



October 29, 2013

USDA/APHIS/AC
4700 River Road, Unit 84
Riverdale, MD 20737-1234
Email: agsec@usda.gov

Via Electronic and United States Mail

Re: January 12, 2010 Petition to Regulate the Movement of Commercial Bumble Bees

Dear Tom Vilsack:

On behalf of the Xerces Society, the Natural Resources Defense Council (NRDC), and Defenders of Wildlife, we write to request an update on the status of our January 12, 2010 Petition for Rulemaking, in which we asked the Secretary and Administrator to regulate the movement of commercial bumble bees in order to help control the spread of parasites and pathogens of bumble bees. Nearly four years have elapsed since we submitted our Petition, and neither the U.S. Department of Agriculture (USDA) nor the Animal and Plant Health Inspection Service (APHIS) has responded. The requested rulemaking is urgent and overdue. Numerous bumble bee pollinators have already declined dramatically and pathogens from commercial bumble bees are likely responsible for this; without agency intervention, we will likely continue to see a dramatic decline in bumble bee pollinators with perilous and potentially irreversible consequences.

I. USDA/APHIS itself recognized twenty years ago that the unregulated interstate movement of commercial bumble bees is an issue of serious concern.

In the last two decades, there has been a dramatic rise in the demand for commercially reared bumble bees to pollinate greenhouse crops, particularly tomatoes. This rise has come with a concomitant decline in numerous species of North American bumble bees. The evidence to date supports the hypothesis that this decline was caused by the introduction of diseases spread by commercial bees. Since we submitted our petition in January 2010 several new studies have shown that commercial bumble bee hives harbor disease (Graystock *et al.* 2013, Morkeski & Averill 2012). These studies lend additional urgency to our request that APHIS take action.

APHIS itself has been aware of the problem since at least 1993, when the USDA conducted a risk assessment that concluded “that release of an aggressive eastern species [of bumble bee] (i.e., *Bombus impatiens*) in western states places western species of *Bombus* [i.e.

bumble bees] at significant risk.” For this reason, at that time, the USDA concluded that “[r]elease of nonindigenous *Bombus* is not considered to be safe under any circumstances”

Unfortunately—despite a longstanding recognition of the resultant threat to native bee species—USDA/APHIS does not currently regulate the interstate shipment of adult bumble bees or their nest materials, which are transported throughout the country, including to most states in the western US where the most commonly used commercial species (*B. impatiens*) is not native.

II. The potential economic costs of prolonged agency inaction on this issue are considerable and the ecological consequences potentially irreversible.

The ecological and economic importance of bee pollinators is well established. Healthy populations of native bumble bees are essential for the reproduction of many commercial and native plants, and the economic value of native bee pollinators in the United States is estimated at \$3 billion per year.

The unregulated interstate movement of bumble bees outside their native ranges may have already introduced diseases that have led to the rapid endangerment of four formerly common bee pollinators and the possible extinction of a fifth bumble bee: the last reported sighting of a Franklin’s bee (*Bombus franklini*) was in August of 2006, and, without regulation, the western bumble bee (*Bombus occidentalis*), the rusty patched bumble bee (*Bombus affinis*), the yellowbanded bumble bee (*Bombus terricola*), and the American bumble bee (*Bombus pensylvanicus*) are each in danger of disappearing throughout significant portions of their distribution ranges. Losses of these populations imperils not just the bee species and the wild plants and ecosystems that depend on these keystone species, but also may have direct implications for the health of our commercial agriculture industry and the security of our food supply.

III. Given the seriousness of the problem and the risks related to inaction, the agencies’ multi-year delay in responding to our Petition is unreasonable.

In our January 2010 Petition we requested that the agency promulgate regulations that ban the movement of adult bumble bees, nests, and previously used nest materials *outside* their native ranges and ensure bees are disease-free prior to interstate movement *within* their native ranges.

We submitted our Petition for rulemaking nearly four years ago. In April 2011, APHIS indicated in a letter addressed to Dr. Robbin W. Thorp and Dr. Sujaya Rao that an updated risk assessment on this topic was forthcoming, but the agency has never released such a risk assessment. More recently, on August 29, 2013, Senior Entomologist at APHIS, Dr. Colin D. Stewart, wrote in an electronic mail correspondence that after having “tabled” work in this area, the agency has restarted its efforts, which include “possibly” limiting the interstate movement of bumble bees to their native ranges.

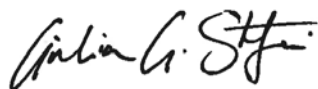
We are heartened by the agency's return to the issue. However, the suggestion that USDA/APHIS may take action on this topic does not obviate the agencies' legal obligation to decide our Petition for rulemaking "within a reasonable time." 5 U.S.C. § 555(b). It is well established that "a reasonable time for agency action is typically counted in weeks or months, not years," *In re American Rivers*, 372 F.3d 413, 419 (D.C. Cir. 2004), and the USDA/APHIS's nearly four year delay in taking action on our Petition is agency action unreasonably delayed.

Because a decision is already overdue, and in order to confirm that the agency is indeed making good faith and reasonable progress related to our requested rulemaking, we hereby request (1) further information regarding the scope of the agency's planned action in this area, including assurance that the agency is committed to regulating the interstate movement of bumble bees outside their native ranges as well as inside their native ranges to control the spread of pathogens; and (2) a timeline for the development, completion, and implementation of any related regulations.

IV. Conclusion

For the reasons explained above, we ask USDA/APHIS to commit to the promulgation of regulations that oversee the movement of commercial bumble bees inside and outside of their native ranges in order to protect native bee species and prevent the spread of pathogens. In further assurance that reasonable progress is being made in furtherance thereof, we request that the agency provide us with a timeline that includes the dates by which the agency expects to draft, complete, and implement such regulation.

Very truly yours,



Giulia Good Stefani
Project Attorney
Natural Resources Defense Council



Sarina Jepsen
Endangered Species, Program Director
The Xerces Society



Jason Rylander
Senior Staff Attorney
Defenders of Wildlife



Dr. Robbin Thorp
Prof. Emeritus, Dept. of Entomology and Nematology
University of California, Davis

January 12, 2010 Petition to Regulate the Movement of Commercial Bumble Bees

October 29, 2013

Page 4 of 4

CC: Kevin Shea, Administrator, APHIS
William H. Clay, Deputy Administrator, APHIS
Dr. Colin D. Stewart, Senior Entomologist, APHIS

REFERENCES

Graystock P, K Yates, SEF Evison, B Darvill, D Goulson, WHO Hughes. 2013. The Trojan hives: pollinator pathogens, imported and distributed in bumblebee colonies. *Journal of Applied Ecology*. doi: 10.1111/1365-2664.12134

Morkeski A, AL Averill. 2010. Wild bee status and evidence for pathogen spillover with honey bees. Jointly published in *American Bee Journal* and *Bee Culture*. Available at:
<http://www.extension.org/pages/30998/wild-bee-status-and-evidence-for-pathogen-spillover-with-honey-bees>