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July 24, 2023

Mary Elissa Reaves, Director  
Pesticide Re-evaluation Division (7508P)  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460-0001

**RE: EPA-HQ-OPP-2021-0957-0028**

Dear Ms. Reaves:

The National Cotton Council (NCC) appreciates the opportunity to provide comments to the Environmental Protection Agency's "EPA Posts Draft Endangered Species Act Biological Opinion for Enlist Herbicide Products for Public Comment". In general, the NCC appreciates the FWS's completion of the draft Biological Opinion (BiOp) for Enlist® herbicide products and the cooperation between EPA and FWS to identify an efficient consultation process of such magnitude.

The NCC is the central organization of the United States cotton industry. Its members include producers, ginner, cottonseed processors and merchandizers, merchants, cooperatives, warehousemen and textile manufacturers. A majority of the industry is concentrated in 17 cotton-producing states stretching from California to Virginia. U.S. cotton producers cultivate between 10 and 14 million acres of cotton with production averaging 12 to 20 million 480-lb bales annually. The downstream manufacturers of cotton apparel and home furnishings are located in virtually every state. Farms and businesses directly involved in the production, distribution and processing of cotton employ more than 115,000 workers and produce direct business revenue of more than \$22 billion. Annual cotton production is valued at more than \$5.5 billion at the farm gate, the point at which the producer markets the crop. Accounting for the ripple effect of cotton through the broader economy, direct and indirect employment surpasses 265,000 workers with economic activity of almost \$75 billion. In addition to the cotton fiber, cottonseed products are used for livestock feed and cottonseed oil is used as an ingredient in food products as well as being a premium cooking oil.

The NCC's diverse membership shares the common interest for the successful production and sale of U.S. cotton products. Imbedded in that interest is the ability (both in operational practice and affordability) to economically produce cotton when challenged by forces of nature, including, as necessary, the use of crop protection tools. The NCC's membership, collectively, are impacted by EPA's actions, including ESA compliance. The NCC appreciates the opportunity to provide the following comments from the perspective of the agricultural pesticide product user community. The NCC respects the

role of EPA as well as Fish and Wildlife Services and National Marine and Fisheries Services (collectively the Services) as prescribed by FIFRA and ESA. The NCC acknowledges the massive burden currently faced by both EPA and the Services with potential legal obligations from multiple stakeholders' perspectives. However, we must be reminded of the necessity to produce food, fiber and fuel for a growing population, and the current necessity of pesticide products to accomplish this vast requirement.

It is imperative that both species protection and use of crop production products are supported by the best scientific approach. For that reason, EPA must be open to considering refinements to processes, tools, and information to expedite reliable assessments of species protection and product use. EPA and the Services should encourage registrants to aid in the development of scientifically valid processes, vetted by the scientific community, that would enhance the efficiency of iterative analyses and effective mitigation identification as needed. EPA and the Services should be supporting a position of "all hands-on" with other federal agencies to utilize the best science and technology available to comply with FIFRA and ESA.

The NCC appreciates the massive work accomplished by FWS and EPA in the development of this BiOp. The NCC recognizes the process imposes many conservative assumptions, and believes the conclusions based on the many conservative assumptions is highly protective of species. The NCC further believes the conservative BiOp demonstrates a positive message supporting agricultural practices.

The NCC is committed to work with EPA and FWS to continually enhance compliance with FIFRA and ESA. In doing so, the NCC urges more recognition of consequences resulting from increased restrictions to crop protection products. These consequences have direct impacts on species protection.

For example, requiring an in-field buffer for the use of herbicidal products forces producers to identify alternative weed control. In some instances, the alternative control may be accomplished by an overlay of multiple modes of action. This not only represents an increased cost to producers, but it also requires an increase in the number and applications of herbicides on the in-field buffer. Alternatively, if products are not sufficient for control, producers will either allow weeds to grow and sacrifice the production area or revert to tillage practices – thereby increasing sediment runoff potential and carbon exposure. The loss of production area will, in many cases, be significant enough to eliminate economic production feasibility for the field. Fields that are no longer profitable for production practices offer alternative uses such as urbanization or solar energy production. Loss of agricultural production is likely to be more detrimental to species protection.

Similarly, fields with buffers allowing weed growth have significant negative effects on crop production, especially in the long run ~~term~~. Such areas promote the production and spread of weed species, increasing source habitat for pest species, increasing the need for pest intervention, and promoting the evolution and population expansion of resistant pest genotypes.

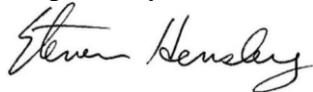
Producers are currently faced with multiple damaging pests not controlled with a one mode of action product. Embedded within the complex pest management is the necessity to rotate pesticide modes of action (relevant to the specific pests) to manage the development of resistant genotypes. While complying with these pest management strategies, producers are also eliminating surviving weeds as part of resistance management strategies. Further restricting modes of action (MOA) will directly impact product longevity and alter pest management practices. The lack of discovery of new pesticidal MOA is currently forcing excessive reliance on existing chemistries. The loss and/or restriction of one increases the potential loss of another through resistance development. The NCC highlights the critical dilemma facing agricultural production and pest management and urges consideration of consequences if lands are allocated to alternative uses.

The NCC urges both EPA and FWS to continue refinements to the ESA consultation process, especially sub-county level assessments. The NCC notes that county level restrictions reduce producers' ability to choose products potentially more relevant to their field needs. The NCC finds county level restrictions to be arbitrary and capricious and encourages FWS and EPA to urgently address sub-county uses. The NCC urges the agencies to quickly and efficiently move away from the county level restrictions.

The NCC believes production agriculture has afforded massive species protection compared to alternative land uses options, and desires to continue to work with EPA and FWS to meet the needs of ESA consultation with minimal negative impact on species.

The NCC appreciates the opportunity to provide these comments related to "EPA Posts Draft Endangered Species Act Biological Opinion for Enlist Herbicide Products for Public Comment". The NCC appreciates consideration of the agricultural community and the necessity of pesticide product to meet societal demands for food and fiber. The NCC welcomes any questions that may arise from EPA and FWS staff.

Respectfully,

A handwritten signature in cursive script, appearing to read "Steve Hensley".

Steve Hensley  
Senior Scientist, Regulatory and Environmental Issues  
National Cotton Council