

November 30, 2011

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Senator Reid and Senator McConnell:

As you are aware, the U.S. Environmental Protection Agency (EPA) recently issued its 175 page National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit (PGP) for discharges from the application of pesticides under the Clean Water Act (CWA). It also released a 137 page "Final PGP Fact Sheet" applicable to the NPDES PGP.

EPA recognizes that the substantial expansion of the NPDES program to additional pesticides applications was solely caused by the decision of the 6th Circuit Court in the *National Cotton Council of America v. EPA*. The court overturned an express EPA regulation reflecting the agency's more than 30 year policy that under the CWA an NPDES permit was not required for Federal Insecticide Fungicide and Rodenticide Act (FIFRA)-authorized pesticide applications. We believe that the agency's regulation correctly interpreted congressional intent under the CWA and that Congress needs to take the necessary action to confirm that original intent. The aquatic impacts of pesticides have always been and should continue to be regulated under FIFRA.

Once the 312 pages of regulatory material were released, it became clear that many pesticide users, including agricultural producers, state and local governments, and public health agencies, are now subject to the new permitting program, potential citizen suits and the substantial penalties of the CWA. We legitimately question the need for this tremendous expansion of the NPDES permit program in view of the additional burden and unwarranted legal jeopardy it now imposes on pesticide users. Congress should act to restore the appropriate scope of the NPDES permitting process through adoption of H.R. 872.

That legislation passed the House on a bipartisan basis and we believe there are more than 60 senators who would vote in favor of its adoption. In addition, many states have made clear that they neither need nor want the additional regulatory responsibilities associated with administering this program given the little to non-existent environmental gains associated with it. Administration of the new regulations adds a significant burden to states that already have limited and dwindling resources.

There is still time to provide legislative relief to address the permit program burden reflected in the 312 pages of regulatory material and to reduce vulnerability to citizen suits that users face

before EPA's announced implementation goal of the first of the year. We urge you to act promptly to advance H.R. 872 to preempt EPA implementation of the overreaching and unneeded expansion of EPA regulatory authority.

Sincerely,

Agricultural Retailers Association
American Farm Bureau Federation
American Frozen Food Institute
American Mosquito Control Association
American Nursery and Landscape Association
American Soybean Association
Aquatic Plant Management Society
Chemical Producers and Distributors Association
Cranberry Institute
CropLife America
Far West Agribusiness Association
Golf Course Superintendents Association of America
National Alliance of Forest Owners
National Agricultural Aviation Association
National Association of Chemical Distributors
National Association of Independent Crop Consultants
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Farmers Union
National Grange
National Pest Management Association
National Potato Council
National Water Resources Association
North Central Weed Science Society
Northeastern Weed Science Society
Northwest Horticultural Council
The Professional Landcare Network
RISE (Responsible Industry for a Sound Environment)
Rocky Mountain Agribusiness Association
Southern Weed Science Society
United Fresh Produce Association
U.S. Apple Association
USA Rice Federation
Weed Science Society of America
Western Growers Association
Western Society of Weed Science