

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

)
NATIONAL FAMILY FARM) Case No. _____
COALITION, CENTER FOR FOOD)
SAFETY, CENTER FOR BIOLOGICAL) **PETITION FOR REVIEW**
DIVERSITY and PESTICIDE ACTION)
& AGROECOLOGY NETWORK,) Agency Docket Number:
) EPA-HQ-2024-0154
Petitioners,)
)
v.)
)
UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, and LEE)
ZELDIN, in his official capacity as)
Administrator,)
)
Respondents.)
)

PETITION FOR REVIEW

Pursuant to Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136n(b), and Rule 15(a) of the Federal Rules of Appellate Procedure, Petitioners National Family Farm Coalition, Center for Food Safety, Center for Biological Diversity, and Pesticide Action & Agroecology Network (collectively, Petitioners) petition this Court to review and set aside the order of the United States Environmental Protection Agency (EPA) again granting

unconditional new use registration for dicamba, as implemented through three new product labels. *See Exhibits A-D.* The challenged order authorizes over-the-top spraying of the dicamba products on cotton and soybeans that have been genetically engineered to tolerate dicamba. *See Exhibit A.* Petitioners are adversely affected by EPA's order, were parties to the proceeding before EPA, and reside or have a place of business within the Ninth Circuit. 7 U.S.C. § 136n(b).

On February 6, 2026, EPA signed and published the new use registration on www.regulations.gov under docket number EPA-HQ-OPP-2024-0154. Because EPA provided public notice and opportunity to comment, judicial review under FIFRA is properly sought through a direct petition for review to this Court within 60 days after entry of the order, rather than in district court. 7 U.S.C. § 136n(b); *United Farmworkers of America v. EPA*, 592 F.3d 1080, 1082 (9th Cir. 2010); *Nat'l Family Farm Coal. v. EPA (NFFC II)*, 960 F.3d 1120, 1131 (9th Cir. 2020); 40 C.F.R. § 23.6 (entry of an order is 1:00 p.m. eastern time on the date two weeks after signed).

This is the fourth challenge to this dicamba new use registration for dicamba-tolerant cotton and soybean, twice by direct petition for review to this Court and a third time by complaint in the U.S. District Court for the District of Arizona. In the first case, after briefing and oral argument but before a decision, a panel of this Court dismissed the petition as moot because EPA issued an amended registration

but directed the Clerk to expedite the subsequent challenge. *Nat'l Family Farm Coal. v. EPA (NFFC I)*, 747 F. App'x 646 (9th Cir. 2019). In the second case, after briefing and another oral argument, the same panel of this Court granted the petition for review, ruled for the petitioners on the merits and vacated the registration because EPA violated FIFRA when it, *inter alia*, “substantially understated the risks it acknowledged, and it entirely failed to acknowledge other risks.” *NFFC II*, 960 F.3d at 1144.

Undeterred, a few months after this Court’s 2020 order, EPA again registered products for this same use, but this time without complying with the statutorily mandated public hearing requirements. Thus, petitioners were forced to bring a complaint pursuant to Section 16(a) of FIFRA. 7 U.S.C. § 136n(a) (providing for jurisdiction in district court). The District of Arizona subsequently ruled for the plaintiffs (now Petitioners) and again vacated the registrations because, *inter alia*, EPA was required to hold notice and comment before issuing the new use registration. 7 U.S.C. § 136a(c)(4); *Ctr. for Biological Diversity v. EPA*, No. CV-20-00555-TUC-DCB, 2024 WL 455047, at *13-14 (D. Ariz. Feb. 6, 2024). Thus, had EPA complied with FIFRA’s notice and comment requirements, that third case would have also been proper in this Court, as with the first two. This brings us to

the present Petition for Review of EPA's order again registering dicamba for over-the-top use on dicamba-tolerant cotton and soybean.

Further, for the reasons summarized above and set forth more fully in the motion itself, in short order Petitioners will again move for assignment to the Panel from the prior, closely related dicamba litigation. This case is intimately related to the prior litigation: factually, scientifically, and legally. And some of central questions presented—if not *the* central questions presented—will be determining whether EPA complied with this Court's prior opinion and order in the new dicamba re-approval.

In summary, Petitioners allege that EPA violated its statutory duties under FIFRA and the Endangered Species Act (ESA) in the new use registration order. As such, Petitioners respectfully petition this Court to: (1) declare that EPA violated FIFRA and the ESA; (2) set aside, i.e., vacate, the new use registration; and (3) grant any other relief as may be appropriate.

Respectfully submitted this 20th day of February 2026.

/s/ Stephanie M. Parent
Stephanie M. Parent
Benjamin T. Rankin
Center for Biological Diversity
PO Box 11374
Portland, OR 97211
T: (503) 320-3235
sparent@biologicaldiversity.org

brankin@biologicaldiversity.org

/s/ George A. Kimbrell

George A. Kimbrell

Kingsly A. McConnell

Center for Food Safety

2009 NE Alberta St., Suite 207

Portland, OR 97211

T: (971) 271-7372

gkimbrell@centerforfoodsafety.org

kmcconnell@centerforfoodsafety.org

Counsel for Petitioners

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Petitioners National Family Farm Coalition, Center for Food Safety, Center for Biological Diversity, and Pesticide Action & Agroecology Network certify that they have no parent corporation and that no publicly held corporation owns more than 10 percent of the Petitioners.

Respectfully submitted this 20th day of February 2026,

/s/ Stephanie M. Parent
Stephanie M. Parent
Counsel for Petitioners

CERTIFICATE OF SERVICE

I certify that on February 20, 2026, I electronically filed the foregoing Petition for Review, Corporate Disclosure Statement, Exhibits A-D, and this Certificate of Service with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the ACMS system. I caused to be served one true and correct copy of the foregoing via certified mail, return receipt requested, on the following:

Lee Zeldin, Administrator
Office of the Administrator
Mail Code 1101A
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Tel: (202) 564-4700

Pamela Bondi
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Tel: (202) 514-2001

Correspondence Control Unit
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Craig H. Missakian
United States Attorney for the Northern
District of California
c/o Civil Process Clerk
450 Golden Gate Avenue
San Francisco, CA 94102

Adam R.F. Gustafson
Principal Deputy Assistant Attorney
General
Environment & Natural Resources
Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Tel: (202) 514-2701

/s/ Stephanie M. Parent
Stephanie M. Parent