



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 23 2018

REPLY TO THE ATTENTION OF:

LC-17J

VIA EMAIL

Mr. Albert Ancel
President
Rexford Rand Corporation
Post Office Box 9005
Michigan City, Indiana 46361

aancel@comcast.net

Re: Consent Agreement and Final Order - In the Matter of: Rexford Rand Corporation
FIFRA-05-2018-0042

Mr. Ancel:

Enclosed, please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above-referenced matter. This document was filed on August 23, 2018 with our Regional Hearing Clerk.

The civil penalty in the amount of \$10,000 is to be paid in the manner described in paragraphs 98-99. Please be certain that your company's name and the docket number of this case are written on both the transmittal letter and the check, or in the comments field if you are paying by electronic funds transfer. Due within 30 calendar days of the filing date is \$2,500.00, \$2,525.00 within 120 days of the filing date, \$2,529.17 within 210 days of the filing date, and \$2,520.83 within 300 days of the filing date.

Thank you for your cooperation to resolve this matter. Please do not hesitate to contact me if you have any questions regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Abigail Wesley".

Abigail Wesley
Pesticides and Toxics Compliance Section

Enclosure

cc: Robert H. Smith, C-14J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Rexford Rand Corporation
Michigan City, Indiana

Respondent.



Docket No. FIFRA-05-2018-0042

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. The Respondent is Rexford Rand Corporation (Rexford Rand), a corporation doing business in the State of Indiana.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that as of the date of its execution of this CAFO, it has taken appropriate actions to address and correct the alleged FIFRA violation set forth in this CAFO, and to the best of its knowledge, it is in compliance with the requirements of FIFRA, 7 U.S.C. §§ 136 to 136y.

Statutory and Regulatory Background

10. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

11. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” as “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.” Also see 40 C.F.R. §152.3.

12. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” Also see 40 C.F.R. §152.3.

13. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” 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 which the Administrator [of the EPA] declares to be a pest under Section 25(c)(1) of FIFRA. Also see 40 C.F.R. §152.5.

14. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines the term “producer” as a person who manufactures, prepares, compounds, propagates, or processes any pesticide or active ingredient used in producing a pesticide.

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

16. Section 2(p)(2) of FIFRA, 7 U.S.C. § 136(p)(2), defines “labeling” as all labels and all other written, printed, or graphic matter accompanying the pesticide or device at any time or to which reference is made on the label or in literature accompanying the pesticide or device.

17. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), states that no person in any State may distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

18. 40 C.F.R. § 152.132 states that a registrant may distribute or sell his registered product under another person’s name and address instead of (or in addition to) his own. Such distribution and sale is termed “supplemental distribution” and the product is referred to as a “distributor product.”

19. 40 C.F.R. § 152.132 states that supplemental distribution is permitted upon notification to the Agency if all of the following conditions are met: (a) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor; the distributor’s company number, the additional brand name(s) to be used, and the registration

number of the registered product, (b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer who produces, packages, and labels the registered product, (c) The distributor product is not repackaged (remains in the producer's unopened containers), (d) The label of the distributor product is the same as that of the registered product, except that the product name of the distributor product may be different, the name and address of the distributor may appear instead of that of the registrant, the registration number of the registered product must be followed by a dash, followed by the distributor's company number, the establishment number must be that of the final establishment at which the product was produced, and specific claims may be deleted, provided that no other changes are necessary, and (e) Voluntary cancellation of a product applies to the registered product and all distributor products distributed or sold under that registration number.

20. 40 C.F.R. § 152.132 also specifies that a distributor is considered an agent of the registrant for all intents and purposes under FIFRA, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product.

21. Section 3(c)(1) of FIFRA, 7 U.S.C. § 136a(c)(1), states, in pertinent part, "each applicant for registration of a pesticide shall file with the Administrator a statement which includes... (C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use."

22. Section 19 of FIFRA, 7 U.S.C. § 136q(a)(1), states, in pertinent part, "[t]he Administrator may require under [S]ection [3 or 6 of FIFRA] that... (B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide."

23. 40 C.F.R. § 156.10(a)(1) states that every pesticide product shall bear a label containing the information specified by FIFRA and the regulations in 40 C.F.R. Part 156.

24. 40 C.F.R. § 156.10(a)(1)(viii) states that the contents of a label must show clearly and prominently, in pertinent part, the direction for use as prescribed in 40 C.F.R. § 156.10(i).

25. The regulation at 40 C.F.R. § 156.10(i)(2)(ix), provides, in pertinent part, that the contents of the directions for use shall include the following under “Directions for Use”: specific directions concerning the storage, residue removal and disposal of the pesticide and its container, in accordance with subpart H of 40 C.F.R. Part 156 for Container Labeling. These instructions must be grouped and appear under the heading “Storage and Disposal.”

26. The regulation at 40 C.F.R. § 156.140 provides, in pertinent part, that for nonrefillable containers, the following statements must be placed on the label or container of a pesticide product: a statement identifying the container as a “Nonrefillable container”, one of the prescribed reuse statements, and one of the prescribed recycling or reconditioning statements.

27. 40 C.F.R. § 156.70 states that each product label is required to bear hazard and precautionary statements for humans and domestic animals.

28. 40 C.F.R. § 156.70(b) states, in pertinent part, “When data or other information show that an acute hazard may exist to humans or domestic animals, the label must bear precautionary statements describing the particular hazard, the route(s) of exposure and the precautions to be taken to avoid accident, injury or toxic effect or to mitigate the effect.”

29. Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), states no person shall produce a pesticide subject to FIFRA or an active ingredient used in producing a pesticide subject to FIFRA in any State unless the establishment in which it is produced is registered with EPA. See also 40 C.F.R. § 167.20.

30. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires producers operating an establishment to inform the Administrator of the types and amounts of pesticides produced on an annual basis, as required by 40 C.F.R. § 167.85.

31. 40 C.F.R. §§ 167.85(a) and (b) add requirements for reporting: devices produced at registered pesticide-producing establishments; the name and address of the establishment; and an estimate of the amount of pesticide product to be produced during the current year.

32. 40 C.F.R. § 167.85(c) requires the producer to obtain, complete and submit annually a pesticide reporting form supplied by EPA. The applicable form, "EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments (hereafter referred to as "Report") requires, inter alia, identification of the establishment; identification of the company; authorized signature and signature date; and specific pesticide production information. In addition, the "Instructions for Completing EPA Form 3540-16 Pesticide Report for Pesticide-Producing and Device-Producing Establishments" provides additional detail regarding information required on the Form.

33. 40 C.F.R. § 167.85(d) requires the pesticide-production reports to be filed annually on or before March 1, even if the producer has not produced any pesticidal products for that reporting year.

34. Section 8(a) of FIFRA, 7 U.S.C. § 136f(a), states that the Administrator may prescribe regulations requiring producers, registrants, and applicants for registration to maintain records with respect to their operations and the pesticides and devices produced as the Administrator determines are necessary for the effective enforcement of FIFRA.

35. 40 C.F.R. § 169.2 states, in pertinent part, that "all producers of pesticides, devices, or active ingredients used in producing pesticides subject to this Act, including pesticides

produced pursuant to an experimental use permit and pesticide, devices, and pesticide active ingredients produced for export, shall maintain the following records: (a) Records showing the product name, EPA Registration Number, Experimental Permit Number if the pesticide is produced under an Experimental Use Permit, amounts per batch and batch identification (numbers, letters, etc.) of all pesticides produced, [and] . . . (d) Records showing the following information regarding the shipment of all pesticides, devices, and active ingredients used in producing pesticides: (1) Brand name of pesticide or device, or the common or chemical name of the pesticide active ingredient; (2) Name and address of consignee; (3) Where the pesticide is produced pursuant to an experimental use permit (FIFRA section 5), a special exemption (section 18), or a special local need (section 24), the information required under these sections and any regulations promulgated thereto regarding the distribution of such pesticides; (4) Name of originating carrier; (5) Date shipped or delivered for shipment; and (6) Quantities shipped or delivered for shipment.”

36. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), defines a pesticide as “misbranded” if the labeling does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if compiled with, together with any requirements imposed under section 3(d) of FIFRA, are adequate to protect health and the environment.

37. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G), defines a pesticide as “misbranded” if its label does not contain a warning or caution statement which may be necessary and if compiled with, together with any requirement imposed under Section 3(d) of FIFRA, is adequate to protect health and the environment.

38. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states it is unlawful for any

person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

39. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states it is unlawful for any person in any state to distribute or sell to any person any pesticide which is adulterated or misbranded.

40. Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i) states that it is unlawful for any person to refuse to prepare, maintain, or submit any records required by or under section 5, 7, 8, 11 or 19 of FIFRA.

41. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), states it is unlawful for any person who is a producer to violate any of the provisions of Section 7 of FIFRA.

42. Section 12(a)(2)(S) of FIFRA, Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), states it is unlawful for any person to violate any regulation issued under section 3(a) or 19.

43. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), provides that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by EPA of not more than \$5,000 for each offense. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015), amending 28 U.S.C. § 2461 note, and their implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$18,750 for each offense that occurred after November 2, 2015 and for which penalties are assessed on or after August 1, 2016 but before January 15, 2017, to \$19,057 for each offense that occurred after November 2, 2015 and for which penalties are assessed on or after January 15, 2017 but before January 15, 2018, and to \$19,446 for each offense that occurred after November 2, 2015 and for

which penalties are assessed on or after January 15, 2018.

Allegations

44. Respondent is a “person” as that term is defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

45. The Respondent is a “producer” as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w).

46. At all times relevant to the CAFO, Rexford Rand owned or operated a place of business located at 2123 E US Highway 12, Michigan City, Indiana (facility).

47. On or about April 28, 2015, an inspector employed with the Office of Indiana State Chemist and Seed Commissioner (OISC) conducted an inspection at the Rexford Rand facility.

48. On or about July 28, 2016, an inspector employed with the EPA conducted a follow-up inspection at the Rexford Rand facility.

49. At all times relevant to this CAFO, Respondent’s facility was an EPA registered establishment, where pesticides were produced, identified by EPA Establishment Number (EPA Est. No.) 050034-IN-001.

Isosept, Deosept & Steritex, identified by EPA Reg. No. 47371-131-50034

50. During the inspections, the inspectors collected labeling, production and receiving records for **Isosept, Deosept** and **Steritex**, identified on each respective label as EPA Registration Number (EPA Reg. No.) 47371-131-50034.

51. **Isosept, Deosept** and **Steritex**, identified as EPA Registration Number (EPA Reg. No.) 47371-131-50034, is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) because it is intended for preventing, destroying, repelling, or mitigating certain pests/

52. At all times relevant to this CAFO, **Isosept**, **Deosept** and **Steritex**, identified as EPA Registration Number (EPA Reg. No.) 47371-131-50034, was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

53. During calendar years 2015 and 2016, Respondent distributed or sold **Isosept**, **Deosept** and **Steritex**, identified by EPA Reg. No. 47371-131-50034, on at least 13 separate occasions.

Healthy Habit, identified by EPA Reg. No. 1839-83-50034

54. During the inspections, the inspectors collected production records for **Healthy Habit**, identified as EPA Reg. No. 1839-83-50034.

55. On or about August 29, 2016, Respondent submitted a Report for pesticide production for the Rexford Rand facility for the 2013 calendar year, which identified production and distribution of a product identified as **Healthy Habit**, EPA Reg. No. 1839-83-50034.

56. **Healthy Habit**, identified by EPA Reg. No. 1839-83-50034, is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) because it is intended for preventing, destroying, repelling, or mitigating certain pests.

57. At all times relevant to this CAFO, **Healthy Habit**, identified as EPA Reg. No. 1839-83 was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

58. During calendar year 2013, Respondent distributed or sold **Healthy Habit**, identified by EPA Reg. No. 1839-83-50034, on at least one occasion.

Sanagen, EPA Reg. No. 6836-108-50034

59. During the inspection, the inspector collected labeling, receiving and distribution records for **Sanagen**, EPA Reg. No. 6836-108-50034.

60. **Sanagen**, EPA Reg. No. 6836-108-50034, is a “pesticide” as that term is defined in

Section 2(u) of FIFRA, 7 U.S.C. § 136(u) because it is intended for preventing, destroying, repelling, or mitigating certain pests.

61. The labels for **Sanagen**, EPA Reg. No. 6836-108-50034, collected during the inspections, at all times relevant to this CAFO, were misbranded, as they did not include all the required first aid, hazard and precautionary, directions for use, and storage and disposal statements.

62. During calendar years 2015 and 2016, Respondent distributed or sold **Sanagen**, EPA Reg. No. 6836-108-50034, on at least five separate occasions.

Aqua Foam Plus, EPA Reg. No. 6836-86-50034

63. During the inspection, the inspector collected labeling, receiving and distribution records for **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034.

64. **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) because it is intended for preventing, destroying, repelling, or mitigating certain pests.

65. The labels for **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, collected during the inspections, at all times relevant to this CAFO, were misbranded, as they did not include all the required first aid, hazard and precautionary, directions for use, and storage and disposal statements.

66. During calendar year 2015, Respondent distributed or sold **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, on at least one separate occasion.

Annual Pesticide Production Reports, for calendar years 2013-2016

67. Respondent’s annual report for EPA Est. No. 050034-IN-001 for calendar year 2013, submitted to EPA on or about April 28, 2014, and amended on August 29, 2016, was

submitted to EPA after the March 1, 2014, deadline required by 40 C.F.R. § 167.85(d).

68. Respondent's annual report for EPA Est. No. 050034-IN-001 for calendar year 2014, submitted to EPA on or about August 29, 2016, was submitted to EPA after the March 1, 2015 deadline required by 40 C.F.R. § 167.85(d).

69. Respondent's annual report for EPA Est. No. 050034-IN-001 for calendar year 2015, submitted to EPA on or about August 29, 2016, was submitted to EPA after the March 1, 2016 deadline and contained minor omissions, including missing the absence of an original signature, required by 40 C.F.R. § 167.85(c) and (d).

70. Respondent's annual report for EPA Est. No. 050034-IN-001 for calendar year 2016, submitted to EPA on or about August 29, 2016, was submitted to EPA after the March 1, 2017 deadline required by 40 C.F.R. § 167.85(d).

Counts 1 – 13

71. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

72. During calendar years 2015 and 2016, Respondent distributed or sold the unregistered pesticide, **Isosept**, **Deosept** and **Steritex**, identified by EPA Reg. No. 47371-131-50034, on at least 13 separate occasions.

73. Respondent's distribution or sale of the unregistered pesticides **Isosept**, **Deosept** and **Steritex**, identified by EPA Reg. No. 47371-131-50034, on a least 13 separate occasions, constitutes 13 unlawful acts pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Count 14

74. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

75. During calendar year 2013, Respondent distributed or sold the unregistered pesticide **Healthy Habit**, identified as EPA Reg. No. 1839-83-50034, on at least one occasion.

76. Respondent's distribution or sale of the unregistered pesticide **Healthy Habit**, identified as EPA Reg. No. 1839-83-50034, on at least one occasion, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Counts 15 – 19

77. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

78. During calendar years 2015 and 2016, Respondent distributed or sold the misbranded pesticide **Sanagen**, EPA Reg. No. 6836-108-50034, on at least five separate occasions.

79. Respondent's distribution or sale of the misbranded pesticide, **Sanagen**, EPA Reg. No. 6836-108-50034, on at least five separate occasions, constitutes five unlawful acts pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Counts 20 – 24

80. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

81. During calendar years 2015 and 2016, Respondent distributed or sold the pesticide **Sanagen**, EPA Reg. No. 6836-108-50034, with a label that did not contain the required storage and disposal statements and that did not identify the container type as refillable or nonrefillable, on at least five separate occasions.

82. Respondent's distribution or sale of pesticide, **Sanagen**, EPA Reg. No. 6836-108-50034, on at least five separate occasions, with a label that did not contain the required storage

and disposal statements and that did not identify the container type as refillable or nonrefillable, constitutes five unlawful acts pursuant to Section 12(a)(2)(S) of FIFRA, 7 U.S.C.

§ 136j(a)(2)(S).

Count 25

83. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

84. During calendar year 2015, Respondent distributed or sold the misbranded pesticide **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, on at least one occasion.

85. Respondent's distribution or sale of the misbranded pesticide **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, on at least one occasion, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Count 26

86. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

87. During calendar years 2015, Respondent distributed or sold the pesticide **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, with a label that did not contain the required storage and disposal statements and that did not identify the container type as refillable or nonrefillable, on at least five separate occasions.

88. Respondent's distribution or sale of pesticide, **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, on at least one occasion, with a label that did not contain the required storage and disposal statements and that did not identify the container type as refillable or nonrefillable, constitutes an unlawful act pursuant to Section 12(a)(2)(S) of FIFRA, 7 U.S.C.

§ 136j(a)(2)(S).

Count 27

89. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

90. Respondent's production records for **Sanagen**, EPA Reg. No. 6836-108-50034, and **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, failed to contain the EPA Reg. No. assigned to **Sanagen**, and **Aqua Foam Plus**.

91. Respondent's failure to maintain records for **Sanagen**, EPA Reg. No. 6836-108-50034, and **Aqua Foam Plus**, EPA Reg. No. 6836-86-50034, in accordance with Section 8(a) of FIFRA, 7 U.S.C. § 136f(a), constitutes an unlawful act pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i).

Counts 28 – 31

92. Complainant incorporates paragraphs 1-70 of this CAFO, as if set forth in this paragraph.

93. For calendar years 2013 through 2016, Respondent submitted pesticide production reports after the deadline for submission, as required by 40 C.F.R. § 167.85(d) and Section 7 of FIFRA, 7 U.S.C. § 136e

94. For calendar year 2015, Respondent submitted a pesticide production report that contained minor omissions, including the absence of an original signature, as required by 40 C.F.R. § 167.85(c) and Section 7 of FIFRA, 7 U.S.C. § 136e.

95. Respondent's failure to submit complete, accurate and timely pesticide production reports constitutes four separate unlawful acts pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

Civil Penalty and Other Relief

96. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

97. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), specifically including the Respondent's size of business, ability to continue in business, and gravity of the violation, and EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009, Complainant has determined the appropriate penalty to settle this action is \$10,000

98. Respondent must pay a \$10,000 civil penalty in four installments with interest as follows: \$2,500.00 within 30 days of the effective date of this CAFO; \$2,525.00 within 120 days of the effective date of this CAFO; \$2,529.17 within 210 days of the effective date of this CAFO; and \$2,520.83 within 300 days of the effective date of this CAFO:

<u>Installment</u>	<u>Due By</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest</u>
Payment #1	Within 30 days of effective date of CAFO	\$2,500.00	\$2,500.00	\$0
Payment #2	Within 120 days of effective date of CAFO	\$2,525.00	\$2,500.00	\$25.00
Payment #3	Within 210 days of effective date of CAFO	\$2,529.17	\$2,500.00	\$29.17
Payment #4	Within 300 days of effective date of CAFO	\$2,520.83	\$2,500.00	\$20.83

Respondent must pay the installments by sending cashier's or certified checks, payable to "Treasurer, United States of America," by regular U.S. Postal Service mail to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

If sending the payments by express mail, then by sending a cashier's or certified checks, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

In the comment or description field, include "Rexford Rand Corporation" and the docket number of this CAFO.

To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

99. Respondent must send a notice of each installment payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Abigail Wesley (LC-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Robert H. Smith (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

100. This civil penalty is not deductible for federal tax purposes.

101. If Respondent does not pay any installment payment as set forth in paragraph 98, above, the entire balance of the civil penalty shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may refer the delinquency to the Attorney General to recover any unpaid penalty with interest by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

102. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

103. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: smith.roberth@epa.gov (for Complainant), and aancel@comcast.net (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. §§ 22.5 and 22.6.

104. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO.

105. This CAFO does not 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.

106. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

107. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

108. The terms of this CAFO bind Respondent, its successors, and assigns.

109. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

110. Each party agrees to bear its own costs and attorney's fees, in this action.

111. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Rexford Rand Corporation
Docket No. FIFRA-05-2018-0042

August 9, 2018
Date

Albert Ancel
Albert Ancel
President
Rexford Rand Corporation

United States Environmental Protection Agency, Complainant

8/17/2018
Date

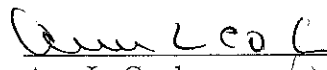
Michael D Harris 7-11-18
Tinka G. Hyde
Director
Land and Chemicals Division

In the Matter of:
Rexford Rand Corporation
Docket No. FIFRA-05-2018-0042

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

August 21, 2018
Date



Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Rexford Rand Corporation

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, Docket Number: FIFRA-05-2018-0042, which was filed on

August 23, 2018, 2018, in the following manner to the following addressees:

Copy by E-mail to
Respondent:

Mr. Albert Ancel
aancel@comcast.net

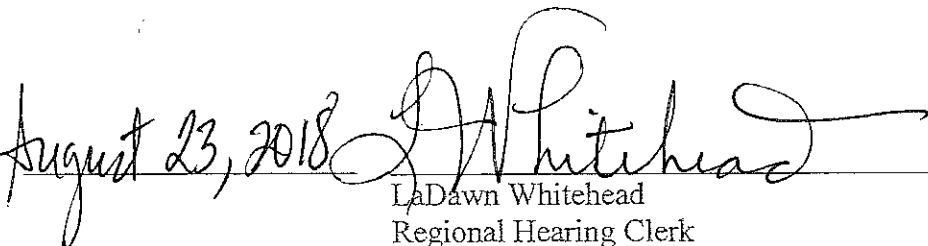
Copy by E-mail to
Attorney for Complainant:

Ms. Robert H. Smith
smith.roberth@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ms. Ann L. Coyle
coyle.ann@epa.gov

Dated: August 23, 2018



LaDawn Whitehead
Regional Hearing Clerk
United States Environmental Protection Agency
Region 5