

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

2011 AUG 31 AM 9:35  
U.S. EPA REGION 5 CLERK

In the Matter of: )  
)  
Liphatech, Inc. ) Docket No. FIFRA-05-2010-0016  
Milwaukee, Wisconsin )  
) Hon. Susan L. Biro  
)  
Respondent. )  
\_\_\_\_\_ )

**COMPLAINANT'S MOTION FOR LEAVE TO FILE FIFTH  
SUPPLEMENTAL PREHEARING EXCHANGE INSTANTER**

Complainant, the Director, Land and Chemicals Division, Region 5, United States Environmental Protection Agency (Complainant), through its undersigned attorneys, hereby files this *Motion for Leave to File Fifth Supplemental Prehearing Exchange Instanter* pursuant to Section 22.19(f) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), codified at 40 C.F.R. § 22.19(f). For the reasons set forth below, Complainant respectfully requests that the Presiding Officer grant this Motion and deem *Complainant's Fifth Supplemental Prehearing Exchange* filed on the date of any order granting this Motion. A copy of Complainant's proposed *Fifth Supplemental Prehearing Exchange*, along with copies of proposed Exhibits 148-149, are attached hereto as Attachment A.

On August 30, 2011, counsel for Complainant contacted counsel for Liphatech, Inc. (Respondent) seeking concurrence in the relief requested in this Motion. On August 30, 2011, counsel for Respondent indicated that Respondent does not oppose this Motion.

**I. Standard of Review**

The Consolidated Rule governing supplementation of prehearing exchanges is found at 40 C.F.R. § 22.19(f), which provides in pertinent part as follows:

(f) Supplementing prior exchanges. A party who has made an information exchange under paragraph (a) of this section [22.19], ... shall promptly supplement or correct the exchange when the party learns that the information exchanged ... is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the other party pursuant to this section.

Motions to supplement a prehearing exchange should be granted unless there is evidence of bad faith, delay tactics, or undue prejudice. *In re Service Oil, Inc.*, Docket No. CWA-08-2005-0010, 2006 EPA ALJ LEXIS 16, at\*9 (April 12, 2006). Because Complainant submits this Motion more than 15 days prior to the hearing, it need not demonstrate good cause for failing to supply the documents sooner. *See* 40 C.F.R. § 22.22(a)(1).

**II. Complainant's Proposed Fifth Supplemental Prehearing Exchange**

Complainant's proposed *Fifth Supplemental Prehearing Exchange* includes the following additional exhibits:

CX No.	Title of Document	Date of Document	Bates No.
148	Order On Remedy entered by the U.S. District Court for the District of Columbia in <i>Defenders of Wildlife v. Lisa P. Jackson, et al.</i> , 1:09-cv-01814-ESH	July 27, 2011	3559-3664
149	Email correspondence sent by Thomas Schmit of Liphatech, Inc. attaching report submitted pursuant to Order on Remedy	August 29, 2011	3665-3667

### III. Discussion

The additional documents that Complainant seeks to include in its prehearing exchange are a court order in a judicial matter in which Respondent is a defendant-intervenor (Exhibit 148) and a document submitted by Respondent to the U.S. EPA pursuant to that court order (Exhibit 149). The documents in the proposed *Fifth Supplemental Prehearing Exchange* were not previously submitted because (1) Exhibit 149 was not in existence at the time Complainant filed its *Initial Prehearing Exchange* on September 28, 2010, *Rebuttal Prehearing Exchange* on November 10, 2010, *First Supplemental Prehearing Exchange* on January 25, 2011, *Second Supplemental Prehearing Exchange* on February 28, 2011, and *Third and Fourth Supplemental Prehearing Exchanges* on August 19, 2011; and (2) Exhibit 148 is submitted to provide the context for Respondent's submission of Exhibit 149 to the U.S. EPA on August 29, 2011.

The information in the additional exhibits Complainant seeks to include in its prehearing exchange will provide a more complete and accurate record. Furthermore, Respondent will not suffer any prejudice as a result of this supplemental prehearing exchange as it is aware of both of the documents Complainant seeks to include in its prehearing exchange. Finally, given that the hearing is scheduled for October 31, 2011, Respondent will have ample time to review the documents provided in the proposed *Fifth Supplemental Prehearing Exchange*, respond if necessary, and prepare any rebuttal testimony and exhibits.

IV. **Conclusion**

For all of the foregoing reasons, Complainant respectfully requests that the Presiding Officer grant it leave to file its *Fifth Supplemental Prehearing Exchange* and deem the *Fifth Supplemental Prehearing Exchange*, attached hereto as Attachment A, filed on the date any order granting this Motion is issued.

Respectfully submitted,



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Nichi K. O'Meara  
Erik H. Olson  
Associate Regional Counsels  
Gary E. Steinbauer  
Assistant Regional Counsel  
United States EPA – ORC Region 5  
77 W. Jackson Blvd. (C14-J)  
Chicago, IL 60604  
(312) 886-0568  
*Attorneys for Complainant*

# **ATTACHMENT A**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

<b>In the Matter of:</b>	)	
	)	
<b>Liphatech, Inc.</b>	)	Docket No. FIFRA-05-2010-0016
<b>Milwaukee, Wisconsin</b>	)	
	)	Hon. Susan L. Biro
<b>Respondent.</b>	)	
_____	)	

**COMPLAINANT'S FIFTH SUPPLEMENTAL PREHEARING EXCHANGE**

Complainant, the U.S. Environmental Protection Agency, Region 5 (Complainant), hereby files the instant *Complainant's Fifth Supplemental Prehearing Exchange* pursuant to Sections 22.16(a) and 22.19(f) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. §§ 22.16(a) and 22.19(f).

**I. Additional Exhibits**

CX No.	Title of Document	Date of Document	Bates No.
148	Order On Remedy entered by the U.S. District Court for the District of Columbia in <i>Defenders of Wildlife v. Lisa P. Jackson, et al.</i> , 1:09-cv-01814-ESH	July 27, 2011	3559-3664
149	Email correspondence sent by Thomas Schmit of Liphatech, Inc. attaching report submitted pursuant to Order on Remedy	August 29, 2011	3665-3667

**II. Reservation of Rights**

Complainant respectfully reserves the right to supplement its list of witnesses and/or its list of exhibits upon reasonable notice to the Tribunal and Respondent, or by

order of the Presiding Officer, as allowed by the Consolidated Rules. Complainant further reserves the right to call any of the witnesses listed in and documents provided with its prehearing exchange in its case in chief and/or in any rebuttal.

Respectfully submitted,

DATED: 8/31/11



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

# **EXHIBIT 148**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DEFENDERS OF WILDLIFE, et al.,	)	No. 1:09-cv-01814-ESH
Plaintiffs,	)	(consolidated with No. 1:10-cv-01063-ESH)
v.	)	
LISA P. JACKSON, Administrator of the United States Environmental Protection Agency, et al.,	)	
Defendants,	)	
LIPHATECH, INC.,	)	
Defendant-Intervenor.	)	

**FILED**  
JUL 27 2011

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

**ORDER ON REMEDY**

At the July 21, 2011, hearing on remedy in this action, the Court ordered the parties to submit a proposed ~~form of~~ order to implement the remedy ordered by the Court. The Court ordered that, until conclusion of consultation under the Endangered Species Act ("ESA") use of EPA Reg. No. 7173-286, Rozol Prairie Dog Bait ("Rozol") should be restricted to the six states where use was authorized under special local needs registrations ("SLNs") issued pursuant to section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), U.S.C. § 136v(c), prior to the Environmental Protection Agency's ("EPA") issuance of a ten-state registration under Section 3 of FIFRA, 7 U.S.C. § 136a. Upon consideration of the agreed form of order submitted by the parties, it is **ORDERED** as follows:

- 1) On or before August 1, 2011, Liphatech shall submit to EPA an application for amended registration under FIFRA section 3 that modifies the Rozol label to remove any authorization allowing applicators to lawfully use the product in Montana, New Mexico, North Dakota, or South Dakota. Copies of the submission must also concurrently be submitted by e-mail to counsel of record and to the following EPA staff: Meredith Laws (laws.meredith@epa.gov) and John Hebert (hebert.john@epa.gov). The application must include both a proposed new label and a marked-up version of the previous label that clearly identifies all proposed modifications to the current label language. The proposed amended label must include no changes other than those necessary to prohibit use in the four states identified above, unless such additional language has been previously agreed to in writing by all parties to this action.
- 2) Liphatech shall not submit, and EPA shall not approve, any application under FIFRA section 3 for use of Rozol to control black-tailed prairie dogs in any additional state not allowed by the proposed amended label in paragraph (1) above until such time as the Fish and Wildlife Service has issued a Final Biological Opinion relating to the use of Rozol to control black-tailed prairie dogs.
- 3) Liphatech shall not participate directly or indirectly in any way in a request to any state that the state issue an SLN for use of chlorophacinone to control black-tailed prairie dogs until such time as the Fish and Wildlife Service has issued a Final Biological Opinion relating to the use of Rozol to control black-tailed prairie dogs, nor until that time shall Liphatech sell or deliver Rozol labeled for use on black-tailed prairie dogs to anyone

located in any state other than Wyoming, Colorado, Nebraska, Kansas, Oklahoma, or Texas.

- 4) Liphatech shall send a copy of the order issued under paragraph (6) below to its distributors, and request written confirmation of receipt of delivery, within seven calendar days of receiving the order from EPA. Liphatech shall request that any of its distributors who have sold Rozol to retailers or distributors within the past twelve months notify those retailers or distributors of the change in Rozol's restrictions and shall request that the distributors provide such retailers or distributors with a copy of the existing stocks order referred to in paragraph (6) or information about where on EPA's electronic website it may be obtained. Liphatech shall submit by e-mail to EPA, within 21 days of receiving the existing stocks order from EPA, a report that identifies the name and location of each distributor to which it sent the order and made the request, and that confirms receipt of the order and the request by each such distributor. The report shall be submitted to the following EPA staff: Meredith Laws (laws.meredith@epa.gov) and John Hebert (hebert.john@epa.gov).
- 5) EPA shall approve the application submitted under paragraph (1) above within seven calendar days after submission.
- 6) EPA shall issue, on the same date it approves the application under paragraph (5), an immediately effective order with respect to existing stocks of Rozol bearing labeling that allows use of the product in Montana, New Mexico, North Dakota, or South Dakota

under section 6(a)(1) of FIFRA, 7 U.S.C. § 136c(a)(1) (“existing stocks order”). The existing stocks order is intended by the Court only as relief with respect to the declaratory judgment entered in the above-captioned proceeding, and is not based on any determination by EPA under FIFRA Section 6(b), 7 U.S.C. § 136d(b), or on a final cancellation order as that term is used in 40 C.F.R. § 164.130. The existing stocks order shall include the following provisions:

- a) Liphatech may not sell or distribute existing stocks of Rozol in its possession and control unless those stocks have been labeled in accordance with FIFRA and its implementing regulations to prohibit use in Montana, New Mexico, North Dakota, and South Dakota.
- b) With respect to those existing stocks of Rozol that have not been labeled consistent with the terms of paragraph (a):
  - (I) No person may sell or distribute such existing stocks in Montana, New Mexico, North Dakota, and South Dakota, unless such sale or distribution is for the purpose of disposal, returning the material to the person from whom it was purchased, or for transfer for the purpose of resale outside of Montana, New Mexico, North Dakota, or South Dakota.
  - (II) No person may sell or distribute such existing stocks to another person unless, for each such transfer, a copy of this order is provided to such other person at or before the time of the transfer and, additionally,

another copy is shipped with the stocks if they are transported by a third party.

(III) No person may use such existing stocks in Montana, New Mexico, North Dakota, or South Dakota.

- c) EPA's existing stocks order shall include in large, bolded, readily visible font in the top one third of the first page of the order the following language: "As of August X, 2011, it is a violation of Federal law to use Rozol Prairie Dog Bait in the states of Montana, North Dakota, South Dakota, and New Mexico. This is the case even though existing stocks of Rozol Prairie Dog Bait may bear labeling for these states. No person may sell or distribute such existing stocks to a retail customer unless a copy of this order is first provided to the customer."
  - d) EPA's existing stocks order shall indicate where on EPA's website an electronic copy of the order may be downloaded.
- 7) EPA shall provide by email a copy of the order issued under paragraph (6) to Liphatech and to all counsel of record within one business day of issuance of the order.
- 8) EPA shall provide notice to counsel of record and Liphatech in writing or by email within 14 calendar days of its receipt of notifications from a state that the state has issued an

SLN registration for chlorophacinone to control black-tailed prairie dogs, but only to the extent that EPA receives such a notice on or after the date of the Court's order, and before the date that the Fish and Wildlife Service has issued a Final Biological Opinion relating to the use of Rozol to control black-tailed prairie dogs. In addition, within 14 calendar days of the Court's order, EPA shall provide notice to all counsel of record of any SLNs EPA has received for use of chlorophacinone to control black-tailed prairie dogs between January 1, 2011 and the date of the Court's order.

- 9) The Court recognizes that the parties have agreed as to form <sup>of</sup> only on this Order. The parties' agreement as to form does not affect the parties' <sup>appellate rights.</sup> ~~rights to seek appeal of this~~ action.
- 10) The Court retains jurisdiction to enforce the terms of this Order until after issuance of a Final Biological Opinion by the Fish and Wildlife Service relating to the use of Rozol to control black-tailed prairie dogs. EPA shall advise the Court when the Final Biological Opinion is issued. Within 14 days after notification to the Court by EPA, the parties shall advise the Court whether in the view of any of them further proceedings other than entry of judgment are necessary.

**SO ORDERED.**

Dated: 7/27/11

Ellen S Herck

UNITED STATES DISTRICT JUDGE

# **EXHIBIT 149**



court-ordered report

Thomas Schmit

to:

Meredith Laws, John Hebert

08/29/2011 03:45 PM

Cc:

Al Smith, Chuck Hathaway, Carl Tanner, "Timothy D. Backstrom  
(tbackstrom@lawbc.com)"

Hide Details

From: Thomas Schmit <SchmitT@liphatech.com>

To: Meredith Laws/DC/USEPA/US@EPA, John Hebert/DC/USEPA/US@EPA

Cc: Al Smith <SmithA@liphatech.com>, Chuck Hathaway <HathawayC@liphatech.com>, Carl Tanner <TannerC@liphatech.com>, "Timothy D. Backstrom  
(tbackstrom@lawbc.com)" <tbackstrom@lawbc.com>

History: This message has been replied to and forwarded.

#### 1 Attachment



ESO report.xls

Dear Ms. Laws and Mr. Hebert –

Paragraph 4 of the Order on Remedy in the case of Defenders of Wildlife v Jackson (US District Court for the District of Columbia No. 1:09-cv-01814-ESH) required Liphatech to send a copy of the order to all of the distributors who have sold Rozol Prairie Dog Bait in the past 12 months.

This paragraph also requires us to file a report with you that lists the name and location of each distributor that we mailed this order to, and the confirmation of receipt by the distributor.

The attached Excel file shows the name, address and date marked on the



certified mail return receipt for each of the distributor locations to which we sent a copy of the order.

Please let confirm your receipt of this e-mail by return e-mail.

Thank you  
Thomas Schmit  
Liphatech, Inc.

Liphatech, Inc  
Existing Stocks Order  
Mailing List

	Company	Business Address Street	City	State	Acknowledged
1	Helena Chemical Co.	7376 N Ingram, Suite #101	Fresno	CA	8/15/2011
2	Crop Production Services	3005 Rocky Mountain Ave	Loveland	CO	8/12/2011
3	Helena Chemical Co.	4546 Corporate Drive, Suite 170	West Des Moines	IA	8/12/2011
4	United Suppliers Inc.	P.O. Box 538	Eldora	IA	8/12/2011
5	Crop Production Services	2025 Old Hwy #3	Garden City	KS	8/18/2011
6	Helena Chemical Co.	6409 Road 25	Goodland	KS	8/15/2011
7	Winfield Solutions LLC	1080 County Road F West MS 5810	Shoreview	MN	8/12/2011
8	Crop Production Services	POB 112	Belgrade	MT	8/16/2011
9	Crop Production Services	1505 Lockwood Road	Billings	MT	8/16/2011
10	Crop Production Services	708 Hwy #7 N	Great Falls	MT	8/15/2011
11	Crop Production Services	6618 South 12th St.	Huntley	MT	8/15/2011
12	Helena Chemical Co.	POB 1546	Havre	MT	8/15/2011
13	Helena Chemical Co.	10 5th Avenue South	Laurel	MT	8/15/2011
14	Helena Chemical Co.	HC 89 Box 5177	Sidney	MT	8/15/2011
15	Helena Chemical Co.	HC 89 Box 5177	Sidney	MT	8/15/2011
16	Wilbur-Ellis Co.	PO Box 31293	Billings	MT	8/15/2011
17	Wilbur-Ellis Co.	1966 6th St. Northeast	Great Falls	MT	8/17/2011
18	Crop Production Services	PO Box 2106	Williston	ND	8/18/2011
19	Helena Chemical Co.	POB 690	Dickinson	ND	8/17/2011
20	Wilbur-Ellis Co.	POB 14745	Grand Forks	ND	8/12/2011
21	Wilbur-Ellis Co.	POB 14745	Grand Forks	ND	8/12/2011
22	Van Diest Supply Co.	P.O. Box 410	McCook	NE	8/12/2011
23	Crop Production Services	HC 31 Box 29A	Hatch	NM	8/15/2011
24	Crop Production Services	P.O. Box 200	Mesquite	NM	8/15/2011
25	Helena Chemical Co.	8905 Adams NE	Albuquerque	NM	8/12/2011
26	Helena Chemical Co.	P.O. Box 1110	Artesia	NM	8/25/2011
27	Helena Chemical Co.	P.O. Box 629	Mesquite	NM	8/17/2011
28	Crop Production Services	P.O. Box 1125	Altus	OK	8/15/2011
29	Crop Production Services	P.O. Box 309	Clifton	OK	8/16/2011
30	Crop Production Services	P.O. Box 577	Webbers Falls	OK	8/15/2011
31	Helena Chemical Co.	P.O. Box 814	Altus	OK	8/15/2011
32	Helena Chemical Co.	P.O. Box 547	Coweta	OK	8/15/2011
33	Helena Chemical Co.	310 E Jensen Road	El Reno	OK	8/15/2011
34	Helena Chemical Co.	22248 NCR 1840	Mangum	OK	8/15/2011
35	United Suppliers, Inc.	3225 E Willow	Enid	OK	8/15/2011
36	Winfield Solutions LLC	Hwy 183 South Rt. 1, Box 431	Chilton	OK	8/15/2011
37	Winfield Solutions LLC	301 N. 54th Street	Enid	OK	8/15/2011
38	Winfield Solutions LLC	1819 N.W. 5th Street	Oklahoma City	OK	8/15/2011
39	Crop Production Services	5230 Airport Road	Spearsfish	SD	8/16/2011
40	Crop Production Services	5230 Airport Road	Spearsfish	SD	8/16/2011
41	Helena Chemical Co.	2301 293rd Avenue	Pierre	SD	8/13/2011
42	Helena Chemical Co.	2301 293rd Avenue	Pierre	SD	8/13/2011
43	United Suppliers, Inc.	3715 Airport Road	Pierre	SD	8/15/2011
44	Helena Chemical Co.	225 Schilling Blvd, Suite 110	Collinsville	TN	8/15/2011
45	Crop Production Services	PO Box 1192	Brownfield	TX	8/12/2011
46	Crop Production Services	P.O. Box 994	Canyon	TX	8/19/2011
47	Crop Production Services	P.O. Box 210	Cotton Center	TX	8/12/2011
48	Crop Production Services	P.O. Box 1286	Denver City	TX	8/12/2011
49	Crop Production Services	5840 Hwy #7 West Box 618	Dumas	TX	8/12/2011
50	Crop Production Services	1940 FM 1072	Fieldon	TX	8/12/2011
51	Crop Production Services	3492 Long Prairie Road Suite 200	Flower Mound	TX	8/15/2011
52	Crop Production Services	POB 720	Floydada	TX	8/15/2011
53	Crop Production Services	2902 South Church Street	Paris	TX	8/15/2011
54	Crop Production Services	630 Mt. Pleasant St.	Pittsburg	TX	8/15/2011
55	Crop Production Services	1541 West US Hwy. 70	Plainview	TX	8/15/2011
56	Helena Chemical Co.	P.O. Box 203	Bardwell	TX	8/19/2011
57	Helena Chemical Co.	2262 S. Red River Expressway	Burkburnett	TX	8/15/2011
58	Helena Chemical Co.	P.O. Box 109	Hartley	TX	8/12/2011
59	Helena Chemical Co.	N Hwy 385/87	Hartley	TX	8/12/2011
60	Helena Chemical Co.	4718 Hwy #4	Lubbock	TX	8/12/2011
61	Helena Chemical Co.	504 East Walnut	Taylor	TX	8/15/2011
62	Pro Chem Sales	900 Ross Street	Amarillo	TX	8/12/2011
63	Pro Chem Sales	13101 County Rd. 2200	Lubbock	TX	8/15/2011
64	United Suppliers, Inc.	833 East 40th St. Suite B	Lubbock	TX	8/15/2011
65	Wilbur-Ellis Company	1191 US Highway 70	Barth	TX	8/12/2011
66	Wilbur-Ellis Company	P.O. Box 667	Farwell	TX	8/16/2011
67	Wilbur-Ellis Company	P.O. Box 475	Friona	TX	8/17/2011
68	Wilbur-Ellis Company	P.O. Box 367	Hart	TX	8/16/2011
69	Wilbur-Ellis Company	P.O. Box 1388	Hercford	TX	8/12/2011
70	Wilbur-Ellis Company	P.O. Box 1309	Levelland	TX	8/17/2011
71	Wilbur-Ellis Company	512 Hall Avenue	Litchfield	TX	8/12/2011
72	Wilbur-Ellis Company	P.O. Box 97	Lockney	TX	8/15/2011
73	Wilbur-Ellis Company	550 Hwy 214	Muleshoe	TX	8/12/2011
74	Wilbur-Ellis Company	PO Box 866	Tulia	TX	8/18/2011
75	Winfield Solutions LLC	PO Box 602	Dumas	TX	8/18/2011
76	Winfield Solutions LLC	PO Box 710	El Campo	TX	8/23/2011
77	Winfield Solutions LLC	4302 Locust St.	Lubbock	TX	8/12/2011
78	Winfield Solutions LLC	P.O. Box 95	Muleshoe	TX	8/25/2011
79	Winfield Solutions LLC	2219 County Road 60	Plainview	TX	8/12/2011
80	Winfield Solutions LLC	12570 Hwy 64 West	Tyler	TX	8/15/2011

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

REGIONAL HEARING CLERK  
U.S. EPA REGION 5

2011 AUG 31 AM 9:36

**CERTIFICATE OF SERVICE**

I hereby certify that the originals and true, accurate and complete copies of *Complainant's Motion for Leave to File Fifth Supplemental Prehearing Exchange Instanter* and *Complainant's Fifth Supplemental Prehearing Exchange*, together with true, accurate and complete copies of Exhibits 148-149 thereto, were filed with the Regional Hearing Clerk, U.S. EPA, Region 5, on the date indicated below. True, accurate and complete copies were sent to Honorable Susan Biro, Administrative Law Judge (via UPS overnight delivery) at the following address:


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

and to Mr. Michael H. Simpson, Counsel for Respondent, Liphatech, Inc., (via UPS overnight delivery), at the following address:

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

on the date indicated below:

Dated in Chicago, Illinois, this 31 day of August, 2011.



Patricia Jeffries - Harwell  
Legal Technician  
U.S. EPA, Region 5  
Mail Code C-14J  
77 West Jackson Blvd.  
Chicago, IL 60604  
(312) 353-7464