

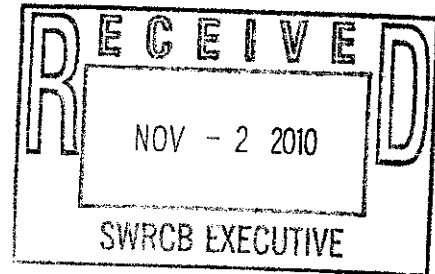


**SAN FRANCISCO  
BAYKEEPER.**

November 2, 2010

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

*Submitted via electronic mail*



Re: *San Francisco Baykeeper Comments on Draft Vector Control Permit*

To Whom It May Concern:

San Francisco Baykeeper submits these comments on behalf of our 1500 members in and around the San Francisco Bay. Baykeeper is a 501(c)(3) non-profit public interest organization with the mission of protecting and enhancing the water quality of San Francisco Bay and its tributaries for the benefit of its ecosystem and surrounding communities. Given the need to prevent pollution of California's limited and critical water resources, we appreciate the efforts of the SWRCB to regulate pesticides in its draft General NPDES Permit for Residual Pesticide Discharges from Vector Control Applications ("the draft Permit"). With the goal of minimizing discharges of pesticides, Baykeeper submits the following comments.

**I. The draft Permit should enumerate additional provisions enabling full public review and enforcement of least toxic alternatives.**

The draft Permit should enumerate additional provisions mandating full public review and enforcement of minimization measures and least toxic alternatives. The agency and the public carry out the duty of enforcing the CWA, and in order to facilitate that enforcement, the final Permit needs provisions requiring public access and citizen enforcement of BMPs. Monitoring reports are the draft Permit's equivalent to "discharge monitoring reports" ("DMRs"). The SWRCB intends the same equivalence when it states that "Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. 40 C.F.R. § 122.41(l)(4)(i)." At 33. Therefore, monitoring reports generated under the draft Permit should be made available to the public for review, just as DMRs are required to be. See 33 U.S.C. § 1318(b). Because private choices made by local decision-makers through the PAP will primarily dictate the resulting discharge of pesticides into California's waters, it is essential that they are at least informed by public comment and agency review. See 33 U.S.C. §§ 1251, 1311 & 1342.

The draft Permit currently provides that the "Discharger shall provide a phone number or other specific contact information to all persons who request the Discharger's application information... Information may be made available by electronic means, including posting



prominently on a well-known web page.” Draft Permit at 15. First, the information should be required to be posted online and available to the public. Second, if there was no prior notice or public knowledge about a given pesticide event, how would the public know to ask for a specific discharger’s information?

Other aspects that could help enable public participation and review, oversight, and actual enforcement of least toxic alternatives include:

- BMPs should be constantly monitored, and where possible, the SWRCB should implement random testing for pesticide residue, and BMP implementation.
- The Pesticide Application Plan (“PAP”) should be included with the NOI and made available for public review prior to pesticide application to help enable citizen oversight and enforcement of the PAP’s requirements. These reports should be submitted electronically along with a NOI, and made electronically available for public review and oversight.
- Only the PAP contains the specific technology-based effluent limitations for pesticide applications, and the PAP therefore must be included as part of the permit for public review and comment. See *Waterkeeper Alliance, Inc. v. EPA*, 399 F.3d 486 (2<sup>nd</sup> Cir. 2005).
- If dischargers are required to use the CIWQS system, the SWRCB should make it public so that citizens can check and see when and where pesticide spraying is happening.
- In order to reflect the statute of limitations codified at 28 U.S.C. § 2462,<sup>1</sup> dischargers should be required to retain records for a period of five years. Furthermore, any documents that dischargers are required to produce and retain should be available for public review pursuant to 33 U.S.C. § 1318(b).
- The permit should require a spill of 10 pounds or more to be immediately reported.

## **II. The draft Permit should provide better guidance and oversight for implementing minimization and avoidance measures.**

The SWRCB should provide a sample or template PAP that includes a general checklist of discharge limitations and enumerates the specific standards the SWRCB will employ to review the PAP analysis. As it currently stands, the open-ended format of the PAP invites confusion for the discharger, the public, and the State Board. When exercising their considerable discretion in drafting a PAP, dischargers need to know the requirements for minimizing discharges foremost, and then need additional guidance as to how to best reduce discharges. Without clear guidance, consistency in minimizing discharges is less likely to occur, and the ability for public and governmental oversight is lost.

For one example, the draft Permit requires that “The Discharger shall update the PAP periodically and submit the revised PAP to the State Water Board for approval if there are any changes to the original PAP.” At 16. However a requirement to update the PAP “periodically”

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<sup>1</sup> “Except as otherwise provided by Act of Congress, an action... shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.” 28 U.S.C. § 2462.

gives no guidance or incentive to the discharger when to update the PAP, if ever. Rather, the SWRCB should require updates to the PAP annually, or specify a regular time interval when PAPs must be updated in addition to the Annual reports requirement. Given the information already required to be in an annual report, PAPs should also be reviewed using the annual report information, for example, to analyze specific monitoring locations, application factors, evolving water quality standards, and changing protections under the ESA.

Also, it is imperative to know which exact pesticide name and ingredients are applied, as their chemical composition, persistence (*see e.g.*, draft Permit, Tables D-13 and D-14, Persistence of Vector Adulticides and Larvicides Active Ingredients), and potential for synergistic mixing varies substantially and raises the risk for receiving waters. Therefore it is insufficient for dischargers to list the "types" of pesticides used in their PAP. Rather, as complete and accurate a list of pesticides used and expected to be used is required to ensure that a receiving water limitation is not violated. For example, in the context of reporting non-compliance in a Five-Day Written Report, the draft Permit requires, among other things, (vi) "Pesticide application rate, intended use site (e.g., banks, above, or direct to water), method of application, and name of pesticide product, description of pesticide ingredients, and USEPA registration number." At 21. Specific information such as this should be required for the PAP as well. Also note that the five-day written report should still be required regardless whether an oral report was received within 24 hours. The draft Permit suggests that the "State Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours." At 21. Yet no criteria for determining a waiver is provided in the draft Permit, leaving room for abuse of discretion, lack of reviewability, and in the case of adverse incidents written documentation is desirable and necessary for the public to determine whether the Discharger is in compliance.

### **III. The Draft Permit leaves too much uncertainty as to what specific technologies will be required.**

The draft Permit fails to specify or designate which practices are considered BMPs,<sup>2</sup> favoring "flexibility" instead in the development of BMPs that will allow "dischargers to implement appropriate BMPs for different types of applications and different types of waters." At D-24. Thus, neither the Permit nor the factsheet actually describe the particular management technologies that will control each applicator's discharges. While "flexibility" is desirable in order to tailor BMPs to individual circumstances, it does not preclude the SWRCB from providing demonstrative examples of applicable BMPs, pinpointing where approved BMPs can be found in the vector control context, and giving additional guidance as to what methodologies are least intrusive. In the alternative, the SWRCB could revise the draft Permit to include prescribed categories of BAT/ BADT for each similar use pattern: urban, agricultural, and

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<sup>2</sup> Rather, the draft Permit summarily concludes that "[t]he BMPs required herein constitute BAT and BCT and will be implemented to minimize the area and duration of impacts caused by the discharge of pesticides in the target area and to allow for restoration of water quality and protect beneficial uses of the receiving waters to pre-application quality following completion of an application event." At D-23. The one example offered up as a BMP, as discussed above, is "[t]he selection of control measures that use non-toxic and less toxic alternatives is an example of an effective BMP." *Id.* at D-24.

wetlands.<sup>3</sup> While the draft Permit does specifically enumerate a few criteria for dischargers to evaluate and choose between BMPs,<sup>4</sup> the draft Permit needs additional guidance as to what some specific criteria require, such as guidelines to help the discharger establish densities for larval and adult vector populations to serve as action threshold(s) for implementing pest management strategies. The draft Permit should also further discuss various methods of pesticide application, e.g., draft Permit at D-16-19, and attempt to categorize these generally according to the least intrusive method.

The development and implementation of site-specific control measures or BMPs in the PAP is the only place where the best available and practicable technologies will be selected and required to reduce or eliminate pesticide discharge, and thus, its requirements must also be enforceable as a limitation in the Permit. See *Waterkeeper Alliance, Inc. v. EPA*, 399 F.3d 486 (2nd Cir. 2005).

#### **IV. The draft Permit should require clear and enforceable standards for individual monitoring.**

The draft Permit should require individual monitoring by dischargers, in order to provide meaningful data with which to review each individual discharger's compliance with permit requirements and water quality standards. Federal law requires that all NPDES permits specify "[r]equired monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity." 40 C.F.R. § 122.48(b). However, the draft Monitoring and Reporting Program "encourages Dischargers to form monitoring coalitions with others doing similar applications within a given watershed or doing applications of similar use patterns (urban, agricultural, and wetlands). If the Discharger elects in its PAP to undertake monitoring and reporting through a Coalition, then the Coalition will act on behalf of the Discharger with respect to monitoring and reporting." At 36. The permit should not substitute group monitoring for individual monitoring, because if an individual discharger elects monitoring through somebody else in a Coalition, that discharger is removed from the active practice of monitoring the effects of its own pesticide applications and has no incentive to update or evaluate least toxic

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<sup>3</sup> E.g. Insofar as flying adult insects such as mosquitoes are the target, the most obvious BMP would be to prohibit applications over surface waters and to require buffer zones to protect such waters. In regards to mosquito control, public education and outreach concerning artificial source reduction should be part of any active control program *before* any larval mosquitoes are discovered.

<sup>4</sup> "The Discharger shall develop BMPs that ... 1. Identify the Problem... (a) Establish densities for larval and adult vector populations to serve as action threshold(s) for implementing pest management strategies; ... 2. Examine the Possibility of Alternatives. Dischargers should continue to examine the possibility of alternatives to reduce the need for applying larvicides that contain temephos and for spraying adulticides. Such methods include: (a) Evaluating the following management options, in which the impact to water quality, impact to non-target organisms, vector resistance, feasibility, and cost effectiveness should be considered: No action, prevention, Mechanical or physical methods, Cultural methods, Biological control agents, Pesticides. (b) Applying pesticides only when vector are present at a level that will constitute a nuisance. (c) Using the least intrusive method of pesticide application. (d) Public education efforts to reduce potential vector breeding habitat. (e) Applying a decision matrix concept to the choice of the most appropriate formulation." Draft Permit at 16-17.

alternatives. It is unclear how or whether individual liability could result from Coalition monitoring that uncovers an exceedance of water quality standards.

The draft Permit also advocates a group "Watershed Management Approach" (WMA) to monitoring. "The State Water Board and Regional Water Boards have been implementing a Watershed Management Approach (WMA)... to provide a more comprehensive and integrated strategy resulting in water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically-defined drainage basin or watershed... To foster the implementation of the WMA approach, this General Permit encourages MVCAC, its member organizations, and other vector control agencies to participate in the development and implementation of a watershed-wide monitoring program to determine the water quality impacts of their vector control activities." At 40. Again, however, in order to determine the water quality impacts, data on each individual applicator, specifics on which pesticides were used, and each individual water body are needed – not just the entire watershed.

For example, the draft Permit's requirement for Post-Event Monitoring should be required in all instances by the individual discharger.<sup>5</sup> Post-application monitoring needs to be required in order to evaluate the efficacy of the control measure, and to ascertain whether the application resulted in an "adverse incident." Operators are rightfully required to conduct monitoring before, during and after the pesticide application to ensure that non-target aquatic organisms are not adversely affected by the pesticide. The Permit should further define the "within one week" post-event monitoring requirement. For example, the Permit could require monitoring within 24 hours of an application, monitoring the area for adverse affects, including death of any non-target organisms. In addition, within 2 to 5 days of the application, the Permit could require dischargers to return to the application area in order to evaluate the efficacy of the application and again visually inspect for non-target organisms adversely affected as a result of the pesticide application. The Permit should further articulate applicable requirements wherever possible.

In addition, the draft Permit undercuts its own monitoring requirements, stating that the "State Water Board Deputy Director of the Division of Water Quality [may] approve reductions in monitoring frequencies if the Discharger makes a request and the request is backed by statistical trends of monitoring data submitted." Draft Permit at 19. This provision does not enumerate the criteria with which the Deputy Director will approve or deny a request, while historically, the absence and lack of pesticide monitoring data supports the need for more, not less, monitoring requirements.

**V. The Permit should be updated regularly as better information on active and inert ingredients is gathered.**

The draft Permit itself admits the need for more, not less, monitoring results:

Since information regarding residual pesticides deposited in the receiving water as a result

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<sup>5</sup> "Post-event samples shall be collected within the application area or the target area within one week after the application event (applicable to adulticide applications) and after project completion as determined by the Coalition or Discharger (applicable to larvicide applications.)" At 41.

of larvicide and adulticide applications for vector control *is not adequate* to develop receiving water limitations for individual and combinations of pesticides, this General Permit only contains receiving water monitoring triggers for residual pesticides of concern. The monitoring triggers will be used to assess compliance with the narrative toxicity receiving water limitation and initiate additional investigations for the toxicity caused by the larvicides and adulticides used and their additive or synergistic effects. Draft Permit at 10 (emphasis added.)

Meanwhile, Table 3 of the Permit, "Receiving Water Monitoring Triggers," Draft Permit at 14, lists only 13 ingredients of concern, when there are potentially thousands of active and inert ingredients used in pesticides.<sup>6</sup> The factsheet explains why the small number of ingredients of concern:

Due to time constraints associated with issuing the combined Adulticide and Larvicide Permit by April 9, 2011, the technical committee agreed that the combined permit only include the most commonly used adulticide and larvicide products that are currently registered in California. CDPH and MVCAC provided State Water Board staff with lists of the most commonly used adulticide and larvicide products. At D-6-7.

While true that the Permit can be re-opened and additional ingredients of concern can be added,<sup>7</sup> the receiving water may be subject to a barrage of chemicals not listed on Table 3,<sup>8</sup> and therefore an applicable water quality standard could be violated yet escape detection merely because a relevant ingredient was not informally deemed "of concern" by the CDPH and MVCAC, which

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<sup>6</sup> See e.g., "According to the PMRA, there are about 8000 pesticide formulations registered for use in Canada. The PMRA will tell you that there are some 500 'active ingredients' in those formulations. What the PMRA refuses to tell you is that there are about 5000 other ingredients in those approved products that they choose to not call 'active.' In the USA, where pesticide ingredients now have to be disclosed, 354 compounds have turned out to be 'active' in one formulation and a secret 'inert' in another." John Sankey, "Why Science Can't Prove a Pesticide is Safe," <http://web.ncf.ca/bf250/safe.html> (last accessed: October 30, 2010).

<sup>7</sup> E.g., (d) "Receiving Water Limitations. This General Permit may be re-opened to add receiving water limitations if the monitoring result for residual pesticides specified in the Table 3 (Receiving Water Monitoring Triggers) exceed the associated monitoring trigger. (e) Endangered Species Act. If USEPA develops biological opinions regarding pesticides included in this General Permit, this General Permit may be re-opened to add or modify Receiving Water Monitoring Triggers for residual pesticides of concern, if necessary." Draft Vector Control Permit at 20.

<sup>8</sup> The factsheet in the draft Permit even references a study by Weston, et al. (*Aquatic Effects of Aerial Spraying for Mosquito Control over an Urban Area*, Environ. Sci. Technol. 2006, 40, 5817-5822) that states that "risk assessments for vector control agents have focused on the active ingredients but have failed to recognize the potential for interactions with pesticides previously existing in the environment, which in this case appeared to represent a risk to aquatic life greater than that of the active ingredients themselves." At D-16. The Permit even concludes that "[d]ue to the potential for toxicity resulting from the synergistic effect of PBO on pyrethroids and the additive effects of larvicide and adulticide products on pesticides that are already in creek sediments or in the water column, this General Permit requires toxicity monitoring of pesticide applications." At D-16.

has an interest in limiting the scope of pesticide regulations. Therefore, it is imperative that the SWRCB continue to update the monitoring triggers and add additional ingredients as soon as practical to protect navigable waters as required under the CWA. Pursuant to 40 C.F.R. § 122.44(d)(1)(i), NPDES permits must contain limits that control *all* pollutants that “are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard, including state narrative criteria for water quality.”

The draft Permit’s monitoring requirements should be re-written to provide for the gathering of the maximum water quality data possible, requiring both Coalition and Individual monitoring, sufficient to determine whether applicable water quality standards are met, and whether adverse impacts are occurring from the maximum number of pesticide ingredients that the SWRCB can incorporate.

#### **VI. The draft Permit should provide more information on water quality standards.**

The draft instructions for filling out the NOI, Attachment G, should disclose the water quality standard of affected water bodies and whether any of the waters are impaired by pesticides by including an internet hyperlink to the SWRCB’s Section 303(d) list webpage. The draft Permit already provides this website link at several places in the Permit. Also, the draft NOI Instructions already include a hyperlink to a map on the State Board’s website illustrating regional boundaries, at G-5, and therefore, the NOI could easily include additional informative hyperlinks to applicable water quality standards, such as any relevant ESA restrictions, as discussed below.

Under Section IV, “Discharge Prohibitions,” the draft Permit states that, “[t]he discharge of residual pesticides from larvicide and adulticide applications for vector control shall not cause, have a reasonable potential to cause, or contribute to an in-stream excursion above any *applicable standard* or criterion promulgated by USEPA pursuant to Section 303 of the CWA, or *water quality objective* adopted by the State or Regional Water Boards.” At 13.<sup>9</sup> Unfortunately the draft Permit does not specifically enumerate all “applicable water quality objectives” adopted by the State or Regional Water Boards and what they each require in a matrix format.<sup>10</sup>

<sup>9</sup> See also, Section V, “Effluent Limitations,” the draft Permit states, “The discharge of residual pesticides must meet applicable water quality standards;...” At 13.

<sup>10</sup> Under the draft Permit, section III. Findings, subsections (a)-(o), the Permit lists or mentions applicable water quality standards at various places, but never groups them together entirely, or labels them all as “applicable water quality standards.” Also, several subsections included in the Findings section seem to summarily conclude that the conditions of the (presumably) applicable water quality objective are met through the Permit alone, without stating what the specific applicable water quality objective even is, much less what it specifically requires. (E.g., “The State Water Board adopted the *Water Quality Control Policy for the Enclosed Bays and Estuaries of California*. The requirements within this General Permit are consistent with the Policy.” At D-21.) Meanwhile, other applicable water quality standards enumerated in the Findings and elsewhere in the draft Permit clearly require additional consideration, such as applicable standards enumerated in the Re-Opener section, such as EPA pesticide updates or ESA restrictions. Still yet, other enumerated water quality standards are silent as to whether conditions are met

Under 40 C.F.R. 131.12(a)(2), when a discharger proposes to discharge a pesticide into a Tier 2 or higher water body, or state equivalent, the discharger should conduct an anti-degradation review to ensure compliance with the use designation. However, the draft Permit attempts to meet this requirement with the circular argument that,

The Regional Water Board's Basin Plans implement, and incorporate by reference, both the state and federal antidegradation policies. The conditions of this General Permit require residual pesticide discharges to meet applicable water quality objectives. Waters of exceptional quality may be degraded due to the application of pesticides; however, it would only be temporary and in the best interest of the people of the State. While surface waters may be temporarily degraded; water quality standards and objectives will not be exceeded. The nature of pesticides is to be toxic in order to protect human health. However, compliance with receiving water limitations is required. Therefore, this General Permit is consistent with State and federal antidegradation policies. Draft Permit at 12.<sup>11</sup>

Here, the draft Permit makes the unfounded assumption that water quality standards and objectives will not be exceeded,<sup>12</sup> when the Permit does not provide a complete list of all applicable water quality standards and objectives and what they specifically require the discharger to do in the first place. Instead, the draft Permit should conduct a review of existing areas and existing practices where the potential exists for this permit to result in a degradation of water quality standards.

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through the permit or by other means. As a result, the permit applicant is left to guess which water quality standards are met through conditions of the Permit alone, and which still require additional investigation and further compliance activity. Ideally, the SWRCB should provide a more complete list of all applicable water quality objectives, what they each require relevant to the proposed activity, how activities performed pursuant to provisions of the Permit do or do not meet the relevant water quality standard, and whether the particular objective or standard requires further activity on behalf of the discharger.

<sup>11</sup> The factsheet also assumes "[t]he permitted discharge is consistent with the antidegradation provisions of 40 C.F.R. § 131.12 and State Water Board Resolution No. 68-16. Compliance with these requirements will result in the use of best practicable treatment or control of the discharge. Due to the low volume of discharge expected from discharges regulated under this General Permit, the impact on existing water quality will be insignificant... If, however, the appropriate Regional Water Board, subsequent to review of any application, finds that the impact of a discharge will be significant [what criteria?], then authorization for coverage under this General Permit will be denied and coverage under an individual permit will be required (including preparation of an anti-degradation analysis.)" At D-26.

<sup>12</sup> Any one exceedance in an impaired water body listed under Section 303(d), would for example exceed a water quality standard. The thousands of "inactive or 'inert' ingredients of pesticides, which are trade secrets and have not been publicly disclosed, may also contain toxic pollutants or pollutants that could affect water quality." Draft Permit at D-27.



**VII. The draft Permit should provide greater guidance and protections for endangered species.**

The NOI should provide a hyperlink that allows dischargers to access applicable updates under the ESA. The draft Permit states:

This General Permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future under either the California Endangered Species Act (Fish and Game Code sections 2050 et. Seq) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 et. Seq). This General Permit requires compliance with effluent limitations, receiving water limitations, and other requirements to protect the beneficial uses of waters of the state. The Discharger is responsible for meeting all requirements of the applicable Endangered Species Act. Draft Permit at 12.

However, a little more guidance is warranted.<sup>13</sup> First, the Permit should explicitly prohibit discharges of pesticides in areas where it could adversely affect listed species, as it similarly prohibits discharges into Section 303(d) impaired water bodies. Second, the NOI instructions could include a hyperlink to a web map showing areas where pesticide discharges could adversely affect listed species. Third, the NOI could provide additional hyperlinks showing which species are listed, and requirements to obtain an ESA Section 10 "take permit," 16 U.S.C. § 1539. Fourth, the SWRCB should identify any pesticides known to be hazardous to a protected species in consultation with the EPA and Fish & Wildlife Services.

Finally, in the case of the San Francisco Bay, the permit should reference provisions of the recent pesticide use Injunction issued by the U.S. District Court, N.D., in May 2010,<sup>14</sup> under which the EPA must develop and distribute a brochure detailing new interim pesticide use restrictions.<sup>15</sup> The brochure lists all pesticide use restrictions required, mostly buffers, in the 8 counties covered by the Injunction.<sup>16</sup> The Injunction requires interim restrictions on use of the pesticides until

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<sup>13</sup> In regard to the ESA, the draft Permit provides that, "[i]f USEPA develops biological opinions regarding pesticides included in this General Permit, this General Permit may be re-opened to add or modify Receiving Water Monitoring Triggers for residual pesticides of concern, if necessary." At D-53.

<sup>14</sup> U.S. District Court Injunction: *CBD v. EPA* (Case No.: 07-2794-JCS); <http://www.epa.gov/oppfead1/endanger/litstatus/stipulated-injuc.html>

<sup>15</sup> <http://www.epa.gov/espp/litstatus/use-limitation.html>

<sup>16</sup> E.g., for the listed species, *Tidewater Goby*, found in "lagoons, estuaries, and backwater marshes that are adjacent to the Pacific Ocean, and freshwater streams upgradient and tributary to brackish habitats", the constraints of a 100 foot ground application buffer, and 400 foot aerial spray buffer shall be applied to the following pesticides: 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.

EPA completes its required analysis under two separate deadlines in 2012 and 2014. The CBD lawsuit was based on scientific evidence demonstrating potential harm to specific Bay Area wildlife from the specific pesticides evaluated,<sup>17</sup> and demonstrates how the ESA may impose additional requirements. The draft Permit or NOI form should include a hyperlink to the EPA brochure or web-based interactive map.<sup>18</sup>

#### CONCLUSION

Thank you for your consideration of these comments. We sincerely hope that with revisions, the draft Vector Control Permit will provide more transparency regarding which least toxic control methods are chosen for each discharger, provide more information showing the water quality impacts from individual and collective pesticide use, and set meaningful and enforceable limitations on the discharge of pesticides into California's waters.

Sincerely,

/s/ Naomi Kim Melver  
Associate Attorney, San Francisco Baykeeper

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<sup>17</sup> Center for Biological Diversity Report: *Poisoning Our Imperiled Wildlife: San Francisco Bay Area's Endangered Species at Risk From Pesticides* February 2006 by Jeff Miller.

<sup>18</sup> <http://www.epa.gov/espp/litstatus/use-limitation.html>