Filed: 04/26/2021

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

)	
FARMWORKER ASSOCIATION OF)	
FLORIDA, ENVIRONMENTAL)	
WORKING GROUP, and CENTER FOR)	
BIOLOGICAL DIVERSITY,)	
Petitioners,)	
)	
v.)	No. 21-1079
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent,)	
-)	
AGLOGIC CHEMICAL, LLC.,)	
Intervenor-Respondent.)	
•)	
)	
)	

PETITIONERS' REPLY TO INTERVENOR-RESPONDENT'S OPPOSITION TO MOTION FOR SUMMARY VACATUR AND MOTION FOR STAY PENDING EXPEDITED REVIEW

JONATHAN EVANS STEPHANIE M. PARENT

CENTER FOR BIOLOGICAL DIVERSITY

CENTER FOR BIOLOGICAL DIVERSITY

1212 Broadway, Suite 800 P.O. Box 11374 Oakland, CA 94612 Portland, OR 97211 Tel: (510) 844-7118 Tel: (971) 717-6404

Fax: (510) 844-7150 Fax: (503) 283-5528

jevans@biologicaldiversity.org sparent@biologicaldiversity.org

Attorneys for Petitioners Farmworker Association of Florida, Environmental Working Group, and Center for Biological Diversity



TABLE OF CONTENTS

PRELIMINARY PROCEDURAL STATEMENT	1
INTRODUCTION	1
ARGUMENT	2
I. EPA's Admittedly Illegal Activity Approving This Highly Toxic Pesticide Warrants Summary Vacatur	2
II. EPA's Orders Must Be Stayed to Prevent Potential Sales and Use of Pesticides Sold.	4
A. Likelihood of Success on the Merits.	6
B. Irreparable Harm.	9
C. Public Interest and the Balance of Equities.	11
CONCLUSION	12
CERTIFICATE OF COMPLIANCE	14
CERTIFICATE OF SERVICE	14



Filed: 04/26/2021

TABLE OF AUTHORITIES

Cases

Allied Signal Inc. v. U.S. Nuclear Regul. Comm'n, 988 F.2d 146 (D.C. Cir. 1993)
Amoco Prod. Co. v. Vill. of Gambell, 480 U.S. 531 (1987)
Cannon v. District of Columbia, 717 F.3d 200 (D.C. Cir. 2013)
Cascade Broad. Grp., Ltd. v. FCC, 822 F.2d 1172 (D.C. Cir. 1987)
Catholic Legal Immigration Network, Inc. v. Exec. Office for Immigration Review, No. 20-cv-03812, 2021 U.S. Dist. LEXIS 8954 (D.D.C. 2021)
Center for Auto Safety v. Peck, 751 F.2d 1336 (D.C. Cir. 1985)
Center for Biological Diversity v. EPA, 861 F.3d 174 (D.C. Cir 2017)
Greater Yellowstone Coal. v. Flowers, 321 F.3d 1250 (10th Cir. 2003)10
League of Women Voters of the United States v. Newby, 838 F.3d 1 (D.C. Cir. 2016)12
Mexichem Specialty Resins, Inc. v. E.P.A., 787 F.3d 544 (D.C. Cir. 2015)
Nat'l Family Farm Coal. v. EPA, 960 F.3d 1120 (9th Cir. 2020)
Pollinator Stewardship Council v. EPA, 806 F.3d 520 (9th Cir. 2015)



Standing Rock Sioux Tribe v. United States Army Corps of Eng'rs, 985 F.3d 1032 (D.C. Cir. 2021)
TVA v. Hill, 437 U.S. 153 (1978)11
Rules
D.C. Cir. R. 27(d)1
Fed. R. App. P. 27(a)
Fed. R. Evid. 201(b)(2)
Other Authorities
EPA, Agreement to Terminate All Uses of Aldicarb (October 2010) https://archive.epa.gov/pesticides/reregistration/web/html/aldicarb_fs.html7
EPA, Bayer Agrees to Terminate All Uses of Aldicarb (August, 17, 2010), https://archive.epa.gov/epapages/newsroom_archive/newsreleases/29f9dddede97 caa88525778200590c93.html
Nat'l Family Farm Coal. v. EPA, Case No. 19-70115, EPA's Proposed Response to Petitioners' Supplemental Brief (ECF No. 11703065), Dkt. No 121 at 2-3 (filed May 21, 2020)



GLOSSARY

EPA Environmental Protection Agency

ESA Endangered Species Act

FIFRA Federal Insecticide, Fungicide, and

Rodenticide Act

Florida Department of Agriculture Florida Department of Agriculture and

Consumer Services



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

