



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REGIONAL HEARING CLERK
U.S. EPA REGION 5

2011 FEB 28 PM 2:45

REPLY TO THE ATTENTION OF:

Via UPS Overnight Delivery

C-14J

February 28, 2011

Honorable Susan L. Biro
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1099 14th Street, NW, Suite 350
Franklin Court
Washington, D.C. 20005

Re: **In the Matter of Liphatech, Inc.**
Docket No. FIFRA-05-2010-0016

Dear Chief Judge Biro:

Please find enclosed a copy of *Complainant's Second Supplemental Prehearing Exchange*, together with Complainant's Exhibits 137 – 138, which were filed on February 28, 2011, in the above referenced-matter.

Sincerely,

A handwritten signature in black ink, appearing to be "Nidhi K. O'Meara", written over a horizontal line.

Nidhi K. O'Meara
Associate Regional Counsel

Enclosures

cc: Mr. Michael H. Simpson
Reinhart Boerner Van Deuren s.c
1000 North Water Street, Suite 1700
Milwaukee, WI 53202
(*via UPS overnight delivery*)

RECEIVED
REGIONAL HEARING CLERK
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Liphatech, Inc.) Docket No. FIFRA-05-2010-0016
Milwaukee, Wisconsin)
) Hon. Susan L. Biro
)
)
Respondent.)

**COMPLAINANT'S SECOND SUPPLEMENTAL
PREHEARING EXCHANGE**

Complainant, the Director, Land and Chemicals Division, Region 5, United States Environmental Protection Agency (U.S. EPA, Complainant, or Agency), through its undersigned attorneys, hereby files *Complainant's Second Supplemental Prehearing Exchange* pursuant to Section 22.19(f) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), codified at 40 C.F.R. § 22.19(f).

I. Governing Legal Standard

The regulation governing supplementation of prehearing exchanges is found at 40 C.F.R. § 22.19(f), which provides, in relevant part, as follows:

(f) Supplementing prior exchanges. A party who has made an information exchange under paragraph (a) of this section [22.19], ... shall promptly supplement or correct the exchange when the party learns that the information exchanged ... is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the other party pursuant to this section.

The documentary evidence submitted in this *Second Supplemental Prehearing Exchange* is necessary to update the information exchanged and to make the record in this proceeding complete and accurate. The information submitted in this *Second*

Supplemental Prehearing Exchange came to the attention of Ms. Claudia Niess on February 7, 2011 and is relevant to this proceeding.

II. Additional Exhibits

Complainant is hereby supplementing its Prehearing Exchange to add the following exhibits:

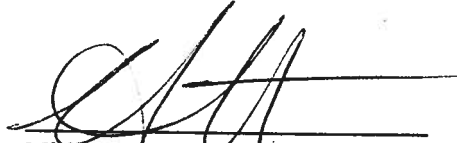
CX No.	Title of Document	Date of Document	Bates No.
137.	Declaration of Claudia Niess and copy of "Metarex 4% Slug and Snail Bait" accepted amended label, EPA Reg. No. 7173-257	December 6, 2007	3312- 3317
138.	Copy of "Metarex 4% Slug and Snail Bait" accepted amended label, EPA Reg. No. 7173-257, along with Efficacy Review and Respondent's request for amendment	December 6, 2007	3318- 3324

III. Conclusion

In accordance with the Consolidated Rules, Complainant submits this Second *Supplemental Prehearing Exchange*. Complainant respectfully reserves the right to supplement its list of witnesses and/or its list of exhibits in accordance with the Consolidated Rules.

[Signature page follows.]

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nidhi K. O'Meara', is written over a horizontal line. The signature is fluid and cursive.

Nidhi K. O'Meara

Erik H. Olson

Associate Regional Counsels

Gary E. Steinbauer

Assistant Regional Counsel

United States EPA – ORC Region 5

77 W. Jackson Blvd. (C14-J)

Chicago, IL 60604

(312) 886-0568

Attorneys for Complainant

Exhibit 137

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)	
)	
Liphatech, Inc.)	Docket No. FIFRA-05-2010-0016
Milwaukee, Wisconsin)	
)	
Respondent.)	Hon. Susan L. Biro
)	
)	
<hr/>)	

DECLARATION OF MS. CLAUDIA NIESS

State of Illinois
County of Cook

I, Claudia Niess, declare and state as follows:

1. The statements made in this declaration (which consists of two pages) are based on my personal knowledge.

2. I am currently employed as an Environmental Engineer and I am credentialed as an Enforcement Officer with the Pesticides/Toxics Compliance Section of the Chemicals Management Branch, Land and Chemicals Division, U.S. EPA, Region 5. The Pesticides/Toxics Compliance Section was formerly known as the Pesticides & Toxics Enforcement Section. I have been employed as an Environmental Engineer and Enforcement Officer in this capacity since 2005.

3. As an Environmental Engineer and Enforcement Officer in the Pesticides/Toxics Compliance Section, my duties include conducting inspections and other investigative work to determine compliance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as well as other environmental statutes. I have conducted approximately 50 inspections under FIFRA.

4. On February 7, 2011, I was assigned the review of a Notice of Arrival of Pesticides and Devices (NOA) submitted by Liphatech, Inc. (Liphatech) for a shipment of the registered pesticide "Metarex 4% Slug and Snail Bait," EPA Registration Number 7173-257, intended to be imported through the Port of Milwaukee on February 13, 2011.

5. A copy of the label represented to be affixed to the imported containers of "Metarex 4% Slug and Snail Bait," EPA Registration Number 7173-257, was provided by Liphatech with the NOA.

6. As part of my review, I accessed the Pesticide Product Label System (PPLS)¹ to obtain the label accepted by EPA for Registration Number 7173-257.

7. On February 7, 2011 I printed a copy of the accepted label for "Metarex 4% Slug and Snail Bait," EPA Registration Number 7173-257, dated December 6, 2007.

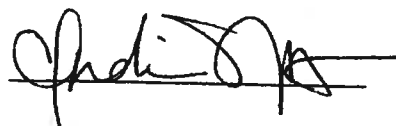
8. A copy of the December 6, 2007 accepted label is attached to this declaration.

9. The assertions I make in this declaration are truthful, and, if called to testify as a witness, I am prepared to testify under oath to the accuracy of the observations and statements contained in this declaration, based on my personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: February 17, 2011

By:



Claudia Niess
Environmental Engineer
Enforcement Officer

¹ PPLS is a database maintained by the Office of Pesticide Programs, EPA Headquarters and is accessible to the general public. It is found online at <http://oaspub.epa.gov/pestlabl/ppls.home>.

7173-257

12/6/2007

Page 1 of 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



OFFICE OF
PREVENTION, PESTICIDES,
AND TOXIC SUBSTANCES

December 6, 2007

Rachel M. Callies
Liphatech, Inc.
3600 West Elm Street
Milwaukee, WI 53209

Dear Ms. Callies:

Subject: Submission of amended label with four week efficacy claim
Metarex 4% Snail and Slug Bait
EPA Registration No. 7173-257
Your Submission Dated November 15, 2007

The amended label referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act, is acceptable with the following comments:

- Under the optional marketing statements, delete the claim "Long Lasting Power Pellets."
- Under the optional marketing statements, delete the claim "Season Long Protection."

A stamped copy of the label is enclosed for your records. Submit two copies of your final printed labeling before you release the product for shipment. If you have any questions, please Julie Chao at (703) 308-8735 or chao.julie@epa.gov.

Regards,

A handwritten signature in black ink that reads "Venus Eagle".

Venus Eagle
Insecticide-Rodenticide Branch
Registration Division (7505P)

Enclosure

Commercial Use Label Version

2 8 4

metarex

4% SNAIL AND SLUG BAIT

For control of snails and slugs in turf, ornamentals, field crops, tobacco, seed crops, vegetables, tree crops & small fruits

Active Ingredient:
 metoldehyde
 2,4,6,8-tetramethyl-1,3,5,7-tetraoxocyclo-octane 4.0%
 Inert Ingredients 96.0%
 Total 100.0%

KEEP OUT OF REACH OF CHILDREN

CAUTION:
 See side panel for further precautionary statements

PRECAUTIONARY STATEMENTS
 Hazards to Humans and Domestic Animals

CAUTION: Harmful if swallowed or absorbed through skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. **IMPORTANT:** Keep granules away from children and pets. Bait may be attractive to dogs. Confine pets during application to prevent them from believing they are being fed.

FIRST AID: Have the product container or label with you when calling a poison control center or doctor, or going for treatment.
 If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.
 If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.
 Note to Physician: No specific antidote is available. Treat the patient symptomatically.

PERSONAL PROTECTIVE EQUIPMENT (PPE): Applicators and other handlers must wear long-sleeved shirt, long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride. Follow the manufacturer's instructions for cleaning/maintaining PPE. If no instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENVIRONMENTAL HAZARDS: Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment wash-water.

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.
STORAGE: Store product in original labeled container in a cool, dry, locked place out of the reach of children. Keep container tightly closed when not in use. Do not store in direct sunlight.
DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.
CONTAINER DISPOSAL: Dispose of empty container in a sanitary landfill, by incineration, or if allowed by state and local authorities, by burning. If burned, stay out of smoke.

WARRANTY: To the extent consistent with applicable law, seller makes no warranty, express or implied, concerning the use of this product other than indicated on the label. Buyer assumes all risks of use and/or handling this material when such use or handling is contrary to label instructions.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. For any requirements by your State or Tribe, consult the agency responsible for pesticide regulation. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

AGRICULTURAL USE REQUIREMENT: Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval.

Do not enter or allow worker entry into treated areas during the restricted-entry interval (REI) of 12 hours. PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil or water, is: long-sleeved shirt and long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material.

NON-AGRICULTURAL USE REQUIREMENTS: These requirements apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.

APPLICATION DIRECTIONS

Apply to the soil surface. Granules may be broadcast by air or ground equipment unless specified otherwise on the label. Use a band treatment between rows after formation of edible crop parts. Do not contaminate edible parts.

Best results are obtained if applied in the evening, after irrigation or rain. Do not irrigate for 48 hours after application. Apply when plant damage first appears. Repeat every 2 to 4 weeks or as reinfestation occurs. Most plants are tolerant of Metarex. On any plant(s) known or suspect to be sensitive to plant protection chemicals, the user should make a test application to determine the plant(s) sensitivity to this product before large scale use or broadcast treatment is made. Should the test determine that the plant(s) are sensitive to this product, do not apply. Metarex granules may be applied to the following crops to control slugs and snails:

Non-crop areas such as: Fallow land, barrier strips & uncultivated non-agricultural areas; parks & recreational areas; golf courses; brush; railroad, pipeline, highway, power & telephone rights of way; road sides; lumberyards; storage areas; industrial sites; parking lots; airports and similar non-crop areas which may be infested and offer transient harborage to slugs & snails. Apply 5 to 40 pounds per acre.

Turf and Ornamentals (ornamental greenhouses, ornamental plantings, commercial ornamental nurseries, ground covers, turfgrass and grasses grown for sod, dichondra, and around building foundations): Apply at 3 ounces to 1 pound per 1000 sq. ft. (approx. 6 to 32 pellets per square foot or 8 to 40 pounds per acre).

Artichokes (by air or ground before tight bud stage or by ground only after tight bud stage): Apply 9 to 40 pounds per acre.

Field Crops (cereal grains, corn, legumes and mint): Apply 5 to 40 pounds per acre.

Seed Crops (sugar beets, flowers, grasses, vegetable and legume crops grown for seed): Apply 5 to 40 pounds per acre.

Small Fruit (blackberries, blueberries, boysenberries, cranberries, loganberries, raspberries, strawberries and grapes): Apply 6.5 to 40 pounds per acre or 2.5 ounces up to 1 pound per 1000 sq. ft. or 5-32 pellets per sq. ft. May be applied in a circular band (not less than 6 inches wide) around base of tree trunks.

Tobacco (field, greenhouse and lath house): Apply 5 to 40 pounds per acre or 1 pound per 1,100 to 8,800 sq. ft.

Tree Crops (citrus, avocado, cherries, peaches, apricots, apples, pears, bananas and papaya): Apply 6.5 to 40 pounds per acre or 2.5 ounces up to 1 pound per 1000 sq. ft. or 5-32 pellets per sq. ft. May be applied in a circular band (not less than 6 inches wide) around base of tree trunks.

Vegetables (asparagus, beans, beets, black-eyed peas, broccoli, Brussels sprouts, cabbage, cantaloupe, carrots, cauliflower, celery, collards, corn, cowpeas, cucumbers, eggplants, endive, garlic, ginseng, horseradish, kale, kohlrabi, leeks, legumes, lettuce, melons, mustard greens, okra, onion, parsnips, peas, peppers, pimientos, potatoes, pumpkin, radishes, rutabaga, rutabagas, salsify, shallots, spinach, squash, sweet potatoes, Swiss chard, tomatoes, turnips and watermelons): Apply 5 to 40 pounds per acre.

Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the pesticide registered under EPA Reg. No. 7173-257

EPA Est. No. 74926-FRA-1

Manufactured for:
 Liphatech, Inc.
 3600 W. Elm Street
 Milwaukee, WI 53074
 414-351-1476

LIPHA TECH

(31887)

Consumer Use Label Version

3 7 4

metarex

4% SNAIL AND SLUG BAIT

For control of snails and slugs commonly found
in and around homes, lawns, ornamental plantings,
fruit and vegetable gardens.

Active Ingredient:

metalddehyde

2,4,6,8-tetramethyl-1,3,5,7-tetraoxycyclo-octane 4.0%

Inert Ingredients 96.0%

Total 100.0%

KEEP OUT OF REACH OF CHILDREN

CAUTION:

See side panel for further precautionary statements

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION: Harmful if swallowed or absorbed through skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. **IMPORTANT:** Keep granules away from children and pets. Bait may be attractive to dogs. Confine pets during application to prevent them from believing they are being fed.

FIRST AID: Have the product container or label with you when calling a poison control center or doctor, or going for treatment.

If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person. Note to Physician: No specific antidote is available. Treat the patient symptomatically.

PERSONAL PROTECTIVE EQUIPMENT (PPE): Applicators and other handlers must wear long-sleeved shirt, long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride. Follow the manufacturer's instructions for cleaning/maintaining PPE. If no instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENVIRONMENTAL HAZARDS: Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater.

STORAGE AND DISPOSAL

STORAGE: Store product in original container in a dry place inaccessible to children and pets.

DISPOSAL: If empty: Do not reuse this container. Place in trash or offer for recycling if available. If partly filled: Call your local solid waste agency for disposal instructions. Never place unused product down any indoor or outdoor drain.

with COMMENTS

In EPA Letter Dated:

DEC 6 2007

Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.

7173-297

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read entire label and follow all directions and precautions. Not for use on plants being grown for sale or other commercial use, or for commercial seed production, or for research purposes.

Apply before damage occurs or as soon as infestation is seen. Repeat application every 2 to 4 weeks or as needed for control. Best results are obtained if applied in the evening, after rain or irrigation.

On any plant(s) known or suspect to be sensitive to plant protection chemicals, the user should make a test application to determine the plant(s) sensitivity to this product before large scale use or broadcast treatment is made. Should the test determine that the plant(s) are sensitive to this product, do not apply.

Home lawns, ground covers, ornamental beds, around home foundations, home greenhouses and lathe houses: Apply _____ ounces (or pounds) per _____ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). Sprinkle evenly over soil surface and do not apply in piles. Scatter on and beneath greenhouse benches and in pots but not on foliage.

Home vegetable gardens (asparagus, beans, beets, black-eyed peas, broccoli, Brussels sprouts, cabbage, cantaloupe, carrots, cauliflower, celery, collards, corn, cowpeas, cucumbers, eggplants, endive, garlic, ginseng, horseradish, kale, kohlrabi, leeks, legumes, lettuce, melons, mustard greens, okra, onion, parsnips, peas, peppers, pimentos, potatoes, pumpkins, radishes, rhubarb rutabagas, salsify, shallots, spinach, squash, sweet potatoes, Swiss chard, tomatoes, turnips and watermelons): Apply _____ ounces (or pounds) per _____ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). Apply to soil surface around plants - do not apply to the foliage. Do not contaminate edible parts of plants.

Home fruit trees and bushes (citrus, avocado, cherries, peaches, apricots, apples, pears, bananas, papaya, blackberries, blueberries, boysenberries, cranberries, loganberries, raspberries, strawberries, and grapes): Apply _____ ounces (or pounds) per _____ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). May be applied in a circular band (not less than 6 inches wide) around base of tree trunks. (31807)

WARRANTY: To the extent consistent with applicable law, seller makes no warranty, express or implied, concerning the use of this product other than indicated on the label. Buyer assumes all risks of use and/or handling this material when such use and/or handling is contrary to label instructions.

NET WEIGHT: 8 ounces up to 10 lbs.

EPA Reg. No. 7173-257

EPA Est. No. 74926-FRA-1

LIPHATECH®

Manufactured for:

Liphatech, Inc.

3600 W. Elm Street

Milwaukee, WI 53209

414-351-1476

Alternate warranty statements:

*Satisfaction guaranteed or your money back

Optional marketing statements:

*Contains Bitrex™

*(Bitrex logo™)

*Bitrex™ is a trademark of MacFarlane Smith Ltd.,
Edinburgh,
Scotland

*Meta™ is a registered trademark of Lonza AG,
Switzerland

*(Meta logo™)

*For use on Turf, Ornamentals, Vegetables & Fruit

*Kills snails & slugs fast

*Kills Slugs & Snails Fast - offers immediate protection to plants.

*Effective at controlling snails and slugs commonly found in and around homes, lawns, ornamental, fruit and vegetable gardens

*Smaller, highly visible pellets offer more baiting points than the

same weight of competing products

*Rain-fast for up to 45 days (under normal rainfall)

*Protects for up to 4 weeks

*Metarex granules can remain effective and provide protection

for up to four weeks!

*Metarex pellets can remain effective and provide protection for

up to four weeks!

*Reduced rate technology

*Low rate technology

*Power pellets

*The power pellet

*The power is in the pellet

*Long Lasting "Power Pellets"

*Moisture resistant package (bag, box, pail, as appropriate)

*Approx. 4 pellets per square foot

*Covers ___ sq. ft. (label statement based on application rate

of 2 ounces per 1000 sq ft and actual package size)

*Enough for ___ applications to a typical 20 ft. x 20 ft garden

(label statement based on application rate of 2 ounces per

1000 sq ft and actual package size)

*Enough for ___ applications to a 75 X 35 ft garden. (label state-

ment based on application rate of 2 ounces per 1000 sq ft and

actual package size)

*Enough to cover ___ tennis courts (label statement based on

application rate of 2 ounces per 1000 sq ft, actual package size

and a regulation (singles) tennis court size of 78 X 27 ft)

*Practical & easy to use: Shaker lid permits very accurate and

uniform dosage without requiring you to touch the bait.

*Dust free

*No dust

*Mold resistant

*Highly visible pellets help assure proper coverage and prevent

over application.

*Smaller, highly visible pellets help assure proper coverage and

prevent over application.

*Offers immediate protection to plants, even though slugs &

snails may remain in the area.

*After feeding, slugs and snails dehydrate and die within

2-6

days, often crawling to secluded places to die.

*After feeding, slugs and snails dehydrate and die within 2-6

days.

*Plant protection will be observed in the decrease in plant damage.

*High palatability = quick attraction: Made with food-grade cereal ingredients, manufactured to the highest of standards.

*In controlled tests, preferred 3 to 1 vs fresh carrots & lettuce

*Preferred 3 to 1 by slugs vs fresh carrots and lettuce in controlled tests

*Preferred 3 to 1 by slugs vs fresh carrots and lettuce

*Rain & irrigation resistant: Due to exclusive manufacturing techniques, Metarex granules resist heavy watering - holding their shape longer than competitive pellets.

*When to apply (usage tips): Apply when slugs and snails are active. If ground is dry, water the area before application. This will usually mean treating during periods when evening frost is

no longer likely. Check under rocks and other horizontal surfaces in contact with moist soil for snail & slug activity

in the early morning. Even a presence of 1-2 slugs per square yard can indicate a serious problem. Snails & slugs feed almost entirely at night, so the best time to

treat is late afternoon or just before dusk and when temperatures are cooler; just before slugs & snails become active. Try not to irrigate for 48 hours after application.

Regular application will diminish the recurrence of slug or snail infestation. Retreat if necessary, or if you begin to

see recurring damage to your plants.

*Just one slug or snail can hatch up to 40 or 80 eggs respectively, every 4-8 weeks!

*Where to apply (usage tips): Apply at the edge of the garden

or area to be protected to reduce the chances of re-infestation from adjacent areas. Slugs & snails migrate toward

better feeding and sheltering conditions, preferring moist shady environments with tender, succulent vegetation

close to the ground. Use broadcast-type spreader for large areas. Also treat areas where these pests shelter

during the day - damp places, around mulch, shady flower gardens, rock formations, ivy patches, hedged,

vegetable plants, dichondra, lawns and other ground covers.

*Protect Flowers

*Protect Flower Quality

*Protect Sensitive landscapes

*Compare coverage vs. other brands

*More uniform pellets = better spread pattern

*Trusted by European growers for over 30 years.

*Colorfast

*Moisture resistant package. (bag, box, pail, as appropriate)

*Resistant to Rain and Watering

*All Weather Formula

*Season Long Protection

*[Hand] Spreader Settings:

To Apply: rate 1 rate 2 rate 3 rate 4

spreader A

spreader B

spreader C

4 8 4

Exhibit 138

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



OFFICE OF
PREVENTION, PESTICIDES,
AND TOXIC SUBSTANCES

December 6, 2007

Rachel M. Callies
Liphatech, Inc.
3600 West Elm Street
Milwaukee, WI 53209

Dear Ms. Callies:

Subject: Submission of amended label with four week efficacy claim
Metarex 4% Snail and Slug Bait
EPA Registration No. 7173-257
Your Submission Dated November 15, 2007

The amended label referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act, is acceptable with the following comments:

- Under the optional marketing statements, delete the claim "Long Lasting Power Pellets."
- Under the optional marketing statements, delete the claim "Season Long Protection."

A stamped copy of the label is enclosed for your records. Submit two copies of your final printed labeling before you release the product for shipment. If you have any questions, please Julie Chao at (703) 308-8735 or chao.julie@epa.gov.

Regards,

A handwritten signature in black ink that reads "Venus Eagle".

Venus Eagle
Insecticide-Rodenticide Branch
Registration Division (7505P)

Enclosure

Commercial Use Label Versior



metarex

4% SNAIL AND SLUG BAIT

KEEP OUT OF REACH OF CHILDREN

CAUTION:

See side panel for further precautionary statements

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION: Harmful if swallowed or absorbed through skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. **IMPORTANT:** Keep granules away from children and pets. Bait may be attractive to dogs. Confine pets during application to prevent them from believing they are being fed.

FIRST AID: Have the product container or label with you when calling a poison control center or doctor, or going for treatment. If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

Note to Physician: No specific antidote is available. Treat the patient symptomatically.

PERSONAL PROTECTIVE EQUIPMENT (PPE): Applicators and other handlers must wear long-sleeved shirt, long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride. Follow the manufacturer's instructions for cleaning/maintaining PPE. If no instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENVIRONMENTAL HAZARDS: Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment wash-water.

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.

STORAGE: Store product in original labeled container in a cool, dry, locked place out of the reach of children. Keep container tightly closed when not in use. Do not store in direct sunlight.

DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

CONTAINER DISPOSAL: Dispose of empty container in a sanitary landfill, by incineration, or if allowed by state and local authorities, by burning. If burned, stay out of smoke.

WARRANTY: To the extent consistent with applicable law, seller makes no warranty, express or implied, concerning the use of this product other than indicated on the label. Buyer assumes all risks of use and/or handling this material when such use is contrary to label instructions.

ACCEPTED

with COMMENTS lbs.

In EPA Letter Dated:

DEC 6 2007

EPA Est. No. 74926-FRA-1

Manufactured for:
Liphtech, Inc.
3800 W. Elm Street
Milwaukee, WI 53074
414-351-1478

Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.

7173-257

**For control of snails and slugs in turf,
ornamentals, field crops, tobacco, seed crops,
vegetables, tree crops & small fruits**

Active Ingredient:

metalddehyde

2,4,6,8-tetramethyl-1,3,5,7-tetraoxacyclo-octane 4.0%

Inert Ingredients 96.0%

Total 100.0%

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. For any requirements by your State or Tribe, consult the agency responsible for pesticide regulation. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

AGRICULTURAL USE REQUIREMENT: Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries and greenhouses and handlers of agricultural pesticides. It contains requirements for training; decontamination, notification and emergency assistance. It contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval.

Do not enter or allow worker entry into treated areas during the restricted-entry interval (REI) of 2 hours. PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil or water, is: long-sleeved shirt and long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material.

NON-AGRICULTURAL USE REQUIREMENTS: These requirements apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.

APPLICATION DIRECTIONS

Apply to the soil surface. Granules may be broadcast by air or ground equipment unless specified otherwise on the label. Use a band treatment between rows after formation of edible crop parts. Do not contaminate edible parts.

Best results are obtained if applied in the evening, after irrigation or rain. Do not irrigate for 48 hours after application. Apply when plant damage first appears. Repeat every 2 to 4 weeks or as reinfestation occurs. Most plants are tolerant of Metarex. On any plant(s) known or suspected to be sensitive to plant protection chemicals, the user should make a test application to determine the plant(s) sensitivity to this product before large scale use or broadcast treatment is made. Should the test determine that the plant(s) are sensitive to this product, do not apply. Metarex granules may be applied to the following crops to control slugs and snails:

Non-crop areas such as: Fallow land, barrier strips & uncultivated non-agricultural areas; parks & recreational areas; golf courses; brush; railroad, pipeline, highway, power & telephone rights of way; road sides; lumberyards; storage areas; industrial sites; parking lots; airports and similar non-crop areas which may be infested and offer transient harborage to slugs & snails. Apply 5 to 40 pounds per acre.

Turf and Ornamentals (ornamental greenhouses, ornamental plantings, commercial ornamental nurseries, ground covers, turfgrass and grasses grown for sod, dichondra, and around building foundations): Apply at 3 ounces to 1 pound per 1000 sq. ft. (approx. 6 to 32 pellets per square foot or 8 to 40 pounds per acre).

Artichokes (by air or ground before tight bud stage or by ground only after tight bud stage): Apply 9 to 40 pounds per acre.

Field Crops (cereal grains, corn, legumes and mint): Apply 5 to 40 pounds per acre.

Seed Crops (sugar beets, flowers, grasses, vegetable and legume crops grown for seed): Apply 5 to 40 pounds per acre.

Small Fruit (blackberries, blueberries, boysenberries, cranberries, loganberries, raspberries, strawberries and grapes): Apply 6.5 to 40 pounds per acre or 2.5 ounces up to 1 pound per 1000 sq. ft. or 5-32 pellets per sq. ft. May be applied in a circular band (not less than 6 inches wide) around base of tree trunks.

Tobacco (field, greenhouse and lathe house): Apply 5 to 40 pounds per acre or 1 pound per 1,100 to 8,800 sq. ft.

Tree Crops (citrus, avocado, cherries, peaches, apricots, apples, pears, bananas and papaya): Apply 6.5 to 40 pounds per acre or 2.5 ounces up to 1 pound per 1000 sq. ft. or 5-32 pellets per sq. ft. May be applied in a circular band (not less than 6 inches wide) around base of tree trunks.

Vegetables (asparagus, beans, beets, black-eyed peas, broccoli, Brussels sprouts, cabbage, cantaloupe, carrots, cauliflower, celery, collards, corn, cowpeas, cucumbers, eggplants, endive, garlic, ginseng, horseradish, kale, kohlrabi, leeks, legumes, lettuce, melons, mustard greens, okra, onion, parsnips, peas, peppers, pimientos, potatoes, pumpkins, radishes, rutabaga, watermelons, salsify, shallots, spinach, squash, sweet potatoes, Swiss chard, tomatoes, turnips and watermelons): Apply 5 to 40 pounds per acre.

(11/97)

LIPHA TECH®

Consumer Use Label Version



4% SNAIL AND SLUG BAIT

For control of snails and slugs commonly found in and around homes, lawns, ornamental plantings, fruit and vegetable gardens.

Active Ingredient:

metalddehyde	
2,4,6,8-tetramethyl-1,3,5,7-tetraoxycyclo-octane	4.0%
Inert Ingredients	96.0%
Total	100.0%

KEEP OUT OF REACH OF CHILDREN

CAUTION:

See side panel for further precautionary statements.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read entire label and follow all directions and precautions. Not for use on plants being grown for sale or other commercial use, or for commercial seed production, or for research purposes.

Apply before damage occurs or as soon as infestation is seen. Repeat application every 2 to 4 weeks or as needed for control. Best results are obtained if applied in the evening, after rain or irrigation.

On any plant(s) known or suspect to be sensitive to plant protection chemicals, the user should make a test application to determine the plant(s) sensitivity to this product before large scale use or broadcast treatment is made. Should the test determine that the plant(s) are sensitive to this product, do not apply.

Home lawns, ground covers, ornamental beds, around home foundations, home greenhouses and lath houses: Apply ___ ounces (or pounds) per ___ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). Sprinkle evenly over soil surface and do not apply in piles. Scatter on and beneath greenhouse benches and in pots but not on foliage.

Home vegetable gardens (asparagus, beans, beets, black-eyed peas, broccoli, Brussels sprouts, cabbage, cantaloupe, carrots, cauliflower, celery, collards, corn, cowpeas, cucumbers, eggplants, endive, garlic, ginseng, horseradish, kale, kohlrabi, leeks, legumes, lettuce, melons, mustard greens, okra, onion, parsnips, peas, peppers, pimentos, potatoes, pumpkins, radishes, rhubarb, rutabagas, salsify, shallots, spinach, squash, sweet potatoes, Swiss chard, tomatoes, turnips and watermelons): Apply ___ ounces (or pounds) per ___ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). Apply to soil surface around plants - do not apply to the foliage. Do not contaminate edible parts of plants.

Home fruit trees and bushes (citrus, avocado, cherries, peaches, apricots, apples, pears, bananas, papaya, blackberries, blueberries, boysenberries, cranberries, loganberries, raspberries, strawberries, and grapes): Apply ___ ounces (or pounds) per ___ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). May be applied in a circular band (not less than 6 inches wide) around base of tree trunks. (31807)

WARRANTY: To the extent consistent with applicable law, seller makes no warranty, express or implied, concerning the use of this product other than indicated on the label. Buyer assumes all risks of use and/or handling this material when such use and/or handling is contrary to label instructions.

NET WEIGHT: 8 ounces up to 10 lbs

EPA Reg. No. 7173-257

EPA Est. No. 74326-FRA-1

PRECAUTIONARY STATEMENTS
Hazards to Humans and Domestic Animals

CAUTION: Harmful if swallowed or absorbed through skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. **IMPORTANT:** Keep granules away from children and pets. Bait may be attractive to dogs. Confine pets during application to prevent them from believing they are being fed.

FIRST AID: Have the product container or label with you when calling a poison control center or doctor, or going for treatment.

If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person. Note to Physician: No specific antidote is available. Treat the patient symptomatically.

PERSONAL PROTECTIVE EQUIPMENT (PPE): Applicators and other handlers must wear long-sleeved shirt, long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride. Follow the manufacturer's instructions for cleaning/maintaining PPE. If no instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENVIRONMENTAL HAZARDS: Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater.

STORAGE AND DISPOSAL

STORAGE: Store product in original container in a dry place inaccessible to children and pets.

DISPOSAL: If empty: Do not reuse this container. Place in trash or offer for recycling if available. If partly filled: Call your local solid waste agency for disposal instructions. Never place unused product down any indoor or outdoor drain.

with **COMMENTS**
In EPA Letter Dated:

DEC 6 2007

Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the pesticide registered under EPA Reg. No. 7173-257

LIPHA/TECH®

Manufactured for:
Liphatech, Inc.
3600 W. Elm Street
Milwaukee, WI 53209
414-351-1478

Alternate warranty statements:

*Satisfaction guaranteed or your money back

Optional marketing statements:

*Contains Bitrex™

*(Bitrex logo™)

*Bitrex™ is a trademark of MacFarlane Smith Ltd., Edinburgh, Scotland

*Meta™ is a registered trademark of Lonza AG, Switzerland

*(Meta logo™)

*For use on Turf, Ornamentals, Vegetables & Fruit

*Kills slugs & snails fast

*Kills Slugs & Snails Fast - offers immediate protection to plants.

*Effective at controlling snails and slugs commonly found in and around homes, lawns, ornamental, fruit and vegetable gardens

*Smaller, highly visible pellets offer more baiting points than the same weight of competing products

*Rain-fast for up to 45 days (under normal rainfall)

*Protects for up to 4 weeks

*Metarex granules can remain effective and provide protection for up to four weeks!

*Metarex pellets can remain effective and provide protection for up to four weeks!

*Reduced rate technology

*Low rate technology

*Power pellets

*The power pellet

*The power is in the pellet

*Long Lasting "Power Pellets"

*Moisture resistant package (bag, box, pail, as appropriate)

*Approx. 4 pellets per square foot

*Covers ___ sq. ft. (label statement based on application rate

of 2 ounces per 1000 sq ft and actual package size)

*Enough for ___ applications to a typical 20 ft. x 20 ft garden

(label statement based on application rate of 2 ounces per

1000 sq ft and actual package size)

*Enough for ___ applications to a 75 X 35 ft garden (label statement based on application rate of 2 ounces per 1000 sq

ft and actual package size)

*Enough to cover ___ tennis courts (label statement based on

application rate of 2 ounces per 1000 sq ft, actual package size

and a regulation (singles) tennis court size of 78 X 27 ft)

*Practical & easy to use: Shaker lid permits very accurate and

uniform dosage without requiring you to touch the bait.

*Dust free

*No dust

*Mold resistant

*Highly visible pellets help assure proper coverage and prevent

over application.

*Smaller, highly visible pellets help assure proper coverage and

prevent over application.

*Offers immediate protection to plants, even though slugs &

snails may remain in the area.

*After feeding, slugs and snails dehydrate and die within

2-6

days, often crawling to secluded places to die.

*After feeding, slugs and snails dehydrate and die within

2-6

days.

*Plant protection will be observed in the decrease in plant dam-

age.

*High palatability = quick attraction: Made with food-grade cereal ingredients, manufactured to the highest of

standards.

*In controlled tests, preferred 3 to 1 vs fresh carrots & lettuce.

*Preferred 3 to 1 by slugs vs fresh carrots and lettuce in con-trolled tests

*Preferred 3 to 1 by slugs vs fresh carrots and lettuce

*Rain & irrigation resistant: Due to exclusive manufacturing techniques, Metarex granules resist heavy watering - holding their shape longer than competitive pellets.

*When to apply (usage tips): Apply when slugs and snails are active. If ground is dry, water the area before appli-

cation. This will usually mean treating during periods when evening frost is

no longer likely. Check under rocks and other horizontal surfaces in contact with moist soil for snail & slug activity

in the early morning. Even a presence of 1-2 slugs per square yard can indicate a serious problem. Snails & slugs feed almost entirely at night, so the best time to

treat is late afternoon or just before dusk and when temperatures are cooler; just before slugs & snails become

active. Try not to irrigate for 48 hours after application. Regular application will diminish the recurrence of slug or

snail infestation. Retreat if necessary, or if you begin to see recurring damage to your plants.

*Just one slug or snail can hatch up to 40 or 80 eggs respectively, every 4-8 weeks!

*Where to apply (usage tips): Apply at the edge of the garden

or area to be protected to reduce the chances of re-infestation from adjacent areas. Slugs & snails migrate toward

better feeding and sheltering conditions, preferring moist shady environments with tender, succulent vegetation

close to the ground. Use broadcast-type spreader for large areas. Also treat areas where these pests shelter

during the day - damp places, around mulch, shady flower gardens, rock formations, ivy patches, hedged,

vegetable plants, dichondra, lawns and other ground covers.

ers.

*Protect Flowers

*Protect Flower Quality

*Protect Sensitive landscapes

*Compare coverage vs. other brands

*More uniform pellets = better spread pattern

*Trusted by European growers for over 30 years.

*Colorfast

*Moisture resistant package (bag, box, pail, as appropriate)

*Resistant to Rain and Watering

*All Weather Formula

*Season Long Protection

***[Hand] Spreader Settings:**

To Apply: rate 1 rate 2 rate 3 rate 4

spreader A

spreader B

spreader C

EFFICACY REVIEW

PRODUCT: Metarex 4% Snail and Slug Bait

REG. NUMBER: 7173-257

DATE: November 28, 2007

DP BARCODE: D346968

DECISION NUMBER: 386411

GLP: Unknown

CHEMICAL: Metaldehyde.....(4.0%)

CHEMICAL NUMBER: 053001

PURPOSE: Support the addition of a 4 week residual claim.

MRID: 47286201. Callies, R. (2007) Control of the Gray Garden Slug in Tall Fescue Grown for Seed with Four Commercial Slug Baits: Final Report. Project Number: 07093. Unpublished study prepared by Liphatech, Inc. 10p.

TEAM REVIEWER: Julie Chao

EFFICACY REVIEWER: Kable Bo Davis, M.S., Entomologist

Kable Bo Davis
11-28-07

Joanne Edwards
11/28/07

SECONDARY EFFICACY REVIEWER: Joanne Edwards, M.S., Entomologist

BACKGROUND:

Metarex 4% Snail and Slug Bait is intended for the commercial control of snails and slugs in turf, ornamentals, field crops, tobacco, seed crops, vegetables, tree crops and small fruits and consumer control of snails and slugs commonly found in and around homes, lawns, ornamental plantings, fruit and vegetable gardens. The proposed label includes the residual claim "*Protects for up to 4 weeks.*"

DATA REVIEW:

The following data review is comprised of explanations of materials and methods, and a summation of experimental results containing tables with reformatted data.

47286201. Callies, R. (2007) Control of the Gray Garden Slug in Tall Fescue Grown for Seed with Four Commercial Slug Baits: Final Report. Project Number: 07093. Unpublished study prepared by Liphatech, Inc. 10p.

The objective of this study was to determine the residual efficacy of Metarex 4% Snail and Slug Bait against the gray garden slug, *Derocerus reticulatum*. The experimental design consisted of treating 50 x 50 grass plots with Metarex 4% bait. Using bait station traps (three per plot), pest pressure was calculated both prior to treatment and weekly post treatment. Environmental conditions were recorded for the duration of the study.

Results:

Table 1. Pre-treatment Slug Counts

	Rate (lbs/A)	Mean Slug Count (4 replicates)
Metarex 4%	5.3	19.5
Metarex 4%	4.0	17.3
Control	-	21.0

Table 2. Post-treatment Slug Counts

	Rate (lbs/A)	Mean Slug Count (4 replicates)
Metarex 4%	5.3	1.5
Metarex 4%	4.0	1.0
Control	-	23.0

The mean slug counts for plots treated with Metarex 4% ranged from 1.0 (4 lbs/A) to 1.5 (5.3 lbs/A). The post-treatment control slug counts were comparable to the pre-treatment counts.

RECOMMENDATIONS:

The submitted data are adequate to support the addition of the claim "Protects for up to 4 weeks." to the label



3600 WEST ELM STREET
MILWAUKEE, WI 53209
Tel: 414/351 1476 800/351 1476
Fax: 414/247 8166

472882-00

Document Processing Desk
EPA Office of Pesticide Programs (7504P)
Room S4900, One Potomac Yard
2777 S. Crystal Drive
Arlington, VA 22202
Attn: Ms. Venus Eagle

15 November 2007

Re: Submission of amended labeling for Metarex 4% Snail and Slug Bait,
EPA Registration Number 7173-257

Dear Ms. Eagle,

The enclosed efficacy data is submitted in support of our product Metarex Snail and Slug Bait, EPA Reg. No. 7173-257. We believe this action falls under PRIA category R340, (non-fast track, review of data required) and requires a fee of \$3280.00. Proof of pre-payment is attached to this cover letter.

The enclosed study was performed to support our marketing claim that Metarex 4% Snail and Slug Bait is effective for four weeks. We are resubmitting our label with this claim and the supporting study for approval.

Please contact me if you have any questions regarding this submission.

Sincerely,

A handwritten signature in cursive script that reads "Rachel M. Callies".

Rachel M. Callies
Regulatory Assistant
Liphatech, Inc.
414-410-7235
calliesr@liphatech.com

In the Matter of Liphatech, Inc.
Docket No. FIFRA-05-2010-0016

RECEIVED
REGIONAL HEARING CLERK
U.S. EPA REGION 5

2011 FEB 28 PM 2:45

CERTIFICATE OF SERVICE

I hereby certify that the original and a true, accurate and complete copy of *Complainant's Second Supplemental Prehearing Exchange*, together with true, accurate and complete copies of Complainant's Exhibits 137 - 138, were filed with the Regional Hearing Clerk, U.S. EPA, Region 5, on the date indicated below. True, accurate and complete copies were sent to Honorable Susan Biro, Administrative Law Judge (via UPS overnight delivery) at the following address:

Honorable Susan L. Biro
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1099 14th Street, NW, Suite 350
Franklin Court
Washington, D.C. 20005

and to Mr. Michael H. Simpson, Counsel for Respondent, Liphatech, Inc., (via UPS overnight delivery), at the following address:

Mr. Michael H. Simpson
Reinhart Boerner Van Deuren s.c
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

on the date indicated below:

Dated in Chicago, Illinois, this 28 th day of February, 2011.



Patricia Jeffries - Harwell
Legal Technician
U.S. EPA, Region 5
Mail Code C-14J
77 West Jackson Blvd.
Chicago, IL 60604
(312) 353-7464