

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
AMERICAN SOYBEAN ASSOCIATION	)	
	)	
and	)	
	)	
PLAINS COTTON GROWERS, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:20-cv-03190 (RCL)
	)	
MICHAEL REGAN, <sup>1</sup> et al.,	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
SYNGENTA CROP PROTECTION, LLC, et al.,	)	
	)	
Intervenor-Defendants.	)	
_____	)	

**ANSWER OF INTERVENOR-DEFENDANT SYNGENTA CROP PROTECTION, LLC**

Intervenor-Defendant Syngenta Crop Protection, LLC (“Syngenta”) files this Answer to Plaintiffs’ Complaint for Declaratory and Injunctive Relief, filed November 4, 2020, ECF No. 1, pursuant to Federal Rule of Civil Procedure 12 and this Court’s Order of February 5, 2021, ECF No. 37. Any allegations not specifically admitted below are denied. Answering the numbered paragraphs of the Complaint, Syngenta admits, denies, and avers as follows:

**INTRODUCTION**

1. Paragraph 1 contains Plaintiffs’ characterization of this lawsuit, to which no response is required.

<sup>1</sup> Administrator Regan is substituted automatically pursuant to Federal Rule of Civil Procedure 25(d).

2. Syngenta admits the allegations in Paragraph 2.

3. Syngenta admits the allegations in Paragraph 3.

4. Upon information and belief, Syngenta admits the allegations in Paragraph 4.

5. Syngenta admits the allegations in the first sentence of Paragraph 5. The second sentence of Paragraph 5 characterizes EPA's decision to register dicamba for use on dicamba-tolerant soybeans and cotton, which speaks for itself and is the best evidence of its content.

6. Syngenta admits that EPA's registration of its dicamba product, Tavium, provided growers with an essential weed-management tool. Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 6.

7. Paragraph 7 characterizes certain aspects of EPA's registration decisions concerning dicamba, which speak for themselves and are the best evidence of their content.

8. Paragraph 8 contains Plaintiffs' characterization of this action, to which no response is required.

9. The first sentence of Paragraph 9 contains Plaintiffs' characterization of this action, to which no response is required. Syngenta admits that, as of the time of the filing of the Complaint, growers were already making planting and seed-selection decisions for the 2021 growing season, but denies the remaining allegations in the second sentence of Paragraph 9. Syngenta admits that growers' investments in dicamba, DT soybean and cotton seed, and related products would be lost if the dicamba products at issue were no longer registered by EPA; Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the third sentence of Paragraph 9.

#### **PARTIES**

10. Upon information and belief, Syngenta admits the allegations in Paragraph 10.

11. Upon information and belief, Syngenta admits the allegations in the first sentence of Paragraph 11. Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 11.

12. Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Upon information and belief, Syngenta admits the allegations in the first sentence of Paragraph 13. Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 13.

14. Syngenta admits that the EPA Administrator is the federal official responsible for pesticide registrations, including the decisions challenged here, and that Andrew R. Wheeler was the EPA Administrator at the time the Complaint was filed and was sued in his official capacity.

15. Syngenta admits that Defendant Marietta Echeverria was Acting Division Director of the EPA's Office of Pesticide Programs, Registration Division at the time the Complaint was filed, in which position she approved and administered FIFRA registrations and reported to the EPA Administrator. Upon information and belief, Syngenta admits the remaining allegations in Paragraph 15.

16. Syngenta admits the allegations in the first sentence of Paragraph 16. The remainder of Paragraph 16 states conclusions of law, to which no response is required.

#### **JURISDICTION AND VENUE**

17. Admitted.

18. Paragraph 18 states conclusions of law, to which no response is required.

19. Admitted.

20. Syngenta admits that relevant events giving rise to Plaintiffs' claims occurred in this District. The remainder of Paragraph 20 states conclusions of law, to which no response is required.

### **STATUTORY AND REGULATORY FRAMEWORK**

#### **A. The Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”)**

21. The first sentence of Paragraph 21 characterizes FIFRA, which speaks for itself and is the best evidence of its content. The second sentence of Paragraph 21 characterizes a Congressional Research Service report concerning pesticides, which speaks for itself and is the best evidence of its content.

22. Paragraph 22 quotes from and characterizes FIFRA, which speaks for itself and is the best evidence of its content.

23. Paragraph 23 quotes from and characterizes FIFRA, which speaks for itself and is the best evidence of its content.

24. Paragraph 24 characterizes FIFRA, which speaks for itself and is the best evidence of its content.

25. Paragraph 25 characterizes FIFRA, which speaks for itself and is the best evidence of its content.

#### **B. The Endangered Species Act (the “ESA”)**

26. Paragraph 26 quotes from and characterizes the ESA, which speaks for itself and is the best evidence of its content.

27. Paragraph 27 quotes from and characterizes the ESA, which speaks for itself and is the best evidence of its content.

28. Paragraph 28 quotes from and characterizes the ESA, which speaks for itself and is the best evidence of its content.

29. Paragraph 29 quotes from and characterizes the ESA, which speaks for itself and is the best evidence of its content.

30. Paragraph 30 quotes from and characterizes the ESA, which speaks for itself and is the best evidence of its content.

### **FACTUAL BACKGROUND**

31. Paragraph 31 contains Plaintiffs' characterization of the lawsuit, to which no response is required. Paragraph 31 also characterizes and summarizes EPA's Memorandum Supporting Decision to Approve Registration for the Uses of Dicamba on Dicamba Tolerance Cotton and Soybean (the "Dicamba Memorandum"), which speaks for itself and is the best evidence of its content.

32. Paragraph 32 characterizes and summarizes the Dicamba Memorandum and supporting EPA analyses (referred to collectively as "the Dicamba Decision"), which speak for themselves and are the best evidence of their content.

33. The first sentence of Paragraph 33 contains Plaintiffs' characterization of the U.S. agricultural sector, to which no response is required. Syngenta admits that Tavium is an essential weed-management tool. Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the second sentence of Paragraph 33.

34. Syngenta admits that EPA's registration of Tavium provided growers with an essential weed-management tool. Syngenta lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 34.

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