



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 15 2015

REPLY TO THE ATTENTION OF:
LC- 8J

CERTIFIED MAIL: No.7011 1150 0000 2643 8548
RETURN RECEIPT REQUESTED

Ms. Lorrie Maag
Southern Illinois Hardware, LLC
c/o Admiral Parkway, Inc.
P.O. Box 140
Columbia, Illinois 62236

Consent Agreement and Final Order In the Matter of
Southern Illinois Hardware LLC. Docket No. FIFRA-05-2015-0041

Ms. Maag:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on July 15, 2015 with the Regional Hearing Clerk.

The civil penalty in the amount of \$4,080 is to be paid in the manner described in paragraphs 27 and 28. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Meghan Dunn".

Meghan Dunn
Pesticides and Toxics Compliance Section

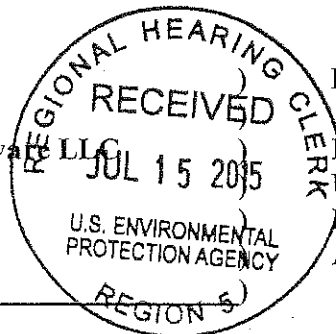
Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Southern Illinois Hardware
Columbia, Illinois,

Respondent.



Docket No. FIFRA-05-2015-0041

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

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 Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. The Respondent is Southern Illinois Hardware LLC, a limited liability company doing business in the State of Illinois.
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.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y, and agrees that in order to assure continued compliance, Respondent will establish an inventory control scheme such as color coding of its stock as it is offered for sale in order to ensure that stock is not kept on the shelf or sold beyond its usable life.

Statutory and Regulatory Background

10. The distribution or sale of an adulterated pesticide is an unlawful act under Section 12(a)(1)(E) of FIFRA.

11. A pesticide is “adulterated” if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold.
7 U.S.C. § 136(c).

12. 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).

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

14. A “pest” is 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 which the

Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

15. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009.

7 U.S.C. § 136(a)(1) and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

16. On or about November 23, 2011, Respondent was a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

17. On or about March 19, 2014, Respondent owned or operated a place of business located at 1256 Washington, DuQuoin, Illinois.

18. On March 19, 2014, an inspector with the Illinois Department of Agriculture and an authorized representative of the EPA conducted an inspection at Respondent’s place of business at 1256 Washington, DuQuoin, Illinois.

19. During that March 19, 2014 inspection, the inspector collected a sample of HTH Liquid Chlorinator, EPA Reg. No. 1258-1094, that was offered for sale at Respondent’s place of business.

20. On or about March 19, 2014, the label of HTH Liquid Chlorinator stated that the product contained 10% sodium hypochlorite.

21. Analysis of the contents of HTH Liquid Chlorinator performed by the Illinois Department of Agriculture found that the product contained 4% sodium hypochlorite.

22. On or about March 19, 2014, Respondent distributed or sold HTH Liquid Chlorinator containing only 4% sodium hypochlorite.

23. HTH Liquid Chlorinator was adulterated.

24. Respondent's distribution or sale of the adulterated pesticide HTH Liquid Chlorinator constituted an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Civil Penalty

26. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$4,080. 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 violations. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

27. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,080 civil penalty for the FIFRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," by standard U.S. Postal Service mail to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The check must note "Southern Illinois Hardware LLC" and the docket number of this CAFO.

28. Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Meghan Dunn (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard.
Chicago, Illinois 60604

Jose C. de Leon (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

29. This civil penalty is not deductible for federal tax purposes.

30. If Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

31. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

32. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

33. 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.

34. This CAFO does not affect Respondent's responsibility to comply with FIFRA and

other applicable federal, state and local laws.

35. This CAFO is a “final order” for purposes of EPA’s FIFRA Enforcement Response Policy.

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

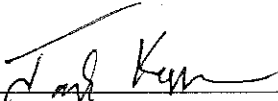
37. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

39. This CAFO constitutes the entire agreement between the parties.

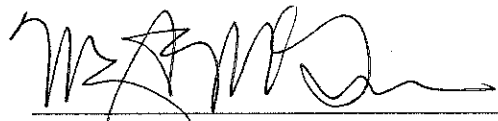
Southern Illinois Hardware, LLC, Respondent

June 24, 2015
Date


Joseph Koppeis
Managing Member
Southern Illinois Hardware, LLC

United States Environmental Protection Agency, Complainant

7/7/2015
Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Southern Illinois Hardware, LLC
Docket No. FIFRA-05-2015-0041

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. IT IS SO ORDERED.

13 July 2015
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

In the matter of: Southern Illinois Hardware LLC.
Docket Number: FIFRA-05-2015-0041

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on July 15, 2015, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Ms. Lorrie Maag
Southern Illinois Hardware, LLC
c/o Admiral Parkway, Inc.
P.O. Box 140
Columbia, Illinois 62236

Copy by E-mail to
Attorney for Complainant:

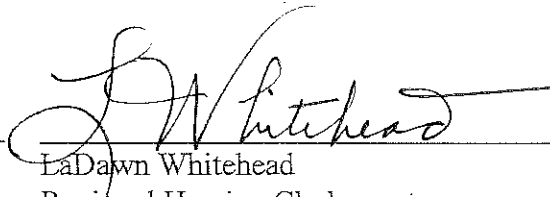
Jose C. de Leon
deleon.jose@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

July 15, 2015



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 8548