

SETTLEMENT AGREEMENT– VINCLOZOLIN TOLERANCE OBJECTIONS

On July 18, 2000, EPA issued a final regulation establishing tolerances for vinclozolin on snap beans, canola, and animal products with residues from canola in feed, including eggs, milk, meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry. 65 Fed. Reg. 44,453 (July 18, 2000). On September 15, 2000, objections to these tolerances were filed with EPA by the Natural Resources Defense Council, Environmental Working Group, Pineros Campesinos Unidos del Noroeste, and Northwest Coalition for Alternatives to Pesticides (hereinafter referred to as “the Objecting Parties”).

On August 22, 2001, EPA approved the vinclozolin registrant’s request to cancel the following uses of vinclozolin according to the schedule below:

Time Frame for Use Cancellation and Existing Stocks Provision				
Commodity	Use Cancellation Date	Last Date for Sale and Distribution of Existing Stocks by Registrant	Last Date for Sale and Distribution of Existing Stocks by Others	Last Date for Legal Use
Onions	July 15, 2000	August 30, 2001	October 15, 2001	December 15, 2001
Raspberries	July 15, 2000	August 30, 2001	October 15, 2001	December 15, 2001
Ornamentals (except conifer seedlings)	July 15, 2000	August 30, 2001	October 15, 2001	December 15, 2001
Conifer Seedlings	July 15, 2000	August 30, 2003	October 15, 2003	December 15, 2003
Kiwi	December 31, 2001	December 31, 2002	November 30, 2003	January 30, 2004
Chicory	December 31, 2001	December 31, 2002	November 30, 2003	January 30, 2004

Time Frame for Use Cancellation and Existing Stocks Provision				
Lettuce	July 15, 2004	July 15, 2005	September 30, 2005	November 30, 2005
Succulent Beans	July 15, 2004	July 15, 2005	September 30, 2005	November 30, 2005

66 FR 44134, 44136 (August 22, 2001).

In light of the phase out of vinclozolin uses cited above and to resolve the objections filed by the Objecting Parties, EPA and the Objecting Parties hereby stipulate to the following without any admission or adjudication of any questions of fact or law:

1. EPA will give notice prior to acting on any future emergency exemption request under FIFRA § 18 for uses of vinclozolin. EPA will provide the Objecting Parties notice and copies of requests for an emergency exemption for uses of vinclozolin at least 30 days before EPA takes action on the request by faxing the request to their attorney, Patti Goldman at: (206) 343-1526. Faxing such notice to Ms. Goldman shall constitute full satisfaction of EPA's notice obligation under this settlement agreement.
2. If any of the Objecting Parties submit comments within 21 days of receipt of the notice provided in Paragraph 1 above, EPA will consider and respond to such comments in making a decision on the emergency exemption request.
3. EPA will give due consideration to the progress made toward registration of the proposed use of vinclozolin that is the subject of any emergency exemption request. EPA shall presume that if a complete application for registration of any proposed vinclozolin use, which has been under a specific or public health exemption for any 3 previous years, has not been submitted, reasonable progress toward registration has not been made.

4. In making a decision under 40 C.F.R. § 166.25(b)(2)(ii) as to whether reasonable progress has been made toward registration, EPA will take into account uses of vinclozolin that have occurred in the years preceding the request for an emergency exemption regardless of whether the uses were authorized by since-cancelled registrations or emergency exemptions and the registration activities connected with such uses.

5. The Objecting Parties by their signature to this Settlement Agreement withdraw their objections dated September 19, 2000, to the vinclozolin tolerances for succulent beans and canola promulgated by 65 FR 44453 (July 18, 2000).

6. Except as expressly provided herein, nothing in this Settlement Agreement shall be construed to limit or modify the discretion accorded EPA by the FFDCA, FIFRA, the APA, or general principles of administrative law. Nothing in this Settlement Agreement shall be interpreted as or constitute a commitment or requirement that EPA obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or take any action in contravention of the FFDCA, FIFRA, the APA, or any other law or regulation, either substantive or procedural.

In reaching this settlement, EPA has taken into account the nature of pesticide involved, the alternative pesticides available, EPA's past experience with regard to emergency exemptions for vinclozolin, and the scope and purpose of the emergency exemption program.

FOR OBJECTING PARTIES:

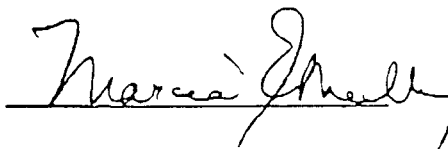
Dated: August 7, 2002 Patti Goldman

Patti Goldman
Earthjustice Legal Defense Fund
705 Second Ave., Suite 203
Seattle, WA 98104
(206) 343-7340

Attorney for the Objecting Parties
Natural Resources Defense Council
Environmental Working Group
Pineros Campesinos Unidos del Noroeste
Northwest Coalition for Alternatives to Pesticides

FOR EPA:

Dated: 8/28/02

A handwritten signature in black ink, reading "Marcia E. Mulkey", written over a horizontal line.

Marcia E. Mulkey
Director
Office of Pesticide Programs
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington DC 20460-0001