



BEYOND PESTICIDES

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January 16, 2007

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RE: Piscicide Applications on National Forest System Lands [71 FR 66715 (Nov. 16, 2006)]

Beyond Pesticides and Defenders of Wildlife appreciate the opportunity to comment on the proposed rule concerning piscicide applications on National Forest System lands. Our interest in this issue lies in our effort to restrict pesticide use in a manner that protects public health, the environment, and the aquatic ecosystem, and to advance alternatives that eliminate dependency on toxic chemicals. We oppose the Forest Service's proposed departure from its policy to "review and approve all proposals for the use and application of pesticides on National Forest System lands."

Existing federal regulations require special use authorization for piscicide applications (36 CFR 251.50), and specifically prohibit "using any pesticides except for personal use as an insect repellent or as provided by special-use authorization for other minor uses" (36 CFR 261.9 (f)). We believe these requirements should remain fully intact and that there should not be a special exemption from this policy for piscicides. Because piscicides are applied directly to water and consequently can affect aquatic and terrestrial wildlife and drinking water sources, piscicides should be considered for additional, not less regulation than other pesticides.

In light of the recent U.S. Geological Survey study, *Water Quality in the Nation's Streams and Aquifers*, which found pesticides in 94 percent of all water samples, it is evident that we need to do more to protect our nation's water supplies. The Forest Service plays an important role in protecting vital watersheds. The agency needs to continue to require special use permits for piscicide, and all pesticide, applications in order to ensure use compliance not only with the *Federal Insecticide, Fungicide, and Rodenticide Act* (FIFRA), but also the *Clean Water Act*, *Endangered Species Act*, and any other applicable laws, while, at the same time, taking into account the local conditions present within proposed treatment areas. It would be negligent for the agency to remove this important layer of protection and rely on the Environmental Protection Agency's pesticide registration process due to its numerous deficiencies. For example:

- Less and non-toxic strategies ignored: The current system assumes that if a pesticide meets a highly questionable "acceptable" risk threshold, it has value or benefit. This is the practice even though there are typically less or non-toxic

methods or products available. Absent altogether is any analysis of whether the so-called "pest" (insect or plant) has been accurately defined.

- "Inert" ingredients: Manufacturers are not required to disclose the so-called "inert" ingredients of its products. Despite their name, these ingredients are neither chemically, biologically or toxicologically harmless. In general, inert ingredients are minimally tested, however, many are known to state, federal and international agencies to be hazardous to human health.
- No federal incident monitoring: EPA's Pesticide Incident Monitoring System (PIMS) was abandoned in 1981. Since that time, there has been no federal incident monitoring system to protect workers and residents from pesticide poisoning or to consider in product re-registration.

While the most recent *National Report of Pesticide Use on NFS Lands* (2004) indicates a small portion of Forest Service System lands have been treated annually with piscicides (note: an accurate figure cannot be provided as a quantification of the areas receiving the majority of piscicide applications are absent from the report), the proposed rule has the potential to have primary and/or secondary impacts on the entire National Forest System (192 million acres).

The claim that usage is not expected to change has no basis and is likely to be inaccurate in light of the escalating piscicide usage over the past five reported years. In fact, the five most recent usage reports from the Forest Service show a steady increase in the amount of piscicides used. The two most recent pesticide use reports show over a six-fold increase in overall piscicide use, and while potassium permanganate comprises a large percentage of pesticides used for fish eradication and is sometimes used to detoxify rotenone, it is an acutely toxic inorganic pesticide on its own. According to an industry (Mallinckrodt Baker) material safety data sheet, potassium permanganate "may cause long term adverse effects in the aquatic environment."

The use of rotenone, which has been applied to Forest Service water bodies the last four of five reported years, is of concern as well. According to EPA reregistration eligibility decision (RED) documents, rotenone has been shown to induce Parkinsonian effects in lab animals, and is toxic to mammals, aquatic invertebrates, oysters and shrimp, as well as fish. EPA's risk assessment of rotenone identifies several data gaps that are cause for additional concern about the chemical, including gaps on acute and chronic toxicity data for estuarine/marine fish and invertebrates, chronic risk to birds, and a lack of data to evaluate the toxicity to aquatic and terrestrial plants (raising further concerns about threatened and endangered plant species and indirect effects to threatened and endangered animals). Also, "inert" ingredients that are associated with rotenone products (as identified in the supporting documents for EPA's risk assessment), may include, but are not limited to, trichloroethylene, xylene, toluene, 2-methyl naphthalene, 1-methyl naphthalene, naphthalene, ethyl benzene, piperonyl butoxide and benzoic acid.

Based on the toxic nature of the piscicides used on National Forest System lands, providing less oversight is not an appropriate action for the agency to take. It is not surprising that the agency feels more of a strain under increased usage, but, by the same token, this is no reason to weaken regulations and part with established policy.

Given the risks inherent in the application of toxic pesticides to aquatic ecosystems, the Forest Service has a responsibility to assess carefully the environmental impacts of piscicides on National Forest System lands, and to allow appropriate public involvement in its decision-making regarding the use of such pesticides. The Forest Service's proposal to allow piscicide applications on National Forest lands without special use permits, however, effectively and improperly eliminates the agency's responsibility to undertake independent environmental analysis of such piscicide application under the *National Environmental Policy Act* (NEPA). The Forest Service does not provide any justification for attempting to exclude piscicide application from NEPA review, and does not suggest that such pesticide applications could possibly be categorically excluded from review under the Act. We believe that the Forest Service's proposal to exclude piscicide applications from proper environmental analysis and public involvement under NEPA is illegal and imprudent.

In light of increased piscicide usage and the proposal to weaken regulations governing piscicide usage, the agency should reconsider its preliminary assessment that this rule does not require an environmental assessment or environmental impact statement. The claim that the rule has "no impact on the human environment" is demonstrably false. As we have noted above, piscicides can have serious adverse impacts on the aquatic ecosystem. Moreover, piscicide treatments have had direct impacts on humans. For example, as also documented in EPA's rotenone risk assessment, a 1997 treatment of Lake Davis, California, resulted in water contamination, 16 pesticide illness reports, and a failure to eradicate the target species.

Beyond Pesticides and Defenders of Wildlife feel there is not ample justification to warrant a change in piscicide policy and are concerned about the long-term consequences of weakening the agency's oversight on pesticide use. In short, we ask the Forest Service not to adopt the proposed rule, and if further consideration is given to changing Forest Service policy regarding pesticides, to conduct an environmental assessment / impact statement. We appreciate your consideration on this issue.

Sincerely,

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