



June 27, 2011

The Honorable Harry Reid
Senate Majority Leader
S-221
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
S-230
Washington, DC 20510

John Hickenlooper
Governor
State of Colorado

C.L. "Butch" Otter
Governor
State of Idaho

Brian Schweitzer
Governor
State of Montana

John Kitzhaber
Governor
State of Oregon

Dennis Daugaard
Governor
State of South Dakota

Matt Mead
Governor
State of Wyoming

Dear Senators Reid and McConnell:

The undersigned respectfully request that the Senate swiftly pass legislation to clarify and strengthen the primary role of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in regulating agriculture and public health related pesticide applications to waters of the U.S. FIFRA established a comprehensive regulatory system that provides pesticide-related environmental and public health protection. Accordingly, there is no need for pesticide registration and use to be regulated under any other federal statute.

Following the Sixth Circuit's decision in *National Cotton Council v. EPA*, the U.S. Environmental Protection Agency (EPA) and state regulatory agencies must issue National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act (CWA) for pesticide applications that will be applied directly to or over waters of the U.S. However, these new requirements are duplicative of existing requirements under FIFRA which mandate that pesticides undergo an examination of environmental impacts, water quality impacts, and health exposure assessments prior to receiving approval for use. Additional permitting requirements under the CWA simply attempt to achieve the current results through different means. This duplicative regulation will entail significant costs for state permitting agencies and public health authorities, and will not provide appreciable environmental benefits.

Most state agencies are responsible for permitting, implementation, and enforcement activities under both the CWA and FIFRA. EPA has estimated that regulating pesticide applications under the Clean Water Act would affect approximately 365,000 applicators nationwide that perform 5.6 million applications annually. This would represent a significant increase in the size of the NPDES program and would place a significant burden on state resources. At a time of steep cuts to important state services, it is impossible to justify expending resources on a permitting program that is duplicative of other federal and state statutes.

The Honorable Harry Reid
The Honorable Mitch McConnell
June 27, 2011
Page 2

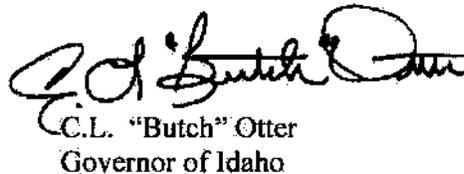
We are concerned that the new permitting requirements imposed on state agencies will have negative public health, environmental, and economic consequences. Each of our states has unique pest problems – including mosquitoes, invasive weeds, and vegetation that restricts water ways and reduces water flow – that require applications of pesticides to control. For states, localities, and other public agencies, the compliance costs associated with this permit will significantly reduce the availability of funds for actual pest control activities.

Again, we ask the Senate to address the confusion created by the *National Cotton Council* decision and take action quickly to avoid duplicative new permitting requirements for pesticide applications under the CWA in addition to existing regulation under FIFRA.

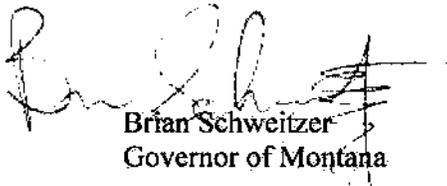
Sincerely,



John Hickenlooper
Governor of Colorado



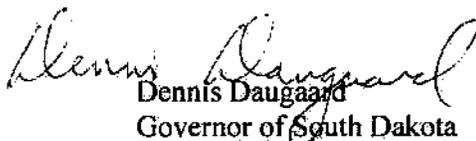
C.L. "Butch" Otter
Governor of Idaho



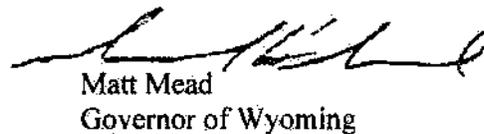
Brian Schweitzer
Governor of Montana



John A. Kitzhaber, M.D.
Governor of Oregon



Dennis Daugaard
Governor of South Dakota



Matt Mead
Governor of Wyoming