

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION**

**GLEN HOOKS, MICHAEL DOUGAN,
PRATT REMMELL, REED STOREY,
TIM FISHER, VICTOR GRAY,
BLAND CURRIE, GLADYS WHITNEY,
FRANCES WILSON SHACKLEFORD,
ADAM FISHER, GUY FISHER, PADEN BALL, ‘
GALE STEWART and COY’S HONEY FARM, INC.**

PLAINTIFFS

V.

CASE NO. 60CV-21-2843

**ARKANSAS STATE PLANT BOARD;
AND ARKANSAS STATE PLANT BOARD
MEMBERS IN THEIR OFFICIAL CAPACITIES:
WALTER “BRUCE” ALFORD; KYLE BALTZ;
TOMMY ANDERSON; REYNOLD MEYER;
DARRELL HESS; MARTY EATON;
BARRY WALLS; TERRY FULLER;
MARK HOPPER; BRAD KOEN; SAM STUCKEY
TERRY STEPHENSON; DR. KEN KORTH;
DR. NATHAN SLATON; MATTHEW MARSH;
JASON PARKS; SCOTT MILBURN; AND
MARK MORGAN**

DEFENDANTS

TEMPORARY RESTRAINING ORDER

Currently before the Court is Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction. Based on Plaintiffs’ Complaint filed herein, arguments of counsel, and other things before this Court, this Court finds, holds and concludes as follows:

1. In their Motion, Plaintiffs allege Defendants violated relevant portions of the Arkansas Administrative Procedures Act in promulgating its 2021 Final Dicamba Rule (the “Rule”) and asks the Court to issue a temporary restraining order (“TRO”) and preliminary injunction, pursuant to Arkansas Rule of Civil Procedure 65, enjoining the Plant Board from implementing the Rule, staying the Rule, requiring the Plant Board to enforce its dicamba rules as they existed immediately before

the Rule went into effect, ordering the Plant Board to provide notice of this Order to affected parties, and setting a hearing date for a preliminary injunction and for a final hearing in this case.

2. Under the Arkansas Rules of Civil Procedure, this Court may enter a TRO and preliminary injunction if it clearly appears from specific facts shown that irreparable harm will result in the absence of an injunction or restraining order, and second, that the moving party has demonstrated a likelihood of success on the merits. *Ark. Dep't of Human Servs v. Ledgerwood*, 2017 Ark. 308, 530 S.W.3d 336 (2017).

3. The Court finds that unless a TRO is issued, the Plaintiffs face immediate, irreparable harm to the non-dicamba tolerant crops that they produce and to their non-crop plants because the time period for Plaintiffs to decide whether to plant dicamba-tolerant crops in order to limit the risk of dicamba damage is quickly coming to an end and any applications of dicamba after May 25, 2021 increase Plaintiffs' risks of irreparable harm. The Court further finds that such harms outweigh any injury that a TRO would inflict on the Defendants, as a state agency and the members that constitute the agency. Furthermore, the Court finds that the Plaintiffs have a reasonable likelihood of success on the merits, and that the public interest favors issuing the requested TRO. Therefore, this Court will issue the Plaintiffs' requested TRO against the Defendants.

4. Accordingly, the court hereby enters a Temporary Restraining Order pending a preliminary injunction hearing and orders the Plant Board to use its best efforts to notify the public of the Court's TRO and the effect the Order has on applying dicamba in 2021, including, but not limited to:

- a. Posting notice of the Court's Order on the Plant's Board's website;
- b. Individually notifying each person or entity that submitted a public comment on the proposed 2021 Dicamba Rule of the Court's Order;

- c. Providing public notice in the same manner as required by the Arkansas Administrative Procedures Act for a rule.

5. This TRO is binding upon the Arkansas State Plant Board, its officers, agents, employees, attorneys and any other persons who are in active concert or participation with Defendants and all applicators of dicamba in the State of Arkansas.

6. Disobedience of this TRO is punishable by the Court as contempt.

7. For purposes of Ark. R. Civ. P. 65(b)(2), this Court states as follows:

- a. This Order was entered on May 21, 2021, at approximately 4:02 am/pm.

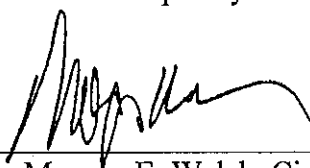
b. This Order is entered because the Plaintiffs face irreparable damages to the non-genetically modified supply chain in Arkansas responsible for producing feed ingredients for Plaintiffs' non-GM poultry and to Plaintiffs' non-dicamba tolerant crops for which there is no adequate remedy at law;

c. This Order is entered without notice because the application of dicamba past May 25, 2021 has an immediate effect on the Plaintiff's non-GM poultry business and non-dicamba tolerant crops;

d. This Order expires on May 24, at 3:00 am/pm, unless extended by this Court; and

e. Parties are ordered to appear for a Preliminary Injunction Hearing on Monday, May 24, 2021, at 1:30 p.m. at the Pulaski County Courthouse at Little Rock, Arkansas.

IT IS THEREFORE ORDERED that Plaintiffs' Motion for Temporary Restraining Order is GRANTED on this 21st day of May, 2021.



Honorable Morgan E. Welch, Circuit Judge