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7 UNITED STATES  
8 ENVIRONMENTAL PROTECTION AGENCY  
9 REGION IX

10 In the Matter of:	)	Docket No. FIFRA-09-2012-0006
	)	
11	)	
12 Fry's Electronics, Inc.,	)	MOTION FOR EXTENSION OF
	)	TIME TO FILE ANSWER
13 Respondent.	)	
14	)	

15  
16 TO THE REGIONAL JUDICIAL OFFICER:

17  
18 Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. Part  
19 22, Complainant U.S. Environmental Protection Agency, Region IX ("Complainant"), moves the  
20 Regional Judicial Officer to grant a 30-day extension of time to respond to the complaint in the  
21 above-entitled action (the "Complaint") to January 28, 2013. Complainant's reasons for seeking  
22 an extension for time are set forth below.

23 BACKGROUND

24 On September 24, 2012, Complainant filed a civil administrative action against  
25 Respondent Fry's Electronics, Inc. in the above-entitled action. The Complaint alleges violations  
26 of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), as well as Section 12(a)(2)(N) of  
27 FIFRA, 7 U.S.C. § 136j(a)(2)(N). Respondent was served with the Complaint on September 29,  
28 2012, and Respondent's response to the Complaint was initially due by October 29, 2012.

1 Respondent subsequently filed an Unopposed Motion for Extension of Time to Respond to the  
2 Complaint and Notice of Opportunity for Hearing on October 19, 2012 that requested a 30-day  
3 extension of time to file its Answer to November 28, 2012. On November 2, 2012, the Regional  
4 Judicial Officer filed an Order Granting Respondent's Motion for Extension of Time to File  
5 Answer providing for an extension to and including November 28, 2012. Respondent  
6 subsequently filed an Unopposed Motion for Second and Final Extension of Time to Resond to  
7 the Complaint and Notice of Opportunity for Hearing on November 19, 2012 that requested a 30-  
8 day extension of time for Respondent to file its Answer to December 28, 2012. On Novcmber  
9 28, 2012, the Regional Judicial Officer filed an Order Granting Respondent's Unopposed Second  
10 Motion for Extension of Time to File Answer providing for an extension to and including  
11 December 28, 2012.

#### 12 ARGUMENT

13 The Regional Judicial Officer may grant an extension of time to file an answer upon  
14 filing of a timely motion, a showing of good cause and after consideration of prejudice to other  
15 parties to the action. 40 C.F.R. §§ 22.7(b) and 22.16. This motion satisfies these criteria.

16 This motion is timely, having been filed prior to the due date for Respondent's answer to  
17 the Complaint.

18 This motion also complies with the "good cause" requirement of 40 C.F.R. § 22.7(b). It is  
19 Complainant's policy to encourage settlement and avoid litigation when consistent with the  
20 provisions and objectives of the law at issue. 40 C.F.R. § 22.18(b). Representatives of  
21 Complainant and Respondent, having directly met on December 18, 2012 to engage in settlement  
22 discussions, need additional time during this holiday period to continue to make progress toward  
23 a resolution of this matter. A 30-day extension of time to answer will facilitate the process by  
24 which the settlement discussions progress to a sought-after resolution. No other extensions are  
25 expected at this time.

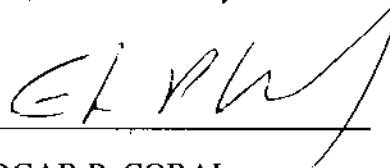
26 Finally, granting of this motion will not result in prejudice. As noted above, the parties  
27 are actively engaged in productive settlement discussions. If anything, failure to grant this  
28

1 motion will actually prejudice Respondent by requiring it to prepare an Answer before one is  
2 actually necessary. Respondent does not object to this Motion.

3 CONCLUSION

4 For the reasons set forth above, Complainant respectfully requests that the Regional  
5 Judicial Officer grant Complainant's motion for a 30-day extension of time to file an answer to  
6 and including January 28, 2013.

7 Dated at San Francisco, California, on this 21<sup>st</sup> day of December, 2012.

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