

copy

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG II  
2009 OCT 26 AM 9:08  
REGIONAL HEARING  
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

```

-----x
In the Matter of           :
Finca Aurito Gomez Lopez  :           STATUS REPORT
                           :           AND MOTION FOR
                           :           EXTENSION OF TIME
                           :
                           :           Respondent.
                           :
Proceeding Under the Federal :           FIFRA-02-2009-5301
Insecticide & Rodenticide Act, :
as amended.                :
-----x

```

**STATUS REPORT**

This Status Report is in response to your Honor's Prehearing Order, dated September 28, 2009, and to alert your Honor to difficulties Complainant has had in getting in contact with Respondent.

As you may know, the Respondent did not initially answer the Complaint, which was delivered to a Post Office Box address. It was not until a spanish-speaking representative of Complainant personally hand-delivered the Complaint to Respondent's home that an Answer was subsequently submitted.

Given that Respondent's Answer to the Complaint specifically states that "Respondent doesn't speak or understands English," it is obvious that the Answer, written in English, was prepared by someone other than Respondent.

Unfortunately, the Answer that was signed and submitted by Respondent to the Regional Hearing Clerk only lists a P.O. Box number and does not identify Respondent's phone number or the name or phone number of any representative whom Complainant can contact to discuss settlement.

Given the language barrier, Complainant's counsel sent a letter, translated into Spanish, to Mr. Aurito Gomez's P.O. Box address on September 18, 2009. Complainant also sought unsuccessfully to hand-deliver the letter to Mr. Lopez. In the letter, Complainant's counsel stated: "There are several issues to discuss. Please contact me by email or fax or regular mail

with the name and phone number of a contact person on your behalf who can discuss settlement of this case. If you choose to represent yourself in this matter without any representation, you must state so and provide your phone number so that we can call you to discuss this case.”

Additionally, Complainant’s counsel sent two emails (dated October 7 and 8, 2009) to the email address that Mr. Aurito Gomez Lopez provided to the Chief Judge Biro in response to the Chief Judge’s request for ADR. Complainant counsel’s emails both requested that Respondent provide the name and phone number of his legal representative. Complainant’s counsel also stated that “[i]f you choose to represent yourself in this matter (which I advise you not to), please provide me with a phone number where I can reach you.” Finally, Complainant’s counsel requested information pertaining to Respondent’s ability to pay and questions about Respondent’s operation of farms in Puerto Rico. Complainant’s counsel requested the submittal of the information by no later than October 19, 2009. However, to date Complainant has not received any response to its emails.

Given the lack of any responsiveness or cooperation by Respondent in this matter, Complainant is requesting that your Honor order, pursuant to 40 C.F.R. Section 22.4(c)(8) and (10), the Respondent to participate in a conference call to discuss the settlement, simplification or adjudication of the issues in this case, in order so that Complainant can evaluate how to proceed further in this matter. In addition, Complainant alerts the Court that it is considering applicable motions to file against Respondent in this matter.

#### MOTION FOR TO EXTENSION OF TIME

Based on the aforementioned reasons in the Status Report above, Complainant requests that your Honor allow for five weeks additional time, from November 20, 2009 until December 23, 2009, for the parties to submit initial Prehearing Exchanges

Complainant prefers to devote time and effort in attempting to either engage in settlement discussion with Respondent or prepare applicable motion(s) and pursue a litigation tract rather than spend resources during the next few weeks to prepare a detailed Prehearing Exchange at this time.

For the above-mentioned reason, the Complainant asserts that good cause exists for granting this Joint Motion.

Dated: October 22, 2009  
New York, New York

Respectfully submitted,



Bruce Aber  
Counsel for Complainant

In the Matter of Finca Aurito Gomez Lopez, Docket No. FIFRA-02-2009-5301

CERTIFICATE OF SERVICE

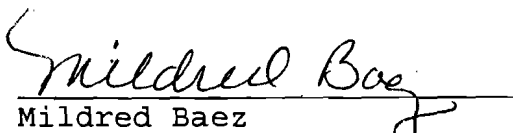
I certify that I have this day caused to be sent the foregoing Status Report and Motion for Extension of Time, dated October 22, 2009, bearing the above-referenced docket number, in the following manner to the addressees listed below:

Copy by Facsimile:                   Honorable William B. Moran  
& Certified Mail/Return       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:                       Finca Aurito Gomez Lopez, Respondent  
  Attn: Aurito Gomez Lopez  
  P.O. Box 1205  
  Las Piedras, Puerto Rico 00771

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: October 22, 2009  
New York, New York

  
Mildred Baez  
Administrative Assistant