

Bay Area Urban Creeks
Deadline: 9/22/06 5pm



MGK[®]

McLAUGHLIN GORMLEY KING COMPANY

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31 August 2006
Comment Letter – Plan to control pesticide
related toxicity in Bay Area urban creeks

Song Her, Clerk of the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Her,

We have received an electronic copy of the Notice of Opportunity for Public Comment on a Proposed Amendment to the Regional Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) to Establish a Water Quality Attainment Strategy and Total Maximum Daily Load (TMDL) for Diazinon and pesticide Related Toxicity in Bay area Urban Creeks (Notice) dated 24 August 2006. We would like to take this opportunity to comment on the Notice.

McLaughlin Gormley King Company is a family owned business that was founded in 1902. The Company has about 80 employees and operates in the US and a number of foreign countries. We are a basic producer of pyrethrins, an insecticide derived from the flowers of a specific chrysanthemum grown in East Africa, Tasmania, and other remote places in the world. MGK operates one of four pyrethrum refineries in the world in Chaska, Minnesota.

We are also a basic supplier of insect repellents, insecticide synergists, and we also provide manufacturing concentrates of certain synthetic pyrethroid insecticides. All of the pesticide products that we sell in the US are registered by the US Environmental Protection Agency and many are registered and sold in California. We are obviously concerned about the issuance of your Notice and the possible initiation of your process to establish total maximum daily loads (TMDLs) for pyrethroid insecticides.

The Notice identifies the fact that in 1998, thirty-seven (37) urban creeks in the Bay Area were identified as not meeting the narrative water quality standards for toxicity to aquatic life attributed to Diazinon® insecticide. The Notice acknowledges that the USEPA has phased out urban uses of Diazinon®, however agricultural uses are still registered by USEPA and California EPA. The Notice also implies that the TMDL setting process will be extended to pyrethroid insecticides.

Quality Products Since 1902

We are concerned that the SWRCB has issued its Notice at almost the same time that the DPR has issued its Notice announcing a reevaluation of certain products containing pyrethroids. We are concerned because we were advised that the DPR and the SWRCB had consulted on the identification of California data needs. We would have thought that the SWRCB would have allowed the DPR reevaluation to proceed to develop data and to determine information that might provide mitigation measures and coordinated activities for both Agencies. It would appear that the SWRCB may be acting before all information has been generated and reviewed by DPR.

We would like to point out that DPR is funding research into the biological availability of both sediment-bound and unbound pyrethroid residues by researchers at UC Riverside. It would seem prudent to also have that information available when regulatory actions are being considered.

We would like to point out that although the studies reported by Dr. Donald Weston of UC Berkeley were peer-reviewed, a molecule task force has hired an independent ecotoxicology consultant to review the latest paper published in Environmental Science & Technology (ES&T). A number of concerns have been identified in the protocol used. Further study reviews are being considered.

Another concern that we have about Dr. Weston's studies is that there is a significant difference between findings in California and other sites evaluated in Tennessee. We believe that these differences need to be examined to determine what cause or causes create the disparity between the findings in California and the findings in Tennessee. That could lead to mitigation measures that would make the TMDL setting process unnecessary.

We believe that the most significant concern that we have about the Notice issued by SWRCB and the Notice issued by DPR is that pyrethroids have been used extensively in production agriculture for more than three (3) decades. Why, after more than 30 years of use in California and the rest of the world, has a "problem" of residues in water and sediment become "new news"? Pyrethroids have always had data concerning water solubility, or rather insolubility. The binding of pyrethroids to soil particles is well known and understood.

DPR maintains a database with the results of more than 188,000 analytical results from both water and sediment, although the sediment data is more recent. The database was begun in 1990 and was recently updated again. Pyrethroids are not the overwhelming category reported. If one would review the DPR publications by the Environmental Monitoring Branch, it is interesting to note that there are few mentions of pyrethroids prior to 2004.

There is no doubt that pyrethroids can be acutely toxic to aquatic invertebrates. US EPA knows this and requires specific labeling to protect aquatic environments. Label information has certainly helped users avoid adverse effects in the past and there are probably label improvements that can be made to existing product labels. Label

instructions are legally enforceable. Mitigating processes can be determined by collecting data, determining how product use affects the environment.

All of this leads us to the point of questioning why the SWRCB has taken the step of initiating the TMDL process. It seems to be premature, in light of the fact that the DPR has begun the reevaluation of all pyrethroid insecticides. Why not wait until all of the data are reported to DPR and reviewed? Why not wait until the questions raised by SWRCB, in consultation with DPR, are answered by the registrants, and all of the data is reviewed and accepted?

Thank you for considering my comments. If you have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink that reads "William L. Chase, II". The signature is written in a cursive style with a large, stylized "W" and "C".

William L. Chase, II, Director
Registration and Regulatory Affairs

wlc

cc: J. Sharp
T. Lennan
S. Gullickson
B. Gullickson
swrcb1.doc