

**FILED**

December 31, 2024

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U S EPA REGION 5  
HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. FIFRA-05-2025-0009</b>
	)	
<b>Resolutions LLC</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Roseville, Minnesota,</b>	)	<b>Under Section 14(a) of the Federal</b>
	)	<b>Insecticide, Fungicide, and Rodenticide</b>
<b>Respondent.</b>	)	<b>Act, 7 U.S.C. § 136l(a)</b>
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**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Resolutions LLC (Resolutions), a limited liability company doing business in the State of Minnesota.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO. Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

**Statutory and Regulatory Background**

10. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), states that no person in any State may distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

11. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, in pertinent part, it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

12. The term “person” means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.” 7 U.S.C. § 136(s).

13. The term “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).

14. A “pesticide” means, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

15. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states or implies (by labeling or otherwise) that the substance can or should be used as a pesticide 40 C.F.R. § 152.15(a)(1).

16. A “pest,” in pertinent part, means any insect, rodent, nematode, fungus, or weed. 7 U.S.C. § 136(t)(1).

17. A “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).

18. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$24,255 for each offense that occurred after November 2, 2015, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136(l)(a)(1), and 40 C.F.R. Part 19.

#### **Factual Allegations and Alleged Violations**

19. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

20. At all times relevant to this CAFO, Respondent owned or operated a place of business at 1991 Ryan Avenue NW, Roseville, Minnesota 55113.

21. On or about February 1, 2023, an inspector employed by the Michigan Department of Agriculture and Rural Development (MDARD) and authorized to conduct inspections under FIFRA conducted an inspection at Y & P, Inc. dba Village Market of Rapid City (Village Market), located at 9556 Rapid City Road NW, Rapid City, Michigan 49676.

22. During the February 1, 2023 inspection, the MDARD inspector observed the product “Black Fly Guard” held for distribution or sale by Village Market.

23. During the February 1, 2023 inspection, the MDARD inspector collected, among other records, an order confirmation documenting the distribution or sale of “Black Fly Guard” to Village Market on or about May 24, 2022

24 The label of “Black Fly Guard” documented during the February 1, 2023 inspection stated:

- a. “Black Fly Guard”
- b “Prevents Black Fly Bites”
- c. “Long Lasting Protection”
- d. “Active Ingredient: Neem Oil 3%”
- e. “www.blackflyguard.com”

25. On or about August 4, 2023, an inspector employed by EPA and authorized to conduct inspections under FIFRA visited Respondent’s website at [www.blackflyguard.com](http://www.blackflyguard.com).

26. On or about August 4, 2023, Respondent’s website at [www.blackflyguard.com](http://www.blackflyguard.com) contained the following statements:

- a. “BEST BLACK FLY B TE REVENT ON ”
- b. “Spray directly on arms, legs, and all other exposed skin using hands to apply liberally, and evenly. Don’t forget all the crevices in the ears. Mosquitos, gnats, and no-see-ums can find the smallest spot of untreated skin.”

27 On or about A gust 4, 2023, Respondent’s website offered the product “Black Fly Guard” for sale

28 The product “Black Fly Guard” is a “pesticide” as that term is defined by Section 2(u) of FIFRA because the product label and website both indicate that the product may be used to prevent or repel black flies, which are a “pest” as that term is defined by Section 2(t)(1) of FIFRA, 7 U.S C § 136(t)(1).

29. At all times relevant to this CAFO, the pesticide product “Black Fly Guard” was not registered under Section 3 of F FRA.

30. Respondent’s distribution or sale of the unregistered pesticide “Black Fly Guard” on May 24, 2022 and August 4, 2023 constitutes unlawful acts pursuant to Section 12(a)(1)(A) of F FRA, 7 U.S.C. § 136j(a)(1)(A).

### **Civil Penalty**

31. Pursuant to Section 14(a)(4) of F FRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action in full is \$5,192. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent’s business, the effect on Respondent’s ability to continue in business, and the gravity of the violation. Complainant also considered EPA’s F FRA Enforcement Response Policy, dated December 2009.

32. Respondent agrees to pay a civil penalty in the amount of \$5,192 (“Assessed Penalty”) within thirty (30) days after the effective date of this CAFO.

33. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

34. When making a payment, Respondent shall:

- a. identify every payment with Respondent’s name and the docket number of this CAFO, FIFRA-05-2025-0009,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Claudia Niess (ECP- 7J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
[niess.claudia@epa.gov](mailto:niess.claudia@epa.gov)  
and  
[R5lecab@epa.gov](mailto:R5lecab@epa.gov)

Justin Berchiolli (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
[berchiolli.justin@epa.gov](mailto:berchiolli.justin@epa.gov)

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

35 Interest, Charges, and Penalties on Late Payments. Pursuant to 34 S.C. § 37-7-31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest Interest begins to accrue from the effective date of this CAFO. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest

will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS “standard” underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment

- b. Handling Charges Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days.

36 Late Penalty Actions In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency pursuant to 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and D.
- c. Suspend or revoke Respondent’s licenses or other privileges, or suspend or

disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the amount outstanding pursuant to 7 U.S.C. § 1361(a)(5).

37. Allocation of Payments Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

38. Tax Treatment of Penalties Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### **General Provisions**

39. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [berchiolli.justin@epa.gov](mailto:berchiolli.justin@epa.gov) (for Complainant), and [REDACTED] (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

40. The Respondent's full compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

41. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

42. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

43. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

44. The terms of this CAFO bind Respondent, its successors and assigns.



45 Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms

46. Each party agrees to bear its own costs and attorneys fees, in this action.

47. This CAFO constitutes the entire agreement between the parties

**Resolutions LLC, Respondent**

12/12/2024  
Date

Gordon Mixon  
Gordon Mixon  
Manager  
Resolutions LLC

**United States Environmental Protection Agency, Complainant**

M CHAEL  
HARRIS

Digitally signed by MICHAEL  
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Date: 2024.12.31 09:46:01  
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**in the Matter of:**  
**Resolutions LLC**  
**Docket No. FIFRA-05-2025-0009**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. T IS SO ORDERED.

**ANN COYLE** Digital signature by ANN  
COYLE  
Date: 2024.12.31  
13:15:29 -0600  
\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5