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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

_____)	
In the matter of:)	
)	Docket No. FIFRA-9-2010-0014
Marukai Corporation,)	
)	CONSENT AGREEMENT
)	AND FINAL ORDER
Respondent)	
_____)	

I. CONSENT AGREEMENT

Complainant, the Associate Director for Agriculture of the Communities and Ecosystems Division, United States Environmental Protection Agency, Region IX (“EPA Region IX”), and Respondent, Marukai Corporation (“Marukai” or “Respondent”) agree to settle this case initiated under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA” or the “Act”), as amended, 7 U.S.C. §§ 136 et seq., and consent to the entry of this Consent Agreement and Final Order (“CAFO”).

A. AUTHORITY

1. EPA initiated this civil administrative proceeding for the assessment of a civil penalty

under the Act pursuant to section 14(a) of the Act, 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent on September 24, 2010.

2. The Complaint alleges that Respondent violated section 12(a)(1)(A) and 12 (a)(1)(F) of the Act, 7 U.S.C. § 136j(a)(1)(A) and 136j(a)(1)(F), by selling and distributing unregistered pesticides and misbranded devices.
3. EPA Region IX and Respondent have agreed to resolve this civil administrative proceeding arising under the Act by executing this CAFO.

B. RESPONDENT’S ADMISSIONS

4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) admits the specific factual allegations contained in the Complaint; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.C of this CAFO; (iv) waives any right to contest the allegations contained in the Complaint; and (v) waives the right to appeal the proposed final order contained in this CAFO.

C. EMPLOYEE TRAINING

5. Respondent shall appoint an administrator (the “Administrator”) to oversee compliance with this Section I.C and also implement product screening measures to prevent any distribution or sale of pesticides in violation of FIFRA within one (1) month of the

effective date of this CAFO.

6. Respondent's current managers, supervisors, and purchasing buyers with responsibilities for the non-foods department at every store owned and/or operated by Respondent must complete a basic training course in FIFRA within three (3) months of the effective date of this CAFO. In addition, any new employees hired by Respondent after the effective date of this CAFO who are required to complete the FIFRA training under this paragraph must complete the training within three (3) months of the date of hire. All current and new employees of Respondent who are required to complete the FIFRA training under this paragraph must also complete a refresher course at least once every year after initial training. Both the basic training course and refresher course must be at least two hours in duration and cover the FIFRA product registration and labeling requirements with a particular focus on imported products. The Administrator shall administer both the basic training and refresher courses to all employees required to complete the FIFRA training under this paragraph.
7. Respondent shall provide to EPA certification that all current and new employees of Marukai have been trained as required under Paragraph 6 of this CAFO. These certifications shall list the names and positions of all employees trained, and for each such employee, the date each employee was hired and the date each employee received the FIFRA course or refresher course. These certifications shall be due to the EPA every six (6) months from the effective date of this CAFO. The last certification will be due two (2) years after the effective date of this CAFO. The certification shall be mailed to:

Julie Jordan
Communities and Ecosystems Division (CED-5)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

8. The requirements of this Section I.C shall remain in effect for two (2) years after the effective date of this CAFO.

D. CIVIL ADMINISTRATIVE PENALTY

9. In settlement of the violations specifically alleged in the Complaint, Respondent shall pay a civil administrative penalty of TWO HUNDRED TWENTY-TWO THOUSAND AND THIRTY DOLLARS (\$222,030), within thirty (30) days of the effective date of this CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," and shall be sent by certified mail, return receipt requested, to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check and transmittal letter to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

David H. Kim
Office of Regional Counsel (ORC-3)

U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

10. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
11. If Respondent fails to pay the civil administrative penalty within thirty (30) days of the effective date of this CAFO, then Respondent shall pay to EPA an additional, stipulated penalty of FIVE HUNDRED DOLLARS (\$500) for each day that payment is late. Upon Complainant's written demand, payment shall immediately become due and payable. In addition, failure to pay the civil administrative penalty within thirty (30) days of the effective date of this CAFO may lead to any or all of the following actions:
 - a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
 - b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
 - c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in

programs EPA sponsors or funds. 40 C.F.R. § 13.17.

- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 9. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.
12. If Respondent fails to comply with Section I.C of this CAFO, then Respondent shall pay the following stipulated penalties:
 - a. If Respondent fails to comply with the employee training requirements by the date due, Respondent shall pay a stipulated penalty of \$250 for each employee who is not trained. If Respondent fails to provide any certification required by this

CAFO by the date due, Respondent shall pay a stipulated penalty of \$500 per day for each day that the certification is late. For all other acts of noncompliance with Section I.C, Respondent shall pay a stipulated penalty of \$500 per day for each day of noncompliance.

E. CERTIFICATION OF COMPLIANCE

13. In executing this CAFO, Respondent certifies that (1) it is no longer distributing or selling unregistered pesticides in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and (2) it is currently in compliance with all other FIFRA requirements for all its ongoing operations.

F. RETENTION OF RIGHTS

14. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the Complaint. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in the Complaint; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the Complaint.
15. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

G. ATTORNEYS' FEES AND COSTS

16. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

H. EFFECTIVE DATE

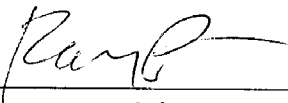
17. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

I. BINDING EFFECT

18. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
19. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT MARUKAI CORPORATION:

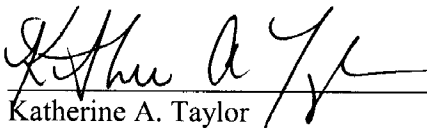
01/20/2011
DATE



By: Roy Ishihara
Title: Vice President of Operations
Address: 2310 Kamehameha Hwy.
Honolulu, HI 96819

FOR COMPLAINANT EPA REGION IX:

3/10/2011
DATE



Katherine A. Taylor
Associate Director for Agriculture
Communities and Ecosystems Division
United States Environmental
Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

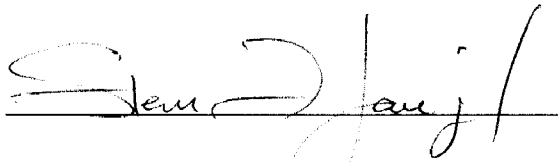
II. FINAL ORDER

EPA Region IX and Marukai Corporation, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-9-2010-0014) be entered, and Respondent shall pay a civil administrative penalty in the amount of TWO HUNDRED TWENTY-TWO THOUSAND AND THIRTY DOLLARS (\$222,030) and comply with the terms set forth in the Consent Agreement.

02/11/11

DATE

A handwritten signature in black ink, appearing to read "Steven Jawgiel", written over a horizontal line.

STEVEN JAWGIEL
Regional Judicial Officer
United States Environmental
Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the original copy of the foregoing Consent Agreement and Final Order in the Matter of Marukai Corporation was filed with the Regional Hearing Clerk, Region 9, and that a copy was sent to the following:

By certified mail, return receipt requested to:

Mr. Hidejiro Matsu
President
Marukai Corporation
2310 Kamehameha Highway
Honolulu, HI 96819

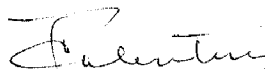
Certified Mail # 7010 1060 0000 5106 8214

By First Class Mail to:

Ms. Julia Tachikawa, Esq.
1978 Westridge Road
Los Angeles, CA 90049

02/11/10

Date



FOR: Steven Armsey, RHC
US EPA, Region 9