

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

10 AUG 12 PM 1:30

BEFORE THE ADMINISTRATOR

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF	)	
	)	
FRM CHEM, INC., et al.	)	DOCKET NO. FIFRA-07-2008-0035
ADVANCED PRODUCTS TECHNOLOGY, INC.,	)	DOCKET NO. FIFRA-07-2008-0036
et al.	)	
SYNISYS, INC., et al.	)	DOCKET NO. FIFRA-07-2009-0041
CUSTOM COMPOUNDERS, INC.,	)	DOCKET NO. FIFRA-07-2009-0042
	)	
RESPONDENTS.	)	

**CORPORATE RESPONDENTS' SURREPLY TO COMPLAINANT'S RESPONSE  
REGARDING MOTION FOR ADVERSE INFERENCE AND TO EXCLUDE  
EVIDENCE OR, IN THE ALTERNATIVE, MOTION TO COMPEL AND  
MOTION FOR EXTENSION OF TIME AND CORRECTION TO SAME**

COME NOW Respondents FRM Chem, Inc. ("FRM"), Advanced Products Technology, Inc. ("APT"), Synisys, Inc. ("SYN") and Custom Compounders, Inc. ("CCI") (collectively, "Corporate Respondents"), and file their Surreply to Complainant's Motion for Adverse Inference and to Exclude Evidence or, in the Alternative, Motion to Compel and Motion for Extension of Time and Correction to Same, state as follows:

1. Complainant acknowledges that it agreed to an extension to July 28, 2010 for Corporate Respondents to provide the balance of the discovery in its possession.

Corporate Respondents had previously provided three "installments" of this discovery.

2. Corporate Respondents acknowledge that they did not get the balance of this discovery overnighted to Complainant until August 4, 2010 due to medical issues regarding Corporate Respondents' counsel. Complainant, in its correction, acknowledges receipt of said discovery on August 5, 2010.

3. During the status conference call with the Court on August 5, 2010, in response to the Court's inquiry about the hearing date of September 28, 2010, Complainant's counsel said he had contacted his financial people and they could be ready for that date.

4. As a result, there is no prejudice to Complainant and Corporate Respondents believe they have shown good cause why the last installment was late by seven (7) days.

WHEREFORE, Corporate Respondents respectfully request this Court to deny Complainant's Motion in this regard.

Respectfully submitted,

JENKINS & KLING, P.C.

By: \_\_\_\_\_

Ronald E. Jenkins, #23850

10 S. Brentwood Blvd., Ste. 200

St. Louis, MO 63105

(314) 721-2525 ph.

(314) 721-5525 fax

[rienkins@jenkinsklings.com](mailto:rienkins@jenkinsklings.com)

Attorneys for Corporate Respondents

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via Federal Express upon:

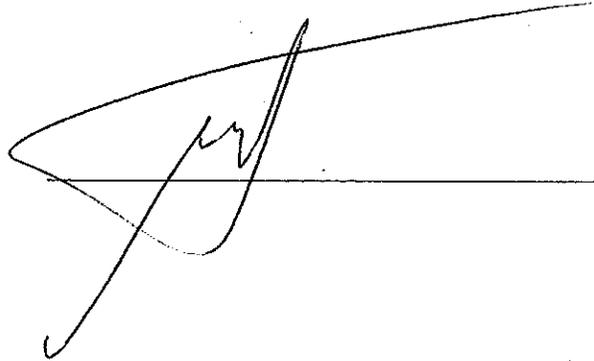
Sybil Anderson  
Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
1099 14<sup>th</sup> Street NW  
Suite 350, Franklin Court  
Washington, DC 20005

Honorable Barbara A. Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1099 14<sup>th</sup> Street NW  
Washington, DC 20005

Kathy Robinson  
Regional Hearing Clerk  
EPA - Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

Chris R. Dudding  
Assistant Regional Counsel  
EPA - Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

this 11<sup>th</sup> day of August, 2010.

A handwritten signature in black ink, appearing to read 'CRD', is written over a horizontal line. The signature is stylized and extends above and below the line.