

SETTLEMENT AGREEMENT

INTRODUCTION

This Settlement Agreement, dated October 31, 2024 is entered into by and between Plaintiffs Natural Resources Defense Council, Inc., Californians for Pesticide Reform, Center for Biological Diversity, Friends of the Earth, and Pesticide Action Network North America (collectively “Plaintiffs”), Defendants California Department of Pesticide Regulation (“DPR”) and Julie Henderson, Director of California Department of Pesticide Regulation (collectively “Defendants”), and Intervenors CropLife America, Western Plant Health Association, California Cotton Ginners and Growers Association, California Specialty Crops Council, and Grower-Shipper Association of Central California (collectively “Intervenors”). Plaintiffs, Defendants, and Intervenors are individually referred to as “a Party” and collectively referred to as “the Parties.”

BACKGROUND

- A. On February 17, 2023, Plaintiffs filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (“Petition”). The case, *Natural Resources Defense Council, Inc. et al. v. California Department of Pesticide Regulation et al.*, was filed in Alameda County Superior Court, Case No. 23CV028215.
- B. The Petition alleges that Defendants failed to comply with their duties under the California Administrative Procedures Act (“APA”) (Govt. Code, § 11340 et seq.) when adopting and maintaining a policy that treated seeds are not pesticides subject to regulation and that this policy is therefore an underground regulation in violation of the APA.
- C. Defendants dispute these allegations.
- D. On October 13, 2023, the Court granted CropLife America, Western Plant Health Association, California Cotton Ginners and Growers Association, California Specialty Crops Council, and Grower-Shipper Association of Central California’s motion to intervene. Intervenors also dispute Plaintiffs’ allegations.
- E. After good faith negotiations, the Parties have reached and entered into a settlement agreement by way of this Stipulated Judgment in an effort to avoid the uncertainty and expense of protracted litigation. This settlement agreement is a compromise, and nothing in this Settlement Agreement shall be construed by any Party as an admission of any fact or conclusion of law.

TERMS OF THE SETTLEMENT AGREEMENT

1. Except as otherwise provided by law, DPR will, by April 1, 2026, or 15 months from complete execution of this Settlement Agreement, whichever date is sooner, propose regulations addressing pesticide-treated seeds by submitting a Notice of Proposed Rulemaking to the Office of Administrative Law.

2. DPR will finalize the regulations it proposes under paragraph 1, by submitting the final rulemaking record to the Office of Administrative Law, within one year of the time it must propose such regulations as set forth in paragraph 1. If the Office of Administrative Law disapproves such regulations, DPR will correct any deficiencies and resubmit the revised final rulemaking record to the Office of Administrative Law as soon as practicable.
3. In developing the regulations pursuant to paragraphs 1 and 2, DPR will address the following topics:
 - a. Whether treated seeds used, delivered, or sold in California must be treated solely with pesticide products registered by DPR for that purpose;
 - b. DPR's authority to assess and require mitigation of environmental and human health impacts that DPR identifies as having been caused by the use of pesticide products used to treat seeds and by pesticide-treated seeds;
 - c. Reporting of sales and uses of pesticide-treated seeds. On this topic, DPR will consult with the California Department of Food and Agriculture, as appropriate.
4. DPR will provide to Plaintiffs' counsel an update on the status of the proposed rulemaking, referenced in paragraph 1 above, two weeks before the time it must submit a Notice of Proposed Rulemaking to the Office of Administrative Law as set forth in paragraph 1. DPR will provide to Plaintiffs' counsel an update on the status of the final rulemaking two weeks prior to the date by which DPR must finalize the regulations pursuant to paragraph 2.
5. Any regulatory action taken pursuant to this agreement will comply with the procedures and requirements of the APA. Notwithstanding the agreements made herein with respect to the rulemaking, all Parties understand, acknowledge, and expressly agree that DPR cannot predetermine any proposed regulatory action or the final outcome of the formal rulemaking process that is required by law for any and all amendments or additions to the California Code of Regulations. DPR cannot guarantee or ensure that the regulations will ultimately be approved by the Office of Administrative Law with exactly the text that is proposed.
6. The parties stipulate to stay the proceedings in this action, until the rulemaking process described in paragraphs 1 and 2 is complete. Any party may move to lift the stay based upon a violation of this agreement by any other party. If DPR believes it will be unable to meet the deadlines set forth in paragraphs 1 and 2, DPR will notify Plaintiffs' counsel in writing as soon as practicable. Plaintiffs will dismiss this action with prejudice within 15 days of the publication of the regulations finalized pursuant to paragraphs 1 and 2 in the California Code of Regulations or the California Code of Regulations Supplement.
7. Plaintiffs and Intervenors agree that any and all challenges to the regulations finalized pursuant to paragraphs 1 and 2 must be brought as new actions, wholly separate and apart from *Natural Resources Defense Council, Inc. et al. v. California Department of Pesticide Regulation et al.*, Alameda County Superior Court, Case No. 23CV028215.
8. In the event a Party, acting in good faith, believes another Party has violated, or is preparing to violate, the terms of this Settlement Agreement, the aggrieved Party shall give

written notice to all Parties detailing the alleged or anticipated breach and demanding resolution thereof. Within fifteen (15) days after the notice is given, the Parties shall meet and confer and negotiate in good faith to resolve the dispute. If there is no resolution within thirty (30) days after the notice is given, then no Party is obligated to continue negotiations and any Party may seek relief by other means.

9. Nothing in this Settlement Agreement shall be construed as obligating Plaintiffs or Intervenor and their respective members to support any regulation proposed by DPR. Nothing in this Settlement Agreement shall constitute a waiver by Plaintiffs or Intervenor of any rights afforded by the APA or otherwise limit their ability to contest any such regulation.
10. As a full and complete resolution and compromise of any claim by Plaintiffs against any Party for attorney's fees and/or costs related to the Petition and that case matter to date, DPR will pay Natural Resources Defense Council, Inc. ("NRDC") One-Hundred and Fifty-Thousand dollars (\$150,000). This payment will be made within ninety (90) days of NRDC submitting a fully completed and executed Payee Data Record (Std. 204) to DPR after execution of this settlement agreement. Payment will be made by state warrant sent to the address on the submitted Payee Data Record. Should Plaintiffs successfully move under paragraph 6 to lift the stay due to an alleged violation by DPR, nothing in this paragraph prevents Plaintiffs from seeking to recover additional fees and costs for work related to lifting the stay and any further litigation.
11. This Settlement Agreement constitutes the entire agreement and understanding between the Parties and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties.
12. This Settlement Agreement binds Plaintiffs, and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, Defendants, and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Settlement Agreement.
13. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.
14. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect.
15. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.
16. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party

shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.

17. The Parties represent that they have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Settlement Agreement; have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud, duress, or undue influence; and knowingly and voluntarily intend to be legally bound by this Settlement Agreement.
18. In consideration of full payment of the attorney's fees and all other undertakings above, upon completion of the parties' respective obligations under this agreement, Plaintiffs will be deemed to have released Defendant and Intervenors and their principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, from any claims Plaintiffs may have based on the circumstances described in all paragraphs contained in the Background above. This release, however, does not apply to any future claims Plaintiffs may have related to the regulations DPR will adopt pursuant to paragraphs 1 and 2 above. Plaintiffs reserve the right to challenge the final regulations adopted by DPR in accordance with paragraph 7, above.
19. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.
20. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.
21. The Parties understand that this Settlement Agreement, upon completion, shall be a public document.
22. Unless otherwise specified in this Settlement Agreement, whenever notifications, submissions, or communications are required by this Settlement Agreement, they shall be submitted in writing to the address or email below:

As to Plaintiffs:

Lucas Rhoads
Natural Resources Defense Council, Inc.
1152 15th Street NW, Suite 300
Washington, DC 20005
Email: lrhoads@nrdc.org

As to Defendant:

April Gatling
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95814
Email: april.gatling@cdpr.ca.gov

As to Intervenor:

Ann Grottveit
Kahn, Soares & Conway, LLP
1415 L Street, Suite 400
Sacramento, CA 95814
Email: AGrottveit@kscsacramento.com

23. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

Dated: October _____, 2024

NATURAL RESOURCES DEFENSE COUNCIL, INC.
CALIFORNIANS FOR PESTICIDE REFORM, CENTER
FOR BIOLOGICAL DIVERSITY, FRIENDS OF THE
EARTH, AND
PESTICIDE ACTION NETWORK

For Natural Resources Defense Council

For Californians for Pesticide Reform

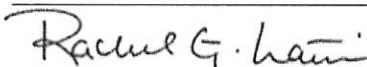
For Center for Biological Diversity

For Friends of the Earth

For Pesticide Action Network

Dated: October 25, 2024

CROP LIFE AMERICA, WESTERN
PLANT HEALTH ASSOCIATION,
CALIFORNIA COTTON GINNERS AND
GROWERS ASSOCIATIONS,
CALIFORNIA SPECIALTY CROPS
COUNCIL, AND GROWER-SHIPPER
ASSOCIATION OF CENTRAL
CALIFORNIA



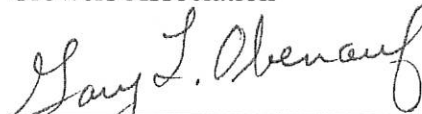
Rachel Lattimore,
CropLife America



Renee Pinel,
Western Plant Health Association



Roger Isom,
California Cotton Ginnery and
Growers Association



Gary Obenauf,
California Specialty Crops Council

As to Intervenor:

Ann Grottveit
Kahn, Soares & Conway, LLP
1415 L Street, Suite 400
Sacramento, CA 95814
Email: AGrottveit@kscsacramento.com

23. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

Dated: October 29, 2024

NATURAL RESOURCES DEFENSE COUNCIL, INC.
CALIFORNIANS FOR PESTICIDE REFORM, CENTER
FOR BIOLOGICAL DIVERSITY, FRIENDS OF THE
EARTH, AND
PESTICIDE ACTION NETWORK

Andrew Wetzler

For Natural Resources Defense Council

Jennifer Hoffman

For Californians for Pesticide Reform

Jonathan Evans

For Center for Biological Diversity

Halle Templeton

For Friends of the Earth


Allison Davis

For Pesticide Action Network

Dated: October _____, 2024

CROP LIFE AMERICA, WESTERN
PLANT PLANT HEALTH ASSOCIATION,
CALIFORNIA COTTON GINNERS AND
GROWERS ASSOCIATIONS,
CALIFORNIA SPECIALTY CROPS
COUNCIL, AND GROWER-SHIPPER
ASSOCIATION OF CENTRAL
CALIFORNIA

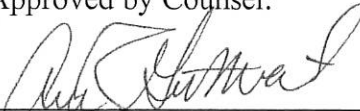
Dated: October ____, 2024



Christopher Valade,
Grower-Shipper Association of
Central California

Dated: October 25, 2024

Approved by Counsel:



ANN M. GROTTVEIT
KAHN SOARES & CONWAY, LLP
COUNSEL FOR INTERVENORS

Approved by Counsel:

LUCAS RHOADS
SIMI BHAT
NATURAL RESOURCES DEFENSE COUNCIL, INC.
COUNSEL FOR PLAINTIFFS

Dated: October ____, 2024

CALIFORNIA DEPARTMENT OF
PESTICIDE REGULATION

Dated: October ____, 2024

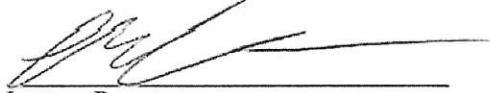
Approved by Counsel:

TIFFANY YEE
OFFICE OF THE ATTORNEY GENERAL
COUNSEL FOR DEFENDANTS

Dated: October 29, 2024

Dated: October _____, 2024

Approved by Counsel:




LUCAS RHOADS
SIMI BHAT
NATURAL RESOURCES DEFENSE COUNCIL, INC.
COUNSEL FOR PLAINTIFFS

Approved by Counsel:

ANN M. GROTTVEIT
KAHN SOARES & CONWAY, LLP
COUNSEL FOR INTERVENORS

Dated: October 30, 2024

CALIFORNIA DEPARTMENT OF
PESTICIDE REGULATION



Dated: October 31, 2024

Approved by Counsel:



TIFFANY YEE
OFFICE OF THE ATTORNEY GENERAL
COUNSEL FOR DEFENDANTS