



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

FEB 01 2010

Certified Mail – Return Receipt Requested

Mr. Timothy Lowder
Spring Lake Gardens, Inc.
36045 Old Salisbury Road
Albemarle, North Carolina 28001

RE: Docket No. FIFRA-04-2009-3027; Spring Lake Gardens, Inc.

Dear Mr. Lowder:

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. As stated in Section IV of the CAFO, the initial payment of \$213.95 of the assessed penalty of \$840 is due within 30 days from the effective date. Section IV also provides information on when remaining payments are due. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125, or by written correspondence to her attention at the U.S. Environmental Protection Agency's Cincinnati Accounting Operations address identified in the CAFO. 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 (SEC) any environmental enforcement actions taken by EPA.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Phillip Beard at (404) 562-9012.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeananne M. Gettle".

Jeananne M. Gettle
Chief

Pesticides and Toxic Substances Branch

Enclosures

cc: Shannon Joyner, EPA Pesticides Liaison, NCDACS
State File No. 05300615020101 JMJ

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV
2010 FEB - 1 PM 1:34
HEARING CLERK

In the Matter of:)
)
Spring Lake Gardens, Inc.)
)
)
Respondent.)
_____)

Docket No. FIFRA-04-2009-3027

CONSENT AGREEMENT AND FINAL ORDER

1. This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter "FIFRA"), 7 U.S.C. § 136l(a). The action was instituted by a Civil Complaint and Notice of Opportunity for Hearing (hereinafter "Complaint"), which alleges that Spring Lake Gardens, Inc. (hereinafter "Respondent") violated FIFRA. Complainant and Respondent have entered into a settlement agreement to resolve these allegations. This Consent Agreement and Final Order (hereinafter "CAFO") embodies this settlement.

I. Consent Agreement

2. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth in the Complaint and neither admits nor denies the factual allegations set forth in the Complaint.
3. Respondent waives its right to a hearing on the allegations contained in the Complaint and its right to appeal the proposed final order accompanying the consent agreement.
4. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

5. Compliance with this CAFO shall resolve the allegations of the violations contained in the Complaint. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither 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.
6. 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.

IV. Final Order

7. Respondent is assessed a civil penalty of Eight Hundred Forty Dollars (\$840). Four payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) days of the effective date of this CAFO and subsequent payments will be due in ninety (90) day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be Eight Hundred Fifty Five Dollars and Eighty Cents. Respondent shall make payments in accordance with the following schedule.

| <u>Payment Number</u> | <u>Payment Due Date</u> | <u>Payment Due</u> |
|-----------------------|----------------------------|--------------------|
| 1 | 30 days of filing of CAFO | \$213.95 |
| 2 | 120 days of filing of CAFO | \$213.95 |
| 3 | 210 days of filing of CAFO | \$213.95 |
| 4 | 300 days of filing of CAFO | \$213.95 |

8. Respondent shall remit each penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

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

9. 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
Atlanta, Georgia 30303-8960;

Michiko Kono
Office of Environmental Accountability
U.S. EPA – Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

Phillip Beard
Pesticides Section
U.S. EPA – Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

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

10. 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.
11. Pursuant to 31 U.S.C. § 3717, 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. 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 principle amount not paid within 90 days of the due date.
12. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
13. This CAFO shall be binding upon the Respondent, its successors and assigns.
14. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

The remainder of this page was intentionally left blank.

Spring Lake Gardens, Inc.
Docket No. FIFRA-04-2009-3027

By: Tim Lowder (Signature) Date: 1/16/10

Name: Tim L. Lowder (Typed or Printed)

Title: President (Typed or Printed)

U.S. Environmental Protection Agency

By: Michael A. Schutt Date: 1-28-10

Kenneth R. Lapierre, Acting Director
Air, Pesticides and Toxics
Management Division
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 1st day of February 2010.

Susan B. Schub
Susan B. Schub
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 Spring Lake Gardens, Inc., Docket Number: FIFRA-04-2009-3027, to the addressees listed below.

Mr. Timothy Lowder
Spring Lake Gardens, Inc.
36045 Old Salisbury Road
Albemarle, NC 28001

(via Certified Mail, Return Receipt Requested)

Phillip Beard
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. EPA
Mail Code 1900L
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

(via Agency pouch mail)

Michiko Kono
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

Date: 2-1-10



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., S.W.
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 1/28/10
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Spring Lake Gardens Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 840
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FILED 04.2009 3027

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer Environmental Enforcement Section Department of Justice RM 1647 P.O. Box 7611, Benjamin Franklin Station Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |