

Court Dismisses Challenges to EPA Pesticide Decision Based on Wiley Rein Arguments

May 20, 2008

In a case of first impression, on May 19, Judge Ricardo S. Martinez of the U.S. District Court for the Western District of Washington dismissed a challenge to EPA's 2006 approval of the continued sale of the insecticide azinphos methyl. *United Farm Workers of America, et al. v. Administrator, USEPA* (W.D. Wash., No. C04-099RSM.) The ruling came in response to a motion filed by Wiley Rein on behalf of intervenors Bayer CropScience LP and Makhteshim Agan of North America, Inc. At the time the challenge was filed, both Bayer and Makhteshim offered azinphos methyl products to U.S. farmers; Bayer has since sold its product line to Makhteshim.

The challenged EPA decision approved the re-registration of azinphos methyl products for a number of uses, including control of moths on apples, until at least 2012. Plaintiffs had argued that EPA gave undue attention to growers' need for azinphos methyl products. Washington State apple growers, among other agricultural groups, had demonstrated to EPA that continued use of the product was vital to serving both domestic and international products for their crop.

In keeping with Wiley Rein's position, Judge Martinez held that the challenge should have been brought the Court of Appeals, not U.S. District Court. The case—one of several currently pending in District Courts in which similar challenges have been filed against EPA's analogous decisions on a number of pesticides—is the first to be decided.

David B. Weinberg, chair of Wiley Rein's Environment & Safety Practice, served as lead counsel on the case and argued the Motion to Dismiss. Partner Eric Andreas played a major role in crafting the winning brief.

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Practice Areas

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