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6 BEFORE THE
7 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

8 In the Matter of:)
9) DOCKET NO. FIFRA-10-2010-0006
10 J. R. SIMPLOT COMPANY)
11) **CONSENT AGREEMENT AND**
12 Respondent) **FINAL ORDER**

13 **I. STATUTORY AUTHORITY**

14 1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority
15 vested in the Administrator of the United States Environmental Protection Agency ("EPA") by
16 Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C.
17 § 136l(a).

18 1.2. The Administrator has delegated the authority to issue the Final Order contained
19 in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has
20 redelegate this authority to the Regional Judicial Officer.

21 1.3. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and in accordance with
22 the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil
23 Penalties," 40 C.F.R. Part 22, EPA hereby issues, and J.R. Simplot Company ("Respondent")
24 hereby agrees to issuance of, the Final Order contained in Part V of this CAFO.
25

1 **IV. CONSENT AGREEMENT**

2 4.1. For the purpose of this proceeding, Respondent admits the jurisdictional
3 allegations contained herein, but neither admits nor denies the specific factual allegations put
4 forth by EPA. Respondent waives any right to contest these allegations as well as the right to
5 appeal the accompanying Final Order. Respondent also consents to payment of the penalty as
6 stated below.

7 4.2. Respondent consents to the assessment of a civil penalty in the amount of
8 TWENTY-EIGHT THOUSAND, EIGHTY DOLLARS and no cents (\$28,080.00). Respondent
9 consents to issuance of the Final Order set forth in Part V, below, and agrees to pay the total civil
10 penalty set forth in this paragraph within thirty (30) days of the effective date of this Final Order.

11 4.3. Payment under this CAFO shall be made by cashier's check or certified check,
12 payable to the order of "Treasurer, United States of America" and delivered to the following
13 address:

14 US Bank - USEPA - Region 10
15 Fines and Penalties
16 Cincinnati Finance Center
17 PO Box 979077
18 St. Louis, MO 63197-9000

19 Respondent shall note on the check the title and docket number of this action.

20 4.4. Respondent shall serve photocopies of the check described in Paragraph 4.3,
21 above. on the Regional Hearing Clerk and the EPA Region 10 Office of Compliance and
22 Enforcement at the following addresses:

23 Regional Hearing Clerk
24 U.S. Environmental Protection Agency
25 Region 10, Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-158
Seattle, WA 98101

1 4.7. The penalty described in Paragraph 4.2, above, including any additional costs
2 incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA
3 and shall not be deductible for purposes of federal taxes.

4 4.8. The undersigned representative of Respondent certifies that he is fully authorized
5 to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

6 4.9. Respondent shall bear its own costs and attorneys fees in connection with this
7 matter.

8 4.10. The provisions of this CAFO shall bind Respondent and its agents, servants,
9 employees, successors, and assigns.

10 4.11. The above provisions are STIPULATED AND AGREED upon by Respondent
11 and EPA.

12 DATED:

13 October 30, 2009

J. R. SIMPLOT COMPANY:




TERRY UHLING

Vice President of Health, Safety & Environment
For Respondent

16 DATED:

17
18 11/12/09

U.S. ENVIRONMENTAL PROTECTION AGENCY:



EDWARD J. KOWALSKI

Director, Office of Compliance and Enforcement
For Complainant



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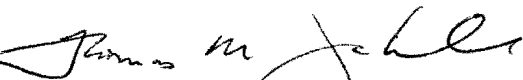
V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

5.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties pursuant to FIFRA for the violations alleged above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of FIFRA and regulations promulgated thereunder.

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 16th day of November, 2009.



THOMAS M. JAHNKE
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: J.R. Simplot Company, DOCKET NO.: FIFRA-10-2010-0006** was filed with the Regional Hearing Clerk on November 16, 2009.

On November 16, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:

Mercer St. Peter, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on November 16, 2009, to:

J.R. Simplot Company
Terry Uhling, VP of Health, Safety & Environment
One Capital Center
999 Main Street
Suite 1300
P.O. Box 2
Boise, Idaho

DATED this 16th day of November 2009.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10

