IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RURAL & MIGRANT MINISTRY, ALIANZA NACIONAL DE CAMPESINAS, EL COMITE DE APOYO A LOS TRABAJADORES AGRÍCOLAS, PINEROS Y CAMPESINOS UNIDOS DEL NOROESTE, WORKER JUSTICE CENTER OF NEW YORK, Plaintiffs, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and SCOTT PRUITT, in his official capacity as Administrator of the United States Environmental Protection Agency, Defendants.	Civil Action No. **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This lawsuit challenges the failure of the Environmental Protection Agency ("EPA") to issue a notice of availability for available documents that would trigger heightened regulatory protection for farmworkers and agricultural pesticide handlers. The protection at issue is mandatory updated training to reduce pesticide poisoning and injury pursuant to the Agricultural Worker Protection Standard ("WPS").

2. EPA promulgated and implements the WPS, which is a set of regulations intended to reduce the risk of illness or injury to farmworkers, pesticide handlers, and their families as a result of occupational exposures to pesticides used on farms, nurseries, greenhouses, and forests. *See* 40 C.F.R. pt. 170.

3. Farmworkers and agricultural pesticide handlers in the United States face significant burdens and social and economic disadvantages. A majority are foreign-born, speak Spanish as a native language, have limited English skills, have received minimal formal education, are migrants who travel to find employment, and lack access to healthcare. As EPA has recognized, "[t]he low literacy rates, range of non-English languages spoken by workers and handlers, economic situation, geographic isolation, difficulty accessing health care, and immigration status of workers and handlers pose challenges for communicating risk management information and ensuring that these groups are adequately protected." Pesticides; Agricultural Worker Protection Standard Revisions, 79 Fed. Reg. 15,444, 15,457 (proposed Mar. 19, 2014) (to be codified at 40 C.F.R. pt. 170); *see also* Pesticides; Agricultural Worker Protection Standard Revisions, 80 Fed. Reg. 67,496, 67,502 (Nov. 2, 2015) (codified at 40 C.F.R. pt. 170).

4. In 2015 revisions to the WPS, EPA acknowledged the importance of training in protecting these workers and handlers, as well as their families, from avoidable pesticide exposure as a result of their employment. The WPS, as revised in 2015, therefore specified expanded and improved content for pesticide training. EPA committed to develop and make the updated training materials available as soon as possible.

5. The WPS specifies that the updated content will become a mandatory part of training for farmworkers and pesticide handlers 180 days after EPA's notice of availability in the Federal Register of the updated training materials. 40 C.F.R. §§ 170.401(c)(3), 170.501(c)(3).

6. EPA acknowledges that the updated training materials are now available, but it is refusing to issue a notice in the Federal Register announcing their availability precisely because doing so would make the training mandatory. EPA's unlawful failure to issue the notice, despite its acknowledgement that these materials are available, prevents the new training content from

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becoming a mandatory part of training, to the detriment of Plaintiffs, their members, and other farmworkers and pesticide handlers across the country.

7. Plaintiffs seek a declaratory judgment and an order enjoining EPA to publish immediately a notice of availability of the updated training material.

JURISDICTION AND VENUE

8. This action arises under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (action arising under the laws of the United States) and 5 U.S.C. § 702 (judicial review of agency actions).

9. This Court has the authority to grant the requested declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-2202, and 5 U.S.C. §§ 702 and 706.

10. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(e), because this civil action is brought against an agency of the United States, Plaintiff Rural & Migrant Ministry has its principal place of business in Poughkeepsie, New York, and no real property is involved in the action.

PARTIES

11. Plaintiff Rural & Migrant Ministry ("RMM") is a statewide, non-profit organization founded in 1981 that advocates for, and works closely with, rural and migrant communities throughout New York. RMM works with rural leaders towards the creation of a just, rural New York State through nurturing leadership; standing with the disenfranchised, especially farmworkers and rural workers; and changing unjust systems and structures. RMM implements its mission through three programs: an accompaniment program, in which RMM accompanies and supports rural workers—most often, farmworkers—who seek to improve working and living conditions; an education program to strengthen rural leaders; and a youth empowerment program committed to empowering rural children to create opportunities for

themselves while at the same time learning how to change their world. RMM's mission to advance a just and rural New York State in which farmworkers operate in safe working and living conditions cannot be achieved or fulfilled so long as the WPS, including its training requirements, are not fully implemented. As a result, RMM is engaging in education programs for farmworkers and pesticide handlers to cover topics inadequately addressed or not addressed at all under the outdated training currently required under the WPS as a result of EPA's failure to publish a notice of availability.

12. Plaintiff Alianza Nacional de Campesinas ("Alianza"), founded in 2011, is a national non-profit farmworker organization committed to securing social, environmental, and economic justice; violence prevention; equality; and healthier workplaces, homes, and communities for farmworker women and their families. Alianza's organizational members include Asociación Campesina de Florida, Campesinos Sin Fronteras, Workers' Center of Central New York, Rural Coalition, Centro de Los Derechos del Migrante, Inc., and Labor Council for Latin American Advancement. Because healthy workplaces and homes cannot be achieved without, at least, full implementation of the WPS, including its training requirements, Alianza is actively expending its resources on providing training, information, and materials to its membership organizations and their respective members concerning how to avoid pesticide exposure, both in the course of agricultural work and from take-home pesticide residues.

13. Plaintiff El Comite de Apoyo a Los Trabajadores Agrícolas (The Farmworkers Support Committee or "CATA") is a non-profit migrant farmworker organization founded in southern New Jersey in 1979 to empower and educate farmworkers. CATA, which is comprised of farmworker members who are actively engaged in the struggle for better working and living conditions, is dedicated to empowering and educating farmworkers through leadership development and capacity building. CATA operates in Southern New Jersey, parts of

Pennsylvania, and the Delmarva Peninsula in Maryland. Its members include farmworkers and pesticide handlers who are not receiving training on the updated content in the 2015 revision to the WPS, and as a result are at greater risk of being harmed by occupational pesticide exposure and at greater risk of exposing their families to take-home pesticide residue.

14. Plaintiff Pineros y Campesinos Unidos del Noroeste (Northwest Treeplanters and Farmworkers United or "PCUN"), founded in 1985, is Oregon's only farmworker union and the largest Latino organization in the state. Based in Woodburn, Oregon—the center of Oregon's agricultural industry—PCUN's mission is to empower farmworkers to recognize and take action against systematic exploitation and all of its effects. Since its founding, PCUN has registered over 6,000 members, 98 percent of whom are immigrants from Mexico and Central America. Approximately one-third of PCUN's members come from indigenous communities in Mexico and speak indigenous languages, but little to no English or Spanish. Some PCUN members mix and apply pesticides to crops, often without receiving adequate training. Many more risk exposure to pesticides while pruning, thinning, and harvesting crops, such as apples, pears, strawberries, cherries, blueberries, squash, broccoli, and cauliflower, and may not be receiving the expanded training set forth under the updated WPS that would enable them to protect themselves and their families from pesticide exposure.

15. Plaintiff Worker Justice Center of New York ("Worker Justice Center") is a non-profit statewide advocacy organization that pursues justice for those denied human rights, with a focus on agricultural and other low-wage workers. Worker Justice Center is the merger of Farmworker Legal Service of New York and the Workers' Rights Law Center. Its programs include a Pesticide Education Project that provides outreach and education on pesticide issues to farmworkers and to agencies that work with farmworkers. The Education Project focuses on issues of occupational chemical exposure and the standards that protect workers in the

workplace. Worker Justice Center also operates a Workplace Health and Safety Project that educates workers and employers in industries with high injury and fatality rates; low literacy; young, limited English proficiency and otherwise vulnerable workers; and small business employers. It funds long-term programs that build safety and health competency within organizations. The goals of the project include assessing the training needs of farmworkers; providing comprehensive training to farmworkers; and creating the training curriculum and delivery methods that will be used as a model to further develop and expand within the region. Worker Justice Center is expending its resources to educate farmworkers and pesticide handlers on material and content that are part of the updated training set forth in the WPS but not yet required as a result of EPA's failure to publish a notice of availability.

16. In short, Plaintiffs are a) organizations that are actively educating farmworkers on pesticide exposure in the absence of any mandatory federal requirements to provide effective training, or b) organizations with members who are farmworkers and pesticides handlers entitled to the protections that EPA determined to be necessary to avoid unreasonable adverse effects to workers from pesticides when it amended the WPS in 2015. Implementation of the WPS's updated training requirements will ensure that those Plaintiffs who are expending resources on education and training on pesticide exposure to compensate for the lack of mandatory updated training can direct these resources to the myriad other immediate issues and concerns relevant to farmworker populations. Implementation of the updated training requirements also will ensure that Plaintiffs' members who are farmworkers and pesticide handlers will be informed and educated about their rights to a safe workplace, including the WPS's anti-retaliation provisions; how best to minimize their own and their families' exposure to agricultural pesticides; and how to mitigate harm from any pesticide exposure.

17. In the absence of a court order requiring EPA to publish a notice of availability of the updated training materials incorporating the content set forth in the 2015 revisions to the WPS, agricultural employers will continue to have no obligation to provide the expanded training content specified in the WPS. As a result, Plaintiffs' members and the communities they work tirelessly to support can and will continue to be trained by their employers using decades-old training content that is well-established as inadequate to protect farmworkers, handlers, and their families from avoidable incidents of pesticide exposure. EPA's unlawful failure to publish the notice of availability harms the environmental and health interests of Plaintiffs and their members because it denies them the benefits and protections that the WPS training requirements would bring. Plaintiffs' injuries will be redressed by the requested relief, which would ensure that the updated WPS training become mandatory for all farmworkers and handlers, and would provide Plaintiffs and their members with recourse if employers do not provide the expanded training.

18. Defendant EPA is an agency of the United States government. EPA promulgated the WPS and is responsible for overseeing its timely implementation. EPA's failure to publish a notice of availability for the updated WPS training materials is challenged here.

19. Defendant Scott Pruitt, Administrator of the EPA, has oversight authority for all actions taken by EPA and is responsible for ensuring the agency's compliance with the law. Defendant Pruitt is sued in his official capacity.

LEGAL BACKGROUND

I. FIFRA AND THE WORKER PROTECTION STANDARD REGULATIONS

20. EPA is required by, and authorized under, the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") to ensure that workers are protected from pesticides so that the use of pesticides does not cause "any unreasonable risk to man or the environment, taking into

account the economic, social, and environmental costs and benefits of the use of any pesticide." *See* 7 U.S.C. §§ 136w(a), 136(bb), 136a. Pursuant to this authority, EPA has implemented measures to protect workers, handlers, and others from pesticide exposure in two primary ways: (1) through specific use instructions and restrictions on pesticide product labeling and (2) through the WPS, 40 C.F.R. pt. 170. *See* 80 Fed. Reg. at 67,500.

21. The WPS, originally promulgated in 1974 and substantively revised in 1992, is a uniform set of requirements for farmworkers, pesticide handlers, and their employers, which provides a comprehensive collection of pesticide management practices that apply generally to agricultural pesticide use in crop production and complements the product-specific requirements on individual pesticide product labels. *Id.* In EPA's own words, "[t]he WPS plays an important role in reducing the risk of pesticide illness and injury among agricultural workers and pesticide handlers" because it "offers occupational protections to over 2 million agricultural workers . . . and pesticide handlers . . . who work at over 600,000 agricultural establishments (farms, forests, nurseries and greenhouses)." EPA Office of Inspector General, EPA Needs to Evaluate the Impact of the Revised Agricultural Worker Protection Standard on Pesticide Exposure Incidents, Report No. 18-P-0080 at 13 (Feb. 15, 2018), https://www.epa.gov/sites/production/files/2018-02/documents/_epaoig_20180215-18-p-0080.pdf.

22. The rule—with its three key components of information, protection, and mitigation—is "designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests and also from the accidental exposure of workers and other persons to such pesticides." 40 C.F.R. § 170.1. A central element of the "information" component of the WPS is the requirement for employers to provide workers and handlers with

the information they need to protect themselves, others, and the environment from pesticides and pesticide residues through effective pesticide training. *See* 80 Fed. Reg. at 67,501.

23. "Workers" protected by the WPS are individuals who are employed to "perform[] activities relating to the production of agricultural plants on an agricultural establishment . . . ." 40 C.F.R. § 170.3. "Handlers" are individuals employed by an agricultural establishment or commercial pesticide handling establishment who, among other things, mix, load, or apply pesticides; dispose of pesticides; or handle opened containers of pesticides. *Id.*

24. Under the WPS as revised in 2015, employers are required to provide annual training to workers and handlers that must include certain specified content. *See id.* § 170.401(c)(2)(i)-(xi); *id.* § 170.501(c)(2)(i)-(xiii). The 2015 rulemaking revised the WPS to expand, update, and improve the training content, which had previously dated back to 1992. *See* 80 Fed. Reg. at 67,501.

25. The WPS specifies that the agency "intends to make available to the public" the training materials that include the updated content required by the 2015 revision. 40 C.F.R. § 170.401(c)(3); *id.* § 170.501(c)(3). The WPS also mandates that "[w]ithin 180 days after a notice of availability of such training materials appears in the Federal Register, . . . training programs required under this section must include, at a minimum," the new content set forth in the 2015 regulations. 40 C.F.R. § 170.401(c)(3); *id.* § 170.501(c)(3).

II. ADMINISTRATIVE PROCEDURE ACT

26. The APA, as amended by the Freedom of Information Act, mandates that "[e]ach agency shall separately state and currently publish in the Federal Register for the guidance of the public . . . descriptions of forms available or the places at which forms may be obtained." 5 U.S.C. § 552(a)(1)(C).

27. The APA also provides for judicial review of agency action, 5 U.S.C. § 702, and authorizes the reviewing court to "compel agency action unlawfully withheld" and to "hold unlawful and set aside agency action . . . found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *Id.* § 706.

III. FEDERAL REGISTER ACT

28. The Federal Register Act mandates that "[t]here shall be published in the Federal Register . . . documents or classes of documents that may be required so to be published by Act of Congress." 44 U.S.C. § 1505(a)(3).

29. The Act requires that "a document required or authorized to be published by section 1505 of this title shall be filed with the Office of the Federal Register." *Id.* § 1503. The Office is then required to "transmit immediately to the Government Publishing Office for printing, as provided by this chapter, one duplicate original or certified copy of each document required or authorized to be published by section 1505 of this title." *Id.*

FACTUAL BACKGROUND

I. PESTICIDE EXPOSURE AMONG AGRICULTURAL WORKERS AND THEIR FAMILIES

30. The approximately 2.1 million farmworkers who are employed annually on crop farms in this country are laboring in an industry known to be among the most hazardous. *See* National Institute of Occupational Safety and Health (NIOSH), Agricultural Safety, https://www.cdc.gov/niosh/topics/aginjury/default.html.

31. EPA estimates that approximately 1,800 to 3,000 acute pesticide exposure incidents occur each year on agricultural establishments covered by the WPS. 80 Fed. Reg. at 67,502. These figures, although they account for underreporting, necessarily are estimates, given

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that studies suggest that underreporting of pesticide exposure by farmworkers and handlers ranges from 20 to 90 percent. 79 Fed. Reg. at 15,449.

32. Moreover, these figures do not include the more difficult to quantify chronic pesticide exposure that a sizeable portion of the agricultural workforce may be subjected to, which poses significant short and long-term health risks. *See id.* at 67,498-99. Peer-reviewed scientific literature demonstrates well-documented associations between pesticide exposure and certain cancer and non-cancer chronic health effects. *Id.* at 15,450.

33. In addition to presenting a high risk for fatal and nonfatal injuries for the workers themselves, farming is one of the few industries in which family members of workers are also at risk for injuries. NIOSH, Agricultural Safety, https://www.cdc.gov/niosh/topics/aginjury/default.html. Health incident surveillance data and studies show that workers and handlers bring home pesticide residues on their bodies and clothing and thereby expose family members, including children, to pesticides. 80 Fed. Reg. at 67,502.

34. The high risks associated with labor in the agricultural sector—for workers and their families—is particularly troubling in light of the vulnerable and disadvantaged populations that largely occupy this sector. According to the Department of Labor, 70 percent of agricultural workers in the United States were born in Mexico, and Central and South America. *Id.* Approximately 65% of these workers speak little or no English, and many have received minimal formal education. *Id.* A vast majority of agricultural workers do not have access to employer-provided health-insurance, and most workers fear seeking medical treatment as they fear being replaced or fired for being "troublemakers." *Id.* A majority of workers reported a total family income below $22,500, *id.*, and many do not have permanent housing and generally

live close to the agricultural areas where they work and where pesticides are applied. 79 Fed. Reg. at 15,457.

II. THE 2015 REVISIONS TO THE WORKER PROTECTION STANDARD

35. In 2014, EPA issued a proposed rule to revise the WPS in light of data showing that the existing 1992 rule was inadequate. 79 Fed. Reg. at 15,450. There was "strong evidence that workers and handlers may be exposed to pesticides at levels that can cause adverse effects and that both the exposures and the risks can be substantially reduced" through more protective regulations. *Id.* at 15,446. In particular, EPA's review of occupational pesticide exposure in agriculture indicated "that many incidents might have been avoided if workers and handlers had better training." *Id.* at 15,449.

36. After receiving thousands of public comments, EPA issued a final rule updating and revising the WPS in 2015. The new rule strengthened elements of the then-existing regulation, including setting a minimum age of 18 years old for handlers and workers performing certain tasks and improving pesticide safety and hazard communication. EPA intended its revision of the WPS to "reduce avoidable incidents by improving information, protections, and mitigations for workers and handlers without imposing unreasonable burdens on employers." 80 Fed. Reg. at 67,502.

37. One important element of the final rule's improvement on the 1992 rule was the expansion of training content for workers and handlers. *See id.* at 67,555.

38. The updated training content for workers finalized in the 2015 rule includes the following topics not included in the training for workers under the 1992 rule:

- "The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes ensuring workers and handlers have been

trained on pesticide safety, providing pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance, and notifying workers of restrictions during applications and on entering pesticide treated areas. A worker or handler may designate in writing a representative to request access to pesticide application and hazard information." 40 C.F.R. § 170.401(c)(3)(i).

- "How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide-treated areas on the establishment." *Id.* § 170.401(c)(3)(ii).
- "How to follow directions and/or signs about keeping out of pesticide-treated areas subject to a restricted-entry interval and application exclusion zones." *Id.* § 170.401(c)(3)(iii).
- "[I]f pesticides are spilled or sprayed on the body, to use decontamination supplies to wash immediately or rinse off in the nearest clean water . . . and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes." *Id.* § 170.401(c)(3)(ix).
- "When working in pesticide-treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet." *Id.* § 170.401(c)(3)(xi).
- "Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas." *Id.* § 170.401(c)(3)(xii).

- "Wash work clothes before wearing them again and wash them separately from other clothes." *Id.* § 170.401(c)(3)(xiv).
- "Safety data sheets provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. The responsibility of agricultural employers to do all of the following:

  (A) Display safety data sheets for all pesticides used on the establishment.

  (B) Provide workers and handlers information about the location of the safety data sheets on the establishment.

  (C) Provide workers and handlers unimpeded access to safety data sheets during normal work hours." *Id.* § 170.401(c)(3)(xvi).
- "The rule prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler." *Id.* § 170.401(c)(3)(xvii).
- "The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers must be 18 years old to perform early-entry activities." *Id.* § 170.401(c)(3)(xviii).
- "Potential hazards to children and pregnant women from pesticide exposure." *Id.* § 170.401(c)(3)(xix).
- "Keep children and nonworking family members away from pesticide treated areas." *Id.* § 170.401(c)(3)(xx).

- "After working in pesticide-treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members." *Id.* § 170.401(c)(3)(xxi).
- "How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement." *Id.* § 170.401(c)(3)(xxii).
- "The rule prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this rule, or because the worker or handler provided, caused to be provided or is about to provide information to the employer or the EPA or its agents regarding conduct that the employee reasonably believes violates this part, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this rule." *Id.* § 170.401(c)(3)(xxiii).

39. For handlers, the updated training content includes all the topics covered for workers. In addition, the updated training content for handlers includes the following additional topics that are not covered in the 1992 rule:

- "Information on proper application and use of pesticides." *Id.* § 170.501(c)(3)(ii).
- "Handlers must follow the portions of the labeling applicable to the safe use of the pesticide." *Id.* § 170.501(c)(3)(iii).
- "Handlers must not apply pesticides in a manner that results in contact with workers or other persons." *Id.* § 170.501(c)(3)(ix).
- "Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone." *Id.* § 170.501(c)(3)(xi).

- "Handlers must be at least 18 years old." *Id.* § 170.501(c)(3)(xii).
- "The responsibility of handler employers to ensure handlers have received respirator fit-testing, training and medical evaluation if they are required to wear a respirator by the product labeling." *Id.* § 170.501(c)(3)(xiii).
- "The responsibility of agricultural employers to post treated areas as required by this rule." *Id.* § 170.501(c)(3)(xiv).

40. EPA concluded in the 2015 rulemaking that "[t]he expansion of information provided in the training will enable workers and handlers to better protect themselves and their families, by increasing their knowledge of how to reduce take-home residues from treated areas." 80 Fed. Reg. at 67,509.

41. Employers are required to ensure that farmworkers and handlers receive training that meets the requirements of the WPS. 40 C.F.R. §§ 170.401(a), 170.501(a). Employers who fail to perform their duties under the WPS are subject to civil penalties, and if the violation is knowing, to criminal sanctions. *Id.* § 170.9(b).

42. The changes to the 1992 requirements as a whole were expected to result in "an overall reduction in incidents of unsafe pesticide exposure and to improve the occupational health of the nation's agricultural workers and pesticide handlers." 80 Fed. Reg. at 67,498. EPA concluded that "the rule would improve the health of agricultural workers and handlers by, among other things, increasing the frequency of training [and] enhancing training content to include ways to minimize pesticide exposure to children and in the home . . . ." *Id.* at 67,556.

43. EPA estimated the benefits of the 2015 regulation to exceed $64 million per year "in terms of avoided costs associated with occupational pesticide incidents and with reductions in chronic diseases associated with occupational pesticide exposure." *Id.* at 67,498.

44. EPA found that the "[t]he unquantified benefit to adolescent workers and handlers, as well as to children of workers and handlers" of this improved training, along with other requirements in the WPS, "is great." *Id.* at 67,499. The agency anticipated that the final rule would "prevent unreasonable adverse effects from exposure to pesticides among agricultural workers and pesticide handlers, vulnerable groups (such as minority and low-income populations, child farmworkers, and farmworker families) and other persons who may be on or near agricultural establishments . . . ." *Id.* at 67,496.

45. In determining the timing for implementation of the new training requirements, EPA wanted to "allow time for new training materials to be developed and made available, and to give employers, trainers, and other affected stakeholders time to make the necessary changes." *Id.* at 67,553. The agency therefore provided that the expanded training content would not be required as a part of training before January 1, 2018, or approximately two years after the rule was finalized. *See* 40 C.F.R. § 170.401(c)(3); *id.* § 170.501(c)(3).

46. EPA also "linked the implementation date for the revised pesticide safety training requirements for workers and handlers to the availability of new revised training materials that satisfy the new rule requirements" so that the new training content would become a mandatory part of training "[w]ithin 180 days after a notice of availability of such training materials appears in the Federal Register." 80 Fed. Reg. at 67,553; 40 C.F.R. § 170.401(c)(3); *id.* § 17.501(c)(3).

47. EPA acknowledged "that it is important for workers and handlers to have the new safety training information as soon as possible," and therefore expressed its intent "to have new training materials developed and disseminated as soon as practical." 80 Fed. Reg. at 67,553.

III. THE DECEMBER 2017 FEDERAL REGISTER NOTICE

48. On December 21, 2017, two years after it issued the final rule revising the WPS, EPA published a notice in the Federal Register indicating that it "expects to publish a Notice of

Proposed Rulemaking in FY 2018 to solicit public input on proposed revisions to the WPS requirements for minimum age, designated representative, and application exclusion zone"—three provisions that the 2015 rule had incorporated into the WPS. Pesticides; Agricultural Worker Protection Standard; Reconsideration of Several Requirements and Notice About Compliance Dates, 82 Fed. Reg. 60,576, 60,576 (Dec. 21, 2017).

49. In the notice, EPA acknowledged that the three provisions it intended to reopen for revision were already in effect and that "[t]he only requirements in the revised WPS that will not be in effect as of January 1, 2018 are the requirements that the worker and handler pesticide safety training material cover the expanded content at 40 CFR 170.401(c)(3) and 170.501(c)(3)." *Id.* at 60,577.

50. EPA noted that "[w]hile there are training materials available that meet the expanded content requirement, EPA has not yet published a Federal Register notice announcing their availability and does not plan to issue such a notice until the rulemaking process on the minimum age, designated representative and application exclusion zone requirements is complete." *Id.* The updated training materials that include the expanded content set forth in the 2015 regulation are posted on the website of the Pesticide Educational Resources Collaborative ("PERC") at http://pesticideresources.org/wps/inventory.html. PERC is a collaborative of the University of California Davis Extension and Oregon State University, funded by EPA to produce pesticide educational materials.

51. As a result of EPA's failure to publish the notice of availability of these admittedly available materials, "pesticide safety training for workers and handlers may continue to be conducted using EPA-approved 'old' materials (covering the topics in the August 21, 1992 WPS . . .)." *Id.*

FIRST CAUSE OF ACTION

52. Plaintiffs hereby reallege and incorporate each and every allegation in paragraphs 1 through 51.

53. In finalizing the 2015 revisions to the WPS, EPA noted the importance of providing updated safety training information "as soon as possible" to prevent avoidable incidents of pesticide exposure and harm to workers, handlers, and their families. 80 Fed. Reg. at 67,553.

54. The agency has since developed the updated safety training materials, and these materials are publicly available. But EPA now refuses to publish a notice of their availability in the Federal Register, thereby avoiding the regulatory trigger that would ensure workers and handlers are trained with this new and updated information and therefore fully protected under the WPS. *See* 40 C.F.R. §§ 170.401(c)(3), 170.501(c)(3).

55. EPA's failure to publish in the Federal Register a notice that these documents are available despite the fact that they are available is arbitrary, capricious, an abuse of discretion, and not in accordance with law. 5 U.S.C. § 706(2)(A).

SECOND CAUSE OF ACTION

56. Plaintiffs hereby reallege and incorporate each and every allegation in paragraphs 1 through 51.

57. The WPS provides that the expanded and improved training content set forth in the 2015 revision will become mandatory within 180 days after EPA's publication of a notice of availability of such training materials. 40 C.F.R. §§ 170.401(c)(3), 170.501(c)(3).

58. Despite EPA's acknowledgement that the new training materials are available, the agency is refusing to publish a notice of availability of these documents in the Federal Register. 82 Fed. Reg. at 60,577.

59. As a result of EPA's refusal to publish the notice of availability, the updated training requirements set forth in the WPS are not in effect. That means that training content that EPA itself deemed crucial for the safety of farmworkers, handlers, and their families is not being uniformly provided to workers, and workers have no recourse under the WPS. *See* 40 C.F.R. § 170.9.

60. EPA's failure to publish a notice of availability of the new training materials in the Federal Register constitutes agency action unlawfully withheld and unreasonably delayed. 5 U.S.C. § 706(1).

THIRD CAUSE OF ACTION

61. Plaintiffs hereby reallege and incorporate each and every allegation in paragraphs 1 through 51.

62. The APA requires that "[e]ach agency shall separately state and currently publish in the Federal Register for the guidance of the public . . . descriptions of forms available or the places at which forms may be obtained." 5 U.S.C. § 552(a)(1)(C).

63. EPA has developed standardized training materials for workers and handlers that meet the expanded content requirement of its own regulations. *See* 82 Fed. Reg. at 60,577. These forms are publicly available.

64. EPA's failure to publish in the Federal Register a description of these available materials or the places at which they may be obtained violates the APA, 5 U.S.C. § 552(a)(1)(C), and constitutes an agency action unlawfully withheld, *id.* § 706(1).

FOURTH CAUSE OF ACTION

65. Plaintiffs hereby reallege and incorporate each and every allegation in paragraphs 1 through 51.

66. The Federal Register Act provides that documents "shall be filed with the Office of the Federal Register," 44 U.S.C. § 1503, if an Act of Congress requires that they be published in the Federal Register, *id.* § 1505(a).

67. The APA is an Act of Congress requiring that "descriptions of forms available or the places at which forms may be obtained" be published in the Federal Register. 5 U.S.C. § 552(a)(1)(C).

68. EPA has developed training materials containing the updated content required by the 2015 revisions to the WPS, and these forms are publicly available.

69. EPA's failure to publish in the Federal Register a notice that these forms are available violates the Federal Register Act, 44 U.S.C. §§ 1503 and 1505, and constitutes an agency action unlawfully withheld, 5 U.S.C. § 706(1).

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that Defendants are in violation of the APA and the Federal Register Act, as described above;

2. Enjoin Defendants to ensure immediate publication of a notice of availability of the updated WPS training materials in the Federal Register;

3. Award Plaintiffs their reasonable fees, costs, and expenses, including attorneys' fees, associated with this litigation; and

4. Grant Plaintiffs such further and additional relief as the Court deems just and proper.

Respectfully submitted this 30th day of May, 2018,

/s/ Hannah Chang
Hannah Chang
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Washington, DC 20036
vruiz@farmworkerjustice.org

Counsel for Plaintiffs

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
Rural & Migrant Ministry, Alianza Nacional De Campesinas, El Comíte De Apoyo A Los Trabajadores Agrícolas, Pineros Y Campesinos Unidos Del Noroeste, Worker Justice Center of New York

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER
Earthjustice, 48 Wall Street, 19th Floor, New York, NY 10005, (212) 845-7376; Farmworker Justice, 1126 16th Street, NW, Suite LL-101, Washington, DC 20036, (202) 293-5420.

DEFENDANTS
United States Environmental Protection Agency and Scott Pruitt, in his official capacity as Administrator of the United States Environmental Protection Agency

ATTORNEYS (IF KNOWN)
Hannah Chang; Eve Gartner; Catherine Kaiman; Virginia Ruiz

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This action arises under the Administrative Procedure Act, 5 U.S.C. §§ 701-706, and the Federal Register Act, 44 U.S.C. §§ 1503, & 1505.

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No [✓] Yes [ ] Judge Previously Assigned

If yes, was this case Vol. [ ] Invol. [ ] Dismissed. No [ ] Yes [ ] If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE? No [x] Yes [ ]

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

CONTRACT

[ ] 110 INSURANCE
[ ] 120 MARINE
[ ] 130 MILLER ACT
[ ] 140 NEGOTIABLE INSTRUMENT
[ ] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
[ ] 151 MEDICARE ACT
[ ] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
[ ] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
[ ] 160 STOCKHOLDERS SUITS
[ ] 190 OTHER CONTRACT
[ ] 195 CONTRACT PRODUCT LIABILITY
[ ] 196 FRANCHISE

REAL PROPERTY

[ ] 210 LAND CONDEMNATION
[ ] 220 FORECLOSURE
[ ] 230 RENT LEASE & EJECTMENT
[ ] 240 TORTS TO LAND
[ ] 245 TORT PRODUCT LIABILITY
[ ] 290 ALL OTHER REAL PROPERTY

TORTS

PERSONAL INJURY

[ ] 310 AIRPLANE
[ ] 315 AIRPLANE PRODUCT LIABILITY
[ ] 320 ASSAULT, LIBEL & SLANDER
[ ] 330 FEDERAL EMPLOYERS' LIABILITY
[ ] 340 MARINE
[ ] 345 MARINE PRODUCT LIABILITY
[ ] 350 MOTOR VEHICLE
[ ] 355 MOTOR VEHICLE PRODUCT LIABILITY
[ ] 360 OTHER PERSONAL INJURY
[ ] 362 PERSONAL INJURY - MED MALPRACTICE

ACTIONS UNDER STATUTES

CIVIL RIGHTS

[ ] 440 OTHER CIVIL RIGHTS (Non-Prisoner)
[ ] 441 VOTING
[ ] 442 EMPLOYMENT
[ ] 443 HOUSING/ ACCOMMODATIONS
[ ] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
[ ] 446 AMERICANS WITH DISABILITIES -OTHER
[ ] 448 EDUCATION

PERSONAL INJURY

[ ] 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY
[ ] 365 PERSONAL INJURY PRODUCT LIABILITY
[ ] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY

[ ] 370 OTHER FRAUD
[ ] 371 TRUTH IN LENDING
[ ] 380 OTHER PERSONAL PROPERTY DAMAGE
[ ] 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

[ ] 463 ALIEN DETAINEE
[ ] 510 MOTIONS TO VACATE SENTENCE 28 USC 2255
[ ] 530 HABEAS CORPUS
[ ] 535 DEATH PENALTY
[ ] 540 MANDAMUS & OTHER

PRISONER CIVIL RIGHTS

[ ] 550 CIVIL RIGHTS
[ ] 555 PRISON CONDITION
[ ] 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

FORFEITURE/PENALTY

[ ] 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
[ ] 690 OTHER

PROPERTY RIGHTS

[ ] 820 COPYRIGHTS
[ ] 830 PATENT
[ ] 835 PATENT-ABBREVIATED NEW DRUG APPLICATION
[ ] 840 TRADEMARK

LABOR

[ ] 710 FAIR LABOR STANDARDS ACT
[ ] 720 LABOR/MGMT RELATIONS
[ ] 740 RAILWAY LABOR ACT
[ ] 751 FAMILY MEDICAL LEAVE ACT (FMLA)
[ ] 790 OTHER LABOR LITIGATION
[ ] 791 EMPL RET INC SECURITY ACT (ERISA)

IMMIGRATION

[ ] 462 NATURALIZATION APPLICATION
[ ] 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

[ ] 422 APPEAL 28 USC 158
[ ] 423 WITHDRAWAL 28 USC 157

SOCIAL SECURITY

[ ] 861 HIA (1395ff)
[ ] 862 BLACK LUNG (923)
[ ] 863 DIWC/DIWW (405(g))
[ ] 864 SSID TITLE XVI
[ ] 865 RSI (405(g))

FEDERAL TAX SUITS

[ ] 870 TAXES (U.S. Plaintiff or Defendant)
[ ] 871 IRS-THIRD PARTY 26 USC 7609

OTHER STATUTES

[ ] 375 FALSE CLAIMS
[ ] 376 QUI TAM
[ ] 400 STATE REAPPORTIONMENT
[ ] 410 ANTITRUST
[ ] 430 BANKS & BANKING
[ ] 450 COMMERCE
[ ] 460 DEPORTATION
[ ] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
[ ] 480 CONSUMER CREDIT
[ ] 490 CABLE/SATELLITE TV
[ ] 850 SECURITIES/ COMMODITIES/ EXCHANGE
[ ] 890 OTHER STATUTORY ACTIONS
[ ] 891 AGRICULTURAL ACTS
[ ] 893 ENVIRONMENTAL MATTERS
[ ] 895 FREEDOM OF INFORMATION ACT
[ ] 896 ARBITRATION
[x] 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION
[ ] 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

[ ] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13?
IF SO, STATE:

DEMAND $_____ OTHER _____ JUDGE _____ DOCKET NUMBER 1:18-cv-04739

Check YES only if demanded in complaint
JURY DEMAND: [ ] YES [ ] NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

[X] 1 Original Proceeding
[ ] 2 Removed from State Court
[ ] a. **all parties represented**
[ ] b. **At least one party is pro se.**
[ ] 3 Remanded from Appellate Court
[ ] 4 Reinstated or Reopened
[ ] 5 Transferred from (Specify District)
[ ] 6 Multidistrict Litigation (Transferred)
[ ] 7 Appeal to District Judge from Magistrate Judge
[ ] 8 Multidistrict Litigation (Direct File)

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

[ ] 1 U.S. PLAINTIFF [X] 2 U.S. DEFENDANT [ ] 3 FEDERAL QUESTION (U.S. NOT A PARTY) [ ] 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[ ] 1	[ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ] 3	[ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ] 5	[ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2	[ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4	[ ] 4	FOREIGN NATION	[ ] 6	[ ] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: [ ] WHITE PLAINS [X] MANHATTAN

DATE 05/30/2018 Eric P. Gartner
SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT
[ ] NO
[X] YES (DATE ADMITTED Mo. 06 Yr. 1990)
Attorney Bar Code # EG 1071

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

IH-32 Rev: 2014-1

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

Rural & Migrant Ministry, Alianza Nacional De Campesinas, El Comite De Apoyo A Los Trabajadores Agrícolas, Pineros Y Campesinos Unidos Del Noroeste, Worker Justice Center of New York

Plaintiff

vs.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and SCOTT PRUITT, in his official capacity as Administrator of the United States Environmental Protection Agency

Defendant

Case Number

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

STATES OF NEW YORK, CALIFORNIA, and MARYLAND

Plaintiff

vs.

E. SCOTT PRUITT, as Administrator of the United States Environmental Protection Agency, and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Defendant

Case Number

1:18-cv-04739

ED_002917_00001294-00025

IH-32 Rev: 2014-1

Status of Earlier Filed Case:

☐ Closed (If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

☑ Open (If so, set forth procedural status and summarize any court rulings.)

The earlier filed case was initiated earlier today, May 30, 2018, and is currently pending.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

The newly filed case is related to the earlier filed case because both challenge the U.S. Environmental Protection Agency's failure to publish a notice of availability that would make updated training for farmworkers and pesticide handlers mandatory under the Worker Protection Standard, 40 C.F.R. pt. 170.

Signature: Jane P. Gartner Date: 05/30/2018

Firm: Earthjustice

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Rural & Migrant Ministry, Alianza Nacional De Campesinas, El Comíte De Apoyo A Los Trabajadores Agrícolas, Pineros Y Campesinos Unidos Del Noroeste, Worker Justice Center of New York *Plaintiff(s)*	)	
v.	)	Civil Action No.
United States Environmental Protection Agency and Scott Pruitt, in his official capacity as Administrator of the United States Environmental Protection *Defendant(s)*	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
United States Environmental Protection Agency Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Hannah Chang Earthjustice 48 Wall Street, 19th Floor New York, NY 10005	Eve Garter Earthjustice 48 Wall Street, 19th Floor New York NY 10005	Catherine Kaiman Earthjustice 4500 Biscayne Blvd., Suite 201 Miami, FL 33137	Virginia Ruiz Farmworker Justice 1126 16th St., NW, Suite LL-101 Washington, DC 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Rural & Migrant Ministry, Alianza Nacional De Campesinas, El Comíte De Apoyo A Los Trabajadores Agrícolas, Pineros Y Campesinos Unidos Del Noroeste, Worker Justice Center of New York	)	
Plaintiff(s)	)	
v.	)	Civil Action No.
United States Environmental Protection Agency and Scott Pruitt, in his official capacity as Administrator of the United States Environmental Protection	)	
Defendant(s)	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Scott Pruitt, Administrator
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Hannah Chang Earthjustice 48 Wall Street, 19th Floor New York, NY 10005	Eve Garter Earthjustice 48 Wall Street, 19th Floor New York NY 10005	Catherine Kaiman Earthjustice 4500 Biscayne Blvd., Suite 201 Miami, FL 33137	Virginia Ruiz Farmworker Justice 1126 16th St., NW, Suite LL-101 Washington, DC 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rural & Migrant Ministry, Alianza Nacional De Campesinas, El Comite De Apoyo A Los Trabajadores Agrícolas, Pineros Y Campesinos Unidos Del Noroeste, Worker Justice Center of New York

-V-

United States Environmental Protection Agency and Scott Pruitt, In His Official Capacity As Administrator Of The United States Environmental Protection Agency

Defendant.

Case No. 1:18-cv-04743

Rule 7.1 Statement

Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for Rural & Migrant Ministry, Alianza Nacional De Campesinas, El Comite De Apoyo A Los Trabajadores Agrícolas, Pineros Y Campesinos Unidos Del Noroeste, Worker Justice Center of New York (a private non-governmental party) certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held.

None.

Date: 05/30/2018

Eric C. Gartman
Signature of Attorney

Attorney Bar Code: EG 1071