



Newsletter about Pesticides

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Jurisdictional News



USA: Monsanto-Bayer and BASF responsible for damage caused by Dicamba drift

On July 7, 2022, the U.S. court [recognized](#) the responsibility of Monsanto-Bayer and BASF for the unprecedented damage caused to an orchard by the system based on GE (Genetically Engineered) crops and the herbicide Dicamba, promoted by these companies.

Dicamba is a highly volatile herbicide produced by agrochemical giants Monsanto-Bayer and BASF. Its volatility leads to significant and uncontrollable drift of the product outside the areas of application. Its use has caused significant harm to many farmers up to several miles away from the treated fields and to endangered species.

The product has been registered in 2018. Its approval has been challenged by various groups: National Family Farm Coalition (NFFC), Center for Food Safety (CFS), Center for Biological Diversity (CBD), Pesticide Action Network North America (PANNA), which obtained its [cancellation](#) in 2020. Unfortunately, the Trump administration subsequently reapproved it, leading to a new [lawsuit](#) from the groups, which is still ongoing. In 2021, the EPA released an assessment [report](#) on Dicamba for the past agricultural season (2021), showing the adverse consequences of its use on farms, farmers and the environment. Despite these documented consequences, the EPA [refuses](#) to revoke Dicamba's approval.

Like thousands of farmers, **Bill Bader** has seen his farm adversely affected by the herbicide. His Missouri peach farm, with thousands of acres of crops, has been significantly damaged. He reports losing 30,000 trees and over \$1 million in sales. **Bill Bader** and his company, Bader Farms, have filed a [lawsuit](#) to recover the damages. They accuse Monsanto and BASF of releasing Dicamba-tolerant GE soybean and cotton seeds and associated herbicides, knowing that they would drift and damage non-tolerant crops in the vicinity. **Bader** believes his orchard was irrevocably damaged by the herbicide, which drifted onto his trees from neighboring farms, due to its volatility. Bayer and BASF argue that their dicamba-based herbicides are safe when used as directed. This case is a bellwether case of a multidistrict litigation (MDL) that brings together complaints from more than 100 farmers alleging liability from these two companies.

During the trial, it was reported that the companies had been warned of the herbicide's potential to damage other crops, and that they were even preparing to respond to complaints about the weedkiller even before these new GM crops systems were released.

In 2020, the U.S. District Court in Cape Girardeau, Missouri, found the two agrochemical companies liable in the litigation against **Bader**, and a jury ordered them to pay \$15 million in damages to Bader Farms, and \$250 million in punitive damages, which were later reduced to \$60 million.

Monsanto and BASF have appealed the ruling and claim that the award of damages to Bader Farms for damages caused by their herbicide is unjustified. The civil society groups filed *Amici Curiae*, [legal briefs](#) in support of **Bader** against the two companies' appeal. On July 7, 2022, the U.S. Court of Appeals for the Eighth Circuit definitively upheld Monsanto-Bayer and BASF's liability for the unprecedented damage caused to Mr. **Bader**'s orchard by Dicamba drift.

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