



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

**APR 21 2006**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Jeffrey L. Lucas, Esquire  
Stigall, Humphrey, Lucas & Levine, LC  
1100 Main Street, Suite 2620  
Kansas City, Missouri 64105

Re: Blue Valley Laboratories.  
Docket No. FIFRA-07 2005-0370.

Dear Mr. Lucas:

I herein enclose a Consent Agreement and Final Order (CAFO) memorializing the terms and conditions of the settlement agreed to by the parties in the referenced matter. Please have the authorized signature affixed to the CAFO and return it to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

If there are any questions pertaining to this case, you may write to me at the above address, or telephone me at (913) 551-7282.

Sincerely,

A handwritten signature in black ink, appearing to read "Rupert G. Thomas".

Rupert G. Thomas  
Senior Assistant Regional Counsel

Enclosure: CAFO

Cc: Ms. Kathy Robinson  
Regional Hearing Clerk

Mr. Mark Leshar  
WWPD/PEST

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

IN THE MATTER OF )  
 )  
Blue Valley Laboratories, Inc. ) Docket No. FIFRA-07-2005-0370  
 )  
Respondent ) CONSENT AGREEMENT AND  
 ) FINAL ORDER  
 )

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about September 15, 2005, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 136l, when the United States Environmental Protection Agency (hereinafter referred to as “Complainant” or “EPA”) issued a “Complaint and Notice of Opportunity for Hearing” to Blue Valley Laboratories, Inc. (hereinafter referred to as “Respondent”).

The Complaint charged Respondent with nineteen counts of violating § 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order (CAFO) set forth herein below is the result of these negotiations and represents settlement of this Complaint.

CONSENT AGREEMENT

It is hereby agreed, and accepted by Respondent that:

1. This Consent Agreement and Final order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of

allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violation of FIFRA as set forth in the Complaint.

4. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C. § 136 et.seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

7. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement and Final Order.

8. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

## FINAL ORDER

Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 1361, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Six Thousand Dollars (\$6,000.00), in four installments of One Thousand Five Hundred Dollars (\$1,500.00) each, payable to the "Treasurer, United States of America" and such check shall be mailed to: **U.S. EPA-Cincinnati Finance Center, P.O. Box 371099M, Pittsburgh, Pennsylvania 15251**. The payment shall be identified as **In the Matter of Blue Valley Laboratories, Inc.** Copies of the Check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

2. The first installment of the civil penalty shall be paid on or before 30 days after the effective date of the Final Order, the second installment shall be paid on or before January 31, 2007, the third installment shall be paid on or before September 30, 2007, and the fourth installment shall be paid on or before May 31, 2008 (the date by which the payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

By: \_\_\_\_\_  
Rupert G. Thomas  
Attorney  
Office of Regional Counsel

Date: \_\_\_\_\_

RESPONDENT:  
BLUE VALLEY LABORATORIES, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

IT IS SO ORDERED. This Order shall become effective immediately.

\_\_\_\_\_  
Robert L. Patrick  
Regional Judicial Officer  
Region VII

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