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.\textsuperscript{1,2,3} 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.\textsuperscript{4,5} 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\textsuperscript{6} and that they are a prime cause of attention deficit hyperactivity disorder, ADHD.\textsuperscript{7} 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,\textsuperscript{8} 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 heal first.

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\textsuperscript{8} 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

Liz Crosson
Santa Monica Baykeeper
Santa Monica, CA

Ruth Berlin
Maryland Pesticide Network
Annapolis, MD

Mark C. Bruce
Santee Riverkeeper Alliance
Summerton, SC

Cheryl Nenn
Milwaukee Riverkeeper
Milwaukee, WI

Rick Eichstaedt
Spokane Riverkeeper
Spokane, WA

Virginia Nesmith
National Farm Worker Ministry
St Louis, MO

Sylvia Broude
Toxics Action Center
Boston, MA

Kim Leval
Northwest Coalition for Alternatives to Pesticides
Eugene, OR

Fawn Pattison
Toxic Free North Carolina
Raleigh, NC

Dona Hippert
Oregon Toxics Alliance
Eugene, OR

Donna Marie Lisenby
Upper Watauga Riverkeeper
Boone, NC

Heather Jacobs Deck
Pamlico-Tar River Foundation
Washington, NC

David Burden
Virginia Eastern Shorekeeper
Eastville, VA

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

Christine Ellis
Waccamaw Riverkeeper
Conway, SC

Ginger Souders-Mason
Pesticide Free Zone
Kentfield, CA

Scott Edwards
Waterkeeper Alliance
Irvington, NY

Paul S. Towers
Pesticide Watch
Sacramento, CA

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

Art Norris
Quad Cities Waterkeeper
Port Byron IL

Sandy Bihn
Western Lake Erie Waterkeeper Association
Oregon, OH

Jason Flanders
San Francisco Baykeeper
San Francisco, CA