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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 6 DALLAS, TEXAS

IN THE MATTER OF: §
§ DOCKET NO. FIFRA-06-2016-0304
Global Environmental Restoration, Inc. §
108 Mapleridge Dr. §
Lafayette, LA 70583 §
§
§ CONSENT AGREEMENT AND
§ FINAL ORDER
RESPONDENT §

CONSENT AGREEMENT AND FINAL ORDER

The Director, Multimedia Planning and Permitting Division, United States Environmental Protection Agency, Region 6 (EPA) as Complainant, and Global Environmental Restoration, Inc., located in Lafayette, Louisiana, (Respondent) in the above referenced action, have consented to the terms of this Consent Agreement and Final Order (CAFO).

NOW THEREFORE, before the taking of any testimony, without any adjudication of any issues of law or fact herein, the parties agree to the terms of this CAFO.

I. PRELIMINARY STATEMENT

1. This enforcement proceeding is issued by EPA pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136/(a) (FIFRA) and concluded pursuant to 40 Code of Federal Regulations ("C.F.R.") § 22.18(b)(2) and (3).

2. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. The CAFO resolves only those violations which are alleged herein.

5. The Respondent consents to the issuance of the CAFO hereinafter recited and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO.

6. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

7. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns, including but not limited to, subsequent purchasers.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. The Respondent is Global Environmental Restoration, Inc., a corporation incorporated under the laws of the State of Louisiana, located at 108 Mapleridge Dr., Lafayette, Louisiana 70583.

9. Respondent is a "person" as that term is defined in Section 2(s) of FIFRA.

10. Respondent is a registrant, wholesaler, dealer, retailer or other distributor subject to the civil penalty provisions of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

11. Respondent's product known as SNI^{PER}, is a pesticide as defined in FIFRA Section 2(u).

12. At all relevant times, the Respondent was a "distributor," as that term is defined at Section 2(gg) of FIFRA, of the pesticide described in paragraph 11.

13. An EPA inspector conducted an inspection of the Respondent facility on or about December 12, 2009 and a review of the Respondent website on or about December 7, 2010 for the product described in paragraph 11.

14. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), provides that it shall be unlawful for any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title.

15. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), provides that it shall be unlawful for any person who is a producer to violate any of the provisions of section 7.

IV. VIOLATIONS

Counts I: Five Counts of Advertising a Registered Pesticide for an Unregistered Use

16. The allegations in paragraphs 1-15 are incorporated herein by reference.

17. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), provides that it shall be unlawful for any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under [Section 3 of FIFRA, 7 U.S.C. § 136a].

18. The term “pest” is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t) as meaning “(1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms (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 [7 U.S.C. § 136w(c)(1)].”

19. The term “pesticide” is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), as meaning “(1) any substances or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer....”

20. SNI_{PER} was sold and intended to prevent, destroy, repel, or mitigate pests.

21. SNI_{PER} is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

22. SNI_{PER} is a registered pesticide.

23. 40 C.F.R. § 168.22(b)(5) provides that no person may place or sponsor advertisements in order to sell, offer for sale, hold for sale, ships, delivers for shipment, or receives and delivers or offers to deliver or distribute, which recommend or suggest the purchase or use of a registered pesticide for an unregistered use.

24. On or about December 12, 2009 EPA collected an advertisement pamphlets on dairy & poultry

25. On or about April 9, 2010 EPA reviewed the Respondent’s company website.

- a. Respondent made claims of control of bacteria Staphaureus, Legionella, Apergillus, E.Coli, Pennicillium, Cladosprium, MRSA, Fuarium and Salmonella chlocrasuis in marketing materials and on the company

website.

- b. Respondent made claims of control of viruses including the Swine flu, Influenza, Norovirus, HIV and Avian flu in marketing materials and on the swineflu section of company website.
- c. Respondent made claims of control of biofilm in marketing materials and on the Green Cleaning Section of the company website.
- d. Respondent made claims of control of mold and fungus in marketing materials and on the Mold Solutions section of the company website.
- e. Respondent made claims for use in HVAC and Air Ducts in marketing materials and on the Clean Air System and Air Quality section of Website

26. On December 7, 2010 the company website was found to be under construction and the claims had been removed.

27. SNIPEr is a "pesticide product" as that term is defined by 40 C.F.R. § 152.3.

28. Therefore, the Respondent violated Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), by making claims as a part of its distribution or sale that substantially differ from any claims made as a part of the statement required in connection with its registration..

Count 2: One Count of Making False or Misleading Claims of Safety

29. The allegations in paragraphs 1-28 are realleged and incorporated herein.

30. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), provides that it shall be unlawful for any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under [Section 3 of FIFRA, 7 U.S.C. § 136a].

31. The term "pest" is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t) as meaning

“(1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms (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 [7 U.S.C. § 136w(c)(1)].”

32. The term “pesticide” is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), as meaning “(1) any substances or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer...”

33. SNiPER was sold and intended to prevent, destroy, repel, or mitigate pests.

34. SNiPER is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

35. SNiPER is a registered pesticide.

36. 40 CFR§156.10(a)(5)(ix) provides that no person may place or sponsor advertisements in order to sell, offer for sale, hold for sale, ships, delivers for shipment, or receives and delivers or offers to deliver or distribute, make false or misleading claims as to the safety of the pesticide or its ingredients, including statements such as “safe,” “nonpoisonous,” “noninjurious,” “harmless,” or “nontoxic to humans and pets” without such a qualifying phrase.

37. On or about August 24, 2010 the Florida Department of Agriculture collected marketing materials that made claims of cleaner greener air, child safe and non-toxic.

38. On or about April 9, 2010 EPA reviewed the Respondent’s company website indicated claims of cleaner greener air, child safe and non-toxic in the Green Cleaning section of the website.

39. Therefore, the Respondent violated Section 12(a)(2)(B) of FIFRA, 7 U.S.C. § 136j(a)(2)(B), by make false or misleading claims as to the safety of the pesticide or its ingredients.

V.
CIVIL PENALTY AND TERMS OF SETTLEMENT

i. Penalty

40. For the reasons set forth above, Respondent has agreed to pay a civil penalty, which has been determined in accordance with Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which Respondent neither admits nor denies and which are hereby adopted and made a part hereof, the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations. It is ORDERED that Respondent be assessed a civil penalty of **TWO THOUSAND FIVE HUNDRED-FIFTY DOLLARS AND NO CENTS (\$2,550)**.

41. The penalty shall be made payable to the Treasurer United States.

42. The penalty will be paid according to the following schedule:

Pmt No.	Payment	Interest Accrued	Interest Balance	Principal Balance	Total Owed
0				\$ 2,550.00	\$ 2,550.00
1	\$ 1,276.62	\$ -	\$ -	\$ 1,273.38	\$ 1,273.38
2	\$ 1,274.44	\$ 1.06	\$ -	\$ -	\$ -

a. On or before 30 days after the Effective Date of this CAFO: \$1,276.62

b. On or before 60 days after the Effective Date of this CAFO: \$1,274.44

43. The Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

44. The case name and docket number (In the Matter of Global Environmental Restoration, Inc., Docket No. FIFRA-06-2016-0304) shall be documented on or within your chosen method of payment to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name,

and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Ste. 1200
Dallas, Texas 75202-2733

Lee V. McMillan
Pesticide Section (6PD-P)
U.S. EPA, Region 6
1445 Ross Avenue, Ste. 1200
Dallas, Texas 75202-2733

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

45. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 1311, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of process and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year

will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 40 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

ii. Costs

46. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

iii. Termination and Satisfaction

47. At such time as the Respondent has complied with all requirements of this CAFO, it may request that EPA concur whether all of the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within ninety (90) days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondent has been notified by the EPA in writing that this CAFO has been satisfied and terminated.

iv Effective Date of Settlement

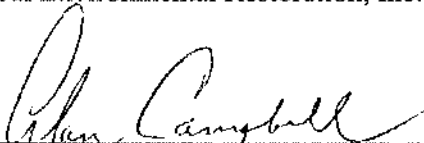
48. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO AGREED:

FOR THE RESPONDENT:


Global Environmental Restoration, Inc.

Date: 9/30/15

By: 
Alan Campbell, President
108 Mapleridge Dr.
Lafayette, LA 70583

FOR THE COMPLAINANT:

Date: 10/07/15

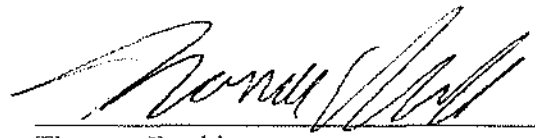

Wren Stenger
Director
Multimedia Planning and Permitting Division
U.S. EPA - Region 6

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FINAL ORDER

Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case 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 Final Order shall resolve only those causes of action and/or violations alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 10/8/15



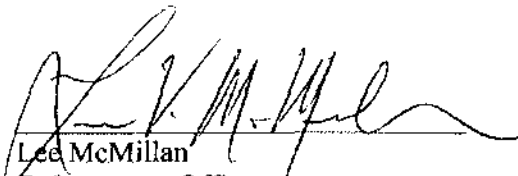
Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of October, 2015, the original and one copy of the foregoing Complaint Consent Agreement and Final Order ("Complaint CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual by method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Alan Campbell
President
Global Environmental Restoration, Inc.
108 Mapleridge Dr.
Lafayette, LA 70583


Lee McMillan
Enforcement Officer
Pesticides Section