

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

<u>In Re</u>)	
)	
)	
AMVAC Chemical Corporation)	Appeal No. FIFRA 23-01
)	
)	
<u>Docket No. FIFRA-HQ-2022-02</u>)	

JOINT MOTION FOR ENTRY OF FINAL DECISION

I. INTRODUCTION

The United States Environmental Protection Agency Office of Pesticide Programs (“OPP”), AMVAC Chemical Corporation (“AMVAC”), and the Grower-Shipper Association of Central California; J&D Produce; Ratto Bros., Inc.; and Huntington Farms (the “Grower Petitioners,”) (collectively, the “Parties”) jointly request that the Environmental Appeals Board (“EAB”) enter a Final Decision and Order incorporating the terms of a Settlement Agreement reached between AMVAC and OPP, a copy of which is attached to this motion. Grower Petitioners are not party to the Settlement Agreement but are prepared to forego their appeal rights in this matter if a Final Decision and Order incorporating the terms of a Settlement Agreement is entered consistent with the request in this Motion. Good cause exists to grant the requested relief as it will resolve this matter in a manner acceptable to the Parties without further and unnecessary expenditure of Party or judicial resources.

II. PROCEDURAL BACKGROUND

On May 16, 2023, following a hearing held January 23 through January 25, 2023, Chief Administrative Law Judge Susan L. Biro entered an Initial Decision and Order in Docket No. FIFRA-HQ-2022-0002 dismissing AMVAC and Grower Petitioners' objections to a Notice of Intent to Suspend ("NOITS") AMVAC's Technical Chlorthal Dimethyl registration, EPA Reg. No. 5481-495 ("DCPA Technical Registration") issued by OPP pursuant to section 3(c)(2)(B)(iv) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136a(c)(2)(B)(iv). OALJ Dkt. 69. The Parties subsequently filed, on May 26, 2023, a Joint Motion to Extend Deadline to File Exceptions and Appeal Brief to permit settlement discussions, which the EAB granted on May 31, 2023. EAB Dkt. 2, 3. The Parties now ask the EAB to enter a Final Order suspending AMVAC's Technical Chlorthal Dimethyl (DCPA) registration, EPA Reg. No. 5481-495, subject to reinstatement under the terms of the Settlement Agreement.

III. NATURE OF THE SETTLEMENT

AMVAC and OPP have agreed as follows, as set forth fully in the attached Settlement Agreement:

A. AMVAC's DCPA Technical Registration shall be suspended immediately upon a Final Decision and Order of the EAB, subject to the terms of the existing stocks order set forth the NOITS;

B. AMVAC's DCPA Technical Registration shall be reinstated once certain studies are submitted and reviewed by OPP consistent with the provisions of the Settlement Agreement;

C. the Parties consent to retention of jurisdiction by the EAB to enforce the Settlement Agreement and to adjudicate any disputes between AMVAC and OPP arising under it.

IV. REQUESTED RELIEF

Accordingly, the Parties request that the EAB enter a Final Decision and Order suspending AMVAC's DCPA Technical Registration subject to the terms of the Settlement Agreement and retain jurisdiction to enforce the Settlement Agreement and adjudicate any disputes arising under it. A proposed Order is provided with this Motion. AMVAC and OPP's consent to the Settlement Agreement is not conditioned on the specific form of the Order provided, only that the Order incorporate the terms of the Settlement Agreement.

In the alternative, and only if the EAB denies the request for entry of a Final Decision and Order incorporating the Settlement Agreement as requested herein, the Parties request that the timing for filing exceptions and other briefs provided in 40 C.F.R. § 164.101(a) be further extended such that any exceptions and appeal briefs would be required to be filed with the Board twenty (20) days after an Order of the EAB declining to enter a Final Order incorporating the terms of the Settlement Agreement.

In connection with requesting this alternate relief from the EAB, the Parties jointly stipulate pursuant to 40 C.F.R. § 164.103 to extend the 90-day deadline for the EAB to issue its final decision and order, pursuant to that section, by the number of days between the current deadline for exceptions (June 23) and any further extended deadline under the preceding paragraph.

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Dated: June 16, 2023

Respectfully submitted,

/s/ Hume M. Ross

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Joint Motion for Entry of Final Decision**, dated June 16, 2023, was sent this day to the following parties in the manner indicated below.

/s/ Hume Ross

Hume Ross
Counsel for AMVAC Chemical Corp.

Copy by EAB E-Filing System to:

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Dated June 16, 2023