

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Bayer CropScience LP and) FIFRA-HQ-2016-0001
Nichino America, Inc.,)
)
Petitioners.)
_____)

**VERIFIED WRITTEN STATEMENT OF JEFFREY JOHNSON
ON BEHALF OF BAYER CROPSCIENCE LP AND NICHINO AMERICA, INC.**

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1 **I. BACKGROUND AND EXPERIENCE**

2 **Q: Please state your name and business address.**

3 A: My name is Jeffrey R. Johnson and my business address is 4550 New Linden Hill Road,
4 Suite 501, Wilmington, Delaware 19808.

5 **Q: Please identify your current employer.**

6 A: Nichino America, Inc. or Nichino for shorthand.

7 **Q: Please identify and describe your current position at Nichino.**

8 A: I am the President of Nichino and have served in that position since December 2002. In
9 this capacity I direct and manage the organization's strategic, financial and operational
10 objectives through a management team consisting of a Vice-President and five Directors.
11 Additionally, I establish current and long range plans and policies, subject to approval by the
12 Board of Directors of Nichino America.

13 **Q: Please provide additional information about your employment history.**

14 A: From January 2001 to November 2002, I served as the Vice President of Nichino. Before
15 that, I was a Commercial Development Manager for Nichino from July 1997 to December 2000.
16 Prior to Nichino, I joined Nor-Am Chemical Company in 1984 (the US subsidiary of Schering
17 AG, which later merged with Hoechst to become AgrEvo in 1994). While at Nor-Am/AgrEvo
18 from 1984 to 1997, I held various positions including Sales Representative, Business
19 Development Manager, Marketing Manager and Market Project Leader. My previous
20 employment over the course of more than 32 years has been focused on development,
21 registration, and sales of pesticides.

22 **Q: Please describe your educational background.**

23 A: I have a BS in Entomology/Plant Pathology from the University of Delaware.

1 **Q: Please identify any professional organizations in which you participate or have held**
2 **office.**

3 A: I have been a Member of the Board of Directors of CropLife America since 2012.
4 CropLife America is the leading trade association in the United States for crop protection
5 registrants and distributors.

6 **II. NICHINO AND NIHON NOHYAKU CO., LTD**

7 **Q: Please describe Nichino and its corporate family.**

8 A: Nichino is a wholly owned subsidiary of Nihon Nohyaku Co., Ltd. or NNC for short.
9 NNC was established in 1928 and is a basic researcher and manufacturer of plant protection
10 products based in Tokyo, Japan.

11 **Q: Please describe NNC's mission.**

12 A: NNC's mission is to meet current needs in global crop protection markets by introducing
13 innovative agrochemicals that can contribute to healthy food production while protecting the
14 environment. NNC has conducted insecticide discovery research at its Research Center near
15 Osaka, Japan since 1990.

16 **III. INVENTION AND DEVELOPMENT OF FLUBENDIAMIDE**

17 **Q: What role, if any, did NNC play in the invention or development of flubendiamide?**

18 A: NNC invented flubendiamide. In the course of its research, in 1993, it discovered a lead
19 compound for a new insecticide from the class of phthalic acid diamides. It synthesized two
20 thousand derivatives from this initial discovery and conducted many studies to improve activity
21 before it finally discovered flubendiamide in 1998. NNC and Nichino have spent more than \$65
22 million on the initial discovery, data, and development costs to obtain the US registrations and to
23 bring flubendiamide to the US market.

24 **Q: Please describe the relationship between NNC and Bayer on flubendiamide?**

1 A: NNC has a licensing, product development, and marketing agreement with Bayer
2 CropScience LP, under which Bayer serves as Nichino's regulatory agent for flubendiamide and
3 sells flubendiamide products under the Belt[®] brand name. Nichino sells flubendiamide products
4 under the Vetica[®] and Turismo[®] brand names.

5 **IV. EPA'S PROPOSED EXISTING STOCKS PROVISIONS**

6 **Q: Are you familiar with the existing stocks provisions that EPA proposed in its Notice**
7 **of Intent to Cancel?**

8 A: Yes.

9 **Q: Please describe the key features of EPA's proposal.**

10 A: EPA has proposed that immediately upon cancellation, all distribution or sale of existing
11 stocks should be prohibited, except for return of products for disposal or export. Product in the
12 hands of a user could be used as allowed by the current label.

13 **Q: What do the registrants believe are appropriate existing stocks provisions, if there is**
14 **a cancellation decision?**

15 A: We believe it is more appropriate to allow the existing stocks to clear the channels of
16 trade. In this way, the stocks that are already produced and released for shipment, using EPA's
17 standard language, could be sold, distributed and used in the normal way, without additional
18 transportation to ship them back to the registrant and without any additional impact to the
19 environment by disposal without any beneficial use.

20 We have already stopped production, and the amount we produced this year is less than
21 last year. Given the modeling and endpoint analyses I understand that Dr. Engel and Dr. Moore
22 will be providing in combination with the benefits information in the grower declarations,
23 described by IR-4, and that I understand Dr. Herbert and Dr. Palumbo will provide, we do not
24 believe cancellation is warranted at all. Even if EPA's cancellation is allowed without peer

1 review at this time, the risks do not outweigh the benefits for a normal year's production – and
2 here – less than a normal year's production, to be allowed to clear the channels of trade.

3

4 I declare under penalty of perjury that the foregoing is true and correct.


5 Executed on this 21st day of April, 2016.

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Jeffrey Johnson