Message

From: Binford, Marshall [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C280EF1921D042BA883BE8D2D9BFE253-BINFORD, MARSHALL]
Sent: 12/7/2021 6:50:55 PM
To: Novak, Michael [Novak@khlaw.com]
CC: Caplan, Robert W. [Caplan.Robert@epa.gov]; Ho, Kanoelehua [ho.kanoelehua@epa.gov]; Annicella, Alan [Annicella.Alan@epa.gov]; Gustafson, John B. [gustafson@khlaw.com]; Ed Schwartz [ess@mseslegal.com]
Subject: RE: Seal Shield

Mike,

Thank you for following up. We have the signed declaration from Friday and nothing further is needed from Seal Shield at this time.

We will keep you posted as the termination is processed.

Regards,

F. Marshall Binford, Jr. | Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4 | 61 Forsyth Street, SW | Atlanta, Georgia 30303 | 404.562.9543 | binford.marshall@epa.gov

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From: Novak, Michael <Novak@khlaw.com>
Sent: Monday, December 6, 2021 1:52 PM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Gustafson, John B. <gustafson@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Hi Marshall –

I trust you had a good weekend. I am following-up to ensure you received the signed declaration and to see if there are any additional items needed from our end.

We are hopeful that we are close to termination of the SSURO. Again, let us know if you have questions or need anything further.

With best regards,
Mike

Michael T. Novak
Partner

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direct 202.434.4485 Novak@khlaw.com
Keller and Heckman LLP | 1001 G Street NW, Suite 500 West | Washington, DC 20001

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From: Novak, Michael
Sent: Friday, December 3, 2021 12:20 PM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Gustafson, John B. <gustafson@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Marshall –

Enclosed is the signed supplemental declaration from Andrew McCarthy. Please let us know if there is anything else we can provide or any questions you might have.

Best regards,
Mike

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Michael T. Novak
Partner

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From: Novak, Michael
Sent: Thursday, December 2, 2021 4:44 PM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Gustafson, John B. <gustafson@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Marshall –

Excellent; thank you. We are in receipt and will get back to you.

Regards,
Mike

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Marshall –

From: Binford, Marshall <Binford.Marshall@epa.gov>
Sent: Thursday, December 2, 2021 2:17 PM
To: Novak, Michael <Novak@khlaw.com>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Gustafson, John B. <gustafson@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Mike,

Thank you very much for your email yesterday and for uploading the relevant documents to EPA's CBI fileshare link.

As we review and process the requested termination, it would be useful if Seal Shield could execute and return the attached one-page draft Supplemental Declaration, which certifies that Seal Shield and its "relaunched" company website are currently in compliance with the terms of the SSURO and with FIFRA. Since the previous Declaration on behalf of Seal Shield indicated that the website had been taken down in its entirety, this certification would be helpful as we recommend approval of the termination. It is drafted for the signature of Andrew McCarthy, but if Seal Shield wishes to have another authorized company executive make the certification that is certainly acceptable. Should you have any questions or proposed edits that you would like to make, please let us know.

Thanks again very much for your assistance. We hope to have this processed as quickly as possible.

Regards,

Marshall

F. Marshall Binford, Jr. | Associate Regional Counsel
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From: Novak, Michael <Novak@khlaw.com>
Sent: Thursday, December 2, 2021 1:28 PM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Gustafson, John B. <gustafson@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Hi Marshall –

Thank you for providing the fileshare link. We have uploaded the relevant documents and are available to answer any questions.

We look forward to addressing next steps as expeditiously as practicable.

Best regards,
Mike

Michael T. Novak
Partner

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From: Novak, Michael
Sent: Wednesday, December 1, 2021 11:36 AM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Gustafson, John B. <gustafson@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Hi Marshall –

On behalf of Seal Shield, we wanted to thank you and your team for the phone call on Nov. 18, and for taking the time to discuss the necessary steps for termination of the SSURO. We particularly appreciated the time and patience taken by EPA to explain the FIFRA CBI disclosure process. In that connection, we have obtained permission from our client to provide EPA with copies of unredacted proof of receipts/acknowledgement from Seal Shield's four distributors.

As we understand the next steps, we will need for EPA to provide us the protected CBI-fileshare link identified by Ms. Ho on the November 18 call, after which we will upload the unredacted files.

To avoid any confusion, we note that we withdraw the discussion summarized by my colleague John Gustafson sent on Monday November 22, and apologize for any inconvenience or extra effort that request may have imposed upon EPA.

Please let us know if you have any questions. Otherwise, we look forward to providing the unredacted files to EPA as expeditiously as possible.

With best regards,
Mike

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From: Binford, Marshall <Binford.Marshall@epa.gov>
Sent: Friday, November 12, 2021 1:07 PM

To: Gustafson, John B. <gustafson@khlaw.com>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Novak, Michael <Novak@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

John, Mike and Ed:

Since roughly two weeks have passed since we last talked, EPA would like to set up a short call for next week to discuss Seal Shield's current status and hopefully move this enforcement matter toward the termination of the SSURO to the extent practicable. We seemed very close on that front when we last talked on October 28 but have not heard anything back from the company lately.

Please let us know if you are available for a call on **Thursday (11/18) between 1pm and 3pm** and we will set something up. If this time does not work, please let us know and we will try to accommodate an alternative time/date; however, this was the best time for our group next week as far as availability.

Thanks very much for your attention to this matter. We look forward to hearing from you.

Regards,

F. Marshall Binford, Jr. | Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4 | 61 Forsyth Street, SW | Atlanta, Georgia 30303 | 404.562.9543 | binford.marshall@epa.gov

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From: Binford, Marshall
Sent: Thursday, November 4, 2021 10:39 AM
To: Gustafson, John B. <gustafson@khlaw.com>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>; Novak, Michael <Novak@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

John,

Thank you for the update regarding the Seal Shield website as it pertains to the Electroclave device.

Do you have any updates at this time on whether Seal Shield intends to submit an unredacted proof of receipt/acknowledgement from its distributors?

Please let us know as you are able, or if further discussion on that issue would be useful, and we can schedule a call.

Regards,

F. Marshall Binford, Jr. | Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4 | 61 Forsyth Street, SW | Atlanta, Georgia 30303 | 404.562.9543 | binford.marshall@epa.gov

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From: Gustafson, John B. <gustafson@khlaw.com>
Sent: Tuesday, November 2, 2021 4:57 PM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan

<Annicella.Alan@epa.gov>; Novak, Michael <Novak@khlaw.com>; Ed Schwartz <ess@mseslegal.com>
Subject: RE: Seal Shield

Marshall,

Thanks for your efforts to resolve this issue quickly.

We write to notify EPA that Seal Shield will be relaunching a minimal version of its website this week that will not contain references to the products subject to paragraph 27 of the SSURO. Rather, the website will contain Seal Shield contact information and information about the ElectroClave, Seal Shield's pesticidal device, which is not subject to the SSURO.

Please let us know if you have any concerns.

Best regards,
John

John B. Gustafson
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From: Binford, Marshall <Binford.Marshall@epa.gov>
Sent: Thursday, October 28, 2021 4:40 PM
To: Ed Schwartz <ess@mseslegal.com>; Novak, Michael <Novak@khlaw.com>; Gustafson, John B. <gustafson@khlaw.com>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Ho, Kanoelehua <ho.kanoelehua@epa.gov>; Annicella, Alan <Annicella.Alan@epa.gov>
Subject: Seal Shield

Ed/Mike/John,

Thanks again for discussing with us this afternoon. We recognize and appreciate that your client views the identity of its four distributors to be confidential business information (CBI); however, in order to recommend the termination of the SSURO through the multi-step process which EPA and Seal Shield have negotiated, EPA does need to know the identity of the four distributors which received Seal Shield's Notification Letter as part of the required proof of receipt/acknowledgement by those distributors.

Seal Shield did not indicate that this information would be withheld when the parties originally developed and discussed this multi-step process, and while EPA has no intention to contact Seal Shield's distributors as part of the termination process, at a minimum, the Agency must be aware of the identity of the parties involved. Accordingly, while EPA was willing to consider acceptance of the distributor emails which Seal Shield submitted last week in a redacted format, we are ultimately unable recommend the termination of the SSURO with that necessary information withheld.

Please let us know as you discuss with your client and if Seal Shield is willing to submit the four distributors emails in an unredacted format. As discussed, three of the four emails appear to be acceptable and would just need to be unredacted; however one of the distributor's emails was automatically generated, and for this distributor, EPA requests to receive an actual human response similar to the other three.

Thank you again very much for your assistance on this matter. We look forward to hearing from you, and working with you to resolve this matter as quickly as possible.

Regards,

F. Marshall Binford, Jr. | Associate Regional Counsel
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