## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## **BEFORE THE ADMINISTRATOR**

In re FIFRA Section 3(c)(2)(B) Notice of Intent	)
to Suspend Dimethyl Tetrachloroterephthalate	)
(DCPA) Technical Registration	)
	)
AMVAC Chemical Corporation;	)
Grower-Shipper Association of Central	)
California; Sunheaven Farms, LLC; J&D	)
Produce; Ratto Bros., Inc.; and Huntington	)
Farms,	)
Petitioners.	)

Docket No. FIFRA-HQ-2022-0002

#### **RESPONDENT'S MOTION FOR LEAVE TO FILE OUT OF TIME**

I, the undersigned counsel for Respondent, the United States Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, Office of Pesticide Programs ("OPP"), respectfully request leave to file Respondent's Post-Hearing Brief outside of the time provided by the Presiding Officer's March 17, 2023 Post-Hearing Scheduling Order ("Order"). The Order provided that post-hearing briefs must be filed by April 7, 2022. Counsel filed the abovedescribed brief at 12:15 a.m. on April 8, 2022. The brief is again attached to this motion.

The delay in filing was inadvertent, but was due to a mistake within the control of undersigned counsel. Counsel accepts full responsibility for this delay and apologizes to the Presiding Officer and Petitioners. Given the length of the delay was 15 minutes, the low likelihood of potential impact on this proceeding, and the low danger of prejudice to Petitioners, counsel comes before the Presiding Officer and Petitioners in good faith seeking to redress his mistake. Pursuant to the Office of Administrative Law Judges Practice Manual, counsel has contacted Petitioners to inquire whether they would oppose this motion. Because the late filing occurred over a weekend, and pursuant to undersigned counsel's intent to file this motion with the Presiding Officer as soon as possible, this motion is filed prior to counsel receiving a response from either Petitioner.

Respectfully submitted,

Dated: April 8, 2023

Forrest Pittman Pesticides and Toxic Substances Law Office Office of General Counsel U.S. Environmental Protection Agency Mail Code 2310A 1200 Pennsylvania Avenue, NW Washington, DC 20460 202-564-9626 Pittman.Forrest@epa.gov

Counsel for Respondent

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Cristen S. Rose HAYNES BOONE 800 17th Street NW Washington, DC 20006 <u>Cristen.Rose@haynesboone.com</u> Attorney for Petitioner "Grower Group" (Grower-Shipper Association of Central California, et al.)

# In re FIFRA Section 3(c)(2)(B) Notice of Intent to Suspend Dimethyl Tetrachloroterephthalate (DCPA) Technical Registration

AMVAC Chemical Corporation; Grower-Shipper Association of Central California; Sunheaven Farms, LLC; J&D Produce; Ratto Bros., Inc.; and Huntington Farms, Petitioners. Docket No. FIFRA-HQ-2022-0002

# **CERTIFICATE OF SERVICE**

# I hereby certify that the foregoing Respondent's Motion for Leave to File Out of Time,

dated April 8, 2023, was sent this day to the following parties in the manner indicated below.

Forrest Pittman Attorney Advisor

Copy by OALJ E-Filing System to: Mary Angeles, Headquarters Hearing Clerk U.S. Environmental Protection Agency Office of Administrative Law Judges Ronald Reagan Building, Rm. M1200 1300 Pennsylvania Ave. NW Washington, DC 20004

Copy by Electronic Mail to: Hume M. Ross Tracy A. Heinzman Keith A. Matthews WILEY REIN LLP 2050 M ST NW Washington, DC 20036 Telephone: (202) 719-7000 <u>HRoss@wiley.law</u> <u>THeinzman@wiley.law</u> <u>KMatthews@wiley.law</u> <u>Attorneys for Petitioner AMVAC Chemical Corp.</u>

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Dated April 8, 2023