NO. 24-_____

In the Supreme Court of the United States

M&T FARMS,

Petitioner,

v.

FEDERAL CROP INSURANCE CORPORATION AND THE RISK MANAGEMENT AGENCY,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Auer deference allows courts to defer to an agency's interpretation of ambiguous regulations, but only after exhausting traditional interpretive tools to confirm genuine ambiguity. In *M&T Farms v. Federal Crop Insurance Corporation*, 103 F.4th 724, 726 (9th Cir. 2024), the Ninth Circuit applied ***Auer*** deference, finding ambiguity in the term "farming activity" under the Whole-Farm Revenue Protection (WFRP) Policy, and therefore accepted the Federal Crop Insurance Corporation's (FCIC) "reasonable" interpretation of the term. The WFRP Policy defines a "farm operation" as all "farming activities" reported under a single taxpayer identification number, encompassing diverse revenue sources if reported on a single tax return. (App.89a). Petitioner contends that under *Loper Bright Enterprises v. Raimondo*, the lower courts were required to exhaust interpretive tools to determine the best meaning of "farming activity" under the policy's controlling definitions, which would have supported M&T's claim for coverage (144 S. Ct. 2244, 2250-51 (2024)).).

The Question Presented Is:

Whether the Ninth Circuit erred in upholding *Auer* deference to the FCIC's retroactive interpretation of coverage under the Whole-Farm Revenue Protection Pilot Policy, where the FCIC's new definition effectively terminates insurance coverage for farmers across the United States; and whether such a decision conflicts with *Kisor v. Wilkie*, 139 S. Ct. 2400 (2019), and the recent decision of *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024).

PARTIES TO THE PETITION

Petitioner and Plaintiff-Appellant below

- M&T FARMS, a California GENERAL Partnership

Respondents and Defendants-Appellees below

- FEDERAL CROP INSURANCE OPINION CORPORATION, a wholly-owned government corporation that administers the Federal Crop Insurance Program
- RISK MANAGEMENT AGENCY, the United States Department of Agriculture's agency that manages the FCIC and administers federal crop insurance policies

CORPORATE DISCLOSURE STATEMENT

M&T Farms is a California general partnership. It has no parent corporation, and no publicly held corporation owns 10% or more of its interests.

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Ninth Circuit

No. 23-15837

M&T Farms, a California General Partnership, *Plaintiff-Appellant,* v. Federal Crop Insurance Opinion Corporation, a wholly-owned government corporation that administers the Federal Crop Insurance Program; Risk Management Agency, the United States Department of Agriculture's agency that manages the FCIC and administers federal crop insurance policies, *Defendants Appellees*.

Date of Final Opinion: June 4, 2024

Date of Rehearing Denial: August 13, 2024

U.S. District Court for the Northern District of California

No. 21-cv-09590-SVK

M&T Farms, *Plaintiff,* v. Federal Crop Insurance Corporation, Et Al., *Defendants*.

Date of Final Order: March 9, 2023

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The opinion of the Ninth Circuit is reported at 103 F.4th 724 and is included in the Appendix at (App.1a). The district court's unreported opinion granting summary judgment to the FCIC is available at (App.17a).

JURISDICTION

The Ninth Circuit issued its opinion on June 4, 2024. M&T Farms filed a timely petition for rehearing, which was denied on August 13, 2024. (App.47a). This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

The relevant statutory framework includes the Administrative Procedure Act (APA), 5 U.S.C. § 706, which governs judicial review of agency actions (App. 49a). In addition, the FCIC's authority to interpret crop insurance policies arises from several statutes: 7 U.S.C. § 1502, establishing the program's purpose to stabilize farmers' income (App.50a); 7 U.S.C. § 1503, which situates the FCIC within the Department of Agriculture (App.57a); and 7 U.S.C. § 1506, granting the FCIC authority to issue binding regulations and interpretations with the same legal force as agency regulations

(App.57a). Further, 7 C.F.R. § 400.767 outlines procedural requirements for requesting FCIC interpretations (App.66a).

STATEMENT OF THE CASE

A. Background

This case arises from M&T Farms' challenge under the APA to the FCIC's interpretation of the term "farming activity" in the WFRP Policy. The FCIC, administered through the Risk Management Agency (RMA), effectively denied M&T Farms' crop insurance claim by determining that revenue generated through B&T Farms, a marketing partnership owned and operated by the same individuals who own M&T Farms as part of a consolidated "single farm operation," did not qualify as insurable "farming activity" under M&T's WFRP policy. The FCIC administratively determined that B&T Farms' marketing operations, which merely sold the crops physically grown by M&T Farms, were separate "farming activity" from M&T Farms' farm operation. As a result, the FCIC concluded that revenue from the sale of the crops (not resale) by B&T should be excluded from coverage under M&T's WFRP policy (App.71a-77a).

M&T Farms argued that the WFRP Policy by its express terms includes the definition for a "Farm operation" as "All of the farming activities for which revenue and expenses are reported to the IRS under a single taxpayer identification number," which M&T Farms satisfied. B&T Farms acted solely as M&T's marketing agent, without holding any independent

insurable interest or financial risk in the crops it marketed and sold. B&T had no stake in any of the revenues received from the crops it sold. Instead, B&T simply passed the income from the direct sales of M&T's crops back to M&T who reported all farm revenue on a single tax return under Farm Schedule F. M&T argued that the FCIC's interpretation contradicts the policy's plain language, which aims to provide comprehensive revenue protection for unified farm operations like M&T Farms.

The core conflict in this case centered on whether "B&T Farms" — a partnership selling crops grown by the insured M&T Farms, that never filed a Farm Schedule F, never incurred farm expenses, and never received farming income — was a separate "farm operation" that engaged in distinct "farm activity" under the WFRP Policy.

The Panel concluded, applying *Auer* deference, that the WFRP Policy is ambiguous because the term "farm activity" is (allegedly) not defined in the policy. The Panel, therefore, deferred to the FCIC's augmented springing definition of the policy and administratively imposed its interpretation of the term "farm activity" on M&T Farms. This amounted to the FCIC rewriting the policy in a way supporting cancellation of M&T Farms' WFRP coverage for the 2017 crop year in 2019, more than a year after having approved the WFRP policy and the documented and timely notice of insurable causes of loss related to Adverse weather conditions.

The Panel's recognition of ambiguity and its deference to the FCIC warrant review in light of *Loper*, which requires applying the *contra proferentem* canon to interpret insurance contracts. The Ninth's Circuit's panel acknowledged its deference and declin-

ation to simply interpret the insurance policy, an appropriate judicial function, stating:

> To be sure, other interpretations of "farming activity," including M&T Farms' proposal, are possible. If we were simply interpreting the language of an insurance contract in the first instance, we might well apply the familiar canon of construing any ambiguity against the insurer. *See, e.g., State Farm Mut. Auto. Ins. Co. v. Partridge*, 10 Cal.3d 94, 109 Cal.Rptr. 811, 514 P.2d 123, 128 (1973). But here, we review a final agency action; we are not ourselves interpreting the WFRP Policy anew. We must instead afford considerable deference to the FCIC's reasonable interpretation of its policy provisions. *See Muratore v. U.S. Off. of Pers. Mgmt.*, 222 F.3d 918, 922 (11th Cir. 2000); *Sternberg v. Sec'y of Health & Human Servs.*, 299 F.3d 1201, 1205 (10th Cir. 2002). Because the FCIC's interpretation of "farming activity" in the WFRP Policy is reasonable, it survives APA arbitrary and capricious review.

M&T Farms v. Fed. Crop Ins. Corp., 103 F.4th 724, 731 (9th Cir. 2024).

The holding by the Court in *Loper* requires rejection of the Ninth Circuit Panel's deference. The standard under the *Loper* decision rejects the conclusion that a federal agency's interpretations of legal questions governs; instead explaining that affording agency deference contradicts the APA's requirement that courts, not agencies, decide legal questions. *Loper*, 144 S. Ct. at 2247. *Loper* details that the APA requires courts to "hold unlawful and set aside agency action, findings,

and conclusions [not] found to be . . . in accordance with law." 5 U.S.C. § 706(2)(A). *Id.* Agency deference compels courts to improperly defer to agency legal interpretations, even if inconsistent or conflicting with prior judicial rulings, rather than using independent judgment as mandated by the APA. This deference undermines the APA's principles. See, *Loper*, at 2247.

Courts constantly encounter legal ambiguities without relying on agency interpretations. In these cases, courts must interpret the legal questions independently, seeking the best answer rather than just a "reasonable" one. That is the law as it has always been practiced.

The best interpretation in this case is the one the Court would reach on its own, using traditional tools of contract interpretation, regardless of agency involvement. If the agency's interpretation is not the best one, it is not legally permissible. *See*, *Loper*, at 2266. The *Loper* decision mandates that a court should not defer to the FCIC's interpretation simply because it confronts ambiguity in the language of the policy. Courts must instead find and settle upon the best definition.

B. Procedural History

The district court granted summary judgment for the FCIC, applying *Auer* deference (App.17a-46a). The Ninth Circuit affirmed on June 4, 2024, finding ambiguity in the policy and deferring to the FCIC's interpretation (App.1a-16a). Importantly, *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), was decided on June 12, 2024, shortly after the Ninth Circuit issued its opinion. M&T Farms subsequently cited *Loper Bright* as the central grounds for its petition for

reconsideration, but the Ninth Circuit declined to grant the petition. (App.47a-48a).

REASONS FOR GRANTING THE PETITION

I. CONFLICT WITH SUPREME COURT PRECEDENT

By refusing to reconsider its opinion in light of *Loper Bright*, the Ninth Circuit continues to misapply *Auer* deference. *Loper Bright* clarified that deference is appropriate only when regulations remain genuinely ambiguous after courts have exhausted all traditional interpretive tools (144 S.Ct. at 2250). The decision emphasized that it is the courts' duty—not the agencies—to determine the meaning of regulatory language (144 S.Ct. at 2253). The Ninth Circuit, however, defaulted to deference without conducting a rigorous analysis of the WFRP Policy's relevant provisions, contradicting both *Kisor* and *Loper Bright*. This misapplication of deference undermines the judiciary's interpretive role and leaves the Ninth Circuit's opinion in this matter reported as "good law" without acknowledgment of *Loper Bright*.

II. NATIONAL SIGNIFICANCE & NEED FOR UNIFORMITY

This case has broad implications for the critical agricultural sector comprised of both large and small farming operations throughout the United States. The case also has broader application and crucial clarification of federal administrative law. Federal crop insurance is critical for economic stability, ensuring that farmers have financial security and that market stability is maintained. Inconsistent and after-the-fact interpretations of policy provisions jeopardize farmers and farming operations (contrary to the express purpose of the federal crop insurance program), disrupt agricultural markets, and also risk exacerbating food price inflation—an issue of concern in today's economy. The Ninth Circuit ignores the rule of law reaffirmed in *Loper Bright* and invites legal inconsistency that undermines uniformity by failing to apply this Court's governing standards. This Court must intervene to restore consistency and safeguard economic stability.

CONCLUSION

This case presents a critical opportunity for the Court to clarify the application of *Auer* deference, particularly in cases where agency interpretations directly impact statutory obligations and private reliance interests. At issue is whether lower courts, before deferring to an agency's interpretation of its own regulations, must fully exhaust traditional interpretive tools to determine the "best" meaning, as articulated in *Loper Bright* and *Kisor*. The Ninth Circuit's ruling upholding the FCIC's interpretation of "farming activity" under the WFRP Policy raises questions of national importance, as it affects the consistency and reliability of federal crop insurance—a program crucial to farmers' financial stability.

To resolve these questions and ensure judicial independence in regulatory interpretation, Petitioner respectfully requests that this Court grant certiorari under 28 U.S.C. § 1254(1) and, if necessary, issue a writ under 28 U.S.C. § 1651, to expedite review. Petitioner further requests that this Court vacate the Ninth Circuit's opinion and remand with instructions to apply the clarified standards of judicial deference. Such relief will not only guide lower courts but also assist the FCIC in fulfilling its statutory mandate while ensuring that farmers receive the reliable coverage they reasonably expected under their policies.

Respectfully submitted,

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