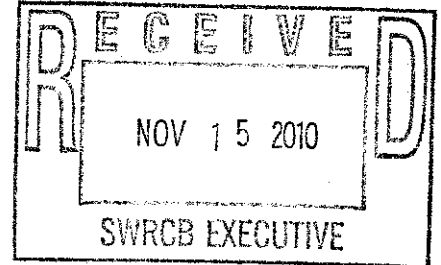


YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548
Phone: (707) 482-1350 • Fax: (707) 482-1377

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

November 12, 2010



Ms. Townsend,

As I am the Environmental Specialist with the Yurok Tribe assigned to Environmental Health and Pesticide issues, concerns, and education, I would like it placed in Public Record that I am opposed to the **DRAFT STATEWIDE GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR PESTICIDE DISCHARGES TO WATERS OF THE UNITED STATES FROM SPRAY APPLICATIONS (SPRAY APPLICATIONS PERMIT)** and ask that the State Water Resources Control Board make the following suggested amendments. My objections to this general permit are twofold; 1) disregard for Native American sovereignty and rights and 2) incomplete 'beneficial uses' listing. A third objection is more specific to any Restricted Use Pesticides to be discharged into surface waters; both the analysis of effects and monitoring fail to adequately address downstream effects.

- 1) First, I ask the State Water Board for a change in the language under section III. FINDINGS/ B. Legal Authorities that would reflect and exclude Indian Country. An example might be something similar to the inclusion of the italicized portion below.

This General Permit is issued pursuant to section 402 of the federal CWA and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). Section 122.28(a)(1) of Title 40 of the Code of Federal Regulations [40 C.F.R. §122.28(a)(1)] allows NPDES permits to be written to cover a category of discharges within the State political boundaries except as provided by Federal law for recognized Indian Reservations as a general NPDES permit.

Additionally, I request a change to further reflect Tribal sovereignty in the first sentence of section III. FINDINGS/ E. Related Pesticide Regulations/ 3. County Agricultural Commissioners, as excerpted below.

County Commissioners regulate the sale and use of pesticides in California, as provided by Federal law for tribal lands and reservations.

Furthermore, it should also be specified that Native American Tribes be included in notification and reporting throughout the permit, such as section ATTACHMENT D – FACT SHEET/ V. REPORTING REQUIREMENTS/ A. General Monitoring and Reporting Requirements.

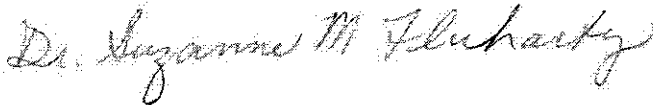
1. The Discharger shall inform the State Water Board, the appropriate Regional Water Board, and any Tribal Governments with contiguous borders to the proposed spray area. at least 24 hours before the start of the application.

2) The second broad objection is that the listing of Beneficial Uses is incomplete in all instances in the Permit. Although it appears to follow Section 13050(f) of California's Porter-Cologne Water Quality Control Act, and the 1972 State Water Board adopted a uniform list to be applied throughout all basins of the State, it fails to include the 1996 update and does not incorporate the listings below. These uses have been adopted by the North Coast Regional Water Quality Board and subsequently approved by both the SWRCB and USEPA in Region One.

- **Native American Culture (CUL)** Uses of water that support the cultural and/or traditional rights of indigenous people such as subsistence fishing and shellfish gathering, basket weaving and jewelry material collection, navigation to traditional ceremonial locations, and ceremonial uses.
- **Subsistence Fishing (FISH)** Uses of water that support subsistence fishing.

3) The Tribe expressly reserves all legal and jurisdiction rights.

Respectfully,



Suzanne Fluharty, PhD
Environmental Specialist
Yurok Tribe Environmental Program
15900 Hwy 101 N.
Klamath, CA 95548

Phone (707) 482-1822 ext 1013
Cell (707) 954-9290
Email sfluharty@yuroktribe.nsn.us