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PRESS RELEASE

For Immediate Release

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Federal Court Finds USDA Process for Allowing Pesticide-Contaminated Compost Improper and Stops Use

Washington, DC, June 21, 2016 – In a ruling that organic advocates say is critical to the integrity of the USDA organic label, a [U.S. District Court judge found yesterday](#) that the U.S. Department of Agriculture (USDA) violated public process when it decreed that pesticide-contaminated compost is allowed in organic production. Three groups that bridge environmental, consumer, and farmer interests sued USDA for ruling that green waste (from lawn clippings and plants) compost may contain levels of the insecticide bifenthrin and other pesticides without subjecting the allowance to public hearing and comment. The case focused principally on whether USDA, in failing to conduct a formal public review, was operating “at its whim.” The court found that is exactly what USDA did and it must stop allowing the contamination by August 22, 2016.

U.S. District Judge Jacqueline Scott Corley of the Northern District of California found that USDA’s National Organic Program (NOP) operated without the required notice and comment. She explained that “the reach of the Agency’s new rule stretches beyond bifenthrin and instead allows green waste or green waste compost used in organic production to contain any synthetic pesticide of which bifenthrin is just one example.” The plaintiffs in the case are Center for Environmental Health (CEH), Center for Food Safety (CFS), and Beyond Pesticides.

“The court decision upholds an organic industry that has been built on a foundation of consumer and farmer investment in ecologically sound practices, principles, and values to protect health and the environment,” said Jay Feldman, executive director of Beyond Pesticides. “USDA has violated a basic requirement of public accountability in the standard setting process, which is fundamental to public trust in the organic label and continued growth of the organic sector,” he added.

“The decision is a vital victory for organic integrity, on behalf of organic consumers, organic farmers, and the environment,” said senior CFS attorney George Kimbrell, counsel for the plaintiffs.

In 2009, the California Department of Food and Agriculture (CDFA) found compost contaminated with the insecticide bifenthrin and stopped the use of three compost products. Bifenthrin is a possible cancer causing agent, endocrine disruptor, and neurotoxic chemical. After the USDA contamination allowance in 2010, the California prohibition was lifted.

The Organic Trade Association, California Certified Organic Farmers (a certifying agency), and Western Growers Association intervened in the case, claiming that a decision that vacates the contamination rule would cause “profound disruptions to the organic industry” and require an “astronomical. . .testing regime.” The judge responded with, “Amici’s testing argument makes no sense.” As the Judge points out, testing previous to the USDA allowance had been done “when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods.” Testing performed by the Washington State Department of Agriculture (which tests for pesticide contamination to comply with Canadian organic certification) found that of the 13 tested composts, five had pesticide residues, according to court records. The Judge cited testimony that other compost was found during the prohibition of contaminated compost in California.

Advocates argue that when registering pesticides like bifenthrin, the U.S. Environmental Protection Agency must be required to protect against contamination of the green waste stream because of the adverse environmental and public health effects, as well as the adverse economic impact that contamination may have on the now \$40 billion organic industry.

"We applaud the court's decision to protect the integrity of the organic program," said Caroline Cox, Research Director of CEH. "We will continue to watchdog the USDA to insure that the program meets consumers' expectations for meaningful organic standards."

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