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Ms. Jan Matuszko, Director
Environmental Fates and Effects Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001

Submitted electronically via Federal eRulemaking Portal: www.regulations.gov.

RE: Vulnerable Species Pilot Project for Endangered Species (EPA-HQ-OPP-2023-0327)

Dear Ms. Matuszko:

The US Canola Association (USCA) writes to submit comments regarding the Vulnerable Species Pilot Project (VSPP) for Endangered Species (EPA-HQ-OPP-2023-0327). The USCA is a non-profit commodity organization whose mission is to increase domestic canola production to meet a growing demand for healthy oil. Since USCA's establishment in 1989, the Association has facilitated the growth of domestic canola acreage from zero to over 2 million acres in 2023.

The USCA appreciates the opportunity to offer comments regarding the VSPP. However, the USCA is very concerned for the potential impact on the availability of needed crop protection tools, and especially that the ability to treat emergency pest outbreaks in a timely manner will be greatly compromised by the requirements being proposed by the VSPP. We believe there is a high likelihood of significant economic impact on growers as a result. The USCA hopes the comments we provide will help EPA implement the VSPP Project in a more workable manner for producers, applicators, crop consultants as well as those charged with enforcing these requirements.

The draft plan of the VSPP is quite complex, consisting of 53 pages of guidance and 99 pages of technical support for mitigation and yet this docket is only open for comments for 45 days. The USCA believes the EPA is moving too quickly on the implementation without adequate input from producers, which will be necessary to develop sound workable policy to address the ESA concerns. EPA has also not responded to previous comments and suggestions provided by agricultural groups from previous comment periods.

The USCA is concerned that the VSPP moves towards a hazard-based regulation of pesticides rather than actual risk-based assessment for health and ecological regulation as mandated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Pesticides are developed to control

or deter pests by either killing or incapacitating them, and so by purpose they pose some hazard to living organisms. Not recognizing the nature and magnitude of risk posed by various active ingredients is illogical and imposes an unreasonable burden on production agriculture.

The USCA is concerned that many of the mitigations required in the Avoidance and Mitigation for Pesticide Use Limitation Areas (PULAs) are extremely complex and are not reasonable or workable in the reality of current production agriculture practices. Further, exemptions to listed mitigations for conservation practices that farms have implemented through USDA programs such as the Conservation Reserve Program or the Environmental Quality Incentives Program must also be defined more adequately.

The USCA does not believe that adequate resources are currently in place for state and federal agencies charged with educating and assisting producers, applicators, and crop consultants to comply with the implementation of the VSPP as presently proposed; or for enforcing compliance with the VSPP. Also, those applying pesticides will need help in recognizing and defining a habitat area due to the high degree of ambiguity and subjectiveness in defined habitats in the Avoidance and Mitigation PULAs.

As noted in previous comments, Bulletins Live! Two interface needs to be streamlined to provide producers, applicators, and consultants with timely access via smartphone and laptop to the supplemental labels of the pesticides affected by the VSPP. Rapid response will be necessary to meet the needs of growers that may have sudden outbreaks and limited windows for action due to weather, wind conditions, or other requirements. There is concern that adequate resources will not exist within the agencies to respond to and assist growers with compliance.

We also are concerned that producers who are unable to use pesticides in some PULAs may have to revert to conventional or maximum tillage practices, which would greatly increase the carbon footprint of those production acres and cause those acres to become more susceptible to wind and water erosion; or not farm the land at all.

The USCA reiterates the concern that time-sensitive treatment of emergency pest outbreaks in a timely manner will be greatly compromised by the proposed requirements of the VSPP. For instance, canola is a high-management crop to grow, with the first challenge being obtaining an adequate stand during emergence. The canola plant's major pest – flea beetles – is quite predominate in regions where canola is grown, and small emerging canola seedlings in the cotyledon stage are very susceptible to flea beetle infestations which can cause substantial damage to or destroy cotyledons in a short period of time. Heavy infestations can destroy a field of emerging canola completely within a few days.



Flea beetles feeding on, damaging canola cotyledons

While neonicotinoid systemic seed treatments are used to control flea beetle infestations, heavy infestations can require the application of foliar insecticides, especially when the infestation continues beyond the seed treatment's efficacy. Decisions to spray need to be made immediately in these instances and any delay could very well cause the loss of the crop.

We recognize and appreciate EPA's efforts to ensure we produce agricultural products safely and responsibly to protect our environment and to comply with the Endangered Species Act. The USCA wants to help with this process to achieve these goals. We would look forward to working with EPA alongside other agricultural groups in establishing a policy that both protects vulnerable species but minimizes economic impacts on growers and unintended impacts on the environment.

Respectfully yours,

Andrew Moore
President, US Canola Association