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EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: )  
)  
Columbia Sportswear Company ) Docket No. FIFRA 10-2012-0067  
)  
Portland, Oregon ) CONSENT AGREEMENT  
) AND FINAL ORDER  
Respondent. )  
)  
\_\_\_\_\_ )

**I. 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). 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. The Regional Administrator of EPA Region 10 has re delegated this authority to the Regional Judicial Officer.

1.2. Respondent is Columbia Sportswear Company ("Respondent").

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 Respondent hereby agrees to the issuance of, the Final Order contained in Part V of this CAFO.

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 ("Complainant") has been delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

2.3. A concise statement of the factual basis for alleging violations of FIFRA, together with specific references to the provisions of FIFRA and implementing regulations Respondent is alleged to have violated, appears in Part III of this CAFO.

## **III. ALLEGATIONS**

3.1 Columbia Sportswear Company (Columbia) owns and operates a facility located at 14375 Northwest Science Park Drive, Portland, Oregon 97229.

3.2 Columbia produces the pesticide "Insect Blocker," EPA Registration Number 74843-2.

3.3 Section 2(q)(2)(C)(iv) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iv), states that a pesticide is misbranded if there is not a label affixed to the pesticide container, and to the outside container or wrapper of the retail package, which includes the EPA registration number assigned to the pesticide.

3.4 Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), states that a pesticide is misbranded if the labeling accompanying it does not contain directions for use which are adequate to protect human health and the environment.

3.5 40 C.F.R. 156.10(i)(2)(ii), states the directions for use shall include immediately below the statement of use classification, the statement "It is a violation of Federal law to use this product in a manner inconsistent with its labeling."

3.6 On at least 10 occasions in 2011, Respondent sold and distributed misbranded "Insect Blocker" with labels that lacked the EPA registration number, a proper ingredient statement, a proper storage and disposal statement, or the statement "It is a violation of Federal Law to use this product in a manner inconsistent with its labeling."

3.7 Under 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 sell to any person any pesticide which is misbranded.

3.8 Therefore, Respondent committed 10 violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling and distributing misbranded pesticides.

3.9 According to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty. Respondent is a wholesaler and retailer.

#### **IV. CONSENT AGREEMENT**

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. Respondent expressly waives any rights to contest the allegations and to appeal the Final Order contained herein.

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



4.5. Except as provided in Paragraph 4.11, below, each party shall bear its own costs in bringing or defending this action.

4.6. Pursuant to Section 136f of FIFRA, taking into consideration the size of Respondent's business, the economic impact of the proposed penalty on Respondent's business, Respondent's full compliance history and good faith efforts to comply, Respondent's cooperation with EPA, the duration of the violations as established by any credible evidence, the economic benefit of noncompliance, and the seriousness of the violation (in addition to such other factors as justice may require), EPA and Respondent agree that an appropriate penalty to settle this action is \$22,880.

4.7. Respondent consents to the issuance of the Final Order recited herein and to payment of the civil penalty cited in Paragraph 4.6 above within 30 days of the effective date of the Final Order.

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

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

Respondent shall note on the check the title and docket number of this case. Respondent may also pay the penalty by wire transfer in accordance with instructions provided by EPA.

4.9. Respondent shall serve a photocopy of the check or documentation of wire transfer on the Regional Hearing Clerk and EPA at the following two addressees:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 10  
Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

Derrick Terada  
Pesticides and Toxics Unit

U.S. Environmental Protection Agency, Region 10  
Mail Stop OCE-084  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

4.10. Should Respondent fail to pay the penalty assessed by this CAFO 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 pursuant to 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.

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

(a) Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

(b) Attorney Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the assessed penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

4.12. Except as provided in Paragraph 4.15, below, nothing in the CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions

available by virtue of Respondent's violation of this agreement or of the statute and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

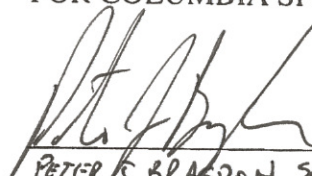
4.13. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

4.14. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this CAFO. This CAFO may be executed in multiple counterparts, each of which shall be deemed to have the same force and effect as an original.

4.15. Compliance with all the terms and conditions of this CAFO shall result in full settlement and satisfaction of all claims for penalties alleged in Section III above.

STIPULATED AND AGREED:

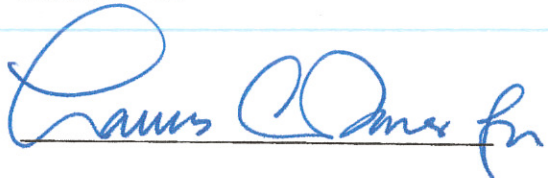
FOR COLUMBIA SPORTSWEAR COMPANY

  
\_\_\_\_\_  
PETER S. BRADON, SENIOR VICE PRESIDENT  
Columbia Sportswear Company

Dated: 4-4-12

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 10

  
\_\_\_\_\_  
Edward J. Kowalski, Director  
Office of Compliance and Enforcement

Dated: April 19, 2012



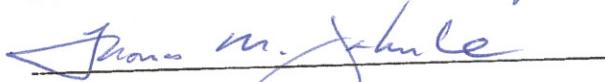
## V. FINAL ORDER

5.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to FIFRA for the violations alleged in the Consent Agreement above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of FIFRA and regulations issued thereunder.

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 24<sup>th</sup> day of April, 2012



Thomas M. Jahnke  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 10

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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: Columbia Sportswear, Docket No. FIFRA-10-2012-0067**, was filed with the Regional Hearing Clerk.

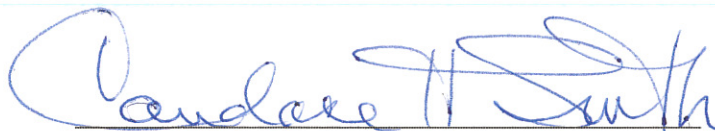
The undersigned certifies that a true and correct copy of the document was delivered to:

Mercer St. Peter, Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 10, M/S: ORC-158  
1200 Sixth Avenue, 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 to:

Thomas R. Wood  
Stoel Rives  
900 S. W. 5<sup>th</sup> Avenue, Suite 2600  
Portland, Oregon 98101-97204

DATED this 25<sup>th</sup> day of April, 2012.



Candace H. Smith  
Regional Hearing Clerk  
EPA, Region 10