



*Pollinator Stewardship Council*  
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 832-727-9492

May 11, 2018

Dear Representative:

The Pollinator Stewardship Council joins with other conservation, consumer, agricultural, and public interest groups to urge you to oppose all efforts to weaken Endangered Species Act requirements that address the effects of toxic pesticides on threatened and endangered species through the Farm Bill, HR 2.

The Endangered Species Act (ESA) is our nation's most effective law for protecting wildlife under our care. Some proposed legislation by a segment of the agricultural chemical industry is seeking to exempt their products from key Endangered Species Act safeguards. Their proposal would also exempt their industry from responsibility for the harms caused by pesticides to West Coast salmon, California condors, Florida panthers, and a host of other imperiled species, including the recently listed Rusty patched Bumble bee. These proposed changes are self-serving for one industry, and ignore the economic benefits of fish and wildlife to tourism, the fishing industry, honey production, crop pollination services, water quality for all living creatures, and the health of the ecosystem.

Under current law, the Environmental Protection Agency (EPA) must consult with two expert agencies—the U.S. Fish and Wildlife Service and National Marine Fisheries Service (“the wildlife agencies”)—to identify and minimize impacts to endangered species caused by pesticide products that EPA registers for commercial use. These science-based interagency consultations result in commonsense protections, such as limits on spraying pesticides in key areas where endangered species live. The agricultural chemical industry proposed legislation would gut these longstanding requirements and instead put corporate interests in a self-serving, government protected position. In addition, this dangerous legislation would exempt all approved pesticide use from enforcement under the Endangered Species Act, even where it directly kills or injures endangered wildlife.

The Pollinator Stewardship Council joins with conservation, consumer, agricultural, and public interest groups in support of administrative innovations to improve interagency consultations on the impacts of pesticides on endangered species. The National Academy of

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Sciences made recommendations to do just that in a 2013 report. This process is already underway with a set of pilot consultations on three neurotoxic pesticides—chlorpyrifos, malathion and diazinon—and we support its continued implementation and refinement. We urge you to ensure that this interagency consultation process continues in earnest and that EPA and the wildlife agencies involved receive adequate funding.

EPA is making the threshold determination of whether a pesticide “may affect” a listed species. That finding starts the ESA consultation. Further, EPA also makes a finding on whether a pesticide is “likely to adversely affect” a species, and the Services need to concur or reject that finding. Both the “may affect” and the “likely to adversely affect” thresholds are quite sensitive. Just because a pesticide is likely to adversely affect a species doesn’t mean that it’s likely to jeopardize the species or impede recovery. Thus, far fewer pesticide uses will lead to jeopardy findings and mitigation plans than to “likely to adversely affect” findings. Most species face multiple threats to their recovery. Certainly, if the impacts from pesticides were fully addressed under the ESA, some endangered species would recover faster, and more could even be delisted.

Butterflies as a group are one of the fastest declining of all endangered species, and as recently as 2015 two additional butterflies required protection under the ESA due in part to pesticides. Freshwater and anadromous species including salmon, trout, crayfish, and freshwater mussels also face serious declines due in part to pesticides. Over 270 recovery plans covering over 300 endangered species list pesticides as a threat to recovery.

Endangered species are often the early warning system to alert us to the unintended harms of pesticides. It was the catastrophic decline of the bald eagle, peregrine falcon and other endangered species that caused the U.S. Fish and Wildlife Service and other agencies to sound the alarm on DDT. The Act remains the “gold standard” for species protection and recovery today, both here and around the world. We ask you to protect this vital law, not only to save our most treasured rare plants and animals, but also to protect our waters, our lands, and our health. The Pollinator Stewardship Council implores you to oppose all efforts to weaken the ESA’s ability to protect our environment from toxic pesticides.

In addition to the Pollinator Stewardship Council’s concerns with the threat to the Endangered Species Act, we are also concerned about the impact of the following upon our honey bees, native pollinators, crop pollination services, honey production, and the impact of pesticides upon the bee industry.

**Preempting Local Pesticide Protections.** The bill would prohibit local governments from adopting pesticide laws that are more protective than federal rules. This provision, long a goal of the chemical corporations, would overturn decades of precedent and Supreme Court rulings, and could prevent communities from tailoring laws against harmful chemicals (state and local labeling and packaging requirements already are preempted). (Section 9101). The States have the right to protect their land, water, air, wildlife, livestock, fisheries, insects, and quality of life for their residents.

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**Exempting Pesticides from the Clean Water Act.** The bill exempts pesticides applied directly to waterways from the Clean Water Act protections. The Clean Water Act permit is short and simple to obtain. Current law already allows pesticide applicators to spray in the event of a public health emergency before asking for a permit. However, the Clean Water Act does provide the public with critical information about the types of toxic chemicals being applied to our waters that we use for fishing, swimming, and our sources of our drinking water. It also protects impaired waterways from being further damaged. The bill would jettison those protections. (Section 9117). Importantly, for honey bees and native pollinators, clean water, pesticide-free water is as important to pollinators as other species.

**Expediting EPA Approval of Pesticides Without Agreed-to Protections.** The bill would enact the “Pesticide Registration Improvement Act” in a form that provides long-term funding to EPA for expedited processing of pesticide approval applications, without accompanying measures to ensure that farmworkers and other pesticide applicators are safe. A short-term version of such legislation was negotiated with farmworker and nonprofit groups, but the language contained in the Conaway Farm Bill doesn’t include these provisions and is not supported by these groups. (Section 9119)

**Delaying EPA Pesticide Protections.** State pesticide regulatory agencies often are closely allied with the agricultural chemical corporations. The bill provides these agencies a secret chance to slow or effectively veto EPA pesticide protections before they become public or are even proposed. The bill requires that before EPA can propose or finalize any pesticide rules, state pesticide agencies must be notified, provided a chance to object or argue against the rules, and EPA must respond before moving ahead with any action—a formula for delay and possible death of the rules through secretive political pressure. (Section 9101)

The pesticide consultation process is unusually challenging because of its technical complexity and large volume of work, exacerbated by inadequate funding from Congress. But since around 2013, the U.S. Fish and Wildlife Service and the NOAA Fisheries (the Services) and the Environmental Protection Agency (EPA) have made significant progress in addressing some of these challenges by working together and engaging stakeholders. With additional funding from Congress, the agencies can continue pursuing comprehensive administrative improvement efforts that will yield more efficient pesticide consultations—ones that protect wildlife and promote food and fiber production in the United States.

Pesticide consultations, as with all ESA activities, have been hampered by congressional budget cuts at both the EPA and the Services, such that very few deadlines imposed by Congress can be met across the board. More funding will give the agencies not only the additional staff needed to complete risk assessments expeditiously, but also the resources to develop better methods and processes to complete pesticide consultations.

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The purpose of the national pilot consultations on three organophosphates – chlorpyrifos, malathion, and diazinon – was to develop a pesticide consultation process that could be improved, automated, and streamlined such that future consultations would require dramatically less effort. For example, once the Services develop refined spatial data and EPA develops refined crop and pesticide use data, those data can be quickly used in future consultations with far less effort. The Council on Environmental Quality sought to create a process that reconciled these differences and allowed the agencies to develop a common path forward.

**Weakening Endangered Species, Other Environmental Protections from Unfettered Logging.** The bill contains numerous “categorical exclusions” which would allow for large scale land management projects to circumvent the National Environmental Policy Act (NEPA). It even removes critical habitat, wilderness areas or determinations under the Endangered Species Act as “extraordinary circumstances” that would require adherence to NEPA. Furthermore, it waives requirements to consult with the USFWS and NMFS on impacts of timber cutting on endangered species. This will lead to the selloff of our national forests without even basic public input and could impede the recovery of endangered species. (Subtitle C including Sections 8303-8321, 8503). Native pollinators are vital to the health of our forests and wildlands, and waiving requirements concerning ESA will impact pollinators here as well.

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Sincerely,

A handwritten signature in cursive script that reads "Michele Colopy".

Michele Colopy, Program Director

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