

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

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**In re FIFRA Section 6(b) Notice of Intent  
to Cancel Pesticide Registrations for  
Chlorpyrifos Products**

**Gharda Chemicals International, Inc. and  
Red River Valley Sugarbeet Growers  
Association, et al.,**

**Petitioners**

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**Docket No. FIFRA-HQ-2023-0001**

**STIPULATED PROTECTIVE ORDER GOVERNING CONFIDENTIALITY AND  
FILING UNDER SEAL**

The following Protective Order shall govern the production, use, and submission of Protected Information in the course of the above-captioned action and preclude inappropriate use of such information for purposes other than this action. Protected Information shall be shared with other parties and/or submitted to the Office of Administrative Law Judges (“OALJ”) or the Presiding Officer (“ALJ”) only in accordance with this Protective Order.

1. “Protected Information” for purposes of this Protective Order means (1) any document containing material or information that was submitted to EPA or by a party to this proceeding under a claim of business confidentiality, including material constituting trade secrets or confidential business information pursuant to or covered by the restrictions in 7 U.S.C. § 136h(b), excluding material or information subject to an EPA determination that the material or information

does not qualify for protection; and (2) any document containing material or information that the submitting party reasonably believes to be covered by the restrictions in 7 U.S.C. § 136h(g).

2. Protected Information that is or becomes publicly available in a manner that does not violate this Protective Order or other relevant confidentiality requirements shall not constitute Protected Information, and to the extent a party obtains information outside the context of this action by means other than through a violation of this Protective Order or other confidentiality requirement, that party shall not be limited in its use of such information by this Protective Order.

### **3. Labeling of Protected Information**

- a. With respect to Protected Information that may be exchanged among the parties or submitted to the ALJ, a party may in the course of this action designate as Protected Information any document or portion of a document, material, or other information (electronic or otherwise), provided that the party designating the document, material, or other information as Protected Information believes in good faith that such document, material, or other information by itself or in combination with other documents, material, or other information satisfies the definition of Protected Information.
- b. All documents containing unredacted Protected Information, including any correspondence, documents, DVDs, or other material exchanged containing Protected Information, shall be marked "SUBJECT TO PROTECTIVE ORDER." Also included under the protections of this Protective Order are any documents already provided to the ALJ under a claim of confidentiality

pursuant to 7 U.S.C. § 136h as part of the Pre-Hearing Exchange in this case.

- c. The documents or materials that contain Protected Information and are subject to this Protective Order shall be noted as such in the parties list of exhibits provided to the ALJ.

#### **4. Distribution of Protected Information**

- a. Protected Information produced for purposes of this action shall be received and held in confidence and shall be used only for the purposes of this action and shall not be used (except by the owner of such information) for any purpose outside of this action.
- b. Protected Information produced for purposes of this action shall be disclosed only to the following:
  - i. the ALJ and the OALJ staff;
  - ii. counsel for the parties to this action, including counsel's employees and support staff;
  - iii. employees and contractors of the United States, subject to the provisions and prohibitions of Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") § 10, 7 U.S.C. § 136h, and the other provisions of this Protective Order;
  - iv. expert consultants retained by any party to assist in this action, including their employees and support staff.
- c. Counsel and other individuals listed in 4.b.ii-4.b.iv have the obligation to reasonably limit and control the number of employees and support staff who have access to Protected Information produced for purposes of this action and to

ensure that each such person is aware of and complies with the terms and conditions of this Protective Order.

- d. Any individual listed in 4.b.ii-4.b.iv who seeks access to Protected Information shall sign a certification (Attachment A hereto) indicating that he or she has received a copy of this Protective Order and agrees to be bound by its terms. For each company, firm, or organization, only one such certification is needed, provided that the individual certifying has the authorization to sign on behalf of all individuals who would be required to sign individually. Counsel of record for each party shall be responsible for obtaining all certifications required by this Protective Order in advance of any disclosure that may be permitted by this Protective Order and shall be responsible for maintaining in safekeeping all original certifications.
- e. Nothing in this Protective Order shall limit the use by a party of its own Protected Information or prevent a party from disclosing its own Protected Information to any person, except that employees of the United States remain bound by any relevant statutory or regulatory restrictions regarding disclosure of information.
- f. No person may further disseminate any Protected Information produced for purposes of this action except as expressly authorized in this Protective Order.

## **5. Procedures to Govern the Filing of Protected Information**

- a. The following procedures shall govern any filing with this ALJ containing Protected Information.
- b. Exhibits, Briefs, and Excerpts of Record:

- i. Each party shall file a public version of any exhibit, brief (including the opening, answering, and reply briefs) and excerpts of record (including original and supplemental) and shall redact any Protected Information from that document.
- ii. Each party also shall file simultaneously, under seal, an unredacted version of any exhibit, brief, or excerpts of record that has been publicly filed with redactions. The unredacted version shall also be submitted to counsel of record for parties in this proceeding.

## **6. Duration**

- a. Confidentiality under this Protective Order is to be maintained both during and after the termination of this action.
- b. Within 90 days after termination of this action, meaning the issuance of a consent decree, order of dismissal, or final judgment that is no longer subject to appeal, the parties shall destroy or return to counsel for the producing party all Protected Information, including all copies thereof, provided that counsel of record for each party may maintain a copy of any exhibits, briefs, excerpts of record, or other material filed with or presented to the ALJ in this action.

## **7. Hearing**

- a. In addition to the terms of the Protective Order applying both during and after the termination of this action, the terms of the Protective Order will apply during the hearing, except as otherwise ordered by the ALJ or agreed to by the parties.
- b. Except as otherwise ordered by the ALJ under a procedure similar to that

provided in 40 C.F.R. § 22.22(a)(2), the ALJ will not close the hearing to the public in any type of case, including this action, even though some exhibits, briefs, or excerpts of record may be or have been filed under seal. A party seeking a closed hearing shall move for such extraordinary relief at least 14 days prior to the scheduled hearing date and explain with specificity why such relief is required and whether any less extraordinary alternative is available.

IT IS SO STIPULATED

\_\_\_\_\_  
Forrest Pittman  
Angela Huskey  
Pesticides and Toxic Substances Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency

*Counsel for Respondent*

/s/ (with permission)\_\_\_\_\_

Patti A. Goldman  
Noorulanne Jan  
Earthjustice

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*Counsel for Petitioner Gharda Chemicals International, Inc.*

*Vegetable Association, and Georgia Fruit and Vegetable  
Growers Association, and National Cotton Council of  
America*

ATTACHMENT A

Certification

I, \_\_\_\_\_, hereby certify under penalty of perjury that I have received a copy of and read the Protective Order Governing Confidentiality relating to the confidentiality of information in *In re FIFRA Section 6(b) Notice of Intent to Cancel Pesticide Registrations for Chlorpyrifos Products* (EPA Docket No. FIFRA-HQ-2023-0001) and I agree to, and will, keep Protected Information confidential in accordance with the terms of said Protective Order Governing Confidentiality.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature