



## **THE WILDLIFE SOCIETY**

*South Dakota Chapter*

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March 4, 2014

Dr. Steven Bradbury  
U.S. Environmental Protection Agency  
Office of Pesticide Programs Docket  
Docket Center (EPA/DC), (28221T)  
1200 Pennsylvania Ave., N.W.  
Washington DC 20460-0001

RE: draft Memorandum of Understanding between the Environmental Protection Agency's Office of Pesticide Programs and the Department of the Interior's Fish and Wildlife Service to protect migratory birds; EPA-HQ-OPP-2013-0744.  
<http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OPP-2013-0744>

Dear Dr. Bradbury:

The South Dakota Chapter of The Wildlife Society (SDTWS) is a private non-profit organization of approximately 200 wildlife professionals trained in various scientific disciplines who strive to further the conservation of natural resources in South Dakota and this Nation. We are providing these comments in response to the draft Migratory Bird Memorandum of Understanding (MOU) published on the [www.regulations.gov](http://www.regulations.gov) website by the U.S. Environmental Protection Agency (EPA) on February 5, 2014.

On June 23, 2009, SDTWS provided a letter to the EPA Office of Pesticide Programs (OPP) that identified our concerns with the registration and use of anticoagulant rodenticides to poison black-tailed prairie dogs (Mann 2009a). That letter specifically requested development of the subject MOU to address non-target poisoning of migratory birds as outlined in Executive Order (EO) 13186 which is an EO intended to conserve migratory birds. We commend EPA for completing a draft MOU for review and offer the following comments to further strengthen coordination and planning efforts to protect non-target migratory birds from pesticide exposure. Our comments below are listed in the order that they occurred in the draft MOU and as you'll note, many of our concerns relate back to past experiences with specific examples that highlight our hope the MOU can improve the conservation of migratory birds.

Office of Pesticide Programs, support of Integrated Pest Management (IPM), page 3:

The MOU states that OPP “supports efforts to promote IPM through Federal procurement and regulatory policies.” This objective is especially important given the current trend away from IPM in favor of the prophylactic use of broad-spectrum pesticides (Bueno et al. 2011, Goulson 2013). For example, many agricultural insecticides are coated on seed corn prior to sale and fungicide use on row crops is often advertised by chemical companies as preventive care to improve yields. More detailed information in the MOU is needed to identify how OPP will utilize Federal procurement and regulatory policies to address issues that arise from this use. As you may be aware recent publications (Goulson 2013, Mason 2013) indicate this broad scale use of pesticides in this prophylactic manner is implicated in the widespread collapse of bee populations and other pollinators which have a cascading effect onto migratory birds and other natural resources. Having IPM steps required as part of the pesticide label may be more effective than more voluntary educational measures such as the “demonstrating and implementing the use of IPM in agricultural settings” as currently described in the MOU.

Responsibilities of Both Parties item 3 page 5: We agree that there is a need by EPA and FWS to promote research and information exchange when legal use of a pesticide is expected to have a measurable negative effect on migratory birds. One such example is the use of anticoagulant rodenticides to poison black-tailed prairie dogs. FWS issued Biological Opinions for two products (Kaput and Rozol) that were registered for such use. The Biological Opinion for Rozol included a cover letter that stated “The current Rozol label and registration requirements are inadequate for addressing Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act bird deaths that have previously occurred from Rozol use on prairie dogs and are expected to continue under the proposed action (FWS 2012).” Furthermore, both Biological Opinions included Conservation Recommendations made by FWS to specifically study the detrimental effects to raptors and other wildlife that consume dead and dying prairie dogs poisoned by the anticoagulant products. FWS has indicated some ongoing efforts to evaluate this issue but we are not aware of any efforts by EPA to research, inspect or otherwise monitor the use of anticoagulants to poison black-tailed prairie dogs. We recommend a specific MOU item by EPA to address issues with prairie dog anticoagulant rodenticides and conduct follow up research on non-target poisoning and label compliance.

Responsibilities of OPP, emphasize risk to Birds of Conservation Concern, item 1 page 6: SDTWS has previously expressed concerns for ferruginous hawks, golden eagles and bald eagles from use of anticoagulant rodenticides to poison black-tailed prairie dogs (Mann 2009a 2009b). These and other raptors at risk are listed as Birds of Conservation Concern but we are not aware of any efforts by EPA to address these concerns. We recommend a specific MOU item by EPA to address issues with prairie dog anticoagulant rodenticides.

Responsibilities of OPP, appropriate label language, item 12 b page 8: The label is the law so it is important that the label language be appropriate and enforced. For example, the FWS Biological Opinion for Rozol expressed concern that the label language would not prevent exposure to migratory birds or may be impractical or not implementable. The

BO also noted a meeting in 2010 attended by the EPA and hosted by the North Dakota Department of Agriculture and Standing Rock Sioux Indian Tribe, where ranchers and professional pesticide applicators indicated that they do not have the time, resources or inclination to conduct multiple return visits to a Rozol treated prairie dog colony to collect dead and dying prairie dogs, and that current label requirements for two return visits to treated prairie dog towns were unrealistic and impractical (FWS 2010). We recommend that OPP evaluate practicality of the pesticide label and avoid use of labels that are so burdensome to be unlikely followed. The relevant example being the recent anticoagulant labels where users told EPA the requirements were too rigid for practical application (search and collect dead and dying prairie dogs) but the labels continued with that impractical label. Evaluating label compliance by conducting field application inspections should also be routine, especially for new uses that wildlife experts have voiced concerns about.

Responsibilities of OPP specifically for rodenticides, item 13 page 9: We recommend that the FWS is made aware of new registrations involving rodenticides before registration, not within 30 days after registration as currently written in the MOU. Consultation with FWS prior to registration would allow EPA and the FWS to jointly identify data gaps. A joint review might identify the need for EPA to request further studies from the registrant. For example, it would be more appropriate for EPA to work with the FWS to develop a field assessment requirement for the registrant to evaluate secondary toxicity to non-target wildlife prior to product registration.

In addition to the voluntary educational encouragement (item 13 b.), EPA should identify specific regulatory actions in this section. Regulatory actions have been lacking in the past. For example, we are not aware of any field use inspections by EPA or state regulators to evaluate label compliance for anticoagulant prairie dog baits despite suspected wide use of these products for several years. Suggested items to add to this section are:

- c. Require field assessments that are developed with input from state and federal wildlife agencies and are to be performed prior to registration.
- d. Ensure post-registration monitoring to further evaluate non-target wildlife exposure and effects.
- e. Perform field inspections to evaluate label compliance with rodenticide applications.

Agreements, schedule meetings to review implementation, item 7 page 12: The MOU indicates that meetings between EPA and FWS should occur “periodically” to implement the MOU. We recommend that initially the MOU specify quarterly or bi-annual meetings to be held by established review team representatives to better maintain communication, coordination and planning and then adjust timing as needed.

In summary, establishment of an MOU between EPA and FWS with the goal of protecting non-target migratory birds is a valuable achievement. However, the current draft relies too heavily on voluntary educational and communicational efforts and not enough on improving the use of existing regulatory authorities to conduct field application inspections and research prior to product registration and post registration monitoring, which have all been highlighted as deficiencies in past communications. In light of remaining concerns for migratory birds that stem from the use of anticoagulant rodenticides to poison black-tailed prairie dogs, SDTWS encourages EPA to adopt the above recommendations and implement them to address migratory bird issues associated with the use of prairie dog anticoagulants. We hope that the final MOU will lead to increased information gain, communication, coordination, and planning practices and will ultimately result in better protection of migratory birds.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Norton', with a large, sweeping flourish extending to the right.

Mark Norton  
President, South Dakota Chapter of The Wildlife Society

## Literature Cited

- Goulson, D. 2013. An overview of the environmental risks posed by neonicotinoid insecticides. *Journal of Applied Ecology* 50(4):977 - 987.
- Bueno, A.D., Batistela, M.J., Bueno, R.C.O.D., Franca-Neto, J.D., Nishikawa, M.A.N. and Liberio, A. 2011. Effects of integrated pest management, biological control and prophylactic use of insecticides on the management and sustainability of soybeans. *Crop Protection* 30:937 - 945.
- Mann, D. 2009a. June 23 letter from the South Dakota chapter of The Wildlife Society to Debbie Edwards with U.S. EPA regarding use of anticoagulants for prairie dog control. In litt.
- Mann, D. 2009b. December 3 letter from the South Dakota chapter of The Wildlife Society to Debbie Edwards with U.S. EPA on a petition to suspend use of Rozol for black-tailed prairie dog control. In litt.
- Mason, R., Tennekes, H.A., Sánchez-Bayo, F., and Epsen P.U. 2013. Immune suppression by neonicotinoid insecticides at the root of global wildlife declines. *Journal of Environmental Immunology and Toxicology* 1(1): 3 - 12.
- U.S. Fish and Wildlife Service. 2010. September 23 letter from Jeffrey Towner to Debbie Edwards, U.S. Environmental Protection Agency, Office of Pesticide Programs. Unrealistic and impractical label requirements as characterized by North Dakota field tour of black-tailed prairie dog towns and meetings with applicators. 2 pp.
- U.S. Fish and Wildlife Service. 2012. Final Biological Opinion for the Proposed Use of Rozol Prairie Dog Bait, April 9, 2012. U.S. Fish and Wildlife Service, Mountain-Prairie Region, Lakewood, CO. 122 pp.