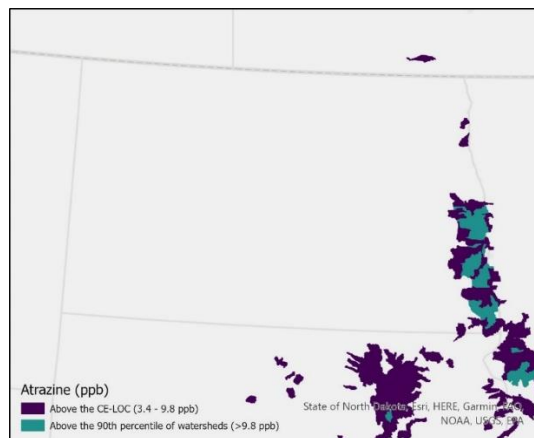


- EPA’s proposed **atrazine use restrictions** will have a huge impact on agriculture
  - Used a court case to reopen previous decision and cited rejected science documents as basis for their decision and ignored EPA-appointed scientific advisory panel
  - Atrazine is safe & effective (over 7000 studies show it is)
  - Most new EPA-proposed mitigation measures are unenforceable
  - Over 72% of U.S. corn acres would be out of compliance if proposal goes through
  - Entire Corn Belt and Sorghum Belt are affected by new restrictions
  - No one in EPA will give a clear definition of “highly erodible” land



Areas subject to new EPA restrictions and extensive new mitigation measures in ND are on the lower SE border part of the state which are some of the flattest, least runoff prone areas in the country



- Proposed Restrictions include:
  - Banning all aerial applications
  - Prohibiting applications to “saturated” soil
  - Prohibiting applications if rain is forecasted within 48 hours of application
  - Restricting rates and forcing growers to choose from a pick list of options to reduce runoff

## **Atrazine – Sue & Settle**

Sep 2020, EPA finalized re-registration regulations for safe herbicide atrazine bringing regulatory certainty to producers

Nov 2020, several environmental activist groups sued EPA in 9<sup>th</sup> Circuit, saying EPA failed to follow FIFRA

EPA could have easily fought and won this lawsuit – instead it put its hands in the air and immediately surrendered – it gave up and chose not to defend itself

Gave entirely into demands of environmental groups to “reassess” atrazine

Even though completed assessment less than two years earlier, EPA now proposing huge restrictions that will, in effect, ban atrazine in many areas of U.S.

NDDA will be providing comments to EPA on proposed atrazine restrictions

## **EPA Sue & Settle lawsuits**

EPA misses most of its regulatory deadlines.

When deadline missed, a citizen suit can be filed against EPA (made by environmental activist groups). Then, in a “run around” sue & settle, EPA negotiates a settlement with the activist group to promulgate an EPA rule or to take other action.

Court agrees with settlement – limits other stakeholder participating in rulemaking

## **EPA Again permits “sue & settle” and “friendly lawsuits”**

Last Administration -

EPA 2017 policy memorandum stopped EPA sue & settle lawsuits. It prohibited EPA from regulating through litigation by participating in “friendly lawsuits” and engaging in cozy “sue & settle” litigation practices

New Biden administration –

March 18, 2022, current EPA Administrator Regan rescinded EPA’s 2017 policy memorandum.

- Sue & Settle lawsuits may once again drive EPA regulatory rulemaking.
- EPA may again enact regulations by exploiting litigation pending against it as cover
- EPA can advance rulemaking that otherwise, under even-handed administrative processes, would be much more difficult to do.

## **The U.S. Congress, House Committee on Oversight and Reform**

- currently investigating EPA Administrator Regan’s decision to rescind EPA’s previous 2017 policy memorandum
- on July 28, 2022, thirty-six members of Congress demanded Administrator Regan provide them, by tomorrow (Aug 11, 2022) all documents and communications relating to:
  - (1) EPA 2022 rescission of the previous EPA 2017 memo
  - (2) current litigation against US regarding sue and settle cases; and,
  - (3) EPA and any outside groups that is applicable in any way to sue and settle litigation.