

March 15, 2023

Ms. Melanie Biscoe  
Pesticide Reevaluation Division  
Office of Pesticide Programs  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460-0001  
*Submitted via regulations.gov*

**RE: EPA-HQ-OPP-2022-0908  
ESA WORKPLAN UPDATE: Nontarget Species Mitigation for Registration Review and  
Other FIFRA Actions**

Dear Ms. Biscoe:

My name is Sarah Lovas. I'm an agronomist from North Dakota and have helped advise farmers on their agronomic input use, including pesticides. I also serve as a current Board member with the North Dakota Grain Growers Association and am the 2022 North Dakota Certified Crop Advisor of the Year. Pesticides are not the only tool farmers use to manage agronomic pests, but they are an important component in a system to help manage agronomic pests. Every pesticide recommendation I make has been made trying to reduce pesticide use. Judicious use of pesticides along with other non-pesticide management strategies are always considered. Judicious use of pesticides not only helps environmental management but also reduces cost to the farmer. I am writing today with concerns over EPA's latest Endangered Species Act Workplan Update. I offer these comments:

- 1) **I am concerned about EPA proposal's that** *"You must obtain a Bulletin no earlier than six months before using this product."* I have helped farmers plan their pesticide use as early as 3 months prior to the growing season based on previous crop scouting data from previous years. This means that pesticide plans are made in March when, often, North Dakota still has snow on the ground, and these plans won't be used until June. However, it is critical to be able to amend the initial plan based on the pests that are present during the actual growing season. In-season crop scouting allows us to make sure we are using the correct active ingredient at the correct rate. These decisions can't be made correctly 6 months ahead of time.
- 2) **Further, growers and other stakeholders should have a role with EPA** in providing feedback into the registration and consultation process. I believe that EPA would develop better working pesticide regulations if they collaborated and understand those who make pesticide recommendations and those who apply those pesticides. Both the agronomists and agronomists are professionals who understand the field application of the pesticide regulations implemented.

- 3) **Provisions such as prohibiting application within 48 hours following “when a storm event likely to produce runoff from the treated area” is simply not practical.** North Dakota’s weather patterns are unpredictable and trying to forecast these types of rains are not possible with the certainty we need to make our pesticide recommendations and applications.
  
- 4) **Finally, I believe the proposed EPA label language:** *“It is a Federal offense to use any pesticide in a manner that results in an unauthorized “take” (e.g., kill or otherwise harm) of an endangered species and certain threatened species, under the Endangered Species Act section 9.”* is regulatory overreach and unrealistic to enforce. What happens when a producer follows the label and unknown to them a “threatened or endangered species” is found on their premises? To subject that farmer to a “federal offence” in that instance would be terribly unfair. Furthermore, who will enforce this EPA label language, and given the number of pesticides applied throughout U.S. agriculture in any one year, how can the agency possibly monitor harm to a threatened or endangered species?