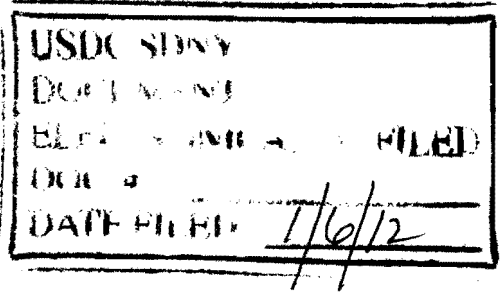


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE
COUNCIL, INC.; CENTER FOR SCIENCE
IN THE PUBLIC INTEREST; FOOD
ANIMAL CONCERNS TRUST; PUBLIC
CITIZEN, INC.; and UNION OF
CONCERNED SCIENTISTS, INC.,

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG
ADMINISTRATION; MARGARET
HAMBURG, in her official capacity as
Commissioner of Food and Drugs, CENTER
FOR VETERINARY MEDICINE;
BERNADETTE DUNHAM, in her official
capacity as Director, Center for Veterinary
Medicine; UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; and KATHLEEN
SEBELIUS, in her official capacity as
Secretary, United States Department of
Health and Human Services,

Defendants.

11 Civ. 3562 (THK)
ECF Case

STIPULATION AND ORDER

WHEREAS on May 25, 2011, plaintiffs Natural Resources Defense Council, Inc., Center for Science in the Public Interest, Food Animal Concerns Trust, Public Citizen, Inc. and Union of Concerned Scientists (collectively, "Plaintiffs") commenced this action against defendants the

United States Food and Drug Administration; Margaret Hamburg, in her official capacity as Commissioner of Food and Drugs; Center for Veterinary Medicine; Bernadette Dunham, in her official capacity as Director, Center for Veterinary Medicine; United States Department of Health and Human Services; and Kathleen Sebelius, in her official capacity as Secretary, United States Department of Health and Human Services (collectively, the "Government").

WHEREAS on July 7, 2011, Plaintiffs filed an Amended Complaint.

WHEREAS the Amended Complaint brings two claims pursuant to the Administrative Procedure Act and the Federal Food, Drug, and Cosmetic Act. The second of those claims alleges that the Government has unreasonably delayed ruling on citizen petitions filed by several of the plaintiffs in 1999 and 2005 (the "Citizen Petitions") that requested that the Government withdraw approval for certain uses of certain antibiotics in livestock (the "Citizen Petitions Claim").

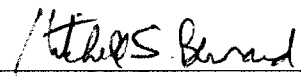
WHEREAS on November 7, 2011, the Government issued final responses to the Citizen Petitions that are the subject of Plaintiffs' Citizen Petitions Claim.

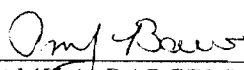
IT IS STIPULATED AND AGREED, by and between Plaintiffs and the Government that:

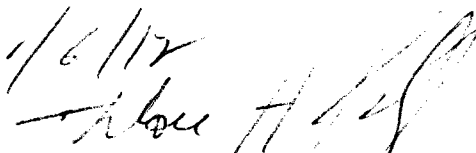
1. Plaintiffs hereby withdraw, as moot, their Citizen Petitions Claim.
2. Plaintiffs' Citizen Petitions Claim is dismissed without prejudice.
3. Plaintiffs will not seek to recover costs and attorneys' fees for the Citizen Petitions Claim. However, Plaintiffs reserve the right to seek recovery of costs and attorneys' fees incurred in prosecuting any future claim relating to the Citizen Petitions, including, as appropriate, costs and fees associated with the Citizen Petitions Claim.

4. The Government reserves its rights to oppose on any ground any claim by Plaintiffs to recover costs and attorneys' fees, and by signing this stipulation the Government does not concede that Plaintiffs are entitled to recover costs or fees associated with the Citizen Petitions Claim at a later date.

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SO ORDERED: 
THE HONORABLE THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE