



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 04 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ross Beattie
BWA Water Additives US LLC
1979 Lakeside Parkway, Suite 925
Tucker, Georgia 30084

Re: BWA Water Additives US LLC
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2016-3004(b)

Dear Mr. Beattie:

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 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 you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. 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 compliance status in the future, please contact Kimberly Tomczak of the EPA Region 4 staff at (404) 562-8987.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosures

cc: Tommy Gray, Georgia Department of Agriculture

the authority to sign consent agreements memorializing settlements between the EPA and Respondent.

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:

Kimberly Tomczak
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-8987.

5. Respondent BWA Water Additives US LLC is licensed to do business in the State of Georgia, and has its principal place of business located at 1979 Lakeside Parkway, Tucker, Georgia 30084.
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 December 1, 2015, the EPA received a Notice of Arrival of Pesticides and Devices (NOA) EPA Form 3540-1 which did not provide the correct percentage of the active ingredient as stated

on the EPA-approved master label for the pesticide product Bellacide 320 (EPA Registration Number 83451-7).

8. On or about December 2, 2016, the EPA notified the Respondent of the error. Subsequently, on or about December 3, 2016, the Respondent submitted a second NOA to the EPA which provided the correct active ingredient.
9. On or about December 2, 2015, the Respondent contacted and informed the EPA that the super sacks of the pesticide product Bellacide 320 which were en route from China to Georgia, had labels that contained an incorrect percentage for the active ingredient.
10. The term “misbranded” as defined by Section 2(q) of FIFRA, 7 U.S.C. § 136 (q), includes labeling which bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.
11. The EPA has determined that the super sacks of the pesticide product Bellacide 320, described above in paragraph 9, were misbranded.
12. On December 31, 2015, the EPA issued a Stop Sale, Use or Removal Order (SSURO) to the Respondent pertaining to the misbranded pesticide product Bellacide 320. The SSURO allowed the Respondent to move the pesticide product to a facility near the Port of Savannah, Colonial Chemical Solutions (EPA Producer Establishment Number 82522-GA-001), located at 916 West Lathrop Avenue Savannah, Georgia 31415, for the purposes of relabeling the product.
13. On January 12, 2016, BWA advised the EPA that the pesticide product Bellacide 320 had been relabeled at Colonial Chemical Solutions.
14. On January 14, 2016, an authorized representative of the EPA conducted an inspection at Colonial Chemical Solutions facility to ensure compliance with FIFRA.

The inspection revealed that the phone number listed on the relabeled Bellacide 320 product was incorrect and did not coincide with the information on the master label.

15. On or about January 21, 2016, the EPA notified the Respondent of the Bellacide 320 pesticide product contact information discrepancy. The Respondent further disclosed that the address listed on the imported pesticide product and the master label was incorrect. On January 22, 2016, the Respondent notified the EPA that the labels had been revised with the correct language.
16. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any State to distribute or offer for sale a misbranded pesticide. By importing the mislabeled product into the United States, the Respondent has distributed a misbranded pesticide in violation of Section 12(a)(1)(E) of FIFRA.
17. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on one occasion, and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
18. 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.
19. 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(s).
20. 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 **THREE THOUSAND, EIGHT HUNDRED AND SEVENTY DOLLARS (\$3,870)** 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

21. 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. 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.
22. 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.
23. 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.
24. 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

25. Respondent is assessed a civil penalty of **THREE THOUSAND, EIGHT HUNDRED AND SEVENTY DOLLARS (\$3,870)**. Payment shall be paid within thirty (30) days of the effective date of this CAFO.
26. Respondent shall remit payment of the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check. **The check shall reference on its face the name of the Respondent and Docket number of this CAFO.**

Payment of the penalty shall be sent by one of the methods below.

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

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

27. At the time of 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, S.W.
Atlanta, Georgia 30303-8960;

Kimberly Tomczak
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960; and

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

28. 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.
29. 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.
30. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
31. This CAFO shall be binding upon the Respondent, its successors and assigns.
32. 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.

THIS SECTION INTENTIONALLY LEFT BLANK

VI. Effective Date

33. 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: BWA Water Additives US LLC

Docket No.: FIFRA-04-2016-3004(b)


By:  (Signature)

Date: June 23, 2016

Name: Ross Beattie (Typed or Printed)

Title: Regulatory Manager (Typed or Printed)

Complainant: U. S. Environmental Protection Agency

By: 
Carol L. Kemker
Acting Director
Air, Pesticides and Toxics Management Division

Date: 6/29/16

APPROVED AND SO ORDERED this 3rd day of August 2016.


Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

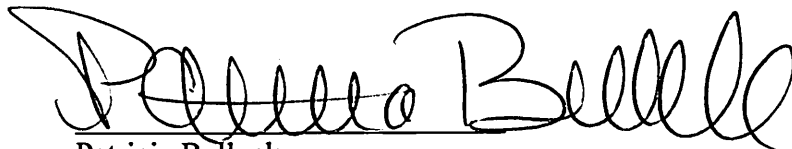
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of BWA Water Additives US LLC. Docket Number: FIFRA-04-2016-3004(b), to the addressees listed below.

Ross Beattie
Global Regulatory Manager
BWA Water Additives US LLC
1979 Lakeside Parkway, Suite 925
Tucker, Georgia 30084
(via Certified Mail, Return Receipt Requested)

Mr. Robert Caplan
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(via EPA's internal mail)

Kimberly Tomczak
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960
(via EPA's internal mail)

8-4-16
DATE


Patricia Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-9511