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April 10, 2006

Ms. Tobi Jones  
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#### Data Requirements for Pyrethroid Reevaluation

Member agencies of Tri-TAC have received two recent letters from the Department of Pesticide Regulation (DPR). The first letter dated January 31, 2006 regarding permethrin impregnated articles was written by Mr. Van Cheney and addressed to Mr. Charles Weir of the East Bay Dischargers Authority and Ms. Preeti Ghuman of the County Sanitation Districts of Los Angeles County (Districts). The second letter dated February 27, 2006 regarding resmethrin and the reevaluation of pyrethroids was written by you and addressed to Mr. James Stahl of the Districts. Since the East Bay Dischargers Authority and the Districts are active members of Tri-TAC, Tri-TAC has prepared a response to these letters collectively. As background, Tri-TAC is a technical advisory group comprised of public and private wastewater professionals focusing on regulatory issues of interest to Publicly Owned Treatment Works (POTWs) in California. Tri-TAC is jointly sponsored by the California Association of Sanitation Agencies, the California Water Environment Association, and the League of California Cities. The constituency base for Tri-TAC collects, treats, and reclaims more than two billion gallons of wastewater each day and serves most of the sewered population of California.

The purpose of this letter is to thank DPR for reversing its 2004 decision to not require the registration of impregnated items, support DPR's decision to reevaluate pyrethroids, and request that DPR collect the data necessary to evaluate and mitigate water quality impacts from pyrethroid uses with a pathway to sewers in the data requirements of the reevaluation. Tri-TAC previously submitted a letter to DPR in December 2005 supporting the reevaluation of pyrethroid insecticides, and we have attached this letter for your reference.

Tri-TAC is pleased that DPR has reversed its 2004 decision regarding impregnated items and is now requiring these products to be evaluated and registered by DPR before they can be offered for sale and use in California. Since the normal use of pesticide impregnated items, like clothing and mattress liners, results in the discharge of the pesticide to sewers, Tri-TAC requests that during the evaluation of impregnated items DPR analyze the water quality impacts from the use of these products. If the analysis predicts adverse impacts to aquatic organisms, Tri-TAC requests that DPR require mitigation measures as a condition of registration.

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Tri-TAC supports DPR's decision to place pyrethroids into reevaluation to better assess water quality impacts. Since wastewater discharged to sewers travels to POTWs and eventually into receiving waters, Tri-TAC requests that DPR consider all pyrethroid uses with a pathway to sewers (e.g. products to treat clothes, pre-impregnated clothing, over-the-counter and prescribed drugs, pet shampoos, drain and manhole treatments, carpet treatments, and indoor sprays) in the scope of the reevaluation.

Tri-TAC is not aware of POTW influent and effluent sampling data for pyrethroids. The monitoring data that you requested is unavailable primarily for two reasons: analytical method and cost. Wastewater creates interferences with the current test method for pyrethroids and an acceptable test method has not been developed. In addition, it is beyond the resources of POTWs to test for numerous pesticide active ingredients. There are approximately 900 pesticide active ingredients registered for use in California and it should be the pesticide manufacturers', not the public's, responsibility to develop test methods and collect and analyze samples to determine if their products are expected to cause environmental problems. Tri-TAC is willing to meet with DPR and the pesticide manufacturers to discuss a possible future sampling program as part of the pyrethroids reevaluation; however, the burden of developing the analytical method and collecting and analyzing the samples should be placed on the pesticide manufacturers as a data requirement of the reevaluation.

DPR should also collect during reevaluation the information necessary to ensure compliance with the Clean Water Act (CWA). In addition to the adverse environmental impacts, non-compliance with CWA requirements can be extremely costly for POTWs. Costs are incurred for identifying the source of the pollutants causing non-compliance, source control to reduce impacts of the pollutants, and construction, operation, and maintenance costs to upgrade POTWs with advanced treatment to remove pollutants that cannot be adequately reduced with source control. Also, when surface water bodies become impaired by pesticides, POTWs discharging to the water bodies can be impacted through additional requirements established as part of Total Maximum Daily Loads (TMDLs) set for the water bodies by the State Water Resources Control Board and the Regional Water Quality Control Boards (Regional Boards). The cost to POTWs to comply with TMDLs can be up to millions of dollars per water body per pollutant.

POTWs are also subject to mandatory minimum penalties for National Pollutant Discharge Elimination System (NPDES) permit exceedences. The Clean Water Enforcement Act requires the Regional Boards to assess penalties for each NPDES permit exceedence, whether or not the POTW has the authority to prevent the violation. In addition, the Regional Boards are required to continue to assess penalties until the POTW is in compliance with its NPDES permit.<sup>1</sup> Since POTWs do not have the authority to regulate pesticides, if a pesticide causes an NPDES permit exceedence, the POTW would be fined until DPR, EPA, and/or FDA regulates

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<sup>1</sup> The Clean Water Enforcement Act states that mandatory minimum penalties shall not be assessed if the violations are caused by one or any combination of (1) an act of war, (2) an unanticipated, grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or (3) an intentional act of a third party, the effects of which could not have been prohibited or avoided by the exercise of due care or foresight, see California Water Code, Section 13385(j) for further details.

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the pesticide. POTWs can also be subject to legal action for NPDES violations, thereby causing the POTW to pay legal fees, settlements, and/or judgments.

Additionally, in California some POTWs discharge to effluent dominated water bodies, providing essentially the only source of water to a surface water body during dry periods. The NPDES permits for these facilities do not include a stream dilution factor, so these POTWs often need to meet stringent NPDES permit limits at "end-of-the-pipe."

In conclusion, DPR should request as data requirements of the reevaluation that the pyrethroid manufacturers: (1) estimate the amount of pyrethroids discharged to receiving waters by POTWs as a result of the discharge of pyrethroids into sewers, (2) estimate the removal efficiency of pyrethroids during wastewater treatment and, (3) provide information to determine whether pyrethroids in POTW effluent and biosolids will cause violations of the CWA or NPDES permits, restrict the options for recycled water and biosolids reuse, or significantly contribute to exceedances of current or proposed numeric or narrative water quality standards.

Tri-TAC appreciates DPR's efforts to reevaluate pyrethroids. If you have any questions or require additional information, please contact Ms. Preeti Ghuman by phone at (562) 699-7411, extension 2904 or by email at [pghuman@lacsod.org](mailto:pghuman@lacsod.org).

Sincerely,



Charles V. Weir  
Chair, Tri-TAC

Attachment

c: Nan Singhasemanon, DPR  
Marshall Lee, DPR  
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