

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

2010 DEC -6 AM 8:02

REGIONAL HEARING CLERK

IN RE:)	
)	DOCKET NO. FIFRA-9-2010-0014
Marukai Corporation,)	
)	SECOND MOTION TO
)	EXTEND TIME TO RESPOND
)	TO COMPLAINT
RESPONDENT)	
_____)	

TO THE REGIONAL JUDICIAL OFFICER:

Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. Part 22, Complainant U.S. Environmental Protection Agency, Region 9 (“Complainant”) moves the Regional Judicial Officer to grant a 60-day extension of time to respond to the complaint in the above-entitled action (“Complaint”) to February 11, 2011. Complainant’s reasons for seeking an extension for time are set forth below.

BACKGROUND

On September 24, 2010, Complainant filed a civil administrative action against Respondent Marukai Corporation in the above-entitled action. The Complaint alleges violations of Section 12(a)(1)(A) and 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), 136j(a)(1)(F). Respondent was served with the Complaint on or about October 12, 2010.

On October 13, 2010, Complainant filed a motion to extend time to respond to complaint to December 13, 2010. The Regional Judicial Officer granted this motion on October 26, 2010.

ARGUMENT

The Regional Judicial Officer may grant an extension of time to file an answer upon filing of a timely motion, a showing of good cause and after consideration of prejudice to other parties to the action. 40 C.F.R. §§ 22.7(b); 22.16. This motion satisfies these criteria.

This motion is timely, having been filed prior to the date for Respondent's response to the Complaint.

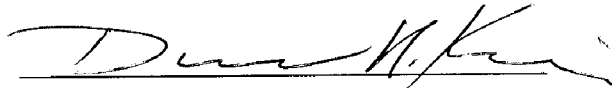
This motion also complies with the "good cause" requirement of 40 C.F.R. § 22.7(b). It is EPA's policy to encourage settlement and avoid litigation when consistent with the provisions and objectives of the law at issue. 40 C.F.R. § 22.18(b). Representatives of EPA and Respondent have reached an agreement in principle to settle this matter. EPA and Respondent also agree that a 60-day extension of time to answer the Complaint would allow the parties to finalize the settlement agreement and thus avoid unnecessary diversion of resources to adversarial pleading. Respondent does not oppose this motion.

Finally, granting of this motion will not result in prejudice. The requested extension will provide EPA and Respondent additional time to finalize the settlement in principle.

CONCLUSION

For the reasons set forth above, Complainant respectfully requests that the Regional Judicial Officer grant Complainant's second motion to extend time to file a response to and including February 11, 2011.

Dated at San Francisco, California on this 6th day of December 2010.

A handwritten signature in black ink, appearing to read "David H. Kim", written over a horizontal line.

David H. Kim

Assistant Regional Counsel
USEPA, Region 9

CERTIFICATE OF SERVICE

I certify that the original and a copy of the foregoing Second Motion to Extend Time to

Respond to Complaint was hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

and that a true and correct copy of the Motion was placed in the United States Mail, addressed to
the following:

Mr. Hidejiro Matsu
President
Marukai Corporation
2310 Kamehameha Highway
Honolulu, HI 96819

Ms. Julia Tachikawa, Esq.
1978 Westridge Road
Los Angeles, CA 90049

Dated: 12/6/10

By: Vasilis Kontarakis
Office of Regional Counsel
USEPA, Region 9