

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

RECEIVED BY OALJ
2014 MAR 21 PM 2:59

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

RESPONDENT-INTERVENORS' REPORT OF PREHEARING EXCHANGE

Respondent-Intervenors American Bird Conservancy, Center for Biological Diversity, Defenders of Wildlife and Sierra Club (collectively, "Wildlife Advocates") respectfully submit their prehearing exchange of primary discovery materials in response to the Administrative Law Judge's Prehearing Order dated February 10, 2014.

A. Witnesses and Expected Testimony

Chris Geiger, Ph.D. Dr. Geiger has over seventeen years of integrated pest management experience. He is currently a Senior Environmental Specialist in the Department of Environment for the City and County of San Francisco. In this role, he manages the Green Purchasing and Integrated Pest Management (IPM) programs for the City and County, and has been responsible for developing and rolling out the City and County's IPM program. Dr. Geiger is currently a member of the University of California IPM Program Advisory Committee and a member of the National Pest Management Association's Technical Advisory Committee for GreenPro IPM Certification, and he has experience implementing IPM for the State of California as a contract manager with the California Department of Pesticide Regulation's Pest Management Alliance Program. Dr. Geiger has a Ph.D. in Environmental Science, Policy and

Management/Entomology from the University of California, Berkeley. Dr. Geiger will be called as a fact and expert witness. He is expected to testify about incidences of secondary exposure to rodenticides as well as the relationship between rodenticide selection and pest management. He will also testify as to the City and County of San Francisco's IPM program and policies with respect to rodenticides.

Maureen Murray, DVM, Dipl. ABVP (Avian). Dr. Murray is a Staff Veterinarian and Clinical Assistant Professor of Wildlife Medicine at the Department of Infectious Disease and Global Health at Tufts University. Her research focuses on the monitoring of secondary wildlife exposure to rodenticides, including second generation anticoagulant rodenticides. She was a member of the U.S. Environmental Protection Agency Scientific Advisory Panel on exposure of nontarget wildlife to anticoagulant rodenticides in 2011, and she consulted to the State of California Environmental Protection Agency in 2013 during that agency's development of proposed legislation restricting anticoagulant rodenticides in California. Dr. Murray graduated from Tufts Veterinary School in 2003 and has over ten years of wildlife veterinary experience. Dr. Murray will be called as a fact and expert witness. She is expected to testify about the effect of rodenticide exposure and toxicosis in birds and other wildlife.

Wildlife Advocates respectfully reserve the right to supplement their list of witnesses upon adequate notice to the other parties.

B. Exhibits

A list of all documentary and physical exhibits Wildlife Advocates intend to introduce into evidence is attached hereto. Wildlife Advocates also incorporate by reference the documents and physical exhibits listed in Respondent EPA's Pre-Hearing Exchange Index of Exhibits, specifically Exhibit Numbers 12 through 134.

In accordance with the February 25, 2014 Order on Joint Motion Concerning the Prehearing Exchange, electronic copies of all paper exhibits listed herein and not previously provided to all parties by Respondent EPA have been downloaded onto compact discs that are being provided to all parties.¹

Wildlife Advocates reserve the right to supplement the list of exhibits upon adequate notice to the other parties.

C. Official Notice

At this time, Wildlife Advocates are unaware of any matters of which official notice should be taken. Wildlife Advocates reserve the right to move for official notice of matters as appropriate.

D. Location and Duration of Direct Case

For the reasons set forth in Respondent EPA's Report of Prehearing Exchange (dated February 28, 2014), Wildlife Advocates agree that it is appropriate to hold the evidentiary hearing in the Washington, D.C. metropolitan area.

Wildlife Advocates estimate they can present their direct case in 5 hours if all witnesses present their direct testimony orally. If Wildlife Advocates are permitted to submit written direct testimony for its witnesses, Wildlife Advocates estimate that they can present their direct case in 1 hour.

No translation services will be required for any of Wildlife Advocates' witnesses.

E. Submission of Questions to the NAS

Wildlife Advocates believe that there are no questions of scientific fact associated with this proceeding that should be presented to a committee of the National Academy of Sciences.

¹ Exhibits listed in Respondent EPA's Prehearing Exchange, which are incorporated herein by Wildlife Advocates by reference, have already been provided to all parties by Respondent EPA and are not included on Wildlife Advocates' compact discs.

Respectfully submitted,

3-21-14

Date



Tamara Zakim
Gregory C. Loarie
Irene V. Gutierrez
Earthjustice
50 California St., Suite 500
San Francisco, CA 94111
415.217.2000
gloarie@earthjustice.org
igutierrez@earthjustice.org
tzakim@earthjustice.org

Respondent-Intervenors' Pre-Hearing Exchange: Index of Exhibits

Exhibit Number	Exhibit Title
RI Ex. 1	Curriculum Vitae for Chris Geiger, Ph.D.
RI Ex. 2	Curriculum Vitae for Maureen Murray, DVM, Dipl. ABVP (Avian)
RI Ex. 3	Morzillo, A.T., and A.G. Mertig, <i>Linking human behavior to environmental effects using a case study of urban rodent control</i> , International Journal of Environmental Studies 68:107-123 (2011).
RI Ex. 4	Morzillo, A.T., and A.G. Mertig, <i>Urban resident attitudes toward rodents, rodent control products, and environmental effects</i> , Urban Ecosystems 14:243-260 (2011).
RI Ex. 5	California Department of Pesticide Regulation, <i>Memorandum: Second Generation Anticoagulant Rodenticides (draft)</i> , D. Daniels, DVM, Senior Environmental Scientist (September 19, 2012).
RI Ex. 6	Thomas et al., <i>Second generation anticoagulant rodenticides in predatory birds: probabilistic characterization of toxic liver concentrations and implications for predatory bird populations in Canada</i> , Environment International 37:914-920 (2011).
RI Ex. 7	Eason et al., <i>Assessment of Risks of Brodifacoum to Non-target Birds and Mammals in New Zealand</i> , Ecotoxicology, 11, 35-48 (2002).
RI Ex. 8	U.S. EPA, <i>Letter from S. Bradbury (EPA) to G. Frazier (FWS) regarding Endangered Species Act consultation for brodifacoum</i> (March 30, 2012).
RI Ex. 9	U.S. EPA, <i>Letter from A. Pease (EPA) to G. Frazier (FWS) regarding Endangered Species Act consultation for bromadiolone</i> (September 30, 2011).
RI Ex. 10	U.S. EPA, <i>Letter from A. Pease (EPA) to G. Frazier (FWS) regarding Endangered Species Act consultation for difethialone</i> (September 30, 2011).
RI Ex. 11	U.S. EPA, <i>Letter from S. Bradbury (EPA) to G. Frazier (FWS) regarding Endangered Species Act consultation for difenacoum</i> (March 30, 2012).
RI Ex. 12	Rahmy, <i>Myocardial alterations in animals intoxicated with an anticoagulant rodenticide</i> , J. Egypt. Ger. Soc. Zool. 12C: 87-98 (1993).
RI Ex. 13	Knopper et al, <i>Bone Density and breaking strength in UK raptors exposed to second generation anticoagulant rodenticides</i> , Bull Environ Contam Toxicol 78:249-251 (2007).
RI Ex. 14	Laas et al., <i>Retention of brodifacoum in sheep tissues and excretion in feces</i> , New Zealand J. Agric. Res. 28:357-359 (1985).
RI Ex. 15	Godfrey et al., <i>Preliminary dosing trials of a new anticoagulant, brodifacoum, as a toxicant for the rabbit, Oryctolagus cuniculus (L.)</i> . New Zealand J. Exper. Agric. 8:1-5 (1989).
RI Ex. 16	Munday et al, <i>Brodifacoum toxicosis in two neonatal puppies</i> , Vet Pathol. 40:216 (2003).
RI Ex. 17	Alterio, <i>Secondary poisoning of stoats (Mustela erminea), feral ferrets (Mustela furo), and feral house cats (Felis catus) by the anticoagulant poison, brodifacoum</i> , New Zealand Journal of Zoology, Vol. 23: 331-338 (1996).

RI Ex. 18	Murray M, Tseng F., <i>Diagnosis and treatment of secondary anticoagulant rodenticide toxicosis in a red-tailed hawk (Buteo jamaicensis)</i> , <i>J Avian Med and Surg.</i> 22(1):41-46 (2008).
RI Ex. 19	California Department of Pesticide Regulation, <i>Memorandum: Second Generation Anticoagulant Rodenticides</i> , D. Daniels, DVM, Senior Environmental Scientist to Ann Prichard, Chief Pesticide Registration Branch (June 27, 2013).
RI Ex. 20	W.H. Kern, Jr. et al., <i>Non-Chemical Rodent Control</i> , Institute of Food and Agricultural Sciences (IFAS), University of Florida (Mar. 2011). Available at http://edis.ifas.ufl.edu/mg218 .
RI Ex. 21	Mozillo, A.T., and M.D. Schwartz, <i>Landscape characteristics affect animal control by urban residents</i> , <i>Ecosphere</i> 2(11):128 (2011).
RI Ex. 22	Bartos, Monica et al, <i>Use of Anticoagulant Rodenticides in Single-Family Neighborhoods Along an Urban-Wildland Interface in California</i> . <i>Cities and the Environment (CATE): Vol.4: Iss .1, Article 12</i> (2012). Available at http://digitalcommons.lmu.edu/cate/vol4/iss1/12/
RI Ex. 23	California Department of Pesticide Regulation, <i>Notice of Proposed Reevaluation of Pesticide Products</i> (Dec. 30, 1999)
RI Ex. 24	California Department of Pesticide Regulation, <i>Final Statement of Reasons and Public Record Regarding Designating Brodifacoum, Bromadiolone, Difenacoum, and Difethialone as Restricted Materials</i> (March 18, 2014).
RI Ex. 25	California Department of Pesticide Regulation, <i>Response to Comments Regarding Designating Brodifacoum, Bromadiolone, Difenacoum, and Difethialone as Restricted Materials</i> (March 18, 2014).
RI Ex. 26	California Department of Pesticide Regulation, <i>Text of Final Regulations Designating Brodifacoum, Bromadiolone, Difenacoum, and Difethialone as Restricted Materials</i> (March 18, 2014).
RI Ex. 27	Cornell University, et al., Internet Center for Wildlife Damage Management, <i>Prevention and Control of Wildlife Damage: House Mice</i> , (1994). Available at http://icwdm.org/handbook/rodents/HouseMice.asp .
RI Ex. 28	Cornell University, et al., Internet Center for Wildlife Damage Management, <i>Prevention and Control of Wildlife Damage: Norway Rats</i> , (1994). Available at http://icwdm.org/handbook/rodents/NorwayRats.asp .
RI Ex. 29	Stansley W, Cummings M, Vudathala D, et al., <i>Anticoagulant Rodenticides in Red-Tailed Hawks, Buteo jamaicensis, and Great Horned Owls, Bubo virginianus, from New Jersey, USA, 2008-2010</i> . <i>Bull Environ Contam Toxicol.</i> 92(1):6-9 (2014).
RI Ex. 30	Elliott JE, Hindmarch S, Albert C, et al, <i>Exposure pathways of anticoagulant rodenticides to nontarget wildlife</i> . <i>Environ Monit Assess</i> 186(2):895-906 (2014).

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2014, I served the following document (including compact disk containing exhibits in electronic format):

- **RESPONDENT-INTERVENORS' REPORT OF PREHEARING EXCHANGE** (dated March 21, 2014); and
- **Compact Disk containing exhibits in electronic format**

on the persons listed below in the manner indicated.

By Hand Delivery via Courier

Sybil Anderson, HQ Hearing Clerk
Office of Administrative Law Judges
US EPA, Reagan Building, Rm. M1200
1300 Pennsylvania Avenue NW
Washington, DC 20004

The Hon. Susan Biro
Office of Administrative Law Judges
US EPA, Reagan Building, Rm. M1200
1300 Pennsylvania Avenue NW
Washington, DC 20004

By Regular Mail

Robert Perlis
Scott B. Garrison
David N. Berol
US EPA, Office of the General Counsel
1200 Pennsylvania Ave., NW
Mail Code 2333A
Washington, DC 20460

Steven Schatzow
Attorney at Law
2022 Columbia Rd., NW, Ste. 601
Washington, DC 20009

Dimple Chaudhary
Natural Resources Defense Council
1152 15th St., NW, Ste. 300
Washington, DC 20005

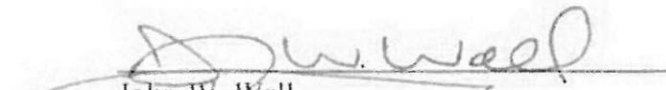
Lawrence E. Culleen
Ronald A. Schechter
Jeremy C. Karpatkin
Arnold & Porter LLP
555 12th Street, NW
Washington, DC 20004

Michael Wall
Natural Resources Defense Council
111 Sutter Street, 20th Floor
San Francisco, CA 94104

Katherine A. Ross
Arnold & Porter LLP
370 17th Street
Denver, CO 80202

Margaret Hsieh
Natural Resources Defense Council
40 West 20th Street, 11th Floor
New York, NY 10011

DATED: March 21, 2014


John W. Wall
Earthjustice