



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JAN 26 2010

Certified Mail – Return Receipt Requested

Jay Robbins, Vice President
Robbins Association/Irrigation-Mart, Inc.
300 South Service Road, East
Ruston, Louisiana 71270

RE: Docket No. FIFRA-04-2010-3007(b); Robbins Association/Irrigation-Mart, Inc.

Dear Mr. Robbins:

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. As stated in Section V of the CAFO, the assessed penalty of \$12,750 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

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. Environmental Protection Agency, Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-9085 or Ms. Cheryn Jones at (404) 562-9006. 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,

A handwritten signature in black ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Acting Chief

Pesticides and Toxic Substances Branch

Enclosures

cc: Mr. John Campbell
Mississippi Department of
Agriculture and Commerce
State File No. 011509 1853 01

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION 4
2010 JAN 26 AM 7:26
HEARING CLERK

In the Matter of:)
)
Robbins Association/)
Irrigation-Mart, Inc.)
)
Respondent.)
_____)

Docket No. FIFRA-04-2010-3007(b)

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) (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 Robbins Association/Irrigation-Mart, 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 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Cheryn L. Jones
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9006.

5. Respondent is Robbins Association/Irrigation-Mart, Inc., a Louisiana corporation, located at 300 South Service Road, East, Ruston, Louisiana 71270.
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.

III. Specific Allegations

7. On or about January 15, 2009, an authorized representative of the EPA conducted an inspection at the Port of Gulfport office of Chiquita Brands, 1000 30th Avenue, Gulfport, Mississippi.
8. The inspection revealed Robbins Association/Irrigation-Mart, Inc., ordered approximately one ton (9,979 kg) of wooden tomato stakes treated with a preservative to provide protection against pests including termites and fungi, such as ascomycetes, brown rot, dry rot, and white rot.
9. Respondent ordered the treated wooden tomato stakes from Quality Export in Tegucigalpa, Honduras.

10. The treated wooden tomato stakes were imported into the United States on or about January 14, 2009.
11. Respondent is listed as the consignee of record for the imported treated wooden tomato stakes.
12. The wooden tomato stakes imported into the United States were composed of wood that was one inch thick and one inch wide, and treated with the wood preservative, Chromated Copper Arsenate (CCA).
13. Subsequent to January 1, 2004, the labels on CCA products registered in the United States bear directions for use as a wood preservative treatment on specific categories of forest products, which do not include one-inch-by-one-inch wood under the American Wood Protection Association (AWPA) C16 Standard, Wood Used on Farms – Preservative Treatment by Pressure Processes.
14. EPA's CCA Guidance specifically excludes tomato stakes from treatment with CCA wood preservatives under the AWPA C16 Standard.
15. No other AWPA Standard permits the use of CCA wood preservatives on tomato stakes.
16. When CCA wood preservatives are applied to protect the wood against insect or fungus infestation in accordance with label instructions, the forest product is considered a "treated article" as defined at 40 C.F.R. § 152.25(a) and the product is exempt from the requirements of FIFRA.
17. Treated article is defined in 40 C.F.R. § 152.25(a) to be an article or substance treated with, or containing, a pesticide to protect the article itself, if the pesticide is registered for such use in the United States.

18. The CCA-treated tomato stakes are not eligible for the treated article exemption because the use of CCA on tomato stakes is not authorized by the label on CCA products registered for use in the United States.
19. Since the CCA-treated tomato stakes do not meet the treated article exemption, they are considered pesticides.
20. CCA-treated tomato stakes are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
21. 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.
22. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a) requires pesticides, with certain exceptions not pertinent to this matter, to be registered with the Administrator of EPA, prior to sale or distribution in the United States.
23. Respondent did not register the CCA-treated tomato stakes as a pesticide with the Administrator prior to sale or distribution.
24. As set forth in Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful 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. Pursuant to Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the term “to 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.

26. The importation of the CCA treated stakes into the United States is an offer to sell or distribute an unregistered pesticide by the Respondent, the consignee of record.
27. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least one occasion and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
28. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), states that it is unlawful for a registrant, wholesaler, dealer, retailer, or other distributor to fail to file required reports.
29. The Notice of Arrival of Pesticides and Devices is a report required by FIFRA that must be filed with the Administrator of EPA prior to the arrival of each pesticide shipped into the United States.
30. Respondent imported CCA-treated stakes without filing a Notice of Arrival of Pesticides and Devices with the Administrator of EPA.
31. Respondent violated Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), on at least one occasion is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
32. 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.
33. 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.

34. 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 TWELVE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$12,750) 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.

IV. Consent Agreement

35. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
36. 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.
37. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
38. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
39. 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.
40. 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.

V. Final Order

41. Respondent is assessed a civil penalty of TWELVE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$12,750), which shall be paid within 30 days from the effective date of this CAFO.
42. Respondent shall remit each penalty payment 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
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000.

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

43. 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
Atlanta, Georgia 30303-8960;

Cheryn L. Jones
Pesticides 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.

45. 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 of entry of this CAFO, if the penalty is not paid by the date required. A charge will also 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 principal amount not paid within 90 days of the due date.
46. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
47. This CAFO shall be binding upon the Respondent, its successors and assigns.
48. 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.


Remainder of page intentionally left blank.

VI. Effective Date

49. 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:

Respondent: Robbins Association/ Irrigation- Mart, Inc.
Docket No.: FIFRA 04-2010-3007(b)


By:  (Signature)

Date: 1/4/10

Name: Dennis Robbins (Typed or Printed)

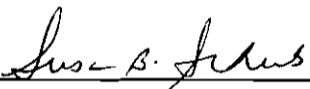
Title: VP/COO (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: 
Kenneth Lapierre, Acting Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

Date: 1/15/2010

APPROVED AND SO ORDERED this 21st day of January 2010.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Robbins Association/Irrigation-Mart, Inc., FIFRA Docket No. FIFRA-04-2010-3007(b), on the parties listed below in the manner indicated.

Cheryn L. Jones
4APT-PTSB
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9006

(Via EPA's internal mail)

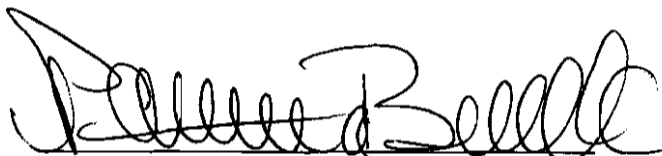
Robert Caplan
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9520

(Via EPA's internal mail)

Jay Robbins, Vice President
Robbins Association/Irrigation-Mart, Inc.
300 South Service Road, East
Ruston, LA 71270

(Via Certified Mail - Return Receipt Requested)

Date: 1-26-10



Patricia A. Bullock, 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: Saundi Wilson on 1/19/10
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Robbins Association/Irrigation Mart Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 12,750
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: E1FRA 04 2010 3007(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program 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 | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |