



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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Denver, CO 80202-1129  
Phone 800-227-8917  
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2016 JUL 25 PM 2:37

DOCKET NO.: FIFRA-08-2016-0008

FILED  
EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-UFO

JUL 25 2016

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

CT Corporation System  
Registered Agent  
Martin Operating Partnership L.P.  
1108 East South Union Avenue  
Midvale, Utah 84047

Re: STOP SALE, USE OR REMOVAL ORDER  
Martin Resources

To Whom It May Concern:

Enclosed is a Stop Sale, Use or Removal Order (Order) issued by the United States Environmental Protection Agency Region 8 to Martin Resources (Martin) of Salt Lake City, Utah, for producing, distributing or selling misbranded pesticide products as described in the Order. ***The Order is effective immediately upon receipt by you, as registered agent for Martin.***

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (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 such pesticide has been or is intended to be distributed or sold in violation of FIFRA. As explained further in the enclosed Order, Martin has been and is producing, distributing, or selling misbranded pesticide products.

If you or Martin has any questions about this matter, you may contact Dan Webster of my staff at 303-312-7076, or by email at [webster.daniel@epa.gov](mailto:webster.daniel@epa.gov). For any legal questions, please contact Marc Weiner, Senior Enforcement Attorney, by phone (303-312-6913) or by email at [weiner.marc@epa.gov](mailto:weiner.marc@epa.gov).

Sincerely,

David Cobb, Acting Unit Chief  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2016 JUL 25 PM 2:37

In the Matter of: )  
 )  
Martin Resources )  
580 West 1300 South )  
Salt Lake City, UT 84115 )  
 )  
**Respondent** )  
 )

FILED  
EPA REGION VIII  
HEARING CLERK  
**STOP SALE, USE  
OR REMOVAL ORDER**  
**DOCKET NO. : FIFRA-08-2016-0008**

**I. AUTHORITIES**

1. The United States Environmental Protection Agency 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)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states “it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is adulterated or misbranded.”
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(y) of FIFRA, 7 U.S.C. § 136(y), defines “registrant” as “a person who has registered any pesticide pursuant to the provisions of [FIFRA].”
7. 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.”
8. 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.”

9. As stated at 40 C.F.R. § 152.130(a), a “registrant may distribute or sell a registered product with the composition, packaging and labeling currently approved by the Agency.”
10. As stated at 40 C.F.R. § 152.130(c), “[n]ormally, if the product labeling is amended on the initiative of the registrant, by submission of an application for amended registration, the registrant may distribute or sell under the previously approved labeling for a period of 18 months after approval of the revision, unless an order subsequently issued by the Agency under FIFRA section 6 or 13 provides otherwise.”
11. As stated at 40 C.F.R. § 152.132, the “registrant may distribute or sell his registered product under another person’s name and address instead of (or in addition to) his own. Such distribution and sale is termed ‘supplemental distribution’ and the product is referred to as a ‘distributor product.’”
12. The compliance deadline for the container and containment labeling requirements in 40 C.F.R. part 156 subpart H related to storage and disposal of the pesticide and its container, 40 C.F.R. § 156.10(i)(2)(ix), was August 16, 2011, 40 C.F.R. § 156.159.

## **II. BACKGROUND**

13. Martin Resources (Martin) is part of Martin Operating Partnership LP, which is a corporation organized under the laws of the state of Delaware and is authorized to do business in the state of Utah.
14. Martin is a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
15. Martin entered into a supplemental distributor sales agreement with PBI-Gordon Corporation, a Missouri corporation, on November 22, 1994.
16. Martin entered into a supplemental distributor sales agreement with PBI-Gordon Corporation, a Missouri corporation, on August 23, 2005.
17. PBI-Gordon Corporation is a registrant, with the EPA-assigned company number 2217.
18. Martin is a distributor, with the EPA-assigned company number 3234.
19. Under the November 22, 1994, distributor sales agreement with PBI-Gordon, Martin is a supplemental distributor of the following distributor product: 25-3-5 Weed & Feed 50 lb bag, EPA Reg. No. 2217-643-3234.
20. Under the August 23, 2005, distributor sales agreement with PBI-Gordon, Martin is a supplemental distributor of the following distributor products: 25-3-5 Weed & Feed and 21-7-14 Fall & Winter Weed & Feed, EPA Reg. No. 2217-643-82571.
21. Martin entered into a supplemental distributor sales agreement with Dow AgroSciences LLC, on December 31, 1998.
22. Dow AgroSciences LLC is a registrant, with the EPA-assigned company number 62719.

23. Under the December 31, 1998, distributor sales agreement with Dow AgroSciences, Martin is a supplemental distributor of Galleria 20-5-9, EPA Reg No. 62719-178-3234.
24. On September 10, 2014, Martin filed EPA form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments, for reporting year 2013.
25. On February 19, 2015, Martin filed EPA form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments, for reporting year 2014.

### **III. BASIS FOR ORDER**

26. On May 15, 2014, an EPA inspector conducted a FIFRA inspection at the Martin facility located at 580 West 1300 South, Salt Lake City, Utah 84115.
27. During the inspection the inspector obtained four labels that are applied to the pesticide products produced in the facility.
28. During the inspection the inspector obtained sales invoices for the four pesticide products produced in the facility.
29. On form 3540-16 for reporting year 2013 Martin reported production and sales of EPA Reg. Numbers 62719-178-3234, 2217-643-3234, and 2217-643-82571.
30. On form 3540-16 for reporting year 2014 Martin reported production and sales of EPA Reg. Numbers, 62719-178-3234, 2217-643-3234, and 2217-643-82571.
31. After the inspection a label review was conducted of the four labels provided by Martin at the time of the inspection.
32. The product Galleria 20-5-9, EPA Reg. No. 62719-178-3234, does not bear the label approved by the EPA on January 6, 2011, and is therefore misbranded. The label observed and photographed on the product during the inspection best matches the label approved on November 26, 2001.
33. Martin has been and is producing, distributing, or selling a misbranded pesticide, the distributor product Galleria 20-5-9, EPA Reg. No. 62719-178-3234, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label has an incomplete environmental hazards statement and an incomplete storage and disposal section.
34. The product produced by Martin under its agreements with PBI-Gordon, 25-3-5 Weed and Feed 50 lb bag, EPA Reg. No. 2217-643-3234; does not bear the label approved by the EPA on September 16, 2010, or more recently, and is therefore misbranded. The label observed and photographed on the product during the inspection best matches the label approved on April 24, 2009.
35. Martin has been and is producing, distributing, or selling a misbranded pesticide, the distributor product 25-3-5 Weed and Feed 50 lb bag, EPA Reg. No. 2217-643-3234, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label includes an incomplete precautionary statement, an incomplete environmental hazards statement, incomplete directions for use, and an incomplete storage and disposal statement.

36. The product produced by Martin under its agreements with PBI-Gordon, 25-3-5 Weed & Feed, EPA Reg. No. 2217-643-82571, does not bear the label approved by the EPA on September 16, 2010, or more recently, and is therefore misbranded. The label observed and photographed on the product during the inspection best matches the label approved on April 24, 2009.
37. Martin has been and is producing, distributing, or selling a misbranded pesticide, the distributor product 25-3-5 Weed & Feed, EPA Reg. No. 2217-643-82571, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label includes an incomplete precautionary statement, an incomplete environmental hazards statement, incomplete directions for use, an incomplete storage and disposal statement, and lists the establishment number of an inactive establishment.
38. The product produced by Martin under its agreements with PBI-Gordon, Fall & Winter Weed & Feed, EPA Reg. No. 2217-643-82571, does not bear the label approved by the EPA on September 16, 2010, or more recently, and is therefore misbranded. The label observed and photographed on the product during the inspection best matches the label approved on April 24, 2009.
39. Martin has been and is producing, distributing, or selling a misbranded pesticide, the distributor product Fall & Winter Weed & Feed, EPA Reg. No. 2217-643-82571 in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label includes an incomplete precautionary statement, an incomplete environmental hazards statement, incomplete directions for use, an incomplete storage and disposal statement, and lists the establishment number of an inactive establishment.

#### **IV. ORDER**


40. The EPA hereby orders Martin to stop the sale, use, or removal of all pesticide products subject to this Order, which includes the distributor products Galleria 20-5-9, EPA Reg. No. 62719-178-3234; 25-3-5 Weed and Feed 50 lb bag, EPA Reg. No. 2217-643-3234; and 25-3-5 Weed & Feed and 21-7-14 Fall & Winter Weed & Feed, EPA Reg. No. 2217-643-82571, EFFECTIVE IMMEDIATELY.
41. This Order pertains to all quantities and sizes of the distribution products subject to this Order.
42. The EPA hereby orders Martin to revise the labels of the distributor products Galleria 20-5-9, EPA Reg. No. 62719-178-3234; 25-3-5 Weed and Feed 50 lb bag, EPA Reg. No. 2217-643-3234; and 25-3-5 Weed & Feed and 21-7-14 Fall & Winter Weed & Feed, EPA Reg. No. 2217-643-82571 to correspond to the registrants' current approved labels EFFECTIVE IMMEDIATELY.
43. Any questions concerning this Order may be submitted to the following:

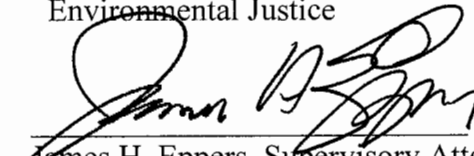
Dan Webster  
US EPA Region 8 (ENF-UFO)  
1595 Wynkoop Street  
Denver, CO 80202  
(303) 312-7076

- 44. Any violation of the terms or provisions of this Order by an officer, agent, or other person acting for or employed by Martin may subject such person as well as Martin to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136l.
- 45. 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.
- 46. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Respondent.
- 47. Respondent may seek federal judicial review of this Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.
- 48. 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 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.

7/19/16  
Date

7/19/16  
Date

  
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David Cobb, Acting Unit Chief  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

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