

SUZANNE ANDREWS
Regional Counsel

Andrew Eberle
Assistant Regional Counsel (ORC-3-2)
United States Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3712



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
SAN FRANCISCO, CALIFORNIA

In the Matter of:	)	
	)	
Basin Pump & Supply Co.	)	Docket No. FIFRA- 09-2026-0126
	)	
	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
	)	40 C.F.R. §§ 22.13(b), 22.18(b)(2)
Respondent.	)	AND 22.18(b)(3)

CONSENT AGREEMENT

The United States Environmental Protection Agency, Region 9 ("EPA"), and Basin Pump & Supply Co. ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

A. AUTHORITY AND PARTIES

1. This is a civil administrative action brought pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or "the Act"), as amended, 7 U.S.C § 136l(a)(1), for the assessment of a civil administrative penalty against

Respondent for the sale and/or distribution of a misbranded pesticide in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

2. Complainant is the Acting Manager of the Toxics Section of the Enforcement and Compliance Assurance Division, EPA Region 9, who is duly delegated the authority to bring this action and to sign a consent agreement settling this action.
3. Respondent is Basin Pump & Supply Co. ("Respondent"), a New Mexico corporation doing business at 1000 W. Broadway Avenue in Bloomfield, New Mexico.

B. STATUTORY AND REGULATORY BASIS

4. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person to distribute or sell to any person a pesticide which is adulterated or misbranded.
5. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a "person" as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
6. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term "distribute or sell" to mean 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. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a "pesticide," in part, as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
8. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a "pest" as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or

virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator of the EPA declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

9. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), provides that a pesticide or device is misbranded if its label does not contain directions for use necessary to make the product effective and to adequately protect health and the environment.
10. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines a “label” as the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
11. Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), defines “labeling,” in part, as all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time.
12. 40 C.F.R. § 156.10(i) sets forth in detail the requirements for including directions for use on labels attached to pesticides and devices.
13. 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 \$24,885 for each offense that occurred after November 2, 2015, where penalties are assessed on or after January 8, 2025. See Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19 (as amended by 90 Fed. Reg. 1375 (January 8, 2025)).

C. ALLEGATIONS

14. At all times relevant to this CAFO, Respondent was a corporation and therefore a “person” as that term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.
15. At all times relevant to this CAFO, Respondent “distributed or sold” the product, “Dixichlor Max,” as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), to persons in the United States.
16. The product, “Dixichlor Max,” is a pesticide, as that term is defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u). The EPA Registration Number for the product, “Chlor 125,” is 813-15.
17. On or around October 20, 2023, Respondent “distributed or sold” as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide, “Dixichlor Max,” by selling it to Leupp Schools, Inc.
18. The “Dixichlor Max” pesticide that Respondent sold to Leupp Schools, Inc. on or around October 20, 2023 did not have a label affixed to it containing directions for use necessary to make the product effective and to adequately protect health and the environment.
19. Respondent’s failure to affix a label containing directions for use necessary to make the product effective and to adequately protect health and the environment for the “Dixichlor Max,” that Respondent distributed or sold to Leupp Schools, Inc., as required by 40 C.F.R. § 156.10, constitutes “misbranding,” as that term is defined by Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F).

20. By distributing or selling the misbranded pesticide, "Dixichlor Max," to Leupp Schools, Inc. on or around October 20, 2023, Respondent committed a violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

D. RESPONDENT'S ADMISSIONS

21. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section C of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section E of this CAFO; (iv) waives any right to contest the allegations contained in this CAFO; and (v) waives the right to appeal the Final Order contained in this CAFO. In addition, by signing 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 contained in this CAFO.
22. In full and final settlement of the violations arising under FIFRA as specifically alleged in Section C of this CAFO, Respondent shall pay a civil administrative penalty of EIGHT THOUSAND ONE HUNDRED AND FORTY-ONE DOLLARS (\$8,141). Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO using any method or combination of appropriate methods provided in the EPA website at <https://www.epa.gov/financial/makepayment>. For additional instructions, see <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. If any clarification regarding a particular method of payment remittance is needed, please

contact the EPA Cincinnati Finance Center at (513) 487 2092. Payment shall be accompanied by a transmittal letter identifying Respondent, the case name, the case docket number, and this CAFO. Concurrent with payment of the penalty, Respondent shall send a PDF copy of the notification that the payment has been made by one of the methods provided, including proof of the date payment was made, and the transmittal letter to the following email addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
R9HearingClerk@epa.gov

Julie Jordan
Toxics Section
Enforcement and Compliance Assurance Division (ENF-2-1)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
jordan.julie@epa.gov

23. Respondent shall not use payment of any penalty under this CAFO as a tax deduction from Respondent's federal, state, or local taxes, nor shall Respondent allow or otherwise facilitate any other person to use such payment as a tax deduction.
24. If Respondent fails to pay the assessed civil administrative penalty of EIGHT THOUSAND ONE HUNDRED AND FORTY-ONE DOLLARS (\$8,141), as identified in Paragraph 24, then Respondent shall pay to EPA a stipulated penalty of FIVE HUNDRED DOLLARS (\$500) per day in addition to the assessed penalty. Stipulated penalties shall accrue until such time as the assessed penalty and all accrued stipulated penalties are paid and shall become due and payable upon EPA's written request. Failure

to pay the civil administrative penalty specified in Paragraph 24 by the deadline specified in that Paragraph may also lead to any or all of the following actions:

- a. EPA may refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and appropriateness of the assessed penalty or of this CAFO is not subject to review in any such collection proceeding.
- b. The U.S. Government may collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the U.S. Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. §§ 13(C) and 13(H).
- c. Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds.
- d. Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S. Government may assess interest, administrative handling charges, and nonpayment penalties against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty specified in Paragraph 24 by the deadline specified in that Paragraph.
 - i. Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate

established according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of this CAFO.

- ii. Administrative Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on either actual or average cost incurred (including both direct and indirect costs), for every month in which any portion of the assessed penalty is more than thirty (30) days past due.
- iii. Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2) and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually, may be assessed on all debts more than ninety (90) days delinquent.

F. CERTIFICATION OF COMPLIANCE

25. In executing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission and is at the time of signature to this CAFO, truthful, accurate, and complete; and that, to the best of its knowledge, it is currently in compliance with any and all FIFRA requirements that apply to its ongoing operations. Under 18 U.S.C. § 1001, submitting false or misleading information can result in significant penalties, including the possibility of fines and imprisonment for knowing submission of such information.

G. RETENTION OF RIGHTS

26. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section C of the CAFO.
27. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

H. ATTORNEY'S FEES AND COSTS

28. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

I. EFFECTIVE DATE

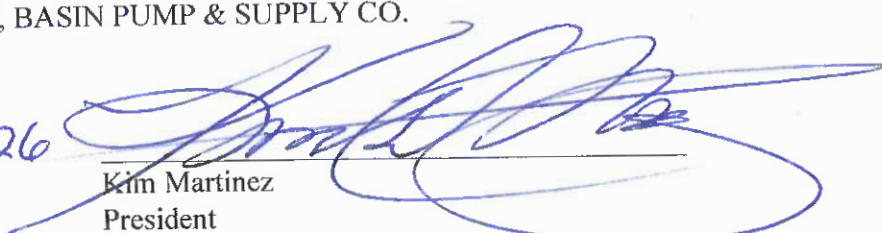
29. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

J. BINDING EFFECT

30. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
31. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT, BASIN PUMP & SUPPLY CO.

08/24/2026
DATE


Kim Martinez
President
Basin Pump & Supply Co.

FOR COMPLAINANT, EPA REGION 9

DATE

SCOTT
MCWHORTER

Digitally signed by
SCOTT MCWHORTER
Date: 2026.09.25
13:20:48 -07'00'

Scott McWhorter
Acting Manager
Toxics Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9