



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007

MAR 29 2012
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rosa Corrada Colón
McConnell Valdés LLC
PO Box 364225
270 Ave Muñoz Rivera Avenue
San Juan, Puerto Rico 00936

Re: In the Matter of Superior Angran, Inc.
Docket No. FIFRA-02-2012-5303

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2012 MAR 29 A 10:15
REGIONAL HEARING
CLERK

Dear Ms. Corrada:

Enclosed is a fully executed Consent Agreement and Final Order (CA/FO) that resolves the above referenced matter. Please note that payment of the civil penalty assessed shall be made in accordance with the schedule on pages 3 and 4 of the CA/FO.

Thank you for your cooperation and assistance to bring this matter to a mutually satisfactory resolution.

Sincerely yours,

Karen L. Taylor by CHP

Karen L. Taylor, Esq.
Assistant Regional Counsel
Office of Regional Counsel
Waste and Toxic Substance Branch

Enclosures

cc: Karen Maples, Regional Hearing Clerk
Carmen Delia Alonso, PRDA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

-----X
In the Matter of :
 :
 :
Superior Angran, Inc., : **CONSENT AGREEMENT**
 : **AND FINAL ORDER**
 :
Respondent :
 : Docket No. FIFRA-02-2012-5303
 :
Proceeding under the Federal :
Insecticide, Fungicide, and :
Rodenticide Act, as amended :
-----X

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 MAR 29 A 10:15
REGIONAL HEARING
CLERK

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136l(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 *et seq.* (“FIFRA” or “the Act”). A representative of the Complainant in this proceeding, Dore LaPosta, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency (“EPA”), Region 2, issued a Notice of Opportunity with Respect to Action under FIFRA (“Notice”) to Respondent, Superior Angran, Inc., P.O. Box 361985, San Juan, Puerto Rico 00936-1985 (“SAI” or “Respondent”).

FIFRA Section 12(a)(1)(E), involving the exportation of pesticides bearing English-only labels to countries for which English is not the official language.

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CA/FO”), pursuant to Title 40 of the Code of Federal Regulations (“C.F.R.”) Sections 22.13(b), 22.18(b)(2) and 22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

EPA’s FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On or about June 10, 2009, pursuant to FIFRA Sections 8 and 9, a duly authorized representative of the EPA and the Puerto Rico Department of Agriculture conducted an inspection of and at Respondent’s establishment located in Guaynabo, Puerto Rico.
2. Based upon a review of documentary samples collected during the inspection, the EPA found that Respondent repackaged Entech Fog-10 (EPA Reg. Number 40391-10) from 55 gallon drums into smaller containers at its Guaynabo establishment.
3. By repackaging Entech Fog-10, Respondent was a producer of a pesticide at its Guaynabo establishment which was not registered with the EPA for the purpose of pesticide production, in violation of FIFRA Section 12(a)(2)(L).
4. Based upon a review of documentary samples collected during the inspection, the EPA found that Respondent exported pesticides bearing English-only labels to countries for which English is not the official language on two separate occasions, in violation of FIFRA Section 12(a)(1)(E).

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, and accepted by Respondent that it shall hereafter the date of execution of this Consent Agreement comply with the following terms:

1. For purposes of this proceeding, Respondent: (a) admits that EPA has jurisdiction under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), to commence a civil administrative proceeding for the violations alleged in EPA's Findings of Fact and Conclusions of Law section above; and (b) neither admits nor denies specific factual allegations in the Notice; and (c) neither admits nor denies EPA's Findings of Fact and Conclusions of Law in this Consent Agreement.

2. Respondent shall comply with the applicable requirements of FIFRA at its Guaynabo establishment.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Seventeen Thousand Two Hundred Dollars (\$17,200.00)**, payable to the **"Treasurer, United States of America."** The total sum shall be divided into two (2) payments: the first payment in the amount of Ten Thousand Dollars (\$10,000) and the second payment in the amount of Seven Thousand Two Hundred Dollars (\$7,200). Each check shall be identified with a notation of the name and docket number of this case as follows:

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The check shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall also send copies of this payment to each of the following:

Karen L. Taylor, Esq.

290 Broadway, 16th Floor
New York, NY 10007-1866

and

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

The first payment must be received at the above address on or before 45 calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO. The second payment must be received at the above address on or before 105 calendar days after the date of the signature of the Final Order at the end of this document. (Each date by which each payment must be received shall hereinafter be referred to as the “due date”.)

- 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.
- b. Furthermore, if payment is 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 the due date.
- d. 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.

e. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).

4. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

5. This Consent Agreement and Final Order is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein and upon the accuracy of Respondent's representations in this proceeding) the civil and administrative claims alleged in the Notice in this matter. Nothing herein shall be read to preclude EPA or the United States, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its 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.

6. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

7. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Notice or on any of the allegations therein asserted, on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

9. The provisions of this CA/FO shall be binding upon Respondent, its agents, servants, authorized representatives and successors or assigns.

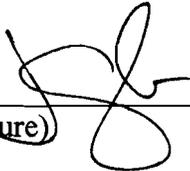
10. Respondent waives any right it may have pursuant to 40 C.F.R. Section 22.8 to be present during discussion with or to be served with and to reply to any memorandum or communication addressed to the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to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

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

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

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RESPONDENT: **Superior Angran, Inc.**

BY: _____
(Signature) 

NAME: Jacqueline Anquilo
(PLEASE PRINT)

TITLE: Vice-President

DATE: 3/13/2012

COMPLAINANT:



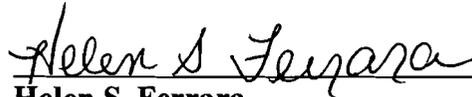
Dore LaPosta, Director
Division of Environmental Compliance and Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, NY 10007-1866

DATE: MARCH 21, 2012

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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 issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.



Helen S. Ferrara

Regional Judicial Officer

U.S. Environmental Protection Agency - Region 2

290 Broadway

New York, NY 10007-1866

DATE: March 26, 2012

In the Matter of Superior Angran, Inc.
Docket No. FIFRA-02-2012-5303

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 above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy
by Hand:

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

Certified Mail
Return Receipt Requested

Rosa Corrada Colón
Counsel for Superior Angran, Inc.
McConnell Valdés LLC
PO Box 364225
270 Muñoz Rivera Avenue
San Juan, Puerto Rico 00936

Dated: MAR 29 2012
New York, NY

Suitedred N. Baez