



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

December 14, 2023

SPRING BAYOU DISTRIBUTION CORPORATION

Attn: Seth Jones, Director
800 19th Avenue South, Apt. 1326
Nashville, Tennessee 37203
seth@springbayou.co

SPRING BAYOU DISTRIBUTION CORPORATION

Attn: Daniel J. McGehee, Director
2722 Gold Rush Lane
Carrollton, Texas 75007
dmcgehee@springbayou.co

SPRING BAYOU DISTRIBUTION CORPORATION

Post Office Box 29698
Los Angeles, California 90029
info@superstratum.co

**Re: Stop Sale, Use, or Removal Order, Docket No. FIFRA-HQ-2024-5002, and
Information Request Issued to Spring Bayou Distribution Corporation**

Enclosed is a Stop Sale, Use, or Removal Order (Order) issued by the U.S. Environmental Protection Agency (EPA) pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act to Spring Bayou Distribution Corporation (Spring Bayou). The Order requires Spring Bayou to stop all distribution and sale of the products described by the Order ("Covered Products") unless otherwise permitted by the Order, which is effective immediately upon receipt.

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of EPA to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe that the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of any provision of FIFRA.

EPA has reason to believe that Spring Bayou has previously and intends to continue distributing or selling unregistered pesticide products intended to prevent, destroy, repel, or mitigate the growth of mold, bacteria, and viruses on various surfaces, which is an unlawful act under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Any violation of FIFRA and the terms or provisions of this Order may result in the imposition of civil penalties up to \$23,494 per violation or the imposition of criminal penalties, pursuant to section 14 of FIFRA, 7 U.S.C. § 136l. The issuance of this Order shall not act as a waiver by EPA of any available lawful authority, enforcement or otherwise, including authority to seek civil penalties for any alleged violations described in this Order under section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Request for Information Under FIFRA §§ 8 and 9

Also enclosed is an Information Request made pursuant to sections 8(b) and 9(a) of FIFRA, 7 U.S.C. §§ 136f(b), 136g(a), which authorize EPA to inspect and have access to various records related to the distribution and sale of pesticides and devices for the purposes of enforcing FIFRA. EPA is asking that Spring Bayou submit information electronically in accordance with the enclosed Information Request within 30 days of receipt of this correspondence.

Failure to provide the requested records, refusing to allow the copying of the records requested, and knowingly falsifying records submitted to EPA are violations under FIFRA. 7 U.S.C. §§ 136j(a)(2)(B), (M). Violations of FIFRA are punishable by civil or criminal penalties under FIFRA section 14, 7 U.S.C. § 136l.

Questions concerning this matter and submission of information subject to a CBI claim may be directed to Kimberly Tonkovich, Life Scientist, via email at tonkovich.kimberly@epa.gov or to Haley Todd, Attorney, via email at todd.haley@epa.gov or via phone at (202) 564-1580.

Sincerely,

Gregory Sullivan, Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

Enclosure(s): Stop Sale, Use or Removal Order, Docket No. FIFRA-HQ-2024-5002
Information Request
Confidential Business Information Assertion and Substantiation Requirements Factsheet

Cc: Alan A. Annicella, Chief, Pesticides Enforcement Section,
U.S. Environmental Protection Agency Region 4
Kathy Booker, Pesticides Section Administrator,
Tennessee Department of Agriculture
Kimberly Tonkovich, Life Scientist, Pesticides Enforcement Section
U.S. Environmental Protection Agency Region 4

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE**

IN THE MATTER OF:)	
)	
Spring Bayou Distribution Corporation)	STOP SALE, USE, OR REMOVAL ORDER
Nashville, Tennessee)	
)	Docket No. FIFRA-HQ-2024-5002
Respondent.)	
)	

I. AUTHORITY

1. The Environmental Protection Agency (EPA) regulates pesticide and pesticide devices pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (“FIFRA”), 7 U.S.C. §§ 136-136y.

2. Section 13(a) of FIFRA authorizes the Administrator of the EPA to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe, on the basis of inspection or tests, that the pesticide or device is in violation of any provision of FIFRA or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA. 7 U.S.C. § 136k(a).

3. This authority has been delegated from the EPA Administrator to the Director and Associate Director of the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance.

II. GOVERNING LAW

4. Sections 3(a) and 12(a)(1)(A) of FIFRA provide that it is unlawful for any person in any state to distribute or sell to any person a pesticide that is not registered under FIFRA subject to certain exemptions not relevant to this matter. 7 U.S.C. §§ 136a(a), 136j(a)(1)(A).

5. “Person” means “any individual, partnership, association, corporation, or any organized group or persons whether incorporated or not.” 7 U.S.C. § 136(s).

6. “To distribute or sell” means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. 7 U.S.C. § 136(gg); 40 C.F.R. § 152.3.

7. “Pesticide” is defined in part as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” 7 U.S.C. § 136(u).

8. Regulations set forth at 40 C.F.R. § 152.15 provide that “[a] substance is considered to be intended for a pesticidal purpose, [i.e., used for the purpose of preventing, destroying, repelling, or mitigating any pest,] and thus a pesticide requiring registration, if:

- (A) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise):
 - (i) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or
 - (ii) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or
- (B) The substance consists of or contains one or more active ingredients that has no significant commercially valuable use as distributed or sold other than (1) use for pesticide purpose (by itself or in combination with any other substance), (2) use for manufacture of a pesticide; or
- (C) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.”

9. The term “active ingredient” refers to an ingredient in a pesticide other than a plant regulator, defoliant, desiccant, or nitrogen stabilizer, that will prevent, destroy, repel, or mitigate any pest. 7 U.S.C. §136(a).

10. “Pest” means any insect, rodent, nematode, fungus, weed, any other form of terrestrial or aquatic plant or animal life or virus, bacteria, prion, or other micro-organisms (except viruses, bacteria, or

other micro-organisms on or in living man or other living animals and those on or in processed food or processed animal feed, beverage, drugs, and cosmetics) which the Administrator declares to be a pest under section 25(c)(1). 7 U.S.C. § 136(t); 40 C.F.R. § 152.5.

11. The term “antimicrobial pesticide” includes pesticides intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime. 7 U.S.C. § 136(mm).

12. The term “fungus” includes “for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.” 7 U.S.C. § 136(k).

13. “Label” means “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” 7 U.S.C. § 136(p)(1).

14. “Labeling” includes “all labels and all other written, printed, or graphic matter accompanying the pesticide or device at any time, or to which reference is made on the label or in literature accompanying the pesticide or device.” 7 U.S.C. § 136(p)(2).

III. BASIS FOR THE ORDER

15. Respondent is Spring Bayou Distribution Corporation (Spring Bayou), a corporation registered in Delaware, with a principal place of business in Nashville, Tennessee. Respondent is therefore a “person” as defined under 7 U.S.C. § 136(s).

16. On or about June 20, 2023, an EPA-credentialed inspector conducted an inspection of Froggy’s Fog LLC, doing business as SPLY Brands (hereafter “Contractor”), located at 1536 North Main Street, Mount Pleasant, Tennessee (“Inspection”).

17. During the Inspection, a Contractor employee stated that they receive bulk containers of products from Respondent that they then bottle, label, hold for distribution, and distribute per contractual agreement with Respondent. EPA observed the following products in both bulk and in filled and labeled retail containers at the Contractor’s facility: Superstratum Hypochlorous Acid Pro, Superstratum Everyday

Cleaner, Superstratum Smart Polymer Coating Pro, Superstratum Smart Polymer Coating, and Superstratum Smart Polymer Fabric Coating (collectively, “Superstratum Products”).

18. The employee also stated that the Contractor receives pre-packaged and labeled Superstratum Remediation Bombs and Superstratum Remediation Bomb Pros from Respondent, which are then held for distribution and distributed by both the Contractor and Respondent. EPA observed both products held for distribution at the Contractor’s facility.

19. The labels for both products collected during the Inspection named the Respondent as the brand owner and listed the Respondent’s website, www.superstratum.co.

20. EPA also reviewed Respondent’s website and observed the following general pesticidal claims for its Superstratum Products:

- (A) “Our products are created to eradicate mold metabolites and ensure the preservation of clean environments.”
- (B) “The Superstratum System is the first of its kind that addresses both mold AND mycotoxins to heal your sick building.”
- (C) “A comprehensive remediation solution to eliminate and prevent the damaging effects of mold in water-damaged buildings.”
- (D) “Superstratum has turned the tide in the battle against mold.”

21. Based upon the Inspection, review of the product labels, product labeling, and Respondent’s website, EPA has reason to believe that Respondent engages in the sale or distribution of the unregistered pesticides identified herein.

Superstratum Remediation Bomb and Superstratum Remediation Bomb Pro

22. EPA observed both Superstratum Remediation Bomb and Superstratum Remediation Bomb Pro held for sale or distribution by the Contractor. As of the date of this Order, both products are available for purchase through Respondent’s website, where a person visiting the site may find the product(s), select

the product(s) for purchase, select a quantity, place the product(s) in a virtual cart, enter a shipping address, submit payment information, and complete the sales transaction.¹

23. Product labels provided during the Inspection indicated that both products are intended to “purify] the air” through the “controlled release of chlorine dioxide gas” (ClO₂) produced when water is added to the product.

24. Respondent’s website made the following claims about both products:

- (A) “By just adding water to the dry packet, the right amount of ClO₂ gas is released into the environment to purify the air.”
- (B) “ClO₂ is a powerful oxidizing agent used to destroy toxins and VOCs. ClO₂ improves indoor air quality by breaking down the chemical structure of contaminants.”
- (C) “This is the same technology used at the Capitol Building to remediate after the Anthrax incident in 2001, extremely effective at denaturing harmful substances and VOCs hiding in our homes.”
- (D) “Our chlorine dioxide gas remediation bombs use the process of oxidation to break down mold spores, mycotoxins, and other VOCs . . .”

25. Respondent’s website claimed that the difference between the two products is that “Remediation Bomb Pros, with the black and red label, generate double the amount of chlorine dioxide gas that the standard white and red label remediation bombs . . . [and] are recommended for a more powerful treatment in non-living areas like the crawl space.”

26. Sodium chlorite and citric acid were listed as the active ingredients for both products on the safety data sheets available on Respondent’s website. Both are EPA-registered active ingredients often used in antimicrobial pesticides.

27. Chlorine dioxide is also an EPA-registered active ingredient for use as a material preservative and antimicrobial to control bacteria, fungi, algal slimes, and odors.

¹ As of the date of this Order Superstratum Remediation Bomb is available for online purchase from Respondent’s website at <https://superstratum.shop/products/superstratum-remediation-bomb>. Superstratum Remediation Bomb Pro is available for online purchase from Respondent’s website at <https://superstratum.shop/products/superstratum-remediation-bomb-pro>.

28. Neither Superstratum Remediation Bomb nor Superstratum Remediation Bomb Pro is registered with EPA as a pesticide.

Superstratum Everyday Cleaner and Superstratum Hypochlorous Acid Pro

29. EPA observed Superstratum Everyday Cleaner and Superstratum Hypochlorous Acid Pro available for sale or distribution by the Contractor. As of the date of this Order, both products are available for purchase through Respondent’s website, where a person visiting the site may find the product(s), select the product(s) for purchase, select a quantity, place the product(s) in a virtual cart, enter a shipping address, submit payment information, and complete the sales transaction.²

30. The product label for both products claimed that they will “prevent[] visible mold, mildew, and algae stains . . . on indoor and outdoor surfaces.”

31. Respondent’s website stated that all consumers had to do to use both products was to “Spray onto mold, let sit, and then scrub and easily wash it away.”

32. Respondent’s website made the following claims about the Everyday Cleaner:

- (A) “. . . it’s strong enough to loosen tough bonds that hold microbes onto surfaces. Spray Everyday Cleaner onto mold or fog it into the air to break the molecular bond of microbes and mycotoxins.”
- (B) “Destroy mycotoxins, clean mold, mildew, and microbes with Superstratum’s Hypochlorous Acid cleaner.”

33. Respondent’s website also stated that “[t]he Superstratum mycotoxin removal protocol utilizes a number of strategies for removing the hazardous mold byproducts along with the mold, including the . . . Superstratum Hypochlorous Acid Pro Cleaner product.”

34. Ingredients listed on the label for the Everyday Cleaner include electrolyzed oxygenated water and “300ppm” active hypochlorous acid (HOCl). The Hypochlorous Acid Pro label lists its active ingredients as electrolyzed oxygenated water and “500ppm” of active HOCl.

² As of the date of this Order, Superstratum Everyday Cleaner is available for online purchase from Respondent’s website at <https://superstratum.shop/products/everyday-cleaner>, and Superstratum Hypochlorous Acid Pro is available for online purchase from Respondent’s website at <https://superstratum.shop/products/superstratum-hypochlorous-acid-pro>.

35. HOCl is an EPA-registered active ingredient used in antimicrobial pesticides.

36. Neither Superstratum Everyday Cleaner nor Superstratum Hypochlorous Acid Pro is registered with EPA as a pesticide.

Superstratum Smart Polymer Coating and Superstratum Smart Polymer Coating Pro

37. EPA observed Superstratum Smart Polymer Coating and Superstratum Smart Polymer Coating Pro held for sale or distribution by the Contractor. As of the date of the Order, both products are available for purchase through Respondent’s website where a person visiting the site may find the product(s), select the product(s) for purchase, select a quantity, place the product(s) in a virtual cart, enter a shipping address, submit payment information, and complete the sales transaction.³

38. The labels for both products collected during the Inspection stated that the products are “Engineered for resistance from mold.” Further, the labels claimed that the products create a coating that is “protected by our EPA-registered active ingredients [and] is a shield against mold and mildew growth.”

39. Respondent’s website contained the following claims about either or both products:

- (A) “But despite hundreds of products that remove mold, there has never been a product that can prevent mold from growing – until Superstratum.”
- (B) “Our unique technologies, such as the Smart Polymer Coatings, provide long-term protection options to address any issue related to mold, mildew, mycotoxins, volatile organic compounds, and other microbes.”
- (C) “Superstratum Smart Polymer Coatings use Smart Polymers to create a protective coating that resists mold on its surface and prevents the creation of mycotoxins. Smart polymers deliver unparalleled performance against mold, mildew, and microbes and far outperform any other solution.”
- (D) “Coat all surfaces with Superstratum Smart Polymer Coating Pro to protect the surface of any growth.”

40. The product label for the Smart Polymer Coating listed a “UV indicator,” “dry film preservative,” “acrylic polymer,” and an “odorant” as the active ingredients. No active ingredients were

³ As of the date of this Order, Superstratum Smart Polymer Coating is available for online purchase from Respondent’s website at <https://superstratum.shop/products/smart-polymer-coating-1>, and Superstratum Smart Polymer Coating Pro is available for online purchase from Respondent’s website at <https://superstratum.shop/products/endurance-pro-w>.

listed on the product label for the Smart Polymer Coating Pro. However, safety data sheets for both products provided on Respondent's website listed a "proprietary acrylic polymer," an "odorant," and two different "EPA Registered Antimicrobial[s]" as the active ingredients in both products. The EPA registration numbers for the active ingredients were not provided.

41. Neither Superstratum Smart Polymer Coating nor Superstratum Smart Polymer Coating Pro is registered with EPA as a pesticide.

Superstratum Smart Polymer Fabric Coating

42. During the inspection, EPA observed Superstratum Smart Polymer Fabric Coating held for production, sale, and distribution by the Contractor. As of the date of this order, this product is available for purchase through Respondent's website where a person visiting the site may find the product, select product for purchase, select a quantity, place the product in a virtual cart, enter a shipping address, submit payment information, and complete the sales transaction.⁴

43. The product label provided during the Inspection contained the following claims:

- (A) "Inhibits odor causing microbes"
- (B) "Superstratum Smart Polymer Coating Fabric puts an invisible barrier around fabric fibers that protects your fabrics and clothing from the growth of nasty odors caused by mold, mildew, and bacteria."
- (C) "By coating fabric fibers in an invisible, wash-resistant shield, Superstratum extends the life and enjoyment of your clothes."

44. Respondent's website made the following claims about the Smart Polymer Fabric Coating:

- (A) "Superstratum prevents odors from ever appearing by protecting fabric fibers with an invisible Smart Polymer coating."
- (B) "By preventing the growth of odor-causing bacteria with Superstratum, your clothes stay fresher and last longer."
- (C) ". . . can protect surfaces from mold and microbe growth for over 10 years – even in the event of a flood."
- (D) ". . . is protected from the growth of mold and microbes by EPA-registered antimicrobials."

⁴ As of the date of this order, Superstratum Smart Polymer Fabric Coating is available for online purchase from Respondent's website at <https://superstratum.shop/products/smart-polymer-coating-fabric>.

45. The product label for the Smart Polymer Fabric Coating listed a “UV indicator,” “dry film preservative,” “acrylic polymer,” and “odorant” as the active ingredients. The safety data sheet for the product provided on Respondent’s website listed a “proprietary acrylic polymer,” an “odorant,” and two different “EPA Registered Antimicrobial[s]” as the active ingredients. The EPA registration numbers for the active ingredients were not provided.

46. Superstratum Smart Polymer Fabric Coating is not registered with EPA as a pesticide.

Multi-Cluster Ionization (MCI) Air Purification Products

47. As of the date of this Order, the following air purification products are available for purchase on Respondent’s website where a person visiting the site may find the product(s), select the product(s) for purchase, select a quantity, place the product(s) in a virtual cart, enter a shipping address, submit payment information, and complete the sales transaction: CarryIon Air Purifier; Khoas; MCI ProtectAIR; MCI PRV24K; MCI SynAIRgPure 2.0 24K Probe; and MCI SynAIRgPure 2.0 40K Probe (collectively, MCI Products).⁵

48. Respondent claimed on its website that all of these MCI Products use “Multi-Cluster Ionization (MCI) technology,” which incorporates “passive HEPA filtration and active Dielectric Barrier Ionization (DBI) and [ultraviolet photo-catalytic oxidation] PCO hydroxyl purification.”

49. Respondent’s website contained the following claims concerning the MCI technology component in each MCI Product:

- (A) “[N]ot only destroys biological contaminates traveling through the [dielectric barrier ionizer cell], but produces a purifying plasma which breaks down odors, mold, bacteria, and viruses throughout the home and office. Photo Catalytic Oxidation reactors have been proven to reduce dangerous pathogens by over 99% in 24 hours or less.”

⁵ As of the date of this Order, these products are available for online purchase from Respondent’s website at: CarryIon Air Purifier: <https://superstratum.shop/products/superstratum-carryion-air-purifier>
Khoas: <https://superstratum.shop/products/khoas>
MCI ProtectAIR: <https://superstratum.shop/products/mci™-protectair>
MCI PRV24K: <https://superstratum.shop/products/mci-prv24k>
MCI SynAIRgPure 2.0 24K Probe: <https://superstratum.shop/products/mci-synairgpure™-2-0-hvac-probe-24k-non-ozone-uv-lamp-1-dbi-cell>
MCI SynAIRgPure 2.0 40k Probe: <https://superstratum.shop/products/mci-synairgpure-2-0-hvac-probe-16k-non-ozone-uv-lamp>

- (B) “MCI (Multi-Cluster Ionization) is NOT passive but a pro-active technology that sends oxidizing agents (WITHOUT ozone) to kill microbes on surfaces and in the air.”
- (C) MCI “represents the newest generation of proactive air purification, is completely safe, unlike high levels of ozone, and effectively reduces mold, mildew, bacteria, viruses, odors, volatile organic compounds [], and the odors associated with them.”
- (D) MCI “[a]ttacks microscopic particles including bacteria, mold, mycotoxins, and viruses from the air.”

50. The MCI Products are not registered with EPA.

51. Based on the observations described above, EPA has reason to believe that Respondent sells or distributes the unregistered pesticide products described in paragraphs 22 through 50 above are in violation of section 12(a)(1)(A) of FIFRA. 7 U.S.C. § 136j(a)(1)(A).

IV. ORDER

52. Respondent is hereby ordered to immediately cease any distribution, sale, use, or removal of the following products, collectively referred to herein as “Covered Products,” that are within Respondent’s ownership, custody, or control, wherever physically located:

- (A) Superstratum Remediation Bomb;
- (B) Superstratum Remediation Bomb Pro;
- (C) Superstratum Everyday Cleaner;
- (D) Superstratum Hypochlorous Acid Pro;
- (E) Superstratum Smart Polymer Coating;
- (F) Superstratum Smart Polymer Coating Pro;
- (G) Superstratum Smart Polymer Fabric Coating;
- (H) CarryIon Air Purifier;
- (I) Khaos;
- (J) MCI ProtectAIR;
- (K) MCI PRV24K;
- (L) MCI SynAIRgPure 2.0 HVAC Probe 24K – 1 DBI Cell;
- (M) MCI SynAIRgPure 2.0 HVAC Probe 40K Probe – 2 DBI Cells; and
- (N) Any other related unregistered pesticide products, including products bearing obsolete labels (e.g., Superstratum Mold and Mildew Protectant, Superstratum Fabric Odor Protectant, Superstratum Mold and Mildew Stain Remover, etc.) and products that incorporate Superstratum products (e.g., XMold Pro); and
- (O) Any bundles or combinations of the above products.

53. This Order shall pertain to all inventory of Covered Products that are within the ownership, control, or custody of Respondent, wherever located.

54. No Covered Products shall be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, received, delivered, offered for delivery, moved, used, or removed for any reason unless in accordance with this Order, any written modifications to this Order, or as otherwise approved by EPA in writing according to the following paragraph.

55. Movement of Covered Products may occur only as follows:

- (A) Respondent must submit a written request to move Covered Products and receive written approval from EPA before any movement occurs;
- (B) The request must be submitted to Haley Todd via email at todd.haley@epa.gov;
- (C) The request must include an explanation of the purpose or reason for the movement or removal;
- (D) The request must provide a written accounting of the products to be moved (i.e., product name or identifier, container size, number of containers, and total quantity), the address of the facility from where the products will be moved, and the address of the destination facility;
- (E) If the movement or removal is for the purposes of disposal, Respondent must provide written proof of disposal to EPA, including quantity of product disposed and proof of compliance with all applicable federal, state, and local laws.

56. Any movement or removal of any Covered Products made without prior written authorization from EPA or not in accordance with the above paragraph constitutes a violation of this Order and may constitute the distribution or sale of an unregistered pesticide in violation of section 12 of FIFRA. 7 U.S.C. § 136j.

V. OTHER MATTERS

57. This Order shall be effective immediately upon receipt by Respondent or an authorized agent and shall remain in effect until revoked, terminated, suspended, or closed in writing by EPA.

58. Respondent may seek judicial review of this Order pursuant to section 16 of FIFRA. 7 U.S.C. § 136n.

59. Noncompliance with this Order is a violation of FIFRA and may result in civil or criminal penalties pursuant to section 14 of FIFRA. 7 U.S.C. §§ 136j(a)(2)(I), 136l.

60. The issuance of this Order shall not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law to address this matter or any other matters or unlawful acts not specified in this Order.

61. Respondent may assert a business confidentiality claim (CBI claim) covering all or part of the information provided as part of this Order if such information meets the requisite criteria and is submitted according to 40 C.F.R. § 2.203(b). Information properly subject to a CBI claim may be made available to the public only in accordance with 40 C.F.R. pt. 2, subpt. B. Otherwise, information submitted to EPA may be made available to the public without further notice.

62. For any questions about this Order, please contact Haley Todd via email at todd.haley@epa.gov or via phone at (202) 564-1580.

Date

Gregory Sullivan, Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

INFORMATION REQUEST

I. DEFINITIONS

For the purpose of this Information Request, all terms used herein share those meanings of terms set forth in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136-136y, its implementing regulations, and the Stop Sale, Use and Removal Order (SSURO) enclosed with this correspondence. Otherwise, the following definitions shall apply:

- I.1. “Earthsafe” or “Earthsafe Chemical Alternatives” means the Earthsafe Chemical Alternatives company, including but not limited to its predecessors, successors, subsidiaries, parent companies, affiliates, d/b/a, divisions, branches, brands, offices, franchises, facilities, committees, trusts, partnerships and joint ventures in which it has any interest; all entities for which it is acting as an agent or contractor; and its past or present officers, directors, trustees, managers, employees, agents, consultants, contractors, attorneys, representatives and any other persons acting on its behalf.
- I.2. “Froggy’s Fog” means the Froggy’s Fog LLC, including but not limited to its predecessors, successors, subsidiaries, parent companies, affiliates, d/b/a, divisions, branches, brands, offices, franchises, facilities, committees, trusts, partnerships and joint ventures in which it has any interest; all entities for which it is acting as an agent or contractor; and its past or present officers, directors, trustees, managers, employees, agents, consultants, contractors, attorneys, representatives and any other persons acting on its behalf. It also includes, but is not limited to, SPLY Brands.
- I.3. “Information Request Letter,” “Information Request,” “Request,” or “IRL” means this correspondence.
- I.4. “Possession, custody, or control” includes all records in the possession, custody or control of Respondent, Respondent’s officers, directors, trustees, managers, employees, agents, consultants, contractors, attorneys, representatives and any other persons acting on Respondent’s behalf, wherever such record may be located. Without limitation on the term “control,” a record is deemed to be in Respondent’s control if the Respondent received the record or has the right to secure that record or a copy thereof from another person.
- I.5. “Record” means an original or copy of all documents, contracts, agreements, memoranda, notes, papers, letters, maps, books, photographs, microfilms, electronic messages and attachments, calendars, outlines, drafts, ledgers, bills, invoices, purchase orders, shipping orders, statements of receipt or shipment, work requests, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received by Respondent concerning or in connection with Respondent’s operation and any pesticide or device. It also includes electronically stored data from which information can be obtained either directly or by translation through detection devices or readers, including but not limited to information stored on a computer hard drive, magnetic tape, cassette, disk, CD, Internet Service Provider or network. All records must be produced in usable form with instructions for reading such data.

- I.6. “Spring Bayou” or “Respondent” means the Spring Bayou Company Distribution Corporation and Spring Bayou Company, including but not limited to its predecessors, successors, subsidiaries, parent companies, affiliates, d/b/a, divisions, branches, brands, offices, franchises, facilities, committees, trusts, partnerships and joint ventures in which it has any interest; all entities for which it is acting as an agent or contractor; and its past or present officers, directors, trustees, managers, employees, agents, consultants, contractors, attorneys, representatives and any other persons acting on its behalf.
- I.7. “Covered Products,” means all products subject to the Stop Sale, Use, or Removal Order issued to Spring Bayou Distribution Corporation, Docket No. FIFRA-HQ-2024-5002, and listed below for convenience:
- (A) Superstratum Remediation Bomb;
 - (B) Superstratum Remediation Bomb Pro;
 - (C) Superstratum Everyday Cleaner;
 - (D) Superstratum Hypochlorous Acid Pro;
 - (E) Superstratum Smart Polymer Coating;
 - (F) Superstratum Smart Polymer Coating Pro;
 - (G) Superstratum Smart Polymer Fabric Coating;
 - (H) CarryIon Air Purifier;
 - (I) Khaos;
 - (J) MCI ProtectAIR;
 - (K) MCI PRV24K;
 - (L) MCI SynAIRgPure 2.0 HVAC Probe 24K – 1 DBI Cell;
 - (M) MCI SynAIRgPure 2.0 HVAC Probe 40K Probe – 2 DBI Cells; and
 - (N) Any other related unregistered pesticide products, including products bearing obsolete labels (e.g., Superstratum Mold and Mildew Protectant, Superstratum Fabric Odor Protectant, Superstratum Mold and Mildew Stain Remover, etc.) and products that incorporate Superstratum products (e.g., XMold Pro); and
 - (O) Any bundles or combinations of the above products.

II. INSTRUCTIONS

- II.1. A response must be submitted within **30 days** of receipt of this Request. Requests for additional time must be made in writing within five calendar days of receipt of this Request and provide a justification for the request.
- II.2. Identify the person(s) responding to this request. Include names, titles, telephone numbers, and email addresses.
- II.3. The response and all record submissions required by this Information Request should be provided electronically (i.e., email or online file sharing such as Dropbox, Google Drive, OneDrive, etc.) and in an electronic format that is searchable and fully accessible in Microsoft Office or Adobe Acrobat. For any files provided in PDF, all text must be made searchable and optical character recognition performed. If another format is used, it must be approved by EPA at least 15 days before the response is due.
- II.4. Provide a record index or list that identifies each record submitted, the specific request the file is responding to, the file software, file name(s), size(s), and the date(s) of creation.
- II.5. Address each numbered request separately and precede each response with the number of the corresponding request and a list of all records submitted in response to the request, including

the full record name(s) with the file software, file size(s), author, and date(s) of creation.

- II.6. A complete answer must be provided for each request to the best of Respondent's ability, even if the information sought was never reduced to writing or if the records are no longer available. If the appropriate response is "none" or "not applicable," that must be stated. Submission of cursory responses when other responsive information is available will be considered non-compliance with this Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this IRL and may result in enforcement action.
- II.7. If responsive information or records are not within Respondent's possession, custody, or control, indicate where the information or records may be obtained. Responsive information or records must be obtained from current and former employees and/or agents if needed.
- II.8. All records that respond in whole or in part to any part or clause of any request shall be produced in their entirety, including all attachments and enclosures. A written reason and general subject matter explanation must be provided if anything is redacted or deleted from a responsive record.
- II.9. If information is not known or available at the date of submission of the response, but later becomes known or available, supplemental responses must be submitted to EPA. If after submitting the response any portion of the submitted information is found to be false, misleading, or misrepresents the truth, Respondent must immediately notify the EPA.
- II.10. EPA has not determined whether recipient is a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). If this company is a "small business" under SBREFA, please see additional information provided in EPA's Small Business Information Sheet (<https://www.epa.gov/compliance/small-business-resources-information-sheet>) which includes information on compliance assistance and about contacting the SBREFA Ombudsman to comment on federal enforcement. Any decision to participate in such program or to seek compliance assistance does not relieve any obligation to respond to an EPA information request or other enforcement action in a timely manner. Further, participation does not create any new rights or defenses under law and will not affect EPA's decision to pursue an enforcement action.
- II.11. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. Records or information provided to the EPA may be entitled to a claim of business confidentiality ("CBI claim"). Additional information on asserting or substantiating a CBI claim is included with this correspondence.
- II.12. The response should be accompanied by the certification enclosed with this Information Request signed by a responsible company official or representative.

III. INFORMATION AND RECORDS REQUESTED

- III.1. A description of the corporate structure of Spring Bayou and any subsidiaries, contractors, and brands. This includes any changes to Respondent's corporate structure between January 2019 and the date of this Request and an explanation of those changes.
- III.2. Provide a narrative description of the business relationship between Spring Bayou and Froggy's Fog, including contractual obligations from January 2019 to the date of this Request. This includes any former and current contractual relationships or obligations.

- III.3. Provide a narrative description of the business relationship between Spring Bayou and EarthSafe, including contractual obligations from January 2019 to the date of this Request. This includes any former and current contractual relationships or obligations.
- III.4. Provide a narrative description of the business relationship between Spring Bayou and any other business entity engaged in supplying, manufacturing, producing, labeling, selling or distributing Covered Products from 2019 to the date of this request. This includes all former and current contractual relationships or obligations and their mailing addresses, phone numbers, and email addresses.
- III.5. Provide a complete current inventory of all Covered Products including product names, internal product codes, quantities, container sizes, and locations where the products are held.
- III.6. Provide the following records for each corresponding Covered Product sold or distributed from January 2021 to the date of this Request:
 - a. Covered Product Name and internal product code;
 - b. Product description;
 - c. Date of sale or distribution, shipment, and receipt;
 - d. Quantity purchased;
 - e. Location where product was shipped from,
 - f. Product composition, including active and inert ingredients;
 - g. Suppliers of all active ingredients... If the product is pre-manufactured, mixed, packaged, or labeled, identify the supplier and any record detailing the product's composition; and
 - h. All labels, SDSs (or composition information), promotional marketing materials or advertisements, studies, product bulletins, and all other records created, distributed, or used by Spring Bayou to promote or inform the sale, distribution, or use of each Covered Product. If there was any change to the Covered Product or its corresponding promotional material (i.e., product composition, labels, SDSs, promotional literature, etc.) explain the resulting change and provide an approximate date for when the change took place.
- III.7. Identify the person(s) responding to this request and the person(s) consulted in preparing responses to this request (including names, titles, telephone numbers and e-mail addresses).

IV. CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information and records submitted in response to this Information Request. I certify that to the best of my knowledge and belief all information and records submitted in response to this Request are true, accurate, and complete, and that all records submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

Executed on the _____ day of _____, 202__

Signature

Name

Title

Employer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

CONFIDENTIAL BUSINESS INFORMATION (CBI) ASSERTION AND SUBSTANTIATION REQUIREMENTS

Assertion Requirements

Respondent may assert a business confidentiality claim covering all or part of the information requested in the attached letter, as provided in 40 C.F.R. § 2.203(b). To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which make a claim of confidentiality is made should be marked by placing on or attaching a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” and a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth by 40 C.F.R. pt. 2. Allegedly confidential portions of otherwise non confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice.

Please segregate personnel, medical and similar files from all responses and include such information on separate sheet(s) marked as “Personal Privacy Information.”

Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208, which provides that Respondent satisfactorily show that it has taken reasonable measures to protect the confidentiality of the information, that Respondent intends to continue to do so, and that the information is not and has not been reasonably obtainable by legitimate means without Respondent’s consent.

Pursuant to 40 C.F.R. pt. 2, subpt. B, EPA may at any time send a letter asking that Respondent substantiate a CBI claim. Respondent must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit comments within that time will be regarded as a waiver of the confidentiality claim or claims, and EPA may release the information. The EPA will ask Respondent to specify which portions of the information considered confidential. **Respondent must be specific by page, paragraph, and sentence when identifying the information subject to a CBI claim.** Any information not specifically identified as subject to a CBI claim may be disclosed in response to a Freedom of Information Act request without further notice. For each item or class of information that you identify as being subject to CBI, EPA will ask for answers to the following questions, with as much detail as possible:

1. For what period of time should the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information claimed as confidential be protected for the time period specified in the answer to question #1?
3. What measures have been taken to protect the information claimed as confidential? Has it been disclosed to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means

by which a member of the public could obtain access to the information? Is the information of a kind that would customarily not be release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to Respondent's competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could competitors make use of this information to Respondent's detriment?
7. Does Respondent assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for this assertion. If it is asserted that the information is voluntarily submitted, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. Any other issue(s) Respondent deems relevant.

If Respondents receives a request for a substantiation letter from the EPA, Respondent bears the burden of substantiating the confidentiality claim. Conclusory allegations will be given little or no weight in the determination. In substantiating a CBI claim(s), EPA will require that a bracket be placed around all text so claimed and marked as "CBI." Information so designated will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. pt. 2, sub B. Information not subject to a CBI claim may be made available to the public without further notice.