



VIA CERTIFIED MAIL and EMAIL

March 4, 2024

Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

RE: Demand for Retraction and Apology

Dear Administrator Regan:

I am writing to you both on behalf of Public Employees for Environmental Responsibility (PEER) and on behalf of our client, Dr. Steven Lasee. We are asking you to immediately investigate and reverse a major injustice your agency has perpetrated on Dr. Lasee that endangers public health.

As a former EPA employe myself, the agency's conduct in this matter has troubled me greatly and denotes a depth of official malfeasance within the agency that is quite disturbing.

Factual Background: Dr. Lasee was a "participant" at the Great Lakes Toxicology and Ecology Division Laboratory (*GLTED*) lab from February 1, 2021 to February 1, 2023 as an Oak Ridge Institute for Science and Education (ORISE) "research fellow." In November of 2022, Dr. Lasee and other scientists published a study¹ about the discovery of large amounts of PFOS (3.92 – 19.2 parts per million) in 6 out of 10 pesticides he studied.

On November 4, 2022, Dr. Yaorong Qian of EPA's Analytical Chemistry Branch (ACB) emailed Dr. Lasee, asking him if he could send "an aliquot of the pesticide products you tested and found PFAS." Dr. Qian also stated, "Any information you provided will remain confidential." Dr. Lasee sent the requested pesticides on or about January 17, 2023, making it clear to Dr. Qian that EPA could not release the names/brands of the pesticides. Dr. Qian assured Dr. Lasee that this information would "not be revealed to outside parties without your explicit permission." EPA received the samples on January 19, 2023.

Dr. Lasee also spiked the samples with a small, known concentration of PFOS, a standard practice that ensures the tests are working. Dr. Lasee did not originally tell Dr. Qian or anyone else at EPA that he had spiked the samples. According to the American Society for Testing and Materials (ASTM), "Matrix spiking is commonly used to determine the bias under specific

¹ [Targeted analysis and Total Oxidizable Precursor assay of several insecticides for PFAS - ScienceDirect](#)

analytical conditions...”² Specifically, samples are spiked with a known concentration to gauge the quality of a lab's extraction and analytical technique (i.e., if you spike something with 100 and they come back and say they found 80, you know the method was 80% effective).

In this case, Dr. Lasee did not know the existing concentrations of PFAS in the samples he sent to EPA, so he chose to do a low spike to avoid damaging their instrument.

EPA ran tests on the pesticides for PFAS and told Dr. Lasee that they did not find any PFAS. Dr. Lasee then told Dr. Qian that he had spiked the samples on February 23, 2023, and that they should run the tests again. This was prior to running their newly developed method on their Sciex 6500+ on March 16th, 2023. Dr. Lasee did not share the spiked concentration with the EPA, as the expectation is that they would tell him what the concentrations were.

On May 18, 2023, EPA wrote a memo³ regarding their tests, and on May 30, 2023, they issued the memo with an accompanying press release.⁴ The press release stated:

“EPA did not find any PFAS in the tested pesticide products, differing from the results of a published study in the Journal of Hazardous Materials... EPA is confident in the results of this newly released method, which is specifically targeted to detect the presence of PFAS in pesticide products formulated with surfactants.”

Neither the memo nor the press release mentioned that the samples provided by Dr. Lasee had been spiked. Moreover, EPA released all the names of the products, in violation of the agreement they had made with Dr. Lasee.

EPA’s memo and press release garnered much attention and confused the press and the public alike. For example, *E&E News* published an article claiming that EPA had found there were no PFAS in pesticides, conflating this issue with the leaching of PFAS from fluorinated containers into pesticides.

Needless to elaborate, Dr. Lasee suffered severe professional damage and emotional distress because of EPA’s actions.

EPA’s Egregious Wrongdoing: EPA omitted material facts in its memo and press release, knowing this would damage Dr. Lasee’s reputation.

PEER submitted a FOIA request on Dr. Lasee’s behalf for EPA’s test results. Although the memo discussed two tests run on the pesticides, the FOIA yielded results from *four* tests. Surprisingly, the third test (Sciex 6500+ LC/MSMS), which the EPA stated were representative of the quantification of their newly developed method, found PFAS in the pesticides they tested.

By all appearances, EPA engaged in a pattern of conduct that provided misinformation to a national audience and intentionally damaged Dr. Lasee, by doing the following:

² [D5810 Standard Guide for Spiking into Aqueous Samples \(astm.org\)](https://www.astm.org/standards/D5810)

³ <https://www.epa.gov/system/files/documents/2023-05/BEAD%20PFAS%20Study%20Results%202023.pdf>

⁴ [EPA Completes Scientific Testing of Pesticide Products for PFAS | US EPA](https://www.epa.gov/pesticide-testing/epa-completes-scientific-testing-of-pesticide-products-for-pfas)

- 1) EPA stated in their memo that “[n]one of the 29 PFAS compounds...was detected in any of the samples above the instrument’s background levels.” This is patently untrue. EPA’s Sciex 6500+ LC/MSMS test found evidence of 14 PFAS, including PFOS, in the pesticides.
- 2) In the EPA’s quality assurance documentation, they stated:

“Pesticide sample analysis shows that all the detected peaks in some samples are near the background levels as in blanks and control blanks (generally <2X of that in blanks). Therefore, all the peaks detected are all false positives and will not be reported.”

This is a false statement by the EPA’s own data. PFAS concentrations significantly higher than < 2X were found in both the pesticide sample Dr. Lasee sent to the EPA and the products they purchased for 4:2 FTS, 6:2 FTS, 8:2 FTS, N-EtFOSAA, PFUdA, PFDA, PFOS, PFOA, and FOSAA.

- 3) EPA deliberately omitted from its report that Dr. Lasee’s method blank contained no PFAS, as it voided their argument that he had background contamination. EPA concluded in its memo that:

“Furthermore, since low amounts of PFAS are readily observed in the environment, incorrectly interpreted background data could be multiplied by a large dilution factor (if dilution was used as sample preparation), resulting in reporting of an overexaggerated concentration of a background PFAS or a false-positive identification. These large dilution factors utilized by Lasee et al. could have contributed to the high results obtained in that study.”

Had EPA reported Dr. Lasee’s method blank instead of removing it, it would have showed that Dr. Lasee did *not* have background contamination.⁵ Removing the method blank from the data they presented is a serious scientific integrity violation.

- 4) Aliquots sent by Dr. Lasee were about 1 mL in volume, meaning EPA would not have been able to complete the extractions they claimed to have done.
- 5) The memo states that ACB’s method “involves a more intense extraction and clean up procedure to isolate PFAS compounds from the sample matrix before instrumental analysis, thus reducing matrix interference which results in better/more accurate detection limits” – in other words, that ACB’s methods were better than Dr. Lasee’s. What EPA did not report is that their methods had substantial contamination. The results from the Sciex 6500+ LC/MSMS instrument, the instrument the EPA used to quantify their new method, showed background contamination for most PFAS analyzed.

⁵ Dr. Lasee did have slight contamination of one PFAS, 6:2 FTS, which he noted in his paper and in his discussions with EPA. Concentrations for 6:2 FTS were not reported in his paper as a result of the contamination.

- 6) EPA cited a table with all the product names, claiming it was from Dr. Lasee's paper. It was not, and in fact, Dr. Lasee had told EPA representative in a conversation that the names of the products could not be released, and EPA had assured him they would not release this information without Dr. Lasee's explicit permission.
- 7) Dr. Lasee used mass labeled internal standards for quantification, but the memo implied that he did not.

These actions violated EPA rules embodied in its Scientific Integrity Policy which posits an "expectation" that the agency's "scientific work is of the highest quality, free from political interference or personal motivations."⁶ These actions also fly in the face of EPA's own Information Quality Act guidelines which purport to "to ensure and maximize the quality, including objectivity, utility and integrity, of disseminated information" by the agency.⁷ They also arguably constitute false official statements within the meaning of 18 U.S.C. § 1001, a felony.

In short, EPA's ACB coerced Dr. Lasee into cooperation with the promise of anonymity of the products he tested, only to betray this trust, publicly, in their memo; deliberately removed data from Dr. Lasee's work when they wrote their memo; failed to reveal that Dr. Lasee spiked the samples with PFOS (given that their tests did not find the spiked PFOS concentrations, this indicates that these tests were not sensitive); and purposefully lied about their results, which corroborated Dr. Lasee's findings that there are PFAS in pesticides. In so doing, EPA damaged Dr. Lasee, his reputation, his ability to work in his field, and inflicted great mental anguish upon him.

Public Health Consequences: Perhaps more importantly, EPA has spread the dangerously false message that, in the self-congratulatory words of its May 2023 press release, the agency has taken effective steps to "proactively stop PFAS chemicals from entering the environment."

If the intent was to spread PFAS contamination across the globe there would be few more effective methods than lacing pesticides with PFAS. The level of absorption by plants suggests that a person could absorb a lifetime dose of PFAS from eating one salad made with produce treated with these pesticides.

The presence of PFAS in pesticides point to an appalling regulatory breakdown by EPA. The work of Dr. Lasee and other scientists demonstrate that the PFAS problem in pesticides goes far beyond the inert ingredients.

Nor does this contamination spring from contaminated barrels (yet another major EPA regulatory and enforcement failure⁸) but from the ingredients of the pesticides themselves, possibly added as dispersants to aid in the even spreading of the agents on plant surfaces. If the source of the PFAS observed was container contamination, the primary PFAS constituent would be PFPeA, as

⁶ [EPA's Scientific Integrity Policy](#)

⁷ [Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency \(epa.gov\)](#) Section 5.1

⁸ See <https://peer.org/peer-and-ceh-ask-court-to-immediately-stop-unlawful-pfas-formation/>

per the EPA container contamination report. This was not observed in any of the results the EPA obtained.

Rather than using this research as the basis for immediate protective action, EPA has deceptively tried to discredit these findings and falsely portray itself as an effective regulatory agency.

Demand for Retraction and Apology: By this letter, PEER is formally requesting that you take corrective action that must include:

- 1) Publicly retract the May 18, 2023 press release and accompanying memo;
- 2) Issue an apology to the *Journal* study's authors, posted prominently on EPA's website, and distributed to every state pesticide control agency; and
- 3) Undertake an immediate investigation to both identify and publicly name the responsible parties within EPA and administer appropriate discipline.

If within 14 days after receipt of this letter, EPA has not informed PEER of its intent to undertake the remedial actions enumerated above, PEER intends to initiate legal action to formally seek correction of the record.

If PEER can provide you with any additional information that would aid you in resolving this matter, please do not hesitate to ask. We look forward to your expeditious reply.

Sincerely,



Tim Whitehouse
Executive Director

cc. Dr. Michal Freedhoff, Assistant Administrator, OCSPP
Jeffrey Prieto, General Counsel