plaintiff Center for Biological Diversity (hereinafter “CBD”); and Defendant
2 Environmental Protection Agency and Lisa Jackson (hereinafter “EPA”), by and through the
3 undersigned counsel, state as follows:

4 WHEREAS, on May 30, 2007, CBD filed a complaint for declaratory and injunctive
5 relief pursuant to Section 7 of the Endangered Species Act (“ESA”) in the Northern District of
6 California, which alleged that the EPA had failed to comply with Section 7 regarding the
7 potential impacts of 43 pesticide active ingredients upon the tidewater goby, delta smelt,
8 California clapper rail, salt marsh harvest mouse, California tiger salamander, San Francisco
9 garter snake, California freshwater shrimp, San Joaquin kit fox, Alameda whipsnake, valley
10 elderberry longhorn beetle, and Bay checkerspot butterfly, federally protected species listed as
11 endangered or threatened under the ESA;

12 WHEREAS, CBD filed amended complaints to include an additional 32 pesticide active
13 ingredients for which CBD similarly alleges that EPA has failed to comply with Section 7 of the
14 ESA regarding their potential impacts on the species listed immediately above (hereinafter, all
15 75 pesticide active ingredients at issue will collectively be referred to as “Pesticides”);

16 WHEREAS, CBD maintains that the Pesticides can adversely affect the tidewater goby,
17 delta smelt, California clapper rail, salt marsh harvest mouse, California tiger salamander, San
18 Francisco garter snake, California freshwater shrimp, San Joaquin kit fox, Alameda whipsnake,
19 valley elderberry longhorn beetle, and Bay checkerspot butterfly and their habitats in the greater
20 San Francisco Bay Area, including the Bay Delta, specifically covering the following California
21 counties — Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, and San Mateo;

22 WHEREAS, the ESA implementing regulations provide that before any need to engage
23 in consultation might arise, an agency must first make an “effects determination;”

24 WHEREAS, EPA maintains that it cannot determine the effects, if any, of the Pesticides
25 on the tidewater goby, delta smelt, California clapper rail, salt marsh harvest mouse, California
26 tiger salamander, San Francisco garter snake, California freshwater shrimp, San Joaquin kit fox,
27 Alameda whipsnake, valley elderberry longhorn beetle, and Bay checkerspot butterfly, and
28 define appropriate protective measures, if any, until they have completed further scientific

analyses, which may include, but are not limited to, further review under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), §§ 7 U.S.C. 136-136(y), effects determinations made pursuant to the ESA, or consultation with the United States Fish and Wildlife Service (“FWS”) under the ESA, as appropriate;

WHEREAS, CBD and EPA, through their authorized representatives, have reached agreement on the terms of a settlement, which is captured in the form of this Stipulated Injunction, that they consider to be a just, fair, adequate, and equitable resolution of the issues in this case;

WHEREAS, CBD and EPA agree that this Stipulated Injunction is in the public interest and is an appropriate way to resolve the remaining disputed issues;

WHEREAS, the EPA published in the Federal Register a request for public comment on the terms of this Stipulated Injunction, subsequently reviewed all comments received, and thereafter conferred with CBD and Intervenor-Defendants with respect to any comments that EPA felt warranted reconsideration or revision of any provision in this Stipulated Injunction, with any resulting changes reflected herein;

NOW, THEREFORE, CBD AND EPA STIPULATE AS FOLLOWS:

SECTION 7 CONSULTATION SCHEDULE

1. Compliance with Section 7(a)(2) of the Endangered Species Act.

Pursuant to the schedule delineated in Section 2, the EPA shall make effects determinations and initiate consultation, as appropriate, with the United States Fish and Wildlife Service, pursuant to applicable regulations in effect at the time when the determination is made, regarding the potential effects of the Pesticides on the tidewater goby, delta smelt, California clapper rail, salt marsh harvest mouse, California tiger salamander, San Francisco garter snake, California freshwater shrimp, San Joaquin kit fox, Alameda whipsnake, valley elderberry longhorn beetle, and Bay checkerspot butterfly in the greater San Francisco Bay Area, including the Bay Delta, specifically covering the following California counties — Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, and San Mateo.

2. Effects Determinations

a. Schedule for Compliance for 43 Pesticides in Original Complaint Plus Two of the Pesticides Added via Amended Complaint

EPA shall make effects determinations for the following active ingredients for the specific species listed at a minimum rate of four per quarter, with the first quarter ending on March 31, 2010 so that EPA completes these effects determinations by March 31, 2012.¹

<u>Pesticide</u>	<u>Species</u>
Acephate	California clapper rail, salt marsh harvest mouse, California tiger salamander, San Francisco garter snake, California freshwater shrimp, San Joaquin kit fox, valley elderberry longhorn beetle, Bay checkerspot butterfly
Acrolein	Alameda whipsnake
Aldicarb	San Joaquin kit fox, valley elderberry longhorn beetle
Aluminum phosphide	California tiger salamander, San Francisco garter snake, San Joaquin kit fox, Alameda whipsnake
Azinphos-methyl	California clapper rail, California tiger salamander, San Francisco garter snake, San Joaquin kit fox, valley elderberry longhorn beetle, Bay checkerspot butterfly

¹ EPA has already made effects determinations for ten of the 43 Pesticides in Plaintiff's original complaint. On October 20, 2008, EPA completed effect determinations for permethrin for the California clapper rail, the salt marsh harvest mouse, the San Francisco garter snake, and the Bay checkerspot butterfly; and for phorate for the San Joaquin kit fox, valley elderberry-longhorn beetle, and the Bay checkerspot butterfly. On February 20, 2009, EPA completed effect determinations for 2,4-D for the Alameda whipsnake, and for atrazine for the delta smelt. On June 20, 2009 EPA completed effect determinations for alachlor for the delta smelt; and for endosulfan for the salt marsh harvest mouse, California tiger salamander, San Francisco garter snake, San Joaquin kit fox, valley elderberry longhorn beetle, and the Bay checkerspot butterfly. On October 20, 2009, EPA completed effect determinations for chlorpyrifos for the delta smelt, California clapper rail, salt marsh harvest mouse, California tiger salamander, San Francisco garter snake, California freshwater shrimp, San Joaquin kit fox, valley elderberry longhorn beetle, and Bay checkerspot butterfly; for strychnine for the California tiger salamander, and San Joaquin kit fox; for thiobencarb for the delta smelt; and for trifluralin for the delta smelt, San Francisco garter snake, and San Joaquin kit fox.

1	Brodifacoum	salt marsh harvest mouse, San Joaquin kit fox,
2		Alameda whipsnake
3	Bromadiolone	salt marsh harvest mouse, San Joaquin kit fox,
4		Alameda whipsnake
5	Bromethalin	salt marsh harvest mouse, Alameda whipsnake
6	Carbaryl	delta smelt
7	Carbofuran	delta smelt, San Francisco garter snake, San
8		Joaquin kit fox, valley elderberry longhorn beetle
9	Chlorophacinone	salt marsh harvest mouse, California tiger
10		salamander, San Joaquin kit fox, Alameda
11		whipsnake
12	Cholecalciferol	salt marsh harvest mouse
13	Diazinon	tidewater goby, delta smelt
14	Difenacoum	salt marsh harvest mouse, San Joaquin kit fox,
15		Alameda whipsnake
16	Difethialone	salt marsh harvest mouse, San Joaquin kit fox,
17		Alameda whipsnake
18	Diphacinone	salt marsh harvest mouse, California tiger
19		salamander, San Joaquin kit fox, Alameda
20		whipsnake
21	Diquat dibromide	delta smelt
22	EPTC (eptam)	delta smelt
23	Magnesium phosphide	San Francisco garter snake, San Joaquin kit fox,
24		Alameda whipsnake
25	Malathion	delta smelt, California tiger salamander
26	Maneb	California tiger salamander
27	Mancozeb	California tiger salamander
28	Metam sodium	California tiger salamander

1	Methoprene	California tiger salamander
2	Methyl bromide	California tiger salamander
3	Metolachlor	delta smelt
4	Naled	California clapper rail, San Francisco garter snake,
5		San Joaquin kit fox, valley elderberry longhorn
6		beetle, Bay checkerspot butterfly
7	Oryzalin	California tiger salamander
8	Permethrin	Valley elderberry longhorn beetle
9	Phosmet	California tiger salamander
10	Potassium nitrate	San Francisco garter snake, San Joaquin kit fox,
11		Alameda whipsnake
12	S-metolachlor	delta smelt, California tiger salamander
13	Simazine	delta smelt
14	Sodium nitrate	San Francisco garter snake, San Joaquin kit fox,
15		Alameda whipsnake
16	Warfarin	salt marsh harvest mouse, Alameda whipsnake
17	Zinc phosphide	salt marsh harvest mouse, Alameda whipsnake

18
19 Upon completion of an effects determination in accordance with the preceding effects
20 determination schedule, EPA will within seven business days proceed to initiate, if necessary,
21 consultation in accordance with Section 7(a)(2) of the ESA and the implementing ESA
22 consultation regulations.

23 **b. Schedule for Compliance for Remaining Pesticides Added via Amended**
24 **Complaint**

25 EPA shall make effects determinations for the following pesticides for the specific
26 species listed at a minimum rate of no less than three per quarter, with the first quarter ending
27 June 30, 2012, so that EPA completes all effects determinations by September 30, 2014.
28

<u>Pesticide</u>	<u>Species</u>
Bensulide, Beta-cyfluthrin, Bifenthrin, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Disulfoton, Esfenvalerate, Ethoprop, Fenpropathrin, Fluvalinate, Imidacloprid, Methamidophos, Methidathion, Methomyl, Oxydemeton-methyl, Oxyfluorfen, Phenothrin, Propargite, Resmethrin, Tetramethrin, Tralomethrin, and Zeta-cypermethrin	San Francisco garter snake, California tiger salamander, tidewater goby, California clapper rail, California freshwater shrimp, delta smelt, valley elderberry longhorn beetle, and Bay checkerspot butterfly.
Chlorothalonil:	San Francisco garter snake, California tiger salamander, tidewater goby, California clapper rail, California freshwater shrimp, delta smelt, Bay checkerspot butterfly
Fipronil:	San Francisco garter snake, California tiger salamander, tidewater goby, California clapper rail, California freshwater shrimp, delta smelt, Bay checkerspot butterfly
PCNB:	San Francisco garter snake, California tiger salamander, tidewater goby, California clapper rail, California freshwater shrimp, delta smelt, Bay checkerspot butterfly

Pendimethalin:	Bay checkerspot butterfly
Sodium cyanide:	San Joaquin kit fox
Strychnine:	Alameda whipsnake, salt marsh harvest mouse, San Francisco garter snake

c. Urban Pesticides

In making effects determinations for the Pesticides, EPA specifically shall consider the contribution to effects, arising from the use of the urban pesticides subject to this Order, when used in areas with impervious surfaces. Urban pesticides subject to this Stipulated Injunction are: Acephate, Alachlor, Atrazine, Bensulide, Beta-cyfluthrin, Bifenthrin, Bromethalin, Carbaryl, Chlorophacinone, Chlorothalonil, Cholecalciferol, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Diphacinone, Diquat dibromide, Disulfoton, Esfenvalerate, Fenpropathrin, Fipronil, Imidacloprid, Malathion, Methoprene, Naled, Oryzalin, Oxyfluorfen, PCNB, Pendimethalin, Permethrin, Phenothrin, Potassium nitrate, Resmethrin, Simazine, Sodium nitrate, Strychnine, Tetramethrin, Tralomethrin, Trifluralin, Warfarin, and Zeta-cypermethrin.

INTERIM INJUNCTIVE RELIEF

3. Use Authorizations Enjoined, Vacated, and Set Aside.

The EPA's authorization of any of the Pesticides identified below on a species-by-species basis is hereby ENJOINED, VACATED and SET ASIDE as follows, except as provided by the exclusions, exemptions, and termination provisions set forth in paragraphs 4, 5, 6, and 7:

Tidewater Goby

EPA's authorization of any use of Bensulide, Beta-cyfluthrin, Bifenthrin, Chlorothalonil, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Diazinon, Dimethoate, Disulfoton, Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate, Imidacloprid, Methamidophos, Methidathion, Methomyl, Oxydemeton-methyl, Oxyfluorfen, PCNB, Phenothrin, Propargite, Resmethrin, Tetramethrin, Tralomethrin, and Zeta-cypermethrin is

hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 100 feet of the habitat described below if applied by ground; and
2. all areas within 400 feet of the habitat described below if applied by air.

Applicable Habitat. For the tidewater goby, “habitat” means lagoons, estuaries, and backwater marshes that are adjacent to the Pacific Ocean, and freshwater streams upgradient and tributary to brackish habitats, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California:² M01S06W21, M07S05W33, M05N10W02, M05N10W03, M05N10W14, M05N10W15, M05N10W23, M06N10W35, M06N11W14, M06N11W15, M06N11W22, M07S05W15, M07S05W16, M08S05W04, M08S05W05, M08S05W09, M08S05W21.

Delta Smelt

EPA’s authorization of any use of Alachlor, Atrazine, Bensulide, Beta-cyfluthrin, Bifenthrin, Carbaryl, Carbofuran, Chlorothalonil, Chlorpyrifos, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Diazinon, Dimethoate, Diquat dibromide, Disulfoton, EPTC (eptam), Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate, Imidacloprid, Malathion, Methamidophos, Methidathion, Methomyl, Metolachlor, Oxydemeton-methyl, Oxyfluorfen, PCNB, Phenothrin, Propargite, Resmethrin, S-metolachlor, Simazine, Tetramethrin, Thiobencarb, Tralomethrin, Trifluralin and Zeta-cypermethrin is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 100 feet of the habitat described below if applied by ground, and
2. all areas within 400 feet of the habitat described below if applied by air, unless application is made in compliance with the Dormant Spray Regulations developed by the California Department of Pesticide Regulations, 3 Cal. Code Reg. § 6960, in which case a 100- foot buffer would apply.

² All section numbers in this document are based on the California Department of Pesticides Regulation PLSNET coverage.

Applicable habitat. For the delta smelt, “habitat” means all water and all submerged lands below ordinary high water, freshwater streams that drain into the Bay, and channels with tidal influence, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in either (1) critical habitat designated for the delta smelt by the FWS (59 Fed. Reg. 65256), as depicted by the FWS at <http://crithab.fws.gov/>, or (2) in the following sections of California: M03N04W02, M03N04W06, M03N04W09, M03N04W16, M04N04W32.

California Clapper Rail

EPA’s authorization of any use of Acephate, Azinphos-Methyl, Bensulide, Beta-cyfluthrin, Bifenthrin, Chlorothalonil, Chlorpyrifos, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Disulfoton, Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate, Imidacloprid, Methamidophos, Methidathion, Methomyl, Naled, Oxydemeton-methyl, Oxyfluorfen, PCNB, Permethrin, Phenothrin, Propargite, Resmethrin, Tetramethrin, Tralomethrin, and Zeta-cypermethrin applied either aerially or by ground is hereby ENJOINED, VACATED, and SET ASIDE in the following **Applicable Habitat**:

1. all areas within 300 feet of the high water line for tidal flow of salt and brackish water marshes ; and
2. all areas within 200 feet of a cordgrass/pickleweed stand, as shown in Attachment A, if any part of such stand occurs within 100 feet of the high water line of a salt or brackish water marsh.

The provisions in 1 and 2 above apply only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California: M01N04W19, M01N04W20, M01N04W29, M01N04W30, M01N06W10, M01N06W11, M01N06W14, M01N06W15, M01N06W22, M01N06W23, M01S04W15, M01S04W16, M01S04W20, M01S04W21, M01S04W22, M02N01W05, M02N01W06, M02N02W01, M02N02W02,

1 M02N02W03, M02N02W04, M02N02W09, M02N02W10, M02N04W20, M02N05W19,
 2 M02N06W02, M02N06W03, M02N06W10, M02N06W11, M02N06W14, M02N06W15,
 3 M02N06W16, M02N06W21, M02N06W23, M02N06W24, M02S03W17, M02S03W18,
 4 M02S03W19, M02S03W20, M02S03W21, M02S03W28, M02S03W29, M02S04W13,
 5 M02S04W14, M02S04W24, M03N06W03, M03N06W04, M03N06W09, M03N06W10,
 6 M03N06W19, M03N06W20, M03N06W21, M03N06W22, M03N06W26, M03N06W28,
 7 M03N06W35, M03N01W19, M03N01W30, M03N01W31, M03N02W03, M03N02W04,
 8 M03N02W10, M03N02W21, M03N02W24, M03N02W28, M03N02W29, M03N02W31,
 9 M03N02W32, M03N03W27, M03N03W28, M03N03W33, M03N03W34, M03N04W01,
 10 M03N04W02, M03N04W11, M03N04W25, M03N04W26, M03N04W35, M03N04W36,
 11 M03S03W10, M03S03W11, M03S03W14, M03S03W15, M03S03W23, M03S03W24,
 12 M03S03W25, M03S03W26, M03S03W35, M03S03W36, M03S05W27, M04N01W04,
 13 M04N01W05, M04N01W06, M04N01W16, M04N01W17, M04N01W18, M04N01W19,
 14 M04N01W20, M04N01W21, M04N02W12, M04N02W13, M04N02W14, M04N02W26,
 15 M04N04W03, M04N04W04, M04N04W08, M04N04W09, M04N04W10, M04N04W16,
 16 M04N04W17, M04N04W20, M04N04W34, M04N04W35, M04N05W08, M04N05W09,
 17 M04N05W15, M04N05W16, M04N05W17, M04N05W21, M04N05W23, M04N05W24,
 18 M04N05W27, M04N05W28, M04N05W33, M04N05W34, M04N10W11, M04S03W01,
 19 M04S03W31, M04S03W32, M04S03W33, M04S04W16, M04S04W17, M04S04W22,
 20 M05N01W32, M05N01W33, M05S02W02, M05S02W03, M05S02W04, M05S02W08,
 21 M05S02W09, M05S02W10, M05S02W13, M05S02W14, M05S02W15, M05S02W16,
 22 M05S02W17, M05S02W23, M05S02W24, M05S02W29, M05S02W30, M05S02W31,
 23 M05S02W32, M05S03W03, M05S03W04, M05S03W05, M05S03W06, M05S03W07,
 24 M05S03W08, M05S03W09, M05S03W10, M05S03W14, M05S03W15, M05S03W16,
 25 M05S03W22, M05S04W01, M05S04W12, M06S02W04, M06S02W09.

Salt Marsh Harvest Mouse

EPA's authorization of any use of Acephate, Brodifacoum, Bromadiolone, Bromethalin, Chlorophacinone, Chlorpyrifos, Cholecalciferol, Difenacoum, Difethialone, Diphacinone, Endosulfan, Permethrin, Strychnine, Warfarin, and Zinc phosphide applied either aerially or by ground is hereby ENJOINED, VACATED, and SET ASIDE in the following **Applicable**

Habitat:

1. all areas within 300 feet of the high water line for tidal flow of salt and brackish water marshes; and
2. all areas within 200 feet of a cordgrass/pickleweed stand, as shown in Attachment A, if any part of such stand occurs within 100 feet of the high water line of a salt or brackish water marsh.

The provisions in 1 and 2 above apply only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California: M01N06W02, M01N06W10, M01N06W11, M01N06W14, M01N06W15, M01N06W22, M01N06W23, M02N01E05, M02N01E07, M02N01W01, M02N01W05, M02N01W06, M02N01W12, M02N02W01, M02N02W02, M02N02W03, M02N02W04, M02N02W09, M02N02W10, M02N02W11, M02N02W15, M02N02W16, M02N02W17, M02N05W25, M03N01E05, M03N01E06, M03N01E07, M03N01E08, M03N01E17, M03N01E18, M03N01E20, M03N01E21, M03N01E22, M03N01E25, M03N01E26, M03N01E27, M03N01E28, M03N01E29, M03N01E30, M03N01E31, M03N01E32, M03N01E33, M03N06W03, M03N06W04, M03N06W05, M03N06W09, M03N06W10, M03N01W02, M03N01W03, M03N01W04, M03N01W09, M03N01W10, M03N01W11, M03N01W12, M03N01W13, M03N01W14, M03N01W15, M03N01W16, M03N01W30, M03N01W31, M03N02W03, M03N02W10, M03N02W15, M03N02W25, M03N02W26, M03N02W29, M03N02W30, M03N02W31, M03N02W32, M03N02W35, M03N02W36, M03N03W28, M03N04W01, M03N04W02, M03N04W05, M03N04W06, M03N04W08, M03N04W09, M03N04W10, M03N04W11, M03N04W14, M03N04W15, M03N04W16, M03N04W22, M03N04W23,

M03N04W24, M03N04W25, M03N04W26, M03N04W27, M03N04W35, M03N04W36,
 M03N05W01, M03N05W05, M03N05W06, M03N05W07, M03N05W08, M03S02W31,
 M03S03W10, M03S03W11, M03S03W14, M03S03W15, M03S03W36, M04N01E19,
 M04N01W04, M04N01W05, M04N01W06, M04N01W07, M04N01W16, M04N01W17,
 M04N01W18, M04N01W19, M04N01W21, M04N01W22, M04N01W24, M04N01W27,
 M04N01W28, M04N01W29, M04N01W32, M04N01W33, M04N02W01, M04N02W02,
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 M04N02W28, M04N04W04, M04N04W08, M04N04W09, M04N04W16, M04N04W17,
 M04N04W20, M04N04W32, M04N04W35, M04N05W15, M04N05W16, M04N05W21,
 M04N05W24, M04N05W28, M04N05W32, M04N05W33, M04N05W34, M04N05W35,
 M04N05W36, M04N06W06, M04N06W07, M04N06W08, M04N06W17, M04N06W18,
 M04N06W19, M04N06W20, M04N06W21, M04N06W28, M04N06W29, M04N06W30,
 M04N06W32, M04N06W33, M04N07W01, M04N07W02, M04N07W03, M04N07W12,
 M04N07W13, M04N07W24, M04S02W27, M04S02W28, M04S03W31, M04S03W32,
 M04S03W33, M05N01W31, M05N01W32, M05N01W33, M05N02W25, M05N02W35,
 M05N02W36, M05N04W33, M05N07W34, M05N07W35, M05S01W25, M05S01W26,
 M05S01W33, M05S01W34, M05S01W35, M05S01W36, M05S02W02, M05S02W03,
 M05S02W04, M05S02W08, M05S02W09, M05S02W10, M05S02W16, M05S02W17,
 M05S02W19, M05S02W25, M05S02W26, M05S02W29, M05S02W30, M05S02W32,
 M05S03W04, M05S03W05, M05S03W06, M05S03W07, M05S03W08, M05S03W15,
 M05S03W17, M05S03W18, M05S03W22, M05S03W24, M05S04W01, M05S04W12,
 M06S01W02, M06S01W03, M06S01W04, M06S01W06, M06S01W07, M06S01W09,
 M06S01W10, M06S02W01, M06S02W02, M06S02W03, M06S02W05, M06S02W10,
 M06S02W11.

California Tiger Salamander

EPA's authorization of any use of Acephate, Aluminum Phosphide, Azinphos-methyl,
 Bensulide, Beta-cyfluthrin, Bifenthrin, Chlorophacinone, Chlorothalonil, Chlorpyrifos,

1 Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Diphacinone,
 2 Disulfoton, Endosulfan, Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate,
 3 Imidacloprid, Malathion, Maneb, Mancozeb, Metam sodium, Methamidophos, Methidathion,
 4 Methomyl, Methoprene, Methyl Bromide, Oryzalin, Oxydemeton-methyl, Oxyfluorfen, PCNB,
 5 Phenothrin, Phosmet, Propargite, Resmethrin, S-metolachlor, Strychnine, Tetramethrin,
 6 Tralomethrin, and Zeta-cypermethrin is hereby ENJOINED, VACATED, and SET ASIDE in

7 1. all areas within 200 feet of the habitat described below if applied by ground; and

8 2. all areas within 400 feet of the habitat described below if applied by air.

9 **Applicable Habitat.** For the California tiger salamander, “habitat” means fresh-water
 10 (including natural or manmade (e.g., stock) ponds, slow-moving streams or pools within
 11 streams, vernal pools, and other ephemeral or permanent water bodies which typically
 12 support inundation during winter rains and hold water for a minimum of 12 weeks in a
 13 year of average rainfall, but only to the extent that any such ecological features are found
 14 within the eight counties specifically identified in the Complaint (and in this Stipulated
 15 Injunction) in either (1) critical habitat designated for the California tiger salamander by
 16 the FWS (70 Fed. Reg. 49380), as depicted by the FWS at <http://crithab.fws.gov/>, or (2) in
 17 the following sections of California: M01N01E01, M01N01E02, M01N01E03,
 18 M01N01E04, M01N01E12, M01N01E13, M01N01E20, M01N01E23, M01N01E24,
 19 M01N01E28, M01N01W02, M01N02E05, M01N02E06, M01N02E07, M01N02E08,
 20 M01N02E16, M01N02E17, M01N02E18, M01N02E26, M01N02E27, M01N02E28,
 21 M01N02E33, M01N02E34, M01N02E35, M01N02E36, M01S01E15, M01S01E16,
 22 M01S02E01, M01S02E02, M01S02E03, M01S02E10, M01S02E11, M01S02E12,
 23 M01S02E13, M01S02E14, M01S02E15, M01S02E16, M01S02E17, M01S02E20,
 24 M01S02E21, M01S02E22, M01S02E23, M01S02E24, M01S02E25, M01S02E26,
 25 M01S02E27, M01S02E29, M01S02E33, M01S02E34, M01S02E35, M01S02E36,
 26 M01S03E04, M01S03E05, M01S03E06, M01S03E07, M01S03E08, M01S03E09,
 27 M01S03E17, M01S03E18, M01S03E19, M01S03E20, M01S03E21, M01S03E22,
 28 M01S03E23, M01S03E26, M01S03E27, M01S03E28, M01S03E29, M01S03E30,

1 M01S03E31, M01S03E32, M01S03E35, M01S03E36, M02N01E28, M02N01E30,
 2 M02N01E33, M02N01W21, M02N01W22, M02N01W25, M02N01W26, M02N01W27,
 3 M02N01W28, M02N01W33, M02N01W34, M02N01W35, M02N01W36, M02S01E04,
 4 M02S01E08, M02S01E09, M02S01E16, M02S01E17, M02S01E20, M02S01E21,
 5 M02S01E22, M02S01E24, M02S01E25, M02S01E26, M02S01E27, M02S01E28,
 6 M02S01E33, M02S01E34, M02S01E35, M02S01E36, M02S02E01, M02S02E02,
 7 M02S02E03, M02S02E04, M02S02E09, M02S02E10, M02S02E11, M02S02E12,
 8 M02S02E13, M02S02E14, M02S02E15, M02S02E25, M02S02E26, M02S02E27,
 9 M02S02E28, M02S02E31, M02S02E33, M02S02E34, M02S02E35, M02S02E36,
 10 M02S03E01, M02S03E02, M02S03E06, M02S03E08, M02S03E09, M02S03E10,
 11 M02S03E16, M02S03E17, M02S03E18, M02S03E19, M02S03E20, M02S03E21,
 12 M02S03E22, M02S03E23, M02S03E24, M02S03E26, M02S03E29, M02S03E30,
 13 M02S03E31, M02S03E32, M02S03E33, M02S03E34, M02S03E35, M02S04E19,
 14 M03S01E01, M03S01E02, M03S01E03, M03S01E14, M03S01E15, M03S01E22,
 15 M03S01E23, M03S01E24, M03S01E25, M03S01E27, M03S01E28, M03S01E34,
 16 M03S01E35, M03S01E36, M03S02E01, M03S02E04, M03S02E05, M03S02E12,
 17 M03S02E13, M03S02E15, M03S02E16, M03S02E19, M03S02E21, M03S02E22,
 18 M03S02E24, M03S02E30, M03S02E31, M03S02E32, M03S02E35, M03S03E04,
 19 M03S03E05, M03S03E06, M03S03E07, M03S03E08, M03S03E10, M03S03E12,
 20 M03S03E18, M03S03E19, M03S03E20, M03S03E21, M03S03E23, M03S03E25,
 21 M03S03E26, M03S03E27, M03S03E28, M03S03E29, M03S03E30, M03S03E35,
 22 M03S03E36, M03S04E17, M03S04E29, M03S04E30, M03S04E31, M03S04E32,
 23 M04N01E34, M04N01W10, M04N01W11, M04S01E01, M04S01E02, M04S01E03,
 24 M04S01E04, M04S01E09, M04S01E10, M04S01E11, M04S01E14, M04S01E16,
 25 M04S01E17, M04S01E18, M04S01E22, M04S01E24, M04S01E27, M04S01E28,
 26 M04S01E29, M04S01E33, M04S01E34, M04S01E35, M04S01W13, M04S01W24,
 27 M04S02E07, M04S02E12, M04S02E13, M04S02E17, M04S02E18, M04S02E27,
 28 M04S02E35, M04S02E36, M04S03E01, M04S03E07, M04S03E18, M05N01E07,

M05N01E14, M05N01E16, M05N01E17, M05N01E18, M05N01E19, M05N01E20,
 M05N01E21, M05N01E28, M05N01E29, M05N01E30, M05N01W10, M05N01W12,
 M05N01W13, M05N01W14, M05N01W15, M05N08W03, M05N08W04, M05N08W11,
 M05S01E02, M05S01E12, M05S01E19, M05S01E20, M05S01E23, M05S01E30,
 M05S01W03, M05S01W15, M05S01W16, M05S01W21, M05S01W22, M05S02E01,
 M05S02E08, M05S02E09, M05S02E10, M05S02E11, M05S03E06, M05S03W34,
 M06N07W31, M06N08W03, M06N08W04, M06N08W05, M06N08W06, M06N08W07,
 M06N08W08, M06N08W09, M06N08W10, M06N08W11, M06N08W14, M06N08W15,
 M06N08W16, M06N08W22, M06N08W26, M06N08W27, M06N08W32, M06N08W34,
 M06N08W35, M06N08W36, M06S02E22, M06S02E23, M06S02E24, M06S02E25,
 M06S02E26, M06S02E27, M06S02E35, M06S02E36, M06S03E31, M06S03W03,
 M06S03W04, M06S03W09, M06S03W10, M06S03W15, M06S03W16, M07N09W36,
 M07N08W05, M07N08W08, M07N08W19, M07N08W20, M07N08W28, M07N08W29,
 M07N08W30, M07N08W31, M07N08W32, M07N08W33, M07N08W34, M07N09W25,
 M07S01E25, M07S01E27, M07S01E28, M07S01E36, M07S02E03, M07S02E10,
 M07S02E11, M07S02E13, M07S02E14, M07S02E19, M07S02E24, M07S02E25,
 M07S02E28, M07S02E30, M07S02E31, M07S02E33, M07S03E19, M07S03E20,
 M08S02E15, M08S02E16, M08S02E34, M08S02E36, M09S02E03, M09S02E04,
 M09S02E09, M09S03E10, M09S03E11, M09S03E36, M09S04E15, M09S04E16,
 M09S04E21, M09S04E22, M10S03E08, M10S03E09, M10S03E10, M10S03E15,
 M10S03E16, M10S03E17, M10S03E22, M10S03E27, M10S03E28, M10S03E34,
 M10S05E10, M11S04E07, M11S04E12, M11S04E18, M11S04E29, M11S04E30.

San Francisco Garter Snake

EPA's authorization of any use of Acephate, Aluminum Phosphide, Azinphos-methyl,
 Bensulide, Beta-Cyfluthrin, Bifenthrin, Carbofuran, Chlorothalonil, Chlorpyrifos, Cyfluthrin,
 Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Disulfoton, Endosulfan,
 Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate, Imidacloprid, Magnesium

phosphide, Methamidophos, Methidathion, Methomyl, Naled, Oxydemeton-methyl, Oxyfluorfen, PCNB, Phenothrin, Permethrin, Potassium nitrate, Propargite, Resmethrin, Sodium nitrate, Strychnine, Tetramethrin, Tralomethrin, Trifluralin, and Zeta-cypermethrin is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 200 feet of the habitat described below if applied by ground; and
2. all areas within 400 feet of the habitat described below if applied by air.

Applicable Habitat. For the San Francisco garter snake, “habitat” means fresh-water (including natural or manmade (e.g., stock) ponds, slow-moving streams or pools within streams, vernal pools, and other ephemeral or permanent water bodies which typically support inundation during winter rains and hold water for a minimum of 12 weeks in a year of average rainfall, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California: M03S05W31, M04S05W03, M04S05W05, M04S05W06, M04S05W08, M04S05W09, M04S05W16, M05S04W07, M05S04W17, M05S04W18, M05S04W19, M05S04W20, M05S04W21, M05S04W28, M05S05W01, M05S05W12, M05S05W29, M08S05W04, M08S05W09, M08S05W16, M08S05W25, M08S05W26, M09S04W07, M09S04W08, M09S04W17, M09S04W18, M09S04W28.

California Freshwater Shrimp

EPA’s authorization of any use of Acephate, Bensulide, Beta-cyfluthrin, Bifenthrin, Chlorothalonil, Chlorpyrifos, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Disulfoton, Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate, Imidacloprid, Methamidophos, Methidathion, Methomyl, Oxydemeton-methyl, Oxyfluorfen, PCNB, Phenothrin, Propargite, Resmethrin, Tetramethrin, Tralomethrin, and Zeta-cypermethrin is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 100 feet of the habitat described below if applied by ground; and
2. all areas within 400 feet of the habitat described below if applied by air.

Applicable Habitat. For the California freshwater shrimp, “habitat” means all perennial streams or intermittent streams with perennial pools, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California: M02N08W04, M02N08W05, M02N08W09, M02N08W10, M02N08W14, M02N08W15, M02N08W16, M02N08W23, M07N11W11, M03N08W19, M03N08W29, M03N08W30, M03N08W31, M03N08W32, M03N09W35, M03N09W36, M05N05W23, M05N05W24, M05N05W25, M05N05W26, M05N06W02, M05N09W18, M05N09W19, M05N10W13, M05N10W24, M06N06W05, M06N06W06, M06N06W07, M06N06W08, M06N06W16, M06N06W17, M06N06W21, M06N06W27, M06N06W35, M06N09W04, M06N09W05, M06N09W22, M06N09W23, M06N09W24, M06N10W12, M06N10W13, M06N10W14, M06N10W17, M06N10W18, M06N10W19, M06N10W20, M06N10W21, M06N10W22, M06N10W23, M06N10W24, M06N10W25, M06N10W27, M06N10W28, M06N11W13, M06N11W14, M06N11W23, M07N09W33, M07N10W13, M07N10W14, M07N10W24, M07N11W02, M07N11W03, M07N06W32, M07N09W17, M07N09W19, M07N09W20, M08N07W01, M08N07W06, M08N11W15, M08N11W22, M08N11W27, M08N11W34, M09N07W25, M09N07W31, M09N07W36.

San Joaquin Kit Fox

EPA’s authorization of any use of Acephate, Aldicarb, Aluminum phosphide, Azinphos-methyl, Brodifacoum, Bromadiolone, Carbofuran, Chlorophacinone, Chlorpyrifos, Difenacoum, Difethialone, Diphacinone, Endosulfan, Magnesium phosphide, Naled, Phorate, Potassium nitrate, Sodium cyanide, Sodium nitrate, Strychnine, and Trufuralin is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 600 feet of the habitat described below if applied by ground or air.

Applicable Habitat. For the San Joaquin kit fox, “habitat” means all denning areas, defined as the 100 foot circular radius around the set of holes in the ground forming the

surface of the den, as depicted in the Department of Pesticide Regulation Endangered Species Project, San Joaquin kit fox, denning characteristics, attached hereto as Attachment B, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California: M01N01E01, M01N01E02, M01N01E03, M01N01E04, M01N01E05, M01N01E34, M01N01E35, M01S01E02, M01S01E03, M01S01W25, M01S01W36, M01S02E16, M01S02E17, M01S02E21, M01S03E03, M01S03E04, M01S03E09, M01S03E10, M01S03E15, M01S03E16, M01S03E19, M01S03E21, M01S03E22, M01S03E23, M01S03E31, M01S03E32, M01S03E33, M01S03E35, M01S03E36, M01S04E31, M02N01E28, M02N01E32, M02N01E33, M02N01E35, M02N01E36, M02S01W01, M02S03E02, M02S03E03, M02S03E04, M02S03E05, M02S03E07, M02S03E10, M02S03E11, M02S04E07, M02S04E32, M03S03E04, M03S03E05, M03S04E06, M04S01E07, M04S01E18, M10S06E21, M10S06E22, M10S06E27, M10S06E28.

Alameda Whipsnake

EPA's authorization of any use of 2,4-D, Acrolein, Aluminum phosphide, Brodifacoum, Bromadiolone, Bromethalin, Chlorophacinone, Difenacoum, Difethialone, Diphacinone, Magnesium phosphide, Potassium nitrate, Sodium nitrate, Strychnine, Warfarin, and Zinc phosphide is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 100 feet of the habitat described below if applied by ground; and
2. all areas within 400 feet of the habitat described below if applied by air.

Applicable Habitat. For the Alameda whipsnake, "habitat" means all areas described as shrub communities known as chaparral consisting of northern coastal sage scrub and coastal sage, and in open grasslands, oak savanna, and oak-bay woodland occurring within 500 feet of such shrub communities, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in either (1) critical habitat designated for the Alameda whipsnake

by the FWS (71 Fed. Reg. 58176), as depicted by the FWS at <http://crithab.fws.gov/>, or (2) in the following sections of California: M01N01E04, M01N01E08, M01N01E11, M01N01E12, M01N01E20, M01N01E21, M01N01E33, M01N02W17, M01N02W19, M01N02W20, M01N03W33, M01N04W36, M01S01E04, M01S01E05, M01S01E08, M01S01W17, M01S01W18, M01S01W30, M01S01W31, M01S02E28, M01S02E29, M01S02E32, M01S02E33, M01S02E34, M01S02W02, M01S02W03, M01S02W10, M01S02W11, M01S02W12, M01S02W14, M02N01E33, M02S02W07, M02S02W17, M02S02W28, M03S01W11, M03S01W19, M03S01W20, M03S01W29, M03S01W30, M03S01W32, M03S02W12, M04S01W05, M05S04E04.

Valley Elderberry Longhorn Beetle

EPA's authorization of any use of Acephate, Aldicarb, Azinphos-methyl, Bensulide, Beta-cyfluthrin, Bifenthrin, Carbofuran, Chlorpyrifos, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Disulfoton, Endosulfan, Esfenvalerate, Ethoprop, Fenpropathrin, Fluvalinate, Imidacloprid, Methamidophos, Methidathion, Methomyl, Naled, Oxydemeton-methyl, Oxyfluorfen, Permethrin, Phenothrin, Phorate, Propargite, Resmethrin, Tetramethrin, Tralomethrin, and Zeta-cypermethrin is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 100 feet of the habitat described below if applied by ground; and
2. all areas within 400 feet of the habitat described below if applied by air.

Applicable Habitat. For the valley elderberry longhorn beetle, "habitat" means riparian habitat containing elderberry, but only to the extent that any such ecological features are found within the eight counties specifically identified in the Complaint (and in this Stipulated Injunction) in the following sections of California: M08N01W28, M08N01W31, M08N01W32, M05N02W05, M05N02W08, M05N02W11, M05N02W12, M05N02W32, M06N02W19, M06N03W25, M06N03W36, M07N01E13, M07N01W06, M07N02E18, M07N02E19, M07N02W12, M08N02W25, M08N02W26, M08N02W27, M08N02W28, M08N02W29, M08N02W35, M08N02W36.

Bay Checkerspot Butterfly

EPA's authorization of any use of Acephate, Azinphos-methyl, Bensulide, Beta-cyfluthrin, Bifenthrin, Chlorothalonil, Chlorpyrifos, Cyfluthrin, Cyhalothrin (lambda), Cypermethrin, Deltamethrin, Dimethoate, Disulfoton, Endosulfan, Esfenvalerate, Ethoprop, Fenpropathrin, Fipronil, Fluvalinate, Imidacloprid, Methamidophos, Methidathion, Methomyl, Naled, Oxydemeton-methyl, Oxyfluorfen, PCNB, Pendimethalin, Permethrin, Phenothrin, Phorate, Propargite, Resmethrin, Tetramethrin, Tralomethrin, and Zeta-cypermethrin is hereby ENJOINED, VACATED, and SET ASIDE in

1. all areas within 100 feet of the habitat described below if applied by ground; and
2. all areas within 400 feet of the habitat described below if applied by air.

Applicable Habitat. For the Bay checkerspot butterfly, "habitat" means all grasslands depicted in red on the detailed GIS maps included at Attachment C, but only to the extent that any such ecological features are found within the 8 counties specifically identified in the Complaint (and in this Stipulated Injunction) in either (1) critical habitat designated for the Bay checkerspot butterfly by the FWS (66 Fed. Reg. 21449), as depicted by the FWS at <http://crithab.fws.gov/>, or (2) in the following sections of California: M05S04W26, M05S04W27, M05S04W34, M07S01E25, M07S01E36, M07S02E29, M07S02E30, M07S02E31, M07S02E32, M08S01E36, M08S02E02, M08S02E03, M08S02E10, M08S02E11, M08S02E13, M08S02E14, M08S02E15, M08S02E22, M08S02E23, M08S02E24, M08S02E25, M08S02E26, M08S02E36, M08S03E19, M08S03E29, M08S03E30, M08S03E31, M08S03E32, M08S03E33, M09S01E01, M09S02E02, M09S02E03, M09S02E06, M09S02E10, M09S02E11, M09S03E03, M09S03E04, M09S03E05, M09S03E06, M09S03E08, M09S03E09, M09S03E10, M09S03E17, M09S03E18, M09S03E19, M09S03E20.

4. Terminating Events.

The interim injunctive relief set forth above in Section 3 will terminate automatically for a FIFRA authorization for a particular use of any of the Pesticides covered under Section 2 (including those Pesticides identified in footnote 1) upon the completion of the consultation

obligation imposed under Section 7(a)(2) of the ESA and the implementing ESA consultation regulations. The EPA shall provide Plaintiff with notice of completion of Section 7(a)(2) consultation obligations made pursuant to this paragraph within 14 days of such determination, by facsimile or electronic mail, addressed to Plaintiff's Counsel of Record in this matter.

ACTIVITIES EXEMPTED FROM INTERIM INJUNCTIVE RELIEF

5. Particular Pesticide Programs Excluded.

Notwithstanding Section 3, CBD and EPA agree that the use of the Pesticides specified below is NOT ENJOINED, VACATED, OR SET ASIDE:

a. **Public Health Vector Control Programs.** The use of the Pesticides covered under Section 3 above for:

1. the purpose of public health vector control when such program is administered by public entities; or
2. use by certified applicators for control of a vector pest when such control is necessary to respond to a federally or state declared public health emergency.

b. **Invasive Species and Noxious Weed Programs.** Aquatic and non-aquatic uses of the Pesticides covered under Section 3 above for control of state or federally designated invasive species and noxious weeds when such program is administered by public entities, so long as the following restrictions are implemented:

1. application of the Pesticides shall be limited to localized spot treatments using hand held devices and may not occur within 20 feet of protected habitat areas for the 11 species as set forth in Section 3 above;
2. the Pesticides cannot be used when precipitation is occurring or is forecast to occur within 24 hours;
3. all spraying must be overseen by a certified applicator; and
4. for 2, 4-D, only the amine formulation can be used.

6. Endangered Species Act Approved Uses.

Notwithstanding Section 3, CBD and EPA agree that the use of the Pesticides covered under Section 3 above is NOT ENJOINED, VACATED, OR SET ASIDE where such use is permissible under one or more of the following:

- a. a “no jeopardy” biological opinion issued under ESA Section 7(a)(2) by the FWS that addresses the use of the Pesticide and effects on any one or more of the eleven species subject to this Stipulated Injunction, provided that such use follows any “reasonable and prudent measures” established in connection with an incidental take statement included with the FWS’s opinion;
- b. a “reasonable and prudent alternative” identified in a “jeopardy” biological opinion issued under ESA Section 7(a)(2) by the FWS that addresses the use of the Pesticide and effects on any one or more of the eleven species subject to this Stipulated Injunction provided that such use follows the “reasonable and prudent alternatives,” and any “reasonable and prudent measures” established in connection with an incidental take statement, included with the FWS’s opinion;
- c. a written concurrence by the FWS in a “not likely to adversely affect” determination made under ESA Section 7(a)(2) that addresses the use of the Pesticide and effects on any of the eleven species subject to this Stipulated Injunction;
- d. an incidental take permit issued by the FWS under ESA Section 10(a) that authorizes the take of any of the eleven species subject to this Stipulated Injunction from application or use of the Pesticide.

7. Specific Pesticide Product or Use Exceptions.

Notwithstanding Section 3, CBD and EPA agree that the following uses of the Pesticides covered under Section 3 above are NOT ENJOINED, VACATED, OR SET ASIDE:

- a. use of the Pesticides in cattle ear tags;
- b. indoor uses of the Pesticides;

- c. tree injection applications of the Pesticides. However, the injection of the pesticides acephate, aldicarb, azinphos-methyl, carbofuran, chlorpyrifos, endosulfan, and phorate into elderberry trees occurring within the sections of land identified in Section 3 relative to the valley elderberry longhorn beetle is not permitted;
- d. homeowner applications of the Pesticides to household potted plants;
- e. use of the Pesticides in flea and tick collars for dogs and cats;
- f. use of the Pesticides for spot treatments of wasp and hornet nests, provided that such use occurs at least sixty feet from protected habitat areas for the 11 species identified in Section 3 above;
- g. individual tree removal using cut stump application of the Pesticides, provided that such use occurs at least sixty feet from protected habitat areas for the 11 species identified in Section 3 above;
- h. basal bark application of the Pesticides to individual plants, provided that such use occurs at least sixty feet from protected habitat areas for the 11 species identified in Section above;
- i. use of the Pesticides (except brodifacoum, bromadiolone, difenacoum, and difethialone) for control of rodents adjacent to residential buildings (e.g., houses, apartment buildings, nursing homes, hospitals) or food handling, processing or serving establishments, provided: (1) the pesticide is applied by a certified applicator certified in a category that includes the use of rodenticides; and (2) the pesticide is used in a tamper resistant bait station deemed to be a Tier 1 bait station according to the standards described in the “Risk Mitigation Decision for Ten Rodenticides” (EPA May 2008); and (3) the bait stations are placed within 10 feet of the structure;
- j. use of the Pesticides for subterranean termite control, provided: (1) the pesticide is applied by a certified applicator certified in a category that includes the use of

subterranean termite control products; and (2) the product is used within 10 feet of the structure being treated for termites.

NOTIFICATION REQUIREMENTS

8. Brochure Content

EPA agrees to develop a bilingual (English & Spanish) brochure.

- a. The brochure shall 1) state that CBD and EPA have reached a Stipulated Injunction setting forth a schedule for effect determinations and interim relief pending completion of consultation, if appropriate, with respect to EPA's registration of certain pesticides within certain areas of California, 2) list those eight counties in the greater San Francisco Bay Area, including the Bay Delta, impacted by the agreed-upon relief in this Stipulated Injunction, and identify the affected species relative to each county,³ 3) provide tips for reducing off-site movement of pesticides, and 4) refer the reader to EPA's website for further information as noted below in Section 10.
- b. The front cover of the brochure will incorporate the following heading and statement and shall be in a large font and highly visible.

WILDLIFE AND PESTICIDE HAZARDS

Some pesticide products may harm wildlife or their habitat.

9. Brochure Distribution

The EPA shall distribute a copy of this brochure to all commercial certified applicators of the Pesticides covered by Section 3 above that reasonably can be identified and located within

³ tidewater goby: San Mateo
delta smelt: Contra Costa, Solano
clapper rail: San Mateo, Contra Costa, Solano, Sonoma, Marin, Napa, Alameda, Santa Clara
salt marsh harvest mouse: San Mateo, Contra Costa, Solano, Sonoma, Marin, Napa, Alameda, Santa Clara
tiger salamander: Contra Costa, Solano, Sonoma, Alameda, Santa Clara
San Francisco garter snake: San Mateo
freshwater shrimp: Sonoma, Marin, Napa
San Joaquin kit fox: Contra Costa, Alameda
Alameda whipsnake: Contra Costa, Alameda
valley elderberry Longhorn beetle: Solano
Bay checkerspot butterfly: San Mateo, Alameda

the state of California; to all private certified applicators that reasonably can be identified and located as residing in the eight California counties where EPA's authorization of use of the Pesticides covered under Section 3 are Enjoined, Vacated, and Set Aside by this Stipulated Injunction; to all registrants of the Pesticides covered by Section 3 above; and to the California Department of Pesticide Regulation, California Department of Fish and Game, and Pacific Region of the United States Fish and Wildlife Service. In addition, EPA shall distribute two-hundred and fifty (250) copies of this brochure to each of the County Agricultural Commissioner and Cooperative Extension Agent offices in the eight California counties where EPA's authorization of use of the Pesticides covered under Section 3 are Enjoined, Vacated, and Set Aside by this Stipulated Injunction.

Finally, EPA shall mail the brochure described above to the pesticide user groups identified in Attachment D to this Stipulated Injunction entitled "Pesticide User Groups In The Bay Area." EPA shall provide annual notices to such user groups informing them that the Stipulated Injunction is still in effect and referring them to EPA's website for further information (including an electronic file of the brochure) until such time as EPA has completed the consultations for the Pesticides covered by Section 3 above, or has otherwise fulfilled its consultation obligations for such Pesticides relative to the 11 species at issue in this case.

10. Web-site Content

EPA shall display on its website the following:

1) The full text of the Stipulated Injunction, 2) maps identifying the areas in the eight California counties identified in this Stipulated Injunction where the interim injunction relief applies, and 3) fact sheets for the 11 species identified in Section 3 that shall include, at a minimum, the biology, habitat needs, and status under the Endangered Species Act for each such species.

CBD and EPA agree that the maps provided by EPA on its website pursuant to this Section may be relied on to determine where the interim injunctive relief applies under this Stipulated Injunction.

11. Point of Sale Notice Content

EPA shall develop a point of sale notification for the Urban Pesticides in the form of a shelf tag that incorporates the following written and graphic information:

- a. The heading “Wildlife Hazard” in a large and visible font followed by the statement that:

This product contains pesticides that may harm some wildlife species. Use of this product in urban areas may pollute streams and downstream waters such as the Bay and Delta.

Both the heading and the statement shall be highly visible to purchasers.

- b. The notification shall also contain a prominent graphic.

12. Point of Sale Distribution

Within 120 days of the effective date of this Stipulated Injunction, EPA must contact the retailers identified in Attachment E to this Stipulated Injunction entitled “Retailers Who Will Be Provided Shelf Tags,” which shall be supplied by CBD, and inform them of the Stipulated Injunction and request that they post the point of sale shelf tags described above wherever they have for sale products containing the Urban Pesticides. EPA shall provide annual notices to such retailers informing them that the Stipulated Injunction is still in effect and referring them to EPA’s website for further information (including an electronic file of the point of sale shelf tags) until such time as EPA has completed the consultations for the Urban Pesticides, as defined in Section 2.c above, or has otherwise fulfilled its consultation obligations for the Urban Pesticides.

13. Notification of Stipulated Injunction.

The EPA is directed to mail copies of this Stipulated Injunction directly to all registrants of the Pesticides covered by Section 3. The EPA also is directed to display the terms of this Stipulated Injunction on EPA’s website.

MODIFICATIONS TO INJUNCTIVE RELIEF

14. Modifications to INJUNCTIVE RELIEF.

CBD and EPA reserve the right to seek to have this Court modify this Stipulated Injunction because of EPA's and the FWS's ongoing actions to comply with the ESA, to meet the requirements of other federal agencies or departments, or to deal with circumstances not presently anticipated. The Court will consider such future requests as it deems appropriate.

DISPUTE RESOLUTION

15. In the event of a disagreement between CBD and EPA concerning the interpretation or performance of any aspect of this Stipulated Injunction, the dissatisfied party shall provide the other party with written notice of the dispute and a request for negotiations. CBD and EPA shall confer in order to attempt to resolve the dispute within 14 days after receipt of the notice, or such time thereafter as is mutually agreed upon. If CBD and EPA are unable to resolve the dispute within 21 days after receipt of the notice, or such time thereafter as is mutually agreed upon, then either party may petition the Court to resolve the dispute. The Court will consider such future requests as it deems appropriate.

ATTORNEYS' FEES

16. EPA agrees that CBD is entitled to reimbursement of reasonable attorneys' fees and costs, as provided in 16 U.S.C. § 1540(g). CBD and EPA agree to attempt to resolve CBD's claim for fees and costs for all claims in this action expeditiously, without the need for Court intervention. CBD and EPA recognize that Federal Defendants have not waived any defense to and preserve their right to challenge the reasonableness of the amount of attorneys' fees and costs requested by CBD in the event that CBD and Federal Defendants are unable to resolve CBD's claim for fees and costs. CBD and EPA further recognize that CBD reserves the right to seek additional fees and costs incurred arising from a need to enforce or defend against efforts to modify this Stipulated Injunction or for any other unforeseen continuation of this action.

1 **17.** If CBD and EPA cannot agree on the amount of such fees within 60 days of the Court
 2 approving this Stipulated Injunction, CBD shall file a motion for attorneys' fees and costs with
 3 the Court in this matter. This 60 day period shall supersede the 14 day time period otherwise
 4 applicable pursuant to Federal Rules of Civil Procedure Section 54(d)(2)(B) and the court order
 5 approving the Stipulated Injunction will accordingly operate as an enlargement of time pursuant
 6 to Federal Rule of Civil Procedure Section 6(b)(1) for Plaintiff to file a fee motion.

7 8 **SCOPE OF THE STIPULATED INJUNCTION**

9 **18.** CBD and EPA recognize that, with respect to certain of the pesticides and species
 10 subject to this Stipulated Injunction, EPA has concluded consultation with the FWS that resulted
 11 in either a concurrence from the FWS or a biological opinion. It is the expectation and
 12 understanding of the parties that EPA may use the information in an existing concurrence or
 13 biological opinion in making its effects determination for a particular species if that information
 14 is still applicable to the current formulation and use of such pesticide.

15 **19.** No provision of this Stipulated Injunction shall be construed to require EPA to take, or to
 16 preclude EPA from taking, any action under FIFRA to implement the use authorizations
 17 contained herein. If CBD believes the Stipulated Injunction has not been effective in promoting
 18 pesticide user adherence to the use authorizations, Plaintiff may seek modification of this
 19 stipulated injunction. EPA waives no defense it may have with respect to the terms of any such
 20 requested modification.

21 **20.** No provision of this Stipulated Injunction shall be interpreted as or constitute a
 22 commitment or requirement that the EPA take action in contravention of the ESA, the
 23 Administrative Procedure Act ("APA"), or any other law or regulation, either substantive or
 24 procedural. Nothing in this Stipulated Injunction shall be construed to limit or modify the
 25 discretion accorded to EPA by the ESA, the APA, or general principles of administrative law
 26 with respect to the procedures to be followed in making the effects determinations described
 27 above in Sections 1 and 2, or as to the substance of any such determinations.

1 **21.** Neither EPA's act of entering into this Stipulated Injunction, nor anything contained in
2 this Stipulated Injunction, shall be interpreted as an acknowledgement, endorsement, and/or
3 agreement by EPA as to the necessity and/or appropriateness of the buffers agreed to in
4 connection with the interim restrictions set forth in Section 3.

5 **22.** Neither CBD's act of entering into this Stipulated Injunction, nor anything contained in
6 this Stipulated Injunction, shall be interpreted as an acknowledgement, endorsement, and/or
7 agreement by CBD that the interim restrictions set forth in Section 3 constitute adequate long
8 term protections to avoid jeopardy to species from pesticide impacts.

9 **23.** Nothing in this Stipulated Injunction shall bar EPA from acting on any matters covered
10 herein in a time frame earlier than required by this Stipulated Injunction, or from taking
11 additional actions not specified herein if EPA determines such actions are appropriate under
12 applicable law.

13 **24.** EPA asserts that no provision of this Stipulated Injunction shall be interpreted as, or
14 constitute, a commitment or requirement that EPA is obligated to spend funds in violation of the
15 Anti-Deficiency Act, 31 U.S.C. Section 1341, or any other provisions of law. In response, CBD
16 asserts that this Stipulated Injunction does not create a conflict with the Anti-Deficiency Act
17 because the duty to make Section 7(a)(2) consultations is required in non-discretionary terms by
18 the ESA and because the Anti-Deficiency Act would not excuse compliance with a pre-existing
19 court-approved Stipulated Injunction. CBD intends to assert this position if EPA fails to comply
20 with the terms of this Stipulated Injunction for reasons of insufficient appropriations. The EPA
21 reserves all legal and equitable defenses to such a claim.

22 **25.** CBD and EPA agree that this Stipulated Injunction was negotiated in good faith and that
23 entry of this Stipulated Injunction constitutes a settlement of claims that were vigorously
24 contested, denied, and disputed by CBD and EPA. By entering into this Stipulated Injunction,
25 CBD and EPA do not waive any claim or defense.

26 **26.** The undersigned representatives of CBD and EPA certify that they are fully authorized
27 by the party (or parties) they represent to agree to the terms and conditions of this Stipulated
28 Injunction and do hereby agree to the terms herein.

1 **27.** Upon entry of this Stipulated Injunction, CBD's Complaint shall be dismissed with
 2 prejudice. The dismissal shall apply to and be binding upon CBD and EPA hereto and anyone
 3 acting on their behalf, including successors, employees, agents, elected and appointed officers,
 4 and assigns. CBD agrees not to bring, assist any other party in bringing, or join EPA or any
 5 other party in any court proceeding that concerns an alleged violation of Section 7 of the ESA
 6 pertaining to the effects of any of the Pesticides on any of the eleven species identified in
 7 Section 3 in the eight Bay Area counties subject to this Stipulated Injunction until after the
 8 completion of any Terminating Event for that pesticide as set forth in Section 4 of this
 9 Stipulated Injunction.

10 **28.** This Stipulated Injunction does not constitute an admission or evidence of any fact,
 11 wrongdoing, misconduct, or liability on the part of the United States, including without
 12 limitation, EPA, its officers, or any other person affiliated with it, or any interpretation of any
 13 applicable provision of law. This Stipulated Injunction has no precedential value and shall not
 14 be used as evidence in any other court proceeding or in any other settlement discussions.

15 **29.** CBD's sole judicial remedy to address the merits of any final action that may ensue from
 16 EPA's performance of its obligations under this Stipulated Injunction is to file a separate lawsuit
 17 challenging such final action. EPA reserves all defenses to any such suit. Nothing in this
 18 Stipulated Injunction alters or affects the standards for review of final EPA action, or creates
 19 jurisdiction that otherwise would not exist to review EPA action.

20 **30.** Notwithstanding the dismissal of this action, CBD and EPA have agreed and requested
 21 that this Court retain jurisdiction to oversee compliance with the terms of this Stipulated
 22 Injunction and to resolve any motions to modify such terms. *See Kokkonen v. Guardian Life*
 23 *Ins. Co. of America*, 511 U.S. 375 (1994).

24 **31.** The terms of this Stipulated Injunction constitute the entire agreement of CBD and EPA,
 25 and no statement, agreement or understanding, oral or written, which is not contained herein,
 26 shall be recognized or enforced.
 27
 28

32. The terms of this Stipulated Injunction shall become effective upon entry of an order by the Court ratifying this Stipulated Injunction

SO ORDERED this _____ day of _____, 2010.

United States District Judge

Presented by:

/s/ Justin Augustine

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Attorneys for Defendants

ATTACHMENT A

cordgrass/pickleweed stand

Native California Cordgrass – *Spartina foliosa*



Pickleweed - *Salicornia virginica*



ATTACHMENT B

Department of Pesticide Regulation
Endangered Species Project, San Joaquin kit
fox, denning characteristics fact card



Kit Foxes prefer to dig their dens in friable soils. In hard clay soils they create dens by enlarging holes started by ground squirrels or badgers.

Their dens have several chambers and entrances.

Photos: Ken Sanger



The main entrance is large and shaped like a keyhole.

Active dens may be littered with prey remains, scat, matted vegetation, and fresh pawprints.

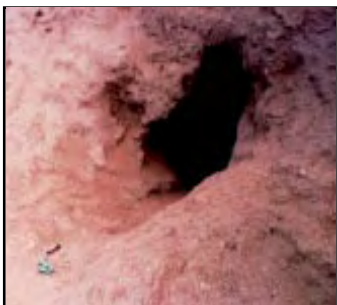


Photo: Rosalie Faubion, USBR



The availability of suitable den sites is a crucial habitat requirement for San Joaquin Kit Foxes: they need dens throughout the year for shelter and to escape predators.

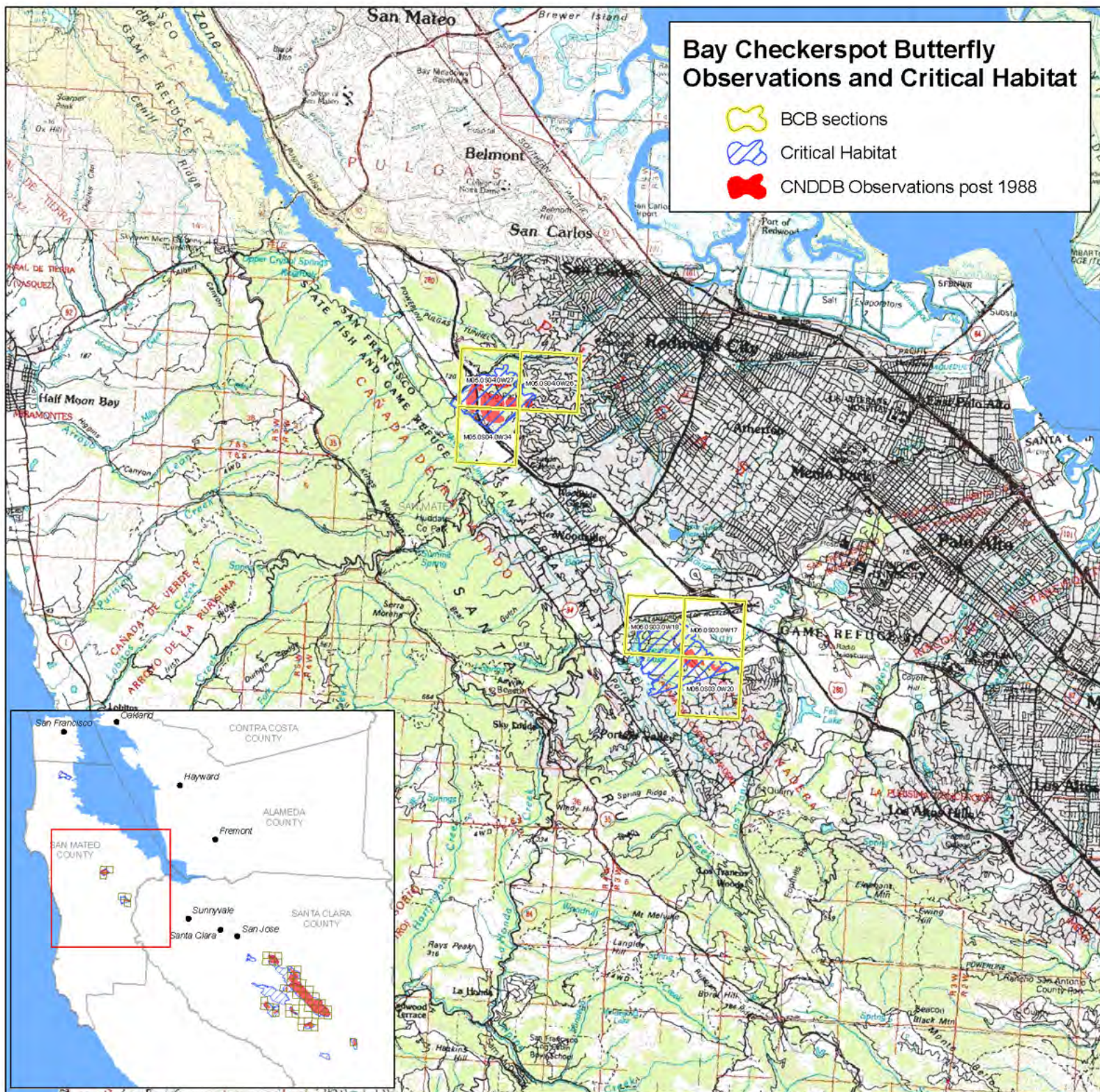
Kit Fox dens are typically located in flat terrain or gently sloping hills, in washes, drainages and roadside berms. The dens may have several entrances, measuring approximately 8 inches in diameter, or larger.

These foxes often reuse old dens or use man-made structures, such as culverts and pipes, that are small enough in diameter to exclude Coyotes.

Pupping dens are larger than others and the entrances to these natal dens are often conspicuous. In contrast, nonnatal dens may be easily overlooked, since there is less activity around them.

ATTACHMENT C

Bay checkerspot - detailed GIS maps



ATTACHMENT D

Pesticide User Groups In The Bay Area

Pesticide User Groups In The Bay Area

Name	Address	City	State	Zip
Sonoma County Winegrape Commission	420 Aviation Blvd, Suite 106	Santa Rosa	CA	95403
Sonoma County Wineries Association	420 Aviation Boulevard, Suite 106	Santa Rosa	CA	95403
Napa Valley Grape Growers Association	811 Jefferson St	Napa	CA	94559
California Association of Wine and Grape Growers	1325 J St Suite 1560	Sacramento	CA	95814
Lodi-Woodbridge Winegrape Commission	2545 W. Turner Rd	Lodi	CA	95242
Livermore Valley Winegrowers Association	3585 Greenville Rd, Suite 4	Livermore	CA	94550
Napa Valley Vintners	PO Box 141	St Helena	CA	94574
Santa Cruz Mountains Winegrowers Association	7605-A Old Dominion Ct.	Aptos	CA	95003
California Tomato Growers Association	2300 River Plaza Dr, Suite 100	Sacramento	CA	95833
California Dried Plum Board	3840 Rosin Court, Suite 170	Sacramento	CA	95834
California Cling Peach Board, Jim Melban	531-D North Alta Ave	Dinuba	CA	93618
California Canning Peach Association	2300 River Plaza Drive, Suite 110	Sacramento	CA	95833
California Alfalfa and Forage Association	36 Grande Vista	Novato	CA	94947
California Specialty Crops Council	4500 S Laspina, Suite 214	Tulare	CA	93274
California League of Food Processors	1755 Creekside Oaks Dr., Suite 250	Sacramento	CA	95833
California Tree Fruit Agreement	975 I Street, PO Box 968	Reedley	CA	93654
California Grape and Fruit League	W. Alluvial, Suite 107	Fresno	CA	93711
California Wild Rice Growers Association, Inc.	Fall River Wild Rice, 41577 Osprey Dr.	Fall River Mills	CA	96028
Butte County Rice Growers Association	PO Box 128	Richvale	CA	95974
The Almond Board of California	1150 Ninth St, Suite 1500	Modesto	CA	95354
California Walnut Commission	101 Parkshore Dr, Suite 250	Folsom	CA	95630
California Pistachio Board	PO Box 2077	Folsom	CA	95763
Rodoni Farms	235 West Ave.	Santa Cruz	CA	95060
Pfyffer Associates	2611 Mission St	Santa Cruz	CA	95060
Ocean mist Farms, Castroville Headquarters	10855 Ocean Mist Parkway	Castroville	CA	95012

ATTACHMENT E

Retailers Who Will Be Provided Shelf Tags

Retailers Who Will Be Provided Shelf Tags

Name	Address	City	State	Zip
West Berkeley True Value Hardware	2043 San Pablo Ave	Berkeley	CA	94702-1613
True Value Eastern Supplies	2900 Shattuck Ave	Berkeley	CA	94705-1809
Telegraph Hardware	6640 Telegraph Ave	Oakland	CA	94609
Orinda Hardware	56 Moraga Way	Orinda	CA	94563
Montclair Village Hardware	2011 Mountain Blvd	Oakland	CA	94611-2806
Glenview True Value Hardware	218 Park Blvd	Oakland	CA	94602-1312
Encinal True Value Hardware	2801 Encinal Ave	Alameda	CA	94501-4726
Rodeo True Value Hardware	670 Parker Ave	Rodeo	CA	94572-1435
Polk Home Hardware True Value	1630 Polk Street	San Francisco	CA	94109
Pacific Heights True Value Hardware	2828 California Street	San Francisco	CA	94115
Safeco Electric and True Value	301 Toland St	San Francisco	CA	94124
Home Hardware True Value	335 Clement St	San Francisco	CA	94118-2315
Creative Paint & True Value	5435 Geary Blvd	San Francisco	CA	94121-2306
Win Long True Value Hardware & Supply	2244 Irving St	San Francisco	CA	94122-1619
Mill Valley True Value	129 Miller Ave	Mill Valley	CA	94941-5502
J&J True Value	29 Geneva Ave	San Francisco	CA	94112-3402
Sunset True Value	3126 Noriega St	San Francisco	CA	94122-4046
Workbench True Value	19640 Center St	Castro Valley	CA	94546-4702
Pacific Lumber & True Value Hardware	4222 Redwood Hwy	San Rafael	CA	94903-2612
A & Foothill True Value Hardware	22500 Foothill Blvd	Hayward	CA	94541-4110
Novato True Value Builders Supply	800 Sweetser Ave	Novato	CA	94945-2461
Bolinas Bay Lumber Hardware & Landscaping Supply	1 Olema Bolinas Rd	Bolinas	CA	94924
Belmont True Value Hardware	940 El Camino Real	Belmont	CA	94002-2306
Workbench True Value Hardware	1807 Santa Rita Rd	Pleasanton	CA	94566-4744
Richert True Value Lumber & Hardware	5505 Sunol Blvd	Pleasanton	CA	94566-7765
Hulbert True Value Lumber	37500 Cedar Blvd	Newark	CA	94560-4136

Napa True Value Builders Supply	2590 Jefferson St	Napa	CA	94558-4933
Bruce Bauer True Value Lumber	134 San Antonio Cir	Mountain View	CA	94040-1207
Mintons True Value Lumber & Supply	455 W Evelyn Ave	Mountain View	CA	94041-1313
Blossom True Value Hardware	1297 West El Camino Real	Mountain View	CA	94040-2701
Monument True Value Hardware & Lumber	2111 Freedom Blvd	Freedom	CA	95019-2722
Walmart	1400 Hilltop Mall Road	Richmond	CA	94806
Walmart	1021 Arnold Dr	Martinez	CA	94553
Walmart	8400 Edgewater Drive	Oakland	CA	94621
Walmart	1919 Davis Street	San Leandro	CA	94577
Walmart	7011 Main Street	American Canyon	CA	94503
Walmart	30600 Dyer Street	Union City	CA	94587
Walmart	2203 Loveridge Road	Pittsburg	CA	94565
Walmart	4501 Rosewood Drive	Pleasanton	CA	94588
Walmart	300 Chadbourne Road	Fairfield	CA	94534
Walmart	4893 Lone Tree Way	Antioch	CA	94509
Walmart	681 Lincoln Avenue	Napa	CA	94559
Walmart	40580 Albrae Street	Fremont	CA	94538
Walmart	2700 Las Positas Road	Livermore	CA	94550
Walmart	44009 Osgood Road	Fremont	CA	94539
Walmart	600 Showers Drive	Mountain View	CA	94040
Walmart	1501 Helen Power Drive	Vacaville	CA	95687
Walmart	301 Ranch Drive	Milpitas	CA	95035
Walmart	4625 Redwood Drive	Rohnert Park	CA	94928
Walmart	777 Story Road	San Jose	CA	95122
Arlington Ace Hardware	303 Arlington Ave	Kensington	CA	94707
Berkeley Ace Hardware	2145 University Ave	Berkeley	CA	94704
Pastime Hardware	10057 San Pablo Ave	El Cerrito	CA	94530
Ellis Ace Hardware	5424 Martin Luther King Jr Way # J	Oakland	CA	94609
Ace Hardware	4920 McBryde Ave	Richmond	CA	9480
Oliver's Ace Hardware	4071 San Pablo Dam Rd	El Sobrante	CA	94803

Whale Point Marine & Hardware	205 Cutting Blvd	Richmond	CA	94804
Markus Supply Ace Hardware	625 3rd St	Oakland	CA	94607
Laurel Ace Hardware	4024 Macarthur Blvd	Oakland	CA	94619
Moraga Ace Hardware & Lumber	1409 Moraga Way	Moraga	CA	94556
Lafayette Ace Hardware	3311 Mt Diablo Blvd	Lafayette	CA	94549
Pagano's Ace Hardware Mart	1100 Lincoln Ave	Alameda	CA	94501
Financial District Hardware	140 Pine St	San Francisco	CA	94111
Cole Hardware	70 4th St	San Francisco	CA	94103
Cole Hardware	2254 Polk St	San Francisco	CA	94109
Brownies Ace Hardware	1563 Polk St	San Francisco	CA	94109
Bill's Ace Hardware	3610 Pacheco Blvd	Martinez	CA	94553
Bill's Ace Hardware	1530 Contra Costa Blvd	Pleasant Hill	CA	94523
Center Hardware And Supply Co	999 Mariposa St	San Francisco	CA	94107
Central Ace Hardware	1949 Post St	San Francisco	CA	94115
Pedrotti Ace Hardware	830 Southampton Rd	Benicia	CA	94510
Handy Handyman Hardware	2075 Market St	San Francisco	CA	94114
Standard 5 & 10 Ace	3545 California St	San Francisco	CA	94118
Dutton Hardware	595 Dutton Ave	San Leandro	CA	94577
Walnut Creek Ace Hardware	2967 Ygnacio Valley Rd	Walnut Creek	CA	94598
Goodman Building Sply Co	775 Redwood Hwy	Mill Valley	CA	94941
Cole Hardware	956 Cole St	San Francisco	CA	94117
Cole Hardware	3312 Mission St	San Francisco	CA	94110
Standard Plumbing Ace Hardware	1019 Clement St	San Francisco	CA	94118
Bill's Ace Hardware	3375 Port Chicago Hwy	Concord	CA	94520
Ace Hardware of San Leandro	14315 E 14th St	San Leandro	CA	94578
Standard Plumbing Ace Hardware	6122 Geary Blvd	San Francisco	CA	94121
General Hardware Company	401 Miller Ave	Mill Valley	CA	94941
Bill's Ace Hardware	4451 Clayton Rd	Concord	CA	94521
Jim Corbet's Store	1155 Magnolia Ave	Larkspur	CA	94939
9 Pm Ace Hardware	2526 Noriega St	San Francisco	CA	94122

O'Connor Lumber Co	4310 Sonoma Blvd	Vallejo	CA	94589
Brisbane Hardware & Sply Inc	1 Visitacion Ave	Brisbane	CA	94005
Pete's Ace Hardware	2569 Castro Valley Blvd	Castro Valley	CA	94546
South City Lumber & Supply	499 Railroad Ave	South San	CA	94080
Fairfax Lumber Company	109 Broadway Blvd	Fairfax	CA	94930
Hayward Ace	808 B St	Hayward	CA	94541
Pini Ace Hardware	1535 S Novato Blvd Ste A	Novato	CA	94947
Pittsburg Ace Hardware	125 E Leland Rd	Pittsburg	CA	94565
Millbrae Lumber Company	200 El Camino Real	Millbrae	CA	94030
Linda Mar Ace Home Center	560 San Pedro Ave	Pacifica	CA	94044
Antioch Ace Hardware	501 Sunset Dr	Antioch	CA	94509
Carlmont Ace Hardware	1029 Alameda	Belmont	CA	94002
Dale Hardware Inc	37100 Post St	Fremont	CA	94536
Suisun Ace Hardware	252 Sunset Ave	Suisun City	CA	94585
Zeller's Ace Hardware	819 Randolph St	Napa	CA	94559
Clark's Ace Hardware	325 Lincoln Ave	Napa	CA	94558
Redwood City Hardware	2163 Roosevelt Ave	Redwood City	CA	94061
Oakley Ace Hardware	305 5th St	Oakley	CA	94561
Big B Lumber	6600 Brentwood Blvd	Brentwood	CA	94513
Parsons Lumber & Hardware	17800 Sonoma Highway	Boyes Hot Sprgs	CA	95416
Menlo Park Hardware	700 Santa Cruz Ave	Menlo Park	CA	94025
Brentwood Ace Hardware	8900 Brentwood Blvd Ste J	Brentwood	CA	94513
Mc Ivors Ace Hardware	43350 Ellsworth St	Fremont	CA	94539
Ocean Shore Hardware	111 Main St	Half Moon Bay	CA	94019
Ace Building Supply Center	11280 State Route 1	Pt Reyes Sta	CA	94956
Palo Alto Hardware	875 Alma St	Palo Alto	CA	94301
Rex Ace Hardware	313 B St	Petaluma	CA	94952
Pacific Ace Hardware	627 Merchant St	Vacaville	CA	95688
Oilwell Materials/Hardware Co	506 State Highway 12	Rio Vista	CA	94571-1424
Bennett Valley Ace Hardware	2739 Yulupa Ave	Santa Rosa	CA	95405

Steves Hardware Inc	1370 Main St	St Helena	CA	94574
Alum Rock Hardware	2243 Alum Rock Ave	San Jose	CA	95116
Mission Ace Hardware & Lumber	4310 Sonoma Hwy	Santa Rosa	CA	95409
Campbell Ace Hdw	148 N San Tomas Aquino Rd	Campbell	CA	95008
Southern Lumber	1402 S First St	San Jose	CA	95110
Willow Glen Ace Hardware	2253 Lincoln Ave	San Jose	CA	95125
College Hardware	15 Angwin Plz	Angwin	CA	94508
Guerneville Fulton Ace	2551 Guerneville Rd	Santa Rosa	CA	95401
Sebastopol Hardware Ctr	660 Gravenstein Hwy N	Sebastopol	CA	95472
Ace Los Gatos Hardware	15300 Los Gatos Blvd	Los Gatos	CA	95032
Rural Supply Hardware	110 S Santa Cruz Ave	Los Gatos	CA	95030
Ace Hardware of Gilroy	1260 B First St	Gilroy	CA	95020
Johnson Lumber Company	600 Tennant Ave	Morgan Hill	CA	95037
Orchard Supply Hardware	1025 Ashby Avenue	Berkeley	CA	94710
Orchard Supply Hardware	2245 Gellert Boulevard	South San	CA	94080
Orchard Supply Hardware	1751 Eastshore Boulevard	El Cerrito	CA	94530
Orchard Supply Hardware	900 El Camino Real	Millbrae	CA	94030
Orchard Supply Hardware	1151 Andersen Drive	San Rafael	CA	94901
Orchard Supply Hardware	1440 Fitzgerald Drive	Pinole	CA	94564
Orchard Supply Hardware	1550 Canyon Road	Moraga	CA	94556
Orchard Supply Hardware	300 Floresta Boulevard	San Leandro	CA	94578
Orchard Supply Hardware	1010 Metro Center Boulevard	Foster City	CA	94404
Orchard Supply Hardware	177 Lewelling Boulevard	San Lorenzo	CA	94580
Orchard Supply Hardware	3980 Bel Aire Plaza	Napa	CA	94558
Orchard Supply Hardware	220 Peabody Road	Vacaville	CA	95687
Orchard Supply Hardware	1390 N. McDowell Blvd.	Petaluma	CA	94954
Orchard Supply Hardware	1440 Fitzgerald Drive	Pinole	CA	94564
Orchard Supply Hardware	1151 Andersen Drive	San Rafael	CA	94901
Home Depot	303 E Lake Merced Blvd	Daly City	CA	94015
Home Depot	91 Colma Blvd	Colma	CA	94014

Home Depot	2 Colma Blvd	Colma	CA	94014
Home Depot	3838 Hollis Avenue	Emeryville	CA	94608
Home Depot	4000 Alameda Avenue	Oakland	CA	94601
Home Depot	11939 San Pablo Ave	El Cerrito	CA	94530
Home Depot	111 Shoreline Pkwy	San Rafael	CA	94901
Home Depot	13901 San Pablo Avenue	San Pablo	CA	94806
Home Depot	1933 Davis St	San Leandro	CA	94577
Home Depot	1801 Fourth Street	San Rafael	CA	94901
Home Depot	2001 Chess Dr	San Mateo	CA	94404
Home Depot	1625 Sycamore Avenue	Hercules	CA	94547
Home Depot	21787 Hesperian Blvd	Hayward	CA	94541
Home Depot	1125 Old County Rd	San Carlos	CA	94070
Home Depot	3211 Danville Blvd	Alamo	CA	94507
Home Depot	1037 Arnold Drive	Martinez	CA	94553
Home Depot	30055 Industrial Pkwy W	Union City	CA	94587
Home Depot	2750 Crow Canyon Rd	San Ramon	CA	94583
Home Depot	2090 Meridian Park Blvd	Concord	CA	94520
Home Depot	1461 Concord Avenue	Concord	CA	94520
Home Depot	225 Soscol Ave	Napa	CA	94559
Home Depot	2121 Cadenasso Dr	Fairfield	CA	94533
Home Depot	1175 Admiral Callaghan Ln	Vallejo	CA	94591
Home Depot	2000 Lakeville Highway	Petaluma	CA	94594
Home Depot	510 Orange Drive	Vacaville	CA	95687
Home Depot	4825 Redwood Dr	Rohnert Park	CA	94928
Home Depot	1625 Sycamore Avenue	Hercules	CA	94547
Home Depot	100 Bicentennial Way	Santa Rosa	CA	95403
Home Depot	1037 Arnold Drive	Martinez	CA	94553
Home Depot	13901 San Pablo Avenue	San Pablo	CA	94806
Home Depot	11939 San Pablo Ave	El Cerrito	CA	94530
Home Depot	2090 Meridian Park Blvd	Concord	CA	94520

Home Depot	1461 Concord Avenue	Concord	CA	94520
Home Depot	1801 Fourth Street	San Rafael	CA	94901
Home Depot	111 Shoreline Pkwy	San Rafael	CA	94901
Home Depot	6280 Hembree Lane	Windsor	CA	95492
Home Depot	5424 Ygnacio Valley Rd	Concord	CA	94521
Home Depot	2300 N Park Blvd	Pittsburg	CA	94565
Home Depot	3838 Hollis Avenue	Emeryville	CA	94608
Home Depot	3211 Danville Blvd	Alamo	CA	94507
Home Depot	2181 Monterey Road	San Jose	CA	95112
Home Depot	2435 Lafayette	Santa Clara	CA	95050
Home Depot	2855 Story Road	San Jose	CA	95127
Home Depot	480 E Hamilton Ave	Campbell	CA	95008
Home Depot	635 W Capitol Expressway	San Jose	CA	95136
Home Depot	1177 Great Mall Drive	Milpitas	CA	95035
Home Depot	1855 Hillsdale Avenue	San Jose	CA	95124
Home Depot	920 Blossom Hill Rd	San Jose	CA	95123
Home Depot	680 Kifer Rd	Sunnyvale	CA	94086
Home Depot	975 DE Anza Blvd	San Jose	CA	95129
Home Depot	43900 Icehouse Terrace	Fremont	CA	94538
Home Depot	1781 E Bayshore Rd	East Palo Alto	CA	94303
Home Depot	5401 Thornton Ave	Newark	CA	94560
Home Depot	860 E Dunne Avenue	Morgan Hill	CA	95037
Home Depot	30055 Industrial Pkwy W	Union City	CA	94587
Home Depot	1125 Old County Rd	San Carlos	CA	94070
Home Depot	2600 41st Avenue	Soquel	CA	95073
Home Depot	6000 Johnson Dr	Pleasanton	CA	94588
Home Depot	21787 Hesperian Blvd	Hayward	CA	94541
Home Depot	2500 Las Positas Rd	Livermore	CA	94550
		SOUTH SAN		
Lowe's	720 DUBUQUE AVENUE	FRANCISCO	CA	94080

Lowe's	1340 EL CAMINO REAL	SAN BRUNO	CA	94066
Lowe's	32040 UNION LANDING BLVD.	UNION CITY	CA	94587
Lowe's	1951 AUTO CENTER DRIVE	ANTIOCH	CA	94509
Lowe's	3750 DUBLIN BOULEVARD	DUBLIN	CA	94568
Lowe's	5503 LONE TREE WAY	ANTIOCH	CA	94531
Lowe's	43612 PACIFIC COMMONS BLVD	FREMONT	CA	94538
Lowe's	4255 FIRST STREET	LIVERMORE	CA	94551
Lowe's	1751 EAST MONTE VISTA AVENUE	VACAVILLE	CA	95668
Lowe's	811 EAST ARQUES AVENUE	SUNNYVALE	CA	94085
Lowe's	7921 REDWOOD DRIVE	COTATI	CA	94931