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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
) DOCKET NO. FIFRA-10-2008-0107
)
)
GENESIS AGRI-PRODUCTS, INC.)
) CONSENT AGREEMENT AND
) FINAL ORDER
)
)
Respondent)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has re delegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Genesis Agri-Products, Inc. ("Respondent") hereby agrees to issuance of, the Final Order contained in Part V of this CAFO.

1 **II. PRELIMINARY STATEMENT**

2 2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO
3 commences this proceeding which will conclude when the Final Order contained in Part V of
4 this CAFO becomes effective.

5 2.2. Part III of this CAFO contains a concise statement of the statutory and factual
6 basis for the alleged violations of FIFRA.

7 **III. ALLEGATIONS**

8 3.1. Respondent owns and operates a business facility located at 2517 Old Town Road
9 in Union Gap, Washington. This facility has been registered with EPA as a pesticide-producing
10 establishment since April 2, 1999. The registration number for this establishment is
11 071089-WA-001. Among other responsibilities, Respondent is required by 40 C.F.R.
12 § 167.85(d) to provide EPA, on an annual basis, a written report which documents the type(s)
13 and amount(s) of pesticides produced and distributed during the past calendar year, along with
14 the type(s) and amount(s) of pesticides currently produced at the establishment. Respondent is
15 further required to submit the written annual report, covering the prior calendar year, by no later
16 than March 1st. Respondent submitted the annual written report for calendar year 2006 on
17 July 30, 2007. Additionally, Respondent submitted the annual written report for calendar year
18 2007 on May 30, 2008. These failures to file timely written reports constitute a violation of
19 40 C.F.R. § 167.85(d), and Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

20 3.2. Respondent owns and operates a second business facility located at
21 5 West Mead Avenue in Yakima, Washington. This facility has been registered with EPA as a
22 pesticide-producing establishment since March 7, 2005. The registration number for this
23 establishment is 071089-WA-002. Among other responsibilities, Respondent is required by
24 40 C.F.R. § 167.85(d) to provide EPA, on an annual basis, a written report which documents the
25

1 type(s) and amount(s) of pesticides produced and distributed during the past calendar year, along
2 with the type(s) and amount(s) of pesticides currently produced at the establishment.

3 Respondent is further required to submit the written annual report, covering the prior calendar
4 year, by no later than March 1st. Respondent submitted the annual written report for calendar
5 year 2006 on July 30, 2007. Additionally, Respondent submitted the annual written report for
6 calendar year 2007 on May 30, 2008. These failures to file timely written reports constitute
7 violation of 40 C.F.R. § 167.85(d), and Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

8 3.3. Pursuant FIFRA Section 14(a), 7 U.S.C. § 136/(a), and 40 C.F.R. Part 19, EPA
9 may assess a civil penalty of not more than \$6,500 for each offense against any registrant,
10 commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any
11 provision of Section 12 of FIFRA.

12 IV. CONSENT AGREEMENT

13 4.1. For the purpose of this proceeding, Respondent admits the jurisdictional
14 allegations contained herein, but neither admits nor denies the specific factual allegations put
15 forth by EPA. Respondent waives any right to contest these allegations as well as the right to
16 appeal the accompanying Final Order. Respondent also consents to payment of the penalty as
17 stated below.

18 4.2. Respondent consents to the assessment of a civil penalty in the amount of
19 FOUR-THOUSAND, EIGHT-HUNDRED DOLLARS and no cents (\$4,800.00). Respondent
20 consents to issuance of the Final Order set forth in Part V, below, and agrees to pay the total civil
21 penalty set forth in this paragraph within thirty (30) days of the effective date of this Final Order.
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1 4.3. Payment under this CAFØ shall be made by cashier's check or certified check,
2 payable to the order of "Treasurer, United States of America" and delivered to the following
3 address:

4 US Bank - USEPA - Region 10
5 Fines and Penalties
6 Cincinnati Finance Center
7 PO Box 979077
8 St. Louis, MO 63197-9000

9 Respondent shall note on the check the title and docket number of this action.

10 4.4. Respondent shall serve photocopies of the check described in Paragraph 4.3,
11 above, on the Regional Hearing Clerk and the EPA Region 10 Office of Compliance and
12 Enforcement at the following addresses:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
15 Region 10, Office of Regional Counsel
16 1200 Sixth Avenue, Suite 900, ORC-158
17 Seattle, WA 98101

18 Attn: Erin Halbert
19 U.S. Environmental Protection Agency
20 Region 10, Pesticides and Toxics Unit
21 1200 Sixth Avenue, Suite 900, OCE-084
22 Seattle, WA 98101

23 4.5. Should Respondent fail to pay the penalty assessed herein in full by its due date,
24 the entire unpaid balance of penalty and accrued interest shall become immediately due and
25 owing. Should such a failure to pay occur, Respondent may be subject to a civil action under
Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5), to collect any unpaid penalties, together with
interest, handling charges, and nonpayment penalties, as set forth below.

4.6. Should Respondent fail to pay any portion of the penalty assessed herein in full by
its due date, Respondent shall also be responsible for payment of the following amounts:

- 1 a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate
2 established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1)
3 from the effective date of the accompanying Final Order, provided, however, that
4 no interest shall be payable on any portion of the assessed penalty that is paid
5 within 30 days of the effective date of the Final Order.
- 6 b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge
7 of \$15 shall be paid if any portion of the assessed penalty is more than 30 days
8 past due.
- 9 c. Nonpayment Penalty: Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty
10 of 6% per annum shall be paid on any portion of the assessed penalty that is more
11 than 90 days past due, which nonpayment penalty shall be calculated as of the
12 date the underlying penalty first becomes past due.

13 4.7. The penalty described in Paragraph 4.2, above, including any additional costs
14 incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA
15 and shall not be deductible for purposes of federal taxes.

16 4.8. The undersigned representative of Respondent certifies that he is fully authorized
17 to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

18 4.9. Respondent shall bear its own costs and attorneys fees in connection with this
19 matter.

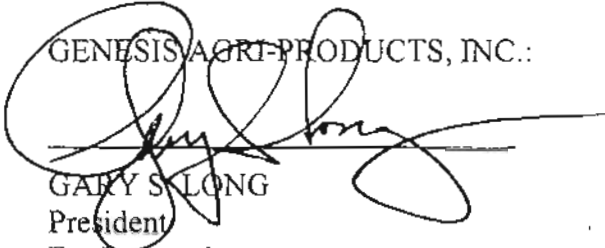
20 4.10. The provisions of this CAFO shall bind Respondent and its agents, servants,
21 employees, successors, and assigns.

1 4.11. The above provisions are STIPULATED AND AGREED upon by Respondent
2 and EPA.

3 DATED:

4 8/5/08

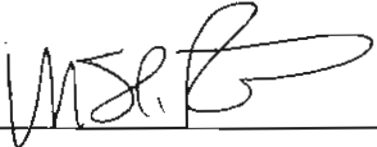
GENESIS AGRI-PRODUCTS, INC.:

5 
6 GARY S. LONG
President
For Respondent

7 DATED:

8 8/14/08

U.S. ENVIRONMENTAL PROTECTION AGENCY:

9 
10 MERCER ST. PETER
Assistant Regional Counsel
For Complainant

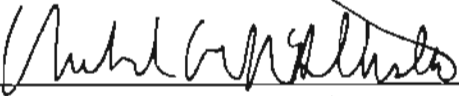
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13 **V. FINAL ORDER**

14 5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by
15 reference into this Final Order. Respondent is hereby ordered to comply with the foregoing
16 terms of the settlement.

17 5.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties
18 pursuant to FIFRA for the violations alleged above. In accordance with 40 C.F.R. § 22.31(a),
19 nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate
20 injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO
21 does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all
22 applicable provisions of FIFRA and regulations promulgated thereunder.
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1 5.3. This Final Order shall become effective upon filing.

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3 SO ORDERED this 14th day of August, 2008.

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5 

6 RICHARD G. McALLISTER
7 Regional Judicial Officer
8 U.S. Environmental Protection Agency
9 Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Genesis Agri-Products, Inc., DOCKET NO.: FIFRA-10-2008-0107** was filed with the Regional Hearing Clerk on August 14, 2008.

On August 14, 2008 the undersigned certifies that a true and correct copy of the document was delivered to:

Mercer St. Peter, Esquire
US Environmental Protection Agency
Suite 900
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on August 14, 2008, to:

Brad Long, Vice President
G.S. Long Co., Inc.
P.O. Box 9783
Yakima, WA 98909

DATED this 14th day of August 2008.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10