destabilization, channel widening, arroyo mouth management, construction of inset floodplains, construction of wetland depressions, and use of supplemental water for on-site irrigation.

Based on a review of the facts and analyses contained in the Amended Draft EA, the USIBWC has selected five projects as the Preferred Alternatives: Alternative D—Broad Canyon Arroyo, Alternative F—Las Cruces Effluent, Alternative G—Mesilla Valley Bosque State Park (MVBSP), Alternative H—Downstream of Courchesne Bridge, and Alternative J—Trujillo Arroyo. Alternatives Las Cruces Effluent and Downstream of Courchesne Bridge would require engineering designs prior to construction, while Alternatives Broad Canyon Arroyo and Trujillo Restoration Site, which are smaller and less complicated projects, could be constructed from conceptual designs. Downstream of Courchesne Bridge would be implemented as part of compensatory mitigation for future levee improvement projects. All alternatives would require appropriate permits from the United States Army Corps of Engineers for dredge and fill of Waters of the United States, per the Clean Water Act Sections 404 and 401.

Potential impacts on natural, cultural, and other resources were evaluated in the Draft EA. The USIBWC has prepared a FONSI for the Preferred Alternatives, based on a review of the facts and analyses contained in the amended Draft EA.

Availability: The electronic version of the amended Draft EA is available at the USIBWC web page: *https://www.ibwc.gov/EMD/EIS_EA_Public_Comment.html.*

Dated: February 10, 2021.

Jennifer Peña,

Chief Legal Counsel, International Boundary and Water Commission, United States Section.

[FR Doc. 2021–03303 Filed 2–18–21; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1217]

Enforcement Proceeding; Certain Blowers and Components Thereof; Notice of Institution of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the Consent Order issued on November 12, 2020, in the above-referenced investigation.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on September 8, 2020, based on a complaint filed by Regal Beloit America, Inc (''Regal'') of Beloit, Wisconsin. 85 FR 55491–92 (Sep. 8, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain blowers and components thereof by reason of infringement of one or more of claims 1, 2, 7–10, and 15 of U.S. Patent No. 8,079,834 (''the '834 patent''). *Id.* at 55492. The Commission's notice of investigation named as respondents East West Manufacturing, LLC of Atlanta, Georgia, and East West Industries of Binh Duong, Vietnam (collectively, ''Respondents''). *Id.* at 55492. The Office of Unfair Import Investigations (''OUII'') did not participate as a party in the original investigation. *Id.*

On October 14, 2020, Respondents filed a motion to terminate the investigation with respect to themselves based upon a consent order stipulation. The motion included a consent order stipulation and a proposed consent order.

On October 22, 2020, the presiding administrative law judge (''ALJ'') issued an initial determination (''ID'') granting the motion and terminating the investigation with respect to Respondents based on the entry of a consent order. Order No. 6 at 3 (Oct. 22, 2020). Thereafter, the Commission determined not to review the ID and issued a Consent Order. 85 FR 73511 (Nov. 18, 2020). Respondents were therefore terminated from the original investigation and the investigation was terminated in its entirety. *Id.*

On January 15, 2021, Regal filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75 to investigate the alleged violation of the Consent Order by Respondents.

Having examined the enforcement complaint and the supporting documents, the Commission has determined to institute a formal enforcement proceeding, pursuant to 19 CFR 210.75(a), to determine whether a violation of the Consent Order, issued on November 12, 2020, in the original investigation has occurred and to determine what, if any, enforcement measures are appropriate. The named respondents are East West Manufacturing, LLC of Atlanta, Georgia, and East West Industries of Binh Duong, Vietnam. OUII is also named as a party.

The Commission vote for this determination took place on February 16, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part p10.

By order of the Commission.

Issued: February 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–03409 Filed 2–18–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Milad I. Shaker, M.D.; Decision and Order

On October 5, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), signed an Order to Show Cause (hereinafter, OSC) addressed to Milad I. Shaker, M.D. (hereinafter, Registrant). OSC, at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. FS1471818. *Id.* It alleged that Registrant is without ''authority to handle controlled substances in the State of Pennsylvania, the state in which [Registrant is] registered with DEA.'' OSC, at 2 (citing 21 U.S.C. 824(a)(3)).

I. Background

The OSC alleged that the Pennsylvania State Board of Medicine (hereinafter, Board) issued a Preliminary Order October 29, 2019. *Id.* This Preliminary Order, according to the OSC, indefinitely suspended Registrant's Pennsylvania Medical Physician and Surgeon license following the Board's ''finding of [Registrant's] noncompliance with conditions of probation approved by the Board on December 18, 2018.'' *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

a. Adequacy of Service

According to the declaration of a DEA Diversion Investigator (hereinafter, DI), DEA made arrangements for service of the OSC on Registrant, while he was incarcerated at the United States Penitentiary (USP)—Hazelton correctional facility in Bruceton, West Virginia. Request for Final Agency Action (hereinafter, RFAA) Exhibit (hereinafter, RFAAX) 10 (Declaration of DI), at 1–3. To accomplish service, DEA established a point of contact with Special Investigative Services at USP—Hazelton, and made arrangements to serve the OSC on Registrant by hand delivery. *Id.* at 3; RFAAX 5 (emails to and from Special Investigative Services, dated October 20–21, 2020). According to the emails, the OSC was served on Registrant on October 21, 2020. RFAAX 5, at 1; RFAAX 10, at 3.

In its RFAA, the Government represents that ''more than 30-days have passed since Registrant received the [OSC]'' and that ''Registrant has not submitted to DEA a request for hearing.'' RFAA, at 2; *see also* RFAAX 6 (email, dated December 17, 2020, confirming no correspondence from Registrant). The Government also represents that DEA has not received ''any other written correspondence, telephonic communication, or any other communication from Registrant, or any representative on his behalf in response to the [OSC].'' RFAA, at 4. I find that more than thirty days have now passed since the Government accomplished service of the OSC. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.46.

II. Findings of Fact

a. Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. FS1471818 at the registered address of 308 Bessemer Road, Suite 100, Mount Pleasant, Pennsylvania 15666. RFAA, at 2; RFAAX 1 (Controlled Substance Registration Certificate); RFAAX 2 (Certification of Registration History). Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on February 28, 2021, and is ''in an active pending status.'' RFAAX 2, at 1.

b. The Status of Registrant's State License

On October 2, 2018, Registrant was indicted by a grand jury for fifty-four felony charges, which appear to be related to Registrant's practice of medicine (hereinafter, Indictment).[1] RFAAX 3 (Board's Preliminary Order with Exhibits), at 37–47. As a result of the Indictment, the Board petitioned for immediate temporary suspension of Registrant's license, alleging that Registrant was ''guilty of unprofessional conduct by failing to conform to the quality standard of the profession,'' and an Order of Temporary Suspension was issued on October 9, 2018. *Id.* at 15; *see also* RFAAX 3, at 12. On December 13, 2018, Registrant and the Board entered into a Consent Agreement and Order (hereinafter, Consent Agreement). *Id.* at 11–36.

Pursuant to the Consent Agreement, the Board indefinitely suspended Registrant's state license, but immediately stayed the suspension ''in favor of a period of indefinite probation.'' *Id.* at 16–17 (emphasis omitted). The Board required that Registrant satisfy a number of conditions during his indefinite probation.[2] *Id.* at 17–26. On October 29, 2019, the Board made a probable cause determination that Registrant violated the terms of the Consent Agreement and issued a Preliminary Order. *Id.* at 2. The Preliminary Order stated ''the stay of the suspension of [Registrant's] license is now VACATED, the period of probation is now TERMINATED, and [Registrant's] license to practice as a physician and surgeon, license number MD437512, along with any other licenses . . . are now actively indefinitely SUSPENDED.'' *Id.* (emphasis in original). Registrant was ordered to ''immediately cease practicing the profession.'' *Id.* The Preliminary Order's indefinite suspension of Registrant's state medical license served as the basis for the OSC's allegation that Registrant lacked state authority to handle controlled substances. RFAAX 10, at 2; OSC, at 1.

On April 30, 2020, the Board issued a Notice and Order of Automatic Suspension, which automatically suspended Registrant's license to practice medicine and surgery based on Registrant's ''conviction in Federal court for unlawful distribution of a Schedule II controlled substance'' (hereinafter, second suspension). RFAAX 8 (Final Order dated December 1, 2020[3]), at 5. The second suspension was affirmed by the Board in a Final Order dated December 1, 2020. The Final Order was retroactive to July 28, 2020, and suspended Registrant's license to practice medicine and surgery for at least 10 years.[4] *Id.* at 1, 18. Similar to the Preliminary Order, the Final Order provided that Registrant ''shall immediately CEASE the practice of

[1] The felony charges included allegations that Registrant ''issued prescriptions for controlled substances to [two patients] in return for sexual favors;'' issued thirty-six Schedule II controlled substance prescriptions ''outside of the usual course of professional practice and not for a legitimate medical purpose;'' issued 16 Schedule IV controlled substances ''outside of the usual course of professional practice and not for a legitimate medical purpose;'' and engaged in two ''[f]elony counts of Health Care Fraud.'' RFAAX 3, at 13–14.

[2] One of the conditions required that Registrant ''contract for the services of a Board Approved Practice Monitor,'' ''allow the Practice Monitor access to all aspects of his practice,'' and allow the Practice Monitor a minimum of ''[m]onthly in-person overview[s] . . . to determine that the monitor's directions are being implemented.'' RFAAX 3 22–23. On September 3, 2019, Registrant's practice monitor notified Registrant and the Board that they were ''ceasing all services . . . effective immediately'' based on Registrant's failure to allow two of the required monthly visits and his failure to respond to communications. *Id.* at 50–51. On October 29, 2019, a Petition for Appropriate Relief was filed with the Board seeking suspension of Registrant's license because ''[Registrant's] failure to fully cooperate and successfully comply with the monitoring terms and conditions of the probation [was] a violation of [the Consent Agreement].'' *Id.* at 9.

[3] DEA obtained a copy of the Board's Final Order after the OSC was issued to Registrant. RFAAX 10, at 3. The Final Order is not material as the record is clear that Registrant's license had been suspended since the Preliminary Order issued on October 29, 2019.

[4] The suspension of the license was retroactive to May 20, 2020. It appears that as of May 20, 2020, there were two concurrent suspension applied to Registrant's license. The number of suspensions is not material as the record is clear that Registrant's license had been suspended since October 29, 2019.

medicine and surgery.'' *Id.* at 18 (emphasis in original).

According to DI, on December 17, 2019, DI queried the Pennsylvania Department of State licensing verification website at *https://www.pals.pa.gov/#/page/searchresult* and determined that Registrant's medical physician license was still suspended at that time and that Registrant was without authorization to handle controlled substances or practice medicine in Pennsylvania. RFAAX 10, at 3. According to Pennsylvania's online records, of which I take official notice, Registrant's license is still revoked.[5] Pennsylvania Licensing System Verification, *https://www.pals.pa.gov/#/page/search* (last visited date of signature of this Order).

Accordingly, I find that Registrant currently is neither licensed to engage in the practice of medicine nor registered to dispense controlled substances in Pennsylvania, the state in which Registrant is registered with the DEA.

III. Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617.

Under the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, ''no controlled substance in Schedule II shall be dispensed without an electronic prescription of a practitioner.'' 35 PA. Stat. and Const. Stat. Ann. § 780–111(a) (West October 24, 2019). Further, ''no controlled substance in Schedule III, IV or V shall be dispensed without an electronic prescription of a practitioner.'' *Id.* at § 780–111(b). The definition of ''practitioner,'' as used in the state Act, includes a ''physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance . . . in the course of professional practice . . . in the Commonwealth of Pennsylvania.'' *Id.* at 780–102(b).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Pennsylvania. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Pennsylvania. Thus, because Registrant lacks a license to practice medicine in Pennsylvania and, therefore, is not authorized to handle controlled substances in Pennsylvania, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FS1471818 issued to Milad I. Shaker, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Milad I. Shaker, M.D. to renew or modify this registration or for any other registration in Pennsylvania. This Order is effective March 22, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–03358 Filed 2–18–21; 8:45 am]

BILLING CODE 4410–09–P

[5] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17–33]

Michael W. Carlton, M.D.; Decision and Order

On April 18, 2017, a former Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Michael W. Carlton, M.D. (hereinafter, Respondent). Administrative Law Judge Exhibit (hereinafter, ALJX) 1 (Order to Show Cause), at 1. The OSC proposed the revocation of Respondent's Certificate of Registration No. BC3579969 pursuant to 21 U.S.C. 824(a)(4) ''because [his] continued registration is inconsistent with the public interest . . . .'' *Id.* (citing 21 U.S.C. 823(f)).

I. Procedural History

The OSC alleged that ''between May 8, 2015 and November 21, 2015, on approximately forty-two (42) occasions, [Respondent] unlawfully prescribed controlled substances to thirty-one (31) patients by issuing prescriptions for other than a legitimate medical purpose and outside the usual course of professional practice.'' OSC, at 1–2. The OSC alleged violations of 21 U.S.C. 841(a), 21 CFR 1306.04(a), and Ariz. Rev. Stat. Ann. § 32–1401(27). *Id.* at 2. The OSC stated that ''a medical expert has concluded that [Respondent's] issuance of the [forty-two] prescriptions