

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)	
)	FIFRA Docket No. 661
Reckitt Benckiser LLC, et al.,)	
)	
Petitioners)	
_____)	

**RESPONSE OF RESPONDENT-INTERVENORS AMERICAN BIRD
CONSERVANCY, ET AL. TO PETITIONER RECKITT BENCKISER LLC’S
MOTION FOR ADDITIONAL DISCOVERY**

On May 4, 2014, petitioner Reckitt Benckiser LLC (“Reckitt”) filed a motion for additional discovery in the above-captioned proceeding. Reckitt’s motion includes two document requests directed to respondent-intervenors American Bird Conservancy, Center for Biological Diversity, Defenders of Wildlife and Sierra Club (collectively, “Wildlife Advocates”). These requests seek information described in the curriculum vitae for Dr. Maureen Murray, one of Wildlife Advocates’ expert witnesses identified in Wildlife Advocates’ March 21, 2014 prehearing exchange.

The information Reckitt seeks from Wildlife Advocates is unpublished academic work product, and it includes raw data collected by Dr. Murray as part of a research grant she received in 2012. Dr. Murray’s work under this grant is still ongoing, and Dr. Murray intends to publish the results of her research, including the currently unpublished data requested by Reckitt in its additional discovery, when her research under the grant is completed.

On May 14, 2014, counsel for Wildlife Advocates met and conferred by phone with counsel for Reckitt regarding Reckitt's request. During this call, Reckitt's counsel acknowledged Dr. Murray's interest in protecting her unpublished work product for future publication, and agreed that documents produced by Wildlife Advocates that contain Dr. Murray's unpublished data and that are marked "CONFIDENTIAL" shall be kept confidential in accordance with the Protective Order adopted by this Tribunal on April 4, 2014.

On the basis of this oral agreement with Reckitt's counsel, Wildlife Advocates will produce documents to Reckitt's counsel as follows:

In response to Reckitt's request (a), seeking "Wildlife Disease Association, August 1, 2013, 'Rodenticides in Birds of Prey in Massachusetts, USA: A comparison of Data Before and After EPA Risk Mitigation Action' (poster)", Wildlife Advocates responds that it will provide Reckitt with an electronic copy of the poster titled "Rodenticides in Birds of Prey in Massachusetts, USA: A comparison of Data Before and After EPA Risk Mitigation Action," presented by Dr. Murray at the August 1, 2013 Wildlife Disease Association conference.

In response to Reckitt's request (b), seeking "Documents and data concerning Dr. Murray's 'Continued monitoring of secondary exposure to rodenticides following new EPA restrictions on sale and use of second generation anticoagulants,' noted on Dr. Murray's CV as one of two "Current Research Interests," Wildlife Advocates objects to Reckitt's use of the phrase "documents and data concerning Dr. Murray's continued monitoring" as overly broad, unduly vague and ambiguous. Notwithstanding these objections, Wildlife Advocates will provide Reckitt with electronic copies of a spreadsheet maintained by Dr. Murray that summarizes her ongoing monitoring data regarding secondary exposure to rodenticides in wild birds, as well as the corresponding lab reports.

Respectfully submitted,

Gregory C. Loarie

Date: May 15, 2014



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CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2014, I served the following document:

- **RESPONSE OF RESPONDENT-INTERVENORS AMERICAN BIRD CONSERVANCY, ET AL. TO PETITIONER RECKITT BENCKISER LLC'S MOTION FOR ADDITIONAL DISCOVERY** (dated May 15, 2014);

on the persons listed below in the manner so indicated.

By Hand Delivery via Courier

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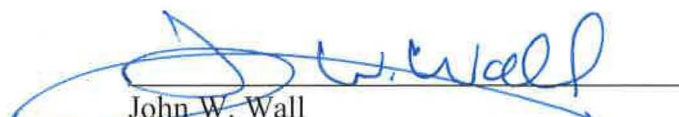
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DATED: May 15, 2014


John W. Wall
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