

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of: )  
) FIFRA Docket No. 661  
Reckitt Benckiser LLC, *et al.* )  
)

RECEIVED BY OALJ  
2014 APR -4 PM 2:58

**NATURAL RESOURCES DEFENSE COUNCIL AND  
WEST HARLEM ENVIRONMENTAL ACTION'S  
REBUTTAL REPORT OF PREHEARING EXCHANGE**

Intervenors Natural Resources Defense Council (NRDC) and West Harlem Environmental Action (WE ACT) (collectively, "Intervenors") respectfully submit, in accordance with the Administrative Law Judge's February 10, 2014 Prehearing Order, this rebuttal exchange of primary discovery materials.

A. Rebuttal Witnesses and Expected Testimony

1. **Daniel Kass** is the Deputy Commissioner for Environmental Health at the New York City Department of Health and Mental Hygiene (DOHMH). He previously served at DOHMH as the Assistant Commissioner of the Bureau of Environmental Surveillance, the Director of the Office of Environmental Surveillance and Policy, and the Associate Director for Environmental Health, Bureau of Environmental Disease Prevention. Mr. Kass holds a Master's degree from the UCLA School of Public Health, and has completed his Ph.D. coursework at New York University's Graduate School of Government Service. Mr. Kass's work focuses in part on assessing the public health impacts of indoor pest and pesticide exposure, as well as pest control options for urban housing residents.

Mr. Kass is expected to provide rebuttal testimony regarding the health care outcomes for accidental rodenticides exposures by children reported to the New York City Poison Control Center, and the relationships between these exposures and area poverty levels. In addition, Mr. Kass is expected to offer testimony on the incidence of emergency department visits related to accidental rodenticide poisonings among children in New York City, as well as pest control options for residents of New York City public housing. His rebuttal testimony will also address the prevalence and distribution of rodent infestations in low income communities in New York City, and the relationships between infestations and indicators such as poverty, housing conditions, race, and ethnicity. Mr. Kass will offer fact and expert testimony.

2. **Cecil Corbin-Mark** is the Deputy Director and Director of Policy Initiatives at WE ACT, a community-based environmental justice organization. He works to inform, educate, train, and mobilize communities of color and low-income communities in Northern Manhattan about environmental health issues that impact their quality of life. Mr. Corbin-Mark has worked with WE ACT for ten years, focusing in part on reducing the risks to residents posed by exposures to pests and pesticides.

Mr. Corbin-Mark is expected to offer rebuttal testimony on the impact of EPA's proposed product cancellations on environmental justice communities. Mr. Corbin-Mark will also testify regarding the prevalence of rodents and rodenticide use among the communities that WE ACT serves. In addition, he will discuss the perspectives of WE ACT's constituents regarding the health risks posed by accidental rodenticide ingestions and the costs associated with responding to accidental ingestion events. Mr. Corbin-Mark is an expert in issues related to environmental justice, and will offer expert and fact testimony.

Intervenors reserve the right to call any of the witnesses identified by Respondent or Petitioner Reckitt Benckiser. Intervenors reserve the right to supplement their list of witnesses upon adequate notice to the other parties.

B. Rebuttal Exhibits

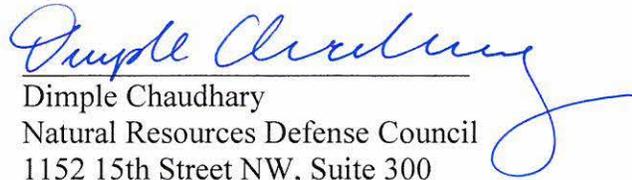
A list of rebuttal exhibits Intervenors intend to introduce into evidence is attached. In accordance with the February 15, 2014 Order on Joint Motion Concerning the Prehearing Exchange, copies of all paper exhibits and photographs of all physical exhibits have been provided electronically to all parties. Intervenors reserve the right to introduce into evidence any of the exhibits identified by Respondent or Petitioner Reckitt Benckiser. Intervenors reserve the right to supplement their list of exhibits upon adequate notice to the other parties.

C. Duration of Rebuttal Case and Translation Services

Intervenors estimate that they can present their rebuttal case in eight hours if all witnesses present their direct testimony. If Intervenors are permitted to submit written direct testimony for some of their witnesses (which is Intervenors' preference), Intervenors estimate they can present their rebuttal case in four hours.

No translation services will be required for Intervenors' rebuttal witnesses.

Respectfully submitted,



Dimple Chaudhary  
Natural Resources Defense Council  
1152 15th Street NW, Suite 300  
Washington, DC 20005  
Tel. (202) 289-6868  
Fax (202) 289-1060  
Email: [dchaudhary@nrdc.org](mailto:dchaudhary@nrdc.org)

Michael Wall  
Natural Resources Defense Council  
111 Sutter Street, 20th Floor  
San Francisco, CA 94104  
Tel. (415) 875-6162  
Fax (415) 875-6161  
Email: [mwall@nrdc.org](mailto:mwall@nrdc.org)

Margaret Hsieh  
Natural Resources Defense Council  
40 West 20th Street, 11th Floor  
New York, NY 10011  
Tel. (212) 727-4652  
Fax (212) 727-1773  
Email: [mhsieh@nrdc.org](mailto:mhsieh@nrdc.org)

*Counsel for NRDC and WE ACT*

Dated: April 4, 2014

### Intervenor NRDC and WE ACT – Rebuttal Exhibit List

Exhibit No.	Description
INT NRDC 36	Curriculum Vitae for Cecil Corbin-Mark
INT NRDC 37	Curriculum Vitae for Daniel Kass
INT NRDC 38	American Association of Pediatrics, Pesticide Exposure in Children, <i>Pediatrics</i> , 130(6) (2012)
INT NRDC 39	Clemans-Cope, L., C. Perry et al., Access to and Use of Paid Sick Leave Among Low-Income Families With Children, <i>Pediatrics</i> , 122(2): e480-e486 (2008)
INT NRDC 40	Galbraith, A.A., S.T. Wong et al., Out-of-Pocket Financial Burden for Low-Income Families with Children, <i>Health Services Research</i> , 40(6 Pt 1): 1722-1736 (2005)
INT NRDC 41	Hargraves, J.L., The Insurance Gap and Minority Health Care, 1997-2001, Center for Studying Health System Change (2002)
INT NRDC 42	Human Impact Partners and San Francisco Department of Public Health, A Health Impact Assessment of the Healthy Families Act of 2009 (2009)
INT NRDC 43	Institute for Women's Policy Research, Paid Sick Days Access in the United States: Differences by Race/Ethnicity, Occupation, Earnings, and Work Schedule (2014)
INT NRDC 44	Kass, D., W. McKelvey et al., Effectiveness of an Integrated Pest Management Intervention in Controlling Cockroaches, Mice, and Allergens in New York City Public Housing, <i>Environmental Health Perspectives</i> , 117(8): 1219-1225 (2009)
INT NRDC 45	McConnell, R., J. Milam et al., Educational intervention to control cockroach allergen exposure in the homes of hispanic children in Los Angeles: results of the La Casa study, <i>Clinical and Experimental Allergy</i> , 35: 426-433 (2005)
INT NRDC 46	New York City Department of Health and Mental Hygiene (NYC DOHMH) and New York City Department of Housing Preservation & Development, How to Control Pests Safely: Getting Rid of Roaches and Mice, A Healthy Homes Guide
INT NRDC 47	NYC DOHMH, et al., Preventing Rats on Your Property: A Guide for Property Owners and Tenants, A Healthy Homes Guide
INT NRDC 48	NYC DOHMH, Map of Homes with Mice or Rats in the Building by Neighborhood, New York City Housing and Vacancy Survey (2011), portal available at <a href="http://a816-dohbbsp.nyc.gov/IndicatorPublic/EnterPortal.aspx">http://a816-dohbbsp.nyc.gov/IndicatorPublic/EnterPortal.aspx</a> (last visited Apr. 3, 2014)
INT NRDC 49	New York City Open Accessible Space Information System (OASIS), New York City Maps of Communities of Color and Median Household Income, Center for Urban Research, City University of New York Graduate Center.
INT NRDC 50	NYC DOHMH, Mice by Race/Ethnicity, Household Poverty, Neighborhood Poverty, New York City Community Health Survey (2012), portal available at <a href="https://a816-healthpsi.nyc.gov/epiquery/Environment/">https://a816-healthpsi.nyc.gov/epiquery/Environment/</a> (last visited Apr. 3, 2014)

Exhibit No.	Description
INT NRDC 51	NYC DOHMH, Homes with Mice or Rats in the Building, Homes with Cracks and Holes, NYC Housing and Vacancy Survey (2008), portal available at <a href="http://a816-dohbsp.nyc.gov/IndicatorPublic/EnterPortal.aspx">http://a816-dohbsp.nyc.gov/IndicatorPublic/EnterPortal.aspx</a> (last visited Apr. 3, 2014)
INT NRDC 52	New York City Emergency Department Visits for Accidental Poisonings by Rodenticides Among Children Under 6 Years Old, 2005-2010, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 53	New York State Department of Health, Statewide Planning and Research Cooperative System (SPARCS) Overview, available at <a href="https://www.health.ny.gov/statistics/sparcs/operations/overview.htm">https://www.health.ny.gov/statistics/sparcs/operations/overview.htm</a> (last visited Apr. 3, 2014)
INT NRDC 54	New York City Poison Control Center (NYC PCC) Calls Concerning All Rodenticide Exposures for Children Under 6 Years Old – Rates of PCC Calls for Any Rodenticide by Area Poverty Measure, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 55	NYC PCC Calls Concerning All Rodenticide Exposures for Children Under 6 Years Old – Count of Total PCC Cases by Health Care Treatment Outcome for All Rodenticides, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 56	NYC PCC Calls Concerning Exposures to d-Con Products Subject to EPA NOIC for Children Under 6 Years Old – Count of Total Cases by Health Care Treatment Outcome for d-Con Products Subject to EPA NOIC, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 57	Data Source for NYC PCC Calls Concerning All Rodenticide Exposures for Children Under 6 Years Old, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 58	Data Source for NYC PCC Calls Concerning Exposures to d-Con Products Subject to EPA NOIC for Children Under 6 Years Old, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 59	Table Shells for NYC PCC Calls from the Public or Referrals from Health Care Facilities (HCF) Involving Unintentional Rodenticide Exposures for Children Under 6 Years Old, 2006 - 2013, Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy (2014)
INT NRDC 60	Pestec Image 1
INT NRDC 61	Pestec Image 2
INT NRDC 62	Pestec Image 3
INT NRDC 63	Pestec Image 4
INT NRDC 64	Pestec Image 5
INT NRDC 65	Pestec Image 6
INT NRDC 66	Pestec Image 7
INT NRDC 67	Pestec Image 8
INT NRDC 68	Pestec Image 9
INT NRDC 69	Pestec Image 10

**CERTIFICATE OF SERVICE**

I certify that, on this 4<sup>th</sup> day of April, 2014, the foregoing document was served to the addresses listed below in the manner indicated.

Original and two copies by hand delivery:

Sybil Anderson, Headquarters Hearing Clerk  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20460

By express mail:

The Honorable Susan Biro  
U.S. Environmental Protection Agency  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20460

By express and electronic mail:

Robert G. Perlis  
Scott B. Garrison  
David N. Berol  
U.S. EPA Pesticides and Toxic Substances Law Office  
Office of the General Counsel  
1200 Pennsylvania Ave., NW  
Mail Code 2333A  
Washington, DC 20460  
Email: [perlis.robert@epa.gov](mailto:perlis.robert@epa.gov)  
[garrison.scott@epa.gov](mailto:garrison.scott@epa.gov)  
[berol.david@epa.gov](mailto:berol.david@epa.gov)

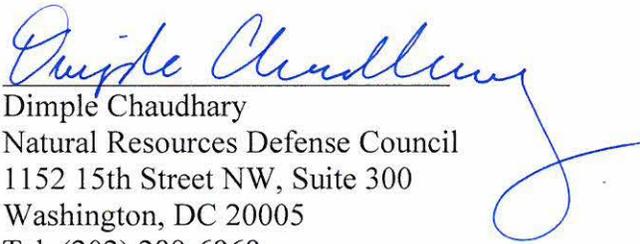
Lawrence E. Culleen  
Ronald A. Schechter  
Jeremy C. Karpatkin  
Arnold & Porter LLP  
555 12th Street, NW  
Washington, DC 20004  
Email: [lawrence.culleen@aporter.com](mailto:lawrence.culleen@aporter.com)  
[ronald.schechter@aporter.com](mailto:ronald.schechter@aporter.com)  
[jeremy.karpatkin@aporter.com](mailto:jeremy.karpatkin@aporter.com)

Steven Schatzow  
Attorney at Law  
2022 Columbia Road, NW, Suite 601  
Washington, DC 20009  
Email: [sschatzow@his.com](mailto:sschatzow@his.com)

Gregory C. Loarie  
Irene V. Gutierrez  
Earthjustice  
50 California Street, Suite 500  
San Francisco, CA 94111  
Email: [gloarie@earthjustice.org](mailto:gloarie@earthjustice.org)  
[igutierrez@earthjustice.org](mailto:igutierrez@earthjustice.org)

One courtesy copy by electronic mail:  
[OALJfiling@epa.gov](mailto:OALJfiling@epa.gov)

Respectfully submitted,



Dimple Chaudhary  
Natural Resources Defense Council  
1152 15th Street NW, Suite 300  
Washington, DC 20005  
Tel. (202) 289-6868  
Fax (202) 289-1060  
Email: [dchaudhary@nrdc.org](mailto:dchaudhary@nrdc.org)