



# BEYOND PESTICIDES

701 E Street, SE ■ Washington DC 20003  
202-543-5450 phone ■ 202-543-4791 fax  
info@beyondpesticides.org ■ www.beyondpesticides.org

August 30, 2010

The Honorable Blanche Lincoln  
Chairman, Senate Committee on Agriculture, Nutrition and Forestry  
355 Dirksen Senate Office Building  
Washington, DC 20510

Cc: U.S. Senate Committee on Agriculture, Nutrition and Forestry  
The Honorable Harry Reid  
The Honorable Mitch McConnell

**Re: S. 3735: Bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the use of certain registered pesticides.**

Dear Senator Lincoln:

As members of the environmental and public health communities, we are writing to voice our opposition to S. 3735. This bill will strip the public of much-needed protection provided by the *Clean Water Act* (CWA) from the toxic hazards of pesticides applied to or near U.S. waterways by nullifying regulations that require pesticide applicators to apply for National Pollutant Discharge Elimination System (NPDES) permits. The 2009 decision in the case of *National Cotton Council et al. v. EPA*, in which the 6th Circuit Court of Appeals ruled that pesticide discharges into water are pollutants and require permitting under CWA is correct in emphasizing that the Act must be upheld in order to protect U.S. waters from pollution. The goal of the CWA is to “restore and maintain the chemical, physical, and biological integrity of the Nation's waters” 33 U.S.C. 1251 (a) “for the protection and propagation of fish, shellfish, and wildlife” 33 U.S.C. 1251(a)(2) and EPA is given the authority of “preventing, reducing, or eliminating the pollution of the navigable waters and ground waters...” 33 U.S.C. 1252(a).

Congress should support EPA in fulfilling its task, instead of undermining the laws that serve to protect public and environmental health. This complements and does not duplicate the pesticide registration reviews conducted by EPA under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which sets a general national standard that does not take into account conditions and specific vulnerabilities evaluated through the NPDES process. Given extensive, documented water contamination by pesticides nationwide, it is critical that we allow the NPDES review process to move ahead. S. 3735 will prevent this from happening.

For decades our nation's waterways have been polluted with hazardous pesticides and their

degradates which impact aquatic populations of animals and plants, and decrease surface and drinking water quality.<sup>1,2,3</sup> Results from the U.S. Geological Survey's National Water-Quality Assessment Program studies show that pesticides are widespread in streams and ground water sampled within agricultural and urban areas of the nation.<sup>4,5</sup> Many of these pesticides accumulate in fish and other organisms, making their way up the food chain, to eventually be consumed by the American public. Recent studies find that government agencies may be underestimating children's dietary exposure to pesticides<sup>6</sup> and that they are a prime cause of attention deficit hyperactivity disorder, ADHD.<sup>7</sup> Stronger regulatory action is needed to ensure that our waters, food and health are adequately protected from all industrial and agricultural pollution.

Thus, the NPDES permit is vital to protecting waterways from indiscriminate pesticide contamination. The permit would not pose undue burden to farmers, foresters and ranchers as the permits are only required for a narrow range of uses, for example, mosquito spraying which is seasonal in most parts of the U.S.

In comments to EPA,<sup>8</sup> Beyond Pesticides and others argued that while EPA designed a NPDES permit to cover pesticide discharges for certain use patterns, there are also many serious limitations to the proposed permit that must be addressed before the permit goes into effect in 2011. Inadequate pesticide monitoring, low levels of compliance and enforcement and a lack of water-quality standards are some problems plaguing the permitting process. We believe time is better spent addressing these limitations than trying to reverse a court ordered decision that is only serving to protect the American public from continued toxic contamination.

It is important for the American public to have confidence in its laws and stewards of the law. In this political climate it is also important that Americans believe that their best interests are being served by Congress and not being eroded by special interests. We hope, following good counsel, that Bill S. 3735 is withdrawn. Now is the time to put public and environmental health first.

---

<sup>1</sup> Relyea RA. 2009. A cocktail of contaminants: how mixtures of pesticides at low concentrations affect aquatic communities. *Oecologia*. 159(2):363-76

<sup>2</sup> Downing AL, et al. 2008. Community and ecosystem responses to a pulsed pesticide disturbance in freshwater ecosystems. *Ecotoxicology*.17(6):539-48

<sup>3</sup> Hayes, Tyrone B. 2002. "Hermaphroditic, demasculinized frogs after exposure to the herbicide atrazine at low ecologically relevant doses." Proceedings of the National Academy of Sciences. Vol. 99, No. 8.

<sup>4</sup> U.S. Geological Survey. 1999. The Quality of Our Nation's Waters-Nutrients and Pesticides: U.S. Geological Survey Circular 1225, 82 p.

<sup>5</sup> Gilliom et al. 2006. The Quality of Our Nation's Waters - Pesticides in the Nation's Streams and Ground Water, 1992-2001: U.S. Geological Survey Circular 1291,172 p.

<sup>6</sup> Lu C, Schenck FJ, Pearson MA, Wong JW 2010. Assessing Children's Dietary Pesticide Exposure – Direct Measurement of Pesticide Residues in 24-Hour Duplicate Food Samples. *Environ Health Perspect* :- .doi:10.1289/ehp.1002044

<sup>7</sup> Marks AR, Harley K, Bradman A, Kogut K, Barr DB, Johnson C, et al. 2010. Organophosphate Pesticide Exposure and Attention in Young Mexican-American Children. *Environ Health Perspect* :- .doi:10.1289/ehp.1002056

<sup>8</sup> Beyond Pesticides Comments- Draft National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit for Point Source Discharges From the Application of Pesticides, EPA-HQ-OW-2010-0257-0513.1

Sincerely,

Jay Feldman  
Beyond Pesticides  
Washington, DC

Pamela K. Miller  
Alaska Community Action on Toxics  
Anchorage, AK

Patty Clary  
Californians for Alternatives to Toxics  
Eureka, CA

David Chatfield  
Californians for Pesticide Reform  
San Francisco, CA

Robina Suwol  
California Safe Schools  
Van Nuys, CA

Mercedes Gallagher  
Center Pond Weed Project  
Becket, MA

Drew J. Koslow  
Choptank River Eastern Bay Conservancy  
St. Michaels, MD

Barbara Warren  
Citizens' Environmental Coalition  
Albany, NY

Lynn Thorp  
Clean Water Action  
Washington, DC

Nancy Gloman  
Defenders of Wildlife  
Washington, DC

Joan Mulhern  
Earthjustice  
Washington, DC

Chasidy Fisher Hobbs  
Emerald Coastkeeper, Inc.  
Pensacola, FL

Lynn Carroll, PhD  
The Endocrine Disruption Exchange  
Paonia, CO

Jeannie Economos  
Farmworker Association of Florida  
Apopka, FL

Virginia Ruiz  
Farmworker Justice  
Washington, DC

Charlotte Wells  
Galveston Baykeeper  
Seabrook, TX

Pete Nichols  
Humboldt Baykeeper  
Eureka, CA

John Wathen  
Hurricane Creekkeeper  
Tuscaloosa, AL

Larry Jacobs  
Jacobs Farm / Del Cabo  
Pescadero, CA

Erica Terence  
Klamath Riverkeeper  
Somes Bar, CA

Terry Backer  
Long Island Soundkeeper  
Norwalk, CT

Tracy Kuhns  
Louisiana Bayoukeeper, Inc  
Barataria, LA

Larry Baldwin  
Lower Neuse Riverkeeper  
New Bern, NC

Michael R Helfrich  
Lower Susquehanna Riverkeeper  
York, PA

Heather Spalding  
Maine Organic Farmers and Gardeners Assoc.  
Unity, ME

Ruth Berlin  
Maryland Pesticide Network  
Annapolis, MD

Cheryl Nenn  
Milwaukee Riverkeeper  
Milwaukee, WI

Virginia Nesmith  
National Farm Worker Ministry  
St Louis, MO

Kim Leval  
Northwest Coalition for Alternatives to Pesticides  
Eugene, OR

Dona Hippert  
Oregon Toxics Alliance  
Eugene, OR

Heather Jacobs Deck  
Pamlico-Tar River Foundation  
Washington, NC

Heather Pilatic, PhD  
Pesticide Action Network North America  
San Francisco, CA

Ginger Souders-Mason  
Pesticide Free Zone  
Kentfield, CA

Paul S. Towers  
Pesticide Watch  
Sacramento, CA

Art Norris  
Quad Cities Waterkeeper  
Port Byron IL

Jason Flanders  
San Francisco Baykeeper  
San Francisco, CA

Liz Crosson  
Santa Monica Baykeeper  
Santa Monica, CA

Mark C. Bruce  
Santee Riverkeeper Alliance  
Summerton, SC

Rick Eichstaedt  
Spokane Riverkeeper  
Spokane, WA

Sylvia Broude  
Toxics Action Center  
Boston, MA

Fawn Pattison  
Toxic Free North Carolina  
Raleigh, NC

Donna Marie Lisenby  
Upper Watauga Riverkeeper  
Boone, NC

David Burden  
Virginia Eastern Shorekeeper  
Eastville, VA

Christine Ellis  
Waccamaw Riverkeeper  
Conway, SC

Scott Edwards  
Waterkeeper Alliance  
Irvington, NY

Jerome Silbert, MD  
The Watershed Partnership, Inc.  
Guilford, CT

Sandy Bihn  
Western Lake Erie Waterkeeper Association  
Oregon, OH