



US Environmental Protection Agency Office of Pesticide Programs

Registrants' May 7, 2010 Response to EPA's April 29, 2010 Letter: Implementation of Chlorpyrifos, Diazinon and Malathion Salmonid BiOp

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May 7, 2010

Mr. Richard P. Keigwin, Jr.
Director, Pesticide Re-evaluation Division
Office of Pesticide Programs
U.S. Environmental Protection Agency
Ariel Rios Building
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Washington, DC 20460

Re: Implementation of Chlorpyrifos, Diazinon and Malathion Salmonid
BiOp/Your Letter of April 29, 2010

Dear Mr. Keigwin:

We write in response to your April 29, 2010, letter, which our clients found deeply disappointing.

For several years, our clients have sought to reach with EPA a science-based resolution of concerns about the potential impacts of the use of chlorpyrifos, diazinon and malathion pesticides on salmonids in California and the Pacific Northwest. We were encouraged by the concurrence of EPA and affected state regulatory agencies in our view that NMFS's initial assessment of those potential impacts was extraordinarily deficient. In light of those documented views, and NMFS's failure to address the deficiencies in the final BiOp, we are baffled by the Agency's position.

Our clients are not now prepared to make any of the registration revisions described in your April 29, 2010 or November 16, 2009 letters. Solid scientific analysis, far more complete than is reflected in the NMFS BiOp, supports our clients' view that use of their products is not taking or jeopardizing any protected species, and not adversely affecting any critical habitat.

Our clients' position also reflects the Agency's failure to respond to our January 19, 2010 petition to establish clear procedures for revising County Bulletins, and the pendency of our legal challenge to the November, 2008 BiOp. In fact, that case challenges the poor quality of the NMFS BiOp and on the basis of many of the same deficiencies pointed out by EPA and the lead state regulatory agencies. Our clients also believe EPA must undertake a fundamental reassessment of its approach to integrating its FIFRA and ESA responsibilities, as explained in the letter we (along with Crop Life America) sent to Administrator Jackson on April 16, 2010.

Mr. Rick Keigwin

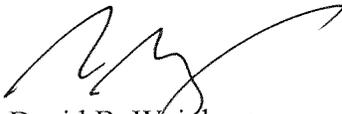
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Nonetheless, as we have repeatedly described to Agency staff, our clients remain willing to consider adjustments to their labels that are consistent with the facts and the needs of growers and vector control programs. Our clients also encourage the Agency to continue to address these concerns in a way that does not compel the registrants or the Agency to divert resources from matters of more justifiable concern.

We also are authorized by Gharda Chemicals, Ltd. to represent that it, as a registrant of technical chlorpyrifos products, shares the views stated here.

Sincerely,



David B. Weinberg
Counsel to Dow AgroSciences, LLC and
Makhteshim Agan of North America, Inc.



David E. Menotti
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cc: Steven Bradbury
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