



P.O. Box 80299, Lincoln, NE 68501 | (402) 421-4400

February 10, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460-0001

Dear Administrator Regan,

On behalf of the Nebraska Farm Bureau Federation (NEFB) and our more than 55,000 member families, I am writing to you today to urge you to conduct a thorough examination of new Endangered Species Act (ESA) data that has recently been made available to the Environmental Protection Agency (EPA) concerning Enlist and Enlist Duo. The county-level bans recently announced for these important crop protection products, largely due to the American Burying Beetle (ABB), takes a vital tool out of our farmer's toolbox. As Nebraska's planting season is now weeks away, an expedited examination and subsequent reversal of these new prohibitions is needed as soon as possible.

While NEFB acknowledges and appreciates EPA's recent work to reregister both Enlist and Enlist Duo for seven years, the work to reregister these products means very little to those farmers who happen to find themselves in one of the thirty-two Nebraska counties now banned from using these products all together. Of the twenty states who are home to the 217 counties prohibited from using Enlist and/or Enlist Duo, Nebraska is home to thirty-two of them. The counties included constitute over 1.02 million acres of soybeans planted or roughly 20 percent of the state's entire acreage. As one of the state's top valued commodities, this ban has the potential to impact roughly \$560 million worth of soybeans according to USDA data from 2020. Corn producers would also be affected as the ban has the potential to impact approximately 30 percent of Nebraska corn acres or roughly \$1.8 billion worth of another top commodity for the state of Nebraska again according to USDA data.

Again, this challenge has been heightened by the close proximity of this announcement to spring planting, as many growers have already taken delivery of Enlist herbicide and seed they now cannot use. Switching to a different herbicide-tolerant seed is not an easy solution, as supply chain disruptions have impacted the cost and availability of alternative herbicides, and desired hybrids and varieties are likely already reserved and now unavailable.

As mentioned before, one of the species of concern identified in the Enlist decision is the ABB, which resulted in most of the county-level prohibitions in Nebraska. It should be noted that eight of the Nebraska counties included in this proposed ban fall outside of the ABB's critical habitat according to the latest information from the Nebraska Game and Parks Commission. It is again our understanding EPA has recently received new data regarding the status of ABB and any potential effects of Enlist on this species. We urge EPA to review this new data as expeditiously



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as possible in the event it might improve clarity on any effects to ABB or the need for protective mitigations.

Nebraska farmers must continue to have access to a wide array of crop protection products for both agronomic and conservation purposes. We strongly urge EPA to avoid inflexible, county-level prohibitions which are very disruptive to growers and their ability to meet our food, fuel, and fiber needs and maintain important conservation efforts. We would also discourage announcements of new product restrictions so close to spring planting, especially when growers have already made input purchases expecting certain product use conditions.

Farm and ranch families want clean air, clean water, and want to protect our nation's endangered species. As your tenure as the nation's chief environmental regulator continues, I would ask that you do all you can to work with and listen directly to farmers and ranchers before advancing initiatives or regulations that could impact their ability to produce food, fuel, and fiber for our country and our world. As always, please feel free to reach out to me directly if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Mark McHargue'.

Mark McHargue

President