

No. 19-70115

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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NATIONAL FAMILY FARM COALITION, *et al.*,  
*Petitioners,*

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*,  
*Respondents,*

and

MONSANTO COMPANY, *et al.*,  
*Intervenors-Respondents.*

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On Petition for Review of Agency Action  
of the United States Environmental Protection Agency

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**MOTION OF AMERICAN FARM BUREAU FEDERATION,  
AMERICAN SOYBEAN ASSOCIATION, NATIONAL COTTON  
COUNCIL OF AMERICA, NATIONAL ASSOCIATION OF WHEAT  
GROWERS, NATIONAL CORN GROWERS ASSOCIATION, AND  
NATIONAL SORGHUM PRODUCERS FOR LEAVE TO FILE AMICUS  
CURIAE BRIEF IN SUPPORT OF  
THE PETITIONS FOR REHEARING EN BANC**

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Pursuant to Federal Rule of Appellate Procedure 29(b) and Ninth Circuit Rule 29-2, the American Farm Bureau Federation, American Soybean Association, National Cotton Council of America, National Association of Wheat Growers, National Corn Growers Association, and National Sorghum Producers (together, “the Growers”) respectfully request leave to file the attached amicus curiae brief in support of the Petitions for Rehearing En Banc filed by Intervenors-Respondents Monsanto Company, BASF Corporation, and E.I. du Pont de Nemours and Company. The proposed amicus brief is attached as Exhibit 1. In support of this Motion, the Growers state as follows:

1. The Growers are six national trade associations that represent farmers, ranchers, and their families nationwide. The Growers’ soybean, corn, wheat, sorghum, cotton, and other crops provide the United States and the world with food, fuel, feed, and fiber.

2. Founded in 1919, the American Farm Bureau Federation (“AFBF”) is a voluntary general farm organization formed to protect, promote, and represent the business, economic, social, and educational interests of American farmers and ranchers. AFBF represents nearly six million member families through its state and county Farm Bureau organizations in all 50 states and Puerto Rico.

3. Founded in 1920, the American Soybean Association (“ASA”) is a national, private, not-for-profit trade association representing U.S. soybean growers

on domestic and international issues of importance to the soybean industry. ASA represents the interests of more than 300,000 soybean farmers nationwide.

4. Founded in 1938, the National Cotton Council of America (“NCC”) is the trade association for the U.S. cotton industry, representing the seven segments of the raw cotton industry: producers, ginner, warehouse, merchant, cottonseed processor and merchandiser, cooperative, and textile manufacturer. NCC’s mission is to ensure the ability of all U.S. cotton segments to compete effectively and profitably in the raw cotton, oilseeds, and manufactured textile product markets at home and abroad.

5. In 1950, a handful of wheat growers from across the country formed the National Association of Wheat Growers (“NAWG”) to work toward common solutions and make decisions for the future of America’s wheat producers. Decades later, the NAWG continues to focus on the policies of the U.S. government that affect the livelihoods of U.S. wheat producers as the primary representative in Washington, D.C. for wheat growers, working with a team of 20 state wheat grower organizations to benefit America’s wheat producers.

6. Founded in 1957, the National Corn Growers Association is the trade association for U.S. corn growers. It represents the interests of more than 300,000 corn growers and works with 49 affiliated state organizations to create and increase opportunities for corn growers.

7. Founded in 1955 to increase demand for grain sorghum, National Sorghum Producers became the voice of the sorghum industry. For over 60 years, National Sorghum Producers has represented sorghum farmers nationwide on legislative and regulatory issues impacting the sorghum industry, and its mission is to lead positive change for sorghum farmers through effective policy and relationships.

8. Growers have direct and immediate interests in the Panel Opinion's vacatur of the registrations of the Dicamba Products. In particular, the Panel Opinion adversely affects the predictability, efficiency, and sustainability of Growers' farming operations and their ability to rely on predictable and science-based regulatory decision-making and governmental oversight.

9. If left undisturbed, the Panel Opinion's unprecedented weakening of Rule 15(a)(2)(C)'s notice requirement would leave the Growers and other interested parties guessing as to whether an administrative order is subject to invalidation on judicial review.

10. Likewise, the Panel Opinion's misconception and misapplication of FIFRA's substantial evidence standard conflicts with existing law and jeopardizes the Growers' ability to rely on predictable and expertise-driven regulatory decisions.

11. The Growers' first-hand experience places them in a unique position to provide the Court with helpful practical information about the importance of these legal issues.

12. Counsel for amici curiae attempted to obtain consent from all parties before filing this motion. Respondent EPA and Intervenors-Respondents Monsanto Company, EID, and BASF all consent to the filing of the brief. Petitioners have advised the undersigned that they take no position on the motion.

13. Accordingly, the Growers respectfully request leave to file the amicus curiae brief attached to this motion.

Respectfully submitted,

s/ Edmund S. Sauer

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