

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2**

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In the Matter of	:	
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Edwin Andújar Bermúdez dba	:	
Truly Nolen Pest Control De Caguas	:	<u>Honorable Helen Ferrara,</u>
	:	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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FOURTH 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.

On April 19, 2018, Complainant filed a Second Motion for Extension of Time, for four months, from April 30, 2018 until August 28, 2018 to file a Motion for Penalty due to the continuing impact of the widespread destruction and damage caused by Hurricanes Irma and Maria. Their effects were still being felt on the island of Puerto Rico, many people there remained without power or a steady supply of power, and there was a lack of functional and steady telecommunications affecting various businesses. Additionally, inquiries by EPA appeared to show that regular business operations of Respondent may not have been fully reestablished. Finally, there was some confusion as to whether Respondent continued to be represented by counsel.

On April 23, 2018 the EPA Region 2 Regional Judicial Officer, Helen Ferrara, issued an Order granting EPA Region 2's Second Motion for extension of time for four months, until August 28, 2018, to file and serve a Motion for Penalty.

On August 9, 2018, the Complainant filed a Motion for Extension of Time and Scheduling Order requesting an additional five-month (one-hundred and fifty (150) days) to file and serve the Motion for Penalty. The Complainant requested the extension because Respondent's prior counsel had resumed representation of the Respondent and had begun settlement negotiations. In addition, a scheduling order was requested in order to encourage progress in this matter.

On August 9, 2018 the EPA Region 2 Regional Judicial Officer, Helen Ferrara, issued an *Order Extending Complainant's Time to File Motion for Penalty and Agreeing to Issue*

Scheduling Order, which granted an extension of time to file and serve a Motion for Penalty through January 28, 2019.

On September 12, 2018, EPA Region 2 Regional Judicial Officer, Helen Ferrara, issued a scheduling Order directing the Respondent to file financial records in this matter to support his financial hardship claim or show cause why such records would not be filed, no later than September 28, 2018.

The Respondent failed to file any financial records by September 28, 2018 and to date, has filed no such financial records. In addition, Respondent has failed to file any status reports requested by your Honor.

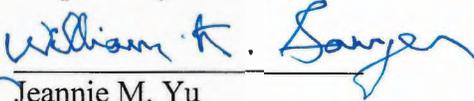
Complainant moves, pursuant to 40 C.F.R. § 22.16(a) for a forty-five day extension of time, from January 29, 2019 until March 14, 2019 to file the Motion for Penalty, for the following reasons:

- 1) Since December 22, 2018, the federal government has been shut down and almost all federal employees have been furloughed. EPA, however, had sufficient funding to operate for an additional week and the undersigned was furloughed starting on or about December 31, 2018. From December 31, 2018 to the present date, the undersigned has been unable to work on the Motion for Penalty.
- 2) There was some difficulty in scheduling time to work on the Motion for Penalty with key EPA employees due to their vacation schedules during 2018 holiday season.

Based on the foregoing, Complainant's counsel asserts that good cause exists for granting this motion for an extension of forty-five days to March 14, 2019, to file a default Motion for Penalty.

Dated: January 28, 2019
New York, New York

Respectfully submitted,


for Jeannie M. Yu

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Motion for Extension, dated January 28, 2019, 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

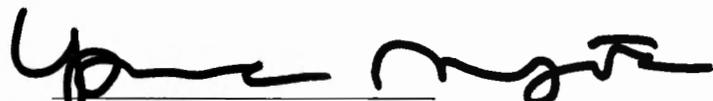
Helen Ferrara
Regional Judicial Officer
USEPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Certified Mail/Return Receipt Requested and Regular Mail and E-Mail to Peter Diaz Attorney for Edwin Andújar Bermúdez dba Truly Nolen Pest Control de Caguas:

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Dated: January 28, 2019


Yolanda Majette, Secretary