

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2009 JUL -6 AM 7:08  
REGIONAL HEARING  
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

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In the Matter of :  
Crop Protection Program, Office : STATUS REPORT  
Of the Agricultural Servicios and:  
Development Administration, :  
Respondent. :  
:  
Proceeding Under the Federal : FIFRA-02-2008-5301  
Insecticide & Rodenticide Act, :  
as amended. :  
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STATUS REPORT

This Status Report is filed by Complainant's counsel in response to your Honor's Prehearing Order of June 8, 2009. I am pleased to report that the parties have reached a settlement in this matter, pending memorialization of the terms and conditions of settlement in a Consent Agreement/Final Order ("CA/FO"). Specifically, the parties have agreed to a civil penalty amount and the performance by Respondent of a Supplemental Environmental Project ("SEP").

Given the nature of the SEP, EPA Headquarters needs to approve it. As such, Complainant's counsel has prepared a memorandum to HQ requesting their approval of this SEP. The memo is currently undergoing internal concurrence at EPA, Region 2 offices. Complainant's counsel expects to send the memorandum to EPA Headquarters by July 13, 2009. EPA Headquarters may take several weeks to review and approve of the SEP.

Additionally, Complainant's counsel has drafted a Consent Agreement/Final Order, which is currently undergoing internal review, before it can be sent to Respondent's counsel. Complainant's counsel expects to send a draft CA/FO to Respondent's counsel by July 13, 2009.

Given the complexity of this settlement, which involves a SEP, it has taken several weeks to draft the CA/FO. Also, it will take several weeks to secure the approvals required within different offices of EPA. Accordingly, Complainant's counsel anticipates that Complainant will need to file, within the next few weeks, a Joint Motion requesting an extension of time to file its Prehearing Exchange, so that both parties can devote their resources to getting the CA/FO reviewed, approved and ratified by both parties. Complainant's counsel has consulted with Respondent's counsel, who indicates he will join in the motion for extension of time.

Dated: July 2, 2009  
New York, New York

Bruce Aber

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'BA', written over a horizontal line.

Counsel for Complainant

In the Matter of Crop Protection Program, Docket No. FIFRA-02-2008-5301

CERTIFICATE OF SERVICE


I certify that I have this day caused to be sent the foregoing Status Report, dated July 2, 2009, bearing the above-referenced docket number, in the following manner to the addressees listed below:

Copy by Facsimile:                   Honorable Susan L. Biro  
& Certified Mail/Return       Chief, Administrative Law Judge  
Receipt Requested               U.S. Environmental Protection  
                  Agency               Office of Administrative Law Judges  
  Mail Code 1900 L  
  1200 Pennsylvania Avenue, N.W.,  
  Washington, D.C. 20460-2001

Copy by Facsimile &  
Certified Mail/Return Receipt  
Requested:                   Patricio Martinez-Lorenzo, Esq.  
  Attorney & Counsellor At Law  
  Counsel for Respondent  
  Union Plaza Building- Suite 1200  
  416 Ponce de Leon Avenue  
  Hato Rey, Puerto Rico 009180-3424

Original and Copy  
By Hand Delivery:               Office of Regional Hearing Clerk  
  U.S. Environmental Protection Agency  
  Region 2  
  290 Broadway, 16<sup>th</sup> Floor  
  New York, N.Y. 10007-1866  
  Attn: Karen Maples

Dated: July 2, 2009  
New York, New York

  
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Bruce Aber  
Assistant Regional Counsel