

2/23/94

REC  
EPA HEAR  
1994 FEB 23 PM 12:40

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

IN THE MATTER OF HEALTH CARE )  
PRODUCTS, INC. ) FIFRA Docket No. 656  
 )  
Petitioner )

ORDER CONFIRMING RULINGS AT SECOND PREHEARING CONFERENCE

At the second prehearing conference held February 17, 1994 in the above captioned proceeding, the following matters were resolved and a further procedural schedule was established.

First, it was brought to the attention of the Presiding Judge that there is another proceeding before EPA involving Health Care Products, Inc. (Health Care). That proceeding, which may be related to this cause, is Docket no. FIFRA-93-H-02F, and is currently pending before Judge Lotis. Health Care also advised that there is a motion for a stay of proceedings in the case before Judge Lotis, based on the fact that EPA is currently conducting a criminal investigation of matters closely connected to, and perhaps duplicative of, issues in that cause. That motion for stay was filed February 10, 1994, and neither Agency counsel nor the Presiding Judge had not seen the motion to stay before a copy thereof was supplied by Health Care at the Prehearing Conference.

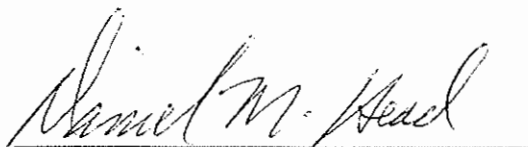
As a result, Health Care was given until March 8, 1994, to make an appropriate motion in this cause in light of the pending case before Judge Lotis and the ongoing criminal investigation. It was further agreed that Agency counsel be given until March 31, 1994, to reply to the motion to be filed by Health Care.

Agency counsel was also requested to check on the status of the criminal investigation and the proceeding before Judge Lotis, and to report the results of those inquiries by March 31, 1994. The Presiding Judge indicated that he would advise Judge Lotis of the events that transpired at the prehearing conference.

Further, oral argument was held on the motion filed by Agency Counsel seeking to amend the rationale for cancellation of Wipe-Out Cold Sterilizing Disinfectant Solvent (the pesticide product at issue herein). This motion had been opposed by Health Care. For reasons stated on the record at the prehearing conference, the motion to amend was granted and the Agency Counsel was given until April 22, 1994, to submit the amendments described in the motion to amend.

Because of the aforementioned complication involving the ongoing criminal investigation, it was not appropriate to proceed with the other items on the agenda for the prehearing conference, as specified in the November 23, 1993 Order scheduling the conference. Accordingly, consideration of these items was deferred, pending resolution of the motion to be submitted by Health Care on March 8, 1994.

**SO ORDERED.**



Daniel M. Head  
Administrative Law Judge

Dated:

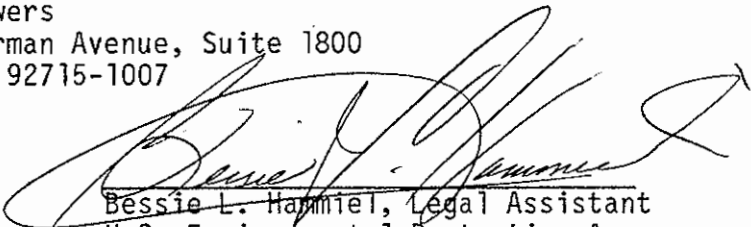
February 23, 1994  
Washington, DC

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing Order Confirming Rulings At Second Prehearing Conference was filed in re Health Care Products, Inc.; FIFRA Docket No. 656 and exact copies of the same were mailed to the following:

(Interoffice) Philip J. Ross, Esq.  
Bret Williams, Esq.  
Office of General Counsel (2333R)  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

(1st Class Mail) James M. Picozzi, Esq.  
Nossaman, Guthner, Knox & Elliott  
Lakeshore Towers  
18101 Von Karman Avenue, Suite 1800  
Irvine, CA 92715-1007



Bessie L. Hammel, Legal Assistant  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Dated: Feb. 23, 1994