



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

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

ORDER ON MOTION TO FILE AN AMICUS BRIEF

On April 15, 2016, the Center for Biological Diversity (“CBD”), which describes itself as “a non-profit organization with 990,000 members and supporters committed to the preservation, protection, and restoration of native species and the ecosystems upon which they depend through science, policy, and environmental law[.]” filed a motion requesting leave to file an *amicus curiae* brief. CBD Motion at 1. The procedural rules governing this case provide that “[p]ersons not parties to the proceedings wishing to file briefs may do so by leave of the Administrative Law Judge granted on motion.” 40 C.F.R. § 164.31(d). That motion must “identify the interest of the applicant and . . . state the reasons why the proposed amicus brief is desirable.” *Id.*

CBD’s motion argues that the conditional registrations at issue in this proceeding merely granted the registrants “a temporary authorization to sell flubendiamide, and a chance to prove that these products could meet the registration criteria of FIFRA, under certain conditions and within a certain time period,” and that having failed to meet those criteria, “there are consequences—statutory consequences prescribed by FIFRA and properly interpreted and applied by EPA.” CBD Motion at 4. CBD asserts that it has an interest in this proceeding because “its knowledge and experience regarding pesticide use, pesticide registration, and the persistent adverse effects of flubendiamide on the environment, put it in a unique position to provide the ALJ with useful contextual information.” *Id.*

My April 4, 2016 Order Scheduling Hearing and Prehearing Procedures (“Prehearing Order”) set a deadline of April 15, 2016 for the filing of *amicus curiae* briefs, and stated that leave to intervene would be freely granted until that date. CBD’s motion, having been filed before the deadline and containing a reasonable statement of interest in this proceeding, is therefore **GRANTED**.

Susan L. Biro
Chief Administrative Law Judge

Dated: April 18, 2016
Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Leave to File an Amicus Brief** was issued by Chief Administrative Law Judge Susan L. Biro dated April 18, 2016, was served this day in the following manner to the addressees listed below:



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Dated: April 18, 2016
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