



January 6, 2022

Via Email and Certified Mail

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460
michael.regan@epa.gov

**Re: Notice of Intent to Sue for Violations of the Endangered Species Act Concerning
Registration of Pesticide Products in the Pyrethroid Pesticide Class**

Dear Administrator Regan,

On behalf of the Center for Biological Diversity (“Center”), this letter provides notice of intent to sue the U.S. Environmental Protection Agency (“EPA”) for violations of Section 7 of the Endangered Species Act through its registration of over 300 separate pesticide products within the pyrethroid pesticide class over the past six years. Despite pyrethroid pesticides representing one of the most dangerous and harmful groups of pesticides for aquatic wildlife, as well as causing significant harm to other wildlife and plants, the EPA has failed to take a single action to implement *any* on-the-ground conservation actions to protect *any* endangered species from these toxic chemicals.

This notice is provided pursuant to Section 11(g) of the ESA, which requires that we provide you with 60-day notice prior to commencing any litigation against the EPA. During this time, we hope that the EPA Office of Chemical Safety and Pollution Prevention will engage with us to discuss the development of a comprehensive workplan to address the backlog of pesticides that have not undergone consultations as required by the Endangered Species Act (“ESA”).

On August 21st of this year, the Center sent the EPA a letter with a proposed workplan that would substantially reduce this backlog and prioritize conservation protections from some of the most harmful classes of pesticides. Our approach would have avoided unnecessary litigation, provided certainty to pesticide registrants, and would have spurred the EPA to create a more efficient and effective process for deploying on-the-ground conservation measures. Regrettably, the EPA has not responded to our proposal in any substantive manner.

We appreciate that the EPA appears to be working towards improving its policies and practices to eventually achieve full compliance with the ESA’s mandates. However, policy improvements without a plan to implement them in the real world as they apply to specific pesticides leave us skeptical that such policy changes will in fact be durable, or more importantly, address the profound extinction crisis this country is facing.

Accordingly, we ask that you act here with an open mind and engage with the Center in a meaningful and substantive fashion to develop a plan of action to address EPA's consultation backlog that can be implemented in parallel with other policy improvements that the EPA intends to implement. If that can be achieved, then no further litigation will hopefully be necessary. However, without a plan for the backlog, the Center will bring additional litigation on other classes of pesticides, for which the EPA has illegally approved thousands of products over the past six years.

LEGAL BACKGROUND

The Endangered Species Act was enacted "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved."¹ EPA's decision to approve the use of hundreds of pyrethroid pesticide products is causing severe and substantial harm in virtually every corner of this nation, harming not only hundreds of endangered species, but the ecosystems upon which they depend. Accordingly, the EPA not only in violation of the Endangered Species Act's consultation requirement, but indeed the entire spirit and purpose of a law characterized by the Supreme Court as "the most comprehensive of its type to be enacted by any nation."²

Section 2(c) of the ESA establishes "that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this [Act]."³ The ESA defines "conservation" to mean "the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary."⁴

As the Supreme Court has unequivocally stated, the ESA's "language, history, and structure" make clear and "beyond doubt" that "Congress intended endangered species to be afforded the highest of priorities" and endangered species should be given "priority over the 'primary missions' of federal agencies."⁵ Simply put, "[t]he plain intent of Congress in enacting this statute was to halt and reverse the trend toward species extinction, *whatever the cost*."⁶

To fulfill the substantive purposes of the ESA, each federal agency is required under Section 7 of the Act to engage in consultation with the U.S. Fish and Wildlife Service ("FWS") and/or the National Marine Fisheries Service ("NMFS" or, collectively, the "Services") to "insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species . . . determined . . . to be critical."⁷ The obligation to "insure" against a likelihood of jeopardy or adverse modification requires the

¹ 16 U.S.C. §§ 1531-1544; *id.* § 1531(b).

² *Tennessee Valley Authority v. Hill*, 437 U.S. 153 (1978).

³ 16 U.S.C. § 1531(c)(1).

⁴ *Id.* § 1532(3).

⁵ *Tennessee Valley Auth.*, 437 U.S. at 174-75.

⁶ *Id.* at 184 (emphasis added).

⁷ 16 U.S.C. § 1536(a)(2).

agency to give the benefit of the doubt to endangered species and to place the burden of risk and uncertainty on the agency taking the proposed action.⁸

EPA's duty to engage in the Section 7 consultation process prior to taking any action that "may affect" a threatened or endangered species or their habitats is firmly established by the unambiguous text of the ESA. Section 7 consultation is required for every *discretionary* agency action that "may affect listed species or critical habitat."⁹ Agency "action" is broadly defined in the ESA's implementing regulations to include "(a) actions intended to conserve listed species or their habitat; (b) the promulgation of regulations; (c) *the granting of licenses*, contracts, leases, easements, rights-of-way, permits, or grants-in-aid; or (d) actions directly or indirectly causing modifications to the land, water, or air."¹⁰ The Services' joint regulations further, clearly require programmatic consultations on federal, nationwide rulemakings that impact listed species.¹¹

At the completion of consultation, the Services are required to issue a Biological Opinion that determines if the agency action is likely to jeopardize any affected species. If so, the Biological Opinion must specify "Reasonable and Prudent Alternatives" that will avoid jeopardy and allow the agency to proceed with the action. The Services may also "suggest modifications" to the action, called "Reasonable and Prudent Measures," during the course of consultation to "avoid the likelihood of adverse effects" to the listed species even when not necessary to avoid jeopardy.¹² Only where the action agency determines that its action will have "no effect" on listed species or designated critical habitat is the consultation obligation lifted.¹³

Finally, Section 7(a)(1) of the ESA provides that all federal agencies "shall in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of [listed] species."¹⁴ Thus, the ESA imposes on all federal agencies affirmative obligations to conserve threatened and endangered species.¹⁵ Here too, the EPA has failed to have ever taken any action proactively to address the conservation needs of any endangered species from pyrethroid pesticide products.

FACTS

EPA has authorized the distribution, sale, and use of pesticide products containing pyrethroids by registering or reregistering such products under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"). EPA has registered pesticide products containing pyrethroids for

⁸ See *Sierra Club v. Marsh*, 816 F.2d 1376, 1385 (9th Cir. 1987).

⁹ See *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644 (2007); 50 C.F.R. § 402.14(a).

¹⁰ *Id.* § 402.02 (emphasis added); see also *Pacific Rivers Council v. Thomas*, 30 F.3d 1050, 1054-55 (9th Cir. 1994); *Conner v. Burford*, 848 F.2d 1441, 1453 (9th Cir. 1988); *National Wildlife Fed'n v. FEMA*, 345 F. Supp. 3d 1151, 1169 (W.D. Wash. 2004).

¹¹ See, e.g., Interagency Cooperation – Endangered Species Act of 1973, as Amended; Incidental Take Statements, 80 Fed. Reg. 26,832 (May 11, 2015).

¹² 50 C.F.R. § 402.13.

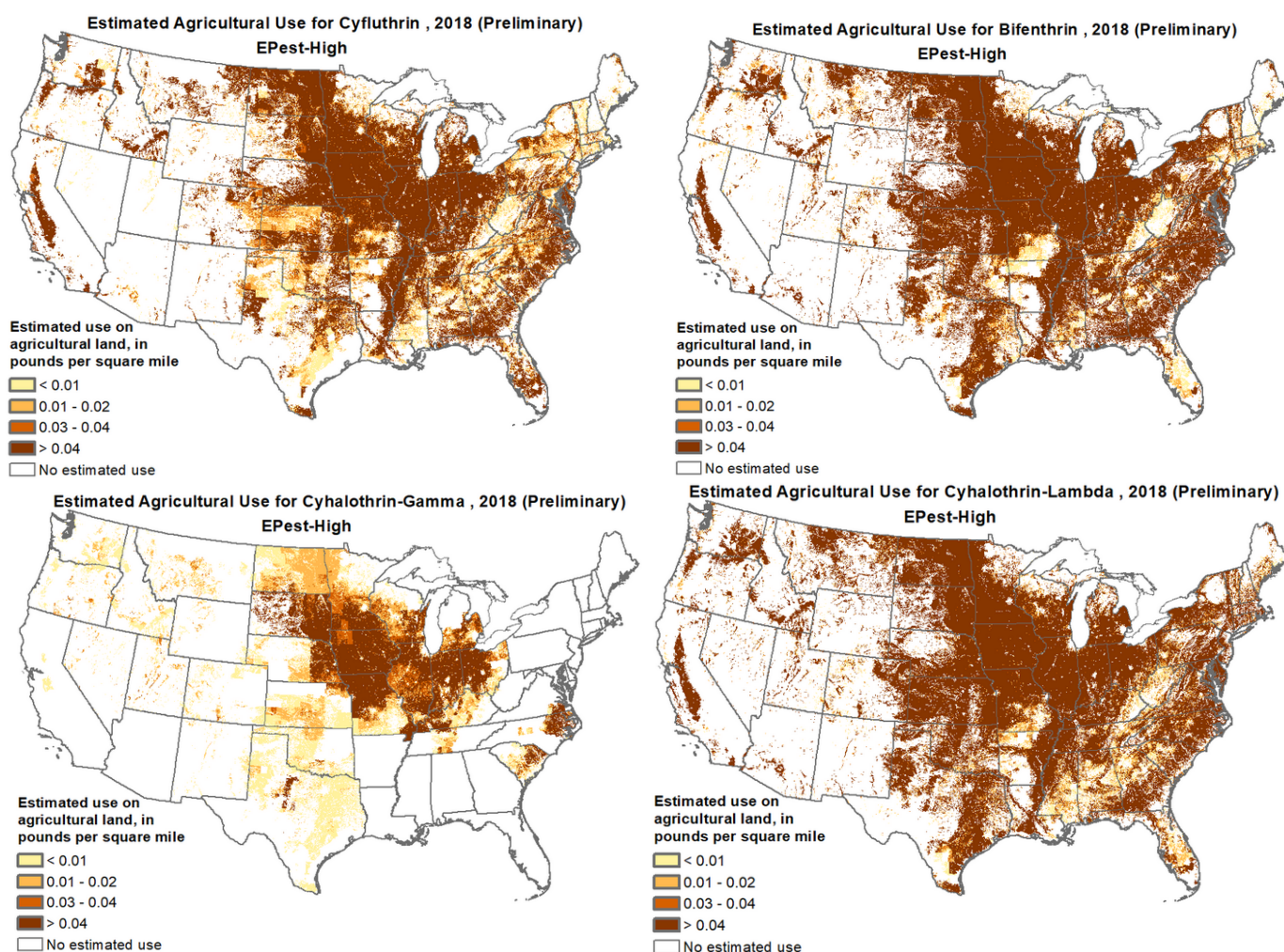
¹³ 50 C.F.R. § 402.14(a).

¹⁴ 16 U.S.C. § 1536(a)(1).

¹⁵ *Pyramid Lake Paiute Tribe v. U.S. Dept of Navy*, 898 F.2d 1410, 1416-17 (9th Cir.1990); *Carson-Truckee Water Conservancy Dist. v. Clark*, 741 F.2d 257, 261-62 & n. 3 (9th Cir.1984).

use in a broad wide variety of agricultural, non-agricultural and residential settings.¹⁶ Pyrethroid products have been authorized for use on alfalfa, bushberries, citrus, corn, cotton, soybeans, wheat, fruiting vegetables, brassica vegetables, cucurbits, rice, nut trees, fruit trees, leafy greens, sunflower, peanuts, tobacco, herbs and spices, stone fruit, and more.¹⁷

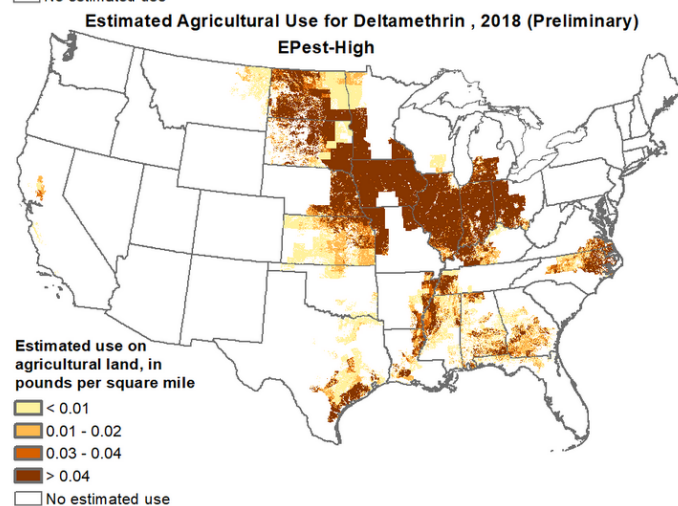
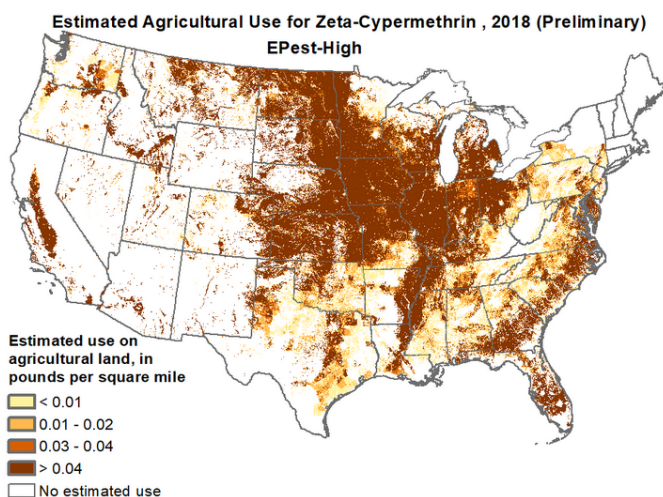
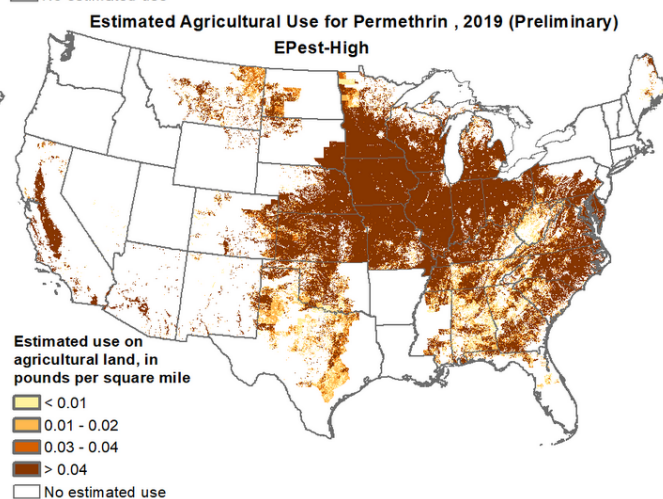
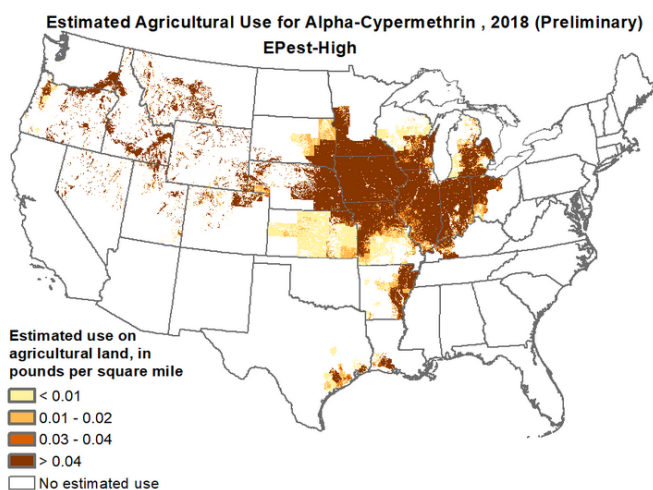
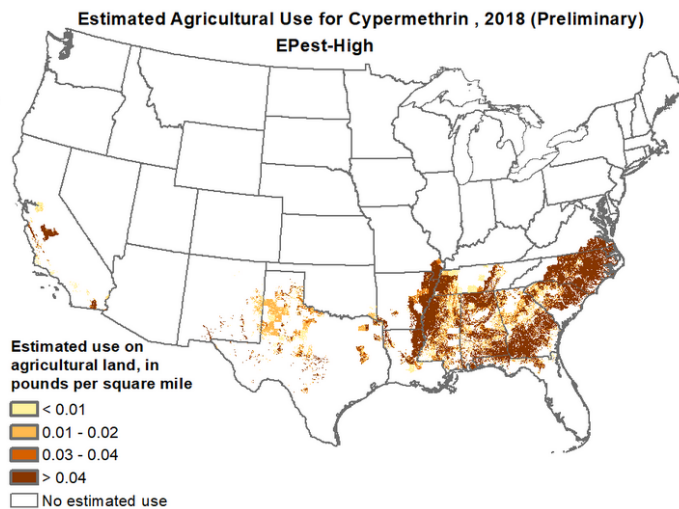
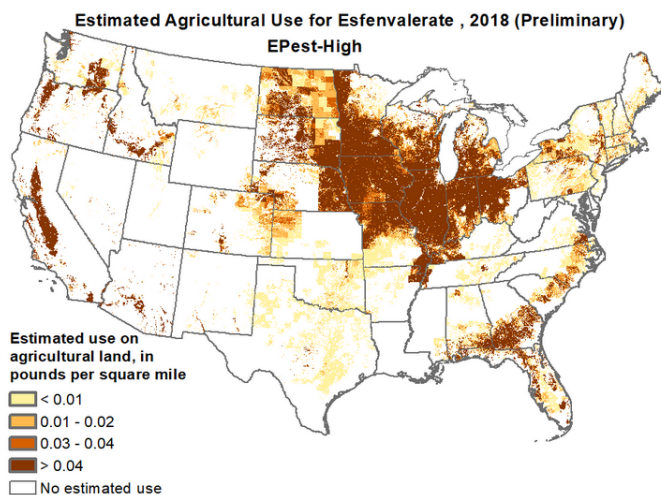
EPA's authorizations of pesticide products also allow the use of products containing pyrethroids on residential and commercial non-crop areas including roadsides, ornamental lawns, public recreational areas, swamps and woodlands, foliage plants, garbage dumps, and various other sites. EPA's authorizations of the use of pyrethroid products are not geographically limited. In other words, these pesticide products can be used virtually anywhere these crops are grown. As such, these pesticides are used in large quantities across the country, as illustrated below by the U.S. Geological Survey's National Water Quality Assessment Program.¹⁸

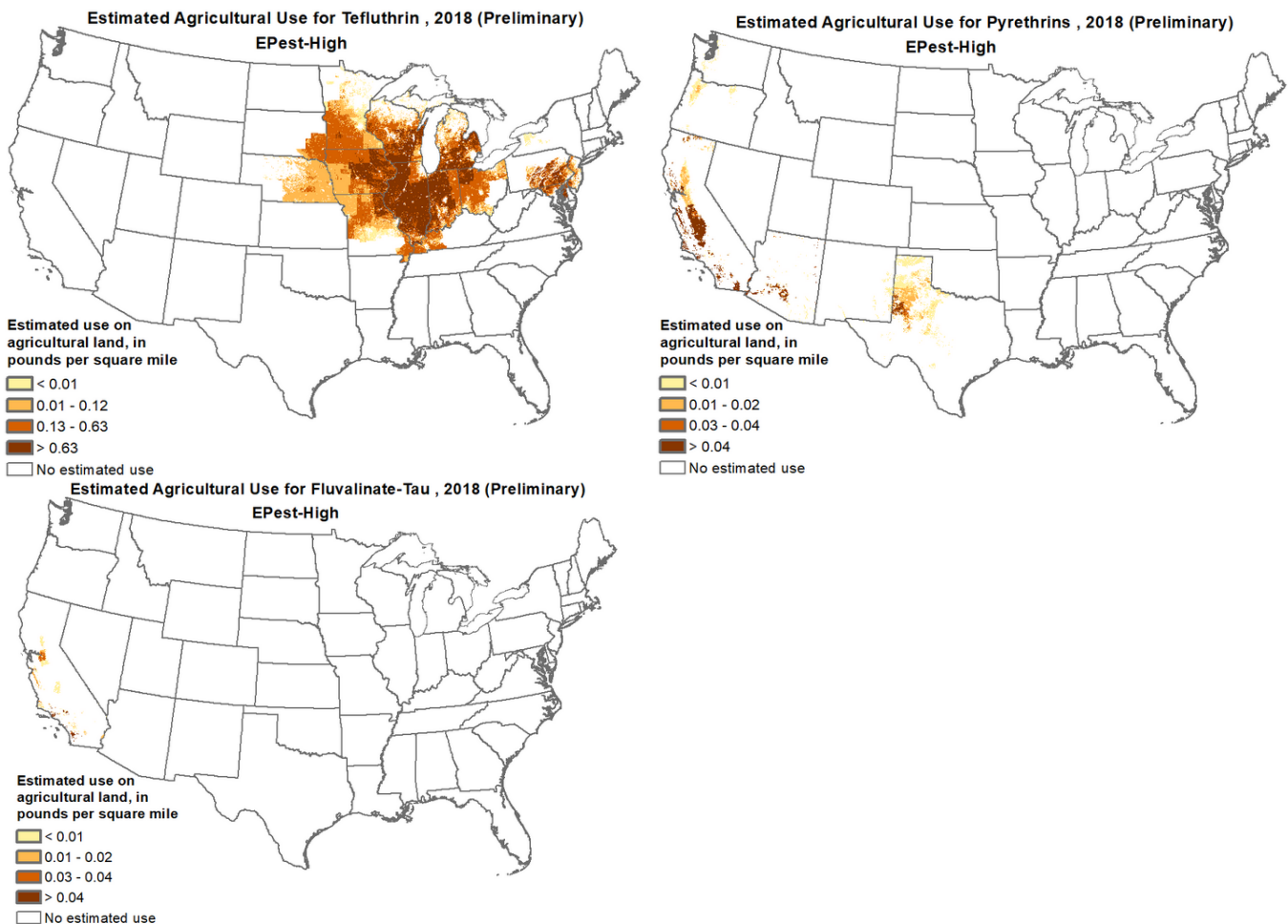


¹⁶ Muhammad M. Hossain, et al., *Hippocampal ER Stress and Learning Deficits Following Repeated Pyrethroid Exposure*, 143 TOXICOLOGICAL SCIENCES 220, 220 (2015)

¹⁷ U.S. EPA, Ecological Risk Management Rationale for Pyrethroids in Registration Review 10-11 (Sept. 30, 2016)

¹⁸ U.S. Geological Survey, Nat'l Water Quality Assessment Project, Pesticide National Synthesis Project (last accessed Dec. 8, 2021) https://www.usgs.gov/mission-areas/water-resources/science/pesticides-and-water-quality?qt-science_center_objects=0#qt-science_center_objects.





These maps do not account for pyrethroid applications in non-agricultural areas, for seed treatment, or in outdoor commercial or outdoor residential settings.

The EPA has already acknowledged the toxicity of pyrethroids to nearly all taxa including birds, mammals, reptiles, amphibians, aquatic vertebrates, aquatic invertebrates, and terrestrial invertebrates. In the past, the EPA partially reviewed the harm from some pyrethroid active ingredients to listed endangered and threatened species. EPA risk assessments have concluded that pyrethroids are “very highly toxic to aquatic organisms on an acute basis, based upon data for freshwater, estuarine, and marine species of aquatic vertebrates and invertebrates.”¹⁹ Specifically, pyrethroids have been found likely to adversely affect listed aquatic species including the endangered Tidewater Goby, threatened Delta Smelt, and endangered California Freshwater Shrimp.²⁰

In addition, certain pyrethroids have been found likely to adversely affect listed amphibians including the endangered California Tiger Salamander and threatened California Red Legged

¹⁹ U.S. EPA, Ecological Risk Management Rationale for Pyrethroids in Registration Review 29 (Sept. 30, 2016)

²⁰ U.S. EPA 2012, *Risks of Bifenthrin Use to Federally Threatened and Endangered Species*, available at: <https://www3.epa.gov/pesticides/endanger/litstatus/effects/redleg-frog/2012/bifenthrin/analysis.pdf>.

Frog, as well as endangered reptiles like the Giant Garter Snake.²¹ EPA has concluded that chronic exposure to certain pyrethroids have reduced survival rate, decreased body weight gain, and increased neurotoxicological symptoms in mammals and birds, including the endangered California Clapper Rail.²²

Finally, pyrethroids as a class are “highly to very highly acutely toxic to honeybees” and have also been found likely to adversely affect threatened species like the Bay Checkerspot Butterfly and the Valley Elderberry Longhorn Beetle.²³ These prior assessments show that the EPA is aware of pyrethroids ability to harm or affect a wide variety of endangered and threatened species, and yet continues to register pyrethroid products without any nationwide consultation.

VIOLATIONS OF THE ENDANGERED SPECIES ACT

I. Failure to Insure No Jeopardy; Failure to Insure Against Destruction or Adverse Modification of Critical Habitat

EPA has categorically failed to “insure” that actions related to pyrethroid pesticide registration do not effect listed species or critical habitat. *See Pyramid Lake Paiute Tribe of Indians v. U.S. Dept. of Navy*, 898 F.2d 1410, 1415 (9th Cir. 1990) (“[a] federal agency cannot abrogate its responsibility to ensure that its actions will not jeopardize a listed species”) *see also Nat’l Wildlife Fed. v. Coleman*, 529 F.2d 359, 369 (5th Cir. 1976) (“the federal agency involved must determine whether it has taken all necessary action to insure that its actions will not jeopardize the continued existence of” a listed species or critical habitat). The Agency has failed to even initiate consultation by completing a Biological Evaluation, a critical determination of any pyrethroid or pyrethroid product’s impacts to listed species. Ultimately, this inaction puts EPA in violation of their Section 7 duties. No steps have been taken to complete a nationwide consultation on pesticides as required by law, nor have the Agencies taken any other meaningful actions to mitigate the impacts on ESA-listed species. Instead, EPA continues to shirk its legal duty to ensure that federal actions do not adversely affect listed species. Accordingly, EPA is in violation of Section 7 of the ESA for failing to consult.

Despite the unequivocal failure to comply with their legal obligations under the ESA, the EPA has continued to approve pyrethroid products for sale and distribution. Below follows a list of the actions taken by the EPA registering, reregistering, approving labels for pyrethroid pesticides — *all* of which trigger the EPA’s Section 7 duties. Because the EPA has failed to comply with the substantive and procedural requirements of Section 7 of the ESA, the following product approvals must be vacated and cancelled.

²¹ *Id.*; U.S. EPA 2008, *Risks of Esfenvalerate Use to Federally Threatened California Red-Legged Frog*, available at: <https://www3.epa.gov/pesticides/endanger/litstatus/effects/redleg-frog/esfenvalerate/analysis.pdf>

²² U.S. EPA 2013, *Risk of Deltamethrin Use to Federally Threatened and Federally Endangered Species* 18, available at: <https://www3.epa.gov/pesticides/endanger/litstatus/effects/redleg-frog/2013/deltamethrin/analysis.pdf>; U.S. EPA, *Risk of Bifenthrin Use to Federally Threatened and Federally Endangered Species* at 218.

²³ U.S. EPA, *Ecological Risk Management Rationale* at 63; U.S. EPA, *Risk of Bifenthrin Use* at 218, 221.

Bifenthrin

EPA has continued to register pesticide products containing Bifenthrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Bifenthrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
Bifen 2EC Select	42750-395	Registration	9/29/2021
Bifenthrin 7.9%	98985-6	Registration	9/27/2021
ARG Bifenthrin 10 MUP	87373-121	Registration	9/24/2021
LPI.A038	34704-1188	Registration	8/26/2021
BIDY	83529-145	Registration	8/12/2021
Liberty PY-BIF II	89168-129	Registration	8/2/2021
F4092-3	279-9651	Registration	7/27/2021
FILAMENT	538-312	ID Mitigation	7/23/2021
THE ANDERSONS PROFESSIONAL TURF PRODUCTS 0.15G PROSECT	9198-225	ID Mitigation	7/23/2021
BIFENTHRIN GC G	53883-119	ID Mitigation	7/21/2021
BULB	538-313	ID Mitigation	7/21/2021
WISDOM GC GRANULAR	5481-518	ID Mitigation	7/21/2021
TALSTAR XTRA GRANULAR INSECTICIDE FEATURING VERGE GRANULE TECHNOLOGY	279-9552	ID Mitigation	7/21/2021
TALSTAR PL GRANULAR INSECTICIDE	279-3168	ID Mitigation	7/21/2021
WISDOM EZ	5481-521	ID Mitigation	7/21/2021
TALSTAR 0.096 GRANULAR INSECTICIDE WITH FERTILIZER	279-3445	ID Mitigation	7/21/2021
F6132 G INSECTICIDE	279-3343	ID Mitigation	7/21/2021
F6133 G INSECTICIDE	279-3344	ID Mitigation	7/21/2021
F6131 G INSECTICIDE	279-3342	ID Mitigation	7/21/2021
F6132 GC GRANULAR INSECTICIDE	279-9547	ID Mitigation	7/21/2021
BIFEN L/P INSECTICIDE GRANULES	53883-124	ID Mitigation	7/21/2021
Bifenthrin 0.2%	88746-5	ID Mitigation	7/21/2021
GCS Bifenthrin 2EC	94730-8	Registration	7/19/2021
BioAdvanced® Science-based Solutions All-in-One insect & Lawn Weed Killer Ready-to-Spray	92564-79	Registration	7/14/2021
BIFENTHRIN PRO 0.2% DG GRANULAR INSECTICIDE	70506-480	ID Mitigation	7/14/2021
BIFENTHRIN DG LITE LAWN GRANULAR INSECTICIDE	70506-482	ID Mitigation	7/14/2021
UP-STAR EASY SPREAD GRANULAR	70506-73	ID Mitigation	7/14/2021
UP-STAR GC GRANULAR INSECTICIDE	70506-74	ID Mitigation	7/14/2021
BIFENTHRIN 0.2%G PL	70506-471	ID Mitigation	7/14/2021
AX BIFEN LFR	89167-97	Registration	4/13/2021
CSI PL 1803 Bifenthrin 2.4	53883-472	Registration	4/12/2021
CSI PL 2001 Bifen 0.1% Dust	53883-484	Registration	3/22/2021
F9228-2 RTU Insecticide/Miticide	279-9659	Registration	3/19/2021

Bifenthrin 7.9% SC	42750-369	Registration	2/11/2021
Ridgeback	62719-749	Registration	2/4/2021
STARTUPTM BIFEN SEED TREATMENT	70506-383	Registration	12/22/2020
BANISTER FC	93930-50	Registration	11/23/2020
Tepera Plus HD fungicide + insecticide	70506-444	Registration	11/13/2020
Bifenthrin Technical	94730-3	Registration	10/29/2020
A110.08	91234-218	Registration	10/5/2020
BANISTER LFC	93930-23	Registration	9/22/2020
ORTHO BUGCLEAR INSECT KILLER FOR INDOOR & PERIMETER CONCENTRATE	239-2774	Registration	9/8/2020
Bifenthrin Technical	42750-370	Registration	8/13/2020
LANCER 2EC	42750-368	Registration	8/13/2020
Bifenthrin 7.9% Nursery	42750-371	Registration	8/13/2020
Indoor and Outdoor 2699NS	239-2766	Registration	6/19/2020
BBG 2701	239-2763	Registration	5/15/2020
ORTHO ANT B-GON INSECT KILLER	239-2765	Registration	4/21/2020
ORTHO HOM DEFENSE INDOOR INSECT KILLER REFILL	239-2753	Registration	4/9/2020
VKM32 Insect Control	279-9652	Registration	4/6/2020
ORTHO BUGCLEAR LAWN INSECT KILLER GRANULES	239-2764	Registration	3/23/2020
Omni Brand Bifenthrin 2EC	5905-626	Registration	2/3/2020
Bifenthrin 2E	85678-67	Registration	12/5/2019
Bifenthrin Technical	85678-65	Registration	11/18/2019
Liberty BIFEN-IMIDA 2-1 SC	89168-85	Registration	11/12/2019
Tigris Bifenthrin LFC	92647-27	Registration	10/24/2019
A110.05	91234-182	Registration	10/2/2019
A110.04	91234-177	Registration	9/4/2019
FUNDAMENTALS BY ORTHO OUTDOOR INSECT KILLER GRANULES	239-2748	Registration	8/9/2019
ORTHO HOME DEFENSE INSECT KILLER FOR POWER MISTER FOR LAWN & LANDSCAPE	239-2747	Registration	7/12/2019
Agrisel Bifenthrin Pro 7.9 Insecticide	72159-19	Registration	6/28/2019
Agrisel Bifenthrin Pro 2E Insecticide	72159-20	Registration	6/28/2019
F5688 MUP	279-9642	Registration	6/4/2019
TALSTAR 10WP MUP INSECTICIDE/MITICIDE	279-9639	Registration	5/13/2019
BANISTER 2 EC	93930-17	Registration	4/30/2019
BATALLION 10 WSP	91234-117	Registration	4/25/2019
Bifender FC 3.1	89118-13	Registration	4/8/2019
A110.02	91234-104	Registration	4/4/2019
CSI 16-199 B-N-P CS	53883-426	Registration	10/2/2018
A132.03 [ABN: Punisher]	91234-92	Registration	9/26/2018
F6130-V Granular Insecticide	279-3636	Registration	9/6/2018
F4120-2	279-3632	Registration	8/28/2018
TIGRIS BIFEN 2 EC	92647-17	Registration	8/2/2018
ARGYLE INSECTICIDE	70506-346	Registration	7/30/2018
Ignite SC	88746-7	Registration	6/12/2018
ASCERTAIN TR	91234-70	Registration	5/25/2018
F4022-1	279-3619	Registration	5/17/2018

BIFENTHRIN 2EC	5905-639	Registration	4/30/2018
LIBERTY ACETA-BIF INSECTICIDE	89168-74	Registration	3/21/2018
VCP-03 1.75 SC INSECTICIDE	89118-2	Registration	2/27/2018
Acenthrin Insecticide	70506-339	Registration	2/15/2018
BIFENTHRIN TECHNICAL MUP	33427-9	Registration	1/9/2018
FARM GENERAL INDOOR/OUTDOOR INSECT CONCENTRATE	84009-32	Registration	11/3/2017
HM-1601 Insecticide	5905-607	Registration	10/16/2017
BIFENTHRIN TECHNICAL	33427-7	Registration	10/4/2017
Tepera Plus Fungicide	70506-508	Registration	7/31/2017
BIFENTHRIN TECHNICAL	97702-10	Registration	7/20/2017
SURO LFR	83529-79	Registration	7/5/2017
ORTHO GARDEN DEFENCSE TREE & SHRUB INSECT KILLER	239-2739	Registration	6/7/2017
SHOCKWAVE 1 AEROSOL	1021-2804	Registration	5/9/2017
MGK Formula 31012	1021-2805	Registration	5/9/2017
ORTHO FIRE ANT KILLER MOUND TREATMENT	239-2738	Registration	5/4/2017
VCP-12	89118-8	Registration	3/7/2017
TIGRIS BIFEN 2E	92647-32	Registration	3/2/2017
F5555-2 MUP	279-3613	Registration	1/13/2017
LIBERTY PY-BIF	89168-57	Registration	12/9/2016
TALSTAR HP 0.115% GRANULAR INSECTICIDE	279-3614	Registration	11/23/2016
FG14002-80	5481-596	Registration	8/19/2016
SMARTCHOICE LIQUID INSECTICIDE	5481-587	Registration	7/28/2016
BI-DASH SPECIALTY	83529-60	Registration	7/18/2016
IMAX PLUS	83529-61	Registration	6/13/2016
TAURUS TRIO G	53883-381	Registration	4/28/2016
LIBERTY GRANULAR INSECTICIDE	89168-47	Registration	4/19/2016
BIFENTHRIN TECHNICAL	91960-1	Registration	4/15/2016
2016BIFENTHRIN	5481-609	Registration	4/11/2016
Liberty BIFEN ST 195	89168-56	Registration	4/11/2016
Bifenthrin Technical	82633-25	Registration	1/27/2016
VCP-07	89118-4	Registration	1/14/2016

Cyfluthrin

EPA has continued to register pesticide products containing Cyfluthrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Cyfluthrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
DECATHLON 20 WP	59807-17	Registration	8/31/2016
DISCUS L	59807-18	Registration	7/7/2016

Beta-Cyfluthrin

EPA has continued to register pesticide products containing Beta-Cyfluthrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Beta-Cyfluthrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2).

Product Name	Reg. No.	Action	Date
PYRIDIUM	432-1601	Registration	6/5/2018
SULTRUS	5905-599	Registration	5/12/2016
TEMPRID G	432-1583	Registration	4/11/2016

Gamma-cyhalothrin

EPA has continued to register pesticide products containing Gamma-cyhalothrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Gamma-cyhalothrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
CHA 1525-03	279-3599	Registration	5/3/2016
CHA 1550-03	279-3600	Registration	4/20/2016

Lambda-cyhalothrin

EPA has continued to register pesticide products containing Lambda-cyhalothrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Lambda-cyhalothrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
BN LNP	4-501	Registration	10/18/2021
Simeterro with EnduraCap technology	91234-250	Registration	8/19/2021
LIBERTY LAMBDA 2 ME	89168-112	Registration	7/30/2021
LABAMBA	83529-138	Registration	3/22/2021
Crusader 2ME	42750-385	Registration	3/22/2021
CSI 19-332 Lambda + PPZ Granule	53883-481	Registration	2/10/2021
Cyhellia Insecticide	6836-444	Registration	2/1/2021
CSI 17-237 Lambda CS Aerosol	53883-465	Registration	12/7/2020
Lambda Cyhalothrin 250 g/l	70905-8	Registration	11/23/2020
CRUSADER 1EC	42750-373	Registration	10/2/2020
Lambda Cyhalothrin Technical	42750-372	Registration	10/2/2020
Avalaire Lambda-cy 1 EC	93930-25	Registration	9/25/2020

AX LAMBDA 2ME	89167-78	Registration	8/19/2020
Lambda 22.8 CS	74530-96	Registration	7/15/2020
SUPPRIMI INSECTICIDE CONCENTRATE	1021-2847	Registration	6/29/2020
LambdaC Insecticide	87845-11	Registration	4/23/2020
CSI 18-286 L-N-P CS RTU	53883-464	Registration	4/1/2020
ROUNDHOUSE 1EC	34704-1129	Registration	1/9/2020
Flask Insecticide	88746-9	Registration	9/26/2019
Warlord Insecticide	70506-348	Registration	9/16/2019
CHEMSICO HOME INSECT CONTROL 55L	9688-345	Registration	7/22/2019
Chemsico Insecticide Concentrate 22L	9688-344	Registration	7/22/2019
Chemsico Aerosol Insecticide LN-F	9688-347	Registration	7/10/2019
DEMAND DUO	100-1653	Registration	6/4/2019
Tigris Lambda	92647-21	Registration	8/3/2018
REFLEX	53883-427	Registration	6/5/2018
CSI 17-237A NMC Lambda Aerosol	53883-448	Registration	5/31/2018
Chemsico Aerosol Insecticide LI-II	9688-340	Registration	2/4/2018
SERPENT 1 EC	91234-55	Registration	1/9/2018
Omni Brand Lambda 1 EC	5905-610	Registration	12/7/2017
TOBX MULTI MOA INSECTICIDE CONCENTRATE	1021-2807	Registration	4/12/2017
CSI Lambda 1EC	53883-405	Registration	3/3/2017
PARADIGM VC	33270-41	Registration	1/26/2017
CSI 16-145 Lambda Cyhalothrin	53883-389	Registration	12/22/2016
ARG LAMBDA-CYHALOTHRIN TECHNICAL	87373-82	Registration	12/20/2016
CSI IMI + Lambda 204 Insect Granules	53883-395	Registration	11/21/2016
TORRENT G	60063-56	Registration	9/27/2016
QUALI-PRO® TAURUS TRIO G	53883-381	Registration	4/28/2016
BLACK FLAG EXTREME YARD SPRAY	9688-334	Registration	4/11/2016
LIBERTY PROP-LAMBDA EC	89168-46	Registration	4/11/2016
IMI + Lambda MUP	53883-383	Registration	3/15/2016

Cypermethrin

EPA has continued to register pesticide products containing Cypermethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Cypermethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
FUNDAMENTALS BY ORTHO INDOOR INSECT KILLER READY-TO-USE	239-2753	Registration	4/9/2020
Chemsico Aerosol Insecticide 10CE	9688-348	Registration	4/6/2020
Hook RPW	80286-26	Registration	11/28/2018
MGK FORMULA 28662	1021-2820	Registration	2/15/2018
RAID MAX WASP & HORNET FOAM	4822-611	Registration	6/30/2016

Alpha-Cypermethrin

EPA has continued to register pesticide products containing Alpha-Cypermethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Alpha-Cypermethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
Ridesco WG Insecticide	7969-470	Registration	7/8/2021
Alucion 35 WG Insecticide	7969-467	Registration	4/22/2021
PT Vedita Pressurized Insecticide	7969-417	Registration	1/21/2021
Renestra Insecticide	7969-436	Registration	1/22/2020
Fastac CS MUP	7969-401	Registration	8/31/2018
Sundec Controlled Release Insecticide	7969-427	Registration	6/25/2018
FENDONA CS XTRA CONTROLLED RELEASE INSECTICIDE	7969-425	Registration	6/6/2018

Zeta-Cypermethrin

EPA has continued to register pesticide products containing Zeta-Cypermethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Zeta-Cypermethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
PYthon® 2 Insecticide Cattle Ear Tag	39039-29	Registration	8/31/2021
PYthon® Magnum 2S Insecticide Cattle Ear Tag	39039-30	Registration	8/23/2021
ORTHO FIRE ANT KILLER MOUND TREATMENT	239-2714	ID Mitigation	8/14/2021
PYthon® II Livestock Insecticide Dust	39039-31	Registration	7/27/2021
F6139-2 INSECTICIDE	279-9552	ID Mitigation	7/21/2021
F6133 G INSECTICIDE	279-3344	ID Mitigation	7/21/2021
F6132 GC GRANULAR INSECTICIDE	279-9547	ID Mitigation	7/21/2021
Indoor and Outdoor Concentrate	239-2774	Registration	9/8/2020
ORTHO BUGCLEAR MISTING INSECT KILLER	239-2747	Registration	7/11/2019
F6130-V Granular Insecticide	279-3636	Registration	9/6/2018
DUOFORCE INSECTICIDE CATTLE EAR TAG	39039-27	Registration	8/7/2017
F6570 MUP Insecticide	279-3626	Registration	5/10/2017

D-phenothrin

EPA has continued to register pesticide products containing D-phenothrin (also called "sumithrin" and "phenothrin") without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing D-phenothrin do not jeopardize the

continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
Anvil 4.5+4.5 ULV	8329-118	Registration	8/6/2021
MGK Formula 2938	1021-2828	Registration	12/3/2020
MGK Formula 31471	1021-2831	Registration	12/3/2020
SI-183	10308-37	Registration	11/30/2020
Clarke DUET Dual-Action Adulticide	8329-109	Registration	1/10/2018
BIO KILL BRAND MICRO-FAST RTU	64321-15	Registration	1/3/2017
BIO KILL BRAND MICRO-FAST CONCENTRATE	64321-14	Registration	1/3/2017
DUET HD DUAL-ACTION ADULTICIDE	8329-105	Registration	1/29/2016

Deltamethrin

EPA has continued to register pesticide products containing Deltamethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Deltamethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
CSI 20-376 PY + DELTA AE	53883-494	Registration	8/6/2021
ORTHO HOME DEFENSE MAX INDOOR + OUTDOOR INSECT KILLER	239-2776	Registration	2/17/2021
GRAVISTA INSECTICIDE	89459-116	Registration	1/21/2020
DELTAGARD FLEXX	432-1597	Registration	11/19/2018
Decis 100 EC Insecticide	264-1199	Registration	7/26/2018
D-FENSE NXT	53883-415	Registration	6/7/2018
DELTAGARD ULV	432-1602	Registration	3/13/2018
DELTAMETHRIN TK 20	432-1598	Registration	2/20/2018
CSI PL 1703 Delta Aerosol	53883-422	Registration	11/20/2017
RF2226 DM COMBO GRAIN EC	89459-86	Registration	8/25/2016
RF2227 D GRAIN EC	89459-87	Registration	8/24/2016
MGK Formula 31021	1021-2795	Registration	5/25/2016
MGK Formula 3102	1021-2794	Registration	1/27/2016

Esfenvalerate

EPA has continued to register pesticide products containing Esfenvalerate without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Esfenvalerate do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
EVERCIDE TOTAL RELEASE AEROSOL 2614	1021-1674	ID Mitigation	9/18/2020
MGK Formula 3171	1021-2848	Registration	9/8/2020
Blitz	3862-196	Registration	5/21/2020
SUMMIT ULTRA PERMACIDE	6218-88	Registration	6/22/2017

Permethrin

EPA has continued to register pesticide products containing Permethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Permethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
SUMMIT PERMACIDE P CONCENTRATE	6218-66	ID Mitigation	8/31/2021
RANCHER 5:5 POUR ON	91586-9	Registration	8/27/2021
EVERCIDE ROACH & ANT SPRAY 2639	1021-1698	ID Mitigation	6/16/2021
EVERCIDE CARPET & SURFACE SPRAY 2657	1021-1702	ID Mitigation	4/15/2021
MGK Formula 3135	1021-2849	Registration	4/12/2021
MCSI Mosquito Trap	63823-68	Registration	4/9/2021
Vital Protection TA	93511-3	Registration	4/8/2021
ARG Permethrin Technical	87373-113	Registration	3/29/2021
00ZZZERO MOSQUITO TRAP	91605-2	Registration	2/10/2021
FLORIDA INSECT CONTROL GROUP MANUFACTURING USE PRODUCT	91605-1	Registration	2/10/2021
DURATION 6-WEEK CLOTHING & BEDNET INSECT REPELLENT	81402-3	Registration	9/23/2020
RANGER READY PERMETHRIN 0.5% REPELLENT	93221-2	Registration	3/12/2020
BotanEQS Black	93632-1	Registration	2/13/2020
House & Garden 1667	239-2751	Registration	12/19/2019
CSI PL 1804 Aqua Flex 30-30	53883-459	Registration	10/31/2019
Permetron	88746-11	Registration	9/12/2019
ULTIMATE ZAPPER WASP & HORNET SPRAY	34370-3	Registration	8/29/2019
LICE-BAN	53883-441	Registration	2/28/2019
Vital Protection 10%	93511-1	Registration	12/13/2018
VITAL PROTECTION 0.5%	93511-2	Registration	12/13/2018
Aircraft Insecticide 2% Permethrin	88144-1	Registration	6/14/2018
BENGAL NON-CONDUCTIVE WASP & HORNET KILLER	68543-42	Registration	5/3/2018
CENOL KILLS ANTS PLUS	45385-102	Registration	1/19/2018
TCI KERNEL GUARD SUPREME	70506-551	Reregistration	9/20/2017
BENGAL INSECTICIDE FOGGER	68543-41	Registration	7/27/2017
LOFT Insect Repellent Fabric Treatment	91733-1	Registration	4/13/2017
RAIDER BED BUG, LICE AND DUST MITE MULTI-PURPOSE INSECT KILLER	44446-80	Registration	4/5/2017
OLYSET SHIELD	1021-2806	Registration	2/9/2017

PYSTOL FARM AND DAIRY SPRAY	53883-403	Registration	2/2/2017
PERMETHRIN CS	53883-388	Registration	12/15/2016
Pramex T Technical Insecticide	1021-2797	Registration	6/30/2016
DUMOR EQUINE FLY SPRAY	270-384	Registration	6/30/2016

Etofenprox

EPA has continued to register pesticide products containing Etofenprox without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Etofenprox do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
RF2307 WH Spray	89459-129	Registration	4/5/2021
NOVACIDE PREMISE SPRAY	88746-12	Registration	10/3/2019
PIVOT ULTRA +	53883-421	Registration	4/18/2018
Arinix II	73745-3	Registration	1/11/2018
RF2187 CDSO PLUS II	2724-829	Notice of Extension of Conditional Registration	11/2/2017
PERIMETER ETO INSECT GUARD	82392-3	Registration	8/22/2016

Imiprothrin

EPA has continued to register pesticide products containing Imiprothrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Imiprothrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
Chemsico Aerosol Insecticide LI-D	9688-343	Registration	3/25/2019
Chemsico Aerosol Insecticide LI-II	9688-340	Registration	2/5/2018

Prallethrin

EPA has continued to register pesticide products containing Prallethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Prallethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
Spira Outdoor Coils	43917-10	Registration	2/23/2021
MGK Formula 3171	1021-2848	Registration	9/8/2020
VICTOREM INSECTICIDE CONCENTRATE	1021-2847	Registration	6/29/2020
Blitz	3862-196	Registration	5/21/2020

CSI 16-172B Aerosol	53883-452	Registration	5/7/2020
Chemsico Aerosol Insecticide 10CE	9688-348	Registration	4/6/2020
PIVOT ULTRA PLUS	53883-421	Registration	4/18/2018
Clarke DUET Dual-Action Adulticide	8329-109	Registration	1/10/2018
VICTOREM INSECTICIDE CONCENTRATE	1021-2807	Registration	4/12/2017
BIO KILL BRAND MICRO-FAST RTU	64321-15	Registration	1/3/2017
BIO KILL BRAND MICRO-FAST CONCENTRATE	64321-14	Registration	1/3/2017
RAID MAX WASP & HORNET KILLER	4822-611	Registration	6/30/2016
THERMACELL MOSQUITO REPELLENT II	71910-6	Registration	6/23/2016
MGK Formula 31021	1021-2795	Registration	5/25/2016
STRYKER WASP & HORNET	53883-384	Registration	4/8/2016
DUET HD DUAL-ACTION ADULTICIDE	8329-105	Registration	1/29/2016
MGK Formula 3102	1021-2794	Registration	1/27/2016

Pyrethrins

EPA has continued to register pesticide products containing Pyrethrins without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Pyrethrins do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
CSI 20-376 PY + DELTA AE	53883-494	Registration	8/6/2021
EVERCIDE ROACH & ANT SPRAY 2639	1021-1698	ID Mitigation	6/16/2021
FLY DIE LIVESTOCK SPRAY WITH VAPONA	47000-108	RED Mitigation	4/28/2021
MGK Formula 3135	1021-2849	Registration	4/12/2021
EVERCIDE CARPET & SURFACE SPRAY 2657	1021-1702	ID Mitigation	3/15/2021
AEROTECH IGR PRESSURIZED FOGGING SPRAY	47000-147	ID Mitigation	1/29/2021
RF2298 PMP FC	89459-126	Registration	1/6/2021
EVERCIDE TOTAL RELEASE AEROSOL 2614	1021-1674	ID Mitigation	9/18/2020
BotanEQS Black	93632-1	Registration	2/14/2020
PY-T-20 PALE REFINED PYRETHRINS	69987-3	Registration	1/8/2020
NOVACIDE PREMISE SPRAY	88746-12	Registration	10/3/2019
RF2292 PY	89459-109	Registration	9/12/2019
NATRIA MULTI-PURPOSE INSECT KILLER READY-TO-USE	92564-74	Registration	8/22/2019
PYRUS TR	91234-81	Registration	9/18/2018
CSI 18-263 PY+PBO CS AEROSOL	53883-445	Registration	5/9/2018
1% PY 3D-IPNS UIP	92035-1	Registration	5/3/2018
MERUS 3.0	8329-108	Registration	3/28/2018
CENOL KILLS BUGS ON [FOR] LIVESTOCK & POULTRY	45385-102	Registration	1/19/2018
COMFORT ZONE® INSECTICIDE	1021-2813	Registration	1/9/2018
RF2260 Concentrate	89459-96	Registration	1/3/2018
ENTECH FOG-3	40391-17	Registration	12/11/2017
Pyrol-O Insecticide/Miticide	67702-53	Registration	11/9/2017

CSI PL 1701 Wipe N'Spray	53883-413	Registration	9/13/2017
ORTHO FRUIT AND VEGETABLE INSECT KILLER READY-TO-USE	239-2741	Registration	8/23/2017
STRYKER CS	53883-409	Registration	8/16/2017
SHOCKWAVE 1 AEROSOL	1021-2804	Registration	5/9/2017
MGK Formula 31012	1021-2805	Registration	5/9/2017
BIOGARD CONCENTRATE	82074-13	Registration	3/21/2017
PYSTOL FARM AND DAIRY SPRAY	53883-403	Registration	2/2/2017
STRYKER 300	53883-390	Registration	8/19/2016
MGK Formula 74611	1021-2801	Registration	5/5/2016
CSI Py+PBO 1-5	53883-386	Registration	4/28/2016
BRANDT BIOGARD DUST	82074-12	Registration	4/15/2016
SPHYNX	82074-11	Registration	3/30/2016
NEU1161 AEROSOL-P PEST SPRAY	67702-51	Registration	3/11/2016

Tau-fluvalinate

EPA has continued to register pesticide products containing Tau-fluvalinate without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Tau-fluvalinate do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA and the consultation regulations. 16 U.S.C. § 1536(a)(2); 50 C.F.R. Part 402.

Product Name	Reg. No.	Action	Date
BIOADVANCED® SCIENCE-BASED SOLUTIONS 3-IN-1 INSECT, DISEASE & MITE CONTROL PLANT RELIEF	92564-72	Registration	7/3/2018

Tefluthrin

EPA has continued to register pesticide products containing Tefluthrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Tefluthrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
Sharda Tefluthrin Technical	82633-41	Registration	11/4/2020
PIERCE	83529-123	Registration	10/30/2020
Force 6.5G	100-1625	Registration	11/8/2017
Force 10G HL Insecticide	100-1615	Registration	1/12/2017
Force Evo	100-1610	Registration	1/3/2017

Tetramethrin

EPA has continued to register pesticide products containing Tetramethrin without ensuring through initiation or completion of consultation that its actions regarding pesticide products containing Tetramethrin do not jeopardize the continued existence of endangered and threatened species or destroy or adversely modify designated critical habitat. Accordingly, the EPA's registration of the following pesticide products violates Section 7(a)(2) of the ESA.

Product Name	Reg. No.	Action	Date
RF2307 WH Spray	89459-129	Registration	4/5/2021
NYLAR PRESSURIZED SPRAY 2618	1021-1622	ID Mitigation	8/31/2020
ORTHO® HOME DEFENSE® BACKYARD MOSQUITO & BUG KILLER 1	239-2751	Registration	12/19/2019
NOVACIDE INSECTICIDE	88746-12	Registration	10/3/2019
Ultimate Zapper Wasp & Hornet Spray II	34370-3	Registration	8/29/2019

CONCLUSION

We would prefer to resolve this matter without the need for litigation and hope you will meet to work towards a comprehensive workplan for pesticide active ingredients and their products. However, if EPA does not act to correct the violations described in this letter, the Center will pursue litigation and seek to vacate all the products listed above.

Sincerely,



Brett Hartl
Government Affairs Director
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Lori Ann Burd
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cc:

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