



*Don't Drift on Me*

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February 20, 2014

Thomas Vilsack, Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

Dear Secretary Vilsack,

The Save Our Crops Coalition (SOCC) is a grassroots coalition of farm interests organized for the specific purpose of preventing injury to non-target crops from exposure to 2,4-D and dicamba. SOCC does not oppose advances in plant technology, particularly genetic modification, but does oppose actions that would result in substantial injury to non-target crops and to the habitats necessary for their pollinators.

SOCC appreciates the time and consideration the very professional personnel of the Animal and Plant Health Inspection Service (APHIS) have shown the concerns of the growers and processors of crops likely to be affected by non-target drift and volatilization stemming from the introduction dicamba tolerant crops. Specifically, SOCC applauds APHIS's willingness to undertake a more rigorous review of the environmental impacts of the deregulation of dicamba tolerant crops through the preparation of an Environmental Impact Statement (EIS).<sup>1</sup>

Regrettably, however, there remain concerns among SOCC's member growers and processors regarding the direction an EIS for dicamba tolerant crops might take. Upon review of the Draft EIS for 2,4-D tolerant crops (DEIS), SOCC members fear that APHIS may be under a mistaken impression that SOCC's position might change with regard to dicamba tolerant crops once SOCC becomes more familiar with Monsanto's Stewardship Agreement, once SOCC reviews Monsanto and BASF's data

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<sup>1</sup> *Monsanto Co.; Notice of Intent to Prepare an Environmental Impact Statement for Determination of Nonregulated Status of Herbicide Resistant Soybeans and Cotton, and Notice of Virtual Public Meetings*, 78 Fed. Reg. 28796, 28797 (May 16, 2013) available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-16/pdf/2013-11580.pdf>

concerning the volatility of the dicamba formulations intended for use on these crops, and once SOCC reviews Monsanto and BASF's proposed label statements.<sup>2</sup> This impression fundamentally misunderstands our agreement with Dow AgroSciences.

On September 11, 2012, SOCC announced an agreement with Dow AgroSciences (Dow) regarding its 2,4-D tolerant cropping system. This agreement was the product of two parties, which had been at loggerheads, attempting to broker a solution that would benefit all of American agriculture. This agreement was not merely the product of becoming more familiar with the efforts Dow had already made. It was a compromise. We suggested that Dow make concessions. Dow did not consent to every request SOCC made; however, Dow did, in every instance, consider our request, and, oftentimes, Dow obliged. In the end, we believe Dow acted responsibly to address the concerns of its neighbors. Unfortunately, Monsanto and BASF have, so far, not acted similarly.

In order to avoid any ambiguity regarding SOCC's agreement with Dow, SOCC wants to make clear that there remain several points of contention with Monsanto and BASF that are unlikely to be resolved through simply learning more about their products.

For instance, just from a review of publically available sources, we know our differences with Monsanto and BASF are especially stark with respect to the use of so-called 'generic' forms of dicamba. Monsanto has sought the registration for its older, more volatile Clarity formulation, and failed to mention the availability of the lower volatility Engenia formulation within its publically available petition documents.<sup>3</sup>

Our differences are also stark with respect to product stewardship. Monsanto has not publicly presented any strategy to mitigate adverse environmental effects of

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<sup>2</sup> *Dow AgroSciences Petitions (09-233-01p, 09-349-01p, and 11-234-01p) for Determinations of Nonregulated Status for 2,4-D-Resistant Corn and Soybean Varieties: Draft Environmental Impact Statement—2013*, APHIS (Jan. 7, 2014) at xi, available at:

<http://www.regulations.gov/contentStreamer?objectId=09000064814f1e35&disposition=attachment&contentType=pdf>

<sup>3</sup> *Monsanto Petition for Determination of Nonregulated Status of Event MON 87708*, APHIS (Jul. 13, 2012), available at:

<http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0047-0002>; *Pesticide Products; Registration Applications*, 75 Fed. Reg. 51045 (Aug. 18 2012), available at: <https://www.federalregister.gov/articles/2010/08/18/2010-20321/pesticide-products-registration-applications>; *Pesticide Products; Receipt of Applications to Register New Uses*, 77 Fed. Reg. 50686 (Aug. 22, 2012) available at: <https://www.federalregister.gov/articles/2012/08/22/2012-20666/pesticide-products-receipt-of-applications-to-register-new-uses>

either herbicide, through label language, through limitations on application timing, or through the competitive pricing of lower volatility formulations. Monsanto has also not proposed recordkeeping practices to ensure that applicators are aware and have documented application location, timing, and windspeed, before applicators use dicamba.

Moreover, unlike 2,4-D, many food crops have no tolerance or exemption for dicamba residues.<sup>4</sup> Because a commodity containing residues without a tolerance or an exemption is prohibited from passing in interstate commerce, SOCC is very concerned that, without an exemption or tolerance, even trace residues would render crops unmarketable, even if those crops are safe.

In short, SOCC still regards dicamba tolerant crops as highly likely to have significant non-target plant damage effects on broadleaf specialty crops, because Monsanto has yet to implement effective measures to protect against non-target plant damage.

SOCC would like to emphasize how pleased we are that APHIS has chosen to undertake a more rigorous review of the environmental impacts of the deregulation of dicamba tolerant crops.<sup>5</sup> As you know, the implementing regulations for the National Environmental Policy Act (NEPA) state that ultimately “it is not better documents but better decisions that count. NEPA’s purpose is not to generate paperwork . . . but to foster excellent action.”<sup>6</sup> To insure APHIS makes the best possible decision, a decision that will impact the livelihoods of growers and processors throughout the Midwest, SOCC respectfully requests APHIS to consider the preparation of an EIS for dicamba tolerant crops as an opportunity to have Monsanto and BASF provide answers as to why they have not adopted measures similar to those adopted by Dow to protect against non-target plant damage.

Attached please find a summary of our agreement with Dow as presented to the U.S. Department of Agriculture, and the U.S. Environmental Protection Agency on September 11, 2012.

Thank you for your consideration.

Sincerely,

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<sup>4</sup> 40 C.F.R. §180.227

<sup>5</sup> *Monsanto Co.; Notice of Intent to Prepare an Environmental Impact Statement for Determination of Nonregulated Status of Herbicide Resistant Soybeans and Cotton, and Notice of Virtual Public Meetings*, 78 Fed. Reg. 28796, 28797 (May 16, 2013) available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-16/pdf/2013-11580.pdf>

<sup>6</sup> 40 C.F.R. §§1500.1, 1500.2

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