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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
Advanced Products Technology, Inc.) Docket No. FIFRA-07-2008-0036
Washington, Missouri)
)
Respondent)
)

COMPLAINANT'S MOTION FOR LEAVE TO FILE

OPENING PREHEARING EXCHANGE OUT OF TIME

COMES NOW the United States Environmental Protection Agency, Complainant, and respectfully submits the following Motion To File Opening Prehearing Exchange Out Of Time, to the Honorable Barbara A. Gunning, Administrative Law Judge. Complainant hereby moves that it be allowed to file an Opening Prehearing Exchange out of time.

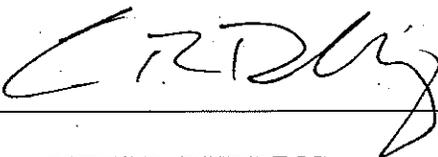
The August 26, 2009, Order Setting Prehearing Procedures, requires that Complainant's Opening Prehearing Exchange be filed October 20, 2009. Due to inadvertent error by counsel, Complainant has not yet filed its Opening Prehearing Exchange. In the midst of updates, service issues, and various filings in this and the three other active matters regarding the corporations operated by Respondent's principals¹, including a motion to consolidate this matter with the three other matters, filed in the matter

¹ In the Matter of FRM Chem, Inc., Docket No. FIFRA-07-2008-0035; In the Matter of Synisys, Inc., Docket No. FIFRA-07-2009-0041; In the Matter of Custom Compounds, Inc., Docket No. FIFRA-07-2009-0042.

of FRM Chem, Inc., Docket No. FIFRA-07-2008-0035, counsel for Complainant inadvertently overlooked the date assigned for filing the prehearing exchange in this matter. Complainant avers that Respondent is not prejudiced by the belated filing of this Prehearing Exchange, since the allegations in the Complaint and supporting evidence attached hereto are straightforward and readily assessed.

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION AGENCY

BY:  _____

CHRIS R. DUDDING
Office of Regional Counsel
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101
(913) 551-7524

ATTORNEY FOR COMPLAINANT

Certificate of Service

I hereby certify the original of this Complainant's Motion for Leave to File Opening Prehearing Exchange Out of Time and also Complainant's opening Prehearing Exchange and attachments thereto were hand delivered to the Regional Hearing Clerk, United States Environmental Protection Agency, Region 7 and true and correct copies are being sent this 28th day of October, 2009, to:

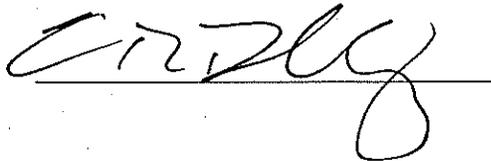
Honorable Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street, N.W.
Suite 350
Washington, D.C. 20005

via email and Federal Express

and

Ann P. Kastendieck
Registered Agent for Advanced Products Technology, Inc.
P.O. Box 1656
Washington, MO 63090

via certified mail

A handwritten signature in black ink, appearing to read "Ann P. Kastendieck", is written over a horizontal line. The signature is cursive and somewhat stylized.