

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**BEYOND PESTICIDES/NATIONAL
COALITION AGAINST THE MISUSE
OF PESTICIDES
701 E. Street, SE
Washington, D.C. 20003**

Plaintiffs,

v.

Case Number: 1:02CV02419 (RIL)

**CHRISTINE T. WHITMAN,
ADMINISTRATOR OF UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY,
Ariel Rios Building, 1101A
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460**

Defendant.

SECOND SUPPLEMENTAL DECLARATION OF JACK E. HOUSENGER

In accordance with 28 U.S.C. § 1746, Jack E. Housenger hereby declares as follows:

1. I am the Associate Director of the Antimicrobials Division (AD) in the Office of Pesticide Programs (OPP) in the Environmental Protection Agency. I have been in this position since May 2002 and previously held the position of Associate Director of the Special Review and Reregistration Division (SRRD) since 1996.
2. Since my previous declaration on August 12, 2004, OPP has completed additional reregistration activities. To date, OPP has issued 245 Reregistration Eligibility Decisions (REDs) for one or more pesticide active ingredients (some REDs cover more than one related active ingredient) which are contained in thousands of registered pesticide products. That

represents an additional 16 completed REDs since my last declaration. There are 136 REDs in progress in OPP.

3. Since my previous declaration on August 12, 2004, OPP has completed additional reregistration activities on the wood preservative pesticides. EPA had previously anticipated that it would issue REDs on all three wood preservative pesticides by September 2005. As detailed below, however, due to new scientific issues that have arisen during the intra-Agency and public reviews of the Agency's Preliminary Risk Assessments (PRA), some of EPA's estimated completion dates have changed.

4. EPA completed a PRA on pentachlorophenol (penta) and released that PRA for public comment on November 30, 2004. EPA accepted comments on the PRA through January 31, 2005. In order to fully address the risks of penta, OPP has completed two additional PRAs on penta's hexachlorobenzene and dioxin contaminants. Intra-Agency review was recently completed for the hexachlorobenzene risk assessment and EPA expects intra-Agency review will be completed for the dioxin risk assessment in the near future. Once intra-Agency review is complete, EPA will also release these two risk assessments for public comment. Rather than September 2005, EPA now expects to complete the penta RED in 2006.

5. EPA released the creosote PRA for public comment on December 5, 2003. EPA is evaluating the public comments received and will update the risk assessment as appropriate. At this time, EPA still anticipates completing the creosote RED in 2005. However, EPA recently received a new study evaluating creosote's potential to cause cancer. This study analyzes the potential cancer hazard based on exposure to all components in creosote rather than the previous study that analyzed the potential cancer hazard based on exposure to benzo(a)pyrene which only comprises 0.5% of creosote. Should OPP conclude that the new study must be incorporated into

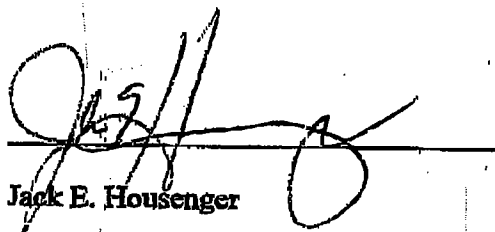
the risk assessment, additional time will be needed.

6. EPA released the CCA PRA for public comment on March 17, 2004. In the PRA, EPA explained that, based on the recommendations of the National Research Council, the Agency was reconsidering the inorganic arsenic cancer slope factor used in the document. The cancer slope factor is used to estimate cancer risk from exposure. Because of the significance of the cancer slope factor to the analyses necessary to complete the CCA RED, EPA has decided to consult its Science Advisory Board and its Scientific Advisory Panel. The Science Advisory Board is a Federal Advisory Committee Act committee of scientific experts that advises the Agency on complex scientific questions, while the Scientific Advisory Panel is a Federal Advisory Committee Act committee of scientific experts that advises OPP on pesticide-related scientific questions. A joint meeting of the Science Advisory Board and the Scientific Advisory Panel is expected to hear this issue in July in a meeting that is fully open to the public. EPA will incorporate the results of the expert review into the PRA. Because of the additional time needed to resolve these issues, EPA now expects the CCA RED will not be completed until 2006.

7. The Agency published a Federal Register Notice on January 6, 2005, announcing the receipt of voluntary cancellation requests for the remaining spray use treatments of penta. The comment period closed on February 7, 2005. The Agency signed cancellation orders terminating these uses on February 17, 2005, and will publish a notice in the Federal Register announcing these determinations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of February, 2005.



A handwritten signature in black ink, appearing to read 'J. Housenger', is written over a solid horizontal line. The signature is stylized and cursive.

Jack E. Housenger