



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF
AGRIMOR INT'L CO.,
RESPONDENT

DOCKET NO. FIFRA-04-2010-3002

2010 DEC 07 11:29:24
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ORDER GRANTING COMPLAINANT'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

I. Background

The original Complaint in this matter was filed on October 9, 2009, pursuant to Complainant's authority under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136 et seq. The original Complaint alleged that Respondent Agrimor Int'l Co., ("Respondent" or "Agrimor"), had violated Section 12(a) of FIFRA, 7 U.S.C. § 136j, by failing to file the requisite Notices of Arrival prior to the arrival of pesticides in the United States and by distributing unregistered pesticides. Before Respondent filed an Answer, Complainant filed the First Amended Complaint on October 26, 2009. The First Amended Complaint increased the number of pesticides alleged to be present in the shipment at issue.

After several extensions, granted by the Regional Judicial Officer, Respondent filed an Answer on February 16, 2010. Ten days later, on February 26, 2010, Complainant filed a Motion for Leave to File Second Amended Complaint ("Motion") along with a Proposed Second Amended Civil Complaint and Notice of Opportunity for Hearing ("Proposed Complaint"). This Motion was received by this Office on March 8, 2010. This Motion, inter alia, requests leave to add a second Respondent, Stockton Chemical Corporation. Respondent Agrimor submitted a Response in Opposition to Complainant's Motion for Leave to File Second Amended Complaint ("Response") on March 11, 2010. Complainant subsequently filed a Reply to Respondent's Response to Motion for Leave to File Second Amended Complaint ("Reply") on March 22, 2010.

Meanwhile, on March 3, 2010, both parties accepted, and the

Chief Administrative Law Judge thereafter initiated, the Alternative Dispute Resolution ("ADR") process offered by this Office. Judge William B. Moran was assigned to preside as the ADR Judge. Judge Spencer T. Nissen was subsequently assigned to replace Judge Moran as ADR Judge following Judge Moran's departure from the Office. Because a ruling on the Motion was not appropriate during the ADR process, the Motion was held in abeyance until such time as the Chief Judge reassigned the case to an ALJ for litigation. Judge Nissen terminated ADR of May 14, 2010.

On May 18, 2010, the Chief Judge appointed herself as the ALJ for litigation. On May 21, 2010, Respondent submitted a Motion to Stay Ruling on USEPA's Motion for Leave to Amend Complaint and for Referral to ADR, seeking a reinstatement of the ADR process. This was closely followed, on May 26, 2010, by a Joint Motion with the same effect. The Chief Judge granted the motions and reassigned Judge Nissen as ADR Judge. After two additional extensions of ADR, Judge Nissen terminated ADR on August 30, 2010. On August 31, 2010, the undersigned was appointed the new ALJ for litigation of this matter.

Due to a request from the parties for a brief reprieve from the litigation schedule, no action was taken in this matter for several weeks. According to the parties, a settlement agreement has been reached, which addresses all allegations made by the Complainant including those made in the proposed second amended complaint against both Respondent Agrimor and Stockton Chemical Corporation. On November 19, 2010, the Respondent submitted a Notice of Withdrawal of its Opposition to Complainant's Motion for Leave to File Second Amended Complaint. Therefore, it is now appropriate to rule on the instant Motion.

Given that the parties have reached a settlement and because that settlement covers all parties, named and proposed, and because the Motion is unopposed by Respondent, the Motion is therefore **GRANTED** for good cause shown.

  
Barbara A. Gunning  
Administrative Law Judge

Dated: December 1, 2010  
Washington, DC

In the ADR Matter of *Agrimor Int'l Co.*, Respondent.  
Docket No. FIFRA-04-2010-3002

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Complainant's Motion for Leave to File Second Amended Complaint**, dated December 1, 2010, was sent this day in the following manner to the addressees listed below.



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Mary Angeles  
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA / Region IV  
Sam Nunn Federal Bldg., 13<sup>th</sup> Floor  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

One Copy by Pouch Mail to:

Robert Caplan, Sr., Esq.  
U.S. EPA / Region IV  
Office of Regional Counsel  
Sam Nunn Federal Bldg., 13<sup>th</sup> Floor  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

One Copy by Regular Mail to:

Stephen J. Darmody, Esq.  
Shook Hardy & Bacon, LLP  
Miami Center, Suite 2400  
201 South Biscayne Blvd.  
Miami, FL 33131-4332

**Dated: December 1, 2010**  
**Washington, D.C.**