



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 30 2009

Certified Mail – Return Receipt Requested

Ms. Tammy Johnson, President
Carolina Blue Pools, Inc.
3407 Conway Gardens Road
Orlando, FL 32806

SUBJ: Docket No. FIFRA-04-2009-3003(b)
Carolina Blue Pools, Inc.

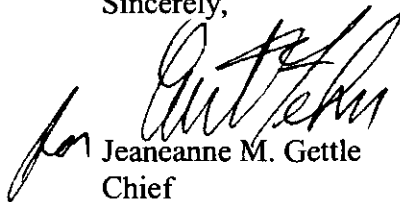
Dear Ms. Johnson:

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 C.F.R. Part 22.

Once you receive a copy of the filed document, given that no penalty has been assessed, you may consider the matter closed.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

Handwritten signature of Jeanne M. Gettle in black ink.

Jeanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: State Lead Agency

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Carolina Blue Pools, Inc.)
)
)
Respondent.)
_____)

Docket No. FIFRA-04-2008-3004(b)

MEMORANDUM

2009 JAN 30 AM 9:20

PERMIT
EPA REGION 4

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. §136 *et seq.* (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 Carolina Blue Pools, 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 the Regional Administrators 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:

Ms. Mary Summers
Case Development Officer
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960.

5. Respondent is Carolina Blue Pools, Inc., a Florida corporation, located at 3407 Conway Gardens Road, Orlando, Florida 32806.
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. Respondent is a “producer” as defined by Section 2(w) of FIFRA, 7 U.S.C. §136(w), and 40 CFR §167.3.
8. Respondent’s establishment at 3407 Conway Gardens Road, Orlando, Florida 32806, is registered with the Agency as a pesticide-producing establishment.
9. Respondent’s EPA Establishment Number is 081809-FL-001.
10. Respondent has voluntarily requested that EPA Est. No. 081809-FL-001 be terminated since Respondent had no production activity in calendar years 2006 and 2007.

11. Producers operating an establishment registered with EPA are required to submit to the Administrator of EPA an annual report which indicates the types and amounts of pesticides or active ingredients which they are currently producing, which they produced during the past year, and which they sold or distributed during the past year, pursuant to Section 7(c)(1) of FIFRA, 7 U.S.C. §136e(c)(1), and the regulations promulgated at 40 CFR §167.85.
12. Submittal of the annual report of pesticide-production for calendar year 2007 was due on or before March 1, 2008.
13. Respondent failed to submit the annual report on or before March 1, 2008.
14. Therefore, Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. §136j(a)(2)(L).
15. 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.
16. Section 14(a)(4) of FIFRA, 7 U.S.C. §136l(a), 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.
17. Given Respondent's lack of production in calendar years 2006 and 2007 and Respondent's voluntary termination of the establishment, EPA proposes to assess no civil penalty against the Respondent for the above-described violation. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. §136l(a), may be assessed by Administrative Order.

III. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above, but neither admits nor denies any findings of fact or conclusion of law contained herein.
19. 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.
20. Respondent consents to the assessment of no civil penalty as set forth in this CAFO.
21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
22. Compliance with this CAFO shall resolve the allegation of the violation 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.
23. 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

24. Should Respondent choose to engage in production activity in the future, Respondent shall request re-activation of EPA Est. No. 081809-FL-001 and shall send all future pesticide-production reports required under Section 7 of FIFRA, 7 U.S.C. §136(e), by means of certified mail, return receipt requested, to the following address:

U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
PCB & Chemical Products
Management Section
61 Forsyth Street
Atlanta, Georgia 30303-8960.

25. Respondent shall pay no civil penalty.
26. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
27. This CAFO shall be binding upon the Respondent, its successors and assigns.
28. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to this CAFO.

Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Carolina Blue Pools, Inc.

By: Tammy A. Johnson
Name: TAMMY A. JOHNSON
Title: PRESIDENT

Date: 11/24/08

U.S. Environmental Protection Agency

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

Date: 1/12/09

APPROVED AND SO ORDERED this 29th day of Jan., 2009.

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Carolina Blue Pools, Inc., FIFRA Docket Number: 04-2009-3004(b), to the addressees listed below.

Ms. Tammy Johnson, President
Carolina Blue Pools, Inc.
3407 Conway Gardens Road
Orlando, FL 32806

(Via Certified Mail, Return Receipt Requested)

Mary Summers
PCPMS
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

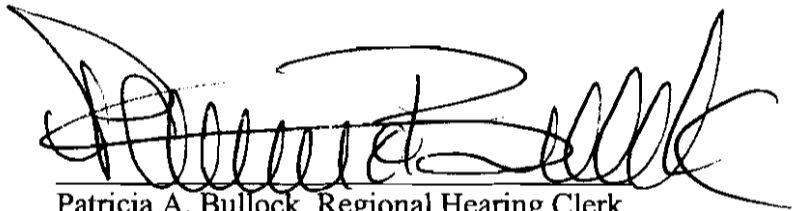
(Via EPA's internal mail)

Robert Caplan
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(Via EPA's internal mail)

Date:

1-30-09



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511