



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 12 2007

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David Mills
1559-B Booker Dairy Road
Smithfield, NC 27577

SUBJ: Docket No. FIFRA-04-2007-3035(b)
Coor Farm Supply Service, Inc.

Dear Mr. Mills:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 CFR Part 22.

Please make note of the provisions in the Final Order, with respect to payment of the assessed penalty of \$15,470. The initial payment in the amount of \$3,964.67 is due within 30 days from the effective date of the CAFO. Remaining payments are due as set forth in Section IV of the CAFO.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. EPA, Cincinnati Accounting Operations address identified in Section 33 of the CAFO. Should you have any questions about your company's compliance status in the future, please do not hesitate to call me or Melba Table at (404) 562-9086.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne Benante".

Joanne Benante
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Flo Lamphier, NCDACS

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV
2007 SEP 12 AM 9:51
HEARING CLERK

In the Matter of:)
)
Coor Farm Supply Service, Inc.) Docket No. **FIFRA-04-2007-3035(b)**
)
)
Respondent.)
_____)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Coor Farm Supply Service, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994.
4. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Melba Table
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.

5. Respondent is Coor Farm Supply Service, Inc., a North Carolina corporation, located at 3 Malta St., Smithfield, NC 27577.
6. Respondent is a "person" as 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.
7. On or about May 16, 2006, an authorized representative of the EPA conducted an inspection at Coor Farm Supply Service, Inc., 3 Malta St., Smithfield, NC 27577.
8. During the aforementioned inspection, the products "C Mone K and C Mone K+," were identified as being produced and distributed by the Respondent.
9. C Mone K and C Mone K+, are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture or substances intended for preventing, destroying, repelling, or mitigating any pest.

10. A "pest" is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), 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 microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
11. Respondent "distributes or sells" pesticides. The term "to distribute to sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
12. At the time of the inspection, the C Mone K and C Mone K + were not registered as pesticides with EPA.
13. At the time of the inspection, C Mone K and C Mone K + were offered for sale by Respondent.
14. It is unlawful according Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
15. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least two occasions by offering C Mone K and C Mone K + for sale and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
16. At the time of the inspection, Respondent produced the pesticides C Mone K and C Mone K+ in an establishment that was not registered with the Administrator of EPA as a pesticide-producing establishment.

17. Produce is defined in Section 2(w) of FIFRA, 7 U.S.C. § 136j(w), to include to manufacture, prepare, compound, propagate or process any pesticide.
18. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
19. On or about May 30, 2006, an authorized representative of the EPA conducted an inspection at Spring Lake Garden, Inc., 33465 Old Salisbury Rd., Albemarle, NC 28001.
20. During the aforementioned inspection, the product “Vereens Super Turf + Pendimethalin,” was identified as a product that was manufactured exclusively for Coor Farm Supply, Inc.
22. At the time of the aforementioned inspection, Vereens Super Turf + Pendimethalin was not a registered pesticide with EPA.
23. At the time of the aforementioned inspection, Vereens Super Turf + Pendimethalin was offered for sale by the Respondent.
24. It is unlawful according Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
25. Respondent violated Section 12(a)(1)(A) on at least one occasion by offering the pesticide Vereens Super Turf + Pendimethalin for sale and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
26. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.

27. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
28. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of FIFTEEN THOUSAND FOUR HUNDRED SEVENTY DOLLARS (\$15,470), plus interest at four percent per annum, against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

III. Consent Agreement

29. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
30. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
31. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
32. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
33. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state

statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

34. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

IV. Final Order

35. Respondent is assessed a civil penalty of FIFTEEN THOUSAND FOUR HUNDRED SEVENTY DOLLARS (\$15,470), plus interest at four percent per annum, which shall be paid according to the schedule agreed upon, as shown in this section.
36. **The first installment payment of \$3,964.67 shall be made on December 1, 2007, or within 30 days from the date this CAFO is filed with the Regional Hearing Clerk, whichever is later.**

The remaining three installment payments will be made as set forth below:

DATE	AMOUNT
April 1, 2008	\$3,964.67
August 1, 2008	\$3,964.67
December 1, 2008	\$3,964.67.

37. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

U.S. Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lock Box 371099M
Pittsburgh, PA 15251-7099.

The check shall reference the name and the Docket Number of the CAFO [“Coor Farm Supply Service, Inc., FIFRA-04-2007-3035(b)”].

38. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960;

Melba Table
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

39. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
40. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date

be assessed to cover the administrative costs, both direct and indirect, of overdue debts.

In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.

41. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
42. This CAFO shall be binding upon the Respondent, its successors and assigns.
43. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

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V. Effective Date

44. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Coor Farm Supply Service, Inc.

By: E.O. Coor, III (Signature)

Date: 8-23-07

Name: E.O. Coor, III (Typed or Printed)

Title: President (Typed or Printed)

U.S. Environmental Protection Agency

Beverly H. Banister

By: Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

Date: 9/4/07

APPROVED AND SO ORDERED this 11th day of Sept. 2007.

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

U.S. EPA - Region 4, 4APT-PTSB
Pesticides Management Section
61 Forsyth Street
Atlanta, GA 30303-8960

(Via EPA's internal mail)

Nancy Tommelleo
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960

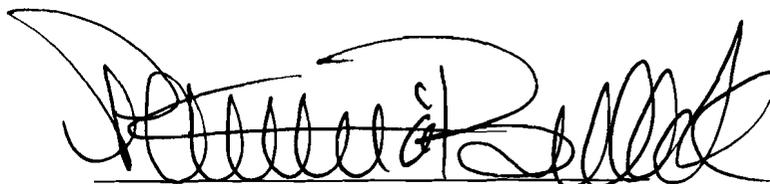
(Via EPA's internal mail)

For Respondent:
David Mills
Coor Farm Supply Service, Inc.
1559-B Booker Dairy Road
Smithfield, NC 27577

(Via Certified Mail - Return Receipt Requested)

Date:

9-12-07



Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saund Wilson on 9/10/07
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| <input type="checkbox"/> This is a modification | <input type="checkbox"/> This is a modification |

PAYEE: Coor Farm Supply Service Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 15470
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2007 3035 (6)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|