

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

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In the Matter of	:	
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Lanco Manufacturing Corporation,	:	Hon. Barbara A. Gunning,
	:	<u>Presiding Officer</u>
Respondent.	:	
	:	
Proceeding under The Federal	:	Docket No.
Insecticide, Fungicide and	:	<u>FIFRA-02-2009-5302</u>
Rodenticide Act, as amended.	:	
-----X	:	

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2010 SEP 21 P 2:26  
REGIONAL HEARING  
CLERK

MOTION FOR STAY AND VACATUR OF THE JULY 22, 2010 ORDER

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests this Court to stay for two weeks the deadline for the submission of stipulations set forth in its July 22, 2010 order, and, upon submission of a fully executed settlement document, to vacate the scheduling of the hearing. Respondent's counsel has orally informed the undersigned (telephone conversation on September 20, 2010) that he concurs in the request for such relief. For the reasons set forth below, EPA submits that good cause exists for granting this motion.

The July 22<sup>nd</sup> order of this Court states:<sup>1</sup>

The parties shall file a joint set of stipulated facts, exhibits, and testimony on or before September 30, 2010. \*\*\* The Hearing in this matter will be held beginning at 9:30 a.m. on Tuesday, November 2, 2010, in San Juan, Puerto Rico, continuing if necessary through November 5, 2010 [emphases deleted].

Respondent's counsel has orally informed EPA that his client has signed the consent

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<sup>1</sup> A capsule summary of this proceeding has already been provided to this Court in Complainant's July 20<sup>th</sup> "Motion To Extend Time To Comply With Litigation Deadlines."

agreement and that he will tomorrow send via overnight mail this partially executed document. Barring the unforeseeable, it is fully anticipated that Complainant will execute the document shortly thereafter, and it will then be submitted to the Regional Administrator for her signature; the process in its entirety is expected to last approximately 10 days. Assuming that indeed that amount of time would be needed for EPA to secure the necessary signatures, such a scenario would mean that settlement would occur subsequent to the date that this Court has set for the parties to submit stipulations, submission of which is part of the overall litigation process culminating in the scheduled hearing. In light of the fact that Respondent has executed the consent agreement and the likelihood EPA will shortly follow suit, the parties will obviously not need to proceed to hearing to resolve this matter, nor concomitantly to prepare and submit any documents related to the holding of a hearing.

With the need for a hearing thus mooted, Complainant accordingly now seeks a stay of two weeks in order that sufficient time be allotted to timely ensure the full execution of the consent agreement and final order, a request in which, as previously noted, Respondent's counsel concurs. Under these circumstances, the undersigned submits that the good cause requirement of 40 C.F.R. § 22.7(b) has been met.

Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.1(c), 22.4(c)(2), 22.16(a) and 22.21(c), for an order: **a)** staying for two weeks the September 30<sup>th</sup> deadline set forth in the July 22<sup>nd</sup> order, *viz* the deadline that the parties submit stipulations by such date, and **b)** upon receipt of a fully executed consent agreement and final order by this Court prior to the expiration of said two-week period, vacating as moot that part of the July 22<sup>nd</sup> order that scheduled the parties for a hearing in this matter.

Dated: September 20, 2010  
New York, New York

Respectfully submitted



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***In re Lanco Manufacturing Corporation***  
**Docket No. FIFRA-02-2009-5302**

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing "MOTION FOR STAY AND VACATUR OF THE JULY 22, 2010 ORDER," dated September 20, 2010, in the following manner to the respective addressees listed below:

Original and One Copy  
By Inter-Office Mail:

Office of Regional Hearing Clerk  
U.S. Environmental Protection  
Agency - Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

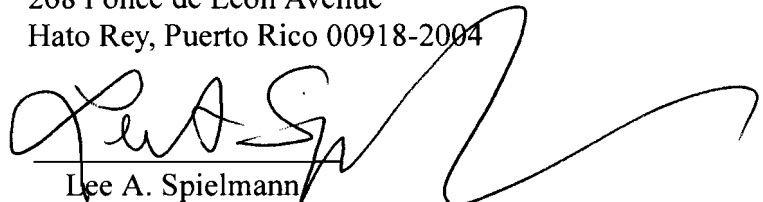
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Dated: September 20, 2010  
New York, New York

  
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