

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF) Docket No. FIFRA-07-2009-0041
)
Synisys, Inc., FRM Chem, Inc.)
Keith G. Kastendieck and) ANSWER TO
Karlán C. Kastendieck,) FIRST AMENDED COMPLAINT
)
Respondents.)

**CORPORATE RESPONDENTS SYNISYS, INC. AND FRM CHEM, INC.'S
ANSWER TO FIRST AMENDED COMPLAINT**

COME NOW Respondents Synisys, Inc. ("SYNISYS") and FRM Chem, Inc. ("FRM")(collectively, "Corporate Respondents"), by and through their undersigned counsel, and for their Answer to the First Amended Complaint filed by United States Environmental Protection Agency ("EPA"), state the following:

Section I

Jurisdiction

1. Corporate Respondents admit the allegations contained in Paragraph 1.
2. Corporate Respondents deny the allegations contained in Paragraph 2.

Section II

Parties

3. Corporate Respondents admit the allegations contained in Paragraph 3.

4. Corporate Respondents admit that Synisys, Inc. and FRM Chem, Inc. are companies located at 50-60 Hi-Line Drive, Union, Missouri, but deny the remaining allegations contained in Paragraph 4.

Section III

Statutory & Regulatory Background

5-11. Title 7, U.S.C. §§ 136 quoted in Paragraphs 5 through 11 speak for themselves.

Section IV

Factual Allegations

12. EPA registered CHLOR 1250 to FRM using EPA Registration Number 00366-20001. This registration was transferred in February, 1990 by EPA from FRM to Intercon Chemical Company and a new Registration Number was issued (48211-20001).

FRM retained supplemental distribution rights using EPA Registration No. 48211-2001-10366. SYNISYS and FRM were never notified of any cancellation of 48211-20001 or 48211-20001-10366 by EPA or Intercon Chemical Company at any time prior to October, 2008. Corporate Respondents deny the balance of Paragraph 12.

Moreover, Corporate Respondents filed EPA Pesticide Report Forms 3540-16 under the name of FRM CHEM, INC. with the EPA for the years 1995 through and including 2007. These forms were received from the EPA pre-stamped with FRM's Registration Number and FRM and EPA Registration Number 48211-20001-10366.

Corporate Respondents reported each and every year to EPA the amount of FRM CHLOR 1250 produced and sold during this entire period.

Additionally, during this period of time (1995 - 2007), EPA never notified Corporate Respondents that the registration was cancelled even though EPA knew FRM was producing and selling the product.

Further, in 2005, EPA, by and through its authorized representative, conducted an inspection of FRM and Respondent's premises (set forth above). The inspector had a pre-printed EPA form listing the fact that FRM CHLOR 1250 was on the EPA preprinted list and the representative verified the amount sold and shipped. At no time during this inspection in 2005, or afterward, did the EPA or the Missouri Department of Agriculture (acting in its behalf) notify Corporate Respondents that the registration had been canceled.

13. Corporate Respondents admit the allegations contained in Paragraph 13.

14-18. Paragraphs 14 through 18 are not directed at Corporate Respondents. To the extent they are, the allegations are denied.

19. Corporate Respondents admit the allegations contained in Paragraph 19.

20. Corporate Respondents admit the allegations contained in Paragraph 20.

21. Corporate Respondents deny the allegations contained in Paragraph 21. On information and belief, Keith G. Kastendieck did make several written statements to a Pesticide Use Investigator on October 8, 2008.

22-23. On October 8, 2008, Keith G. Kastendieck was served with two "Stop, Sale, Use, or Removal Orders" on behalf of FRM and Advanced Products Technology, Inc.

No representative of FRM or Advanced Products Technology, Inc. had ever been served with any similar "Stop Sale Order" for FRM CHLOR 1250 prior to October 8, 2008.

Corporate Respondents deny the balance of the allegations in Paragraphs 22 through 23.

24. Corporate Respondents are without sufficient knowledge, information or belief as to the allegations contained in Paragraph 24 and, therefore, deny same.

Violations

25. Corporate Defendants deny the allegations contained in Paragraph 25.

Counts 1-3 - Sales/Distributions to McFleeg, Inc.

Count 1

26. As and for their Answer to Paragraph 26 of Count 1 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 25 above as if more fully stated herein.

27-32. Corporate Respondents deny the allegations contained in Paragraphs 27 through 32.

Count 2

33. As and for their Answer to Paragraph 33 of Count 2 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 32 above as if more fully stated herein.

34-39. Corporate Respondents deny the allegations contained in Paragraphs 34 through 39.

Count 3

40. As and for their Answer to Paragraph 40 of Count 3 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 39 above as if more fully stated herein.

41-46. Corporate Respondents deny the allegations contained in Paragraphs 41 through 46.

Counts 4-7 - Sales/Distributions to Graber Equipment

Count 4

47. As and for their Answer to Paragraph 47 of Count 4 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 46 above as if more fully stated herein.

48-53. Corporate Respondents deny the allegations contained in Paragraphs 48 through 53.

Count 5

54. As and for their Answer to Paragraph 54 of Count 5 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 53 above as if more fully stated herein.

54-60. Corporate Respondents deny the allegations contained in Paragraphs 54 through 60.

Count 6

61. As and for their Answer to Paragraph 61 of Count 6 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 60 above as if more fully stated herein.

62-67. Corporate Respondents deny the allegations contained in Paragraphs 62 through 67.

Count 7

68. As and for their Answer to Paragraph 68 of Count 7 of EPA's First Amended Complaint, Corporate Respondents restate, reallege and incorporate by reference their answers to Paragraphs 12 through 67 above as if more fully stated herein.

69-74. Corporate Respondents deny the allegations contained in Paragraphs 69 through 74.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via Federal Express upon:

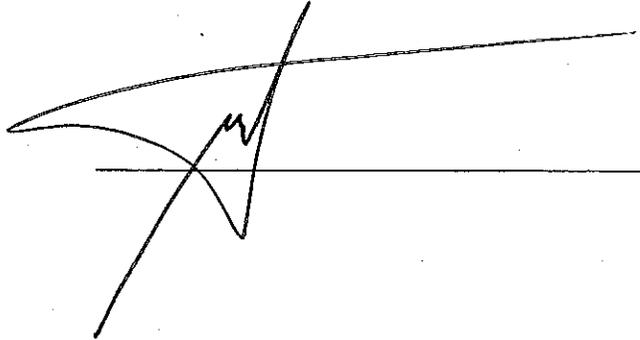
Sybil Anderson
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
1099 14th Street NW
Suite 350, Franklin Court
Washington, DC 20005

Honorable Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street NW
Washington, DC 20005

Kathy Robinson
Regional Hearing Clerk
EPA - Region 7
901 North 5th Street
Kansas City, KS 66101

Chris R. Dudding
Assistant Regional Counsel
EPA - Region 7
901 North 5th Street
Kansas City, KS 66101

this 9th day of August, 2010.

A handwritten signature in black ink, appearing to be "Chris R. Dudding", is written over a horizontal line. The signature is stylized and somewhat abstract, with a large loop on the left side and a sharp peak on the right.