

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

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In the Matter of :
:
Edwin Andújar Bermúdez dba :
Truly Nolen Pest Control De Caguas : **Honorable Helen Ferrara,**
: **Presiding Officer**
:
Respondent, : **Docket No. FIFRA-02-2017-5302**
:
Proceeding Under the Federal Insecticide, :
Fungicide, and Rodenticide Act, as :
Amended, and the Clean Air Act, as :
Amended :
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MOTION FOR EXTENSION OF TIME

By Order dated September 14, 2017, your Honor granted Complainant’s Motion for Default Judgment on Liability and ordered Complainant to file and serve against the above-captioned Respondent, on or before October 30, 2017, the Motion for Penalty, together with supporting documentation which will provide factual grounds for the proposed penalty, in accordance with 40 C.F.R. §§ 22.5 and 22.16.

On September 28, 2017, Complainant filed a Motion for Extension of Time, from October 30, 2017 until April 30, 2018, to file a Motion for Penalty due to unprecedented island-wide damage to the Commonwealth of Puerto Rico caused by Hurricanes Irma and Maria. Additionally, EPA intended to contact Respondent once normal business operations resumed to discuss the possibility of renewed settlement negotiations in this matter.

On October 5, 2017 the EPA Region 2 Regional Judicial Officer, Helen Ferrara, issued an Order granting EPA Region 2's motion for extension of time for six months, until April 30, 2018, to file and serve a Motion for Penalty.

Complainant moves, pursuant to 40 C.F.R. § 22.16(a) for another four month (one-hundred and twenty (120) days) extension of time, from April 30, 2018 until August 28, 2018 to file the Motion for Penalty, for the following reasons:

- 1) The unprecedented island-wide damage to the Commonwealth of Puerto Rico caused by Hurricanes Irma and Maria in September 2017 continues to be felt some seven months afterwards. Electricity and telecommunications services have not been reestablished to the entire Island of Puerto Rico. A substantial number of customers of the Puerto Rico Electric Power Authority remain without power and those with power are not receiving a reliable and steady supply of electricity. A lack of functional and steady telecommunications still affects the operations of various businesses in Puerto Rico.
- 2) With respect to Respondent, specifically, EPA's preliminary inquiries appear to demonstrate that Respondent's regular business operations may not yet be fully re-established.
- 3) Last month, EPA attorney Carolina Jordan-Garcia contacted the Respondent to invite him to re-engage in settlement negotiations with the Agency. Some confusion then arose regarding whether Respondent was represented by counsel, specifically, Peter Diaz, who had represented Respondent prior to the filing of the Complaint in this matter. However, within the past few days, Mr. Diaz phoned Ms. Jordan-Garcia to state definitively that he does not represent Respondent. Now that this issue has been

resolved, the undersigned is hopeful that with additional time renewed negotiations might lead to settlement. As such, a continuation of the temporary moratorium on further filings in this matter is warranted.

Based on the foregoing, Complainant's counsel asserts that good cause exists for granting this motion for an extension of four months, or one-hundred and twenty (120) days, until August 28, 2018, to file the appropriate dispositive default Motion for Penalty. As the request is made to allow the Parties a meaningful opportunity to negotiate and enter into a settlement, a grant of this request for an extension will not prejudice any of the parties.

Dated: April 19, 2018
New York, New York

Respectfully submitted,



Jeannie M. Yu
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Motion for Extension, dated April 19, 2018, in the matter of Edwin Andújar Bermúdez dba Truly Nolen Pest Control De Caguas, Docket No. FIFRA 02-2016-5302, was sent this day in the following manner to the addresses listed below:

Original and Copy by Hand-Delivery to Regional Hearing Clerk

Karen Maples
Regional Hearing Clerk
USEPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Hand-Delivery and E-Mail to the Presiding Officer

Helen Ferrara
Regional Judicial Officer
USEPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Certified Mail/Return Receipt Requested and Regular Mail to Edwin Andújar Bermúdez dba Truly Nolen Pest Control de Caguas:

Edwin Andújar Bermúdez
dba Truly Nolen Pest Control de Caguas
PO Box 7155
Caguas, Puerto Rico 00726

Edwin Andújar Bermúdez
dba Truly Nolen Pest Control de Caguas
Urb. Miraflores,
16-15 Calle 29,
Bayamón, Puerto Rico 00957-3707

Dated: April 19, 2018


Yolanda Majette, Secretary