

EXHIBIT A

Rozol Product Reg. No.	Paragraph Reference to First Amended Complaint	Statement	Supporting Information From Registration Material	Supporting Information From EPA/State/Public Documents	Supporting Material From Other Documents / Hearing Testimony
7173-244 and State Approved 24c Registrations	146	<p><b>Provides the most control available in a single application.</b></p> <p>Document: Direct Mail Package Cover Letter (CX 14a, EPA 000171-172) Date: After October 31, 2007</p>	<p><b>RX 10:</b> Charles D. Lee and Scott E. Hynstrom, <i>Field Efficacy and Hazards of Rozol Bait for Controlling Black-Tailed Prairie Dogs</i>, July 26, 2007</p> <p><b>RX_000662:</b> "We observed a reduction in burrow activity of 95% when comparing activity before versus after treatment and a reduction of 84% when comparing untreated versus treated colonies. ...We observed a reduction in [visual] counts of 94% when comparing counts before versus after treatment and a reduction of 96% when comparing untreated versus treated colonies."</p> <p><b>RX_000666:</b> Table showing 11 of 18 treated plots had 100% control based on burrow plug method.</p> <p><b>RX_000667:</b> Table showing 23 of 36 treated plots had 100% control based on visual count method.</p> <p><b>RX_000658:</b> Indicating study protocol was a single 1/4 cup application of Rozol.</p> <p><b>RX_000653:</b> Total number of burrows treated was 11,479.</p> <p><b>Evidence of Registration Submission:</b></p> <ul style="list-style-type: none"> <li>- RX 1a, RX_000004: "Please note that this study was previously sent to the EPA by the Kansas Department of Agriculture ("KDA") in conjunction with their approval of the KS-070003 SLN on August, 29, 2007. Since we were not the submitter, we were not informed of the MRID number...therefore, we are submitting it ourselves as part of this application." (See RX_000262-263 for evidence of submission of study to EPA headquarters by KDA.)</li> <li>- RX 1c, RX_000024-25: Indicating EPA HQ receipt of study and assigning it MRID No. 47333602.</li> <li>- RX 4i, RX_000259: Indicating submission of study to Kansas Department of Agriculture on August 2, 2007.</li> <li>- RX 5o, RX_000336: Indicating submission of study to Nebraska Department of Agriculture on April 28, 2008.</li> <li>- RX 7r, RX_000489: Indicating submission of study to Colorado Dept. of Agriculture on August 2, 2007.</li> </ul> <p><b>RX 4b:</b> Kansas Department of Agriculture Decision and Order, April 1, 2004</p> <p><b>RX_000231:</b> "Research Trials Show that Rozol Pocket Gopher Bait does provide effective prairie dog control in Kansas when applied at the proposed rate of 1/4 cup of bait per active burrow opening."</p> <p><b>RX 1g, RX_000112:</b> As set forth by Dan Peacock of EPA Registration Division in reviewing the registration of Rozol Prairie Dog Bait: "According to the data, this bait formula normally works with a single application so reapplication is not expected to be the norm."</p>	<p><b>RX 29, RX_001880:</b> "The efficacy report by Lee and Hynstrom (2007: MRID No. 473336-02) suggests that single applications of 1/4 cup of bait effectively controlled black-tailed prairie dogs under the conditions of use. The census method involved in the study overlapped in time and were conducted for shorter periods of time than is typical for field efficacy trials of rodenticides on farm and rangelands. However, <u>the trials were adequate to support the fundamental label claim</u>" (emphasis added).</p> <p><b>RX 90, RX_004313:</b> A review by EPA (Jacobs, 2009) of a study conducted by Lee and Hynstrom (2007) indicates that the efficacy of an in-burrow application of 1/4 cup of chlorophacinone bait resulted in a prairie dog activity reduction in the 85%-100% range, based on the closed burrow index."</p> <p><b>RX 63, RX_003362:</b> Charles D. Lee and Jeff LeFlore, Efficacy of 3 In-Burrow Treatments to Control Black-Tailed Prairie Dogs, 2007 (showing in-burrow application of chlorophacinone to be 100% effective in each of 3 survey techniques).</p>	<p><b>RX 26:</b> Shay Boatman, Efficacy of Several Rodenticide Baits for Controlling Black-Tailed Prairie Dogs (Cynomys Ludovicianus).</p> <p><b>RX_001832-1833:</b> "The results indicate that Rozol will effectively control prairie dogs. Visual counts indicate a reduction of 73.9% in this study. Kaput Prairie Dog Bait [diphacinone] visual indices results were 55.5%. Kaput gopher bait was reduced 56%...When comparing efficacy using the plugged census Rozol demonstrated a reduction of active burrows by 78%. As compared to Kaput prairie dog bait which demonstrated a reduction of only 52.5% Kaput gopher bait showed a reduction of 57.1%."</p> <p>(Schmit Tr. 106:19 - 108:5, 110:10 - 20) ("visual counts of prairie dogs declined dramatically. They observed a reduction in counts of 94% when comparing counts before versus after treatment, and a reduction of 96% when comparing untreated versus treated colonies... so all of these results reported are after a single application.").</p>
	149	<p><b>Poses low primary poisoning potential to birds and other non-targets.</b></p> <p>Document: Direct Mail Package Cover Letter (CX 14a, EPA 000171-172) Date: After October 31, 2007</p>	<p><b>RX 5o, RX_000336:</b> According to the registration submission to the Nebraska Department of Agriculture - "I have enclosed a copy of the field efficacy study that has been submitted to EPA in support of our application for Section 3 registration. This large-scale field investigation included assessment of the availability of poisoned prairie dogs and carcasses to predators/scavengers and also assessment of the availability of bait on the ground surface following application. It involved multiple sites in Kansas and Nebraska, with 11,497 burrows treated on approximately 144 treated acres. Thorough carcass searches, conducted every other day for 21 days after treatment, recovered only 9 prairie dog carcasses...This research was specifically designed to provide data necessary to address the specific questions and concerns that have been raised during the previous reviews of this prairie dog use by EPA, US Fish &amp; Wildlife Service and various state agencies."</p>	<p><b>RX 12:</b> William Erickson and Douglas Urban, Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals, A Comparative Approach, July 2004 (Analysis prepared by U.S. EPA)</p> <p><b>RX_001069-70:</b> Chart Regarding Overall Risks to Birds and Mammals</p> <p><b>RX_001026-27:</b> Potential Primary Risks to Birds</p> <p><b>RX_001034-35:</b> Potential Risks to nontarget mammals</p> <p><b>RX_000992-994:</b> Mammalian Toxicity</p> <p><b>RX 12:</b> William Erickson and Douglas Urban, Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals, A Comparative Approach, July 2004 (Analysis prepared by U.S. EPA).</p> <p><b>RX_000998:</b> "The available laboratory studies indicate that major differences occur among the rodenticides in their secondary hazard to birds, with brodifacoum displaying the greatest hazard and chlorophacinone and the non-anticoagulants the least."</p>	<p>(Schmit Tr. 134:22 - 138:24).</p>



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			<p><b>RX 5o, RX_000336:</b> According to the registration submission to the Nebraska Department of Agriculture - "During the initial review of Rozol Prairie Dog Bait by your agency, it was requested that Liphatech conduct additional secondary hazard studies. In planning our Section 3 application, we reviewed the need for such additional studies with EPA. Based on their review of 13 bird studies (using 112 test subject birds) and 9 mammal studies (using 55 test subject mammals), EPA has determined that this existing data is sufficient for their assessment purposes...EPA also has other information with which to assess nontarget hazards. In particular, the California Department of Agriculture (CDFA) has submitted to EPA a comprehensive risk assessment..."</p> <p><b>RX 4j, RX_000262:</b> According to the Kansas Department of Agriculture, "[t]his special local needs registration is intended to offer an efficacious tool with less potential for adverse effects to human health and non-target mammals and birds than registered alternative products containing zinc phosphide and aluminum phosphide."</p> <p><b>RX 8.g., RX_000590-591:</b> According to the Texas Department of Agriculture, "Evaluating the potential impact on the endangered and non-target species in the area, we concluded that in-burrow application and removal of carcasses from the surface in a timely basis preventing access to scavengers would prevent exposure to the chemical among these species...We did not identify any other environmental concerns. The label language is sufficient to mitigate and minimize potential risks to native Texas wildlife and the environment."</p>	<p><b>RX 63:</b> Charles D. Lee and Jeff LeFlore, Efficacy of 3 In-Burrow Treatments to Control Black-Tailed Prairie Dogs, 2007.</p> <p><b>RX_003360:</b> "Concerns about efficacy, bait avoidance, extra labor involved with pre-baiting and the potential exposure to birds and other non-target wildlife to toxic bait cause managers to seek alternatives to zinc phosphide applied on the surface."</p> <p><b>RX_003362:</b> "A comparative analysis model has been used by the EPA to rank and compare potential primary and secondary risks to birds and mammals (USEPA 2004) (Table 2). Use of that model indicates a wide variance of risk among toxicants. As conscientious wildlife managers we should strive to use products that are efficacious but also reduce risk to other wildlife and the environment. That model would suggest that either chlorophacinone or diphacinone would pose less risk than zinc phosphide."</p>	
	152	<p><b>Both restricted-use and general-use Rozol products are formulated using proven anticoagulant chlorophacinone at 50 PPM (parts per million) - unlike other half-strength, diphacinone-based baits containing as low as 25PPM.</b></p> <p>Document: Direct Mail Package Cover Letter (CX 14a, EPA 000171-172) Date: After October 31, 2007</p>	<p><b>RX 1i, RX_000140; RX 2d, RX_000167; and RX 3g, RX_000215-219:</b> Labels for EPA Reg. No 7173-286, EPA Reg. No 7173-244 and EPA Reg. No 7173-184 indicating Rozol baits are 50 PPM.</p>	<p><b>RX 66-67, RX_003379-3383:</b> Special Local Needs Labels for Kaput-D Prairie Dog Bait indicating concentration of active ingredient at 25 PPM.</p>	<p><b>RX 26:</b> Shay Boatman, <i>Efficacy of Several Rodenticide Baits for Controlling Black-Tailed Prairie Dogs (Cynomys Ludovicianus)</i>. RX_001832: "The active ingredient in Kaput-D Prairie Dog Bait is diphacinone (.0025%)." RX_001832-1833: "The results indicate that Rozol will effectively control prairie dogs. Visual counts indicate a reduction of 73.9% in this study. Kaput Prairie Dog Bait [diphacinone] visual indices results were 55.5%. Kaput gopher bait was reduced 56%...When comparing efficacy using the plugged census Rozol demonstrated a reduction of active burrows by 78%. As compared to Kaput prairie dog bait which demonstrated a reduction of only 52.5% Kaput gopher bait showed a reduction of 57.1%."  (Schmit Tr. 142:12 - 143:25).</p>
	155	<p><b>Rozol consistently controlled Prairie Dog populations using a single application.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000176) Date: After October 31, 2007</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.  (Schmit Tr. 146:20-22).</p>
	158	<p><b>Conclusion: Rozol delivers proven single application effectiveness.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000176) Date: After October 31, 2007</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.  (Schmit Tr. 146:20-22).</p>

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	161	<p><b>Secondary Hazard / Nearly all Prairie Dogs expired underground.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000176) Date: After October 31, 2007</p>	<p><b>RX 10:</b> Charles D. Lee and Scott E. Hygnstrom, Field Efficacy and Hazards of Rozol Bait for Controlling Black-Tailed Prairie Dogs, July 26, 2007. <b>RX_000663:</b> "Carcass Availability: During the entire study, we found only 10 carcasses above ground (9 black-tailed prairie dogs and 1 cottontail) in 5 of the 10 treated colonies...Carcasses were only found 10 to 25 days after application...Therefore, the density of carcasses observed aboveground due to Rozol intoxication was 0.07 per acre or 1 carcass per 14 acres."</p>	<p><b>RX 63:</b> Charles D. Lee and Jeff LeFlore, Efficacy of 3 In-Burrow Treatments to Control Black-Tailed Prairie Dogs, 2007. <b>RX_003361-3363:</b> "A methodical carcass search of the complete treated plots was conducted twice each day until day 19 when snow covered the sites and we were no longer able to travel to the sites. Search grids were established about 40 m apart and driven each day with the searcher looking out the driver's side window...Carcass searches were conducted both in the morning (to reduce likelihood of scavenging by raptors) and in the afternoon (to reduce scavenging by nocturnal predators)... In this trial, we only found four prairie dogs that had died on top of the ground. All were found in the 4.9 ha colony that had been treated with Kaput D prairie dog bait."  <b>RX 12:</b> William Erickson and Douglas Urban, Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals, A Comparative Approach, July 2004 (Analysis prepared by U.S. EPA). <b>RX_000998:</b> "The available laboratory studies indicate that major differences occur among the rodenticides in their secondary hazard to birds, with brodifacoum displaying the greatest hazard and chlorophacinone and the non-anticoagulants the least."  <b>RX 5j, RX_000319:</b> According to an e-mail communication from Tim Creger at the Nebraska Department of Agriculture - "I thought some of you would be interested in what our sales and use monitoring efforts found this spring regarding sales and use of Rozol for Prairie Dogs under the Section 24(c) label...In telephone and personal survey inspections, we documented 11 sales of Rozol which were intended to be used for control of prairie dogs. Of those sales, 8 applications were made, the other three decided to wait until fall due to the snow. Of the 8 applications made, 2 applicators reported finding one dead prairie dog each, the others claimed they monitored but found no dead dogs at all. Both applicators who found dead dogs stated they followed the label's burial procedures. No non-target species were reported to be impacted by the use of the product. I am providing this report as a courtesy to inform you of the known use of Rozol under the Section 24(c) label. Inspectors will again be asked to monitor the sales and use of the product this fall and winter..."</p>	(Schmit Tr. 148:3-13, 149:8-11).
	164	<p><b>Conclusion: Above-ground exposure risk to non-targets from Rozol is insignificant.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000176) Date: After October 31, 2007</p>	Same references as for Paragraph 161 of the First Amended Complaint.	Same references as for Paragraph 161 of the First Amended Complaint.	(Schmit Tr. 149:15-20).
	167	<p><b>Over all sites, 95% average population reduction was achieved as measured by the 'plugged burrow' census method.<sup>1</sup></b></p> <p>Document: Research Bulletin (CX 14a, EPA 000176) Date: After October 31, 2007</p>	<p><b>RX 10:</b> Charles D. Lee and Scott E. Hygnstrom, Field Efficacy and Hazards of Rozol Bait for Controlling Black-Tailed Prairie Dogs, July 26, 2007. <b>RX_000662:</b> "Burrow activity declined dramatically in all colonies treated with Rozol (P&lt;0.0001, Table 3). We observed a reduction in burrow activity of 95% when comparing activity before versus after treatment."</p>		(Schmit Tr. 153:19 - 154:10).
	170	<p><b>Over all sites, 94% average population reduction was achieved when measured by the 'visual count' census method.<sup>1</sup></b></p> <p>Document: Research Bulletin (CX 14a, EPA 000176) Date: After October 31, 2007</p>	<p><b>RX 10:</b> Charles D. Lee and Scott E. Hygnstrom, Field Efficacy and Hazards of Rozol Bait for Controlling Black-Tailed Prairie Dogs, July 26, 2007. <b>RX_000662:</b> "Visual counts of prairie dogs declined dramatically in all colonies treated with Rozol (P&lt;0.0001, Table 4). We observed a reduction in counts of 94% when comparing counts before versus after treatment and a reduction of 96% when comparing untreated versus treated colonies."</p>		(Schmit Tr. 154:13-17).

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	173	<p>Traditional control products such as zinc phosphide or Diphacinone-based anticoagulants have not proven to effectively prevent population recovery, leading to the need for costly re-treatment.</p> <p>Document: Research Bulletin (CX 14a, EPA 000178) Date: After October 31, 2007</p>		<p><b>RX 63:</b> Charles D. Lee and Jeff LeFlore, Efficacy of 3 In-Burrow Treatments to Control Black-Tailed Prairie Dogs, 2007.</p> <p><b>RX_003362:</b> Table 1: Percent reduction of black-tailed prairie dog activity by application of toxicants applied in-burrow and on the surface on variable-sized plots in eastern Colorado in 2006-2007.</p> <p><b>RX_003360:</b> "Concerns about efficacy, bait avoidance, extra labor involved with pre-baiting and the potential exposure to birds and other non-target wildlife to toxic bait cause managers to seek alternatives to zinc phosphide applied on the surface."</p>	(Schmit Tr. 154:19 - 155:9).
				<p><b>RX 89, RX_004299:</b> "EPA understands that when an applicator chooses bait from an economic standpoint, they may prefer Rozol even though it costs more [shelf price] than the zinc phosphide products. Eliminating the skilled labor requirements for prebaiting with zinc phosphide is apparently a relevant factor for such applicators...Thus the prebaiting requirement [of zinc phosphide] may be time consuming and labor intensive."</p> <p><b>RX 89, RX_004300:</b> "EPA is mindful...that in certain circumstances chlorophacinone bait is more effective or more expedient to apply than the available alternatives."</p> <p><b>RX 4b, RX_000232:</b> According to the Kansas Department of Agriculture, "Rozol Prairie Dog Bait does not require pre-baiting which makes it more cost effective to use than zinc phosphide."</p>	
				<p><b>RX 72:</b> William W. Jacobs, IRB Branch Review, July 2, 2004.</p> <p><b>RX_003556-57:</b> (Citing Holbrook, H.T. and Timm, R.M. (1985) Comparisons of Strychnine and Zinc Phosphide In Prairie Dog Control. Proceedings: Second Eastern Wildlife Damage Conference, Raleigh NC, 73-39.) "On the Zinc Phosphide plots, burrow activity reportedly was reduced by a mean and a median of 66%, with reductions at individual sites again ranging from 37%-100%, but with 5 of the results being in the 60-60% range (64-69%, actually).</p>	<p><b>RX 26:</b> Shay Boatman, Efficacy of Several Rodenticide Baits for Controlling Black-Tailed Prairie Dogs (Cynomys Ludovicianus).</p> <p><b>RX_001832-1833:</b> "The results indicate that Rozol will effectively control prairie dogs. Visual counts indicate a reduction of 73.9% in this study. Kaput Prairie Dog Bait [diphacinone] bait visual indices results were 55.5%. Kaput gopher bait was reduced 56%...When comparing efficacy using the plugged census Rozol demonstrated a reduction of active burrows by 78%. As compared to Kaput prairie dog bait which demonstrated a reduction of only 52.5%. Kaput gopher bait showed a reduction of 57.1%."</p>
	176	<p><b>Kaput-D Prairie Dog Bait (25 PPM) achieved only 53% to 56% control.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000178) Date: After October 31, 2007</p>			<p><b>RX 26:</b> Shay Boatman, Efficacy of Several Rodenticide Baits for Controlling Black-Tailed Prairie Dogs (Cynomys Ludovicianus).</p> <p><b>RX_001832-1833:</b> "The results indicate that Rozol will effectively control prairie dogs. Visual counts indicate a reduction of 73.9% in this study. Kaput Prairie Dog Bait [diphacinone] visual indices results were 55.5%. Kaput gopher bait was reduced 56%...When comparing efficacy using the plugged census Rozol demonstrated a reduction of active burrows by 78%. As compared to Kaput prairie dog bait which demonstrated a reduction of only 52.5% Kaput gopher bait showed a reduction of 57.1%."</p> <p>(Schmit Tr. 156:8-11).</p>

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	179	<p><b>Kaput-D Pocket Gopher Bait* (50 PPM) 2x the rate of active ingredient achieved only 56% to 57% control. *Not labeled for Black Tailed Prairie Dog.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000178) Date: After October 31, 2007</p>			<p><b>RX 26:</b> Shay Boatman, Efficacy of Several Rodenticide Baits for Controlling Black-Tailed Prairie Dogs (<i>Cynomys Ludovicianus</i>).</p> <p><b>RX_001832-1833:</b> "The active ingredient in Kaput-D prairie Dog Bait is diphacinone (.0025%)...Kaput-D Pocket Gopher Bait, which has .005% diphacinone as the active ingredient...Rozol Pocket Gopher Bait, which contains .005% chlorophacinone as the active ingredient. Kaput Prairie Dog Bait [diphacinone] bait visual indices results were 55.5%. Kaput gopher bait was reduced 56%...When comparing efficacy using the plugged census Rozol demonstrated a reduction of active burrows by 78%. As compared to Kaput prairie dog bait which demonstrated a reduction of only 52.5%. Kaput gopher bait showed a reduction of 57.1%."</p> <p>(Schmit Tr. 156:15-23).</p>
	182	<p><b>Comparative Toxicity Profile Overall Risk to Birds and Mammals / Rozol is ranked over 50% lower than zinc phosphide in the EPA's overall risk index and 1/3 lower than Diphacinone (Kaput-D).</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000179) Date: After October 31, 2007</p>	<p><b>RX 28:</b> Liphatech's response to concerns raised by SLN Reviews conducted by the Environmental Fate and Effects Division and explanation that theoretical risks are not observed in real-world application of Rozol.</p>	Same references as set forth in Paragraph 149 of the First Amended Complaint for RX 12.	(Schmit Tr. 156:24-6).
	185	<p><b>Rozol's active ingredient (chlorophacinone) is ten times (10X) less toxic to dogs as Kaput-D's (diphacinone).</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000179) Date: After October 31, 2007</p>		<p><b>RX 12:</b> William Erickson and Douglas Urban, Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: A Comparative Approach. <b>RX_000992-993:</b> See Table 9.</p>	(Schmit Tr. 157:7-12).
	188	<p><b>Chlorophacinone is over 100X more effective on mice than diphacinone.</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000179) Date: After October 31, 2007</p>		<p><b>RX 12:</b> William Erickson and Douglas Urban, Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: A Comparative Approach. <b>RX_000992-993:</b> See Table 9 (the lowest recorded LD50 value on house mice for chlorophacinone is 1mg/kg, while the lowest LD50 on house mice for diphacinone is 141mg/kg and ranges as high as 340 mg/kg).</p>	(Schmit Tr. 157:13-17).
	191	<p><b>Conclusion: Rozol- the lowest risk profile among Black Tailed Prairie Dog bait alternatives...Why Risk potential harm to employees, livestock, birds, pets or other non-targets?</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000179) Date: After October 31, 2007</p>	<p>Same references as for Paragraph 149 of the First Amended Complaint.</p> <p><b>RX 28:</b> Liphatech's response to concerns raised by SLN Reviews conducted by the Environmental Fate and Effects Division and explanation that theoretical risks are not observed in real-world application of Rozol.</p>	Same references as for Paragraph 149 of the First Amended Complaint.	(Schmit Tr. 157:18 - 158:5).
	194	<p><b>Chart entitled "Compare the products for yourself - there are many differences."</b></p> <p>Document: Research Bulletin (CX 14a, EPA 000179) Date: After October 31, 2007</p>	<p>Highly Efficacious: Same references as paragraphs 146, 173, 176, 179, 185, 278, 281, 296, 305. Palatability/Acceptance: Same references as paragraphs 287, 299, 305. Highly Weatherable: Same references as paragraph 281. Easy to Apply: Same references as paragraph 305. Pretreatment/Retreatment: Same references as paragraphs 146, 305. Easy to Store: Same references as paragraph 281. Antidote: See RX 72, RX_003562 (indicating Vitamin K<sub>1</sub> as antidote for chlorophacinone ingestion)</p>		(Schmit Tr. 159:4, 160:11, 162:1-5, 163:7-19, 173:6-17).

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	199	<p><b>Rozol - proven single application effectiveness for the control of black-tailed prairie dogs.</b></p> <p>Document: Radio Broadcast (CX 42-45) Date: After September 26, 2007</p>	Same references as for Paragraph 146 of the First Amended Complaint.		(Schmit Tr. 174:17-24).
	202	<p><b>Proven in university studies on over 10,000 burrows to get 94% control with a single treatment.</b></p> <p>Document: Radio Broadcast (CX 42-45) Date: After September 26, 2007</p>	Same references as for Paragraph 146 of the First Amended Complaint.		(Schmit Tr. 175:1-8).
7173-286	275	<p><b>Proven Single Application Effectiveness - When properly applied in all active burrows of a colony, control typically exceeds 85%, and can be as high as 100%.</b></p> <p>Document: Website (CX 28, EPA 000512) Date: November 18, 2009</p>	Same references as for Paragraph 146 of the First Amended Complaint.		(Schmit Tr. 176:2-3).
	278	<p><b>Low Cost per acre - Savings in time, labor and fuel exceed comparative total costs of other methods such as zinc phosphide, diphacinone, phos-toxin, and foam or propane-based systems.</b></p> <p>Document: Website (CX 28, EPA 000512) Date: November 18, 2009</p>		<p>Same references as for Paragraph 173 of the First Amended Complaint.</p> <p><b>RX 71:</b> Scott E. Hygnstrom and Kurt C. VerCauteren. "Cost-effectiveness of five burrow fumigants for managing black-tailed prairie dogs." 2000.</p> <p><b>RX_003537:</b> "We evaluated the cost-effectiveness of two solid form burrow fumigants (aluminum phosphide and gas cartridges) and three pressurized gas-liquid burrow fumigants...for managing black tailed prairie dogs...Total costs for materials and labor for the aluminum phosphide and gas cartridges, excluding application equipment, were twice (\$75.00 to \$96.88 ha) the cost of pressurized gas-liquid fumigants (\$37.67 to \$41.67 ha). Costs for the application equipment were considerably higher for the pressurized materials. Each treatment required labor for burrow plugging, which accounted for 50-75% of the total cost."</p> <p><b>RX 90, RX_004306:</b> According to EPA Staff, "The principal benefit of chlorophacinone bait to users is a substantial reduction in the time and labor required for effective use. Chlorophacinone is unlikely to result in bait aversion and does not require prebaiting."</p>	<p>Liphatech: Applied cost of Rozol is typically under \$3.20/ha (no need to prebait or and is typically effective in a single application).</p> <p>(Schmit Tr. 176:11-25).</p>
	281	<p><b>Superior Weatherability – Rozol does not lose its effectiveness when wet. It outlasts Zinc Phosphide.</b></p> <p>Document: Website (CX 28, EPA 000512) Date: November 18, 2009</p>	<p><b>RX 10:</b> Charles D. Lee and Scott E. Hygnstrom, Field Efficacy and Hazards of Rozol Bait for Controlling Black-Tailed Prairie Dogs, July 26, 2007.</p> <p><b>RX_000654:</b> "Ranchers want additional options to consider when managing prairie dogs because they are not satisfied with the efficacy of 2% zinc phosphide oats which has been the primary product for controlling prairie dogs for many years."</p> <p><b>RX_000652:</b> "the test substance [Rozol] bait has been demonstrated to be stable in storage at ambient conditions..., and no special storage conditions were necessary to preserve the identity, strength, purity and stability of the test substance."</p>	<p><b>RX 65, RX_003374:</b> Prozap Zinc Phosphide Oat Bait Label, EPA Reg. No. 61282-14 indicates under "Limitations" - "Apply bait on warm, clear days."</p> <p><b>RX 65, RX_003376:</b> Prozap Zinc Phosphide Oat Bait Label, EPA Reg. No. 61282-14 indicates under "Storage and Disposal" - "STORAGE: Store only in original container in a cool, dry, well-ventilated place inaccessible to children, pets and wildlife. Protect from direct contact with water or excessive moisture. Once opened, do not store bag for prolonged period."</p> <p><b>RX 89, RX_004298:</b> According to EPA staff, "Zinc Phosphide will degrade rapidly under wet and snowy conditions."</p> <p><b>RX 89, RX_004306:</b> According to EPA staff: "Further, zinc phosphide converts to phosphine gas when exposed to moisture, reducing its effectiveness in damp conditions and when precipitation occurs."</p> <p><b>RX 89, RX_004312:</b> "Efficacy of zinc phosphide is dependent on weather conditions, especially precipitation, because it converts to phosphine gas when moist."</p>	Common knowledge that zinc phosphide gasses off when it is wet and moisture does not impact Rozol in the same manner.

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Rozol Product Reg. No.	Paragraph Reference to First Amended Complaint	Statement	Supporting Information From Registration Material	Supporting Information From EPA/State/Public Documents	Supporting Material From Other Documents / Hearing Testimony
	284	<p><b>Provides control, regardless – With many alternative methods, if the target rodent is not in the burrow during application – success is reduced or control is lost altogether.</b></p> <p>Document: Website (CX 28, EPA 000512) Date: November 18, 2009</p>	<p>RX 1k, RX_000149: According to the Rozol product label, 1/4 cup of Rozol is applied to the prairie dog burrow, where it stays until it is consumed by the prairie dog.</p>	<p><b>RX 71, RX_003538:</b> According to researchers Scott Hygnstrom and Kurt Ver Cauteren, "Aluminum phosphide and gas cartridges are solid form fumigants registered for treating the tunnel systems of prairie dogs and other burrowing rodents... Aluminum phosphide tablets function by releasing phosphine gas (H<sub>3</sub>P) when they come into contact with moisture in the soil or atmosphere." If the prairie dog is not in the burrow when the gas diffuses, the product is ineffective.</p>	<p>Common knowledge that alternative pesticides such as burrow fumigants and propane based explosive devices which do not have residual effects will not work if the black-tailed prairie dog returns to the burrow after foraging.</p> <p>(Schmit Tr. 178:22 - 179:5, 180:17-23).</p>
	287	<p><b>Best Bait Acceptance &amp; Favorable Toxicity Profile – According to the EPA's overall risk assessment, Rozol offers lower overall risk than Zinc Phosphide or Diphacinone, and Prairie dogs will eat it in the burrow, so there is less risk to non-target wildlife.</b></p> <p>Document: Website (CX 28, EPA 000512) Date: November 18, 2009</p>	<p>Same references as for Paragraph 149 of the First Amended Complaint.</p> <p><b>RX 11:</b> Charles D. Lee, In-burrow Application of Rozol to Manage Black-tailed Prairie Dogs, April 22, 2005.</p> <p><b>RX_000951:</b> "This experiment demonstrated that black-tailed prairie dogs (Cynomys Ludovicianus) will consume rodenticide underground in their burrows. I demonstrated the efficacy of Rozol Pocket Gopher Bait containing the active ingredient chlorophacinone (0.0005%) 21 days post treatment for managing black-tailed prairie dogs in their burrows in Kansas. Active prairie dog burrows were reduced 90% when 54 grams of Rozol was placed in the burrow without prebaiting. Results indicate use of this toxicant when placed in the burrow can be an effective means of managing prairie dogs. In-burrow application of rodenticides for black-tailed prairie dog management should markedly reduce exposure of birds to toxic bait."</p> <p><b>Evidence of Registration Submission:</b></p> <ul style="list-style-type: none"> <li>- RX_000272: Submitted study to State of Nebraska.</li> <li>- RX_000349: Submitted study to State of Wyoming.</li> <li>- RX_000387: Submitted study to State of Colorado.</li> <li>- RX_000522: Submitted study to State of Texas.</li> <li>- RX_000602: Submitted study to State of Oklahoma.</li> </ul>	<p>Same references as for paragraph 161 of the First Amended Complaint.</p> <p><b>RX 89, RX_004295:</b> "The Colorado Department of Agriculture is correct in some regard in noting that EPA's 2004 assessment, 'Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: A Comparative Approach' indicates that zinc phosphide is higher risk than chlorophacinone for use on black-tailed prairie dogs... Brodifacoum and difethialone stand out as the two rodenticides posing the greatest potential overall risk to birds and non-target mammals, followed by bromadiolone and diphacinone. Zinc Phosphide is also ranked high for overall risk based on the comparative analysis modeling..."</p> <p><b>RX 89, RX_004298:</b> According to EPA staff: "Zinc phosphide bait presents higher risk to applicators than chlorophacinone bait."</p> <p><b>RX 89, RX_004300:</b> "EPA is mindful: that chlorophacinone bait presents fewer safety issues for the applicator than zinc phosphide bait or aluminum phosphide fumigant."</p> <p><b>RX 89, RX_004300:</b> "EPA is mindful: ...Zinc phosphide demonstrates high potential for primary risks with a number of nontarget incidents associated with its use."</p> <p><b>RX 89, RX_004300:</b> According to EPA staff: "Application [of Rozol] is below ground, into the burrow."</p>	<p>(Schmit Tr. 180:25 - 182:1).</p>
			<p><b>RX 5a, RX_000272:</b> According to Liphatech's registration cover letter: "Our application addresses the concern for secondary hazard to predators and scavengers that may feed upon poisoned prairie dogs. The EPA has assessed the secondary hazard potential of chlorophacinone baits to be low (see "EPA's Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: A Comparative Approach" published July 2004, available in EPA docket number OPP 2004-033). The enclosed secondary hazard studies were among the many examined by EPA in this assessment process."</p> <p><b>RX 1a, RX000005:</b> Liphatech's cover letter for the registration of Rozol Prairie Dog Bait states: "Finally, we would again emphasize the history of safe use that has been established for this prairie dog bait over the past 4 seasons of use under SLN labels. The states that have been closely monitoring the use of this product (especially Nebraska and Colorado) and report no non-target exposures, poisonings, or other significant problems in the use of these SLN products."</p> <p><b>RX 4a, RX_000225:</b> According to researcher Charles Lee, "this level of efficacy leads me to assume that in burrow application of toxicants for prairie dog control is an effective method of controlling prairie dogs while greatly reducing hazards for non-target species."</p>	<p><b>RX 4b, RX_000232:</b> According to the Kansas Department of Agriculture, "Chlorophacinone is considered to be relatively less environmentally hazardous compared to labeled alternative pesticide products."</p> <p><b>RX 4b, RX_000231:</b> According to the Kansas Department of Agriculture, label restrictions prevent harm to non-target species: "To prevent injury to scavengers, all carcasses exposed on the soil surface that may contain residues of chlorophacinone must be gathered and buried according to specific label directions."</p> <p><b>RX 4b, RX_000232:</b> According to the Kansas Department of Agriculture, alternative products available for the control of black-tailed prairie dogs are more hazardous: "The only bait type products specifically labeled for control of prairie dogs consist of zinc phosphide treated grain. These products are known for their toxicity and propensity for poisoning non-target animals that may occur in treated areas. Besides zinc phosphide baits, the only other pesticide products labeled for prairie dog control are aluminum phosphide fumigants which are considered excessively hazardous."</p>	

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Rozol Product Reg. No.	Paragraph Reference to First Amended Complaint	Statement	Supporting Information From Registration Material	Supporting Information From EPA/State/Public Documents	Supporting Material From Other Documents / Hearing Testimony
	290	<p><b>Lower Primary Poisoning Potential – Rozol's toxicity to birds is 20X (times) less than for ZP. Rozol is less toxic to dogs than ZP or Diphacinone.</b></p> <p>Document: Website (CX 28, EPA 000512) Date: November 18, 2009</p>	<p><b>RX 11:</b> Charles D. Lee, In-burrow Application of Rozol to Manage Black-tailed Prairie Dogs, April 22, 2005.</p> <p><b>RX_000951:</b> "In-burrow application of rodenticides for black tailed prairie dog management should markedly reduce exposure of birds to toxic bait."</p>	<p><b>RX 12:</b> William Erickson and Douglas Urban, Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: A Comparative Approach, 2004.</p> <p><b>RX_001034:</b> "Based on the comparative analysis model, zinc phosphide is ranked as the rodenticide posing the greatest potential primary risk to nontarget mammals, with brodifacoum ranked a distant second, and warfarin and bromadiolone an even more distant third and fourth."</p> <p><b>RX_001027:</b> Table 28. Comparative Risk to Birds From a Single Feeding of Rodenticide, Based on the Amount of Bait Needed to Ingest an LD50 Dose (i.e. a dose lethal to 50% of the individuals in a population).</p> <p><b>RX_001035:</b> Table 31. Comparative Risk to Mammals From a Single Feeding of Rodenticide, Based on the Amount of Bait Needed to Ingest an LD50 Dose (i.e. a dose lethal to 50% of the individuals in a population).</p> <p><b>RX_001038:</b> Figure 3. Comparative Analysis Model Summary Values for Primary Risk to Nontarget Mammals.</p> <p><b>RX_000992:</b> Table 9. Acute Oral Toxicity of First-generation Anticoagulants to Mammals.</p>	(Schmit Tr. 182:4-9).
	293/311 <sup>1</sup>	<p><b>Outstanding Single Application Effectiveness.</b></p> <p>Document: Website (CX 28, EPA 000526) Date: November 18, 2009</p>	Same references as for Paragraph 146 of the First Amended Complaint.		(Schmit Tr. 182:22 - 183:2).
	296/314 <sup>1</sup>	<p><b>Proven Reliability – In university trials on over 11,400 burrows to provide over 94% control in one treatment (when properly and thoroughly applied to all active burrows in a colony).</b></p> <p>Document: Website (CX 28) Date: November 18, 2009</p>	<p>Same references as for Paragraph 146 of the First Amended Complaint.</p> <p>According to the study Field Efficacy and Hazards of Rozol Bait for Controlling Black-tailed Prairie Dogs dated July 26, 2007 (<b>RX 10</b>), 1/4 cup of Rozol applied to 11,479 burrows reduced black-tailed prairie dog populations by over 94% as measured by visual observation.</p>		(Schmit Tr. 183:9-14).

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Rozol Product Reg. No.	Paragraph Reference to First Amended Complaint	Statement	Supporting Information From Registration Material	Supporting Information From EPA/State/Public Documents	Supporting Material From Other Documents / Hearing Testimony
	299/317 <sup>1</sup>	<b>Highly Palatable – Food-grade winter wheat grain (10% protein) is a preferred feed source for field rodents and provides excellent acceptance and control.</b>  Document: Website (CX 28, EPA 000526) Date: November 18, 2009	Same references as for Paragraph 146 of the First Amended Complaint (efficacy results demonstrate that Black-tailed Prairie Dogs consume Rozol).		(Schmit Tr. 183:17 - 184:10).
	302/320 <sup>1</sup>	<b>Superior Weatherability – Rozol does not lose its effectiveness when wet – it outlasts zinc phosphide and can be used under diverse weather conditions.</b>  Document: Website (CX 28, EPA 00526) Date: November 18, 2009	Same references as for Paragraph 281 of the First Amended Complaint.		(Schmit Tr. 185:2-7).
	305/323 <sup>1</sup>	<b>Easy-to-Use/Less Work – No need to pre-treat and less repeat applications.</b>  Document: Website (CX 28, EPA 000526) Date: November 18, 2009	<b>RX 11:</b> Rozol Prairie Dog Bait, EPA Reg. No. 7173-286. The accepted label does not require pre-baiting as labels for zinc phosphide products do.  <b>RX 6a, RX_000349:</b> "The registered pesticide products that are currently available for this use (zinc phosphide, toxic gas cartridges) are difficult to use and do not provide consistent control of the target pest."	<b>RX 89, RX_004298:</b> According to EPA Staff, "the State Lead Agencies and others have reported to EPA that zinc phosphide baits are not always efficacious. In making this determination of a Special Local Need in 2006, the Colorado Department of Agriculture (CDA) noted that in order to obtain good control, prairie dogs must be conditioned to accept the bait by prebaiting since bait aversion can develop."  <b>RX 89, RX_004299:</b> According to EPA Staff, "EPA understands that when an applicator chooses bait from an economic standpoint, they may prefer Rozol even though it costs more than the zinc phosphide products. Eliminating the skilled labor requirement for prebaiting with zinc phosphide is apparently a relevant factor for such applicators. Prebaiting necessitates observation to ensure that the black-tailed prairie dogs consume the untreated oats...Thus the prebaiting requirement may be time consuming and labor intensive."  <b>RX 72, RX_003551:</b> William W. Jacobs, IRB Branch Review, July 2, 2004 (providing general information indicating prebaiting is required for zinc phosphide).  <b>RX 4b, RX_000232:</b> According to the Kansas Department of Agriculture, "Rozol Prairie Dog Bait does not require prebaiting which makes it more cost effective to use than zinc phosphide."  <b>RX 90, RX_004306:</b> "The principal benefit of chlorophacinone bait to users is a substantial reduction in the time and labor required for effective use. Chlorophacinone is unlikely to result in bait aversion and does not require prebaiting."	<b>RX 65:</b> Prozap Zinc Phosphide Oat Bait Label, EPA Reg. No. 61282-14. <b>RX_003375:</b> "PREBAITING: To increase acceptance of treated bait by prairie dogs, prebait with one teaspoon of untreated oat grains per mound, one or two days prior to using toxic bait. Establish observation period during prebaiting."  (Schmit Tr. 186:7-16).
	308/326 <sup>1</sup>	<b>Lower Primary Poisoning Potential to Non-Target Birds and Livestock – Rozol's primary toxicity to birds is much less than that of acute toxicants.</b>  Document: Website (CX 28, EPA 000526) Date: November 18, 2009	Same references as for Paragraphs 149 and 290 of the First Amended Complaint.		(Schmit Tr. 187:10-24).
7173-244	335	<b>More readily available and less toxic than strychnine-treated milo products labeled for burrow-builder use.</b>  Document: Website (CX 31, EPA 000596) Date: February 23, 2010		Same references as for Paragraph 149 of the First Amended Complaint.  <b>RX 70:</b> Strychnine Reregistration Eligibility Decision (RED) prepared by U.S. EPA, July 1996. <b>RX_003418:</b> "These results indicate that strychnine is very highly toxic to small mammals on both an acute oral basis and dietary basis. The signs of toxicity, including death, occurred within one hour. This is considered typical of strychnine."	Common knowledge that strychnine products are not always available for purchase.  (Schmit Tr. 188:4-189:18).

<sup>1</sup> The First Amended Complaint alleges that the same statements made in the same product information constitute claims made for Rozol Prairie Dog Bait, EPA Reg. No. 7173-286 and Rozol Pocket Gopher Bait Burrow Builder Formula, EPA Reg. No. 7173-244.