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EPA -- REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

|                   |   |                               |
|-------------------|---|-------------------------------|
| In the Matter of: | ) | DOCKET NO. FIFRA-10-2009-0246 |
|                   | ) |                               |
| AGRICARE, INC.    | ) | <b>CONSENT AGREEMENT AND</b>  |
|                   | ) | <b>FINAL ORDER</b>            |
|                   | ) |                               |
| Respondent        | ) |                               |

**I. STATUTORY AUTHORITY**

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

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

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



1 the total civil penalty set forth in this paragraph within thirty (30) days of the effective date of  
2 this Final Order.

3 4.3. Payment under this CAFO shall be made by cashier's check or certified check,  
4 payable to the order of "Treasurer, United States of America" and delivered to the following  
5 address:

6 US Bank - USEPA - Region 10  
7 Fines and Penalties  
8 Cincinnati Finance Center  
9 PO Box 979077  
10 St. Louis, MO 63197-9000

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

12 4.4. Respondent shall serve photocopies of the check described in Paragraph 4.3,  
13 above, on the Regional Hearing Clerk and the EPA Region 10 Office of Compliance and  
14 Enforcement at the following addresses:

15 Regional Hearing Clerk  
16 U.S. Environmental Protection Agency  
17 Region 10, Office of Regional Counsel  
18 1200 Sixth Avenue, Suite 900, ORC-158  
19 Seattle, WA 98101

20 Attn: Erin Halbert  
21 U.S. Environmental Protection Agency  
22 Region 10, Pesticides and Toxics Unit  
23 1200 Sixth Avenue, Suite 900, OCE-084  
24 Seattle, WA 98101

25 4.5. Should Respondent fail to pay the penalty assessed herein in full by its due date,  
the entire unpaid balance of penalty and accrued interest shall become immediately due and  
owing. Should such a failure to pay occur, Respondent may be subject to a civil action under  
Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5), to collect any unpaid penalties, together with  
interest, handling charges, and nonpayment penalties, as set forth below.

1 4.6. Should Respondent fail to pay any portion of the penalty assessed herein in full by  
2 its due date, Respondent shall also be responsible for payment of the following amounts:

3 a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate  
4 established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1)  
5 from the effective date of the accompanying Final Order, provided, however, that  
6 no interest shall be payable on any portion of the assessed penalty that is paid  
7 within 30 days of the effective date of the Final Order.

8 b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge  
9 of \$15 shall be paid if any portion of the assessed penalty is more than 30 days  
10 past due.

11 c. Nonpayment Penalty: Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty  
12 of 6% per annum shall be paid on any portion of the assessed penalty that is more  
13 than 90 days past due, which nonpayment penalty shall be calculated as of the  
14 date the underlying penalty first becomes past due.

15 4.7. The penalty described in Paragraph 4.2, above, including any additional costs  
16 incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA  
17 and shall not be deductible for purposes of federal taxes.

18 4.8. The undersigned representative of Respondent certifies that he is fully authorized  
19 to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

20 4.9. Respondent shall bear its own costs and attorneys fees in connection with this  
21 matter.

22 4.10. The provisions of this CAFO shall bind Respondent and its agents, servants,  
23 employees, successors, and assigns.

1 4.11. The above provisions are STIPULATED AND AGREED upon by Respondent  
2 and EPA.

3 DATED:  
4 9-8-2009

AGRICARE, INC :  
  
KHALED ZEITOUN  
Acting President  
For Respondent

7 DATED:  
8  
9 9/15/09

U.S. ENVIRONMENTAL PROTECTION AGENCY:  
  
EDWARD J. KOWALSKI  
Director, Office of Compliance and Enforcement  
For Complainant

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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: AGRICARE, INC., DOCKET NO.: FIFRA-10-2009-0246** was filed with the Regional Hearing Clerk on September 15, 2009.

On September 17, 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 September 17, 2009, to:

Khaled Zeitoun, Acting President  
Agricare, Inc.  
P.O. Box 399  
Amity, OR 97101

Irene Boone, Agent  
Regulatory Services, Inc.  
17220 Westview Road  
Lake Oswego, OR 97034

DATED this 17<sup>th</sup> day of September 2009.

  
\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10