



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

August 21, 2007

C-14J

Judge Barbara A. Gunning  
Office of the Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-2001

Re: In the Matter of Behnke Lubricants, Inc.  
FIFRA-05-2007-0025  
Status Report on Settlement Discussions

Dear Judge Gunning:

Pursuant to your Order dated June 27, 2007, please find the enclosed a Status Report on Settlement Discussions.

Sincerely,

  
Nidhi K. O'Meara  
Associate Regional Counsel

cc: Mr. Bruce McIlroy  
Mr. James Cha, C-14J  
Mr. Terence Bonace, DT-8J

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	<b>Docket No. FIFRA-05-2007-0025</b>
	)	
<b>Behnke Lubricants, Inc.</b>	)	<b>Status Report on Settlement Discussions</b>
<b>Menomonee Falls, Wisconsin</b>	)	
	)	
<u>Respondent.</u>		

**STATUS REPORT ON SETTLEMENT DISCUSSIONS**

Complainant, the United States Environmental Protection Agency, Region 5 (U.S. EPA) hereby files this Status Report on Settlement Discussions, pursuant to the Judge Gunning's Prehearing Order dated June 27, 2007.

1. On December 22, 2007, U.S. EPA sent Behnke Lubricants Inc. (Respondent) a letter to inform Respondent of U.S.EPA's intent to file a civil administrative complaint for alleged violations.
2. In that letter, U. S. EPA invited Respondent to meet with U.S. EPA to discuss the alleged violations. In that letter, U.S. EPA also informed the Respondent that after the conclusion of the conference, Respondent would have an opportunity to engage in pre-filing settlement discussions.
3. On February 1, 2007, the parties met in U.S. EPA's Chicago office to discuss the alleged violations.
4. During the February 1, 2007 meeting, the parties agreed that they would engage in pre-filing settlement discussions. After some preliminary discussions, the attorneys agreed to continue talking via telephone conference on February 13, 2007.

5. In the interim, the parties exchanged numerous electronic mail (E-mail) messages in an effort to determine settlement positions.
6. On February 13, 2007, the attorneys spoke via telephone conference. After further settlement discussions, the attorneys agreed to talk again on February 22, 2007.
7. On February 22, 2007, after discussion regarding some of Respondent's concerns, Respondent's counsel indicated that Respondent did not wish to pursue settlement any further.
8. U.S. EPA filed its Complaint against Respondent on May 7, 2007.
9. Pursuant to the Court's Prehearing Order, dated June 27, 2007, U.S.EPA sent a letter to Respondent on July 10, 2007 to schedule a settlement conference.
10. The July 10, 2007 - letter was sent via E-mail on July 10, 2007 and via U.S. mail on the same day.
11. On that same day, Respondent's counsel responded to the E-mail indicating that he would forward the July 10, 2007- letter to his client and then contact the undersigned.
12. On July 16, 2007, U.S. EPA sent Respondent's counsel a follow up E-mail regarding the scheduling of a settlement conference.
13. On August 13, 2007, Respondent's counsel sent U.S. EPA an email to schedule a settlement conference.
14. On August 16, 2007, the attorneys spoke on the telephone to determine if a settlement could be reached.
15. During the August 16, 2007 call, Respondent's counsel informed U.S. EPA that his client wished to have his day in court and a settlement could not be reached.

16. To date, the parties have not reached settlement regarding the violations alleged in U.S. EPA's May 7, 2007 Complaint.

Respectfully submitted,  
U.S. Environmental Protection Agency



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Nidhi K. O'Meara  
James J. Cha  
Associate Regional Counsels  
U.S. Environmental Protection Agency

**In the Matter of Behnke Lubricants, Inc.**  
**Docket No. FIFRA-05-2007-0025**

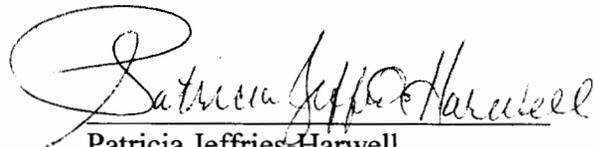
**CERTIFICATE OF SERVICE**

I hereby certify that on the 21 day of August, 2007, I filed the original and one copy of a Status Report on Settlement Discussions with Sonja Brooks-Woodard, Regional Hearing Clerk, U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604, and placed for pickup to be mailed a copy of the Status Report on Settlement Discussions by Pouch Mail to:

Judge Barbara A. Gunning  
Office of the Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-2001

and placed for pickup to be delivered by Federal Express a copy of the Status Report on Settlement Discussions to:

Mr. Bruce McIlnay, Esq.  
McIlnay, Schmitt & Button, Ltd.  
1150 Washington  
Grafton, Wisconsin 53024



Patricia Jeffries-Harwell  
Legal Technician  
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