

79404, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

534. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B) and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

#### **Count 2157**

535. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

536. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about February 8, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Estes, located at Highway 183, Route 1, Box 431, Clinton, Oklahoma 73601, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

537. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about February 8, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Estes, located at Highway 183, Route 1, Box 431, Clinton, Oklahoma 73601, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

538. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B) and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2158**

539. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

540. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about February 14, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

541. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about February 14, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

542. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2159**

543. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

544. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about February 14, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Wilbur-Ellis, located at 1 Mile Southwest U.S. Highway 60, Hereford, Texas 79045, with claims

made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

545. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about February 14, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Wilbur-Ellis, located at 1 Mile Southwest U.S. Highway 60, Hereford, Texas 79045, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

546. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2160**

547. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

548. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about February 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed, located at 126 N. 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

549. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about February 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed, located at 126 N. 10<sup>th</sup> Street, Broken Bow,

Nebraska 68822, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

550. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2161**

551. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

552. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 6, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Van Diest, located at 71703 US Highway 83, McCook, Nebraska 69001, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

553. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 6, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Van Diest, located at 71703 US Highway 83, McCook, Nebraska 69001, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

554. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

### **Count 2162**

555. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

556. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 6, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Heritage Seed, located at 324 Main Street, Crawford, Nebraska 69339, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

557. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 6, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Heritage Seed, located at 324 Main Street, Crawford, Nebraska 69339, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

558. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

### **Count 2163**

559. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

560. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 7, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Van Diest Supply, located at 1434 220<sup>th</sup> Street, Webster City, Iowa 50595, with claims made for the

product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

561. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 7, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Van Diest Supply, located at 1434 220<sup>th</sup> Street, Webster City, Iowa 50595, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

562. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

#### **Count 2164**

563. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

564. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 10, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Pro-Chem, located at 900 Ross Street, Amarillo, Texas 79404, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

565. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 10, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Pro-Chem, located at 900 Ross Street, Amarillo, Texas 79404,

which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

566. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2165**

567. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

568. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 13, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Van Diest Supply, located at 71703 U.S. Highway 83, McCook, Nebraska 69001, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

569. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 13, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Van Diest Supply, located at 71703 U.S. Highway 83, McCook, Nebraska 69001, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

570. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2166**

571. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

572. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 13, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed Company, located at 126 North 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, with claims made for the product as part of distribution or sale that substantially differed from the claims that were approved in the March 2, 2005 “accepted label.”

573. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 13, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed Company, located at 126 North 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

574. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2167**

575. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

576. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 14, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at 601 West 1<sup>st</sup> Avenue, Holdrege, Nebraska 68949, with claims made for the



product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

577. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 14, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at 601 West 1<sup>st</sup> Avenue, Holdrege, Nebraska 68949, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

578. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2168**

579. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

580. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 17, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Van Diest Supply, located at 71703 U.S. Highway 83, McCook, Nebraska 69001, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

581. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 17, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Van Diest Supply, located at 71703 U.S. Highway 83, McCook,

Nebraska 69001, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

582. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2169**

583. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

584. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 18, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Estes, located at 4302 Locust Street, Lubbock, Texas 79404, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

585. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 18, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Estes, located at 4302 Locust Street, Lubbock, Texas 79404, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

586. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2170**

587. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

588. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 19, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Farmers Coop Grain, located at 102 West G Street, Trenton, Nebraska 69044 , with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

589. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 19, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Farmers Coop Grain, located at 102 West G Street, Trenton, Nebraska 69044, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

590. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2171**

591. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

592. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 24, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed Company, located at 126 North 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, with claims

made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

593. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 24, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed Company, located at 126 North 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

594. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2172**

595. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

596. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 24, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to McCoy Farms, located at HC 72 Box 1, Crookston, Nebraska 69212, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

597. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 24, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to McCoy Farms, located at HC 72 Box 1, Crookston, Nebraska 69212,

which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

598. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2173**

599. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

600. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about March 31, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

601. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about March 31, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

602. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

#### **Count 2174**

603. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

604. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about April 4, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed Company, located at 126 North 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

605. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about April 4, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Arrow Seed Company, located at 126 North 10<sup>th</sup> Street, Broken Bow, Nebraska 68822, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

606. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

#### **Count 2175**

607. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

608. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about April 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Richard Robbins, located at 20500 County Road 52, Walsh, Colorado 81092, with claims made for the

product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

609. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about April 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Richard Robbins, located at 20500 County Road 52, Walsh, Colorado 81092, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

610. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2176**

611. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

612. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about April 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

613. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about April 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas

79044, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

614. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2177**

615. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

616. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about April 18, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Van Diest, 71703 U.S. Highway 83, McCook, Nebraska 69001, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

617. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about April 18, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Van Diest, 71703 U.S. Highway 83, McCook, Nebraska 69001, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

618. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).



### **Count 2178**

619. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

620. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about April 18, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Mark Newman, located at 6702 Silverbell Lane, Amarillo, Texas 79124, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

621. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about April 18, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Mark Newman, located at 6702 Silverbell Lane, Amarillo, Texas 79124, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

622. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

### **Count 2179**

623. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

624. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about April 25, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Estes, located at Highway 183, Route 1, Box 431, Clinton, Oklahoma 73601, with claims made for the

product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

625. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about April 25, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Estes, located at Highway 183, Route 1, Box 431, Clinton, Oklahoma 73601, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

626. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2180**

627. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

628. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about May 1, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Bayne Seed & Supply, located at 3900 North Lamont Road, Hershey, Nebraska 69143, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

629. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about May 1, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Bayne Seed & Supply, located at 3900 North Lamont Road,

Hershey, Nebraska 69143, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

630. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2181**

631. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

632. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about May 9, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Estes, located at 4302 Locust Street, Lubbock, Texas 79404, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 "accepted label."

633. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about May 9, 2008, by distributing or selling "Rozol," EPA Reg. No. 7173-244, to Estes, located at 4302 Locust Street, Lubbock, Texas 79404, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

634. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2182**

635. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

636. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about May 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

637. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about May 15, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Helena Chemical, located at North Highway 385/87, Hartley, Texas 79044, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

638. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count 2183**

639. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

640. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), on or about May 30, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Gross Feed, located at Highway Contract Route 66 Box 13, Johnstown, Nebraska 69214, with claims

made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

641. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on or about May 30, 2008, by distributing or selling “Rozol,” EPA Reg. No. 7173-244, to Gross Seed, located at Highway Contract Route 66 Box 13, Johnstown, Nebraska 69214, which was misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

642. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Counts 2184 through 2231**

643. Complainant incorporates by reference the allegations contained in paragraphs 1 through 371 of this Complaint.

644. Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), between on or about November 18, 2009 and on or about February 23, 2010, by offering for sale, “Rozol,” EPA Reg. No. 7173-244, to 48 separate distributor partners (*See* Attachment I), with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the March 2, 2005 “accepted label.”

645. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), between on or about November 18, 2009 and on or about February 23, 2010, by offering for sale, “Rozol,” EPA Reg. No. 7173-244, to 48 separate

distributor partners (*See* Attachment I) which were misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

646. Respondent also violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), between on or about November 18, 2009 and on or about February 23, 2010, by offering for sale, “Rozol Prairie Dog Bait,” EPA Reg. No. 7173-286, to 48 separate distributor partners (*See* Attachment I), with claims made for the product as part of distribution or sale that substantially differed from the claims approved in the May 13, 2009 “accepted label.”

647. Additionally or in the alternative, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), between on or about November 18, 2009 and on or about February 23, 2010, by offering for sale, “Rozol Prairie Dog Bait,” EPA Reg. No. 7173-286, to 48 separate distributor partners (*See* Attachment I) which were misbranded as defined by Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).

648. Respondent’s violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and/or Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on 48 separate occasions subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for each of the 48 separate occasions.

**Proposed Civil Penalty**

649. Complainant proposes that the Administrator assess a civil penalty against Respondent for FIFRA violations alleged in this Complaint as follows:

**Counts 1 through 2140**

Radio and Print Advertisement of Rozol.....\$2,268,500

**Counts 2141 through 2183**

Distribution or Sale of Rozol.....\$279,500

**Counts 2184 through 2231**

Distribution or Sale of Rozol .....	\$343,200
Economic Benefit.....	\$50,256
<b>Total proposed civil penalty .....</b>	<b>\$2,941,456</b>

Complainant determined the proposed civil penalty according to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a). In determining the penalty amount, Complainant considered the size of Respondent's business, the effect on Respondent's ability to continue in business and the gravity of the violations. Complainant also considered EPA's *Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act*, dated December 2009, a copy of which is enclosed with this Complaint.

**Rules Governing this Proceeding**

The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (the Consolidated Rules), at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

**Filing and Service of Documents**

Respondent must file with the EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized

Nidhi K. O'Meara, Erik Olson, and Cynthia King, Associate Regional Counsels to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. O'Meara at (312) 886-0568. You may telephone Mr. Olson at (312) 886-6829. You may telephone Ms. King at (312) 886-6831. Their address is:

Nidhi K O'Meara (C-14J)  
Erik Olson (C-14J) and  
Cynthia King (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**Terms of Payment**

Respondent may resolve this proceeding at any time by paying the proposed penalty by sending a certified or cashier's check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Respondent must include the case name, docket number and billing document number on the check and in the letter transmitting the check. Respondent must simultaneously send copies of the check and transmittal letter to the Regional Hearing Clerk and Nidhi O'Meara at the addresses given above, and to:

Claudia Niess (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604



### **Answer and Opportunity to Request a Hearing**

If Respondent contests any material fact upon which this Complaint is based, contends that the proposed penalty is inappropriate, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted according to the Consolidated Rules.

In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above and must serve copies of the Answer on the other parties.

Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

Respondent's answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and

d. Whether Respondent requests a hearing.


**Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts alleged in the Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact Ms. Nidhi O'Meara at (312) 886-0568. Respondent's request for an informal settlement conference will not extend the 30-day period for filing a written Answer to this Complaint. Respondent may simultaneously pursue both an informal settlement conference and the adjudicatory hearing process. The Complainant encourages all parties against whom it proposes to assess a civil penalty to pursue settlement through an informal conference. Complainant, however, will not reduce the proposed penalty because the parties hold an informal settlement conference.

**Continuing Obligation to Comply**

Payment of a civil penalty will not affect Respondent's continuing obligation to comply with FIFRA and any other applicable federal, state or local law.

May 13, 2010  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**RECEIVED**  
MAY 14 2010  
REGIONAL HEARING CLERK  
USEPA  
REGION 5

### List of Attachments

- Attachments A-D: Transcripts of four different versions of radio advertisements to be broadcast for Respondent regarding “Rozol,” EPA Reg. No. 7173-244.
- Attachment E: List of dates that Golden Plains AC Network broadcast radio advertisements for Respondent regarding “Rozol,” EPA Reg. No. 7173-244.
- Attachment F: List of dates that Western Kansas Broadcast broadcast radio advertisements for Respondent regarding “Rozol,” EPA Reg. No. 7173-244.
- Attachment G: List of dates that High Plain Radio broadcast radio advertisements for Respondent regarding “Rozol,” EPA Reg. No. 7173-244.
- Attachment H: List of dates that KGNC-AM and KXGL-FM in Texas broadcast radio advertisements for Respondent regarding “Rozol,” EPA Reg. No. 7173-244.
- Attachment I: List of forty-eight (48) distributor partners that were asked to destroy/disregard advertisements regarding “Rozol,” EPA Reg. No. 7173-244 and “Rozol Prairie Dog Bait,” EPA Reg. No. 7173-286 after EPA issued a Federal SSURO on March 4, 2010, to the Respondent.
- Attachment J: EPA’s *Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act*, dated December 2009.
- Attachment K: Copy of 40 C.F.R. Part 22, Consolidated Rules of Practice

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

CERTIFICATE OF SERVICE

I, Erik H. Olson, hereby certify that I delivered one copy of the foregoing Complaint, Docket No. FIFRA-05-2010-0016 to each of the persons designated below, on the date below, by depositing it in the U.S. Mail, certified-return receipt requested, postage prepaid, at Chicago, Illinois, in envelopes addressed to:

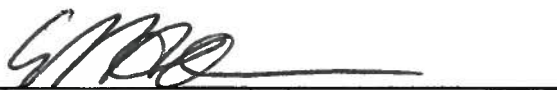
CT Corporation System  
8040 Excelsior Drive, Suite 200  
Madison, WI 53717

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

RECEIVED  
MAY 14 2010  
REGIONAL HEARING CLERK  
USEPA  
REGION 5

I have further filed the original of the Complaint and this Certificate of Service in the Office of the Regional Hearing Clerk, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, on the date below.

Dated this 14<sup>th</sup> day of May, 2010.

  
Erik H. Olson  
Associate Regional Counsel  
U.S. EPA, Region 5