

2010 JUL 21 PM 2:35

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) **Docket No. FIFRA-05-2010-0016**
)
Liphatech, Inc.) **Notice of Complainant's Request for**
Milwaukee, Wisconsin) **Voluntary Production of Financial**
) **Information.**
Respondent.

**NOTICE OF COMPLAINANT'S REQUEST FOR VOLUNTARY PRODUCTION OF
FINANCIAL INFORMATION**

Complainant, the United States Environmental Protection Agency, Region 5 (Region 5 or the Region) hereby files the instant Notice of Complainant's Request for Voluntary Production of Financial Information, which requests that Respondent, Liphatech, Inc. ("Liphatech" or "Respondent"), produce in its prehearing exchange certain financial information relevant to and probative of Liphatech's "ability to pay"¹ the penalty proposed in the Complaint.

Background

On May 14, 2010, Region 5 filed a Complaint against Respondent. On or about June 11, 2010, Respondent filed its Answer to the Complaint. In its Answer, Respondent raised the issue of its ability to pay the penalty proposed in the Complaint. See Answer, ¶367.

Prior to filing the Complaint, the Region offered Respondent the opportunity to provide financial information in connection with the issue of ability to pay. By letter dated September

¹ Section 14(a)(4) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a)(4), provides in relevant part that, "[i]n determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation." The Environmental Appeals Board ("EAB" or "the Board") has referred to "the effect on the person's ability to continue in business" as "ability-to-pay." See *In re: Chempace*

18, 2009, Complainant sent a “Notice of Intent to File Civil Administrative Complaint against Liphatech, Inc.” (“notice letter”) (Exhibit 1) to the Respondent. In this notice letter, the Region advised Respondent that it was planning to file an administrative complaint for civil penalties against Liphatech for violating FIFRA because (1) Respondent advertised a restricted use pesticide without providing the restricted use classification given to the product under Section 3 of FIFRA, and (2) Respondent made claims as part of the distribution and sale of a pesticide which significantly differed from the statement required as part of the product’s registration under Section 3 of FIFRA. The notice letter asked Respondent to present Region 5 with any information Respondent thought the Region should consider before issuing a complaint. Specifically, the letter informed Respondent that if it believed that it would be unable to pay a penalty because of financial reasons, Respondent should submit the following financial documentation: certified, complete financial statements including balance sheets, income statements and all notes to the financial statements, and signed income tax returns with all schedules and amendments, for the past three years. Respondent did not submit any such financial documentation to Region 5.

Subsequent to Respondent’s receipt of the notice letter, the parties engaged in settlement discussions. In February and March of 2010, the Region verbally reminded the Respondent that if it wished to submit any financial information in support of an ability to pay claim, the Region would have its financial analysts review the information and give it the appropriate consideration. Again, Respondent did not submit any financial documentation to Region 5.

In its Answer, Respondent asserts that it submitted “actual profit and loss totals for the

last three years to EPA.” See Answer, ¶367. While it is true that Respondent’s counsel made representations as to the Respondent’s net income gains/losses for fiscal years 2007 through 2009 to Region 5 counsel in March 2010, he did not provide any financial documentation to support such claims. At that time, Region 5 invited Respondent to submit financial documentation to support the claims made by Respondent’s counsel. Once again, Respondent did not submit any financial documentation to support its claims.

On April 1, 2010, the Region sent an “Updated Notice of Intent to File Civil Administrative Complaint against Liphatech, Inc.” (“updated notice letter”) (Exhibit 2) to Respondent. In the updated notice letter, the Region notified Liphatech of additional violations the Region would allege and proposed an updated penalty of \$2,941,456. The updated notice letter again advised Respondent that, if Respondent believed that it would be unable to pay the proposed penalty because of financial reasons, Respondent should submit the following documentation: audited or certified complete financial statements, including balance sheets, income statements and all notes to the financial statements and the company’s signed income tax returns with all schedules and amendments for the last three years for Liphatech and for all parent corporations up to the ultimate parent of the corporate family. In addition, the Region asked Respondent to provide any other financial information or documentation that Respondent felt would inform the government’s understanding of Respondent’s financial situation. Respondent did not submit any such financial documentation and/or information to Region 5. To date, Region 5 has not received any financial documentation from the Respondent to support its inability to pay claim.

Finally, the June 30, 2010, Prehearing Order in this matter specifically directs the

Respondent to “furnish supporting documentation” if “it intends to take the position that it is unable to pay the proposed penalty or that payment will have an adverse effect on its ability to continue to do business.” *Prehearing Order* at 3.

Basis for Request

It is well established that the Region bears the burden of proof on establishing the appropriateness of the penalty after considering all statutory factors. *In re New Waterbury, Ltd.*, 5 E.A.D. 529 (EAB 1994) and *In re Chempace Corporation*, 9 E.A.D. 119 (EAB 2000). Further, the Environmental Appeals Board (EAB) has stated in *Chempace*:

As we observed in *New Waterbury*, since the complainant’s ability to obtain financial information about the respondent is limited at the outset of the case, a respondent’s ability to pay is presumed until the respondent puts it in issue. *New Waterbury* at 541. Moreover, once a respondent has raised the issue, it must provide sufficient information to enable the complainant to assess ability to pay. Failure to do so results in a waiver of respondent’s objection to a penalty based on inability to pay. *Id.* at 542.

Chempace at 133. In *New Waterbury*, the EAB specified that “in any case where ability to pay is put at issue, the Region must be given access to the respondent’s financial records before the start of such hearing. The rules governing penalty assessment proceedings require a respondent to indicate whether it intends to make an issue of its ability to pay, and if so, to submit evidence to support its claim as part of the pre-hearing exchange.” *New Waterbury* at 542.

The EAB has clearly stated that where ability to pay is at issue, it is the Region’s burden to present some evidence to show that it considered the respondent’s ability to pay a penalty. Specifically, “the Region need not present any *specific* evidence to show that the respondent *can pay* or obtain funds to pay the assessed penalty, but can simply rely on some *general* financial information regarding the respondent’s financial status which can support the *inference* that the penalty assessment need not be reduced.” *New Waterbury* at 542-543. (Emphasis in original).

The Region has general information from which it can support the inference that the proposed penalty should not be reduced absent additional specific information from Respondent to show otherwise. On April 2, 2008, Region 5 obtained information from the Dun & Bradstreet, Inc., Corporate Leads Portal, which reported Liphatech's annual sales as \$39,500,000. See Exhibit 3. The Region has also found that Liphatech's parent company², DeSangosse, reports its 2009 turnover³ as €272,000,000 on its website. See Exhibit 5, and <http://www.desangosse.com/english/de-sangosse/groupe/de-sangosse-groupe-1-63.html>. The website also states that the Company was "up nearly 20% from the previous year's results." Additionally, the website depicts the "World Sales Turnover 2009: 272 M€" showing "Amerique du Nord" as having 25% its international business, which constitutes 18% of the company's overall business. Thus, about 4.5% of Sangosse's turnover in 2009, or about €12,000,000 is attributable to Liphatech. Finally, based on a public records search, it appears that Respondent owns the property upon which its facility at 3600 West Elm Street in Milwaukee, Wisconsin, sits. See Exhibit 6. This general information, if introduced at hearing, would be sufficient to meet the Region's initial burden of proof. It would also demonstrate that the Region considered Liphatech's ability to pay when calculating the proposed penalty, and that therefore the penalty should not be reduced.

Once the complainant has presented general financial information regarding the respondent's financial status to support the inference that the penalty assessment need not be reduced, "the burden of production then shifts to the respondent to establish with specific

² While Liphatech did not admit that DeSangosse is its parent company in its Answer, Liphatech's own website describes the relationship. See Answer, ¶ 362 and Exhibit 4.

³ See <http://stats.oecd.org/glossary/detail.asp?ID=2780> for a discussion of what "turnover"

information that the proposed penalty assessment is excessive or incorrect.” *Chempace* at 133. Along those lines, it should be noted that “the respondent must show an inability to pay ‘any penalty’ to fully meet its burden of production in response to the complainant’s *prima facie* case.” *New Waterbury* at 543; see also *Chempace* at 137. (Emphasis in original). If the respondent fails to fully meet such burden, the Presiding Administrative Law Judge has the discretion to exercise her authority under 40 C.F.R. § 22.27(b) to determine an appropriate penalty. Therefore, if the respondent believes it can pay a penalty other than the proposed penalty based on its ability to pay, the Respondent should submit financial documentation to support its position in its prehearing exchange for both the complainant and the Court to consider.

Indeed the Region’s ability to obtain detailed financial information regarding the Respondent has been limited. Liphatech is a privately held company. Therefore, the information needed to support Respondent’s claimed inability to pay is entirely within Respondent’s control. Region 5 has only limited sources from which to glean Respondent’s financial status until Respondent submits financial documentation to support its inability to pay claim.

In addition to failing to provide adequate information to the Region to support its inability to pay claim, Liphatech suggests that the financial health of Liphatech’s parent corporation is irrelevant to Liphatech’s ability to pay. In its Answer, Respondent suggests that EPA may not look at the financial health of its parent corporation, DeSangosse, when evaluating Liphatech’s ability to pay. See Complaint, ¶¶ 362 and 363 (in which, respectively, EPA alleges that Liphatech is a wholly owned subsidiary of DeSangosse, and that DeSangosse posted 2009 turnover on its website of €272 million) and Answer, ¶¶ 362 and 363 (in which Liphatech states

means. It is often equated with the word “sales.”

that Liphatech's relationship with DeSangosse and evidence of DeSangosse's financial health are "irrelevant to this proceeding and should be stricken from the Complaint"). It is well settled, however that EPA may look to related companies to assess a respondent's ability to pay a penalty, either through cash flow or by obtaining loans to pay the proposed penalty. See *New Waterbury*, 5 E.A.D. at 548 (The EAB looked to the health of a related company to find ability to pay) and *In re Predex Corporation*, 7 E.A.D. 591 at 603 (EAB 1998) (EAB considered financial status of parent company when determining ability to pay.)

In addition, the FIFRA Enforcement Response Policy, dated December, 2009 (FIFRA ERP) states that "the size of business and gross revenue figures are based on the corporate family rather than a specific subsidiary or division of the company which is involved with the violation (including all sites owned or controlled by the foreign or domestic parent company)." See FIFRA ERP at 17. Additionally, when discussing the use of ABEL⁴ to aid in determining a respondent's ability to pay a proposed penalty, the FIFRA ERP also states:

Because the program only focuses on a violator's cash flow, there are other sources of revenue that should also be considered to determine if a firm is unable to pay the full penalty. These include: certificates of deposit, money market funds, or other liquid assets; reduction in business expenses such as advertising, entertainment, or compensation of corporate officers; sale or mortgage of non-liquid assets such as company cars, aircraft, or land; and related entities (e.g., the violator is a wholly owned subsidiary of Fortune 500 company). See FIFRA ERP at 23-24.

The information requested in this motion will help inform the Region's financial analyst and allow the Region to further evaluate Respondent's ability to pay claim. As such the information is of significant relevance and probative value to the relief sought in this matter.

⁴ ABEL is an enforcement economic model EPA uses to evaluate a corporation's or partnership's ability to afford compliance costs, cleanup costs, or civil penalties. See <http://www.epa.gov/compliance/civil/econmodels/>

The relevance and probative value of these types of financial records with respect to Respondent's ability to pay is explained in the sworn declaration of Ms. Gail Coad, a financial analyst with Industrial Economics, Inc. attached to this Notice as Exhibit 7. Prior decisions of Administrative Law Judges and the EAB have recognized the relevance and probative value of the categories of financial information Complainant is seeking as described in this Motion. See, e.g., *In re Bil-Dry Corp.*, 9 E.A.D. 575, 613-614 (EAB 2001); *In re Carroll Oil Company*, RCRA Appeal No. 01_02, slip op. at 28 (EAB, July 31, 2002), 10 E.A.D. 635, 2002 WL 1773052 (E.P.A.); *In re New Waterbury, Ltd.*, 5 E.A.D. 529 (EAB 1994). See also *In the Matter of Vemco, Inc.*, Docket No. CAA-05-2002-0012, 2003 WL 1919589 (E.P.A.) (Court granted complainant's motion for discovery of information such as "complete and preferably audited financial statements and all corporate minutes for the last three years for Respondent ..."); and *In the Matter of Mark Fastow and Fiberglass Specialties, Inc.*, Docket No. EPCRA-09-97-0013, 1998 WL 422191 (E.P.A.), June 29, 1998 (Court granted complainant's motion for discovery of respondent Fastow's personal federal income tax returns for most recent five years).

Respondent's Answer places Liphatech's ability to pay the penalty proposed in the Complaint at issue. To date, Liphatech has failed to provide any financial documentation to Region 5 to support its ability to pay claim. The Prehearing Order issued by this Court requires Respondent to provide documentation in support of its claims of inability to pay the proposed penalty. Absent Respondent producing the documents requested in this Motion, it may be properly argued that any objection to the penalty based on ability to pay has been waived pursuant to 40 C.F.R. §§ 22.15(d) and 22.19(g).

Request

Complainant wishes to ensure that the record before the Presiding Administrative Law Judge will contain all relevant and probative evidence concerning Respondent's ability to pay the penalty proposed in the Complaint. Therefore, by this Notice, Complainant requests that Respondent include in its initial prehearing exchange the following specific financial information relevant to its ability to pay the proposed penalty:

(1) Provide true, accurate and complete copies of the signed and filed U.S. corporate income tax returns of Liphatech, including all schedules, forms, balance sheets and other attachments, for the most recent three tax years, 2007, 2008 and 2009.

(2) Provide true, accurate and complete copies of Liphatech's complete financial statements, preferably audited, including all balance sheets, income statements, statements of operations, statements of retained earnings, statements of cash flows, and all notes to each financial statement, for the years 2007, 2008 and 2009.

(3) Provide true, accurate and complete copies of the company asset schedules or ledgers for Liphatech, at the end of the most recent fiscal year.

(4) Provide true, accurate and complete copies of all records that reflect the fair market value of each parcel of real estate that is (1) owned by Liphatech; (2) owned by any shareholder, director or officer of Liphatech; (3) owned by any company or other business entity that is owned by a shareholder, director or officer of Liphatech; or (4) owned by any trust naming Liphatech, or any shareholder, director or officer of Liphatech, as a beneficiary. Such records should include, but not be limited to, the following: all real estate appraisals; all loan applications or loan documents which Liphatech or any officer, director or shareholder of Liphatech has prepared, received or signed within the last five years in connection with such real estate (including but not limited to all mortgage or real estate financing documents, Real Estate Procedures Act Statements, disbursement forms and other closing documents; and all applications where Liphatech or any officer, director or shareholder of Liphatech was signing as a guarantor); and the most recent county assessor statements for each such parcel of real estate, including such information for all real property assets owned by any trusts, corporations, partnerships or other business entities, where Liphatech or any shareholder, director or officer of Liphatech, has been identified an owner and/or beneficiary.

(5) Provide true, accurate and complete copies of all loan applications prepared by or on behalf of Liphatech within the last three years.

(6) Provide true, accurate and complete copies of the following documents for Liphatech's

parent company, DeSangosse: complete financial statements, preferably audited, including all balance sheets, income statements, statements of operations, statements of retained earnings, statements of cash flows, and all notes to each financial statement, for the years 2007, 2008 and 2009.

(7) Provide true, accurate and complete copies of Liphatech's current year-to-date financial results (income statement, balance sheet and statement of cash flows) with comparable year-to-date financial results for the three prior years.

(8) Provide true, accurate and complete copies of all of Liphatech's financial pro forma budget for the current fiscal year or following fiscal years if available, including the income statement, balance sheet and statement of cash flows.

(9) Provide any other financial information and related documentation that Liphatech feels would inform the government's understanding of Liphatech's financial situation.

While this request is for the voluntary production of financial information, should Respondent fail to include such evidence in its prehearing exchange Complainant reserves the right to seek leave from the Presiding Administrative Law Judge to file a motion to compel discovery of this information.

Liphatech may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the financial information that it submits to Complainant and to the Presiding Administrative Law Judge. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Liphatech fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

Finally, the financial information requested above is only necessary if Liphatech continues to make an inability to pay claim. If Liphatech states in its prehearing exchange (or in a document filed prior to the prehearing exchange deadline) that Respondent's ability to pay the penalty proposed in the Complaint is no longer at issue, *and that Liphatech expressly waives any*

objection to the penalty based on its size of business and ability to pay, then there will be no need for Respondent to provide the financial information described above.

Respectfully submitted,
U.S. Environmental Protection Agency

A handwritten signature in blue ink, appearing to be 'EPA', is written over a horizontal line.

Nidhi K. O'Meara
Erik H. Olson
Associate Regional Counsels
U.S. Environmental Protection Agency

RECEIVED
REGIONAL HEARING CLERK
U.S. EPA REGION 5
2010 JUL 21 PM 2:36

In the Matter of Liphatech, Inc.
Docket No. FIFRA-05-2010-0016

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of July, 2010, I filed the original and one copy of a Notice of Complainant's Request for Voluntary Production of Financial Information with the Regional Hearing Clerk, U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604, and placed for pickup to be mailed a copy of the Notice of Complainant's Request for Voluntary Production of Financial Information by Pouch Mail to:

Honorable Barbara A. Gunning
Administrative Law Judge
Office of the Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

and placed for pickup to be delivered by UPS Next Day Air a copy of the Notice of Complainant's Request for Voluntary Production of Financial Information to:

Mr. Michael H. Simpson, Esq.
Reinhart Boerne Van Deuren S.C
1000 North Water Street
Suite 1700
Milwaukee, Wisconsin 53202



Erik H. Olson
Associate Regional Counsel
U.S. EPA, Region 5
Mail Code C-14J
77 West Jackson Blvd.
Chicago, IL 60604
(312) 886-0813

Exhibit 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 18 2009

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8920 0326

Mr. Carl Tanner
Chief Executive Officer
Liphatech, Inc.
3600 West Elm Street
Milwaukee, Wisconsin 53209

Re: Notice of Intent to File Administrative Complaint against Liphatech, Inc.

Dear Mr. Tanner:

The U.S. Environmental Protection Agency, Region 5 plans to file an administrative complaint for civil penalties against Liphatech, Inc. (you). We will allege that you violated the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136j(a)(2)(E) and 136j(a)(1)(B), by advertising "Rozol," EPA Registration Number 7173-244, without providing the restricted use classification given to the product under section 3 of FIFRA, and by making claims as part of the distribution and sale of "Rozol," EPA Registration Number 7173-244, which significantly differ from the statement required as part of the product's registration under section 3 of FIFRA. Based on information currently available to us, we plan to propose a penalty of \$1,280,500 in the complaint.

FIFRA governs the regulation of pesticides in the United States. Under FIFRA, all pesticides must be registered by EPA before they may be sold or distributed in commerce. FIFRA sets an overall risk/benefit standard for pesticide registration, requiring that pesticides perform their intended function, when used according to labeling directions, without posing unreasonable risks of adverse effects on human health or the environment. In making pesticide registration decisions, EPA is required by law to take into account the economic, social, and environmental costs and benefits of pesticide uses.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay a penalty.

If you believe that you will be unable to pay a \$1,280,500 penalty because of financial reasons, please send us certified, complete financial statements including balance sheets, income statements and all notes to the financial statements, and your company's signed income tax returns with all schedules and amendments, for the past three years.

You may assert a claim of business confidentiality under 40 C.F.R. part 2, subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. part 2, subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

We may use any information you submit in support of an administrative, civil, or criminal action.

Within ten calendar days after you receive this letter, please send your response to:

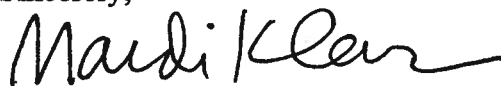
Kevin Chow (C-14J)
Associate Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

We plan to file the complaint against you 14 calendar days after you receive this letter unless you give us information that the complaint is not substantially justified.

If you have any questions, please telephone Mr. Chow at (312) 353-6181.

Thank you for your prompt attention to this matter.

Sincerely,



Mardi Klevs
Chief
Chemicals Management Branch
Land and Chemicals Division

Exhibit 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 1 2010

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL
Receipt No. 7001 0320 0005 8920 0180

Mr. Carl Tanner
Chief Executive Officer
Liphatech, Inc.
3600 West Elm Street
Milwaukee, Wisconsin 53209

Re: Updated Notice of Intent to File an Administrative Complaint against Liphatech, Inc.

Dear Mr. Tanner:

This is an updated Notice of Intent to File an Administrative Complaint against Liphatech, Inc. This updated Notice supersedes the Notice of Intent dated September 18, 2009. The U.S. Environmental Protection Agency, Region 5 plans to file an administrative complaint for civil penalties against Liphatech, Inc. (you). We will allege that you violated the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as follows:

(a) Liphatech distributed or sold the registered pesticides "Rozol Pocket Gopher Bait Burrow Builder Formula," EPA Reg. No. 7173-244, and "Rozol Prairie Dog Bait," EPA Reg. No. 7173-286, with claims made for them as part of their distribution or sale that substantially differed from claims made for them as part of the statements required in connection with their registrations under Section 3 of FIFRA in violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B);

(b) Liphatech distributed or sold "Rozol Pocket Gopher Bait Burrow Builder Formula," EPA Reg. No. 7173-244, and "Rozol Prairie Dog Bait," EPA Reg. No. 7173-286, which were misbranded in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E); and

(c) Liphatech advertised "Rozol Pocket Gopher Bait Burrow Builder Formula," EPA Reg. No. 7173-244, a product registered under FIFRA for restricted use without giving the classification of the product assigned to it under Section 3 of FIFRA in violation of Section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E).

Based on information currently available to us, we plan to propose a penalty of \$2,941,456 in the Complaint.

FIFRA governs the regulation of pesticides in the United States. Under FIFRA, all pesticides must be registered by EPA before they may be sold or distributed in commerce. FIFRA sets an overall risk/benefit standard for pesticide registration, requiring that pesticides perform their intended function, when used according to labeling directions, without posing unreasonable risks of adverse effects on human health or the environment. In making pesticide registration decisions, EPA is required by law to take into account the economic, social, and environmental costs and benefits of pesticide uses.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay a penalty.

If you believe that you will be unable to pay a \$2,941,456 penalty because of financial reasons, please send us audited or certified complete financial statements including balance sheets, income statements and all notes to the financial statements, and your company's signed income tax returns with all schedules and amendments for the last three years. You should send this financial information for Liphatech, Inc., as well as for all parent corporations up to the ultimate parent of the corporate family. In addition, please provide any other financial information or documentation that you feel would inform the government's understanding of the company's financial situation. Once our financial analysts have reviewed this initial information, they may require additional financial information to complete the financial review.

You may assert a claim of business confidentiality under 40 C.F.R. part 2, subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. part 2, subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

We may use any information you submit in support of an administrative, civil, or criminal action.

Within ten calendar days after you receive this letter, please send your response to:

Nidhi K. O'Meara (C-14J)
Associate Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

We plan to file the complaint against you after you receive this letter unless you give us information that the complaint is not substantially justified.

If you have any questions, please telephone Mrs. O'Meara at (312) 886-0568.

Thank you for your prompt attention to this matter.

Sincerely,

Tony Martign, acting for M. Klevs

Mardi Klevs

Chief

Chemicals Management Branch

Land and Chemicals Division

cc: Mr. Michael H. Simpson
Reinhart, Boerner, Van Deuren, s.c.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

Exhibit 3



Company Details

[Lookup Results](#)
[Contact Names](#)

Site Info:

DUNS Number:	608530713
Business Name:	Liphatech, Inc.
Tradestyle:	
Physical Street Address:	3101 W Custer Ave
Physical City:	Milwaukee
County:	Milwaukee
Physical State Abbreviation:	WI
Physical Zip:	53209
Mailing Address:	3101 W Custer Ave
Mailing City:	Milwaukee
Mailing State:	WI
Mailing Zip:	532094827
Telephone Number:	414-462-7600
Primary 8 Digit SIC Code:	28190000
Primary SIC8 Description:	Industrial inorganic chemicals, nec
Primary NAICS Code:	325188
Primary NAICS Description:	325188-All Otr Basic InOgc Chem Mfg
CEO Name:	Thomas H Winkofske
CEO Title:	President

Business Size:

Employees Here:	57
Employees Total:	250
Sales Volume (US\$):	\$39,500,000

Enterprise:

Global Ultimate Duns Number:	260619630
Headquarters Duns Number:	000000000
Parent Duns Number:	260619630

Organization:

Ownership:	PRIVATE COMPANY
Location Type:	HEADQUARTERS
Latitude:	43.115378
Longitude:	-87.950874

Exhibit 4

LIPHATECH

WORLDWIDE

[Pest Management](#)[Animal Health](#)[Dealer Products](#)[Ag/Field & Orchard](#)[Slug & Snail](#)[MSDS/Labels](#)[Literature](#)[Education](#)[Vet Guide](#)[Partners](#)

About Us

Liphatech has evolved into a worldwide manufacturer and marketer of pest control products. Our state-of-the-art US facility was opened in Milwaukee, WI, in 1987. Worldwide, Liphatech commits substantial resources to the development of premier bait matrixes specifically designed to carry our active ingredients achieving superior acceptance and control of the target pests (rodents, slugs and snails) for which our products are marketed.

Liphatech, known as Lipha in the early days, began in 1946 in France as a pharmaceutical company. There, research focused on anticoagulants for the treatment of heart patients resulted in the development of three active ingredients: 1) chlorophacinone, in the early 1960s, branded as Rozol, a multiple-feed rodenticide that began to replace warfarin as the rodent control product of choice. 2) bromadiolone, in the early '70s, our first single feed rodenticide active ingredient was developed in the same fashion and 3) difethialone, developed in the late '80s, is the newest single feed rodenticide active ingredient available.

Today, as a wholly owned subsidiary of DeSangosse, Agen, France, Liphatech also markets the worlds leading slug and snail bait matrix under the Metarex brand name. This product, based on the metaldehyde active ingredient, has opened new and exciting market opportunities in specialty agricultural crops such as artichokes, citrus and grass seed production as well as in nursery, ornamentals and landscape.

Liphatech

3600 West Elm Street
Milwaukee, WI 53209

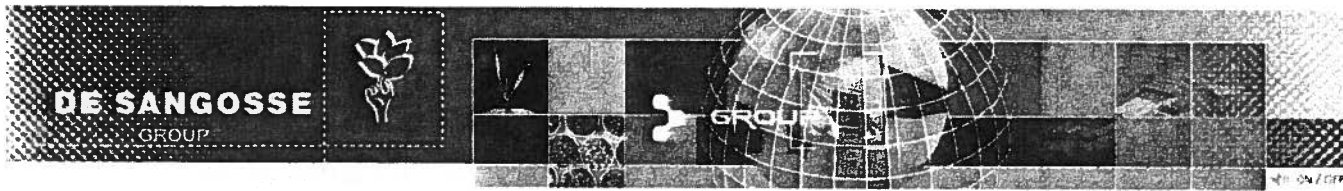
Phone: (414) 351-1476

Fax: (414) 247-8166

Customer Service - Toll Free: (888) 331-7900

Chemtec 24-Hour Emergency: (800) 424-9300

Exhibit 5



THE GROUP

- > Background
- > An independent group
- > Key figures
- > Subsidiaries & Holdings
- > HSE Management System
- > Management Matrix
- > Partnerships
- > Contact us

OUR SECTORS

STR

PRODUCTION SITES

JOBS

THE GROUP | Key figures

A DYNAMIC ACTIVITY

Against the backdrop of the current global economic crisis, in a particularly difficult agricultural context, DE SANGOSSE managed to consolidate the strong growth it experienced in 2008.

The company in 2009 recorded a turnover of € 272 million, up nearly 20% on the previous year's results. This is an excellent performance by any standard, which means we can continue implementation of a development strategy structured around two central axes :

- consolidation of our operations in France, supported by the Agriculture, Garden, Turf and Amenities, Anti-Rodents and Plant-Specific Nutrition branches
- development of our international activity which is rapidly becoming a growth driver

The Grenelle Environment "Summit" has left its mark on most economic activities. We must therefore listen carefully to the message delivered by civil society and be receptive to it. At the same time, we need to be realistic and sensible in our approach. **The stakes for agricultural production are high and all the sector branches must mobilise to meet the challenges of the new decade.**

Our response must be commensurate with growing needs, while ensuring quality production, in acceptable economic and environmental conditions. For this to happen, the business must be set on a resolutely progress-focused course, with innovation providing us with the necessary tools through the necessary deployment of resources to continue supporting investment in research and development.

DE SANGOSSE is pledged to working dynamically in this direction and aims to provide efficient technical solutions in the interest of its customers. The Company's inbuilt flexibility means that we can quickly integrate these new challenges, which explains our chosen policy to prioritise development and growth. We are resolutely optimistic, the fundamentals are strong, and our investment effort is part of a process of sustainable involvement in all the sector branches. The business plan is underpinned by a highly motivated, committed and responsible workforce.

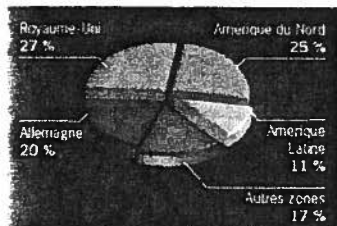
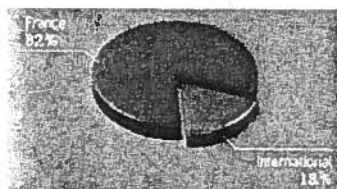
To accompany our customers and cultivate closeness with them are our No. 1 goal.

World Sales Turnover 2009 : 272 M€

Activity Distribution



Geographical Area Distribution



CROP PROTECTION

Crop protection

SEEDS

Seeds

ADJUVANTS

Adjuvants

ANTI-PEST

Anti-pest

GARDEN

Garden

GREENSPACE

Greenspace

DE SANGOSSE in the world



F.D.S.

Name

Company

E-mail

links

- DE SANGOSSE Ltd
- AGRIDYNE
- LIPHATECH

Tag cloud

Plant Protection	Seeds
Agriculture	Gardening
Phytosanitary	Anti-pest
Bait	Weed
Termites	AGRIDYNE
LIPHATECH	Adjuvant
Rodent pests	TDS
Nomix	Premium
	Monsanto

**550 collaborators, among which 100 are dedicated to international
markets/business**

Exhibit 6

Address 3600-3600 W ELM ST Taxkey 137-9852-110 Report Created 07/14/10 10:54

PROPERTY RECORDING INFORMATION
from the Department of Neighborhood Services

Application Type Change in ownership Application Number 137249 Date Received 08/01/08 Ownership Transfer Date 01/31/03

Owner LIPHA TECH INC
Street Address TAMMY BELLEFEUILLE (RA) 3600 W ELM ST
208 S LASALLE STREET
SUITE 814
CHICAGO IL 60604
MILWAUKEE WI 53209

Ownership Type Titleholder Telephone Work
Registered Agent
TAMMY BELLEFEUILLE
Home [414] - ()
Work [414] 351-1476 ()

Preferred Contact JEROME N YOUNGBLOOD
Street Address 3600 W ELM ST
MILWAUKEE WI 53209-0000

Mailing Address 3600 W ELM ST
MILWAUKEE WI 53209-0000

Telephone Home [] - ()
Work [414] 410-7206 ()

Operator PATRICK M FISCHER
Street Address 3600 W ELM ST
MILWAUKEE WI 53209-0000

Mailing Address 3600 W ELM ST
MILWAUKEE WI 53209-0000

Telephone Home [262] 644-9351 ()
Work [414] 410-7236 ()

Exhibit 7

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. FIFRA-05-2010-0016
)	
Liphatech, Inc.)	Declaration of Gail B. Coad.
Milwaukee, Wisconsin)	
)	
Respondent.		

DECLARATION OF GAIL B. COAD

I, Gail B. Coad, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury, that the following is true and correct:

1. My name is Gail B. Coad. I make this declaration based on my personal knowledge and expertise.

2. I am a Principal of Industrial Economics, Incorporated (IEc), a consulting firm located at 2067 Massachusetts Avenue, Cambridge, Massachusetts 02140. IEc is an economics and environmental consulting firm which provides consulting work in several different areas. These include evaluating economic damages and losses sustained in breach of contract cases, as well as providing expert witness services in environmental enforcement litigation. IEc also performs regulatory impact analyses for a variety of governmental agencies, as well as natural resource damage assessments for trustees and international bodies. Our litigation work includes assessing lost profits in economic damage cases, performing financial analyses in enforcement cases to determine economic benefit from noncompliance, and assessing the ability to pay of corporations, partnerships and individuals.

3. I have a Master's Degree in Business Administration (1974) from Stanford University's Graduate School of Business in Palo Alto, California. I also have a B.A. Degree in Economics (1972) from Connecticut College in New London, Connecticut. I have served as a consultant since 1988, focusing on providing economic and financial analysis services, primarily to government clients. I have testified in Federal and State court proceedings, as well as administrative hearings on financial and inability to pay issues relating to municipalities, companies and individuals. I am also a member of the National Association of Business Economists, and an Associate at the Certified Fraud Examiners Association. My qualifications are more fully outlined in my *curriculum vitae*, which is attached to this Declaration as Attachment 1.

4. The U.S. Environmental Protection Agency retained me on about May 21, 2010 to attempt to analyze the financial status of Liphatech, Inc., including an assessment of the ability of the company to pay a civil penalty of \$2,941,456 proposed in EPA's Complaint in this matter. I was asked to base my analysis on publicly available information. I have determined that publicly available information about Liphatech, Inc. is insufficient for me to perform a useful and accurate analysis of the company's ability to pay the proposed civil penalty. Liphatech is a privately-held company that is a subsidiary of a French, privately-held corporation, deSangosse Group. In general, it is very difficult to evaluate privately-held corporations unless they provide financial documents.
5. I have performed analyses of ability to pay in more than 200 cases during my tenure with IEc. I have assessed the ability to pay of many different types of entities, ranging in size from large multinational corporations to small businesses, and involving a wide variety of business activities (e.g., agriculture, chemicals, real estate, plastics, mining, and construction). I have testified regarding ability to pay in cases in Federal District Court, and before the United States Environmental Protection Agency's Office of Administrative Law Judges. These cases are identified in my curriculum vitae.
6. The purpose of an "ability to pay" analysis is to identify potential sources of funds that could be applied to either a penalty payment or for remediation/injunctive relief, along with the implications of applying those funds to the party's future financial stability. The issue is ability to pay, not willingness to pay. The purpose of the analysis is to inform the court's ultimate decision regarding remedy and penalty.
7. In order to perform a useful and accurate analysis, I need up-to-date information on parties' assets, liabilities, income and expenses. Among the types of documents that will contain this essential information are complete federal income tax returns, including all schedules and attachments; and complete corporate financial statements, including all attachments and notes. I also need to understand any uncertainties that might affect a party's future financial status.
8. In cases such as this, I identify potential sources of funds by conducting an analysis with the following components.
 - a. First, I analyze the annual cash flow that the party is generating – cash income less cash expenses. Excess cash flow can be paid out-right for penalty or remediation costs, or may support assumption of a debt for a one-time payment. In the case of individuals or small companies, I use the federal income tax return as an initial basis for this analysis, following up with requests for additional information as required. I assess whether expenses are reasonable, and if not, what expenses might be pared and what cash flow

might then be generated. For many for-profit entities, the financial statements include statements of cash flow, which document the sources and uses of cash. Thus, complete financial statements can provide a direct representation of a company's cash flow related to operating, investing, and financing activities.

- b. Second, I analyze the net worth of the individual or party, represented by the difference between assets and liabilities. In the case of individuals, I often request that the individual submit a financial statement that identifies assets and liabilities. I assess the valuation of the assets, both as represented by the party and through independent verification. I also assess the importance of the assets to the individual's income generation (i.e., a rental property may generate necessary income). I identify any "luxury" items (boats, airplanes) that could be judged to not be essential. I also examine the amount of debt and the degree to which existing assets are collateralized.
 - c. Third, I look at whether there are external sources of financing, such as whether the company or individual has borrowing capability with a third-party lender; whether shareholders have shown a history of contributing to the company and supporting its obligations when necessary; and whether the company has had any transactions with any affiliated businesses, looking to see whether those transactions in any way affect the financial capabilities or financial appearances of the company.
9. When evaluating the ability to pay of corporations, at a minimum, I require at least three years and preferably up to five years of both complete tax returns and complete corporate financial statements, including all attachments, schedules and notes to financial statements. These financial records will provide a history of the income or sales of the entity, expenses incurred to generate those sales, profits, assets, and liabilities. The notes and schedules are also important. For example, corporate tax return attachments provide useful detail on itemized expenses (for example, officer compensation, travel and entertainment) and assets purchased. Notes to financial statements document important accounting assumptions and treatment, and outline interactions with affiliated entities. In addition, I require depreciation schedules or asset ledgers. These schedules or ledgers itemize all of the entity's asset holdings, including an asset description, purchase date, purchase price, and current book value. This type and breadth of information is needed to understand the company's historic operations, and also to understand any trends or changes that might have occurred with respect to that company.
10. With respect to corporate financial statements, I prefer audited financial statements. The primary difference between an audited financial statement and an unaudited financial statement is that, with an audited financial statement, the auditor will take the financial information the company provides, and, in addition to simply reviewing and compiling that information, the auditor will test the accuracy and reliability of

some of the underlying numbers in those statements. For example, with respect to a company's inventory, the auditor might actually inspect the warehouse or shelves of the company and count the items on the shelves or in the warehouse to see if the inventory estimate is accurate. The auditor may also interview customers or suppliers to inquire about the exchange of goods and services and the status of certain invoices. By doing this, the auditor not only compiles information and presents it in the form of a financial statement, but can also attest to the accuracy of the information and further confirm that the information fairly and actually represents the financial position of the company. However, many smaller companies do not have their accountant prepare audited statements, and in that case they should provide either compiled or reviewed financial statements, if they are available.

11. A company's relationship with its shareholders and with other businesses under common ownership can be important in evaluating that company's ability to pay. From a financial and operational perspective, it is important to look at both a company's business performance, and how that company has financed its operations over time. Where contributions from a company's shareholders or from related businesses have been an important part of that company's financing and financial support over time, it is important to consider the relationship between the company and its shareholders or the related businesses. First, when you have a set of closely held companies under common ownership, and they are exchanging goods and services with each other, you want to make sure that those exchanges are priced fairly and appropriately accounted for, so that you know the financial situation has been accurately presented in the financial statements. In addition, you want to know whether those related corporations have served as financial resources for each other, in managing cash flow or in managing their business obligations. When analyzing the financial condition / ability-to-pay of a particular company, it is important to look at how the corporation as a whole operates and how it has financed itself in relation to interactions with its related businesses. Where a shareholder has provided an important managerial and operational presence to the company, and has used his personal financial resources to support the firm and keep its operations going, or where a related business has provided financial resources to the company, is important to understand those relationships and the financial condition of those related entities in order to accurately assess the subject company's ability to pay.
12. The methodology described above is similar to any approach that a bank or other lending institution might take in considering whether to lend money to a company or individual. This analysis is similar to the types of inquiries that a potential investor might make if the investor were considering purchasing stock in a business.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on July 20, 2010

A handwritten signature in black ink, appearing to read "Gail B. Coad". The signature is written in a cursive style with a large initial "G" and a long horizontal stroke at the end.

Gail B. Coad
Principal
Industrial Economics, Incorporated



INDUSTRIAL ECONOMICS, INCORPORATED

GAIL B. COAD

Ms. Coad's primary areas of expertise are economic, financial, and policy analysis. In particular, she has conducted analyses of a wide variety of public policies, including homeland security, environmental and natural resource issues. Ms. Coad is well versed in the U.S. government's regulatory and decision-making process, and is experienced in identifying and evaluating policy options. Ms. Coad also has extensive experience analyzing the financial condition of individuals and businesses in the context of regulatory or enforcement actions. As a Principal at Industrial Economics, Incorporated, she directs projects in her areas of expertise and participates in the management of the firm.

Ms. Coad has applied her expertise to a wide variety of issues. Her representative experience includes the following:

- Testifying as an expert witness in federal, state and administrative court, and supporting litigation teams on the economic and financial aspects of numerous environmental noncompliance cases involving air, water, and hazardous waste issues.
- Providing technical litigation case management services, including identification and management of expert witnesses, analysis of discovery materials, and close coordination with case attorneys.
- Assisting the federal government in developing strategies and approaches to assess the ability of businesses, individuals, municipalities and not-for-profit organizations to pay penalties.
- Directing the preparation of regulatory impact analyses for the Customs and Border Protection office of the U.S. Department of Homeland Security related to the land crossing of individuals into the United States, requiring containers imported into the United States are properly sealed and that importers report additional information regarding shipments coming to the United States.

Ms. Coad received her B.A. degree *cum laude* and with Honors in Economics from Connecticut College (1972) and her M.B.A. degree from the Graduate School of Business at Stanford University (1974). Prior to joining IEc, Ms. Coad was Chief of the Commerce and Lands Branch, in the Office of Information and Regulatory Affairs at the U.S. Office of Management and Budget, and Chief of the Economic Analysis Staff in the U.S. Environmental Protection Agency's Office of Water Regulation and Standards. She is a member of the National Association of Business Economists, and an Associate of the Certified Fraud Examiners Association. Ms. Coad also serves as a Director of the Educational Community Farm, Wilton, New Hampshire and is Treasurer of the Church of Our Saviour, Milford, New Hampshire.

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Cambridge, MA 02140 USA
617.354.0074 | 617.354.0463 fax
www.indecon.com

GAIL B. COAD

Corporate and Not-for-Profit Financial Analysis

Ms. Coad has extensive experience in analyzing the financial condition of businesses, individuals and not-for-profit organizations such as state or local governments. Ms. Coad has supported numerous U.S. Department of Justice, EPA and state environmental enforcement teams in litigation involving ability to pay and economic benefit issues. She has testified in federal court and administrative hearings, in deposition and prepared declarations and affidavits. Examples of her work in this area are described below.

- Providing financial and economic analysis support and consultation during the bankruptcy and reorganization of a mining company.
- Providing support to EPA's enforcement office regarding incentives that might encourage new businesses to take advantage of the EPA audit policy.
- Evaluating the financial capability of numerous municipalities or municipal types of entities to address Combined Sewer Overflow (CSO), Storm Sewer Overflow (SSO) and other environmental issues associated with wastewater treatment systems.
- Analyzing the ability of a major mining corporation to meet state financial assurance requirements.
- Evaluating the claim of a metals mining corporation for a variance on economic grounds from water quality standards.
- Evaluating the ability of four mining corporations to contribute to clean-up costs at a Superfund site in the Pacific Northwest.
- Assessing the capability of an electrical co-generation plant to pay an environmental penalty to a state regulatory authority.
- Analyzing whether release of certain documentation would cause substantial harm to the competitive position of a company.
- Evaluating factors in a company's financial history that may have contributed to a manufacturing facility's closure.
- Providing expert witness support for federal, state, and local government clients regarding the ability of violators to pay penalties or for Superfund clean-ups.
- Directing a major revision of the EPA's ABEL computer model. This model is designed to evaluate the ability of businesses to pay for environmental expenditures or a penalty. It produces key financial ratios that describe the historical financial condition of the violator, and uses discounted cash flow calculations to estimate the amount of funds available from future operations.
- Directing a revision of ABEL specifically designed for Superfund enforcement staff. This version of ABEL is conducted in pre-tax terms in order to allow a direct comparison of proposed Superfund payments.
- Directing the design, implementation and maintenance of the MUNIPAY model. MUNIPAY assists EPA enforcement personnel in evaluating the financial position of municipalities.

Corporate and Not-for-Profit Financial Analysis (continued)

- Designing approaches for EPA staff to determine appropriate Superfund clean-up payments for large quantities of de minimus Potentially Responsible Parties (PRPs).
- Evaluating financial documents and other evidence to determine whether the corporate veil can be pierced or if the parent corporation exerted control over subsidiaries.
- Revising the Superfund Financial Assessment System, a model used by EPA and Department of Justice staff to determine the amount of funds that publicly-held corporations can pay for Superfund cleanups.
- Establishing a methodology and criteria for evaluating the ability of not-for-profit organizations to pay for pollution control expenditures or for a penalty, based on six to eight case studies covering diverse organizations.
- Preparing guidance to assess the financial capabilities of individuals to help the State of Iowa prioritize claims for assistance in remediating leaking underground storage tanks.
- Developing and presenting a one-day seminar in corporate finance and analysis for members of EPA's Office of Solid Waste. The seminar covered issues such as financial statements, ratio analysis, and discounted cash flow analysis.

Economic Analysis Experience

Ms. Coad's experience in analyzing issues from an economic perspective include the following projects.

- Directing the preparation of regulatory assessments for major rulemakings under consideration by the U.S. Customs and Border Protection Bureau, including documentation required for the land crossing of individuals into the United States, requiring containers imported into the United States are properly sealed and that importers report additional information regarding shipments coming to the United States.
- Testifying as an expert witness in state, federal, and administrative courts regarding the economic benefit that for-profit and not-for-profit entities may have gained through noncompliance with environmental requirements.
- Directing an effort to evaluate the markets for dissolving pulp and lumber products from Southeast Alaska.
- Providing settlement and litigation support regarding economic benefit issues to clients at the U.S. Department of Justice, U.S. Environmental Protection Agency, and state environmental enforcement units.
- Analyzing the market and financial position of a dissolving pulp mill, and assessing the mill's ability to install additional pollution control equipment.
- Maintaining and updating EPA's computer models that support EPA's penalty policy.
- Training EPA regional and headquarters staff, as well as state enforcement personnel, in the use of EPA's various models used by the enforcement program to evaluate economic benefit and ability to pay.

Economic Analysis Experience (continued)

- Working with EPA pretreatment enforcement staff to ensure that their guidance for a hand-calculated estimate of economic benefit was technically sound and consistent with BEN.
- Directing a study evaluating the U.S. Bureau of Reclamation's approach to pricing and allocating water, particularly for the Central Valley Project in California.
- Analyzing the effect of pension liabilities on a private client's economic decisions to close or reduce the size of specific container manufacturing plants, and assessing the relationship of a major customer's business decisions and strategies to the client's business decisions.
- Analyzing the market for mobile incineration of hazardous wastes, for EPA's Solid Waste and Policy offices. The study examined the current supply of mobile incineration capacity, the likely expansion of capacity over the next year, and the effect of various factors, such as the regulatory environment, on industry growth.

Policy Analysis Experience

At the U. S. Office of Management and Budget (OMB), Ms. Coad instituted major changes in how the government issues regulations. From her experience at OMB and EPA, she has in-depth knowledge of the administrative and analytical procedures necessary to develop sound regulatory initiatives as illustrated by the following activities.

- Organizing the internal OMB process to conduct the central review of government regulations commanded by President Reagan's Executive Order No. 12291 (Federal Regulation), which requires agencies to analyze their regulatory actions using a benefit-cost framework.
- Designing and implementing the President's Executive Order No. 12498 (Regulatory Planning), which instituted an annual budget-like review of agency regulatory activity. The annual Regulatory Program includes about 500 major regulatory actions, and provides early information to the public on regulations that agencies are working on.

At OMB, Ms. Coad was also responsible for annual reviews of several thousand agency requests to collect information. Ms. Coad is an expert in the requirements of the Paperwork Reduction Act, which requires agencies to obtain OMB approval prior to undertaking any information collection. She is also experienced in resolving conflicts between industry and sponsoring federal agencies.

Selected Reports and Publications

Constraining Regulatory Costs: A Budgetary Perspective, authored with Jim J. Tozzi, prepared for Allied Social Sciences Convention, December 28-30, 1981.

Mobile Incineration: An Analysis of the Industry, draft report prepared for the Office of Policy, Planning and Evaluation, and the Office of Solid Waste, U.S. Environmental Protection Agency, June 1989.

Under the direct guidance and supervision of the U.S. EPA, Office of Enforcement various manuals, user guides and computer models used in the penalty setting process, including BEN, ABEL, INDIPAY, MUNIPAY and PROJECT.

Testimony

State of Arizona v. Fiesta Canning Company, Inc., Case No. CV2006-003022, Superior Court of the State of Arizona, In and For the County of Maricopa, 2007. [Deposition]

United States v. Charles Johnson, Francis Vaner Johnson, Genelda Johnson and Johnson Cranberries Limited Partnership, Case No. 99-12465-EFH, U.S. District Court, District of Massachusetts, 2004. [Deposition]

United States v. The City of Los Angeles, Civil Action No. 01-191-RSWL, U.S. District Court, Central District of California - Western Division, 2003 [Deposition]

In the Matter of Lu Vern G. Kienast, and L.G. Kienast Utility Construction Co. Inc., Docket No. CAA-5-201-007. Oshkosh, Wisconsin. 2002. [Testimony at Administrative Hearing]

In the Matter of Energy Gases, Inc., Docket No. EPCRA-02-2000-4002. Syracuse, New York. 2002 [Testimony at Administrative Hearing]

United States v. LTV Steel Company, Inc. U.S. District Court, N.D. Ohio. 2000 [Deposition]

United States v. Conagra. U.S. District Court, Idaho. 1997 [Deposition]

United States v. Plum Creek Manufacturing Company, L.P. U.S. District Court, Montana. 1997 [Deposition]

Pirgim Public Interest Lobby, et al. v. The Dow Chemical Company. U.S. District Court, Eastern District of Michigan, Southern Division. 1996 [Deposition]

United States v. Dewey Wilfong and Harrison Warehouse Company, Incorporated. U.S. District Court, Northern District of West Virginia. 1995 [Trial]

United States v. Marine Shale Processors, Inc., Recycling Park, Inc., and Southern Wood Piedmont Company. U.S. District Court, Western District of Louisiana, Lafayette Division. 1994 [Trial & Deposition]

United States v. EKCO Housewares, Inc. U.S. District Court, District of Ohio, Eastern Division. 1993 [Trial]

United States v. Dext Company of Maryland. U.S. District Court, District of Maryland. 1993 [Deposition]

Massachusetts Water Resources Authority v. A. Allan Rodenheiser and Electric Sewer Company. 1992 [Testimony at Administrative Hearing]

GAIL B. COAD

Testimony (continued)

United States v. Production Plated Plastics et al. U.S. District Court, District of Michigan, Southern Division. 1992 [Trial]

United States v. Town of North Adams. U.S. District Court, District of Massachusetts, Western Section. 1991 [Trial]

United States v. Mobil Oil Corporation. U.S. District Court, Eastern District of California, Sacramento Division. 1991 [Deposition]

State of New Jersey v. J.T. Baker Chemical Company. Superior Court of New Jersey, Chancery Division, Warren County. 1989 [Trial & Deposition]

United States v. Vineland Chemical Company et al. U.S. District Court, District of New Jersey. 1989 [Trial & Deposition]