



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 08 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Tracy Heinzman
Attorney at Law
Wiley Rein, LLP
1776 K Street, NW
Washington, DC 20006

Re: Natures Innovation, Inc.
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2013-3001(b)

Dear Ms. Heinzman:

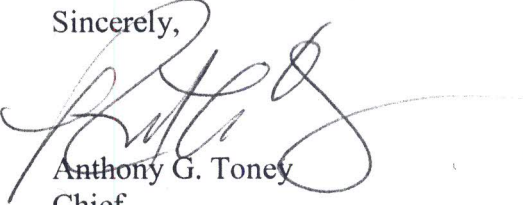
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts your client on notice of their potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your client's compliance status in the future, please contact Mr. Phillip Beard of the EPA Region 4 staff at (404) 562-9012.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony G. Toney', with a large, sweeping flourish extending to the right.

Anthony G. Toney
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Georgia Department of Agriculture

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Region 4
ATLANTA, GEORGIA

In the Matter of:

Natures Innovation, Inc.

Respondent.

Docket No.: FIFRA-04-2013-3005(b)

HEARING CLERK

2013 MAY -8 AM 7:20

RECEIVED
EPA REGION IV

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4. Respondent is Natures Innovation, Inc.
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to the EPA Region 4 by the EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by the EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an

enforcement action as the Complainant in this matter, and has the authority to sign consent agreements memorializing settlements between the EPA and Respondents.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without formal hearing. Therefore, without the taking of any evidence or testimony, the making of an argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Phillip Beard
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9012.

5. Respondent is Natures Innovation, Inc. a Georgia company, located at 2723 Brickton North Drive, Buford, Georgia 30518.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

III. Specific Allegations

7. On October 12, 2010, an authorized representative of the EPA conducted an inspection at Respondent's facility, located at 2723 Brickton North Drive, Buford, Georgia 30518.
8. During the inspection, a product labeled "Fossil Shell Dust" was observed at the facility.

9. The label on the Fossil Shell Dust containers included the phrase “kills bed bugs.” It also displayed the name of Respondent.
10. Prior to and at the time of the inspection, Respondent’s website included advertisements for Fossil Shell Dust that stated that the product “kills bed bugs.”
11. During the inspection, the inspector observed and Respondent confirmed that the Fossil Shell Dust sold or distributed by Respondent was labeled by Respondent at its facility.
12. During the inspection, Respondent provided the inspector with a computer printout showing 74 shipment dates including shipping locations indicating that Respondent had sold and shipped the product Fossil Shell Dust on at least 74 separate occasions.
13. The term pesticide is defined in Section 2(u)(1) of FIFRA, 7 U.S.C. § 136(u)(1), to mean “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
14. Therefore, Fossil Shell Dust is a pesticide as that term is defined in Section 2(u)(1) of FIFRA.
15. Respondent “distributes or sells” pesticides. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes “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.”
16. Pesticides that are sold and distributed in the United States are required to be registered with the EPA, pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.
17. Fossil Shell Dust was distributed or sold by Respondent, as those terms are defined in Section 2(gg) of FIFRA, on at least 74 different occasions.

18. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), prohibits the distribution or sale of any pesticide that is not registered under FIFRA.
19. The Fossil Shell Dust pesticide product distributed or sold by Respondent was not registered as a pesticide under FIFRA.
20. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136l.
21. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least 74 occasions and is therefore subject to the assessment of civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
22. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines “producer” and “produce.” The term “producer” means “the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide.” The term “produce” means “to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide.”
23. By applying labels to the Fossil Shell Dust packaging at its facility, Respondent “produced” Fossil Shell Dust as that term is defined in Section 2(w) of FIFRA 7 U.S.C. § 136(w). According to 40 C.F.R. § 167.3, “produce” means “to package, repackage, label, relabel, or otherwise change the container of any pesticide or device.”
24. Under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), it is unlawful to produce a pesticide in any state unless the establishment is registered with the Administrator of the EPA as set forth in Section 7 of FIFRA, 7 U.S.C. § 136e.

25. Respondent produced Fossil Shell Dust in an establishment that was not registered with the Administrator of EPA as a pesticide producing establishment. Therefore, Respondent violated Section 12(a)(2)(L) of FIFRA and is subject to the assessment of civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
26. Section 14(a) of FIFRA, 7 U.S.C. §136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty for violations of FIFRA.
27. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
28. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **FIFTY THOUSAND ONE HUNDRED DOLLARS** (\$50,100) against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

29. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
30. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
31. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.

32. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
33. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
34. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

V. Final Order

35. Respondent is assessed a civil penalty of **FIFTY THOUSAND ONE HUNDRED DOLLARS** (\$50,100). Eight payments will be made to complete payment of the entire civil penalty including interest. The first payment shall be made by May 31, 2013. The subsequent seven payments shall be due in 90 day intervals thereafter. Including civil penalty and interest, the total amount that will be paid upon completion of all payments will be **FIFTY THOUSAND SIX HUNDRED SEVENTY-FOUR DOLLARS AND FORTY CENTS** (\$50,674.40). Respondent shall make payments in accordance with the following schedule:

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	May 31, 2013	\$6,334.30
2	August 31, 2013	\$6,334.30
3	November 30, 2013	\$6,334.30
4	February 28, 2014	\$6,334.30
5	May 31, 2014	\$6,334.30

6	August 30, 2014	\$6,334.30
7	November 30, 2014	\$6,334.30
8	February 28, 2015	\$6,334.30

36. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America" and shall send the check via U.S. mail to the following address:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

37. At the time of each payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
 U.S. EPA - Region 4
 61 Forsyth Street
 Atlanta, Georgia 30303-8960;

Phillip Beard
 Pesticides Section
 U.S. EPA - Region 4
 61 Forsyth Street
 Atlanta, Georgia 30303-8960; and

Saundi J. Wilson
 Office of Environmental Accountability
 U.S. EPA - Region 4
 61 Forsyth Street
 Atlanta, Georgia 30303-8960.

38. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not within 30 days after the due date, that payment plus all subsequent payments (the entire unpaid balance) shall become

immediately due and payable on the 31st day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.

39. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
40. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **FIFTY THOUSAND ONE HUNDRED DOLLARS** within 30 days of the effective date of this CAFO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principle balance remaining, together with interest accrued up to the date of such full payment.
41. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within 30 calendar days after the date on which such interest begins to accrue. Interest will be

both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.

42. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
43. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
44. This CAFO shall be binding upon the Respondent, its successors and assigns. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.

The remainder of this page intentionally left blank.

VI. Effective Date

45. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Natures Innovation, Inc.
Docket No.: FIFRA-04-2013-3001(b)

By: William Carlson (Signature) Date: 4/14/13

Name: William Carlson (Typed or Printed)

Title: President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: Beverly H. Banister (Signature) Date: 05/01/13
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 7 day of May 2013.

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Natures Innovation, Inc., Docket Number: FIFRA-04-2013-3001(b), to the addressees listed below:

Ms. Tracy Heinzman
Attorney at Law
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

(via Certified Mail, Return Receipt Requested)

Phillip Beard
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(via EPA's internal mail)

Robert Caplan
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(via EPA's internal mail)

Date:

5-8-13



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9511