

RESOLUTION # 38

PESTICIDES

1 **WHEREAS**, the Clean Water Act (CWA) controls water pollution by regulating
2 point sources that discharge pollutants in and around waters of the United States
3 through the National Pollutant Discharge Elimination System (NPDES) permit program;
4 and

5 **WHEREAS**, the federal Environmental Protection Agency (EPA) has never
6 required NPDES permits for the application of pesticides for agricultural crop protection,
7 mosquito control, invasive aquatic weed control, forest canopy insect control, or other
8 registered uses of pesticides when properly applied following FIFRA-approved label
9 directions; and

10 **WHEREAS**, a January 2009 U.S. Court of Appeals for the Sixth Circuit decision,
11 in the matter of *National Cotton Council of America et al. v. United States Environmental*
12 *Protection Agency*, vacated an EPA Rule which exempted certain pesticide applications
13 made in, over, or near “waters of the United States” in accordance with the Federal
14 Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the federal Clean Water Act’s
15 permitting requirements; and

16 **WHEREAS**, the Court granted EPA a two-year stay of its decision, during which
17 time EPA was to develop a general permit for four aquatic pesticide uses in the states
18 and territories without delegated CWA authority, and states which have assumed CWA
19 authority may use this permit as a model in developing general permits for their states;
20 and

21 **WHEREAS**, this change requires NJPDES permits for pesticide applications
22 made to or near the “Waters of the State,” meaning the ocean and its estuaries, all
23 springs, streams and bodies of surface or ground water and wetlands, whether natural or

24 artificial, within the boundaries of the state of New Jersey or subject to its jurisdiction,
25 and this would place additional burdens on applicators, impact crops in fields, pastures
26 and forestlands adjacent to farm ponds or wetlands, ditches, streams or rivers, and
27 interfere with the timely application of pesticides to control pests and diseases, and to
28 control mosquitoes which may vector diseases of humans or horses and other livestock.

29 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 101st
30 State Agricultural Convention, assembled in Atlantic City, New Jersey, on February 10-
31 11,, 2016, do hereby urge the New Jersey Congressional Delegation to support an effort
32 to amend the Clean Water Act to make it clear that pesticides applied in accordance with
33 their labels are not considered pollutants under the Act.

34 **BE IT FURTHER RESOLVED**, that we urge the New Jersey Congressional
35 Delegation to support efforts in Washington to exempt agricultural operations and efforts
36 to control or eradicate invasive species and mosquitoes from NPDES permitting
37 requirements for applications of pesticides when applied in accordance with their labels.

38 **BE IT FURTHER RESOLVED**, that, failing such action, we urge the New Jersey
39 Congressional Delegation to support efforts to ensure that the resources required to
40 process these new permits are covered by federal funds and do not strain the already
41 scarce resources of state regulatory agencies or of New Jersey's hard-working farmers.

42 **BE IT FURTHER RESOLVED**, that if the need for a NJPDES permit for the
43 discharge of pesticides in or near waters of the United States is not eliminated by
44 legislative action, we urge the New Jersey Department of Environmental Protection to
45 continue working with the New Jersey Department of Agriculture, New Jersey Farm
46 Bureau, Rutgers University's New Jersey Agricultural Experiment Station and the
47 agricultural industry leaders on this issue to adopt NJPDES permits that are no more
48 stringent than is required by federal law and are as user-friendly as possible for those
49 applying pesticides in or near waters of the United States.

50 **BE IT FURTHER RESOLVED**, that we strongly urge New Jersey's U.S. Senators
51 to support any efforts to exempt agricultural operations and efforts to control or eradicate
52 invasive species and mosquitoes from NPDES permitting requirements for applications
53 of pesticides applied in accordance with their labels.