

Pesticides and Endangered Species

Lori Ann Burd

Environmental Health Director and Senior Attorney

Center for Biological Diversity





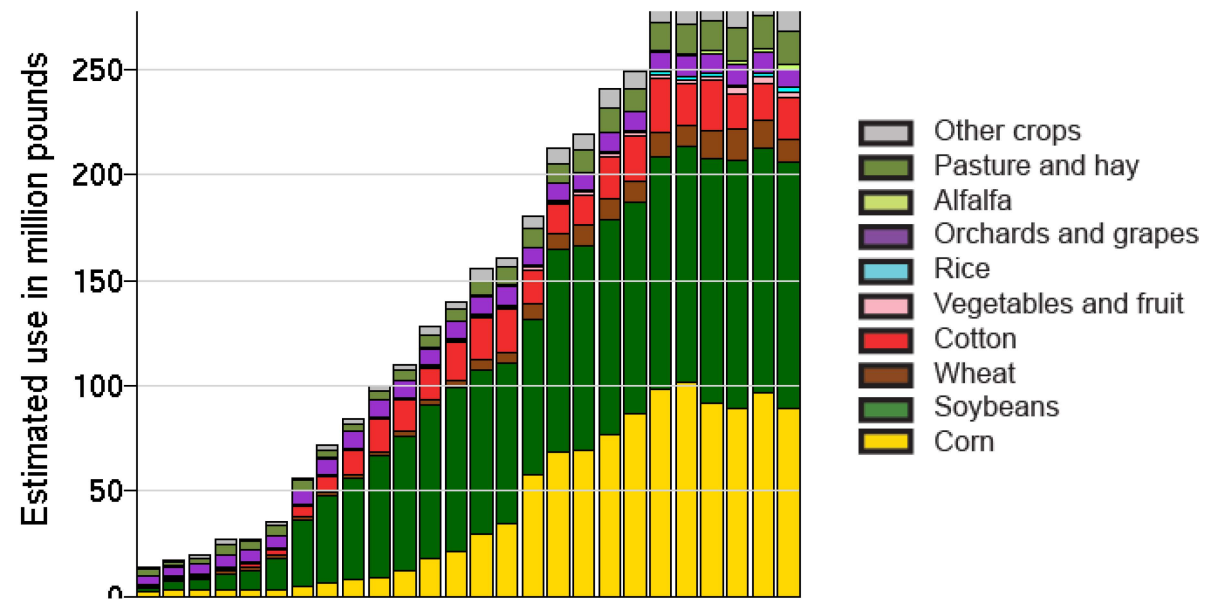
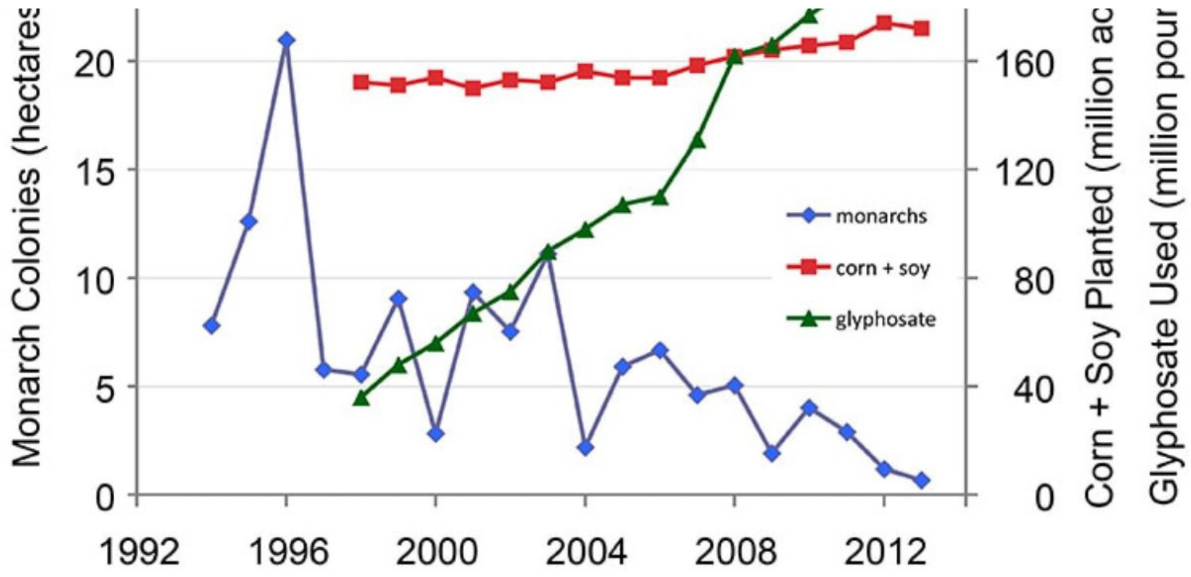


FEATURE

The Insect Apocalypse Is Here

What does it mean for the rest of life on Earth?







Agriculture is getting more toxic. Commonly used fungicides mixed with other commonly used neonicotinoids and pyrethroids increase the toxicity of pesticide mixtures 1,000- fold

The states that have seen some of the largest declines in the American bumble bee within the past 20 years are the same states that have seen the largest increases in quantified neonicotinoid use

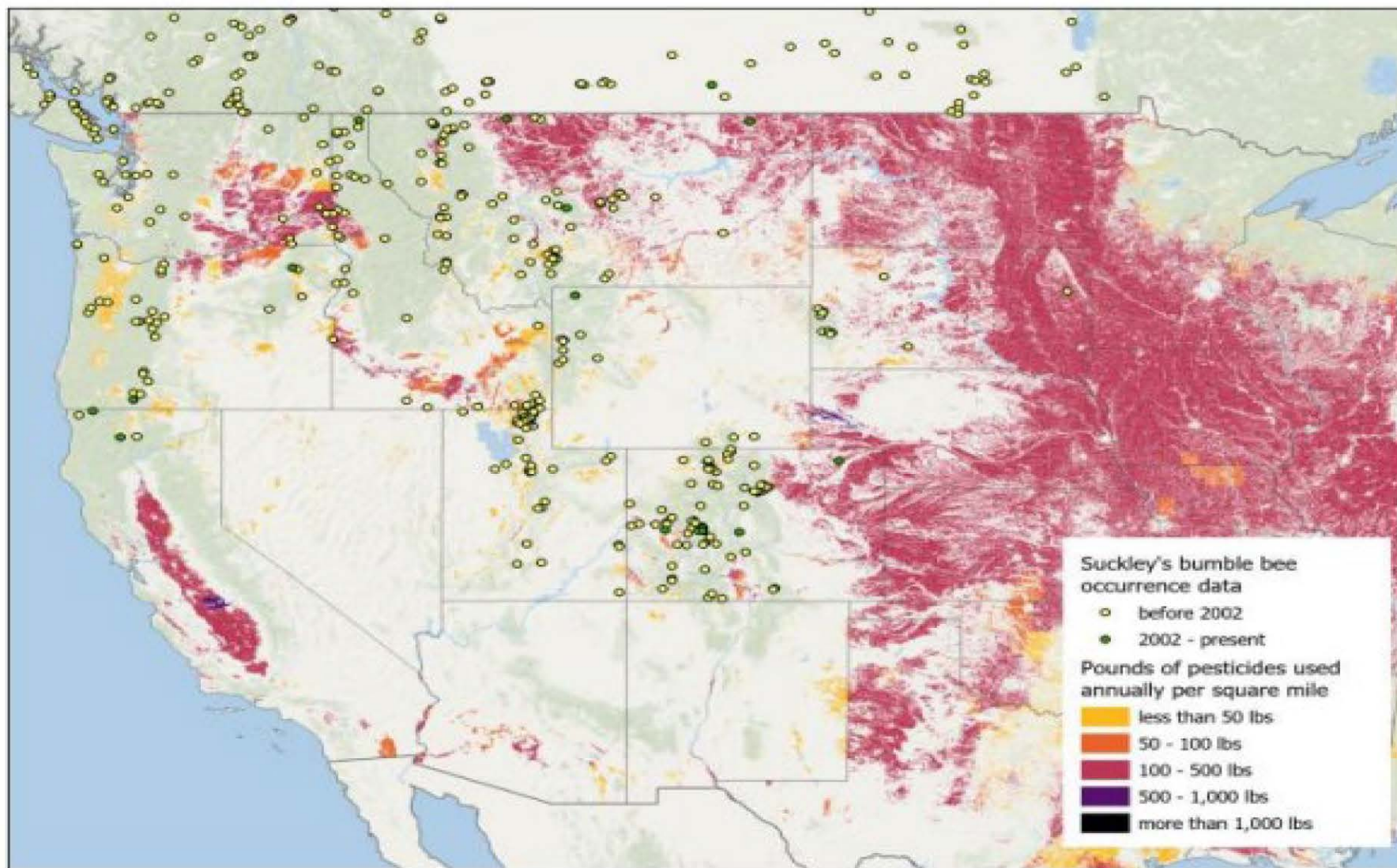


Figure 6. Pounds of pesticide applied per square mile for permethrin, carbaryl, fipronil, glyphosate, and five neonicotinoids (acetamiprid, clothianidin, imidacloprid, thiamethoxam, and sulfoxaflor) (does not include pesticide used in seed treatment) overlaid with historic and recent observation records of Suckley's cuckoo bumble bee (excluding Alaska due to the lack of pesticide usage data for the state). Pesticide data source: USGS Pesticide National Synthesis Project (https://water.usgs.gov/nawqa/pnsp/usage/maps/compound_listing.php).

The Endangered Species Act

- 7(a)(1): All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species...
- 7(a)(2): Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any [agency] action...is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat
- Actual use → Wild goose chase
- Meanwhile, zero on the ground protections implemented



Consultation on Agency Actions, and Implementation of Species Protection, Are Routinely Done

- 88,290 consultations were recorded by FWS from January 2008 through April 2015.
- OPP completed zero consultations during this time.
- No project was stopped as a result of FWS finding jeopardy during this period.
- However, important conservation measures were implemented.



EPA to D.C. Circuit Court: the law is clear that the ESA “requires it to make a determination regarding the effects of each of the challenged registration actions on ESA-listed species and critical habitat” and that it has not done so, “nor has it initiated any consultation that might be triggered by such effects determinations.” *Ctr. for Biological Diversity v. EPA*, Consolidated Case No. 15-1054, EPA Motion to Consolidate, Doc. # 1722049 (D.C. Cir. Mar. 13, 2018) (flupyradifurone, bicyclopyrone, benzovindiflupyr, cuprous iodid, halauxifen-methyl)

“EPA acknowledges that it has not made an ‘effects determination’ for sulfoxaflor, as it must do, or initiated consultation, if appropriate.” *Ctr. for Food Safety v. U.S. EPA*, Nos. 19-72109 & 19-72280, Motion for Voluntary Remand Without Vacatur, DktEntry 51 (9th Cir. Oct. 26, 2020) (sulfoxaflor); *id.* Order, DktEntry 67 (9th Cir. Jan. 12, 2021) (denying motion for remand without vacatur) (sulfoxaflor).

“As set forth in the Matuszko Declaration, EPA acknowledges that it has not made an “effects determination” for aldicarb or initiated consultation.” *Ctr. for Biological Diversity v. U.S. EPA*, No. 21-1079, Motion to Remand Without Vacatur, Doc. # 1895080 (D.C. Cir. April 19, 2021) (aldicarb).

Aldicarb

- Approved for use on Florida oranges
- 100,000 acres of citrus can be treated with up to 2.5 million pounds of products containing aldicarb, one of only 36 pesticides classified as “extremely hazardous” by the World Health Organization.
- “[A]ldicarb poses an unacceptable risk to human, animal, and environmental health in Florida, is one of the world’s most toxic pesticides, and is banned in more than 100 countries. The registrant’s application does not meet the requirements of state law, and we must therefore deny the registration of aldicarb for use in the State of Florida.”



A Path Forward: Atrazine Case Study

Atrazine technical registrants have committed to the following voluntary label modifications:

- Prohibit all uses of atrazine in Hawaii, Alaska, and the U.S. territories (Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the North Mariana Islands), thereby restricting registered uses to the contiguous United States.
- Remove “Roadside” use
- Remove “Conservation Reserve Program (CRP)” use
- Remove “Conifer” uses, including Christmas trees, timber and all forestry uses
- Require an in-field downwind buffer of 15 feet for ground applications and 150 feet for aerial applications: from the edge of all streams and rivers as well as the high-tide line for all estuarine/marine environments, and from threatened and endangered species critical habitat and/or species locations.

