

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2009 JUL 16 PM 1:32
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of           :
Crop Protection Program, Office :      JOINT STATUS REPORT
Of the Agricultural Servicios and:      AND MOTION FOR
Development Administracion,    :      EXTENSION OF TIME
Respondent.                   :
                               :
Proceeding Under the Federal   :      FIFRA-02-2008-5301
Insecticide & Rodenticide Act, :
as amended.                   :
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STATUS REPORT

This Status Report is a follow-up to Complainant counsel's Status Report of July 2, 2009, in response to your Honor's Prehearing Order of June 8, 2009. As promised in Complainant counsel's July 2, 2009 Status Report, this notifies you that on July 13, 2009, Complainant's counsel sent Respondent's counsel a draft Consent Agreement/Final Order ("CA/FO") for review and comment. The CA/FO memorializes the terms of the agreement, including civil penalty, compliance, injunctive requirements and the performance of a SEP. Additionally, on July 14, 2009, Complainant's counsel submitted a SEP memorandum to EPA Headquarters requesting approval of the SEP.

Respondent's counsel has advised Complainant's counsel that Respondent will provide comments to the draft CA/FO by Monday, July 27, 2009. Given that there is a substantive agreement about the critical elements of settlement (penalty, compliance, injunctive work and SEP) it is expected that any issues regarding the language will be able to be resolved expeditiously.

However, given the complexity of this settlement, which involves a SEP, it may take several weeks to finalize the wording of the

CA/FO and to secure the approvals of both the CA/FO and the SEP required within different offices of EPA. Thus, an extension of time, as set forth below, is needed, especially during these summer months, when reviewing officials of both Complainant and Respondent may take a week or two of annual leave.

JOINT MOTION FOR EXTENSION OF TIME TO FILE THE PARTIES'S PREHEARING EXCHANGES

Based on the aforementioned reasons in the Status Report above, and in light of the fact that i) the parties are actively engaged in reviewing and editing a long and complex draft CA/FO involving a SEP, and ii) the Region is consulting with Headquarters concerning the approval of the SEP, both parties file this motion pursuant to 40 C.F.R. Section 22.16(a), requesting that your Honor extend the deadline for filing the parties' Prehearing Exchanges in this matter for forty-eight (48) days, with the new dates as follows:

September 30, 2009: Complainant's Initial Prhearing Exchange

November 1, 2009: Respondent's Prehearing Exchange, including any direct and/or rebuttal evidence.

November 22, 2009: Complainant's Rebuttal Prehearing Exchange.

The parties believe that by September 30, 2009 a fully executed CA/FO will be/have been filed with the Court.

This Joint Motion will allow the parties to avoid needless expenditure of a large amount of resources to prepare Prehearing Exchanges, which will involve the Complainant and Respondent answering 19 and 17 detailed questions, respectively, including detailed narrative statements, and which will also require the production of large amounts of records, reports, correspondence, labels, sworn statements, and documentation in support of the numerous violations in this large Complaint.

Instead, the parties much prefer to devote their resources to reviewing and negotiating the wording of the CA/FO, and getting the CA/FO approved and ratified by both parties amicably and expeditiously.

As both Complainant and Respondent agree to seek this extension, neither party would be prejudiced by it. Insofar as no hearing date has been scheduled, the Court should not be prejudiced by the relief herein sought.

For the above-mentioned reasons, the parties assert that good cause exists for granting this Joint Motion.

Complainant's counsel conferred with Respondent's counsel on July 15, 2009, and Respondent's counsel consented to this motion.

Dated: July 15, 2009
New York, New York

Respectfully submitted,

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

Bruce Aber
Counsel for Complainant

