



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

April 6, 2010

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0189 9330

Mr. David Nash
McMahon DeGulis LLP
812 Huron Road, Suite 650
Cleveland, Ohio 44115

US Biologics, Inc., Enviro-Green, Sporiclean, LLC, Nicholas W. Martello, and
The Sporiclean Foundation, Docket No. FIFRA-05-2010-0011

Dear Mr. Nash:

Enclosed is a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on April 6, 2010, with the Regional Hearing Clerk.

The civil penalty in the amount of \$1,000 is to be paid in the manner described in paragraphs 186 through 188. Please be certain that the number BD 2751045P011 and the docket number are written on both the transmittal letter and on the check. Payment is due by May 6, 2010 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Claudia Niess".

Claudia Niess
Pesticides and Toxics Compliance Section
Chemicals Management Branch

Enclosures

RECEIVED

APR 06 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No. FIFRA-05-2010-0011
)	
US Biologics, Inc.,)	
Enviro -Green,)	
Sporiclean, LLC, and)	
Nicholas W. Martello)	
)	
In Westlake, Ohio)	Proceeding to Assess a Civil Penalty
)	Under Section 14(a) of the Federal
and)	Insecticide, Fungicide, and Rodenticide
)	Act, 7 U.S.C. § 136l(a)
The Sporiclean Foundation, and)	
)	
In Avon Lake, Ohio)	
Respondents.)	

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5, has been delegated the authority to settle this matter.

3. The Respondents are US Biologics, Inc.; Enviro-Green; and Sporiclean, LLC, all located at 2348 Walter Road, Westlake, Ohio 44145; and The Sporiclean Foundation, located at 680 Moore Road, Avon Lake, Ohio 44012, and all four companies doing business in the State of

Ohio and Nicholas W. Martello, located at 2348 Walter Road, Westlake, Ohio 44145, an individual, doing business in the State of Ohio. All parties will be collectively referred to as "Respondents."

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondents consent to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondents admit the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondents waive their right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and their right to appeal this CAFO.

9. Respondents certify that it is currently complying with FIFRA, 7 U.S.C. §§ 136 to 136y and will continue to comply with FIFRA, 7 U.S.C. §§ 136 to 136y in the future.

Statutory and Regulatory Background

10. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), and 40 C.F.R. § 152.15 state that no person in any state may distribute or sell to any person any pesticide that is not registered under this Act, except in certain circumstances which are not relevant to this case.

11. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3.

12. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide, 40 C.F.R. § 152.15(a)(1).

13. 40 C.F.R. § 168.22(a) states, in part, that Section 12(a)(1)(A) of FIFRA makes it unlawful for any person to “offer for sale” any pesticide if it is unregistered. EPA interprets this provision as extending to advertisements in any advertising medium to which pesticide users or the general public have access.

14. The term “person” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s) “means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

15. The term “distribute or sell” is defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), and 40 C.F.R. § 152.3 as “to distribute, sell, offer for sale, hold for distribution, hold for shipment, or receive and (having so received) deliver or offer to deliver.”

16. The term “pest” is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), and further defined in 40 C.F.R. § 152.5(c) “as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism...”

17. The term “pesticide” is defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.3 and is generally regarded as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

18. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$6,500 for each offense that occurred after March 15, 2004 through January 12, 2009 and up to \$7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

19. Respondents are all a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

20. Respondents owned or operated places of business located at 2348 Walter Road, Westlake, Ohio 44145 and/or 680 Moore Road, Avon Lake, Ohio 44012 at all times relevant to this CAFO.

21. On November 19, 2008, two inspectors employed by Ohio Department of Agriculture, Division of Plant Industry, Pesticide & Fertilizer Regulation Section (ODA) and authorized to conduct inspections under FIFRA conducted an inspection at Ace Hardware Store located at 6500 Brecksville Road, Independence, Ohio.

22. At the inspection, the inspectors found SporiCLEAN on display in the hardware store near the checkout counter.

23. The label on the SporiCLEAN bottles on display included the following language:

(a) SporiCLEAN “is scientifically blended to clean and breakdown

MOLD, MILDEW, BACTERIA AND VIRUSES.”

(b) “KillMoldFast.com”

24. During the inspection, the inspectors collected a 1-quart bottle of SporiCLEAN as a sample.

25. The inspectors also collected advertising literature for the SporiCLEAN product during the inspection which included the following language:

- (a) "Safely Eliminates the Following Insects! Flea / Dust Mite / Common Spider / Bed Bug."
- (b) "Quickly Destroys: Floodwater Infectious Bacteria / All Harmful MOLDS & Mildew / All Surface Viruses & Germs"
- (c) "Formulated For: Storms, Floods and Contamination Cleanup / Mold, Mildew & Fungi / Infectious Bacteria / Viruses & Germs..."
- (d) "All outdoor cleaning and FLOOD WATER or MOLD cleaning uses 4-ounces per gallon of water."
- (e) "How to Clean With SporiCLEAN There are Two(2) Simple Cleaning Dilutions: General Purpose Cleaner 2 - ozs concentrate into 1-gallon water Use for all Indoor Cleaning Including Shampoos for Fleas & Head-Lice; Professional Strength Cleaner 4-ozs of concentrate into 1-gallon of water Use for All Outdoor Cleaning and for All Flood/Mold Clean-Up Jobs"
- (f) "Spray the target (mold, mildew, dirt or grime) surface with the appropriate diluted solution."
- (g) "SporiCLEAN Replaces All Chemical Disinfectants & Insecticides!"
- (h) "Professional Strength Cleans: Floodwater & Mold Cleanup"
- (i) "Bed Bugs, Fleas, Head-Lice, Ants & other small insects - Mix 4-ounces of SporiCLEAN concentrate per gallon of water. Pour this

dilution into an easy to handle container, quart pitcher, cups or hand - pump sprayers for Bed-Bugs, Ants and Spiders. Fleas & Head-Lice simply shampoo into the affected area of a cat or dog for fleas, or shampoo into the hair and scalp of a person with head-lice...”

26. The inspectors also collected an invoice for the most recent purchase of SporiCLEAN by Ace Hardware, from US Biologics, Inc., dated November 13, 2008.

27. During the inspection, the inspectors issued a Stop Sale Notice under authority of Section 921.18 of the Revised Code of Ohio to Ace Hardware Store which prohibited the sale of SporiCLEAN.

28. On November 20, 2008, one of the inspectors present during the November 19, 2008 Ace Hardware Store inspection issued a Stop Sale Notice under authority of Section 921.18 of the Revised Code of Ohio to Burger’s Ace Hardware Store, located at 7333 Lake Shore Boulevard in Mentor, Ohio, which prohibited the sale of SporiCLEAN by that store.

29. On November 20, 2008, an inspector employed by ODA and authorized to conduct inspections under FIFRA issued a Stop Sale Notice under authority of Section 921.18 of the Revised Code of Ohio to Mr. Steve Hais, a dealer for SporiCLEAN, located at 5677 Reemelin Road, Cincinnati, Ohio 45248 which prohibited the sale of SporiCLEAN.

30. On November 20, 2008, Mr. Hais showed the inspector the inventory of SporiCLEAN, one 32 ounce bottle and one carton containing twelve 32 ounce bottles, in his possession. The label on the SporiCLEAN bottle included the following language:

(a) “SporiCLEAN, The ‘Green’ Exterminator”

-
- (b) "Control Bed Bugs Safely and Effectively - Bed Bugs - Dust Mites
- Fleas - Spiders - Ants - Cockroaches - Flies - Centipedes and
other household insects."
 - (c) "Controls: Mold, Mildew, Bacteria, Viruses, Germs and All
Common Household INSECTS!!"
 - (d) "Safely Replaces Toxic Insecticides!"
 - (e) "Safely Replaces Chemical Insecticides!"
 - (f) "Spray all surfaces [inside and out] and [under and around] on all
furniture located in infested rooms."

31. On June 4, 2009, two inspectors employed by ODA and authorized to conduct inspections under FIFRA conducted an inspection at Beck Hardware at 718 E. McMillan Street, Cincinnati, Ohio 45206.

32. During the inspection, the inspectors observed SporiCLEAN being offered for distribution or sale.

33. The inspectors also observed and took photographic samples of advertising material displayed with the SporiCLEAN product that was being offered for sale at the hardware store with language that included claims to kill head lice and bed bugs.

34. The advertising material for SporiCLEAN included the following language:

- (a) "Quickly Destroys / Floodwater Infectious Bacteria / All Harmful
MOLDS & Mildew / All Surface Viruses & Germs"
- (b) "Safely Cleans Mold & Bacteria from All Washable Surfaces! ...
Small Insects"
- (c) "The First Safe 'GREEN' Exterminating Solution"

(d) "Stop Irritating Insects Indoors Quickly & Safely / Flea / Dust
Mite / Common Spider / Bed Bug"

35. The inspectors issued a Stop Sale Notice under the authority of Section 921.18 of the Revised Code of Ohio to Beck Hardware which prohibited the sale of the SporiCLEAN.

36. On June 17, 2009, an inspector employed by ODA and authorized to conduct inspections under FIFRA conducted an inspection at Small's Do It Best Hardware Store located at 109 S. Wayne Avenue, Cincinnati, Ohio 45215.

37. During the inspection, the inspector observed five bottles of SporiCLEAN on the retail shelf of the store.

38. The inspector also observed promotion material displayed with the SporiCLEAN product on the shelf which included statements such as "killmoldfast.com."

39. At the close of the inspection, the inspector issued a Stop Sale Notice under the authority of Section 921.18 of the Revised Code of Ohio to Small's Do It Best Hardware Store which prohibited the sale of SporiCLEAN.

40. On June 26, 2009, two inspectors employed by ODA and authorized to conduct inspections under FIFRA conducted an inspection at 680 Moore Road, Avon Lake, Ohio.

41. During the inspection, the inspectors collected a number of documents presented by Mr. Nick Martello relating to the SporiCLEAN product.

42. Mr. Martello explained that he had two different labels for the SporiCLEAN product.

43. The first label was a label that claimed that the SporiCLEAN product could control insects such as Bed Bugs.

44. The second label claimed that the SporiCLEAN product was a cleaner.

45. Mr. Martello told the inspectors that he began selling the SporiCLEAN product on September 20, 2007.

46. Mr. Martello also told the inspectors that he only sold SporiCLEAN with the claims that it controlled insects such as Bed Bugs from September 1, 2008 through November 20, 2009.

47. During the inspection, the inspector collected distribution and sales records from September 1, 2008 through November 20, 2009 for the sale of SporiCLEAN.

48. Mr. Martello explained that these distribution and sales records represented all of the records for the distribution and sale of the SporiCLEAN product within the state of Ohio with the label claiming that it controlled insects such as Bed Bugs on it.

49. During the inspection, the inspectors also collected advertising and marketing materials for the SporiCLEAN product which included the following language:

(a) "SporiCLEAN was successfully used during Katrina, Wilma & Rita hurricanes cleaning sewerage, mold and bacteria."

(b) A bottle of SporiCLEAN that included "KillMoldFast.com" on the label.

(c) "all outdoor cleaning and FLOOD WATER or MOLD cleaning uses 4-ounces per gallon of water.

(d) "Turn off jets for 5-minutes and allow enzymes to dislodge and break-down bacteria and organic matter."

(e) "Replace BLEACH with SporiCLEAN and Baking Soda to clean Mold on Tile & Grout ..."

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- (f) "Spray SporiCLEAN over the visible stains or moldy area in a sink or tile and grout (soiled locations)"
- (g) "Once the grout is replaced, continuing weekly cleaning with SporiCLEAN and you will prevent or eliminate any future mold growth or soap deposits from occurring."
- (h) "Clean and rinse all tile & grout surfaces once per week with SporiCLEAN for continued protection against mold."
- (i) "Send all questions by email to: Email: info@KillMoldFast.com"
- (j) "Fact: All MOLDS are composed of PROTEIN, Fact: All BACTERIA are composed of PROT*EIN, Fact: All VIRUSES are composed of PROTEIN, Fact: All INSECTS are composed of PROTEIN; Fact: SporiCLEAN is specifically formulated and blended to contain a fresh highly active level of concentrated food-grade PROTEASE Enzymes which have one very simple and basic function ... To break-down biodegrade and clean away ... PROTEIN."
- (k) "SAFELY CLEANS: Infectious Bacteria / MOLD / Mildew / Viruses / Household Germs!"
- (l) "SAFELY CLEANS: Fleas / Dust Mites / Spiders / Bed Bugs."
- (m) "Formulated For: Storms, Floods and Contamination Cleanup / Mold / Mildew & Fungi / Infectious Bacteria / Viruses & Germs..."

(n) "Safely 'Cleans Away' Most 'Protein Matter' / Flea / Dust Mite /
Common Spider / Bed Bug"

50. During that inspection, the inspectors also served a Stop Sale, Use or Removal Order (SSURO) under the authority of Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), to SporiClean LLC, U.S. Biologics, Inc., and The SporiClean Foundation, each for the SporiCLEAN products.

51. On or about November 14, 2008, an inspector employed by the ODA and authorized to conduct inspections under FIFRA conducted an internet search of www.killmoldfast.com, which stated, in part:

- (a) "SporiCLEAN - The "GREEN" Enzyme Cleaner - Quickly
Destroys: Floodwater Infectious Bacteria / All Harmful MOLDS /
Surface Viruses & Germs"
- (b) "The Safe 'GREEN' Alternative to Chemical Disinfectants"
- (c) "Steve Hais is a retired Cincinnati Firefighter and is
SporiCLEAN's Dealer of the Month! ... To speak directly with
Steve about Bed Bugs and SporiCLEAN call him..."
- (d) "SporiCLEAN Replaces Toxic Harmful Chemical Insecticides:
Bed Bugs, Dust Mites, Fleas and other irritating indoor insects are
now quickly, safely and cost-effectively eliminated with
SporiCLEAN. No more chemicals are require, no injuries, no
harmful respiratory problems and the insect and eggs are safely
eliminated."

-
- (e) “SporiCLEAN safely cleaned all mold, infectious bacteria and germs while replacing all harmful toxic disinfectants and chemical cleaners!” SporiCLEAN also used to eliminate dust mites and bed bugs.”
 - (f) “Mold or Mildew cannot grow when you clean with SporiCLEAN!”
 - (g) “Exterior Finishing Insulation systems (EFIS) along with basic stucco finishes can easily become covered with ambient air debris, mildew and mold. Brick, stone, vinyl and aluminum siding are easily cleaned of mold, mildew, dirt and grime. Spray on SporiCLEAN and brush it into the surface. Wait 10-minutes and rinse off the excess dissolved debris. SporiCLEAN works well on all siding and finishes.”
 - (h) “SporiCLEAN Easily Cleans Mold & Mildew off Concrete, Stone, Marble, Tile and Ceramic surfaces.”
 - (i) “If it’s wood, aluminum, plastic or concrete (painted or unpainted), SporiCLEAN will clean mildew, mold, dirt and grime.”
 - (j) “...SporiCLEAN will remove those deep and embedded mildew and mold deposits quickly and easily.”
 - (k) “Years of unsightly mildew and mold growth can easily harm the structural integrity of your wood decks and fencing. SporiCLEAN is Safe and will not harm your wood, plants or shrubs. It will clean deep into the embedded dirt and mildew stains while bringing back

the woods original surface. Just spray SporiCLEAN over the dirty surface and brush it into the dirt deposit. Allow the multi-enzyme formula to digest, dissolve and dislodge the mold, mildew, dirt and grime for 10-minutes.”

- (l) “SporiCLEAN Cleans Mold, Mildew, Flood Water Infectious Bacteria and Viruses while eliminating all offensive ORGANIC ODORS!”
- (m) “SporiCLEAN was used to clean up molds and infectious bacteria from a large variety of substrate materials...”
- (n) “Chlorine ‘Bleach’ is a poisonous, greenish-yellow gas described as having a choking odor. It DOES NOT KILL MOLD.”
- (o) “SporiCLEAN #1 GREEN Enzyme Mold Cleaner in America!”
- (p) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website “KillMoldFaster.com.”
- (q) The website also contained a link to order or buy SporiCLEAN.

52. On or about November 18, 2008, an inspector employed by ODA and authorized to conduct inspections under FIFRA conducted an internet search of www.sporiclean.com/insects.html, which stated, in part:

- (a) “SporiCLEAN ‘The Green’ Enzyme Cleaner”
- (b) “Quickly Destroys: Floodwater Infectious Bacteria / All Harmful MOLDS / Surface Contaminants & Insects”
- (c) “The Safe ‘GREEN’ Alternative to Chemical Insecticides”

- (d) "Safely replace all Chemical Insecticides and Disinfectant Cleaner!"
- (e) "How does SporiCLEAN eliminate Insects, Bacteria and Mold?"
- (f) "SporiCLEAN is the New 100% GREEN replacement for all toxic insecticides, toxic chemical disinfectants, and harmful or toxic cleaners."
- (g) "No product is More Effective at cleaning and destroying infectious bacteria, mold, or viruses from all washable surfaces then [sic] SporiCLEAN."
- (h) "All insects; bed bugs, dust mites, ticks, fleas, cockroaches, mosquitos [sic], flies, spiders, and [carpenter & household], termites and head-lice, along with all infectious bacteria, mold, viruses and household germs are made of PROTEIN. It simply does not require an EPA labeled toxic or harmful chemical to effectively clean away a PROTEIN... it only requires the Environmentally Safe and Effective PROTEASE ENZYME'S [sic] found in SporiCLEAN to break-down, degrade and thoroughly digest PROTEIN."
- (i) "If you see an EPA registration number on a label, DON'T BUY IT... REMEMBER: If there's an EPA Registration number on the label, STAY AWAY..."
- (j) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFaster.com."

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- (k) The website also displayed pictures and video windows of pests such as bed bugs, fleas, dust mites, common spiders and head lice with the following statement underneath the pictures:
- “SporiCLEAN, Buy Now, SporiCLEAN” and “Safely replace all Chemical Insecticides and Disinfectant Cleaner,” and the following statement in the video window: “Bed Bugs versus SporiCLEAN.”
- (l) The website also contained a link to order or buy SporiCLEAN.

53. On or about November 24, 2008, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.usbiologics.com, which stated, in part:

- (a) “SporiCLEAN is an All Natural [Non-Chemical] Plant-Based Enzyme Cleaner that penetrates, dislodges, and digests organic dirt and debris, and breaks apart and degrades mold, bacteria and viruses from all washable surfaces!”
- (b) “SporiCLEAN is quickly becoming the “GREEN” Cleaning Alternative to Chemical Disinfecting - and these bacteria and viruses haven’t been able to build up an immune defense against it!”
- (c) “Hygienically Removes: Mold, Bacteria and Viruses from Washable Surfaces.”
- (d) “FACT: all Molds, Infectious Bacteria and Viruses are either protein composite microorganisms or are (parasitic) sub-microorganisms encapsulated within a ‘proteinaceous membrane.’”

SporiCLEAN enzymes dislodge, degrade and digest the protein molecules providing a hygienically complete thorough cleaning!”

- (e) “Hospitals, nursing homes and high-populated commercial facilities are very concerned with the evolution of the ‘super-bugs’ and ‘infectious bacteria’ and how they are becoming chemically resistant to disinfectants, sanitizers and antibiotics! ‘We have not found a resistant to the “Protease Enzyme” so far, and SporiCLEAN is quickly proving to be the next generation and method of defense in our fight to control or reduce the surface transfer of infectious bacteria - super bugs,’ Nick Martello, CEO, US Biologics.”
- (f) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website “KillMoldFast.com.”
- (g) The website also contained a link to order or buy SporiCLEAN.

54. On or about November 24, 2008, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.sporiclean.com, which stated, in part:

- (a) “SporiCLEAN works well at breaking down and cleaning away proteins such as; mold, mildew, bacteria, germs and other proteins.”
- (b) “SporiCLEAN safely cleaned all mold, infectious bacteria and germs while replacing all harmful toxic disinfectants and chemical cleaners!”

-
- (c) "SporiCLEAN is an All Natural [Non-Chemical] Plant-Based Enzyme Cleaner that penetrates, dislodges, and digests organic dirt and debris, and breaks apart and degrades mold, bacteria and viruses from all washable surfaces!"
- (d) "SporiCLEAN replaces bleach as the safest and most effective green cleaner in the market. All flood victims immediately see the excellent benefits of SporiCLEAN; fast dislodging of flood water debris, through surface cleaning capability -while cleaning all mold, infectious bacteria and virus germs!"
- (e) "SporiCLEAN is now known as the "GREEN" Cleaning Alternative to Chemical Disinfectants - and infectious bacteria (Super-Bugs) and viruses have not created an immune defense against this Natural Living Energy!"
- (f) "Hospitals, nursing homes and high-populated commercial facilities are very concerned with the evolution of the 'super-bugs' and 'infectious bacteria' and how they are becoming chemically resistant to disinfectants, sanitizers and antibiotics! 'We have not found a resistant to the "Protease Enzyme" so far, and SporiCLEAN is quickly proving to be the next generation and method of defense in our fight to control or reduce the surface transfer of infectious bacteria - super bugs,' Nick Martello, CEO, US Biologics."

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- (g) “We met with Nick Martello and the Sporiclean team in Cedar Rapids on June 19th and were told how to best use the product to clean sludge, mold and bacteria from our family’s home.”
 - (h) “Hygienically Removes: Mold, Bacteria and Viruses from Washable Surfaces”
 - (i) “Bleach DOES NOT KILL MOLD!”
 - (j) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website “KillMoldFaster.com.”
 - (k) The website also contained a link to order or buy SporiCLEAN.

55. On or about November 24, 2008, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.killmoldfast.com, which stated, in part:

- (a) “SporiCLEAN safely cleaned all mold, infectious bacteria and germs while replacing all harmful toxic disinfectants and chemical cleaners!”
- (b) “SporiCLEAN also used to eliminate dust mites and bed bugs.”
- (c) “Mold & Mildew cannot grow when you clean with SporiCLEAN!”
- (d) “Exterior Finishing Insulation systems (EFIS) along with basic stucco finishes can easily become covered with ambient air debris, mildew and mold. Brick, stone, vinyl and aluminum siding are easily cleaned of mold, mildew, dirt and grime. Spray on SporiCLEAN and brush it into the surface. Wait 10-minutes and

rinse off the excess dissolved debris. SporiCLEAN works well on all siding and finishes.”

- (e) “SporiCLEAN Easily Cleans Mold & Mildew off Concrete, Stone, Marble, Tile and Ceramic surfaces.”
- (f) “If it’s wood, aluminum, plastic or concrete (painted or unpainted), SporiCLEAN will clean mildew, mold, dirt and grime.”
- (g) “...SporiCLEAN will remove those deep and embedded mildew and mold deposits quickly and easily.”
- (h) “Years of unsightly mildew and mold growth can easily harm the structural integrity of your wood decks and fencing. SporiCLEAN is Safe and will not harm your wood, plants or shrubs. It will clean deep into the embedded dirt and mildew stains while bringing back the woods original surface. Just spray SporiCLEAN over the dirty surface and brush it into the dirt deposit. Allow the multi-enzyme formula to digest, dissolve and dislodge the mold, mildew, dirt and grime for 10-minutes.”
- (i) “SporiCLEAN Cleans Mold, Mildew, Flood Water Infectious Bacteria and Viruses while eliminating all offensive ORGANIC ODORS!”
- (j) “SporiCLEAN was used to clean up molds and infectious bacteria from a large variety of substrate materials...”
- (k) “Chlorine ‘Bleach’ is a poisonous, greenish-yellow gas described as having a choking odor. It DOES NOT KILL MOLD.”

- (l) "SporiCLEAN is the 'GREEN' Alternative to Chemical Disinfecting..."
- (m) "No other product is safer or more effective at eliminating dirt, grime and organic debris from all washable surfaces along with MOLD, INFECTIOUS BACTERIA, VIRUSES, and GERMS!"
- (n) "SporiCLEAN #1 GREEN Enzyme Mold Cleaner in America!"
- (o) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFast.com."
- (p) The website also contained a link to order or buy SporiCLEAN.

56. On or about November 25, 2008, an inspector employed by the ODA and authorized to conduct inspections under FIFRA conducted an internet search of <http://sporiclean.com>, which stated, in part:

- (a) "SporiCLEAN works well at breaking down and cleaning away proteins such as; mold, mildew, bacteria, germs and other proteins."
- (b) "SporiCLEAN safely cleaned all mold, infectious bacteria and germs while replacing all harmful toxic disinfectants and chemical cleaners."
- (c) "SporiCLEAN is an All Natural [Non Chemical] Plant-Based Enzyme Cleaner that penetrates, dislodges, and degrades all organic dirt and debris, and it further breaks-down and destroys all indoor mold and mold spores, infectious bacteria and virus germs from all washable surfaces!"

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- (d) "SporiCLEAN replaces bleach as the safest and most effective green cleaner in the market. All flood victims immediately see the excellent benefits of SporiCLEAN; fast dislodging of flood water sticky sludge, fast offensive odor removal from sewage and flood water debris, through surface cleaning capability - while cleaning all mold, infectious bacteria and virus germs!"
- (e) "SporiCLEAN is now known as the "GREEN" Cleaning Alternative to Chemical Disinfectants - and infectious bacteria (Super-Bugs) and viruses have not created an immune defense against this Natural Living Energy!"
- (f) "Hospitals, nursing homes and highly-populated commercial facilities are very concerned with the evolution of the 'super bugs' and 'infectious bacteria' and how they are becoming chemically resistant to disinfectants, sanitizers and antibiotics! 'We have not found a resistance to the 'Protease Enzyme' so far, and SporiCLEAN is quickly proving to be the next generation and method of defense in our fight to control or reduce the surface transfer of infectious bacteria - super-bugs,' Nick Martello, CEO, US Biologics."
- (g) "We met with Nick Martello and the Sporiclean team in Cedar Rapids on June 19th and were told how to best use the product to clean sludge, mold and bacteria from our family's home."

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- (h) "Hygienically Removes: Mold, Bacteria and Viruses from Washable Surfaces"
 - (i) "Bleach DOES NOT KILL MOLD!"
 - (j) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFast.com."
 - (k) The website also contained a link to order or buy SporiCLEAN.

57. On or about November 25, 2008, an inspector employed by the ODA and authorized to conduct inspections under FIFRA conducted an internet search of www.usbiologics.com/sporiCLEAN/sporiCLEAN.htm, which stated, in part:

- (a) "SporiCLEAN - The 'GREEN' Enzyme Cleaner - The Safe 'GREEN' Alternative to Toxic Chemicals - FLOOR WATER BACTERIA & MOLD GERMS, INFECTIONS, VIRUSES - The 'GREEN' Alternative to Toxic Chemicals!"
- (b) "SporiCLEAN works on all washable surfaces indoors and out! It is specifically blended to penetrate, dislodge and clean away all microbial contaminants!"
- (c) "SporiCLEAN is blended to clean away mold, bacteria, dirt and germs."
- (d) "4-ozs of SporiCLEAN concentrate per Gallon of water makes 8-Ready to Use Gallons of Professional Strength Mold Remediation Gallons"
- (e) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFast.com."

(f) The website also contained a link to order or buy SporiCLEAN.

58. On or about November 25, 2008, an inspector employed by the ODA and authorized to conduct inspections under FIFRA conducted an internet search of www.killmoldfast.com, which stated, in part:

- (a) "SporiCLEAN safely cleaned all mold, infectious bacteria and germs while replacing all harmful toxic disinfectants and chemical cleaners!"
- (b) "SporiCLEAN also used to eliminate dust mites and bed bugs."
- (c) "Mold & Mildew cannot grow when you clean with SporiCLEAN!"
- (d) "Exterior Finishing Insulation systems (EFIS) along with basic stucco finishes can easily become covered with ambient air debris, mildew and mold. Brick, stone, vinyl and aluminum siding are easily cleaned of mold, mildew, dirt and grime. Spray on SporiCLEAN and brush it into the surface. Wait 10-minutes and rinse off the excess dissolved debris. SporiCLEAN works well on all siding and finishes."
- (e) "SporiCLEAN Easily Cleans Mold & Mildew off Concrete, Stone, Marble, Tile and Ceramic surfaces."
- (f) "If it's wood, aluminum, plastic or concrete (painted or unpainted), SporiCLEAN will clean mildew, mold, dirt and grime."
- (g) "...SporiCLEAN will remove those deep and embedded mildew and mold deposits quickly and easily."

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- (h) “Years of unsightly mildew and mold growth can easily harm the structural integrity of your wood decks and fencing. SporiCLEAN is Safe and will not harm your wood, plants or shrubs. It will clean deep into the embedded dirt and mildew stains while bringing back the woods original surface. Just spray SporiCLEAN over the dirty surface and brush it into the dirt deposit. Allow the multi-enzyme formula to digest, dissolve and dislodge the mold, mildew, dirt and grime for 10-minutes.”
- (i) “SporiCLEAN Cleans Mold, Mildew, Flood Water Infectious Bacteria and Viruses while eliminating all offensive ORGANIC ODORS!”
- (j) “SporiCLEAN was used to clean up molds and infectious bacteria from a large variety of substrate materials...”
- (k) “Chlorine ‘Bleach’ is a poisonous, greenish-yellow gas described as having a choking odor. It DOES NOT KILL MOLD.”
- (l) “SporiCLEAN #1 GREEN Enzyme Mold Cleaner in America!”
- (m) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website “KillMoldFast.com.”
- (n) The website also contained a link to order or buy SporiCLEAN.

59. On or about November 25, 2008, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.greenmoldcleaner.com, which stated, in part:

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- (a) "SporiCLEAN - The "GREEN" Enzyme Cleaner - Quickly Destroys: Floodwater Infectious Bacteria / All Harmful MOLDS / Surface Viruses & Germs."
- (b) "The Safe 'GREEN' Alternative to Chemical Disinfectants"
- (c) "SporiCLEAN Replaces Toxic Harmful Chemical Insecticides: Bed Bugs, Dust Mites, Fleas and other irritating indoor insects are now quickly, safely and cost-effectively eliminated with SporiCLEAN. No more chemicals are require, no injuries, no harmful respiratory problems and the insect and eggs are safely eliminated."
- (d) "SporiCLEAN is an All Natural [Non-Chemical] Plant-Based Enzyme Cleaner that penetrates, dislodges, and digests organic dirt and debris, and breaks apart and degrades mold, bacteria and viruses from all washable surfaces!"
- (e) "SporiCLEAN replaces Bleach as the Safest and Most Effective GREEN Disinfectant in the Market!!"
- (f) "SporiCLEAN is now known as the 'GREEN' Cleaning Alternative to Chemical Disinfectants - and infectious bacteria (Super-Bugs) and viruses have not created an immune defense against this Natural Living Energy!!"
- (g) "Hospitals, nursing homes and high-populated commercial facilities are very concerned with the evolution of the 'super-bugs' and 'infectious bacteria' and how they are becoming chemically

resistant to disinfectants, sanitizers and antibiotics! 'We have not found a resistant to the "Protease Enzyme" so far, and SporiCLEAN is quickly proving to be the next generation and method of defense in our fight to control or reduce the surface transfer of infectious bacteria - super bugs,' Nick Martello, CEO, US Biologics."

- (h) "We met with Nick Martello and the Sporiclean team in Cedar Rapids on June 19th and were told how to best use the product to clean sludge, mold and bacteria from our family's home."
- (i) "Hygienically Removes: Mold, Bacteria and Viruses from Washable Surfaces"
- (j) "Bleach DOES NOT KILL MOLD!"
- (k) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFast.com."
- (l) The website also contained a link to order or buy SporiCLEAN.

60. On or about November 25, 2008, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.iaqms.com/SporiCLEAN/order.htm, which stated, in part:

- (a) "SporiCLEAN - The "GREEN" Enzyme Cleaner"
- (b) "eMail: info@KillMoldFast.com."
- (c) "The 'Green' Alternative to Chemical Disinfectants"

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- (d) "SPECIAL NOTE: 1-ounce of concentrate is excellent in each 'laundry Load of Water' to eliminate odors and bacteria that accumulate in fabric fibers!"
- (e) "A quart bottle of super-concentrate will make up a 8-Gallons of Ready to Use (RTU) solution at a cost of \$4.00 per gallon or \$1.00 per quart for a very strong and highly-effective Professional Strength GREEN Cleaner for all Mold, Mildew, Sewer Backup, Flooding Cleanup Work!"
- (f) "This is the most effective product to clean mold and bacteria caused by flood waters and natural disasters. SporiCLEAN is the most cost-effective all purpose cleaner you can buy."
- (g) "The Bacteria, Germs, Viruses and Mold Spores will NOT survive the excellent hygienic cleaning action of SporiCLEAN natural enzymes."
- (h) "For all Exterior Cleaning and All Mold Cleaning:"
- (i) "... The mold will be completely degraded and digested by the SporiCLEAN enzymes. NOTE: The mold stains may be embedded deep inside the substrate or material. If you do not remove the stains during the first cleaning, it may be necessary to apply multiple cleanings to remove these stains, but the mold will not re-grow. If you are cleaning Tile & Grout, and the stains do not remove, this can be caused by harsh and caustic chemical cleaners used in the past. You may need to remove the old worn-out grout

and re-grout. Once this has been accomplished, you simply maintain your cleaning with SporiCLEAN and you will not have mildew or mold growth again! Mold cannot grow where SporiCLEAN enzymes are present.”

- (j) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website “KillMoldFast.com.”
- (k) The website also contained a link to order or buy SporiCLEAN.

61. On or about November 25, 2008, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.123cleangreen.com, which stated, in part:

- (a) “SporiCLEAN - The “GREEN” Enzyme Cleaner - Quickly Destroys: Floodwater Infectious Bacteria / All Harmful MOLDS / Surface Viruses & Germs”
- (b) “The Safe ‘GREEN’ Alternative to Chemical Disinfectants”
- (c) “SporiCLEAN tests show positive signs as a non-chemical alternative to disinfecting!”
- (d) “Bleach damages and destroys your grout causing replacement - Mold & Mildew cannot grow when you clean with SporiCLEAN!”
- (e) “SporiCLEAN is an All Natural [Non-Chemical] Plant-Based Enzyme Cleaner that penetrates, dislodges, and digests organic dirt and debris, and breaks apart and degrades mold, bacteria and viruses from all washable surfaces!”

- (f) "SporiCLEAN is quickly becoming the 'GREEN' Cleaning Alternative to Chemical Disinfectants - and infectious bacteria (Super-Bugs) and viruses have not created an immune defense against this Natural Living Energy!"
- (g) "SporiCLEAN has been tested in government and private hospitals as 'The Green Alternative to Chemical Disinfecting' HACCP (High Access Critical Contact Points) in the fight to find a successful product to control and/or eliminate surface transfer of 'infectious bacteria.'"
- (h) "Hospitals, nursing homes and high-populated commercial facilities are very concerned with the evolution of the 'super-bugs' and 'infectious bacteria' and how they are becoming chemically resistant to disinfectants, sanitizers and antibiotics! 'We have not found a resistant to the "Protease Enzyme" so far, and SporiCLEAN is quickly proving to be the next generation and method of defense in our fight to control or reduce the surface transfer of infectious bacteria - super bugs,' Nick Martello, CEO, US Biologics."
- (i) "Hygienically Removes: Mold, Bacteria and Viruses from Washable Surfaces"
- (j) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFast.com."

(k) The website also contained a link and a phone number to order or buy SporiCLEAN.

62. On or about February 5, 2009, an inspector employed by the EPA and authorized to conduct inspections under FIFRA conducted an internet search of www.sporiclean.com/index.html, which stated, in part:

- (a) "Watch SporiCLEAN Degrading Bedbugs Click Here" which linked to a video.
- (b) "Watch a Talking Bedbug Video Click Here" which linked to a video.
- (c) "SporiCLEAN works well at breaking down and cleaning away proteins such as; mold, mildew, bacteria, germs and other proteins."
- (d) "SporiCLEAN safely cleaned all mold, infectious bacteria and germs while replacing all harmful toxic disinfectants and chemical cleaners!"
- (e) "SporiCLEAN is an All Natural [Non-Chemical] Plant-Based Enzyme Cleaner that penetrates, dislodges, and digests organic dirt and debris, and breaks apart and degrades mold, bacteria and viruses from all washable surfaces!"
- (f) "SporiCLEAN replaces bleach as the safest and most effective green cleaner in the market!!"
- (g) "All flood victims immediately see the tremendous cleaning benefits of SporiCLEAN; fast dislodging of flood water slimy and

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- sticky sludge, fast cleaning and removal of offensive odors from sewage and flood water debris, and the most thorough surface cleaning capable- while cleaning away all mold, infectious bacteria and virus germs and their food sources.”
- (h) “SporiCLEAN is known as the safest hygienic green cleaning alternative to harmful and toxic chemical disinfectants available today!”
- (i) “SporiCLEAN is now known as the “GREEN” Cleaning Alternative to Chemical Disinfectants - and infectious bacteria (Super-Bugs) and viruses have not created an immune defense against this Natural Living Energy!”
- (j) “Hospitals, nursing homes and high-populated commercial facilities are very concerned with the evolution of the ‘super-bugs’ and ‘infectious bacteria’ and how they are becoming chemically resistant to disinfectants, sanitizers and antibiotics! Science has not found any immune resistance to the Protease Enzyme, making SporiCLEAN the safest and most effective hygienic cleaner capable of reducing and eliminating harmful contaminants’ food sources from all washable surfaces,’ Nick Martello, CEO, US Biologics.”
- (k) “We met with Nick Martello and the Sporiclean team in Cedar Rapids on June 19th and were told how to best use the product to clean sludge, mold and bacteria from our family’s home.”

- (l) "Hygienically Removes: Mold, Bacteria and Viruses from Washable Surfaces"
- (m) "Bleach DOES NOT KILL MOLD!"
- (n) The website displayed bottles of SporiCLEAN for purchase with labels that referenced a website "KillMoldFast.com."
- (o) The website also contained a link to order or buy SporiCLEAN.

63. On October 6, 2009, Respondents' attorney mailed copies of labels of SporiCLEAN to EPA which includes the following:

- (a) A copy of a label for "SporiCLEAN - The 'GREEN' Exterminator - Control BED BUGS Safely and Effectively" with language that includes:
 - (1) "Bed Bugs, Dust Mites, Fleas, Spiders, Ants, Cockroaches, Flies, Centipedes and other household insects."
 - (2) "Controls: Mold, Mildew, Bacteria, Viruses, Germs and All Common Household INSECTS!!"
- (b) A copy of a label for "SporiCLEAN Cleans Mold, Mildew, Bacteria & Viruses" with language that includes:
 - (1) "The #1 Mold Cleaner"
 - (2) "Kill Mold Fast.Com"
 - (3) "SporiCLEAN - Is scientifically blended to clean and breakdown MOLD, MILDEW, BACTERIA & VIRUSES"
- (c) A copy of a label for "SporiCLEAN The 'GREEN' Enzyme Cleaner" with language that includes:

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- (1) "KillMoldFast.Com"
 - (2) "info@KillMoldFast.Com"
 - (3) "SporiCLEAN Is scientifically blended to clean and
breakdown MOLD, MILDEW, BACTERIA & VIRUSES"

64. The labels and advertisements observed and collected during the numerous inspections conducted by ODA inspectors on November 19, 2008, November 20, 2008, June 4, 2009, June 17, 2009, and June 26, 2009, claim, state or imply that SporiCLEAN is a pesticide.

65. The label of SporiCLEAN provided by Respondents on October 6, 2009, claims, states or implies that SporiCLEAN is a pesticide.

66. Respondents' internet website at www.sporiclean.com/insects.html claims, states or implies that SporiCLEAN is a pesticide.

67. Respondents' internet website at www.sporiclean.com claims, states or implies that SporiCLEAN is a pesticide.

68. Respondents' internet website at www.usbiologics.com/sporiclean/sporiclean.htm claims, states or implies that SporiCLEAN is a pesticide.

69. Respondents' internet website at www.killmoldfast.com claims, states or implies that SporiCLEAN is a pesticide.

70. Respondents' internet website at www.usbiologics.com claims, states or implies that SporiCLEAN is a pesticide.

71. Respondents' internet website at www.greenmoldcleaner.com claims, states or implies that SporiCLEAN is a pesticide.

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72. Respondents' internet website at www.iaqms.com/SporiCLEAN/order.htm claims, states or implies that SporiCLEAN is a pesticide.
73. Respondents' internet website at www.123cleangreen.com claims, states or implies that SporiCLEAN is a pesticide.
74. SporiCLEAN is a "pesticide" as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.15(a)(1).
75. SporiCLEAN is not registered as a pesticide as required by Section 3(a) of FIFRA, 7 U.S.C. § 136a(a).
76. On or about November 13, 2008, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Ace Hardware Store located in Independence, Ohio.
77. On or about November 14, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.killmoldfast.com.
78. On or about November 18, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.sporiclean.com/insects.html.
79. On or about November 24, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.usbiologics.com.
80. On or about November 24, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.sporiclean.com.
81. On or about November 24, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.killmoldfast.com.
82. On or about November 25, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.sporiclean.com.

83. On or about November 25, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.usbiologics.com/sporiCLEAN/sporiCLEAN.htm.
84. On or about November 25, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.killmoldfast.com.
85. On or about November 25, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.greenmoldcleaner.com.
86. On or about November 25, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.iaqms.com/SporiCLEAN/order.htm.
87. On or about November 25, 2008, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.123cleangreen.com.
88. On or about February 5, 2009, Respondents distributed or sold SporiCLEAN by advertising it for sale on the internet site, www.sporiclean.com.
89. On or about February 9, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.
90. On or about March 17, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.
91. On or about April, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.
92. On or about April 21, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beck Paint & Hardware Stores located in Cincinnati, Ohio.
93. On or about April 27, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Burkes Hardware located in Cincinnati, Ohio.

94. On or about May 2, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.

95. On or about May 4, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Miller True Value Hardware located in Danville, Ohio.

96. On or about May 7, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Bridgetown Hardware located in Cincinnati, Ohio.

97. On or about May 11, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.

98. On or about May 12, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Small's Hardware located in Cincinnati, Ohio.

99. On or about May 18, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Ross Hardware located in Hamilton, Ohio.

100. On or about June 1, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.

101. On or about June 11, 2009 Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Miller True Value Hardware located in Danville, Ohio.

102. On or about June 15, 2009, Respondent, US Biologics, Inc. distributed or sold SporiCLEAN to Beyond PC located in Fairview Park, Ohio.

Count 1

103. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

104. On or about November 13, 2008 Respondent, US Biologics, distributed or sold SporiCLEAN to Ace Hardware Store in Independence, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

105. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 2

106. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

107. On or about November 14, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.killmoldfast.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

108. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 3

109. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

110. On or about November 18, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.sporiclean.com/insects.html, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

111. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 4

112. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

113. On or about November 24, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.usbiologics.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

114. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 5

115. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

116. On or about November 24, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.sporiclean.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

117. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 6

118. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

119. On or about November 24, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.killmoldfast.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

120. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 7

121. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

122. On or about November 25, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.sporiclean.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

123. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 8

124. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

125. On or about November 25, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.usbiologics.com/sporiCLEAN/sporiCLEAN.htm, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

126. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 9

127. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

128. On or about November 25, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.killmoldfast.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

129. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 10

130. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

131. On or about November 25, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.greenmoldcleaner.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

132. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 11

133. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

134. On or about November 25, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.iaqms.com/sporiCLEAN/order/htm, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

135. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 12

136. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

137. On or about November 25, 2008 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.123cleangreen.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

138. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 13

139. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

140. On or about February, 2009 Respondents distributed or sold SporiCLEAN by offering SporiCLEAN for sale on www.sporiclean.com, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

141. Respondents' violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 14

142. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

143. On or about February 9, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

144. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 15

145. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

146. On or about March 17, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

147. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 16

148. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

149. On or about April, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

150. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 17

151. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

152. On or about April 21, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beck Paint & Hardware Stores in Cincinnati, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

153. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 18

154. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

155. On or about April 27, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Burkes Hardware in Cincinnati, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

156. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 19

157. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

158. On or about May 2, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

159. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 20

160. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

161. On or about May 4, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Miller True Value Hardware in Danville, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

162. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 21

163. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

164. On or about May 7, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Bridgetown Hardware in Cincinnati, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

165. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 22

166. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

167. On or about May 11, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

168. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 23

169. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

170. On or about May 12, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Small's Hardware in Cincinnati, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

171. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 24

172. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

173. On or about May 18, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Ross Hardware in Hamilton, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

174. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 25

175. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

176. On or about June 1, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

177. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 26

178. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

179. On or about June 11, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Miller True Value Hardware in Danville, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

180. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 27

181. Complainant incorporates by reference the allegations contained in paragraphs 1 through 103 of this CAFO.

182. On or about June 15, 2009, Respondent, US Biologics, distributed or sold SporiCLEAN to Beyond PC in Fairview Park, Ohio, in violation of Sections 3(a) and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).

183. Respondent's violation of Sections 3(a) and 12(a)(1)(A) of FIFRA,

184. 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Civil Penalty

185. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$1,000. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondents' business, the effect on Respondents' ability to continue in business, and the gravity of the violation. Based on an ability to pay analysis, EPA has determined that Respondent has an ability to pay a mitigated penalty of \$1,000. Complainant also considered EPA's *Enforcement Response Policy for FIFRA* (ERP), dated July 2, 1990.

186. Within 30 days after the effective date of this CAFO, Respondents must pay a \$1,000 civil penalty for the FIFRA violation. Respondents must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for a check sent by regular U.S. Postal Service mail:]

U.S. EPA
Fines and Penalties

Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

[for a check sent by overnight mail:]

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

187. The check must note the case title, the docket number of this CAFO and the billing document (BD) number.

188. A transmittal letter, stating, Respondents' name, the case title, Respondents' complete address, the case docket number and the BD number must accompany the payment.

Respondents must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Ms. Claudia R. Niess (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Mrs. Nidhi O'Meara (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

189. This civil penalty is not deductible for federal tax purposes.

190. If Respondents do not pay the civil penalty timely, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States

district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

191. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

192. This CAFO resolves only Respondents' liability for federal civil penalties for the violation and facts alleged in the CAFO.

193. This CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

194. This CAFO does not affect Respondents' responsibility to comply with FIFRA and other applicable federal, state, and local laws.

195. This CAFO is a "final order" for purposes of EPA's ERP for FIFRA.

196. The terms of this CAFO bind Respondents, their successors, and assigns.

197. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

198. Each party agrees to bear its own costs and attorney's fees in this action.

199. This CAFO constitutes the entire agreement between the parties.

**US Biologics, Inc.
Enviro-Green
Sporiclean, LLC,
The Sporiclean Foundation, and
Nicholas W. Martello, Respondents**

16 MAR 2010

Date



Nicholas Martello on behalf of himself
and on behalf of US Biologics, Inc.; Enviro-
Green; and Sporiclean, LLC; and The
Sporiclean Foundation, as the Owner and
President

U.S. Environmental Protection Agency, Complainant

March 29, 2010

Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
US Biologics, Inc.
Enviro-Green
Sporiclean, LLC,
The Sporiclean Foundation, and
Nicholas W. Martello,
Docket No. FIFRA-05-2010-0011

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3/29/10
Date

Walter W. Karolyh
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

RECEIVED
APR 06 2010
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving US Biologics, Inc., Enviro-Green, Sporiclean, LLC, Nicholas W. Martello and The Sporiclean, LLC was filed on April 6, 2010, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0006 0189 9330, a copy of the original to the Respondents' attorney:

Mr. David Nash
McMahon DeGulis LLP
812 Huron Road, Suite 650
Cleveland, Ohio 44115

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Nidhi O'Meara, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Chemicals Management Branch
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. FIFRA-05-2010-0011

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U.S. ENVIRONMENTAL
PROTECTION AGENCY**