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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. FIFRA-10-2015-0121
)	
PARAMOUNT PEST CONTROL, INC.,)	CONSENT AGREEMENT
)	
Lewiston, Idaho,)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. 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. 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 issues, and Paramount Pest Control, Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

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

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of FIFRA together with the specific provisions of FIFRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Under Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), it is unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling.

3.2. Under Section 2(s) of FIFRA, 7 U.S.C. § 136(s), "person" means "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not."

3.3. Under Section 2(u) of FIFRA, 7 U.S.C. § 136(u), "pesticide" includes, *inter alia*, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

3.4. Under Section 2(ee) of FIFRA, 7 U.S.C. § 136(ee), “to use any registered pesticide in a manner inconsistent with its labeling” means “to use any registered pesticide in a manner not permitted by the labeling,” subject to limited exceptions.

3.5. Under Section 2(p)(2) of FIFRA, 7 U.S.C. § 136(p)(2), “labeling” includes, *inter alia*, “all labels and all other written printed, or graphic matter” “accompanying the pesticide or device at any time.”

3.6. Under Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), “label” means “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.”

3.7. Respondent is a corporation and is therefore a “person” as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

3.8. “Bifenthrin I/T 7.9F,” EPA Registration Number (EPA Reg. No.) 66222-190, is a “pesticide” as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

3.9. Respondent owns and operates a business facility located at 131 Snake River Avenue in Lewiston, Idaho.

3.10. The Umpqua Bank in Kooskia, Idaho is located at 1 Main Street in Kooskia, Idaho.

3.11. On May 2, 2014, Respondent applied Bifenthrin I/T 7.9F (EPA Reg. No. 66222-190) outside the vertical exterior wall of the Umpqua Bank in Kooskia, Idaho, which abutted a sidewalk that drained into the street.

3.12. The labeling on Bifenthrin I/T 7.9F states: “Applications to vertical exterior surfaces (e.g., foundations) are permitted to a maximum height of 3 feet from ground level.

Sections of vertical exterior surfaces that abut non-porous horizontal surfaces can only be treated if either 1) these sections are protected from rainfall and spray from sprinklers or 2) they do not drain into a sewer, storm drain, or curbside gutter. (e.g., not to sections that abut driveways or sidewalks that drain into streets).”

3.13. During a FIFRA compliance inspection on May 12, 2014, an EPA inspector took a vegetation sample from the sidewalk adjacent to the north wall of the Umpqua Bank.

3.14. Test results by the Idaho Food Quality Assurance Laboratory of the vegetation sample found 94 parts per million (ppm) of Bifenthrin in the sample.

3.15. Bifenthrin is the active ingredient of Bifenthrin I/T 7.9F.

3.16. Respondent violated Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), by applying Bifenthrin I/T 7.9F in a manner inconsistent with its labeling.

3.17. As described in Section 14(a)(2) of FIFRA, 7 U.S.C. § 136l(a)(2), Respondent is an applicator not included in Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), who applies registered pesticides only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served.

3.18. Pursuant to Section 14(a)(2) of FIFRA, 7 U.S.C. § 136l(a)(2), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$750 for a first-time violation, per product, involving pesticides that are non-classified or classified as General Use.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), EPA has taken into account the appropriateness of such penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. After considering all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$400.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

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

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
smith.candace@epa.gov

Derrick Terada
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
terada.derrick@epa.gov

4.7. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

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

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

4.9. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.12. Respondent expressly waives any right to contest the allegations contained in the Consent Agreement and to appeal the Final Order.

4.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.14. Respondent consents to the issuance of any specified compliance or corrective action order, and to any stated permit action.

4.15. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

7/13/15

FOR RESPONDENT:

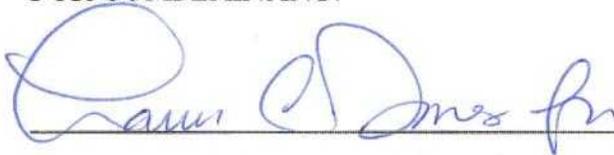


DENNIS SPICKLER, Registered Agent
Paramount Pest Control, Inc.

DATED:

8-5-15

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. FIFRA-10-2015-0121
)	
PARAMOUNT PEST CONTROL, INC.,)	FINAL ORDER
)	
Lewiston, Idaho,)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under FIFRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order 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 Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of FIFRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 11th day of August, 2015.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Paramount Pest Control, Docket No.: FIFRA-10-2015-0121**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

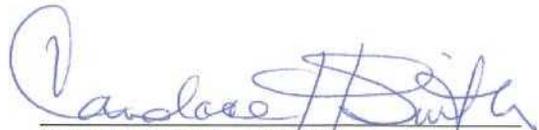
The undersigned certifies that a true and correct copy of the document was delivered to:

Grace Hwang, Esquire
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
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 to:

Dennis Spickler
Registered Agent
Paramount Pest Control, Inc.
131 Snake River Avenue
Lewiston, Idaho 83501

DATED this 14th day of August, 2015.


CANDACE H. SMITH
Regional Hearing Clerk
EPA Region 10

