

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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

RECEIVED BY DALJ
2014 MAR 21 PM 2:58

**NATURAL RESOURCES DEFENSE COUNCIL AND WEST HARLEM
ENVIRONMENTAL ACTION'S REPORT OF PREHEARING EXCHANGE**

Intervenors Natural Resources Defense Council (NRDC) and West Harlem Environmental Action (WE ACT) (collectively, "Intervenors") respectfully submit, in accordance with the Administrative Law Judge's February 10, 2014 Prehearing Order, this prehearing exchange of primary discovery materials.

A. Witnesses and Expected Testimony

1. **Allison Taisey** is a board-certified entomologist specializing in integrated pest management (IPM) in affordable housing. Ms. Taisey is the Project Coordinator at the Northeastern Integrated Pest Management Center at Cornell University and works with affordable housing providers across the country to implement IPM theory and research. She holds a Bachelor in Science in Entomology and a Master of Arts in Teaching from Cornell University.

Ms. Taisey is expected to testify about the comparative efficacy of different methods and products available for rodent pest management, including non-chemical options. She will also testify on the availability and use of these methods and products by consumers and managers and residents of low-income and affordable housing. Ms. Taisey is an expert in integrated pest management strategies, and will provide expert testimony.

2. **Luis Agurto, Jr.** is the President and Chief Operating Officer of Pestec Integrated Pest Management Providers, a company that provides pest control and IPM services to residential, commercial and municipal properties. Mr. Agurto oversees the City of San Francisco's IPM program and provides IPM training for the California Department of Pesticide Regulation. Mr. Agurto has 19 years of experience as a structural pest control professional and is licensed by the State of California.

Mr. Agurto is expected to testify about the factors that influence the effectiveness of rodent pest management. His testimony will also include a discussion of non-chemical pest control options. In addition, Mr. Agurto will address the continued availability and relative cost, following the proposed cancellation, of effective and affordable rodent management tools

and techniques for a variety of residential and commercial settings. Mr. Agurto is an expert on pest management treatment protocols, and will provide expert testimony.

Intervenors reserve the right to call in their direct or rebuttal case any of the witnesses identified in Respondent's Report of Prehearing Exchange, dated February 28, 2014, or Petitioner Reckitt Benckiser LLC's Report of Prehearing Exchange, dated March 14, 2014. Intervenors reserve the right to supplement their list of witnesses upon adequate notice to the other parties.

B. Exhibits

A list of all exhibits Intervenors intend to introduce into evidence is attached. In accordance with the February 15, 2014 Order on Joint Motion Concerning the Prehearing Exchange, copies of all paper exhibits and photographs of all physical exhibits have been provided electronically to all parties. Intervenors incorporate by reference all exhibits identified in Respondent's February 28, 2014 Report of Prehearing Exchange and Petitioner Reckitt Benckiser LLC's March 14, 2014 Report of Prehearing Exchange. Intervenors reserve the right to supplement their list of exhibits upon adequate notice to the other parties.

C. Official Notice

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

D. Location and Duration of Direct Case, and Translation Services

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

Intervenors estimate that they can present their direct case in 8 hours if all witnesses present their direct testimony. If Intervenors are permitted to submit written direct testimony for

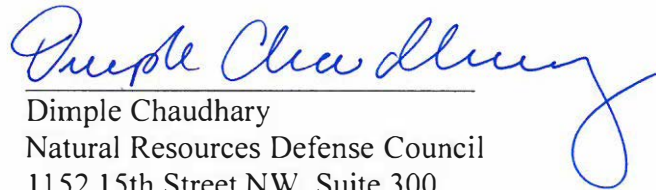
some of their witnesses (which is Intervenor's preference), Intervenor estimates they can present their direct case in 4 hours.

No translation services will be required for Intervenor's witnesses.

E. Submission of Questions to the National Academy of Sciences

There are no questions of scientific fact associated with this proceeding that Intervenor believes should be presented to a committee for the National Academy of Sciences.

Respectfully submitted,



Dimple Chaudhary
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, DC 20005
Tel. (202) 289-6868
Fax (202) 289-1060
Email: dchaudhary@nrdc.org

Michael Wall
Natural Resources Defense Council
111 Sutter Street, 20th Floor
San Francisco, CA 94104
Tel. (415) 875-6162
Fax (415) 875-6161
Email: mwall@nrdc.org

Margaret Hsieh
Natural Resources Defense Council
40 West 20th Street, 11th Floor
New York, NY 10011
Tel. (212) 727-4652
Fax (212) 727-1773
Email: mhsieh@nrdc.org

Counsel for NRDC and WE ACT

Dated: March 21, 2014

Intervenors NRDC and WE ACT – Exhibit List

Exhibit No.	Description
INT NRDC 1	Natural Resources Defense Council and West Harlem Environmental Action Comments on Proposed Risk Mitigation Decision for Nine Rodenticides (2007)
INT NRDC 2	West Harlem Environmental Action. Comments on EPA’s Proposed Risk Mitigation Decision for Nine Rodenticides (2007)
INT NRDC 3	EPA, Biological and Economic Analysis Division (BEAD) Response to Comments on 2007 Proposed Risk Mitigation Decision for Nine Rodenticides (Jan. 2008)
INT NRDC 4	EPA, Health Effects Division Correction to BEAD Response to Comments on 2007 Proposed Risk Mitigation Decision for Nine Rodenticides (May 2008)
INT NRDC 5	EPA, Special Review and Reregistration Division Response to Comments on 2007 Proposed Risk Mitigation Decision for Nine Rodenticides (May 2008)
INT NRDC 6	d-Con Ultra Set Trap Image 1
INT NRDC 7	d-Con Ultra Set Trap Image 2
INT NRDC 8	Receipt for Mar. 19, 2014 Purchase of d-Con Covered Mouse Snap Trap
INT NRDC 9	Real-Kill Glue Trap Image 1
INT NRDC 10	Real-Kill Glue Trap Image 2
INT NRDC 11	Victor Easy Set Mouse Trap Image 1
INT NRDC 12	Victor Easy Set Mouse Trap Image 2
INT NRDC 13	Receipt for Mar. 19, 2014 Purchase of Victor Easy Set Mouse Trap and Real-Kill Rat Glue Traps
INT NRDC 14	Image of Trapper MAX Glue Board
INT NRDC 15	Image of Trapper MAX T-Rex Trap
INT NRDC 16	Receipt for Mar. 19, 2014 Purchase of Trapper Max Free Mouse Glue Board and Trapper T-Rex Rat Snap Traps
INT NRDC 17	EPA, Preventing Pests at Home, <i>available at</i> http://www.epa.gov/oppfead1/Publications/preventpest.pdf (last visited Mar. 19, 2014)
INT NRDC 18	New York City Department of Health and Mental Hygiene Comments on Notice of Intent to Cancel Twenty Homeowner Rodenticide Bait Products. (2011)
INT NRDC 19	EPA Web Page, “Do's and Don'ts of Pest Control,” <i>available at</i> http://www.epa.gov/pesticides/controlling/dosanddnts.htm (last visited Mar. 19, 2014)
INT NRDC 20	EPA Web Page, Integrated Pest Management (IPM) Principles, <i>available at</i> http://www.epa.gov/opp00001/factsheets/ipm.htm (last visited Mar. 19, 2014)
INT NRDC 21	Morris, K.D. and D.E. Kaukeinen, Comparative Evaluation of Tamper-Proof Mouse Bait Stations, <i>Proceedings of the Thirteenth Vertebrate Pest Conference</i> , A.C. Crabb and R.E. Marsh (eds.) University of California, Davis, CA, 13: 101 – 106 (Feb. 1988)

Exhibit No.	Description
INT NRDC 22	Vantassel, S., S. Hygnstrom, and D. Ferraro, Bait Stations for Controlling Rats and Mice, University of Nebraska-Lincoln Extension, Institute of Agriculture and Natural Resources G1646, <i>available at:</i> http://www.ianrpubs.unl.edu/live/g1646/build/g1646.pdf (last visited Mar. 3, 2014)
INT NRDC 23	Ozanne-Smith, J., L. Day et al., Childhood poisoning: Access and prevention. <i>J. Paediatr. Child Health</i> , 37: 262–265 (2001)
INT NRDC 24	McConnell, R., J. Milam et al., Educational intervention to control cockroach allergen exposure in homes of Hispanic children in Los Angeles: results of the La Casa study, <i>Clinical & Experimental Allergy</i> , 35: 426-33 (2005)
INT NRDC 25	Brenner, B., S. Markowitz et al., Integrated Pest Management in an Urban Community: A Successful Partnership for Prevention, <i>Environmental Health Perspectives</i> , 111(13): 1649 – 1653 (2003)
INT NRDC 26	Geiger, C.A. and C. Cox, Pest Prevention by Design: Authoritative Guidelines for Designing Pests Out of Structures, San Francisco Department of the Environment (2012)
INT NRDC 27	Association of Structural Pest Control Regulatory Officials and National Pest Management Association, Rodenticide Use Survey of Pest Management Professionals (2013)
INT NRDC 28	Cook, C. and E. Hill, Impact Assessment of the Draft Notice of Intent to Cancel Selected Residential Consumer Rodenticide Products to Control Commensal Rodents, BEAD, Office of Pesticide Programs (Oct. 2011)
INT NRDC 29	Ashley, P., J.K. Berko et al., Pesticides in the Home: Use, Hazards, and Integrated Pest Management, Prepared for the U.S. Department of Housing and Urban Development (2011)
INT NRDC 30	D.M. Miller and F. Meek, Cost and Efficacy Comparison of Integrated Pest Management Strategies with Monthly Spray Insecticide Applications for German Cockroach (Dictyoptera: Blattellidae) Control in Public Housing, <i>J. Ec. Entomology</i> , 97(2): 559-569 (2004)
INT NRDC 31	Klennert, Mary D., Andrew H. Liu et al., Short-term impact of a Randomized Multifactorial Intervention for Wheezing Infants in Low-Income Families, <i>Arch. Pediatr. Adolesc. Med.</i> , 159(1): 79-82 (2005)
INT NRDC 32	Williams, Meghan K., Dana B. Barr et al., An Intervention to Reduce Residential Insecticide Exposure during Pregnancy among an Inner-City Cohort, <i>Environmental Health Perspectives</i> , 114(11): 1684-1689
INT NRDC 33	Surgan, Michael H., Thomas Congdon et al., Pest Control in Public Housing, Schools and Parks: Urban Children at Risk, New York State Office of the Attorney General’s Environmental Protection Bureau (Aug. 2002)
INT NRDC 34	Curriculum Vitae for Allison Taisey
INT NRDC 35	Curriculum Vitae for Luis Agurto, Jr.

CERTIFICATE OF SERVICE

I certify that, on this 21st day of March, 2014, the foregoing document was served to the addresses listed below in the manner indicated.

Original and two copies by hand delivery:

Sybil Anderson, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20460

By express mail:

The Honorable Susan Biro
U.S. Environmental Protection Agency
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20460

By express and electronic mail:

Robert G. Perlis
Scott B. Garrison
David N. Berol
U.S. EPA Pesticides and Toxic Substances Law Office
Office of the General Counsel
1200 Pennsylvania Ave., NW
Mail Code 2333A
Washington, DC 20460
Email: perlis.robert@epa.gov
garrison.scott@epa.gov
berol.david@epa.gov

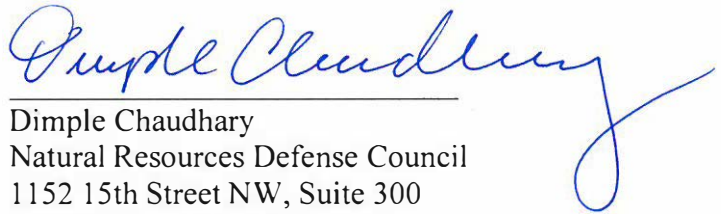
Lawrence E. Culleen
Ronald A. Schechter
Jeremy C. Karpatkin
Arnold & Porter LLP
555 12th Street, NW
Washington, DC 20004
Email: lawrence.culleen@aporter.com
ronald.schechter@aporter.com
jeremey.karpatkin@aporter.com

Steven Schatzow
Attorney at Law
2022 Columbia Road, NW, Suite 601
Washington, DC 20009
Email: sschatzow@his.com

Gregory C. Loarie
Irene V. Gutierrez
Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
Email: gloarie@earthjustice.org
igutierrez@earthjustice.org

One courtesy copy by electronic mail:
OALJfiling@epa.gov

Respectfully submitted,



Dimple Chaudhary
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, DC 20005
Tel. (202) 289-6868
Fax (202) 289-1060
Email: dchaudhary@nrdc.org