



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

OCT 16 2014

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Mr. Amin Pochi, President
Pexco Inc.
55-64 56th Street
Maspeth, New York 11378- 1133

Re: *In Matter of Pexco Inc., Docket No. FIFRA-02-2014-5204*

U.S. Environmental
Protection Agency-Reg 2
2014 OCT 16 AM 9:06
REGIONAL HEARING
CLERK

Dear Mr. Pochi:

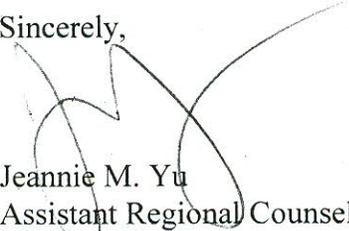
Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator (or her delegate) of the U.S. Environmental Protection Agency, Region 2. The original of this document will be filed with the Regional Hearing Clerk of EPA, Region 2.

Please note that on Paragraph 8, third line on the page 10, the word "seven" is incorrect. The line should read "the other *eleven* payments" to be consistent with Paragraph #6, the payment schedule.

The first payment is due within forty-five (45) days of effective date of the Final Order. Please arrange for payment of this installment and all the other installments according to the instructions given in that Order.

Thank you for your cooperation in working with us to resolve this matter. If you have any questions, please contact me at (212) 637-3205.

Sincerely,


Jeannie M. Yu
Assistant Regional Counsel
Office of Regional Counsel

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. Environmental
Protection Agency-Reg 2
2014 OCT 16 AM 9:06
REGIONAL HEARING
CLERK

In the Matter of

Pexco Inc.,

Respondent.

Proceeding under the Federal
Insecticide, Fungicide and Rodenticide
Act, as amended.

CONSENT AGREEMENT

AND FINAL ORDER

Docket No. FIFRA-02-2014-5204

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is initiated pursuant to Section 12(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. Section 136j(a) (hereinafter referred to as "FIFRA" or the "Act"), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22 (hereinafter "CROP"). Complainant in this proceeding is the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 ("EPA"). Pursuant to Section 22.13(b) of the CROP, where the parties agree to settlement of one or more causes of action before filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by issuance of a

Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. Sections 22.18(b)(2) and 22.18(b)(3). Complainant and Respondent agree that settling this matter by

entering into this CA/FO pursuant to 40 C.F.R. Sections 22.13(b), 22.18(b)(2) and 22.18(b)(3) of the CROP, is an appropriate means of resolving this matter without litigation.

EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Pexco Inc. ("Pexco").
2. Respondent's facility is located at 55-64 56th Street, Maspeth, New York 11378-1133.
3. Respondent is a "person" as that term is defined in FIFRA Section 2(s), 7 U.S.C. Section 136(s), and as such, is subject to FIFRA and the regulations promulgated thereunder.
4. Section 2(u) of FIFRA, 7 U.S.C § 136(u), defines the term "pesticide" to mean any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.
5. Section 2(t) of FIFRA, 7 U.S.C § 136(t), defines the term "pest" to mean any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism.
6. Section 2(gg) of FIFRA, 7 U.S.C § 136(gg), defines the term "to distribute or sell" to mean 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.
7. Respondent imports and distributes pesticides.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed as follows:

1. Respondent shall hereafter maintain compliance with the statutory provisions of FIFRA, as amended, 7 U.S.C. Section 136 et seq., and its implementing regulations, including the legal requirements set forth above in EPA's Findings of Fact and Conclusions of Law.
2. Respondent certifies that it is fully aware of the statutory provisions of FIFRA, as amended, 7 U.S.C. Section 136 et seq., and its implementing regulations.
3. Respondent certifies that as of the effective date of the Consent Agreement, it will not distribute or sell containers of Dettol in the United States bearing labels which make pesticidal claims, unless the product labels are registered with EPA. Respondent also certifies that it will not distribute or sell pesticidal products which are misbranded (i.e. Respondent will ensure that required information on the label is in English).
4. Respondent further certifies that it has implemented measures to ensure that all required paperwork, including but not limited to the Notice of Arrival of Pesticides and Devices (EPA Form 23540-1) will be timely submitted to EPA for all future imports of products that are subject to FIFRA.

5. If in the future EPA believes that any information certified to in paragraphs 3 or 4, above, of this Consent Agreement, is untrue or inaccurate, EPA will so advise the Respondent of its belief and basis, and will afford the Respondent thirty (30) days to submit an explanation or other comments. If, after consideration of Respondent's reply, the Complainant determines that the certification(s) was untrue or inaccurate, Respondent shall be liable to EPA for a stipulated penalty of \$15,000 for each certification that EPA determines was untrue or inaccurate. EPA may also initiate a separate criminal investigation pursuant to 18 U.S.C. Section 1001 et seq. or any other applicable law.

6. Respondent shall pay, by cashier's or certified check, or by electronic fund transfer, the civil penalty in the total amount of **Twenty-One Thousand Dollars (\$21,000)** in twelve (12) quarterly installments of One Thousand Seven Hundred and Fifty Dollars (\$1,750) over a period of three (3) years in settlement of this case. The first payment is due on or before forty-five (45) days after the date of signature of the Final Order at the end of this document. Subsequent payments 2 - 12 are due on the following dates:

Payment 2 - on or before February 5, 2015,

Payment 3 - on or before May 5, 2015,

Payment 4 - on or before August 5, 2015,

Payment 5 - on or before November 5, 2015,

Payment 6 - on or before February 5, 2016,

Payment 7 - on or before May 5, 2016,

Payment 8 - on or before August 5, 2016

Payment 9 - on or before November 5, 2016,

Payment 10 - on or before February 5, 2017,

Payment 11 - on or before May 5, 2017, and

Payment 12 - on or before August 5, 2017.

7. Payments must be received at the address listed in Paragraph 8, below, or the EFT must be received by the Federal Reserve Bank of New York, on or before the respective due date specified above (the date by which payments must be received shall hereafter be referred to as the "due dates").

- a. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection or other appropriate action.
- b. Furthermore, if the payments are not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of its due date. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.

d. Pursuant to 40 C.F.R. Section 22.31(b), the effective date of this Consent Agreement and Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. E.P.A. Region 2, New York, New York 10007.

8. If payments are made by cashier's or certified check, each such payment shall be payable to the "Treasurer, United States of America." All checks shall be identified with the notation thereon listing the following: *IN THE MATTER OF THE PEXCO INC.* and shall bear thereon the Docket Number FIFRA-02-2014-5204.

Each such check shall be mailed to:

United States Environmental Protection Agency
Fines & Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If Respondent chooses to pay by electronic fund transfer ("EFT"), Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment
- b. SWIFT address:
FRNYUS33
33 Liberty Street
New York, N.Y. 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment:
68010727
- d. Federal Reserve Bank of New York ABA routing number: **021030004**
- e. Field Tag 4200 of the Fedwire message should read: "**D 68010727**
Environmental Protection Agency"
- f. Name of Respondent: **Pexco Inc .**
- g. Case Docket Number: **FIFRA- 02-1014-5204**

Such EFT must be received for the first payment on or before 45 calendar days after the date of signature of the Final Order herein and by the deadlines set out in Paragraph 6 for the other seven payments. Whether the payment is made by check or by EFT, Pexco shall promptly thereafter furnish reasonable proof that such payment has been made to:

Jeannie M. Yu, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

And

Karen Maples,
Office of the Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
Room 1631
New York, N.Y. 10007-1866

9. If Respondent fails to make timely payment of any of the installment penalty payments described in Paragraph 6, Respondent shall pay a stipulated penalty of \$500 for each such failure. All stipulated penalty payments shall be made in accordance with the payment instructions in paragraph 8, above.

10. All stipulated penalties are due and payable within forty-five (45) calendar days of Respondent's receipt from EPA of a written demand for payment. Penalties shall accrue as provided above regardless of whether EPA has notified the Respondent of the violation or made a demand for payment, but need only be paid upon demand. Any payment of

stipulated penalties shall be in addition to any other payments required under any other paragraph of this CA/FO, and shall not preclude EPA from initiating a separate criminal investigation pursuant to 18 U.S.C. Section 1001 et seq. or any other applicable law. Failure to pay any stipulated penalty in full will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection and/or appropriate action.

11. The Complainant may, in her sole discretion, reduce or eliminate any stipulated penalty due under this CA/FO if Respondent has, in writing, demonstrated to EPA's satisfaction good cause for such action by EPA. If after review of Respondent's submission, Complainant determines that Respondent has failed to comply with the provisions of this Consent Agreement, and Complainant does not, in her sole discretion, eliminate the stipulated penalties demanded by EPA, Complainant will notify Respondent, in writing, that either the full stipulated penalty or a reduced stipulated penalty must be paid by Respondent. Respondent shall pay the stipulated penalty amount indicated in EPA's notice within thirty (30) calendar days of its receipt of such written notice from EPA (Complainant may also *sua sponte* in its sole discretion reduce or eliminate a stipulated penalty that would otherwise be due.) Failure of Respondent to pay any stipulated penalty demanded by EPA pursuant to this Consent Agreement may result in further action by the EPA.

12. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to the issuance and its terms. Respondent consents to the issuance

of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

13. For the purpose of this proceeding and in the interest of an expeditious resolution of this matter, Respondent admits (a) that EPA has jurisdiction pursuant to Section 14 of FIFRA, 7 U.S.C. Section 1361(a), to commence a civil administrative proceeding for the violations described in the EPA Findings of Fact and Conclusions of Law section above; and (b) admits the facts set out in EPA's Findings of Fact and Conclusions of Law.

14. The civil penalty and any applicable stipulated penalties provided for herein are penalties within the meaning of Title 26, Section 162(f) of the United States Code, 26 U.S.C. § 162(f), and are not a deductible expenditure for purposes of federal law.

15. This Consent Agreement is voluntarily and knowingly being entered into by the Complainant and the Respondent to resolve (conditional upon full payment of the civil penalty herein, and the accuracy of the Respondent's certifications in this proceeding) the civil and administrative claims described in EPA's Findings of Fact and Conclusions of Law in this Consent Agreement. Nothing herein shall be read to preclude EPA or the United States, on behalf of EPA, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

16. Respondent explicitly and knowingly consents to the assessment of the civil penalty and any applicable stipulated penalties as set forth in this Consent Agreement and agrees to pay the civil penalty and any stipulated penalties in accordance with the terms of this Consent Agreement.

17. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on this Consent Agreement, on the Findings of Fact and Conclusions of Law herein, on the terms of the Consent Agreement, or on the accompanying Final Order.

18. The Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order ("CA/FO") in any action brought: a) by the United States, including EPA, to enforce this CA/FO, or b) to enforce a judgment relating to this CA/FO.

19. Respondent waives its right to appeal this Consent Agreement and the accompanying Final Order.

20. This Consent Agreement and any provision herein shall not be construed as an admission of liability in any criminal or civil action or other administrative proceeding, except in an action or proceeding to enforce or seek compliance with this Consent Agreement and its accompanying Final Order.

21. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, Deputy Regional Administrator, or Regional Judicial Officer for Region 2, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

22. This Consent Agreement and Final Order does not relieve Respondent of its obligations to comply with all applicable provisions of federal, State of New York or local law, nor shall it be construed to be a ruling on, or a determination of, any issues related to

any federal, State of New York, or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.

23. Nothing in this Consent Agreement and Final Order shall be construed as a release from any other action under any law and/or regulation administered by EPA.

24. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and Final Order and all terms and conditions set forth in this Consent Agreement and Final Order.

25. The provisions of this Consent Agreement and Final Order shall be binding both upon Respondent, its officers/ officials, agents, authorized representatives and successors or assigns, and upon EPA.

26. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this CA/FO, and may subject Respondent to a civil judicial action by the United States to enforce the provisions in this CA/FO.

27. Each party hereto agrees to bear its own costs and fees in this matter.

28. Respondent consents to service upon itself of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

In the Matter of Pexco Inc., Docket No. FIFRA-02-2014-5204

RESPONDENT: Pexco Inc.

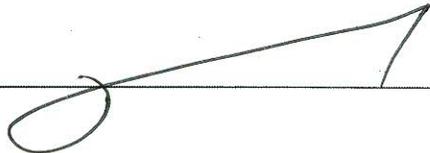
BY: Angin Pochi
(Signature)

NAME: Angin Pochi
(Please Print)

TITLE: President

DATE: 10/3/2014

COMPLAINANT:



Dore F. LaPosta, Director
Division of Enforcement
And Compliance Assistance
U.S. Environmental Protection Agency- Region 2

DATE: October 3, 2014

In the Matter of Pexco Inc., Docket No. FIFRA-02-2014-5204

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement entered into by the parties to this matter, is hereby approved, incorporated herein, and is issued as an Order pursuant to Section 12 of FIFRA, 7 U.S.C. § 136j and 40 C.F.R. § 22.18. The effective date of this order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).



Helen S. Ferrara
Regional Judicial Officer
U.S. Environmental Protection
Agency- Region 2
290 Broadway, 16th Floor
New York, New York 10007

DATE: October 9, 2014

In the Matter of Pexco Inc., Docket No. FIFRA-02-2014-5204

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the below-referenced docket number, in the following manner to the respective addresses below:

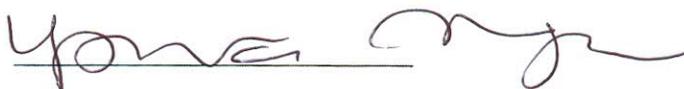
Original and Copy
By Hand Delivery:

Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Copy by Certified Mail
Return Receipt Requested:

Mr. Amin Pochi, President
Pexco Inc.
55-64 56th Street
Maspeth, New York 11378- 1133

Dated: 10/16 2014
New York, New York

A handwritten signature in black ink, appearing to read "Yonah", written over a horizontal line.