CENTER FOR DRUG EVALUATION AND RESEARCH

APPLICATION NUMBER:

209472Orig1s000

OTHER ACTION LETTERS

NDA 209472

TENTATIVE APPROVAL

Eagle Pharmaceuticals, Inc.
Attention: Janis A. Picurro
Senior Vice President, Regulatory Affairs
50 Tice Boulevard
Suite 315
Woodcliff Lake, NJ 07677

Dear Ms. Picurro:

Please refer to your new drug application (NDA) submitted and received on December 30, 2016, and your amendments, submitted pursuant to section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act for Pemfexy (pemetrexed injection) 25 mg/mL.

We acknowledge receipt of your amendment dated August 9, 2019, which constituted a complete response to our October 26, 2017, action letter.

This NDA provides for the use of Pemfexy:

- in combination with cisplatin for the initial treatment of patients with locally advanced or metastatic, non-squamous, non-small cell lung cancer (NSCLC);
- as a single agent for the maintenance treatment of patients with locally advanced or metastatic non-squamous NSCLC whose disease has not progressed after four cycles of platinum-based first-line chemotherapy;
- as a single agent for the treatment of patients with recurrent, metastatic non-squamous NSCLC after prior chemotherapy; and
- in combination with cisplatin for the initial treatment of patients with malignant pleural mesothelioma whose disease is unresectable or who are otherwise not candidates for curative surgery

We have completed our review of this application, as amended. It is tentatively approved under 21 CFR 314.105 for use as recommended in the agreed-upon enclosed labeling (text for the Prescribing Information, Patient Package Insert, and Carton and Container labeling). This determination is based upon information available to the Agency at this time, [i.e., information in your application and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacture and testing of

the drug product]. This determination is subject to change on the basis of any new information that may come to our attention.

Final approval of your application is subject to expiration of a period of patent protection and/or exclusivity. Therefore, final approval of your application under section 505(c)(3) of the Act [21 U.S.C. 355(c)(3)] may not be granted before the period has expired.

A listed drug(s) upon which your application relies is subject to a period of patent protection and your application contains a certification(s) to one or more patents under section 505(b)(2)(A)(iv) of the FD&C Act stating that the patent(s) is/are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of, this drug product under this application ("paragraph IV certification").

Section 505(c)(3)(C) of the FD&C Act provides that approval of a new drug application submitted pursuant to section 505(b)(2) of the FD&C Act that includes a paragraph IV certification shall be made effective immediately, unless an action is brought for infringement of one or more of the patents that were the subject of a paragraph IV certification. If such a patent infringement action is brought prior to the expiration of 45 days from the later of the date the notice provided under section 505(b)(3) is received by the patent owner or approved application holder, your application is subject to a 30-month stay of approval, unless other conditions are met. You notified us that you complied with the requirements of section 505(b)(3) of the FD&C Act.

In addition, you have notified the Agency that the patent owner and/or approved application holder has initiated a patent infringement suit against you with respect to patent 7,772,209 in the District Court of Delaware (Civil Action No. 17-cv-1293). Therefore, final approval cannot be granted until:

(1) a. expiration of the 30-month period provided for in section 505(c)(3)(C) beginning on the later of the date of receipt by any owner of the listed patent or application holder of the notice required under section 505(b)(3), unless the court has extended or reduced the period because of the failure of either party to reasonably cooperate in expediting the action, or
b. the date the court decides that the patent(s) is/are invalid or not infringed as described in section 505(c)(3)(C)(i), (ii), (iii,) or (iv) of the FD&C Act, or,
c. the listed patent(s) has/have expired, and

(2) we are assured there is no new information that would affect whether final approval should be granted.

To obtain final approval of this application, submit an amendment two or six months prior to the: (1) expiration of the patent or (2) date you believe that your NDA will be eligible for final approval, as appropriate. In your cover letter, clearly identify your amendment as **"REQUEST FOR FINAL APPROVAL"**. This amendment should provide the legal/regulatory basis for your request for final approval and should include a copy

of any relevant court order or judgment settlement, or licensing agreement, as appropriate. In addition to a safety update, the amendment should also identify changes, if any, in the conditions under which your product was tentatively approved, i.e., updated labeling; chemistry, manufacturing, and controls data; and risk evaluation and mitigation strategy (REMS). If there are no changes, clearly state so in your cover letter. Any changes require our review before final approval and the goal date for our review will be set accordingly.

Until we issue a final approval letter, this NDA is not approved.

Please note that this drug product may not be marketed in the United States without final agency approval under section 505 of the FD&C Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under section 501 of the FD&C Act and 21 U.S.C. 331(d)..

REQUIRED PEDIATRIC ASSESSMENTS

Under the Pediatric Research Equity Act (PREA) (21 U.S.C. 355c), all applications for new active ingredients (which includes new salts and new fixed combinations), new indications, new dosage forms, new dosing regimens, or new routes of administration are required to contain an assessment of the safety and effectiveness of the product for the claimed indication in pediatric patients unless this requirement is waived, deferred, or inapplicable.

We note that if this application is ultimately approved, you will need to meet these requirements.

METHODS VALIDATION

We have not completed validation of the regulatory methods. However, we expect your continued cooperation to resolve any problems that may be identified.

If you have any questions, call Autumn Zack-Taylor, M.S., Regulatory Health Project Manager, at (240) 402-5913, or in her absence, Meredith Libeg, Senior Regulatory Health Project Manager, at (301) 796-1721.

Sincerely,

{See appended electronic signature page}

Jeffery Summers, M.D.
Deputy Director of Safety
Division of Oncology Products 2
Office of Hematology and Oncology Products
Center for Drug Evaluation and Research

ENCLOSURE(S):

- Content of Labeling
  - Prescribing Information
  - Patient Package Insert
- Carton and Container Labeling

34 Page(s) of Draft Labeling have been Withheld in Full as b4 (CCI/TS) immediately following this page

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