November 2, 2022

The Honorable Michal Freedhoff, Ph.D.
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
Washington, D.C. 20460

Edward Messina
Director
Office of Pesticide Programs
Environmental Protection Agency
U.S. Environmental Protection Agency
Washington, D.C. 20460

Subject: Organizational Letter in Response to EPA Pesticide Coated Seed Decision

Dear Assistant Administrator Freedhoff and Director Messina,

We the undersigned organizations are writing in response to the Environmental Protection Agency (EPA) announcement on September 28, 2022, EPA-HQ-OPP-2018-0805, to sustain pesticide coated seeds status under the Treated Article Exemption (TAE) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

We are disappointed in EPA's failure to enact the provisions of the 2017 petition submitted by Bret Adee, American Beekeeping Federation, American Bird Conservancy, American Honey Producers Association, Jeff Anderson, Lucas Criswell, Gail Fuller, David Hackenberg, Pesticide Action Network of North America, Pollinator Stewardship Council, and the Center for Food Safety.

The petition response states that EPA's "assessment of [pesticides used as coatings] is thorough and that such concerns and can are being addressed in the context of registration and registration review actions.[1]" However, existing assessments have identified many chemicals used as seed treatments, such as neonicotinoids, as Likely to Adversely Affect federally listed species and critical habitats.[2]

Pursuant to the Endangered Species Act, mitigations may be introduced to account for these impacts. However, the scale at which they are used and the locations in which they are used are not presently understood due to the TAE. <u>It is not possible to fully protect listed species and critical habitats with the current classification of pesticide-coated seeds</u>.

The tendency of neonicotinoid pesticide coatings to leave seeds and contaminate the environment is well documented, with as much as 97% of a chemical leaving the seed.[3] From there it kills nontarget insects,[4] can persist in soil for up to 1,000 days,[5] and ripples up and down trophic levels by disrupting ecosystems and natural processes.[6] Pesticide coated seeds have been shown to interrupt a bird's migratory ability, causing immobility and decreasing body weight.[7]

The special status held by treated seeds means there has been no reliable data collected on their use since 2014. The United States Geological Survey (USGS) tracks and reports pesticide use across the country. Citing uncertainty and complexity, the USGS stopped reporting on the amount of neonicotinoid insecticide used as seed treatments beginning in 2015.[8] Resultantly, there is no present way to measure,

and therefore no way to mitigate, the true amount of environmental contamination from pesticide use in the United States.

This loss of invertebrate life has rippling effects on ecosystems. Birds and mammals which depend on invertebrates for prey may experience massive reductions in population due to food shortages. Pollination may decrease due to pesticide-caused mortalities in pollinating insect, impacting human food supply. Normal ecosystem functions such as decomposition, soil turnover, and biological pest control may all cease.

We are grateful for EPA's intention to:

- Determine whether or to what extent pesticide-treated seed is being distributed, sold, or used in a manner inconsistent with treating pesticide labeling
- Pursue enforcement of pesticide or pesticide-treated seed label violations
- Promulgate an advance notice of public rulemaking seeking comment on issues raised in the petition

We the undersigned are concerned with the declaration of EPA's potential issuance of "a FIFRA section 3(a) rule to regulate pesticide-treated seed under FIFRA section 3(a) to ensure distribution, sale, and use of the treated seed is consistent with treating pesticide and treated seed labeling."

We would like EPA to change this from a possible exploration to a definite commitment to issue such a rule. The success of such a rule would also be contingent upon stronger language on coated seed bag tags.

Seed treatments have some appropriate targeted uses, but by and large they offer negligible or no increase in crop yield. When applied preemptively, the damage and devastation they cause far outweighs any theoretical benefit. The first step in mitigating a pesticide is knowing where and how it is used. EPA's failure to reclassify coated seeds prevents this progress and mitigation from happening.

We thank EPA for the opportunity to share our thoughts and urge the Agency to reconsider its decision. Pesticide coated seeds should not be included under the TAE. The damage to people and wildlife from pesticide coated seeds will continue to worsen without major action.

Sincerely,

AMERICAN BIRD CONSERVANCY

SIERRA CLUB

Friends of the Earth

PEER Public Employees for Environmental Responsibility

TOXIC FREE NC

PEOPLE POLLINATORS ACTION NETWORK

Purple Martin Conservation Association

Northwest Center for Alternatives to Pesticides

epic

Bird Conservation Network

Maryland Pesticide Education Network

IWRC International Wildlife Rehabilitation Council

Aiken Audubon

Alaska Wildlife Recovery Effort

American Bird Conservancy

Arkansas Valley Audubon Society

Audubon of Southwest Florida

Bird Ally X

Bird Conservation Network

Bitterroot Audubon Society

Black Canyon Audubon Society

Bozeman Birders

Buffalo Ornithological Society

Center for Biological Diversity

Chesapeake Wildlife Heritage

Chicago Ornithological Society

Conservation Congress

Cumberland-Harpeth Audubon Society

Eastern Monarch Butterfly Farm

Ecoan Peru

EcoMagic

Environmental Protection Information Center- EPIC

Forest Web

Friends of Iroquois National Wildlife Refuge

Friends of the Bitterroot

Friends of the Earth

Friends of the San Pedro River

Golden Gate Audubon Society

Great Old Broads for Wilderness

Hampshire Bird Club

Hawk Mountain Sanctuary Association

High Country Audubon Society

Illinois Council of Trout Unlimited

Illinois Environmental Council

Illinois Ornithological Society

Iowa Audubon

Los Angeles Audubon Society

Lower Columbia Basin Audubon Society

Maryland Conservation Council

Maryland Ornithological Society

Maryland Pesticide Education Network

Maryland Votes for Animals

Montgomery Countryside Alliance

Natural Resource Economics

Noel J. Cutright Bird Club

Northcoast Environmental Center

Northeast Organic Farming Association

Northwest Center for Alternatives to Pesticides

Orleans Audubon Society

Otter Creek Audubon Society

People & Pollinators Action Network

Presque Isle Audubon Society

Public Employees for Environmental Responsibility (PEER)

Purple Martin Conservation Association

Rockbridge Bird Club

SAFE Alternatives for our Forest Environment

Salem Audubon Society

San Bernardino Valley Audubon Society

Santa Clara Valley Audubon Society

Save Our Sky Blue Waters

Sequoia ForestKeeper®

Sierra Club

Tennessee Ornithological Society

The International Wildlife Rehabilitation Council

The Linnaean Society of New York

The Massachusetts Pollinator Network

The Urban Wildlands Group

Toxic Free NC

Tree Fredericksburg

Virginia Society of Ornithology

Washington Crossing Audubon Society

Western Great Lakes Bird and Bat Observatory

Whidbey Environmental Action Network

Will County Chapter of the Illinois Audubon Society

Zumbro Valley Audubon Society

For more information, please contact:
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[1] https://www.regulations.gov/document/EPA-HQ-OPP-2018-0805-0104
[2] https://www.epa.gov/pollinator-protection/schedule-review-neonicotinoid-pesticides
[3] https://pubmed.ncbi.nlm.nih.gov/25793443/
[4] https://pubs.acs.org/doi/10.1021/acs.est.7b06388#:~:text=In%20recent%20years%2C%20neonicotinoid%20insecticides,(nAChRs)%2C%20their%20mol.
[5] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4284396/
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