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THIS IS NOT THE BEE'S KNEES: A CRITICAL VIEW OF THE GOVERNMENT'S LACK OF POLICY TO CONSERVE THE POLLINATORS

By Savannah Pugh*

Fifteen billion dollars of the food industry comes from plants pollinated by honeybees—that's about one-third of the food industry.¹ Though unwelcome visitors at picnics, bees are vital to the ecosystem.² Honeybees act as predictors to the health of the planet. More bees mean more pollination, greater crop yields, and a healthier ecosystem; whereas, a decline in bee populations is a sign of a sick earth. There has been a 90% decline in bee populations in the last twenty years.³ Ninety percent of the plants on our planet require pollinators to transfer pollen and help them reproduce.⁴ Some flora even require a certain bee species for pollination,⁵ and with the common honeybee entering the list of endangered species in 2016,⁶ the outlook is grim. Bees are dying at an alarming rate due to pesticides, mites, global warming, and a plethora of other issues.⁷ To correct the plight of the bees, legal solutions must be considered. The protections created by Article Seven, Chapter Eleven of the United States Code—which make the importation of sick bees or at-risk bees illegal—and the Environmental Protection Agency's (EPA) Actions to Protect Pollinators report, are insufficient.⁸

Forty-two percent of beekeepers report that their bees have been affected by mites.⁹ The Varroa mite came from China, and bees in the United States have no immunity to it.¹⁰ The mite is an apex predator to the pollinators. The mite sucks the blood from adult bees, and when it comes into contact with larvae, the mite sucks the nutrients from the larvae and causes the baby bees to be born without wings or legs.¹¹ The mites spread from colony to colony by attaching to worker bees, who lose their way due to the interference of pesticides, and end up at different colonies than their home.¹² While colonies were once able to fight off infestation of the mites, the addition of insecticides weaken the bees to the point that they cannot keep the mites at bay.¹³

Thirteen percent of beekeepers noted that their bees were being threatened by pesticides causing bee die-offs to reach up to 50% of the colony per year in 2015.¹⁴ These pesticides are hard for bees to detect, and once exposed to them, the bees develop physiological effects that make their survival far more difficult.¹⁵ These chemicals cause the pollinators to suffer from slow development rates to the extent that they do not reach maturity at their regular rate, and the pesticides further interfere with feeding behavior. Additionally, the chemicals perturb the bees' foraging patterns—the bees who have come in contact with the insecticides cannot remember their normal pollination routes, and never make it back to their hive.¹⁶ Neonicotinoids have been

outlawed in Europe, and European bees seem to be faring better than U.S. bees in 2017.¹⁷ While the pesticides do not directly kill the bees, they are sub-lethal stressors that make their lives almost impossible.¹⁸

Temperature changes throughout the globe have caused and will continue to cause a myriad of problems. Global warming increases the temperature, changes rainfall patterns, and increases extreme weather patterns. These changes are major stressors for honeybees, which are susceptible to climatic changes.¹⁹ With cold weather coming at different times in the year than centuries before, hibernation patterns have been disrupted, in some cases causing bees to miss out on valuable spring time pollination.²⁰ Climate change has also disrupted the flight patterns of many bee species.²¹ The combination of climate change with industrial agriculture has led to the destruction of many habitats and species of flora.²² Bee diversity has dropped 23%—even the common honeybee is endangered today.²³

On June 20, 2014, President Barack Obama published a memorandum calling for the creation of a federal strategy to promote the health of pollinators.²⁴ The plan called into action a task force to be co-chaired by the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, that was charged with developing a strategy with explicit goals to measure progress.²⁵ However, the plan reduced the honeybee problem to a seven-page document with no real goals. It states that the government will work in-house to solve the problem and will allow the Agricultural Research Service to convert four laboratories into specialized bee labs.²⁶ These labs may enter into formal agreements with non-Federal entities for grants and agreements for bee research.²⁷ The main goal of these research facilities will be to develop new miticides to interrupt the life-cycle of the Varroa mite.²⁸

The Health of the Honeybee plan does not create any new laws or standards; rather, it calls on honeybee keepers to voluntarily send tracked losses of their hives to the EPA.²⁹ It also implores each state to create a pollinator plan, but gives no deadline or incentive for the states to do so.³⁰ The only legal solution for honeybees to date is Title Seven of the United States Code, which merely restricts the importation of foreign honeybees into the states in an effort to halt the spread of Varroa mites.³¹ Rather than calling for a ban on the neonicotinoid pesticides that are known to make bees sick, the plan instead requires companies to

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label pesticides with a warning to consumers that the pesticide has been proven to be dangerous to pollinators.³² The government's legal involvement has done nothing to hold any state or federal entity responsible, and instead pleads that private citizens volunteer and make choices for their community. Instead of creating a comprehensive plan to combat the problem, the document reads as a petition to the public to act. This implies that the government is not going to do more to protect the honeybee or other pollinators.

The problem of bee die-off is catastrophic. Bees pollinate most of our planet—they are a keystone species, and they are what hold most ecosystems together. The United States needs to ban the pesticides known to cause bee illness—only then will the honeybees be able to fight off the mites that are decimating their population. The Federal Government must draft a

comprehensive plan to combat the problem with serious consequences for offenders and manufacturers of dangerous pesticides. With human development accelerating at an exponential rate, international trade and industrial farming pose some of the biggest risks to bees via the spread of invasive predatory species and overuse of pesticides. Every beekeeper should be entitled to relief; therefore, farmers should not have to volunteer their information to the government research facilities to be eligible for help. Additionally, manufacturers should be held responsible for the consequences of their actions, or their products should be outlawed entirely. To save the bees we cannot sit back and hope that the problem will solve itself—we must act aggressively and with purpose because their lives, and ours, depend on it.



ENDNOTES

¹ Alan Bjerga, *Bees Are Bouncing Back From Colony Collapse Disorder*, BLOOMBERG (Aug. 1, 2017, 10:17 AM), <https://www.bloomberg.com/news/articles/2017-08-01/good-news-for-bees-as-numbers-recover-while-mystery-malady-wanes>.

² *Id.*

³ *Id.*

⁴ Reyes Tirado et al., *Bees in Decline: A review of factors that put pollinators and agriculture in Europe at risk*, GREENPEACE 4 (2013), <http://sos-bees.org/wp-content/uploads/2014/04/BeesInDecline.pdf>.

⁵ Simon Klein & Andrew Barron, *Conly Collapse: 10 Years after the crisis began, what is happening to the world's bees?*, ABC NEWS (May 8, 2017, 2:02 AM), <http://www.abc.net.au/news/2017-05-08/colony-collapse-ten-years-after-crisis-what-is-happening-to-bees/8507408>.

⁶ *Id.*

⁷ Tirado et al., *supra* note 4.

⁸ 7 U.S.C. § 281 (2017); Memorandum from President Barack Obama on Creating a Fed. Strategy to Promote the Health of Honey Bees & Other Pollinators (June 20, 2014) (available at <https://obamawhitehouse.archives.gov/the-press-office/2014/06/20/presidential-memorandum-creating-federal-strategy-promote-health-honey-b>) [hereinafter Obama Memo].

⁹ Bjerga, *supra* note 1.

¹⁰ Nick Lucchesi, *Good News for Honeybees: 2016 Population Results are Not 'Horrible'*, INVERSE (May 26, 2017), <https://www.inverse.com/article/32107-why-are-bees-dying>.

¹¹ Ric Bessin, *Varroa Mites Infesting Honey Bee Colonies*, UNIV. OF KY. COLL. OF AGRIC., FOOD & ENV'T (Apr. 2016), <https://entomology.ca.uky.edu/ef608>.

¹² *Id.*

¹³ Tirado et al., *supra* note 4, at 24.

¹⁴ Bjerga, *supra* note 1; Lucchesi, *supra* note 10.

¹⁵ Tirado et al., *supra* note 4, at 6.

¹⁶ *Id.*

¹⁷ Bjerga, *supra* note 1.

¹⁸ Sean Rossman, *A third of the nation's honeybee colonies died last year. Why you should care*, USA TODAY (May 26, 2017, 11:41 AM), <https://www.usatoday.com/story/news/nation-now/2017/05/26/third-nations-honeybee-colonies-died-last-year-why-you-should-care/348418001/>.

¹⁹ Tirado et al., *supra* note 4, at 2.

²⁰ *Id.* at 6.

²¹ *Id.*

²² *Id.* at 5.

²³ Rossman, *supra* note 18.

²⁴ Obama Memo, *supra* note 8.

²⁵ *Id.*

²⁶ Hon. Tom Vilsack & Hon. Gina McCarthy, *Pollinator Partnership Action Plan*, POLLINATOR HEALTH TASK FORCE 5 (June 22, 2016), https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Blog/PPAP_2016.pdf.

²⁷ *Id.* at 6.

²⁸ *Id.* at 7.

²⁹ *Id.*

³⁰ *Id.*

³¹ 7 U.S.C. § 281 (2017).

³² Vilsack & McCarthy, *supra* note 26, at 9.