Message

From: Dunn, Alexandra [dunn.alexandra@epa.gov]
Sent: 4/19/2019 4:25:43 PM
To: Dunton, Cheryl [Dunton.Cheryl@epa.gov]
CC: Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]
Subject: Re: Press inquiry due today at noon: E&E on chlorpyrifos

We can state that we appreciate the Court's decision and will meet the deadline issued today.

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Assistant Administrator
Office of Chemical Safety & Pollution Prevention
U.S. Environmental Protection Agency
Washington, DC

Sent from my iPhone

On Apr 19, 2019, at 11:13 AM, Dunton, Cheryl <Dunton.Cheryl@epa.gov> wrote:

See request below. Want to use the standard no comment on pending litigation?

Morning,

I'm writing about the 9th Circuit's decision just now ordering EPA to reach a final decision responding to objections to the agency's chlorpyrifos policy within 90 days. Please let me know if EPA would like to comment.

Case Name:	LULAC, et al v. Andrew Wheeler, et al
Case Number:	17-71636
Document(s):	Document(s)

Docket Text:
Order filed for PUBLICATION (SIDNEY R. THOMAS, M. MARGARET MCKEOWN, KIM MCLANE WARDLAW, RICHARD A. PAEZ, CARLOS T. BEA, MORGAN B. CHRISTEN, JACQUELINE H. NGUYEN, PAUL J. WATFORD, JOHN B. OWENS, MICHELLE T. FRIEDLAND and MARK J. BENNETT) In its opening brief, the League of United Latin American Citizens (LULAC) requested, as alternative relief, the issuance of a Writ of Mandamus. The Environmental Protection Agency (EPA) conceded at oral argument that we may consider LULAC's request as a Petition for a Writ of Mandamus,

and it had a full opportunity to respond. In view of the circumstances presented by the petition, we exercise our discretion to construe the opening brief as a request for mandamus relief. See Pub. Utils. Comm'n v. FERC, 814 F.2d 560, 562 (9th Cir. 1987) (construing premature petition for review as request for mandamus relief). Considering the history and chronology of this matter and the nature of the claims, we conclude mandamus is appropriate, and we hereby GRANT the Petition for a Writ of Mandamus. See Telecommunications Research & Action Center v. FCC, 750 F.2d 70, 79–80 (D.C. Cir. 1984) (laying out criteria for mandamus relief); see also In re PANNA, 798 F.3d 809, 813–14 (9th Cir. 2015) (applying the "TRAC factors" in earlier litigation related to this case). (SEE ORDER FOR FULL TEXT) At oral argument, EPA represented that it could issue a final decision with respect to petitioners' objections within 90 days of an order issued by this court. EPA is hereby ordered to issue, no later than 90 days after the filing of this order, a full and final decision on LULAC's objections pursuant to 21 U.S.C. § 346a(g)(2)(C). Given this resolution, we need not–and do not–decide any other issue urged by the parties. The en banc court shall retain jurisdiction over this and any related cases. PETITION GRANTED. [11269636] (RMM)

Thanks,

Ellen

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