



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REGIONAL HEARING CLERK
U.S. EPA REGION 5

2011 FEB 25 PM 1:27

February 25, 2011

REPLY TO THE ATTENTION OF

C-14J

Sent By Email

Mr. Michael H. Simpson
Reinhart Boerner Van Deuren s.c.
100 North Water Street, Suite 1700
Milwaukee, Wisconsin 53202

RE: In the Matter of Liphatech, Inc.
DOCKET No. FIFRA-05-2010-0016

Dear Mr. Reinhart:

I have received your correspondence of today's date sent via e-mail to Ms. Nidhi K. O'Meara, Counsel for Complainant the U.S. Environmental Protection Agency in the above referenced matter, requesting that EPA provide you with a copy of the Declaration of Ms. Claudia Niess dated February 17, 2011 and referenced on pages 7 and 8 of *Complainant's Reply in Support of its Motion for Accelerated Decision on Liability for Counts 2,184 through 2,231 of the Complaint*, filed on February 22, 2011. Attached is a copy of Ms. Niess's declaration, which was not included as an attachment to *Complainant's Reply* due to a clerical error.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Erik H. Olson", with a long horizontal line extending to the right.

Erik H. Olson
Associate Regional Counsel

Enclosure

2011 FEB 25 PM 1:27

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)

Liphatech, Inc.)

Milwaukee, Wisconsin)

Respondent.)

) Docket No. FIFRA-05-2010-0016

) Hon. Susan L. Biro

Complainant's Motion for Leave to File Declaration

Pursuant to Rule 16 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. § 22.16, Complainant files the instant *Motion for Leave to File Declaration*.

On February 22, 2011, Complainant filed its *Complainant's Reply In Support of its Motion for Accelerated Decision on Liability for Counts 2,184 through 2,231 of the Complaint*. Due to a clerical error, the Declaration of Ms. Claudia Niess dated February 17, 2011 and referenced on pages 7 and 8 of *Complainant's Reply* was not attached to *Complainant's Reply*. On February 25, 2011, Complainant provided to opposing counsel a copy of the Declaration of Ms. Niess via email. Complainant has attached a copy of the Declaration and a copy of the correspondence to Respondent's counsel transmitting the Declaration to opposing counsel.

Complainant respectfully requests that this Tribunal grant its *Motion for Leave to File Declaration*.

Respectfully submitted,

DATED: 2/25/11



Nidhi K. O'Meara
Erik H. Olson
Associate Regional Counsels
Gary E. Steinbauer
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Blvd. (C14-J)
Chicago, IL 60604
(312) 886-0568
Attorneys for Complainant

4. On February 7, 2011, I was assigned the review of a Notice of Arrival of Pesticides and Devices (NOA) submitted by Liphatech, Inc. (Liphatech) for a shipment of the registered pesticide "Metarex 4% Slug and Snail Bait," EPA Registration Number 7173-257, intended to be imported through the Port of Milwaukee on February 13, 2011.

5. A copy of the label represented to be affixed to the imported containers of "Metarex 4% Slug and Snail Bait," EPA Registration Number 7173-257, was provided by Liphatech with the NOA.

6. As part of my review, I accessed the Pesticide Product Label System (PPLS)¹ to obtain the label accepted by EPA for Registration Number 7173-257.

7. On February 7, 2011 I printed a copy of the accepted label for "Metarex 4% Slug and Snail Bait," EPA Registration Number 7173-257, dated December 6, 2007.

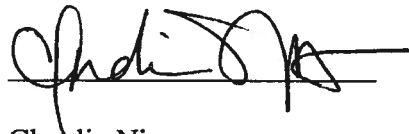
8. A copy of the December 6, 2007 accepted label is attached to this declaration.

9. The assertions I make in this declaration are truthful, and, if called to testify as a witness, I am prepared to testify under oath to the accuracy of the observations and statements contained in this declaration, based on my personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: February 17, 2011

By:



Claudia Niess
Environmental Engineer
Enforcement Officer

¹ PPLS is a database maintained by the Office of Pesticide Programs, EPA Headquarters and is accessible to the general public. It is found online at <http://oaspub.epa.gov/pestlabl/ppls.home>.

7173-257

12/6/2007

Page 1 of 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



OFFICE OF
PREVENTION, PESTICIDES,
AND TOXIC SUBSTANCES

December 6, 2007

Rachel M. Callies
Liphatech, Inc.
3600 West Elm Street
Milwaukee, WI 53209

Dear Ms. Callies:

Subject: Submission of amended label with four week efficacy claim
Metarex 4% Snail and Slug Bait
EPA Registration No. 7173-257
Your Submission Dated November 15, 2007

The amended label referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act, is acceptable with the following comments:

- Under the optional marketing statements, delete the claim "Long Lasting Power Pellets."
- Under the optional marketing statements, delete the claim "Season Long Protection."

A stamped copy of the label is enclosed for your records. Submit two copies of your final printed labeling before you release the product for shipment. If you have any questions, please Julie Chao at (703) 308-8735 or chao.julie@epa.gov.

Regards,

A handwritten signature in black ink that reads "Venus Eagle".

Venus Eagle
Insecticide-Rodenticide Branch
Registration Division (7505P)

Enclosure



4% SNAIL AND SLUG BAIT

KEEP OUT OF REACH OF CHILDREN

CAUTION:

See side panel for further precautionary statements

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION:

Harmful if swallowed or absorbed through skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. **IMPORTANT:** Keep granules away from children and pets. Bait may be attractive to dogs. Confine pets during application to prevent them from believing they are being fed.

FIRST AID: Have the product container or label with you when calling a poison control center or doctor, or going for treatment. If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

Note to Physician: No specific antidote is available. Treat the patient symptomatically.

PERSONAL PROTECTIVE EQUIPMENT (PPE): Applicators and other handlers must wear long-sleeved shirt, long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride. Follow the manufacturer's instructions for cleaning/maintaining PPE. If no instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENVIRONMENTAL HAZARDS: Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment wash-water.

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal. **STORAGE:** Store product in original labeled container in a cool, dry, locked place out of the reach of children. Keep container tightly closed when not in use. Do not store in direct sunlight.

DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

CONTAINER DISPOSAL: Dispose of empty container in a sanitary landfill, by incineration, or if allowed by state and local authorities, by burning. If burned, stay out of smoke.

WARRANTY: To the extent consistent with applicable law, seller makes no warranty, express or implied, concerning the use of this product other than indicated on the label. Buyer assumes all risks of use and/or handling this material when such use or handling is contrary to label instructions.

ACCEPTED
with COMMENTS
In EPA Label Panel:
DEC 6 2007

Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.
7173-257

EPA Est. No. 74926-FRA-1

Manufactured for:
Liphatech, Inc.
3600 W. Elm Street
Milwaukee, WI 53074
414-351-1476

For control of snails and slugs in turf,
ornamentals, field crops, tobacco, seed crops,
vegetables, tree crops & small fruits

Active Ingredient:

metoldehyde	
2,4,6,8-tetramethyl-1,3,5,7-tetraoxacyclo-octane	4.0%
Inert Ingredients	96.0%
Total	100.0%

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. For any requirements by your State or Tribe, consult the agency responsible for pesticide regulation. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

AGRICULTURAL USE REQUIREMENT: Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval.

Do not enter or allow worker entry into treated areas during the restricted-entry interval (REI) of 12 hours. PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil or water, is: long-sleeved shirt and long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material.

NON-AGRICULTURAL USE REQUIREMENTS: These requirements apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.

APPLICATION DIRECTIONS

Apply to the soil surface. Granules may be broadcast by air or ground equipment unless specified otherwise on the label. Use a band treatment between rows after formation of edible crop parts. Do not contaminate edible parts.

Best results are obtained if applied in the evening, after irrigation or rain. Do not irrigate for 48 hours after application. Apply when plant damage first appears. Repeat every 2 to 4 weeks or as reinfestation occurs. Most plants are tolerant of Metarex. On any plant(s) known or suspect to be sensitive to plant protection chemicals, the user should make a test application to determine the plant(s) sensitivity to this product before large scale use or broadcast treatment is made. Should the test determine that the plant(s) are sensitive to this product, do not apply. Metarex granules may be applied to the following crops to control slugs and snails:

Non-crop areas such as: Fallow land, barrier strips & uncultivated non-agricultural areas; parks & recreational areas; golf courses; brush; railroad, pipeline, highway, power & telephone rights of way; road sides; lumberyards; storage areas; industrial sites; parking lots; airports and similar non-crop areas which may be infested and offer transient harborage to slugs & snails. Apply 5 to 40 pounds per acre.

Turf and Ornamentals (ornamental greenhouses, ornamental plantings, commercial ornamental nurseries, ground covers, turfgrass and grasses grown for sod, dichondra, and around building foundations): Apply at 3 ounces to 1 pound per 1000 sq. ft. (approx. 6 to 32 pellets per square foot or 8 to 40 pounds per acre).

Artichokes (by air or ground before tight bud stage or by ground only after tight bud stage): Apply 9 to 40 pounds per acre.

Field Crops (cereal grains, corn, legumes and mint): Apply 5 to 40 pounds per acre.

Seed Crops (sugar beets, flowers, grasses, vegetable and legume crops grown for seed): Apply 5 to 40 pounds per acre.

Small Fruit (blackberries, blueberries, boysenberries, cranberries, loganberries, raspberries, strawberries and grapes): Apply 6.5 to 40 pounds per acre or 2.5 ounces up to 1 pound per 1000 sq. ft. or 5-32 pellets per sq. ft. May be applied in a circular band (not less than 6 inches wide) around base of tree trunks.

Tobacco (field, greenhouse and lath house): Apply 5 to 40 pounds per acre or 1 pound per 1,100 to 8,800 sq. ft.

Tree Crops (citrus, avocado, cherries, peaches, apricots, apples, pears, bananas and papaya): Apply 6.5 to 40 pounds per acre or 2.5 ounces up to 1 pound per 1000 sq. ft. or 5-32 pellets per sq. ft. May be applied in a circular band (not less than 6 inches wide) around base of tree trunks.

Vegetables (asparagus, beans, beets, black-eyed peas, broccoli, Brussels sprouts, cabbage, cantaloupe, carrots, cauliflower, celery, collards, corn, cowpeas, cucumbers, eggplants, endive, garlic, ginseng, horseradish, kale, kohlrabi, leeks, legumes, lettuce, melons, mustard greens, okra, onion, parsnips, peas, peppers, pimientos, potatoes, pumpkins, radishes, rutabagas, salsify, shallots, spinach, squash, sweet potatoes, Swiss chard, tomatoes, turnips and watermelons): Apply 5 to 40 pounds per acre.

LIPHA TECH®

(31807)



4% SNAIL AND SLUG BAIT

For control of snails and slugs commonly found in and around homes, lawns, ornamental plantings, fruit and vegetable gardens.

Active Ingredient:

metaldehyde	
2,4,6,8-tetramethyl-1,3,5,7-tetraoxocyclo-octane	4.0%
Inert Ingredients	96.0%
Total	100.0%

KEEP OUT OF REACH OF CHILDREN

CAUTION:

See side panel for further precautionary statements

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read entire label and follow all directions and precautions. Not for use on plants being grown for sale or other commercial use, or for commercial seed production, or for research purposes.

Apply before damage occurs or as soon as infestation is seen. Repeat application every 2 to 4 weeks or as needed for control. Best results are obtained if applied in the evening, after rain or irrigation.

On any plant(s) known or suspect to be sensitive to plant protection chemicals, the user should make a test application to determine the plant(s) sensitivity to this product before large scale use or broadcast treatment is made. Should the test determine that the plant(s) are sensitive to this product, do not apply.

Home lawns, ground covers, ornamental beds, around home foundations, home greenhouses and lathe houses: Apply ___ ounces (or pounds) per ___ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). Sprinkle evenly over soil surface and do not apply in piles. Scatter on and beneath greenhouse benches and in pots but not on foliage.

Home vegetable gardens (asparagus, beans, beets, black-eyed peas, broccoli, Brussels sprouts, cabbage, cantaloupe, carrots, cauliflower, celery, collards, corn, cowpeas, cucumbers, eggplants, endive, garlic, ginseng, horseradish, kale, kohlrabi, leeks, legumes, lettuce, melons, mustard greens, okra, onion, parsnips, peas, peppers, pimentos, potatoes, pumpkins, radishes, rhubarb rutabagas, salsify, shallots, spinach, squash, sweet potatoes, Swiss chard, tomatoes, turnips and watermelons): Apply ___ ounces (or pounds) per ___ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). Apply to soil surface around plants - do not apply to the foliage. Do not contaminate edible parts of plants.

Home fruit trees and bushes (citrus, avocado, cherries, peaches, apricots, apples, pears, bananas, papaya, blackberries, blueberries, boysenberries, cranberries, loganberries, raspberries, strawberries, and grapes): Apply ___ ounces (or pounds) per ___ sq. ft. (actual statements based on container size and application rate of 2 ounces per 1000 sq ft). May be applied in a circular band (not less than 6 inches wide) around base of tree trunks. (31807)

WARRANTY: To the extent consistent with applicable law, seller makes no warranty, express or implied, concerning the use of this product other than indicated on the label. Buyer assumes all risks of use and/or handling this material when such use and/or handling is contrary to label instructions.

NET WEIGHT: 8 ounces up to 10 lbs.
EPA Reg. No. 7173-257 EPA Est. No. 74326-FRA-1

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION: Harmful if swallowed or absorbed through skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. **IMPORTANT:** Keep granules away from children and pets. Bait may be attractive to dogs. Confine pets during application to prevent them from believing they are being fed.

FIRST AID: Have the product container or label with you when calling a poison control center or doctor, or going for treatment. If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person. Note to Physician: No specific antidote is available. Treat the patient symptomatically.

PERSONAL PROTECTIVE EQUIPMENT (PPE): Applicators and other handlers must wear long-sleeved shirt, long pants, shoes plus socks and chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride. Follow the manufacturer's instructions for cleaning/maintaining PPE. If no instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENVIRONMENTAL HAZARDS: Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater.

STORAGE AND DISPOSAL

STORAGE: Store product in original container in a dry place inaccessible to children and pets.

DISPOSAL: If empty: Do not reuse this container. Place in trash or offer for recycling if available. If partly filled: Call your local solid waste agency for disposal instructions. Never place unused product down any indoor or outdoor drain.

ACCEPTED
with COMMENTS
In EPA Letter Dated:

DEC 6 2007

Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the pesticide registered under EPA Reg. No.

7173-257

LIPHA TECH®

Manufactured for:
Liphatech, Inc.
3600 W. Elm Street
Milwaukee, WI 53209
414-351-1476

Alternate warranty statements:

*Satisfaction guaranteed or your money back

Optional marketing statements:

*Contains Bitrex™

*(Bitrex logo™)

*Bitrex™ is a trademark of MacFarlane Smith Ltd., Edinburgh, Scotland

*Meta™ is a registered trademark of Lonza AG, Switzerland

*(Meta logo™)

*For use on Turf, Ornamentals, Vegetables & Fruit

*Kills snails & slugs fast

*Kills Slugs & Snails Fast - offers immediate protection to plants.

*Effective at controlling snails and slugs commonly found in and around homes, lawns, ornamental, fruit and vegetable gardens

*Smaller, highly visible pellets offer more baiting points than the same weight of competing products

*Rain-fast for up to 45 days (under normal rainfall)

*Protects for up to 4 weeks

*Metarex granules can remain effective and provide protection for up to four weeks!

*Metarex pellets can remain effective and provide protection for

up to four weeks!

*Reduced rate technology

*Low rate technology

*Power pellets

*The power pellet

*The power is in the pellet

*Long Lasting "Power Pellets"

*Moisture resistant package (bag, box, pail, as appropriate)

*Approx.4 pellets per square foot

*Covers ___ sq. ft. (label statement based on application rate

of 2 ounces per 1000 sq ft and actual package size)

*Enough for ___ applications to a typical 20 ft. x 20 ft garden

(label statement based on application rate of 2 ounces per

1000 sq ft and actual package size)

*Enough for ___ applications to a 75 X 35 ft garden.(label state-

ment based on application rate of 2 ounces per 1000 sq ft and

actual package size)

*Enough to cover ___ tennis courts (label statement based on

application rate of 2 ounces per 1000 sq ft, actual package size

and a regulation (singles) tennis court size of 78 X 27 ft)

*Practical & easy to use: Shaker lid permits very accurate and

uniform dosage without requiring you to touch the bait.

*Dust free

*No dust

*Mold resistant

*Highly visible pellets help assure proper coverage and prevent

over application.

*Smaller, highly visible pellets help assure proper coverage and

prevent over application.

*Offers immediate protection to plants, even though slugs &

snails may remain in the area.

*After feeding, slugs and snails dehydrate and die within

4 8 4

2-6

days, often crawling to secluded places to die.

*After feeding, slugs and snails dehydrate and die within 2-6

days.

*Plant protection will be observed in the decrease in plant damage.

*High palatability = quick attraction: Made with food-grade cereal ingredients, manufactured to the highest of standards.

*In controlled tests, preferred 3 to 1 vs fresh carrots & lettuce

*Preferred 3 to 1 by slugs vs fresh carrots and lettuce in con-trolled tests

*Preferred 3 to 1 by slugs vs fresh carrots and lettuce

*Rain & irrigation resistant: Due to exclusive manufacturing techniques, Metarex granules resist heavy watering - holding their shape longer than competitive pellets.

*When to apply (usage tips): Apply when slugs and snails are active. If ground is dry, water the area before application. This will usually mean treating during periods when evening frost is

no longer likely. Check under rocks and other horizontal surfaces in contact with most soil for snail & slug activity

in the early morning. Even a presence of 1-2 slugs per square yard can indicate a serious problem. Snails & slugs feed almost entirely at night, so the best time to

treat is late afternoon or just before dusk and when temperatures are cooler; just before slugs & snails become

active. Try not to irrigate for 48 hours after application. Regular application will diminish the recurrence of slug or

snail infestation. Retreat if necessary, or if you begin to see recurring damage to your plants.

*Just one slug or snail can hatch up to 40 or 80 eggs respectively, every 4-8 weeks!

*Where to apply (usage tips): Apply at the edge of the garden

or area to be protected to reduce the chances of re-infestation from adjacent areas. Slugs & snails migrate toward

better feeding and sheltering conditions, preferring moist shady environments with tender, succulent vegetation

close to the ground, Use broadcast-type spreader for large areas. Also treat areas where these pests shelter

during the day - damp places, around mulch, shady flower gardens, rock formations; ivy patches, hedged,

vegetable plants, dichondra, lawns and other ground covers.

*Protect Flowers

*Protect Flower Quality

*Protect Sensitive landscapes

*Compare coverage vs. other brands

*More uniform pellets = better spread pattern

*Trusted by European growers for over 30 years.

*Colorfast

*Moisture resistant package. (bag, box, pail, as appropriate)

*Resistant to Rain and Watering

*All Weather Formula

*Season Long Protection

*[Hand] Spreader Settings:

To Apply: rate 1 rate 2 rate 3 rate 4

spreader A

spreader B

spreader C



Reinhart Boerner Van Deuren s.c.
P.O. Box 2965
Milwaukee, WI 53201-2965

1000 North Water Street
Suite 1700
Milwaukee, WI 53202

Telephone: 414-298-1000
Fax: 414-298-8097
Toll Free: 800-553-6215
reinhartlaw.com

February 25, 2011

Michael H. Simpson
Direct Dial: 414-298-8124
msimpson@reinhartlaw.com

SENT BY E-MAIL

Ms. Nidhi K. O'Meara (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Dear Ms. O'Meara:

Re: In the Matter of Lipahtech, Inc.
Docket No. FIFRA-05-2010-0016

After reviewing *Complainant's Reply in Support of its Motion for Accelerated Decision on Liability for Counts 2,184 through 2,231 of the Complaint*, it appears to Respondent that Complainant failed to file and serve on Respondent the February 17, 2011 Declaration of Ms. Claudia Niess referenced on pages 7-8 of Complainant's Reply. In addition, after reviewing the online docket for this proceeding, it appears that the Declaration was not filed with the Regional Hearing Clerk.

Respondent requests that Complainant provide Respondent with a true, accurate and complete copy of the Declaration of Ms. Claudia Niess dated February 17, 2011.

Yours very truly,

Michael H. Simpson

REINHART6133797

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

REGIONAL HEARING CLERK
U.S. EPA REGION 5

2011 FEB 25 PM 1:27

CERTIFICATE OF SERVICE

I hereby certify that the original and one true, accurate and complete copy of *Motion for Leave to File Declaration* was filed with the Regional Hearing Clerk, U.S. EPA, Region 5, on the date indicated below. True, accurate and complete copies were also sent to the persons designated below on this date via UPS overnight delivery:

Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1099 14th Street, NW, Suite 350
Franklin Court
Washington, D.C. 20005

Mr. Michael H. Simpson
Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

Dated in Chicago, Illinois, this 25 day of February, 2011.



Erik H. Olson
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Blvd. (C14-J)
Chicago, IL 60604
(312) 886-6829