



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

JUN - 1 2016

REPLY TO THE ATTENTION OF
LC-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Boone Carlson
V. P. General Manager
Barrett Farm Supply
501 Soo Lane
Barrett, Minnesota 56311

Consent Agreement and Final Order In the Matter of Barrett Farm Supply
Docket Number **FIFRA-05-2016-0011**

Mr. Carlson:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on JUN - 1 2016 with the Regional Hearing Clerk.

The civil penalty in the amount of \$4,920 is to be paid in the manner described in paragraphs 28 and 29. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due 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

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Barrett Farm Supply, Inc.
Barrett, Minnesota,

Respondent.



Docket No. FIFRA-05-2016-0011

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

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 is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Barrett Farm Supply Inc., a corporation doing business in the State of Minnesota.
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. Respondent consents 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. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its 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 its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

Statutory and Regulatory Background

10. Under FIFRA, no person shall produce any pesticide unless the establishment in which it is produced is registered with EPA. Section 7(a) of FIFRA, 7 U.S.C. § 136e(a); and 40 C.F.R. § 167.20(a).

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

12. The term “produce” means to manufacture, prepare, compound, propagate, or process any pesticide, or to package, repackage, label, relabel or otherwise change the container of any pesticide. Section 2(w) of FIFRA, 7 U.S.C. § 136(w); and 40 C.F.R. § 167.3.

13. The terms “pesticide” and “pesticidal product” mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 167.3.

14. The term “establishment” means any site where a pesticide or pesticidal product is produced, or held, for distribution or sale. Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd); and 40 C.F.R. § 167.3.

15. The term “to distribute or sell” means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

16. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA of 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. § 136(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

17. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

18. At all times relevant to CAFO, Respondent owned or operated a facility located at 501 Soo Lane, Barrett, Minnesota 56311 (BFS facility).

19. On March 24, 2014, an inspector employed by the Minnesota Department of Agriculture (MDA) and authorized to conduct inspections under Sections 8 and 9 of FIFRA, conducted an inspection at the BFS facility.

20. During and subsequent to the March 24, 2014 inspection, the MDA inspector collected a copy of the bin label and repackaging and shipping records for “Durango DMA,” EPA Registration Number 62719-556.

21. The repackaging and shipping records collected by MDA document the repackaging and distribution of “Durango DMA,” EPA Registration Number 62719-556, during calendar years 2013 and 2014.

22. Respondent “produced” “Durango DMA,” EPA Registration Number 62719-556, at the BFS facility in calendar years 2013 and 2014, within the meaning of Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3.

23. “Durango DMA” is a “pesticide” and “pesticidal product,” within the meaning of Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 167.3.

24. The BFS facility is an “establishment,” within the meaning of Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd); and 40 C.F.R. § 167.3

25. At all times relevant to this CAFO, the BFS facility was not registered with EPA.

26. Respondent violated Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), and 40 C.F.R. § 167.20(a) by producing a pesticide at the unregistered BFS establishment identified in Paragraph 18.

Civil Penalty

27. 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 \$4,920. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent’s business, the effect on Respondent’s ability to continue in business, and the gravity of the violation. Complainant also considered EPA’s FIFRA Enforcement Response Policy, dated December 2009.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,920 civil penalty for the FIFRA violations by sending a cashier’s or certified check, payable to

“Treasurer, United States of America,” to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The check must note Respondent’s name, Barrett Farm Supply, and the docket number of this CAFO.

29. Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays the penalty:

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

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

Tamara Carnovsky (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

31. If Respondent does not pay timely the civil penalty, 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.

32. Pursuant to 31 C.F.R. § 901.9, Respondent 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

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

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

36. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

37. The terms of this CAFO bind Respondent, its successors and assigns.

38. 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.

39. Each party agrees to bear its own costs and attorneys fees, in this action.

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

Barrett Farm Supply Inc., Respondent

4-29-2016

Date

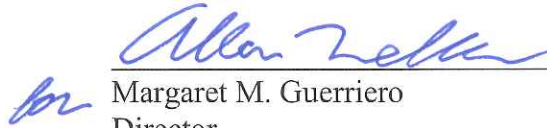


Boone Carlson
V.P. General Manager
Barrett Farm Supply

United States Environmental Protection Agency, Complainant

5/26/16

Date



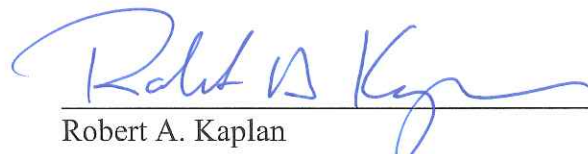
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Barrett Farm Supply Inc.
Docket No. FIFRA-05-2016-0011

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.

5/27/14
Date



Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Barrett Farm Service, Barrett, Minnesota
Docket Number: **FIFRA-05-2016-0011**

CERTIFICATE OF SERVICE

I certify that on June 1, 2016, I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number FIFRA-05-2016-0011, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Mr. Boone Carlson
Barrett Farm Supply
501 Soo Lane
Barrett, Minnesota 56311

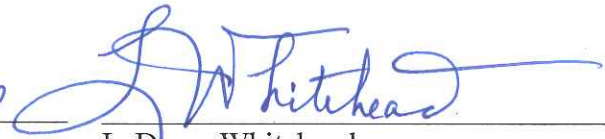
Copy by E-mail to
Attorney for Complainant:

Ms. Tamara Carnovsky
carnovsky.tamara@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

June 1, 2016 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 7124