



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

MAR - 5 2013

Ref: 8ENF-UFO

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
AND ELECTRONIC TRANSMISSION**

Richard Molenda, Registered Agent  
Western Bee Supplies, Inc.  
P.O. Box 190  
Five 9<sup>th</sup> Avenue East  
Polson, MT 59860,

Re: STOP SALE, USE OR REMOVAL ORDER  
Western Bee Supplies, Inc. (Western Bee)

Dear Mr. Molenda:

Enclosed is a Stop Sale, Use or Removal Order (Order) issued by the United States Environmental Protection Agency (EPA), Region 8 for the pesticidal product CheckMite+ Bee Hive Pest Control Strip. This product was authorized under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 18 for use to control varroa mites and small hive beetles in beehives from February 2, 2007 thru February 1, 2008. ***The Order is effective immediately upon receipt.***

Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes the EPA to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of FIFRA. As explained further in the enclosed Order, EPA has reason to believe that Western Bee distributed or sold unregistered pesticide products.

If you have any questions about this matter, please contact Dan Webster, FIFRA Technical Enforcement Program at 303-312-7076, or by email at [webster.daniel@epa.gov](mailto:webster.daniel@epa.gov). For any legal-related questions, please contact Eduardo Quintana, Senior Enforcement Attorney by phone: 303-312-6924 or by email at [quintana.eduardo@epa.gov](mailto:quintana.eduardo@epa.gov).

Sincerely,

Darcy O'Connor, Director  
Technical Enforcement Program UIC-FIFRA-OPA  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosures

cc: Mike Durglo, CSKT Environmental Director



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

**FEB 28 2013**

Ref: 8ENF-UFO

The Honorable Joe Durglo, Chairman  
Confederated Salish & Kootenai Tribes  
301 Main St. P O Box 278  
Polson, MT 59860-0278

Re: Results of the CSKT Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Inspection  
conducted at Western Bee Supplies Inc. and Tribal Consultation/Interest Letter

Dear Chairman Durglo:

On December 4, 2012, a tribal inspector with the Confederated Salish and Kootenai Tribes (CSKT) FIFRA Pesticide Program, accompanied by a Montana Department of Agricultural Inspector, conducted an inspection at the Western Bee Supplies Inc. (Western Bee) facility located at Five 9th Avenue East, in Polson, Montana. During the inspection the inspector discovered that Western Bee distributes pesticide products, including CheckMite+ Bee Hive Pest Control Strip, to control varroa mites and small hive beetles in beehives. The CheckMite+ Bee Hive Pest Control Strip insecticide found at Western Bee was authorized under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 18 for use to control varroa mites and small hive beetles in beehives from February 2, 2007 thru February 1, 2008.

Based on the inspection documentation provided to the EPA by the CSKT inspector, the EPA has determined that Western Bee is selling an unregistered pesticide, and is therefore in non-compliance with Section 12(a)(1)(A) of FIFRA. In order to ensure that the unregistered product is not further distributed, a Stop Sale, Use, or Removal Order has been issued to Western Bee. Based on the inspection report submitted by the CSKT inspector the EPA has evidence to indicate that the Tribe does not own, manage or control this facility. However, if the facility is owned (51% or more) or managed or controlled by a tribal government (this does not include ownership, management, or control by an individual tribal member), consistent with the Federal government's trust responsibility, the EPA will offer appropriate assistance to the tribal government in the matter, prior to considering any further enforcement actions. The EPA and the Tribal government would work together to assist the facility to achieve compliance.

Accordingly, we now ask for formal documentation that the Tribal government owns, manages or controls this facility and seek any other information you wish to provide in writing to aid the EPA in our efforts to address any non-compliance that was observed at the facility. Other information could include any tribal ownership interest (including less than 51% ownership), substantial economic benefit the facility provides your Tribal government (but not to just individuals), essential and unique services it provides to the Tribal government, whether the facility is located on tribal trust land, or any other information you would like to share.

The EPA will consider any such information submitted in determining any further enforcement response at this facility. Please submit such information within two weeks of the date of this letter. If we do not receive any information from the Tribe, we will proceed as necessary, and keep the Tribal government fully informed of our actions. Thank you for your cooperation and assistance.

Should your staff have any questions regarding this letter, please contact Dan Webster of the EPA FIFRA Enforcement Program, who can be reached at (303) 312-7076.

Sincerely,

*for Eddie Q. Seira*  
Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosures:

- 1) Copy of SSURO Cover Letter to Western Bee Supplies Inc.
- 2) Copy of SSURO issued to Western Bee Supplies Inc.

cc: Mike Durglo, Environmental Director, CSKT Environmental Division

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2013 MAR -5 AM 10:03

FILED  
EPA REGION VIII  
HEARING CLERK

*In the Matter of:*

Western Bee Supplies Inc.  
P.O. Box 190  
Five 9<sup>th</sup> Avenue East  
Polson, MT 59860,

**Respondent**

**STOP SALE, USE,  
OR REMOVAL ORDER**

**DOCKET NO. : FIFRA-08-2013-0002**

**I. AUTHORITIES**

1. The United States Environmental Protection Agency (EPA) issues this Stop Sale, Use, or Removal Order (Order) pursuant to the authority vested in the Administrator of the EPA by section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. § 136k(a), which authorizes the Administrator of the EPA to issue orders prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe the pesticide or device is in violation of any provision of FIFRA, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration has been cancelled by a final order.
2. Supervisors in the Technical Enforcement Program and the Legal Enforcement Program have been jointly delegated the authority to issue such orders.
3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states "it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under section 136a of this title or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter."
4. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), states it shall be unlawful for any person to violate any order issued under section 13 of FIFRA.
5. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a "person" as "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not."
6. Section 2(gg), 7 U.S.C. § 136(gg) defines "to distribute or sell" as "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."
7. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a "pesticide," in part, as "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest."

8. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest,” in part as “any [ ] form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section [25(c)(1) of FIFRA].”

## **II. BACKGROUND**

9. Western Bee Supplies, Inc. (Western Bee) is a corporation organized under the laws of the State of Montana and is authorized to do business in the State of Montana.
10. Western Bee is a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
11. Western Bee distributes CheckMite+ Bee Hive Pest Control Strip to control varroa mites and small hive beetles in beehives. This unregistered product was authorized by the EPA for use under FIFRA Section 18 for a limited time. Specifically, EPA authorized the use of CheckMite+ Bee Hive Pest Control Strip from February 2, 2007 thru February 1, 2008.

## **III. BASIS FOR ORDER**

12. On December 4, 2012, a Tribal inspector with the Confederated Salish and Kootenai Tribes (CSKT) FIFRA Enforcement Program, accompanied by a Montana Department of Agricultural Inspector, conducted an inspection at Western Bee Supplies Inc. facility located at Five 9<sup>th</sup> Avenue East, in Polson, Montana.
13. This inspection was conducted as part of a cooperative agreement between the EPA, Region 8 and the CSKT to implement a FIFRA Program within the exterior boundary of the Flathead Indian Reservation.
14. During the inspection the inspector discovered Western Bee distributes pesticide products including CheckMite+ Bee Hive Pest Control Strip to control varroa mites and small hive beetles in beehives.
15. The CheckMite+ Bee Hive Pest Control Strip product found at Western Bee contained labeling indicating that the product was authorized for use pursuant to FIFRA Section 18. This product was only authorized by the EPA for use during February 2, 2007, and February 1, 2008.
16. The inspection obtained photographs from a package of the CheckMite+ Bee Hive Pest Control Strip. Additionally the inspector provided the EPA with copies of the Western Bee website indicating the no longer authorized product is being offered for sale.
17. Therefore, EPA has reason to believe that Western Bee has been distributing or selling the unregistered pesticide product CheckMite+ Bee Hive Pest Control Strip which is no longer authorized for use.



#### IV. ORDER


18. The EPA hereby orders Western Bee to stop the sale, use, or removal of CheckMite+ Bee Hive Pest Control Strip pesticides subject to the Section 18 Authorization.
19. This Order pertains to all quantities and sizes of CheckMite+ Bee Hive Pest Control Strip bearing the FIFRA Section 18 label within the ownership, control, or custody of Western Bee.
20. By March 8, 2013, Western Bee must submit a written inventory for CheckMite+ Bee Hive Pest Control Strip bearing the FIFRA Section 18 label within its custody or control subject to this Order. The inventory shall list the quantity and location of all products and include plans for product storage or disposal. The products subject to this Order shall not be moved, destroyed or disposed of without prior written consent from EPA. This inventory and disposition plan must be submitted to the following person or to such other person as EPA designates in writing:

Dan Webster  
US EPA Region 8 (ENF-UFO)  
1595 Wynkoop Street  
Denver, CO 80202

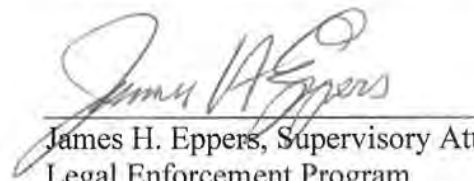
21. Any violation of the terms or provisions of this Order by an officer, agent, or other person acting for or employed by Western Bee may subject the violator as well as Western Bee to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136l.
22. The issuance of this Order shall not constitute a waiver by the EPA of its remedies, either judicial or administrative, under FIFRA or any other Federal environmental law, to address this matter or any other matters or unlawful acts not specified in this Order.
23. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Respondent.

24. If any provision(s) of this Order are subsequently held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and they shall remain in full force and effect. The terms of this Order shall remain in effect unless and until the EPA modifies or terminates either the Order or certain provisions of the Order in writing.

3/5/2013  
Date

  
Darcy O'Connor, Director  
Technical Enforcement Program UIC-FIFRA-OPA  
Office of Enforcement, Compliance and  
Environmental Justice (8-ENF-UFO)

3/5/2013  
Date

  
James H. Eppers, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **STOP SALE, USE, OR REMOVAL ORDER** in the matter of **WESTERN BEE SUPPLIES, INC.; DOCKET NO.: FIFRA-08-2013-0002**. The documents were filed with the Regional Hearing Clerk on March 5, 2013.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were resent and placed in the United States mail certified/return receipt on March 5, 2013 to:

Richard Molenda, Registered Agent  
Western Bee Supplies, Inc.  
P. O. Box 190  
Five 9<sup>th</sup> Avenue East  
Polson, MT 59860

March 5, 2013



Tina Artemis  
Paralegal/Regional Hearing Clerk

