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Pesticide Coated Seeds Still Not Regulated

The Pollinator Stewardship Council, along with individual beekeepers, farmers, and advocates were plaintiffs in a US District Court federal agency action against Environmental Protection Agency (EPA) concerning pesticide-coated seeds. The plaintiffs simply sought for pesticide-coated seeds to be regulated and for enforceable label requirements on the bags of pesticide-coated seeds. Product labels advise consumers how to use a product, provide guidelines for protection in implementing a product, and alerts users of environmental hazards that a product may present. Pesticide labels provide important information and safeguards to farmers, pesticide applicators, and to those other crops or agricultural stakeholders who are near pesticide applications. Since the EPA interprets it's regulations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to define pesticide-coated seeds as a "treated article;" the agency allows pesticide-coated seeds to be exempt from registration or pesticide labeling. Beekeepers want farmers to have the necessary information about the pesticide-coated seeds; especially those coated with systemic insecticides like neonicotinoids (neonics).

Impacts to bees from neonics are well-documented, as are impacts to the nation's beekeepers. For example, in 2015, one plaintiff in the case, Bret Adee, co-owner of the nation's largest commercial beekeeping operation, suffered approximately \$800,000 in damages in just one bee-kill incident from toxic neonicotinoid-laced dust during planting of corn fields near his hives. Due to EPA's exemption for the coated seeds and their dust, Mr. Adee could obtain no enforcement action to protect his bees. In effect, the nation's beekeepers have been told to fend for themselves as EPA will not enforce any mandatory requirements from the federal pesticide law to protect bees. Neonics also negatively impact soil health by harming beneficial insects, and can have dire effects on other non-target species, like birds.

“The broader implications of this decision drive the nails in the bee industry’s coffin. Of course, as a beekeeper, I am concerned about my livelihood, but the public at large should also be alarmed. More than one-third of the average person’s diet is generated by pollinators that I help manage,” said Jeff Anderson, a California and Minnesota-based commercial beekeeper and honey producer, who was the lead plaintiff in the case.

The attorneys for the plaintiffs sought additional relevant documents in this case having received only 200 of 5,000 documents from EPA. The Court eventually received all 5,000 documents, but the Court chose to retain those documents, and not to share them with the plaintiffs.

The judge in this case dismissed it on an “administrative procedural basis.” The judge did conclude, *“The Court is most sympathetic to the plight of our bee population and beekeepers. Perhaps the EPA should have done more to protect them, but such policy decisions are for the agency to make.”*

The plaintiffs in the case were beekeepers Jeff Anderson, Bret Adee, and David Hackenberg; farmers Lucas Criswell and Gail Fuller; and the Pollinator Stewardship Council, American Bird Conservancy, Pesticide Action Network of North America (PANNA), and the Center for Food Safety. The Judge’s Order was issued on Nov. 21 in the case of Anderson et al. v. McCarthy, No. 3:16-cv-00068-WHA (N.D. Cal.). You can read the Court’s decision at this link <http://pollinatorstewardship.org/wp-content/uploads/2016/11/2016-11-21-Dkt-109-ORDER-Granting-Defendants-MSJ-Denying-Plaintiffs-MSJ-1.pdf>

The Pollinator Stewardship Council will continue to work with beekeepers and farmers and their advocates for sustainable agriculture. We continue to encourage reporting of bee losses due to dust off from neonic-coated seeds, and other pesticide applications to enforce protections for bees. We will continue to challenge the EPA to create policy to truly protect pollinators. One in three bites of food relies on pollinators being healthy and plentiful, to provide farmers with the pollination services they require, ensuring their crop yields. The beekeeping industry is at the forefront of the “plight of our bee population,” but sympathy will not stop the bee kills. The Pollinator Stewardship will continue to take action for honey bees, the beekeeping industry, native pollinators, and sustainable agriculture.