

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 12 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NATIONAL FAMILY FARM
COALITION; et al.,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY; SCOTT PRUITT, in his official
capacity as Administrator,

Respondents,

DOW AGROSCIENCES LLC,

Intervenor.

No. 17-70810

EPA No.
EPA-HQ-OPP-2016-0594

ORDER

NATURAL RESOURCES DEFENSE
COUNCIL,

Petitioner,

v.

SCOTT PRUITT, in his official capacity as
Administrator of the United States
Environmental Protection Agency; U.S.
ENVIRONMENTAL PROTECTION
AGENCY,

Respondents,

DOW AGROSCIENCES LLC,

Intervenor.

No. 17-70817

EPA No.
EPA-HQ-OPP-2016-0594

Before: CANBY and MURGUIA, Circuit Judges.

Intervenor's motions to dismiss this appeal for lack of jurisdiction (Docket Entry No. 15) and for improper venue (Docket Entry No. 16) are denied without prejudice to renewing the arguments in the answering brief. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

Petitioners' motion to sanction intervenor (Docket Entry No. 26) is denied.

Petitioners' motion to expedite the appeal (Docket Entry No. 20) and respondents' motion to extend time to file the agency record and for a protective order (Docket Entry No. 12) are referred to the Circuit Mediator to explore whether agreement may be reached on some or all of the issues therein. Disposition of these motions is deferred pending the outcome of mediation.

Briefing remains suspended pending further order of the court.