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BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. FIFRA-10-2012-0007
	)	
GRANGE COOPERATIVE SUPPLY	)	CONSENT AGREEMENT AND
ASSOCIATION,	)	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

1 Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Grange Cooperative Supply Association  
2 ("Respondent") hereby agrees to issuance of, the Final Order contained in Part V of this CAFO.

3  
4 **II. PRELIMINARY STATEMENT**

5 2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.35, issuance of this CAFO  
6 commences this proceeding which will conclude when the Final Order contained in Part V of  
7 this CAFO becomes effective.

8 2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10  
9 ("Complainant") has been delegated the authority to sign consent agreements between EPA and  
10 the party against whom a penalty is proposed to be assessed pursuant to Section 14(a) of FIFRA,  
11 7 U.S.C. § 136l(a).

12 2.3. Part III of this CAFO contains a concise statement of the statutory and factual  
13 basis for the alleged violations of FIFRA.

14  
15 **III. ALLEGATIONS**

16 3.1. Respondent owns and operates a business facility located at 32 Front Street in  
17 Central Point, Oregon. This facility is registered as an EPA pesticide-producing establishment  
18 under EPA Est. No. 073859-OR-001.

19 3.2. Respondent is headquartered at 89 Alder Street in Central Point, Oregon.

20 3.3. Respondent had a repackaging agreement for Super 94 – 440 Spray Oil (EPA  
21 Reg. No. 34704-464) with Loveland Products, Inc., the registrant for this pesticide.

22 3.4. Respondent did not have a repackaging agreement for Super 90 – 440 Spray Oil  
23 (EPA Reg. No. 11656-96) with Western Farm Services (WFS), the registrant for this pesticide.

1           3.5. Information collected during an inspection conducted by Oregon Department of  
2 Agriculture (ODA) on January 14, 2010, showed that Respondent sold and distributed Super  
3 90 – 440 Spray Oil (EPA Reg. No. 11656-96) labeled as Loveland Super 94 – 440 Spray Oil  
4 (EPA Reg. No. 34704-464) on 17 separate occasions in 2008.

5           3.6. Under Section 12 (a) (1) (E) of the Federal Insecticide, Fungicide, and  
6 Rodenticide Act (FIFRA), 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person to distribute or  
7 sell to any person any pesticide which is misbranded.

8           3.7. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), states that a pesticide is  
9 misbranded if (A) the label has a statement, design, or graphic representation that is false or  
10 misleading. Section 2(q)(1)(C) of FIFRA, 7 U.S.C. § 136(q)(1)(C), states that a pesticide is  
11 misbranded if: (C) it is an imitation of, or is offered for sale under the name of, another  
12 pesticide.

13           3.8. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by  
14 distributing or selling pesticides which were misbranded.

15           3.9. Section 7(c) of FIFRA, 7 U.S.C. § 136(e)(c), requires that any producer operating  
16 a registered establishment report what it sold or distributed in the past year.

17           3.10. 40 C.F.R. § 167.85(d) requires that registered pesticide-producing establishments  
18 file a Pesticide Report for Pesticide-Producing Establishments (Report) with EPA each calendar  
19 year, by the following March 1.

20           3.11. Respondent's facility in Central Point, Oregon was a pesticide-producing facility  
21 in 2010.

22           3.12. Respondent submitted the Report for 2010 on April 28, 2011.



1           4.2.    Respondent consents to the assessment of a civil penalty in the amount of  
2 FIFTY-SEVEN THOUSAND FORTY DOLLARS (\$57,040.00). Respondent consents to  
3 issuance of the Final Order set forth in Part V, below, and agrees to pay the total civil penalty set  
4 forth in this paragraph within thirty (30) days of the effective date of this Final Order.

5           4.3.    Payment under this CAFO shall be made by cashier's check or certified check,  
6 payable to the order of "Treasurer, United States of America" and delivered to the following  
7 address:

8                   US Bank - USEPA - Region 10  
9                   Fines and Penalties  
10                   Cincinnati Finance Center  
                  P.O. Box 979077  
                  St. Louis, MO 63197-9000

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

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

15                   Regional Hearing Clerk  
16                   U.S. Environmental Protection Agency Region 10  
17                   Office of Regional Counsel, ORC-158  
18                   1200 Sixth Avenue, Suite 900  
                  Seattle, WA 98101

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

22           4.5.    Should Respondent fail to pay the penalty assessed herein in full by its due date,  
23 the entire unpaid balance of penalty and accrued interest shall become immediately due and  
24 owing. Should such a failure to pay occur, Respondent may be subject to a civil action under

1 Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5), to collect any unpaid penalties, together with  
2 interest, handling charges, and nonpayment penalties, as set forth below.

3 4.6. Should Respondent fail to pay any portion of the penalty assessed herein in full by  
4 its due date, Respondent shall also be responsible for payment of the following amounts:

5 a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate  
6 established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1)  
7 from the effective date of the accompanying Final Order, provided, however, that  
8 no interest shall be payable on any portion of the assessed penalty that is paid  
9 within 30 days of the effective date of the Final Order.

10 b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge  
11 of \$15 shall be paid if any portion of the assessed penalty is more than 30 days  
12 past due.

13 c. Nonpayment Penalty: Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty  
14 of 6% per annum shall be paid on any portion of the assessed penalty that is more  
15 than 90 days past due, which nonpayment penalty shall be calculated as of the  
16 date the underlying penalty first becomes past due.

17 4.7. The penalty described in Paragraph 4.2, above, including any additional costs  
18 incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA  
19 and shall not be deductible for purposes of federal taxes.

20 4.8. The undersigned representative of Respondent certifies that he is fully authorized  
21 to enter into the terms and conditions of this CAFO and to bind Respondent to this document.  
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4.9. Except as described in Paragraph 4.6 of this CAFO, each party shall bear its own costs in bringing or defending this action. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.10. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA.

DATED:  
10/12/2011

FOR RESPONDENT:  
Barry Robino  
BARRY ROBINO  
Chief Executive Officer  
Grange Cooperative Supply Association

DATED:  
10/14/2011

FOR COMPLAINANT:  
Edward J. Kowalski  
EDWARD J. KOWALSKI  
Director, Office of Compliance and Enforcement  
EPA Region 10

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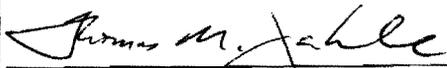
V. FINAL ORDER

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

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

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 20<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
Thomas M. Jahnke  
Regional Judicial Officer  
EPA Region 10

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the Matter of: **Grange Cooperative Supply Association, Docket No. FIFRA-10-2012-0007** was filed with the Regional Hearing Clerk on Oct. 20, 2011.

On Oct. 20, 2011 the undersigned certifies that a true and correct copy of the document was hand delivered to:

Socorro Rodriguez, Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 900, Mail Stop ORC-158  
Seattle, Washington 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 Oct. 20, 2011, to:

Barry Robino  
Chief Executive Officer  
Grange Cooperative Supply Association  
P.O. BOX 3637  
Central Point, Oregon 97502

Doug Schmor  
Counsel  
Brophy, Schmor, Brophy, Paradis, Maddox, Weaver, LLP  
201 W. Main, Suite 5  
Medford, Oregon 97501

Dated: Oct. 20, 2011

  
Carol Kennedy  
Regional Hearing Clerk