

In November 2007, the Environmental Protection Agency (EPA) ruled that the use of pesticides for agriculture and other purposes (like those used to control mosquitoes in our area) is exempt from further permitting requirements under the Clean Water Act (CWA) because they are already properly regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). I believe that it is essential that we carefully monitor pesticide usage to ensure public safety, which the EPA has done under FIFRA since the CWA was enacted in 1972. Unfortunately a federal court – specifically, the Sixth Circuit Court of Appeals – struck down the EPA’s decision. I believe that this decision represents a flawed and overly expansive interpretation of the Clean Water Act and that the EPA’s original rule was the correct one. In essence, the court determined that a pesticide applied for beneficial use suddenly becomes hazardous after its application, even though regulations under FIFRA have been carefully tailored to ensure proper pesticide application to avoid direct discharges into waters of the United States.

This ruling will impose tremendous new burdens and costs on agriculture and also impede the ability of mosquito control districts to spray pesticides to reduce the threat of West Nile virus in Northern California, which could compromise public health. Last spring I joined several of my colleagues in sending a [letter](#) to the EPA to encourage them to vigorously defend their rule in court. I’m disappointed that the EPA simply requested a delay of two years in order to comply with the court’s ruling, instead of challenging the court decision on the merits and defending their original rule. For these reasons, a group of agricultural and other interests have filed a petition for the Supreme Court asking the Court to take up this issue in the hopes of overturning the Sixth Circuit’s decision. I recently joined an amicus curiae (“friend of the court”) [brief](#) in strong support of this petition.