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October 20, 2023

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](http://www.regulations.gov).*

**RE: Draft Herbicide Strategy Framework to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Herbicides (EPA-HQ-OPP-2023-0365)**

Dear Ms. Matuszko:

The US Canola Association (USCA) writes to submit comments regarding the draft Herbicide Strategy Framework (HSF). Our comments include some of the same questions and concerns that were in the comments we recently submitted in response to the Vulnerable Species Pilot Program. The USCA has also joined other agricultural groups and stakeholders on joint comments that represent shared concerns across a broad spectrum of the agricultural sector.

The USCA is a non-profit commodity organization whose mission is to increase domestic canola production to meet a growing demand for healthy oil and protein. Since USCA's establishment in 1989, the Association has facilitated the growth of domestic canola acreage from zero to approximately 2.4 million acres in 2023.

The use of herbicides is vitally important to the viability of farming operations and carry many benefits. Weeds compete with crops for limited resources, such as nutrients, moisture, and sunlight. If not properly managed, weeds can result in significant crop yield reductions which has an economic impact on farmers, consumers, and the environment. Our ability to maximize crop yields has a beneficial impact on the emissions associated with food and energy production. Weeds also impact water usage and exacerbate moisture issues for growers and crops in drier climates. It is also important to note that the high cost of herbicides and pesticides provides an inherent incentive for farmers to limit their use and maximize efficiency of use as much as possible. Precision farming practices using Global Position Systems have also substantially reduced the double application of pesticides from overlap. Farmers are constantly striving to find ways to avoid or limit the need for herbicides and pesticides.

The USCA is very concerned with the HSF, the potential impact it would have on the availability of needed crop protection tools and the ability for farmers to make necessary applications in a timely manner. The proposal is complex and unworkable and we believe there is a high likelihood of significant economic impact on farmers as a result. The additional costs, compliance burdens, and potential loss of herbicide options will reduce productivity of U.S. farmers, resulting in less food produced and higher costs to consumers. The USCA hopes the comments we provide will compel EPA to reconsider this approach and seek alternative strategies to address the Endangered Species Act requirements that are workable for farmers as well as those tasked with enforcement.

The USCA is concerned that the EPA is not utilizing the necessary risk-benefit analysis that is required before imposing restrictions. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is required to conduct risk and benefits assessments to verify an unreasonable risk in fact exists, and any mitigations necessary to reduce that risk must be weighed against the benefits of a pesticide use. The HSF does not take into account the nature and magnitude of risk posed by various active ingredients relative to the benefits they provide. EPA should conduct an economic impact analysis before the widespread adoption of the HSF and other ESA proposals.

The USCA is concerned that many of the mitigations required 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 have potential but must be better defined.

The proposed strategy has many unknowns and potential unintended consequences. EPA should reconsider the approach and any new strategies and requirements should include a communications plan and smaller scale pilot program to identify problems and impacts on farmers.

### **Technical Support, Compliance and Enforcement**

The proposed HSF is extremely complex and would create significant challenges for farmers to understand their compliance obligations and options. The erosion/run-off points system creates many questions for farmers and would require complex calculations with a lot of variables. 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 HSF as presently proposed; or for enforcing compliance. Conservation technical support personnel and resources are already in short supply. If a large number of farmers were suddenly and simultaneously seeking to install erosion/runoff mitigations across hundreds of millions of acres of U.S. farmland, the availability and cost of these resources will be an even greater problem.

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. Decisions to spray are sometimes unscheduled and need to be made in a timely manner. As noted in previous comments, the 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. 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.

The proposed mitigation options may not be applicable for all farms, geography and land use characteristics. For some farmers, it is quite possibly they could not reasonably achieve the points needed due to factors out of their control, including land-type and climate. Farmers in drier regions would have fewer options and greater compliance challenges. In some cases, land altering practices cannot be implemented because the grower does not own the land or control it long-term.

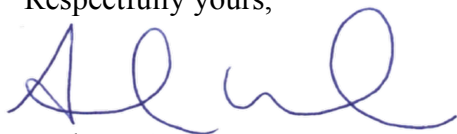
As part of the strategy to address Endangered Species Act requirements, EPA should build on the proposed conservation program exemption and make greater, up-front, and blanket use of existing conservation plans, programs, and data. EPA should seek input from USDA for specific ways in which existing USDA data on conservation practices and conservation plans that are developed for farmers by USDA's Natural Resources Conservation Service, state conservation agencies, university extension personnel, or certified crop consultants can be used to efficiently achieve the ESA requirements.

### **Adverse Impact on Conservation Tillage and Environmental Benefits**

While some conservation and mitigation options, such as cover crops, are not viable options for some farms due to soil moisture issues, it is important to understand that where these practices are utilized, herbicides are needed to make the practice workable. Herbicides help to maintain important conservation practices, such as cover crops, which would be difficult to employ without the ability to use herbicides for termination prior to planting the primary crop. Producers who are unable to use herbicides may revert to conventional or maximum tillage practices, which would increase the carbon footprint of those production acres and cause those acres to become more susceptible to wind and water erosion.

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 work with EPA and other agricultural groups to establish policies that protect endangered species and minimizes economic impacts on growers and unintended impacts on the environment. We have significant concerns with the HSF and believe EPA must develop a better, more science-based approach to fulfilling the legal obligations of the Endangered Species Act.

Respectfully yours,



Andrew Moore  
President  
US Canola Association