

Congress of the United States

Washington, DC 20515

August 13, 2019

Honorable Andrew R. Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW,
Washington DC, 20004

Dear Administrator Wheeler,

As members of Congress dedicated to advancing Environmental Justice, we are writing to express our strong opposition to the Environmental Protection Agency's (EPA) recent order allowing for the continued sale and use of the toxic pesticide, chlorpyrifos. It is profoundly worrisome that after decades of study and analysis showing the pesticide's harm to humans, especially children, the EPA decided not to ban the pesticide in all uses; instead siding with big chemical corporations over the American people, including farm workers.

While the agency withdrew the residential use of chlorpyrifos in 2000, the pesticide is still widely used in agriculture. The pesticide is also regularly used on golf courses to kill worms, fire ants and other insects. The battle to ban chlorpyrifos dates to 2007 when the Natural Resources Defense Council (NRDC) and Pesticide Action Network North America (PANNA), represented by Earthjustice; petitioned the EPA to revoke all tolerances and cancel all registrations for the pesticide. Unfortunately, the EPA delayed taking action to answer the administrative petition for nearly a decade.

Having grown frustrated with the EPA's lack of response to the administrative petition, in August 2015, PANNA petitioned the Ninth Circuit Court to order the EPA to issue a response, and the court did so, citing the agency's "egregious delay" in responding to the original petition. On November 6, 2015 the Obama administration announced it would ban chlorpyrifos use in food production after EPA's evaluation of the many studies showing that exposure to chlorpyrifos can damage brain development in children.¹ Yet, your predecessor, Scott Pruitt, reversed that decision when he blocked finalization of the pending rule to cancel chlorpyrifos on March 31, 2017.²

Subsequently, environmental justice groups filed suit to challenge the denial order.³ As a result, the Ninth Circuit Court ordered the EPA to take immediate action on chlorpyrifos, but the EPA made a zealous attempt to see the continuation of chlorpyrifos and pursued a rehearing.⁴ The April 2019 rehearing led to a court mandate stating the EPA must respond to objections no later

¹ Federal Register: Proposed Rules. Vol. 80, No. 215. 6 November 2015. p. 69080

² Pesticide Action Network of North America v. EPA, 840 F.3d (9th Cir. 2016). 12 August 2016

³ LULAC, et al. v. Wheeler, et al., No. 17-71636 (9th Cir. 2017). 5 June 2017

⁴ Federal Register: Rules and Regulations. Vol. 84, No. 142. 24 July 2019. p. 35557

than 90 days, and the agency subsequently denied all administrative petitions effectively allowing for chlorpyrifos' continued use in the U.S.

In the EPA's court mandated petition response, the central determining basis to which the EPA denied petition claims was the alleged lack of "complete and reliable evidence" established in a few of the chlorpyrifos human health risk assessment studies.⁵ EPA argued that the three major reports conducted by Columbia Center for Children's Environmental Health (CCCEH),⁶ Center for the Health Assessment of Mothers and Children of Salinas (CHAMACOS) at UC Berkeley,⁷ and Mt. Sinai⁸ did not turn over raw data. The aforementioned studies had cited subject privacy concerns as permitted under the ethical principles and guidelines for the protection of human subjects of research.⁹

The three studies in question are in fact peer reviewed and have been credited to maintain valid, complete, and reliable evidence. Furthermore, since 2018 alone, over 5,000 domestic and international studies have showed the acute and sublethal health hazards caused by chlorpyrifos exposure to either humans, animals, or wildlife.¹⁰ There is no lack of "complete and reliable" scientific evidence of the harms of this chemical.

Additionally, the EPA's petition response states "the registration review of chlorpyrifos has proven to be far more complex than originally anticipated" and "EPA acknowledged it had insufficient time to complete its drinking water assessment and its review of data addressing the potential for neurodevelopmental effects."¹¹ It is confounding for the EPA to consent to ongoing usage of chlorpyrifos in agricultural fields while concurrently admitting insufficient time for a complete and proper review of chlorpyrifos. In fact, your agency's decision directly contradicts the 2015 EPA proposed rule to revoke all food residue tolerances for chlorpyrifos because the agency could not assure current exposure levels were "safe," as is required by law.¹²

It is unconscionable that the EPA has decided to allow for the continued use of chlorpyrifos while your response did not address petition claims 7-9, all relating to the potential for

⁵ US EPA - Pre-Publication Copy of Chlorpyrifos; Final Order Denying Objections to March 2017 Petition Denial Order. 18, July 2019 P.7

⁶ Rauh VA, Perera FP, Horton MK, Whyatt RM, Bansal R, Hao X, Liu J, Barr DB, Slotkin TA, Peterson BS. Brain anomalies in children exposed prenatally to a common organophosphate pesticide. *Proc National Academy Sci USA*. Apr 30 2012.

⁷ Stein LJ, Gunier RB, Harley K, Kogut K, Bradman A, Eskenazi B. Early childhood adversity potentiates the adverse association between prenatal organophosphate pesticide exposure and child IQ. Center for Environmental Research and Children's Health, School of Public Health, University of California, Berkeley, US. 26 July 2016 Accessed 23 July 2019

⁸ Landrigan PJ, Claudio L, Markowitz SB, Berkowitz GS, Brenner BL, Romero H, Wetmur JG, Matte TD, Gore AC, Godbold JH, Wolff MS. Pesticides and inner-city children: exposures, risks, and prevention. *Environmental Health Perspectives* 1999;107(Supplement 3):431-437.

⁹ U.S. Department of Health and Human Services. Office for Human Research Protections. "Coded Private Information or Specimens Use in Research, Guidance". 16 October 2008

¹⁰ https://scholar.google.com/scholar?start=20&q=chlorpyrifos+health+risk&hl=en&as_sdt=0,9&as_ylo=2018

¹¹ US EPA - Pre-Publication Copy of Chlorpyrifos; Final Order Denying Objections to March 2017 Petition Denial Order. 18, July 2019 P.15

¹² Federal Registrar. "Chlorpyrifos; Tolerance Revocations". Environmental Protection Agency (EPA). 06 November 2015. Accessed 25 July 2019

chlorpyrifos to cause neurodevelopmental effects in children.¹³ You claim due to the “highly complex scientific issues” the EPA decided to address these issues in connection with the expedited registration review of chlorpyrifos, by 2020. The EPA’s decision to not at least revoke all tolerances until a thorough review is complete threatens the health of laborers on over two million American farms and bordering townships.

For these reasons, we ask that you please respond to the following inquiries within 30 days of receipt of this letter:

- 1) How does the EPA’s decision to allow for the continued use of chlorpyrifos, while not possessing adequate evidence that exposure to the pesticide poses no threat to human health, align with the EPA’s mission to protect public health and the environment?
- 2) What new evidence does EPA have that contradicts the agency’s 2015 findings that use of this chemical is a danger to public health?
- 3) What are the “complexities” associated in the review for chlorpyrifos, and are they not indicators of the dangers of the pesticide? Given the strong evidence of harm, why is the agency unwilling to put a hold on chlorpyrifos use while the review is conducted?

Also, pursuant to section 408(b)(2)(C) of the Federal Food, Drug, and Cosmetic Act, the EPA must assess the risk of the pesticide based on available information concerning the special susceptibility of infants and children to the pesticide chemical residues; including neurological differences between infants and children and adults, and effects of in utero exposure to pesticide chemicals; and available information concerning the cumulative effects on infants and children of such residues and other substances that have a common mechanism of toxicity. In 2016, the EPA released a revised human health risk assessment for registration review on chlorpyrifos. We distinguish a clear conflict of interest with the revised assessment considering to measure the risks, the EPA used a model developed by Dr. Richard A. Corley; former Dow AgroSciences scientist, also known as Corteva, the manufacturer of chlorpyrifos.¹⁴ The EPA made it clear the agency will continue to evaluate these risks as part of the ongoing registration review by the statutory deadline of October 1, 2022.

- 4) During the current chlorpyrifos registration review, what are the EPA’s plans to review data demonstrating long-lasting effects from early life exposure to chlorpyrifos in children?
 - a. On this issue, do you again plan to rely on data and health risk assessments conducted by Corteva?
- 5) How will the EPA guarantee no selection bias when evaluating quantitative studies and clinical reports to assess the potential adverse effects of prenatal exposure to chlorpyrifos and data demonstrating that there is a safe level of exposure during pre-birth and early life stages?

¹³ Federal Register: Rules and Regulations. Vol. 84, No. 142. 24 July 2019. p. 35556

¹⁴ Timchalk, Charles A et al. “A Physiologically based pharmacokinetic and pharmacodynamic (PBPK/PD) model for the organophosphate insecticide chlorpyrifos in rats and humans.” *Toxicological sciences: an official journal of the Society of Toxicology* 66 1 (2002): p.51

The continued use of chlorpyrifos on American agricultural crops threatens the health of farmers and farmworkers who handle high doses of the nerve agent, and involuntarily exposes Americans by means of farm-to-home contamination in the form of pesticide drift, water contamination and residue on many fruits, vegetables, and even Christmas trees. Additionally, farms that routinely spray chlorpyrifos over their fields endanger the livelihood of neighboring communities who have reported symptoms such as throat burns, headaches, and dizziness.¹⁵


We are particularly concerned about the disproportionate effect chlorpyrifos has on rural Hispanic communities. Over sixty percent of farm laborers in the United States are Hispanic and consequently more likely to be exposed to chlorpyrifos.¹⁶ As a result, Latino children incur disproportionate exposures to pesticides contributing to health disparities and increasing childhood asthma, cancer, and developmental disabilities.¹⁷ The California Department of Health found that Latino children were 91 percent more likely to attend schools within a quarter mile of fields with the heaviest use of chlorpyrifos and other dangerous chemicals.¹⁸ This is unacceptable as clean air, clean water, and nontoxic living conditions are basic civil rights.

It is critical that the EPA assert its authority on behalf of all Americans and encourage farm owners to reduce reliance on harmful pesticides by adopting integrated or ecological pest management practices. We are calling on you to restore the EPA's effectiveness and guard America's environment as our country's independent agency responsible for defending human and environmental health. Thank you and we look forward to your prompt response.

Signed,



Nydia M. Velázquez
Member of Congress



Mike Levin
Member of Congress



Raúl M. Grijalva
Member of Congress



Adriano Espaillat
Member of Congress

¹⁵ Beyond Pesticides. "Re: U.S. EPA PR Notice 2001-X, Spray and Dust Drift Label Statements for Pesticide Products, Docket control number OPP- 00730A." 27 March 2002. Accessed 25 July 2019.

¹⁶ United States Department of Agriculture, <https://www.ers.usda.gov/topics/farm-economy/farm-labor/>

¹⁷ Carter-Pokras, Olivia et al. "The environmental health of Latino children." Journal of pediatric health care : official publication of National Association of Pediatric Nurse Associates & Practitioners vol. 21,5 (2007): 307-14. doi:10.1016/j.pedhc.2006.12.005

¹⁸ California Department of Public Health and the Public Health Institute; California Environmental Health Tracking Program. "Agricultural Pesticide Use Near Public Schools in California." April 2014. p. vii



Sean Casten
Member of Congress



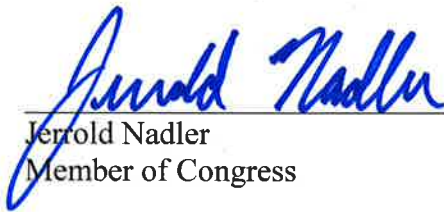
Barbara Lee
Member of Congress



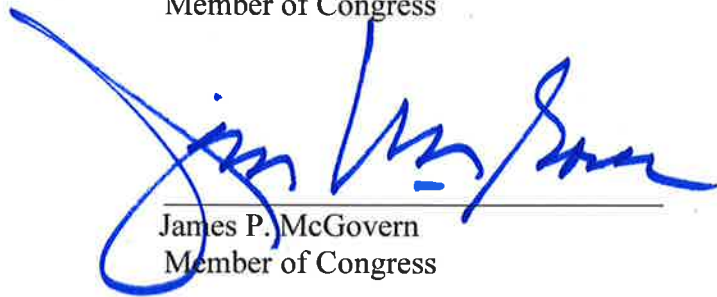
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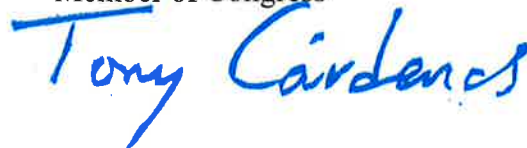
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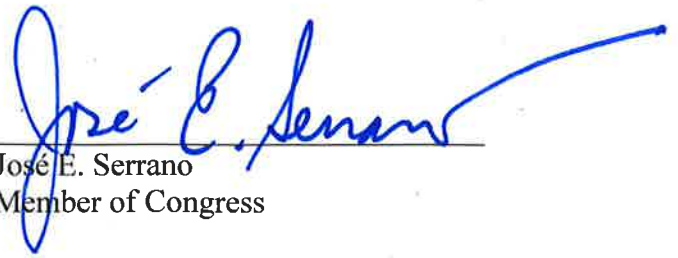
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