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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**

UNITED STATES OF AMERICA,  
Plaintiff,

Civ. No. CIV-04 577S-EJL

v.

GARY PURRINGTON, an individual;  
DIANE PURRINGTON, an individual;  
G. SKYLER PURRINGTON, an individual;  
and FIREFOX ENTERPRISES, INC.,  
a corporation,  
Defendants.

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GARY PURRINGTON, an individual;  
DIANE PURRINGTON, an individual;  
G. SKYLER PURRINGTON, an individual;  
and FIREFOX ENTERPRISES, INC.,  
a corporation,  
Counter Claimants,

v.

UNITED STATES OF AMERICA,  
Counter Defendant.

**DEFENDANT'S MOTION TO DISMISS**

Comes now the Defendants, Gary Purrington, Diane Purrington, G. Skyler Purrington and Firefox Enterprises, Inc., (“Purringtons”), by counsel, Douglas K. Mawhorr, BROOKE MAWHORR, PC and Steven Wright, \_\_\_\_\_, and files their motion to dismiss the Consumer Safety Product Commission (“CPSC”) complaint for injunction. In support of their Motion to Dismiss, the Purringtons would show the Court:

1. That on November 16, 2004, the CPSC filed its complaint for injunction (Complaint) against the Purringtons.
2. The Purringtons were served on or about December \_\_\_\_, 2004.
3. This Court granted a Motion for Extension of Time to respond to the Complaint allowing the defendants to respond to the complaint on or before January 28, 2005.
4. Pursuant to FRCP 12(B)(6), the complaint filed by the CPSC has failed to state a claim upon which relief can be granted.
5. The CPSC is unable to be given the relief it has requested in the Complaint because it does not have the authority to regulate the chemicals sold by the Purringtons.
6. The chemicals sold by the Purringtons are neither consumer products nor are they manufactured finished goods.
7. The facts alleged in the complaint fail to state any violations of the Federal Hazardous Substance Act (“FHSA”) and of CPSC regulations (“Regulations”).
8. Filed separately and contemporaneously with this motion is a brief in support of this Motion to Dismiss, which should be considered part of this motion.

Wherefore, the Defendants, Gary Purrington, Diane Purrington, G. Skyler Purrington and Firefox Enterprises, Inc., pray this Court grant their motion to dismiss the complaint for injunction filed by the Plaintiff, Consumer Safety Product Commissioner.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing *Motion to Dismiss* has been served this \_\_\_\_\_ day of January, 2004, via First Class, U.S. Mail, postage prepaid upon:

Thomas E. Moss, U.S. Attorney  
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Jennifer Grishkin, Trial Atty.  
United States Dept. of Justice  
Office of Consumer Litigation  
P.O. Box 386  
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