

**CLEAN WATER ACTION • DEFENDERS OF WILDLIFE • EARTHJUSTICE •  
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NATIONAL AUDUBON SOCIETY • NATURAL RESOURCES DEFENSE COUNCIL •  
PHYSICIANS FOR SOCIAL RESPONSIBILITY • SIERRA CLUB • THE WILDERNESS  
SOCIETY • WORLD WILDLIFE FUND**

June 21, 2011

**RE: Oppose S. 718 and H.R. 872**

Dear Senator:

On behalf of our millions of members and supporters nationwide, we strongly urge you to oppose S. 718, a bill to prevent the Environmental Protection Agency (“EPA”) from protecting our waterways from pesticide discharges. Similar legislation has passed the House as H.R. 872 (the so-called “Reducing Regulatory Burdens Act”). We call upon you to oppose both measures and defend our nation’s waterways from the harmful effects of pesticide pollution.

The Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) sets standards for pesticide registration and labeling. Although pesticides may not be registered under FIFRA unless EPA finds that their use “will not generally cause unreasonable adverse effects on the environment,” this standard has not been sufficient to protect our nation’s waters and wildlife from harm. According to the EPA, more than 1000 waterways in the United States are impaired because of pesticide pollution. A recent nationwide study by the U.S. Geological Survey found pesticide contamination in every stream they sampled. In fact, over 16,000 miles of water in the U.S. are threatened or impaired by pesticides, meaning they are not suitable for fishing, swimming or drinking under the standard Congress established in the Clean Water Act. This contamination causes reproductive and developmental issues in fish and amphibians, disrupts the food chain, and may have broad ecosystemic effects. Human health suffers as well when people consume pesticide-contaminated fish or drinking water.

In 2009, the U.S. Court of Appeals for the Sixth Circuit held in *National Cotton Council et al. v. EPA* that certain pesticides are pollutants requiring National Pollutant Discharge Elimination System (“NPDES”) permits under the Clean Water Act. NPDES permits place limits on the amount and type of pollutants that can be discharged in to waterbodies, taking into account such factors as whether the waterbody is used by people for fishing and swimming, and whether significant fish species rely on the waters.

To avoid the need for individual permits, EPA has proposed the use of a general NPDES permit to provide timely and efficient coverage and to simplify the permitting process while protecting public health and water quality. General permits apply to multiple dischargers in a given geographic area; they are intended to reduce the need for individual permits while allowing pesticide use to be tailored to the conditions of specific waterbodies. The EPA’s proposed general permit would require pesticide applicators to analyze safer alternatives to pesticide use, monitor for post-application environmental impacts, and ensure public safety while creating consistency for the regulated community.

Contrary to the claims of some agricultural and pesticide industry groups, Clean Water Act compliance is neither duplicative of a FIFRA registration nor unduly burdensome. FIFRA only considers nationwide assessments of general impact and requires no site specific review of the likely effects of a pesticide (or combination of pesticides) in a given waterway. FIFRA registration alone failed to prevent, for example, the death of 92,000 juvenile steelhead salmon in Oregon's Talent Irrigation District, as occurred in 1996 when an herbicide used to kill aquatic weeds in irrigation canals flowed into a nearby creek.

EPA's general permit process already contains generous exemptions for many common agricultural practices, such as irrigation return flows and agricultural stormwater runoff. It also will not cover land applications for the purpose of controlling agricultural pests or even "spray drift" from aerial applications. The only possible impacts on agriculture are for pesticide applications to crops grown directly in navigable waters and to irrigation systems that are themselves deemed navigable waters. The requirement on this small subset of activities does not warrant congressional exemption of all pesticide applications into our waters from Clean Water Act review.

Pesticide use impacts public health, wildlife and water quality. EPA's general permit for use of pesticides applied directly to water is one step forward in safeguarding our ecosystems and communities from the larger problem of pesticide pollution.

To protect and restore the health of our waterways and fulfill the promise of the Clean Water Act, EPA should require NPDES permits for the most harmful applications of pesticides to water. Congress should not take away EPA's authority to require Clean Water Act permits for applications of pesticides in our nation's waters.

We urge you to oppose S. 718 and HR 872 and to uphold EPA's Clean Water Act authority to ensure the health and safety of our communities and wildlife. Thank you for considering our views.

Sincerely,

Bob Wendelgass  
President  
Clean Water Action

Erich Pica  
President  
Friends of the Earth

Rodger Schlickeisen  
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Defenders of Wildlife

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