

Environmental Protection Agency
Office of Pesticide Programs
Regulatory Public Docket (7502P)
1200 Pennsylvania Avenue NW
Washington, DC 20460-0001

December 26, 2007

Re: Docket Identification No. EPA-HQ-OPP-2007-0944

To Whom It May Concern:

The Colorado Wool Growers Association (CWGA) is writing to the EPA to request the dismissal of the Petition submitted by Sinapu to discontinue the use of M44s and compound 1080. The State of Colorado is ranked fourth in the United States for stock sheep numbers and wool production; and is number one lamb feeding state in the nation. There are approximately 1,600 sheep farms and ranches in our state, ranging from small farm flocks with only a few head of sheep up to large commercial operations that have thousands of sheep. Regardless of the size of operation, each sheep farm or ranch needs protection against predators, and many operations rely on the assistance and expertise provided by the USDA-APHIS-WS. Wildlife Services (WS) employs a variety of non-lethal and lethal methods to control depredating predators including the use of M44s.

The Petition for Suspension and Cancellation of M44 Sodium Cyanide Capsules and Sodium Fluoroacetate Livestock Protection Collars is based on radical scare tactics and is riddled with speculation and distortion of the facts. We strongly urge the EPA to evaluate the Petition based on relevant facts, and continue with the licensing and registration of both 1080 and M44s.

The 53 page Petition submitted by Sinapu is a carefully contrived document of “smoke and mirrors” designed to lead EPA staff to Sinapu’s desired outcome of canceling the registration and licensing of 1080 and M44s. They also attempt to claim the moral high ground that they are “protecting” the environment, wildlife, and people from M44s and 1080. During the Petition evaluation process, recognize the data manipulation for what it is; and realize that it is easy to portray a very compelling story when you only tell your viewpoint by obscuring and distorting the facts. The EPA has an obligation to fairly and objectively evaluate the Petition.

The overriding theme of the Petition is to coach the reader into believing that “jeopardy” is actual harm that is occurring, and will continue to escalate in frequency unless the EPA approves the Petition. We ask the EPA to statistically evaluate actual, reasonable risk and not be drawn into “the sky is falling” scenario that has been carefully orchestrated within the Petition.

The Petition arbitrarily defines “unreasonable and adverse effects” as any detectable effect on wildlife or the environment; regardless of whether or not that effect is statistically significant. Consequently, since their own Petition does not address the EPA standard, but pursues their own definition and intent, the majority of the “data” included in the Petition is extraneous and doesn’t even relate to the question at hand.

Unlike the Petition, the facts listed below are facts, and not carefully manipulated opinions parading around as “facts.” In an effort to “sort the wheat from the chaff” our comments address the following issues of the Petition:

The premise of the Petition is the cancellation and suspension of compound 1080 and M44s because they cause “unreasonable and adverse effects on the environment and pose an imminent hazard.”

The Petition states that “WS has jeopardized threatened and endangered species and species of special concern, such as wolves and swift foxes, with sodium cyanide as documented herein.”

- This statement is an example of the common word manipulation employed by Sinapu throughout the Petition. The only animals that are in jeopardy are the ones that actually bite the M44 and those animals are accounted for in the WS annual statistics. Their juxtaposition of data implies that M44s are responsible for extraordinary losses of wildlife. Sinapu tags on the extrapolation that WS has overkilled between 1.5 to 9.7 million animals “without cause” between 1996 and 2001. Sinapu seems to be acutely aware of any and every livestock carcass that happens to be on a federal grazing allotment. Surely, through their vigilant activities they would have noticed the stockpile of dead wildlife carcasses accumulating as a result of M44s. You can’t have 9.7 million dead animals without it causing a “stink” and someone noticing at the time. Dead wildlife carcasses would be littering the landscape if this Sinapu “statistic” were true.

The Petition states that because M44s and 1080 could be used as bioterrorism agents, and because APHIS failed two federal audits in 2005 and 2006 concerning their handling of and accountability for lethal toxicants, the EPA should ban 1080 and M44s.

- As of result of these two audits by the Office of Inspector, WS has implemented a comprehensive inventory accounting system for all hazardous materials used by WS. In addition, WS has implemented a program that provides for the effective oversight, storage, and security of all hazardous materials and management of WS storage facilities used to store these materials. While WS did not pass the initial audits, no harm or damage was documented to have occurred to humans or wildlife. The new accounting and management systems now in place invalidates the request for cancellation based on a perceived bio-terrorism threat.

The Petition’s Factual Background & Evidence of Harm is an interesting blend of facts and spin-doctoring.

- While the Petition provides gratifying fodder for anti-livestock groups, and pro-carnivore advocates it isn’t relevant to the Petition’s claim that M44 and 1080 “cause unreasonable and adverse effects on the environment and pose an imminent hazard” as currently regulated by the EPA. Old or new ideologies are not the issue, and it is not within the purview of the EPA to support one ideology over another. The issue is “does compound 1080 and M44s cause unreasonable and adverse effects on the environment and pose an imminent hazard” as currently used? We know people will believe there are unreasonable effects when they are spoon-fed propaganda; but would a reasonable and prudent person believe this statement when presented with the facts?

The Importance of Carnivores in Ecosystems

- The Petition extols the virtues of carnivores in the ecosystem. Once again, this is not the issue, it is Sinapu’s “smoke and mirrors” technique of drawing the reader into their realm of fantasy. They blatantly create inaccurate statements, “ Other species, including grizzly bears, lynx, kit foxes, swift foxes, and wolves are less malleable in the face of persecution and loss of habitat. Consequently, even now, they face the threat of extirpation or extinction and thus unintended deaths from misplaced poisons could jeopardize their populations.” No one is “persecuting” wildlife; and to paint the illusion that the species listed are in jeopardy of extinction, and the use of 1080 or M44s will hasten their extinction is absurd. WS is not directed at the large-scale destruction of wildlife, but rather at responding to requests in cases where people or communities

are experiencing wildlife damage or threats. Effects on public health and safety include potential benefits from WS fostering a safer environment.

The “Sledge Hammer” Approach to Wildlife Management

- The Petition states, “Lethal controls, including poisons, are not selective for specific animals, but rather are used to remove the most individuals from an area.” The Petition is attempting to ban the use of Livestock Protection Collars (LPCs) using 1080; yet these collars are extremely specific and only kill the offending predator that is attacking a sheep wearing the collar. The “Sledge Hammer” section is another attempt to draw the reader away from the actual issue, and inundate them with information that may or may not be correct and may or may actually be relevant to the issue. The Petition says that to ban M44s and 1080, “the benefits will be to people, to wildlife, and to ecosystems.” The Petition constructs a false scenario by radically distorting statistically insignificant risks and impacts, and then claims a hollow victory by stating they have removed statistically insignificant threats.

EPA’s Duties Under FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act)

- In 1994, the EPA carefully reviewed and approved the use of M44s. The EPA determined that the use of M44s did not pose unreasonable, adverse effects to humans or the environment. No information presented in the Petition legitimately demonstrates a reason to reverse the agency’s earlier determination. Sinapu offers no data to substantiate their claim that “people and pets are routinely exposed and harmed by these toxicants.” Furthermore, they fail to explain that a person would have to bite, puncture, and ingest the 1080 in the Livestock Protection Collar to be poisoned by the chemical.

Endangered Species Act

- The Wildlife Services agency carefully reviews and conducts its operations to meet the requirements of the Endangered Species Act. Wildlife Services is required to consult with the U.S. Fish & Wildlife Service on T&E issues.
- The Petition implies that because a grizzly or a California Condor has been killed by an M44 that the program should be shut down. They extrapolate that because extremely rare incidents have taken place, those incidents will re-occur at an unprecedented rate that will cause extinction for many species. This is simply not true.

The USDA APHIS WS’s M-44 Use Restriction Violations

- The Petition dramatically states, “In 1994, the EPA promulgated twenty-six use restrictions governing the placement of M44s under FIFRA. Nethertheless, APHIS has, on a number of occasions, violated the FIFRA and the ESA. By their very nature M44s are indiscriminate. As a result, pets and humans have been put in danger. In each of the instances that follow, the use restrictions for M44s were violated by APHIS. Because so many incidents have occurred, APHIS-WS’s mishandling of these toxicants is a common and widespread practice across space and time.”
- From 1996-2006 the Petition cites 17 incidents where Sinapu has interpreted that WS violated FIFRA when setting M44s. During the 1996-2006 time frame (the same time frame that Sinapu accuses WS of common and widespread mishandling of the toxicants), 244,000 M44s were set, and 33,000 of the M44s were fired. Statistically speaking, this means that 0.0000696% incidents occurred as a percentage of overall M44s set in the field; and 0.000515% incidents occurred as a percentage of actual M44s fired in the field. This faulty underpinning presented by Sinapu clearly points to the conclusion that this Petition should be denied.

M44s Jeopardize Threatened and Endangered Species

- The M-44 is baited to attract wild canids. On rare occasions, domestic pets that have been allowed to roam freely have been victims of the tool, as have some wolves, bobcat and other species. Impacted non-target species most commonly are raccoons, and opossums, and represent an extremely low percentage of the take, because the M-44 devices are canid specific. Consultation with the Fish and Wildlife Service has provided special restrictions to minimize risk to certain T&E species such as the California condor. In areas occupied by wolves, M-44s are either not allowed or can only be used after searching the area first to determine if signs of wolves are present. Warning signs in English and Spanish are required even in the remote locations where use is most common.
- The Petition uses the deaths of a grizzly and a California Condor as a poster child for their crusade to ban the use of M44s. Although the events are unfortunate, they are statistically insignificant and do not threaten the stability of the respective populations. There are over 500 grizzlies in the U.S., on a percentage basis, the number of grizzlies killed by an M44 is 0.002%.

Compound 1080

- Historic use of 1080 is not the issue; the issue remains, does the use of 1080 and M44s “cause unreasonable and adverse effects on the environment and pose an imminent hazard” as currently regulated by the EPA?
- Compound 1080 restricts toxicity to predatory animals actively attacking livestock. It is toxic to mammals, lesser to birds, and of limited toxicity to fish. Spills from LPCs are rare.
- Scavenging animals would not be affected unless they consumed the hair or wool of the dead target or livestock, a rare occurrence. Secondary poisoning of scavenging animals does not occur because after coyotes ingest the LPC’s sodium fluoroacetate their carcasses contain only nontoxic, trace levels of the compound. In research conducted by WS, scavenger species were given tissues from coyotes killed with sodium fluoroacetate showed no negative effect. Livestock carcasses contaminated with the toxicant in its raw form on the wool or hair near punctured collars may pose a risk to scavengers. However, in research studies with dogs, skunks, magpies, and eagles allowed to feed on contaminated carcasses, these species were not adversely affected because they would not eat the contaminated wool or hair.

Non-target Species & Jeopardy of Special Species

- No grizzlies or wolves have been killed with LPC, and there is not a “direct exposure” risk to grizzlies and wolves because current consultations and cooperative efforts between WS and USFWS prohibit the use of LPCs in these areas. Once again, the Petition trumps up a non-issue as an underpinning for banning the use of toxicants.

EPA’s Duty to Consider the Agricultural Economy

- The Petition’s attempt to discredit Colorado and the United States sheep industry is their “sledge hammer” approach to furthering their agenda of ending all lethal control of predators without any regard for the consequences.
- The State of Colorado is ranked fourth in the United States for stock sheep numbers and wool production; and is number one lamb feeding state in the nation. There are approximately 1,600 sheep farms and ranches in our state, ranging from small farm flocks with only a few head of sheep up to large commercial operations that have thousands of sheep.
- The Petition trivializes and dismisses the significance of the predator losses; yet states that any use of M44s or 1080 by Wildlife Services has the potential to destroy any and all wildlife, the environment, and of course pose a catastrophic threat to human safety. To further their agenda, they portray the sheep industry in the narrowest possible light yet use broad and extreme brush strokes to invent a distorted picture of their reality.

- In 2005 in the State of Colorado, predators caused an estimated \$1.58 million in losses of sheep and lambs. Predators killed approximately 14,600 head of sheep and lambs. Coyotes were responsible for 63% of these losses. Using M44s to kill depredating coyotes is a very important management tool for Colorado.
- As carnivore advocate groups continue to trivialize and misrepresent the impacts of predator depredation on livestock; they fail to acknowledge that these injuries and death losses would be much, much higher without the Wildlife Services predator control program in place. With their twisted sense of logic, they insist that because losses still occur, the Wildlife Services program is ineffective and a waste of money.
- Unlike loss due to weather and age, over which producers have little control, loss to predators can be addressed through non-lethal and lethal tools. Just as producers use veterinarians and medicine to respond to illness as a cause of loss, they use non-lethal and lethal tools to respond to predator loss.
- The federal government and general public have an obligation to effectively manage depredating predators as publicly owned wildlife kills privately owned livestock.
- The Petition deliberately attempts to belittle the Colorado sheep industry, but fails to mention the extraordinary contributions our farmers and ranchers make to the state of Colorado: open space and wildlife habitat for countless wildlife populations, and significant economic contributions to rural economies.
- Of the 66.3 million acres in Colorado; 30.7 million acres are in farms and ranches. The 190,000 head of breeding sheep and lambs are grazed on a combination of private property and federal grazing allotments providing weed control and important forage management options for land managers. The lamb feeding industry handles 210,000 lambs annually bringing out-of-state dollars into our state's economy, and provides important economic contributions to the surrounding area. 2006 cash receipts on Colorado sheep and lambs totaled over \$118 million.
- The focus of predator management is not about *killing* predators; it is about *protecting* a multi-million dollar industry upon which many lives are based; effectively managing wildlife populations within the limitations of habitat carrying capacities; and the public's responsibility regarding damages caused by wildlife. An effective Wildlife Services program that manages depredating animals is vital to the stability of Colorado's livestock industry.

Livestock Losses and Predators

- The Petition states, "sheep and lambs are frequently left unguarded on open range." Western range producers guard their bands of sheep 24 hours/day, 7 days a week, 365 days a year using shepherds and guard dogs *because* sheep do not have any natural defenses.
- Without the use of M44s and compound 1080, WS' work would continue but with potentially adverse impacts. In the absence of effective damage management, livestock losses to predation by coyotes could be two to three times more than current levels, estimated to be \$16.3 million in losses to the sheep industry and \$51 million in losses in the cattle industry.
- LPCs are valuable in removing specific depredating coyotes that have eluded removal by other methods.
- Results of an NWRC economic study indicated that for every \$1 California counties invest in WS they save between \$6.50 and \$10.00 in wildlife damage and replacement program costs
- WS' National Wildlife Research Center (NWRC) devotes approximately 75 percent of its budget to research on non-lethal methods. A 2004 survey by the National Agricultural Statistics Service documented that farmers and ranchers spent \$191 million on non-lethal methods to prevent predation in the cattle industry.
- The Petition attempts to discount the importance of sheep losses due to predators (3% nationwide); yet they over-exploit their data on danger posed by M44s. We again cite the following example: From 1996-2006 the Petition cites 17 incidents where Sinapu has interpreted

that WS violated FIFRA when setting M44s. During the 1996-2006 time frame (the same time frame that Sinapu accuses WS of common and widespread mishandling of the toxicants), 244,000 M44s were set, and 33,000 of the M44s were fired. Statistically speaking, this means that 0.0000696% incidents occurred as a percentage of overall M44s set in the field; and 0.000515% incidents occurred as a percentage of actual M44s fired in the field. This faulty underpinning presented by Sinapu clearly points to the conclusion that this Petition should be denied.

Economics of Carnivores in Their Ecosystems

Economics of Wildlife Watchers, Hunters, and Anglers

Socio- and Biological Economics of Non-Lethal Alternatives

- Again, these are more irrelevant sections of the Petition, the question still remains, “does compound 1080 and M44s cause unreasonable and adverse effects on the environment and pose an imminent hazard” as currently regulated by the EPA?
- The “apples and oranges” comparisons brought forth in these sections are a continuation of the Petition’s “smoke and mirrors” technique to draw the reader away from the real issue based on biased and speculative data.

Cancellation

- The Petition is arbitrarily defining “unreasonable and adverse effects” as any detectable effect on wildlife or the environment; regardless of whether or not that effect is statistically significant or actually causes any harm.
- Based on a prudent review of the actual facts, and not distorted, manipulated data, we request that the EPA deny the Petitioner’s request and continue with the licensing and oversight of the use of M44s and compound 1080 for use in LPCs.

In closing, this Petition relies heavily on Sinapu’s speculative phrases: “could be,” “may jeopardize,” “likely,” “extrapolate,” “probably,” “is possible,” “could harm,” “intangible benefits,” etc. The Petition deliberately and overly exploits the word “jeopardy” in an attempt to make the reader believe that in every instance, damage and irreparable harm is occurring, or will certainly occur beyond a shadow of doubt. This Petition is erroneous and speculative, and does not accurately assesses actual risk posed by the highly regulated use of M44s and compound 1080. Throughout the Petition, Sinapu takes rare, isolated incidents and exploits, extrapolates, and over-dramatizes the occurrence to force the reader to agree with them. To use their own words, “The veracity of their claims must be thoroughly critiqued by the reviewers of this petition.”

Respectfully,

Joe Sperry
CWGA President

