

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)

Reckitt Benckiser LLC, et al.)

EPA Reg. Nos. 3282-3, 3282-4, 3282-9,)
3282-15, 3282-65, 3282-66, 3282-74,)
3282-81, 3282-85, 3282-86, 3282-87,)
and 3282-88; Application Nos. 3282-RNU)
and 3282-RNL)

FIFRA Docket No. 661

RECEIVED BY OALW
2014 FEB 15 AM 11:41

STATUS REPORT ON SETTLEMENT

Pursuant to the Presiding Officer's Prehearing Order dated February 10, 2014, Respondent submits this Report on the status of settlement discussions in this proceeding. All parties to this proceeding participated in a conference call on February 12, 2014. During that call, both Respondent and Petitioner Reckitt Benckiser ("Reckitt"), the registrant of the products at issue in this proceeding, set forth their positions on settlement. There remain substantial differences between the settlement positions of these two parties, and both Respondent and Reckitt have concluded that further discussions are unlikely to bridge those differences. Given the positions of Respondent and Reckitt, settlement in this matter does not appear to be a realistic possibility at this time.

During the conference call, the parties also discussed certain matters related to the Prehearing Exchange established in the Prehearing Order. While Respondent is in a position to substantially comply with its obligations for its Initial Prehearing Exchange, Respondent was considering filing a precautionary motion for an extension of time. In light of all parties' agreement not to oppose any party's reasonable motion to supplement its initial prehearing submissions, Respondent indicated that it would not be filing a motion for an extension.

Respondent also identified its intention to introduce physical exhibits at the hearing (primarily samples of registered products and their packages for placement). Reckitt responded that it too might wish to introduce physical exhibits. All parties agreed that, for purposes of the Prehearing Exchange, a concise description of the exhibit sufficient to allow the parties to identify it, including the EPA product registration number where pertinent, and a picture of the exhibit would suffice. (After a subsequent conversation among Respondent, Reckitt, and Intervenor NRDC, the parties agreed that if a particular physical exhibit is not an EPA-registered product, the party sponsoring the exhibit would, upon request from any other party, make it available for inspection at some reasonable period of time before the exhibit would be proffered at hearing.) The parties further agreed that, if they intend to introduce a physical exhibit for the purpose of eliciting testimony concerning the location, date, or price of purchase of the particular exhibit, they would provide a photographic copy of the relevant sales receipt as part of their Prehearing Exchange.

A draft of this Status Report was circulated among all the parties, and they are all in agreement with this summary of the conversation on February 12 and proposed path forward with respect to physical exhibits.

Respectfully submitted,

FEB 19 2014

Date



Robert G. Perlis
Scott B. Garrison
David N. Berol
U.S. Environmental Protection Agency
Office of General Counsel (2333A)
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
perlis.robert@epa.gov; 202-564-5636
garrison.scott@epa.gov; 202-564-4047
berol.david@epa.gov; 202-564-6873

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of *Status Report on Settlement* were filed with the Headquarters Hearing Clerk, and a copy hand delivered to the office of:

The Honorable Susan L. Biro
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1300 Pennsylvania Ave., N.W.
Washington, DC 20460

I further certify that true and correct copies were sent by first class mail and e-mail to:

Lawrence E. Culleen
Jeremy C. Karpatkin
Ronald A. Schechter
Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004
Lawrence.Culleen@aporter.com
Jeremy.Karpatkin@aporter.com
Ronald.Schechter@aporter.com

John D. Connor, Jr.
McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, DC 20006
jconnerjr@mckennalong.com

Gregory C. Loarie
Irene V. Gutierrez
Earthjustice
50 California St., Suite 500
San Francisco, CA 94111
gloarie@earthjustice.org
igutierrez@earthjustice.org

Steven Schatzow
2022 Columbia Road, NW
Suite 601
Washington, DC 20009
sschatzow@his.com

Dimple Chaudhary
Aaron Colangelo
Natural Resources Defense Council
1152 15th St. NW, Suite 300
Washington DC 20005
dchaudhary@nrdc.org
acolangelo@nrdc.org

Seth Goldberg
Cynthia Taub
Steptoe & Johnson LLP
1330 Connecticut Ave., NW
Washington, DC 20036
sgoldberg@steptoe.com
ctaub@steptoe.com

9 2010

Date



Robert G. Perlis
U.S. Environmental Protection Agency
Office of General Counsel (2333A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460