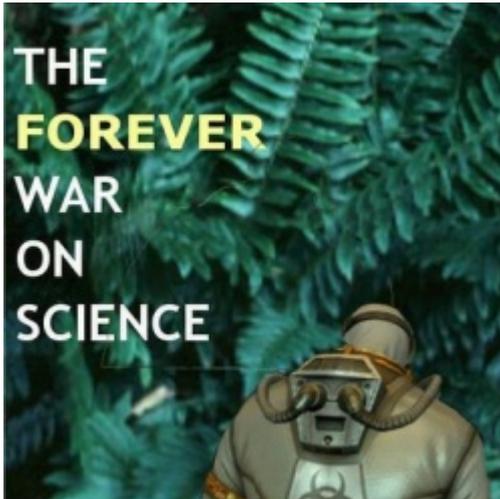


Appeals Court Says EPA Needs To Ban Chlorpyrifos, Even Though Evidence For Harm Has Never Been Seen



By Hank Campbell — August 9, 2018



Trial lawyers are cheering that the 9th Circuit Court of Appeals in California [ordered EPA to finalize its proposed ban on chlorpyrifos](#) [1] but the science is even less settled than the court case is. If you are not familiar with American law, the 9th is the most overturned appeals court by the Supreme Court of the United States, because their rulings are often overtly political, and therefore not grounded in evidence.

This seems to be another instance of it. Though Judge Jed Rakoff, an appointee of the Clinton administration, was joined by Obama appointee Judge Jacqueline Nguyen to create a 2-1 majority over George H.W. Bush appointee Ferdinand Fernandez, Fernandez is in the right, because he argued that the case should have gone to a lower court first. His point is sound law. If EPA chooses to appeal the decision it is certain to be heard at the Supreme Court and the 9th will be overturned yet again.

Activist groups and their lawyers claim chlorpyrifos residues on food cause neurodevelopmental damage to children, but that has only been found using statistics constructed by the Columbia Center for Children's Environmental Health at Columbia University. If that sounds like IARC on coffee or herbicides or [bacon](#) [2], yes, it is the same voodoo methodology. They ignore dose and declare any presence as hazardous. That is like [assuming 1 shot of Scotch will harm you as much as 10,000](#) [3].

No one has seen the data. Not EPA, not USDA, because the researchers behind the claim have refused to show it. And somehow, even though the studies are taxpayer-funded, the federal government has allowed agenda-driven academics to claim they "own" the data.

The administration overruled its own scientists

Instead of demanding that the data, which did not match the pattern of other studies, be reviewed, the previous administration agreed to a ban and overruled its own EPA scientists, who found no evidence for harm using available data, and ignored its own U.S. Department of Agriculture. "USDA has grave concerns that ambiguous response data from a single, inconclusive study are being combined with a mere guess as to dose levels, and the result is being used to underpin a regulatory decision," [the Agriculture Department wrote](#) ^[4] during the waning days of the Obama administration.

It's junk science turned into policy, exactly what those agencies are supposed to prevent.

Such politicization of science has hindered EPA for decades, but this incident led to calls for eliminating "secret science" by government panels - a request made by EPA. [We testified in support of EPA](#) ^[5] being able to see data before politicians force them to place bans on products because they have been hobbled by such politics since they were forced to ban DDT over the objections of scientists at their founding in the early 1970s. It has been the norm since. The previous administration forced not one but two special assessments of the herbicide atrazine, for example, and they did so based on similar secret science - [a paper by a Berkeley biologist who claimed endocrine disruption in frogs but refused to show any data](#) ^[6]. Which meant EPA *could not even use the study that got the politician* to force them to re-evaluate the product.

Sierra Club and their EarthJustice litigation group, along with the Usual Suspects at Environmental Working Group et al. can try to claim is as a victory, but it will only be such if EPA decides not to pursue an appeal they are almost guaranteed to win.

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Links

[1] <https://www.acsh.org/sites/default/files/chlorpyrifos%208.9.2018.pdf>

[2] <https://www.acsh.org/news/2016/12/05/cspi-demands-us-government-put-cancer-warning-label-onbacon-10523>

[3] https://www.science20.com/science_20/10000_shots_of_scotch_and_why_i_dont_fear_pesticides-142476

[4] <https://www.regulations.gov/document?D=EPA-HQ-OPP-2015-0653-0648>

[5] <https://www.acsh.org/news/2018/06/15/epa-secret-science-no-more-rationalization-its-time-go-13086>

[6] <http://online.wsj.com/articles/hank-campbell-the-corruption-of-peer-review-is-harming-scientific-credibility-1405290747?source=science20.com>