



August 26, 2015

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request – Expedited Processing Requested

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Environmental Protection Agency (“EPA” or “the Agency”) FOIA regulations, set forth at 40 C.F.R. Pt. 2, Friends of the Earth hereby requests various documents, records, and materials between the U.S. Environmental Protection Agency (EPA), including the Office of the Administrator and Office of Pesticide Programs and the lobbyists or individuals representing Syngenta, Bayer Cropscience, Croplife America, and Monsanto pertaining to neonicotinoids, pesticides, Varroa mites and other issues pertaining to honey bee health from June 19, 2013 to the present. This request includes documents regarding meetings or communications or other contacts— including meeting minutes and scheduling notes—that any individual from any of the entities listed above arranged or attended with the EPA or that the EPA arranged or attended with any of the listed entities.

Our request includes but is not limited to communications with or by the following individuals employed by or contracted by the above listed entities regarding neonicotinoids, pesticides, Varroa mites and other issues pertaining to honey be health:

- John Abbott and Caydee Savinelli, Syngenta
- Iain Kelly, Bill Striegel, Dr. David Fisher, Director of the Pollinator Safety Group, and Jamin Huang, Registration Manager, Jim Bloom, President and CEO, Bayer Cropscience
- Jay Vroom, Barb Glenn, and Ray McAllister, Croplife America

For purposes of this request, “documents, records, and materials” should be interpreted to include copies of all correspondence, including, but not limited to, telephone logs, phone calls, briefing documents, electronic mail, scheduling notes, meeting minutes, other correspondence between meeting attendees or those who scheduled meetings, and notes documenting any communication (regardless of physical form or characteristics) concerning pesticides, varroa mites, public-private partnerships and environmental impacts regarding the health of honey bees and other pollinators.

Expedited Processing Request

Pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e), *Friends of the Earth requests expedited processing of this FOIA request due to our compelling need for the information requested.* A “compelling need” exists where the requester is “primarily engaged in disseminating information” and can demonstrate an “urgency to inform the public about an actual or alleged Federal government activity.” 40 C.F.R. § 1.104(e)(ii); *see also* 5 U.S.C. § 552(a)(6)(E)(v). Friends of the Earth is a non-profit organization primarily engaged in information dissemination, public education and advocacy on environmental issues. Friends of the Earth will be taking numerous steps to disseminate the requested information to the public, and have a demonstrated and longstanding capacity to do so. We typically disseminate similar information through direct communication to journalists and other members of the media, through press releases, through newsletters to all of our members, through our web sites, through public meetings, and through other legislative and

executive fora. The “[a]ctual or alleged Federal government activity” to which the requested information pertains is to EPA’s registration of neonicotinoid pesticides.

Friends of the Earth urgently needs this information because the particular value of the information and our urgent need to inform the public regarding EPA’s activities. 40 C.F.R. § 2.104(e)(3). The EPA is reviewing and will release a decision very soon regarding EPA’s Proposal to Mitigate Exposure to Bees from Acutely Toxic Pesticide Products (docket identification (ID) number EPA-HQ-OPP-2014-0818) and the public comment period closes on August 28, 2015. Further, the EPA is currently reviewing the registration review of neonicotinoid pesticides including Imidacloprid, Clothianidin, Thiamethoxam, Dinotefuran and Acetamiprid. The initial set of risk assessments issued for Imidacloprid and potential early pollinator mitigation will be issued for public comment in the fall of 2015. The EPA will imminently decide if it will mitigate and restrict the use of Imidacloprid after the comment period closes. Friends of the Earth and our partners have sent a series of meeting requests to Administrator McCarthy since June 2013 to discuss EPA’s policies regarding neonicotinoids, but none of our meeting requests have been granted. As the EPA is imminently deciding what actions it will take regarding neonicotinoids and pollinators, we urgently need to verify how frequently Administrator McCarthy and the Office of Pesticides Programs EPA met with the manufactures of these insecticides. The information requested will lose value to Friends of the Earth if Friends of the Earth does not receive it in time to submit another request to Administrator McCarthy requesting a meeting to discuss the agency’s policy regarding neonicotinoids and pollinator health. Friends of the Earth would like to meet with the Administrator before the risk assessment and review for neonicotinoid pesticides is complete. Friends of the Earth seeks to use the information obtained to inform and prepare for the meeting with the Administrator and disseminate it to the public for its use in the risk assessment and review of neonicotinoid pesticides and pollinator health. Friends of the Earth seeks to use this information in recommendations pertaining to the components of the docket regarding the risk assessment and registration review and for further action regarding EPA’s policies regarding the assessment of pesticides on pollinator health. Friends of the Earth reserves the right to appeal any denial of our request for expedited processing of this request.

We ask that EPA’s response comply with the Attorney General’s March 2009 FOIA memorandum, reiterating President Obama’s directive that in “the face of doubt, openness prevails.” Attorney General, Memorandum for Heads of Executive Departments and Agencies at 1 (March 19, 2009) (Attorney General Memorandum). Accordingly, we expect that EPA will apply a presumption in favor of disclosure and consider that it “should not withhold information simply because it may do so legally.” *Id.*; see also 40 C.F.R. § 1506.6(f) (noting the intersection of the National Environmental Policy Act and FOIA). We also expect that EPA will act promptly, in keeping with the Attorney General’s admonition that the timely disclosure of information “is an essential component of transparency.” Attorney General Memorandum at 3.

Fee Waiver Request

As a non-profit organization, Friends of the Earth also requests a waiver of all fees incurred in providing these records. Disclosure of the requested information “is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552 (a)(4)(A) (iii) and 40 C.F.R. § 2.107(1). If our request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain our approval before any such charges are incurred.

Disclosure of the requested information would inform the public of governmental activities affecting their food supply, environment and economy. Friends of the Earth is a not-for-profit charitable organization with no commercial interest in the information requested and has relevant expertise in the areas of environment and human health and environmental law. Friends of the Earth has a long and active history in addressing threats to human health and the environment posed by the development, production, shipment and processing of oil and gas, including tar sands oil. Friends of the Earth also has additional relevant experience with research, recommendations and proper implementation of FIFRA and other relevant statutes governing the Obama administration’s, including the EPA’s, consideration of how to protect honeybees and other essential pollinators from pesticides, including neonicotinoids.

Because of the non-profit, public interest nature of Friends of the Earth, we have extremely limited financial resources with which to cover the copying and search expenses of this request. Our main purpose in requesting the documents is to increase public knowledge and participation in the government process so fundamental to the effective working of a democracy.

Timely Response and Request for Rolling Release

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I), we expect a response within ten (10) working days of your receipt of this request. If this request is denied in whole or in part, we expect a detailed justification for withholding the records. We also

request any segregable portions of records that are otherwise not expected to be disclosed by EPA in response to this request. **Finally, we request that any documents responsive to this request be released by EPA to Friends of the Earth on a rolling basis** rather than EPA holding all of the documents for a one-time release. Friends of the Earth reserves the right to appeal any denial of this request.

Please contact us at the number(s) or email(s) listed below with any questions you may have about the materials we are requesting. Thank you for your immediate attention to this matter.

Sincerely,

Tiffany Finck-Haynes, Food Futures Campaigner, (202)-222-0715, tfinckhaynes@foe.org

Marcie Keever, Legal Director, (510)-900-3144, mkeever@foe.org