

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CENTER FOR FOOD SAETY,
NATIONAL FAMILY FARM
COALITION, PESTICIDE ACTION
NETWORK NORTH AMERICA,
BEYOND PESTICIDES,
ENVIRONMENTAL WORKING
GROUP, and CENTER FOR
BIOLOGICAL DIVERSITY

Petitioners,

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, GINA MCCARTY, in her
official capacity as Administrator,

Respondents.

PETITION FOR REVIEW

and

**CORPORATE DISCLOSURE
STATEMENT**

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 Center for Food Safety, National Family Farm Coalition, Pesticide Action Network North America, Beyond Pesticides, Environmental Working Group, and Center for Biological Diversity (collectively Petitioners) hereby petition this Court to review and set aside the final order of the United States Environmental Protection Agency (EPA) granting unconditional

registration of Enlist Duo Herbicide (Enlist Duo), CAS Number 048373-72-3, containing the active ingredients 2,4-Dichlorophenoxyacetic acid (2,4-D) and glyphosate, approving the major new use of Enlist Duo herbicide (Enlist Duo) on corn and soybean crops that have been genetically engineered to withstand its application, and to find that EPA violated the agency's duties under the Endangered Species Act (ESA), 16 U.S.C. §§ 1533-44, by failing to consult with the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) to ensure that its attached unconditional registration of Enlist Duo would not jeopardize any listed species or destroy or adversely modify their critical habitat. *See* 16 U.S.C. § 1536 (a)(2).

The challenged final order was announced in a regulatory decision document that was dated and entered on EPA Docket EPA-HQ-OPP-2014-0195 on October 15, 2014, after public notice and comment, and without any agency adjudication or hearing. A copy of this final regulatory decision document is attached as Exhibit A to this petition.

Under the law of the Ninth Circuit, Petitioners are required to file their FIFRA claims in the Court of Appeals. Petitioners do not waive any argument concerning jurisdiction for claims under the ESA by including them here.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Petitioners Center for Food Safety, National Family Farm Coalition, Pesticide Action Network North America, Beyond Pesticides, Environmental Working Group, and Center for Biological Diversity certify that they have no parent corporations and that no publicly held corporation owns more than 10% of the Petitioners.

Respectfully submitted this 22nd day of October, 2014.

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