



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 10 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. T. Price Thompson III
Attorney at Law
Rochelle, McCulloch & Aulds, PLLC
109 North Castle Heights Avenue
Lebanon, Tennessee 37087

Re: Gold River Feed Products
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2016-3001(b)

Dear Mr. Thompson:

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 have your client refer to Section V of the CAFO for penalty information and payment requirements and schedule. Please inform your client that in order 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." Please inform your client that this document puts Gold River Feed Products (Gold River) on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should your client have any questions about this matter or Gold River's compliance status in the future, please contact Melba Table of the EPA Region 4 staff at (404) 562-9086.

Sincerely,

A handwritten signature in blue ink, appearing to read "KLB", written over the typed name.

Kimberly L. Bingham
Acting Chief

Chemical Safety and Enforcement Branch

Enclosures

cc: TDA

State File No.: 10171202798021-08

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
)
Gold River Feed Products)
)
)
)
Respondent.)
_____)

Docket No.: FIFRA-04-2016-3001

HEARING CLERK

2016 MAR 10 AM 7:54

EPA REGION 4
OFFICE OF REGIONAL
COUNSEL

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. § 136/(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 Gold River Feed Products.
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136/(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 EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegate this authority to the Director, Air, Pesticides and Toxics Management Division, by 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 a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(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:

Melba Table
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street, S.W
Atlanta, Georgia 30303-8960
(404) 562-9006.

5. Respondent is Gold River Feed Products, located at 783 Eagle Blvd, Shelbyville, Tennessee 37160.
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 or about December 9, 2010, an authorized representative of the EPA conducted an inspection at Respondent's facility located at 783 Eagle Blvd., Shelbyville, Tennessee 37160.

8. At the time of the inspection, the inspector collected information including batch production records and sales and shipping ledgers documenting at least ten separate times between August 18, 2011 and May 25, 2012, during which, the Respondent produced, distributed and/or sold the product Rabon 7.76 Oral Larvicide Premix (EPA Registration Number 61483-48) under the trade name Formax Medicated ROL.
 9. During the inspection and the EPA's on-going investigation, it was determined that the Respondent did not have a "Supplemental Distribution" contract with KMG Bernuth, Inc. (KMG), the registrant of the product Rabon 7.76 Oral Larvicide Premix, that authorized the Respondent to produce, distribute and/or sell the product.
 10. The documentary sample label of Formax Medicated ROL collected during the inspection above-referenced in paragraph 7, contained pesticide claims associated with the product, including, but not limited to, the following statements:
 - "For control of fecal flies" and
 - "Prevents the development of face flies, horn flies and house flies."
- Therefore, Formax Medicated ROL is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
11. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
 12. The term "produce" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3, means in part, "to manufacture, prepare, compound, propagate any

pesticide or active ingredient used in producing a pesticide,” or “to package, repackage, label, relabel or otherwise change the container of any pesticide or device.”

13. 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, or release for shipment.
14. Pursuant to Section 3(e) of FIFRA, 7 U.S.C. § 136a(e) and 40 C.F.R. Part 152, Subpart C, the registrant may enter into a contract to distribute or sell its registered pesticide product under another person’s name and address instead of (or in addition to its own. Such distribution and sale is termed “supplemental distribution” and the product is referred to as a “distributor product.”
15. Pursuant to 40 C.F.R. § 152.132, supplemental distribution is permitted upon notification to the EPA if all the requisite conditions are met including, but not limited to, the following:
 - a. The registrant has submitted to the EPA for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor’s company number, the additional brand name(s) to be used, and the registration number of the registered product. *40 C.F.R. § 152.132(a)*. [*8] The statement is also known as a “Notice of Supplemental Distribution of a Registered Pesticide Product,” EPA Form 8570-5 (Rev. 8-94).
 - b. The distributor product is produced, packaged, and labeled in a registered establishment operated by the same producer (or under contract in accordance with *Section 152.130*) who produces, packages, and labels the registered product. *40 C.F.R. § 152.132(b)*.
16. As referenced in paragraph 9, at the time of the inspection, the Respondent did not have a contract with the registrant for “Supplemental Distribution” of the pesticide product, Rabon 7.76 Oral Larvicide Premix, and therefore without that contract in place, the Respondent was distributing and/or selling a pesticide that was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C § 136a.

17. 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 and 40 C.F.R. § 152.15.
18. Registration of a pesticide product can either be achieved pursuant to Section 3(c) of FIFRA, 7 U.S.C. § 136a(c), through the full registration process or under a “Supplemental Distribution” contract with the registrant pursuant to Section 3(e) of FIFRA, 7 U.S.C. § 136a(c), and 40 C.F.R. Part 152, Subpart C.
19. 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. § 136a.
20. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling and/or distributing an unregistered pesticide at least ten separate times, as referenced above in paragraph 8, and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
21. 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.
22. 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.
23. 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 **THIRTY FIVE THOUSAND DOLLARS (\$35,000)** 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

24. 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.
25. 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.
26. 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.
27. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
28. 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.
29. 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

30. Respondent is assessed a civil penalty of **THIRTY FIVE THOUSAND DOLLARS** (\$35,000). Three payments will be made to complete payment of the total civil penalty including interest. The total amount, including the civil penalty and interest that will be paid upon the completion of all payments will be **THIRTY FIVE THOUSAND AND THREE HUNDRED FIFTY DOLLARS** (\$35,185). The first installment payment is

due within 30 days of the effective date of this CAFO. Respondent shall make the three installment payments in accordance with the following schedule:

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days of filing of CAFO	\$12,029.17
2	within 180 days of filing of CAFO	\$12,105.42
3	within 365 days of filing of CAFO	\$11,050.42

Address for all the payment submittals using the United States Postal Service (excluding USPS overnight mail):

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

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1818.

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

31. 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;

Melba Table
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.

32. If Respondent fails to make one of the three installment payments in accordance with the schedule set forth above in paragraph 30, and if any such payment is not made 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.
33. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above in paragraph 30, 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.
34. 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 **THIRTY FIVE THOUSAND DOLLARS (\$35,000)** 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 principal balance remaining, together with interest accrued up to the date of such full payment.

35. 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 assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). A charge will also be assessed to cover the administrative costs, 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.
36. 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.
37. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
38. 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.

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VI. Effective Date

39. 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: Gold River Feed Products

Docket No.: FIFRA-04-2016-3001(b)

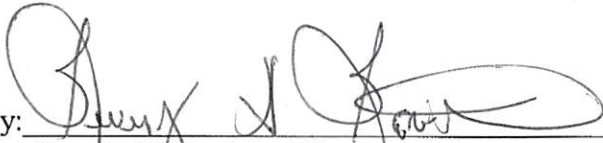
By:  (Signature)

Date: 2-12-2016

Name: Tom Pedigo (Typed or Printed)

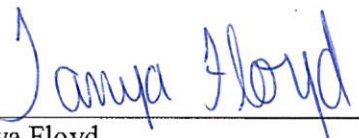
Title: owner (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: 
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

Date: 3-2-2016

APPROVED AND SO ORDERED this 9th day of March 2016.


Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

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 Gold River Feed Products
Docket Number: FIFRA-04-2016-3001(b), to the addressees listed below:

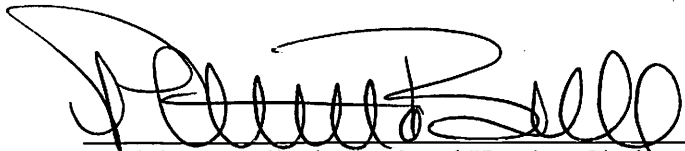
Mr. T. Price Thompson, III (via Certified Mail, Return Receipt Requested)
Attorney at Law
Rochelle, McCulloch & Aulds, PLLC
109 North Castle Heights Avenue
Lebanon, TN 37087

Melba Table (via EPA's internal mail)
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Ms. Marlene Tucker (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Date: 3-10-16


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