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September 13, 2024

Jan Matuszko, Director
Environmental Fate and Effects Division
Office of Pesticide Programs
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Attention: Docket ID No. EPA-HQ-OPP-2024-0229
Submitted via www.regulations.gov.

RE: South Dakota Department of Agriculture and Natural Resources (DANR) comments on the U.S. Environmental Protection Agency's proposed "Draft Insecticide Strategy to Reduce Exposure to Federally Listed Endangered and Threatened Species and Designated Critical habitats from the Use of Conventual Agricultural Insecticides".

Dear Director Matuszko,

Thank you for the opportunity to provide comments on the proposed Environmental Protection Agency's (EPA) *Draft Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Insecticides* published in the federal register on July 24, 2024, docket number EPA-HQ-OPP-2024-0229.

General Comments

- EPA's draft insecticide strategy does not give South Dakota producers realistic options for compliance and would add significant costs to their operations. All of America, but especially rural America, will be negatively impacted by the increased costs to comply with the strategy and implementation may result in the reduction of farmable acres leading to decreased food, fiber, and fuel production.
- The strategy is complicated to follow for the average grower or applicator. In the strategies current form, producers may ultimately choose consentient violation in an effort to support their operations and family.
- As a regulatory agency, the complexity of the strategy will make it unenforceable.
- If the EPA moves forward with the current draft, the unreasonable standards for both the producer and regulatory agency will lead to more litigation and drastically increase the burden for all.

Spray Drift Buffers

- The large spray drift buffers required by the proposal will leave enormous swaths of farmland without insect control. These buffers will have a significant impact on farmers normal practices and income because of lack of insect control on those acres. There are many instances when the outside field borders of the field, not the entire field, are sprayed to control the insect. If a buffer is required, the buffer would defeat the purpose of the insecticide application on the outside field borders.
- EPA needs to provide a better explanation of spray drift buffer distances and develop other mitigation options to be used when making a pesticide application. One option would be the use of a drift reduction agent (DRA). The proposed rule mentions that DRA is being studied, but currently is not an approved "mitigation."
- DANR's experience educating ag retailers and applicators regarding spray drift buffers has been difficult, as applicators are unwilling to spray segments of fields with different products, and spray drift buffers are practically unenforceable by state lead agencies. The complexity of the proposed strategy makes it difficult to use and challenging to get agronomist and producer buy-in, which limits the likelihood of successful implementation.

Bulletins Live! Two

- Bulletins Live! Two (BLT) is at times difficult and frustrating to use and EPA has been reluctant to implement needed improvements to make it a more effective tool. EPA needs to work directly with states when designing bulletins, and restrictions need to be more precise than county level. Also, suitable habitat needs to be defined and clearly delineated on BLT generated maps. Additionally, BLT will need to be available in some form to the estimated 21% of growers whose lack of internet access limits their ability to access the bulletins.

American Burying Beetle

- The Pesticide Use Limitation Area (PULA) is often inaccurate. One example of this is the American Burying Beetle (Nicophorus americanus) (ABB) documentation in South Dakota. The U.S. Fish and Wildlife Services has critical habitat showing a blanketed area of five counties: Bennett, Todd, Tripp, Gregory, and Charles Mix counties in South Dakota. [1]
- It was determined from trap site collection studies between 2018-2020 that the ABB exists only in Southern Tripp, SW Gregory, Southeastern Todd counties in South Dakota. The population estimates were highest in Southern Tripp County areas of the Clearfield and McNeeley communities. Prime habitat locations for the ABB are undeveloped wet meadows with areas of trees with water available either by river, stream, or sub-irrigated soils, pasture, and grasslands with little to no crop land visible. Sandy soils are a major benefit to bury their carrion. Poor habitat would be areas dominated by agricultural row crop (corn, soybean, sunflowers), such as Northern Tripp and Gregory Counties in SD where heavier clay-based soils and row crops are prevalent.

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[1] Hoback, W.W..; Snethen, D.G.; Reed, M.; Cavallaro, M.C. The Occurrence of the American Burring Beetle (Microphorus americanus) and Associated Silphid Beetle Community in South Dakota; Implications from managed Relocation

- Designating an entire county as habitat for an endangered species is an irrational practice, especially if certain insecticides have been used in an area for years. It is unlikely an ABB would be present in a row crop field when an insecticide application is being made. ABB do not feed on plants or crops that have been sprayed by insecticides. ABB are nocturnal and insecticide applications to row crops are not made at night. During the day, ABB are found below the soil surface and would potentially be protected from any insecticide drift.
- The Insecticide Strategy Draft does not include pasture, grassland, or rangeland as an agriculture use. Therefore, the habitat or PULA for ABB should not be listed and should not require additional mitigation measures to make an insecticide application because pasture, rangeland and grassland are primary areas for ABB to reside. Below are the locations in South Dakota that ABB have been located during trapping from 2018-2020:[1]

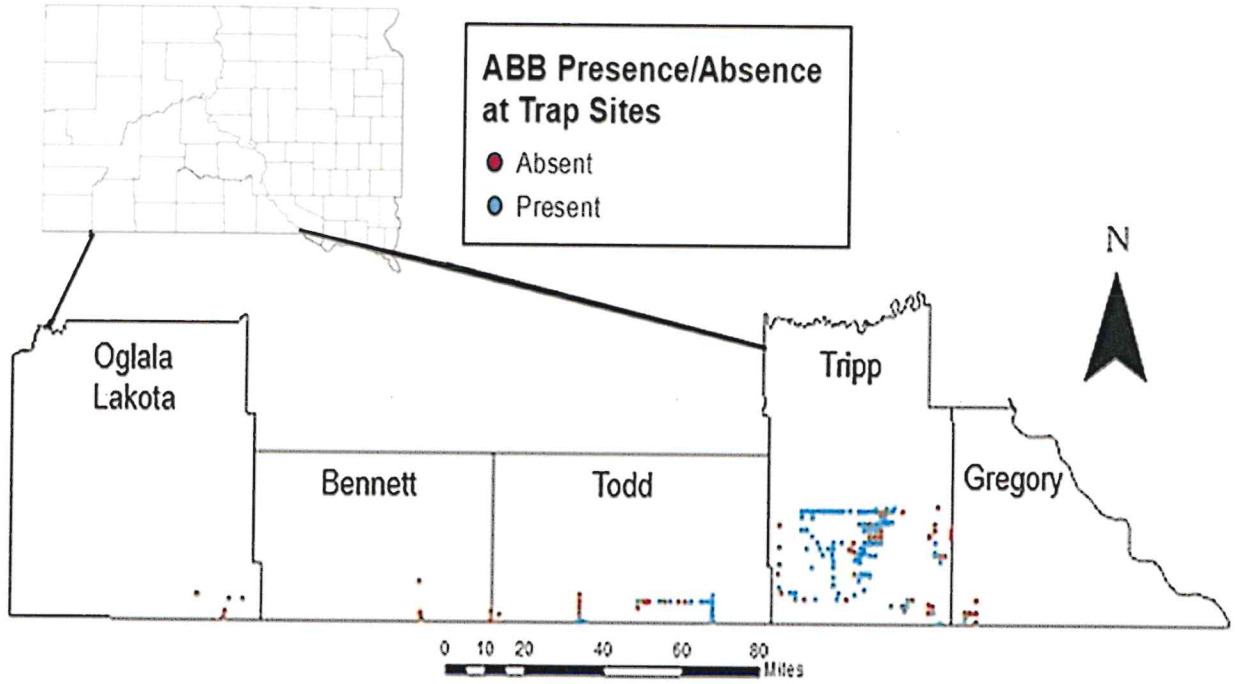


Figure 1 - ABB Presence/Absence at South Dakota Trap Sites

- DANR questions if mitigations for spray drift, soil erosion, and runoff need to be followed in an "unmanaged area" if an application is made of an insecticide with no PULA in the area. Although ABB is classified as a habitat generalist, replacement of grasslands with row crop agriculture and arid environments do not support its occurrence.

Mitigation Measures

- EPA must have better consistency in defining low, medium, and high mitigation measures. When these measures are correlated with insecticide users to attain "points" by adoption of certain runoff practices. These measures may limit producers access to insecticides or require them to adopt new agronomic or farming practices for the use of insecticides to reduce runoff, making some practices irrational. Growers who have

practiced No-till farming on their acres should be exempt from mitigations regarding run-off.

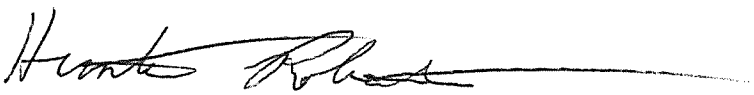
- If a field is in an area where there is no known endangered species or PULA, is that field subject to mitigation measures that are on the pesticide label? The grower should not be subject to mitigations in this scenario because there is NOT a PULA in the area to affect the pesticide application. This is another example of why endangered species' maps need to be **specific** to an area where the endangered species resides.

Conclusion
DANR strongly urges EPA to withdraw this complicated, unworkable, and unenforceable strategy. If EPA will not withdraw the strategy, DANR encourages EPA to drastically simplify the proposal to increase flexibility and ensure the economic viability of agriculture and agriculture producers.

With the world's population on a steady increase, there is a correlated demand on agriculture to feed, clothe, and fuel the world. EPA's Insecticide Strategy does not support the efforts needed to continue to grow our own resources in the United States to meet this growing demand. EPA needs to do a better job of understanding American agriculture and how it will be negatively impacted by the increased costs to comply with the proposed strategy. EPA must also recognize implementation of the proposed strategy is likely to result the reduction of farmable acres subsequently decreasing food, fiber, and fuel production.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact Tom Gere of my staff at (605) 773-4432.

Sincerely,



Hunter Roberts
Secretary