United States Senate

WASHINGTON, DC 20510

October 17, 2013

The Honorable Debbie Stabenow
Chairwoman
Committee on Agriculture, Nutrition & Forestry
328A Russell Senate Office Building
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member
Committee on Agriculture, Nutrition & Forestry
328A Russell Senate Office Building
Washington, DC 20510

Dear Chairwoman Stabenow and Ranking Member Cochran:

As you begin conference negotiations, we write to respectfully urge you and other Senate conferees to retain Section 9013 of the Federal Agriculture Reform and Risk Management Act (H.R. 2642), or include similar provisions contained in the Sensible Environmental Protection Act of 2013 (S.802).

Until recently, farmers, abatement districts, and public health officials could count on the time-tested Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) process for federal review and approval of pesticide applications. However, in 2011, the Sixth Circuit concluded in *National Cotton Council of America v. U.S. Environmental Protection Agency* that the routine aquatic application of pesticides is also subject to Clean Water Act Section 402 permitting, even if conducted in full compliance with FIFRA. The Sixth Circuit's decision contradicted EPA's position that FIFRA-approved pesticides do not need to go through redundant Clean Water Act permitting.

All pesticide applications are stringently regulated through FIFRA, including applications to and near water. EPA's FIFRA registration program contains specific protections for water quality, fish and aquatic wildlife. The compliance requirements of the permits impose resource and liability burdens on thousands of small businesses, farms, municipalities, counties, and state and federal agencies legally responsible for protecting public health, in addition to exposure to citizen lawsuits. At the same time, the new permitting requirements have little to no environmental or public health benefits.

We urge you to include a provision in the final version of the Agriculture Reform, Food and Jobs Act that specifies that these duplicative permits are not required for the lawful application of FIFRA approved pesticides.

Thank you for considering our request.

Sincerely,

Senator Kay Hagan

Senator Mike Crapo

Senator Chris Coons

Senator James Risch

Senator Mark Pryor

Senator David Vitter

Senator Tom Carper

Senator Deb Fischer

Senator Mary Landrieu

Senator Claire McCaskill

Senator Joe Donnelly

Senator Heidi Heitkamp