

Congress of the United States
Washington, DC 20515

June 10, 2020

Administrator Andrew Wheeler
Environmental Protection Agency (EPA) 1200
Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Wheeler,

As part of our Committee responsibility for overseeing agricultural issues in Congress, we write to seek solutions to problems caused by the June 3 decision by the U.S. Court of Appeals for the Ninth Circuit. In that ruling, the Court vacated the Environmental Protection Agency's (EPA) federal registration for three dicamba herbicide products. The effect of this ruling during the middle of growing season may prevent cotton and soybean farmers from using these products in combating weeds and create unnecessary challenges for these agricultural producers. As you are likely aware, these farmers are already faced with threats to their livelihoods from the ongoing global pandemic as well as several years of low prices caused by trade disputes with our largest trading partners.

It is not our intent to debate the merits of this particular case (*National Family Farm Coalition v. USEPA*). Our goal is to assist farmers who legally purchased one or more of the three dicamba-based herbicide products for this planting season. We believe it is only fair for the agricultural producers to continue to use the products they purchased in this growing season. The cancellation order issued yesterday by your Agency appears to allow growers and commercial applicators to use any existing stocks of the three herbicides that were in their possession as of June 3. And as long as these farmers use existing stocks, they can apply the herbicides until July 31.

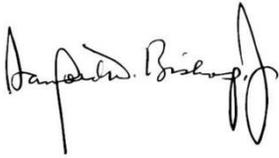
Some questions remain unanswered. First, your agency's decision does not solve all issues as some states have cutoff dates for dicamba use well before the July 31 cutoff date. Secondly, we don't know what the impact is on those who purchased product but had it in transit post-June 3 (date of court ruling) or those who were operating under state orders post-June 3 in the absence of EPA guidance. These are just a couple of the major challenges faced by our farmers.

The U.S. Department of Agriculture, which is under our Subcommittee's jurisdiction has expressed concerns with this court decision as well. In response to the court's ruling, USDA Secretary Sonny Perdue said: "I encourage the EPA to use any available flexibilities to allow the continued use of already purchased dicamba products, which are a critical tool for American farmers to combat weeds resistant to many other herbicides, in fields that are already planted. Unfortunately, the Ninth Circuit has chosen to

eliminate one of those tools.” We are in agreement with Secretary Perdue and we believe he too can assist in helping us find temporary solutions to problems posed by this court decision.

Thank you for your attention to this matter. Given the urgency of the need for farmers to know their options in the field, we request a call with you and Secretary Perdue in the very near future.

Sincerely,

A handwritten signature in black ink that reads "Sanford Bishop". The signature is written in a cursive style with a large, stylized initial "S" and "B".

Sanford Bishop
Chairman
Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

A handwritten signature in blue ink that reads "Jeff Fortenberry". The signature is written in a cursive style with a large, stylized initial "J" and "F".

Jeff Fortenberry
Ranking Member
Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies