



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 9 1 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kerry White
President
K.P. White & Company, LLC
7625 Marechal Avenue
Port Richey, Florida 34668

Re: Docket No. FIFRA-04-2010-3043(b)
K.P. White & Company, LLC

Dear Mr. White:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$200.00 is due within 30 days from the effective date. Section V also provides information on when the remaining payments are due. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

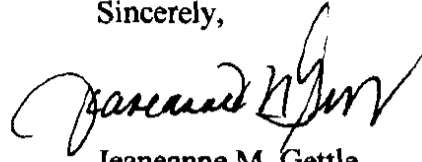
Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. Environmental Protection Agency, Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Ms. Melba Table at (404) 562-9086.

Internet Address (URL) • <http://www.epa.gov>

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Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,



Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Mr. Craig Bryant, FLDACS
State File No. 108-018-2107

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

IN THE MATTER OF:)
)
K.P. White & Company, LLC)
)
Respondent.)
_____)

Docket No.: FIFRA-04-2010-3043(b)

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ENVIRONMENTAL PROTECTION AGENCY

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is K.P. White & Company, LLC.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

K.P. White & Company, LLC
Docket No. FIFRA-04-2010-3043(b)

II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994.
4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Melba Table
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.

5. Respondent is K.P. White & Company, LLC a Florida corporation, located at 7625 Marechal Avenue, Port Richey, Florida 34668.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

III. Specific Allegations

7. On or about September 15, 2008, an authorized representative of the EPA conducted an inspection at K.P. White & Company, LLC, 7625 Marechal Avenue, Port Richey, Florida 34668.
8. During the inspection, "Formula Prevent," "Formula Repel" and "Formula Infiltrate" were identified as being sold and distributed by KP White & Company, LLC.
9. The label and webpage for "Formula Repel" made pesticidal claims as follows:
 - The label stated "An all natural biochemical formulation designed to minimize crop damage that may be caused by insects. A special complex formula of

fructose and complex carbohydrates with naturally occurring sugars that will increase a plants energy level are able to set up a protective barrier enabling the plant to block parasitic insects without upsetting beneficial insects.” The name of the product “Repel” is also a pesticidal claim.

- The webpage stated “Formula Repel is designed to operate on a three tiered system to make the stressed plant invisible to the insect, kill those insects already there with hot pepper extracts, and infuse instant energy to remove aura and pheromone that attract the insect in the first place.”

10. The label and webpage for “Formula Infiltrate” made pesticidal claims as follows:

- The label stated “Spray when whitefly is active.”
- The webpage stated “For whitefly and aphid control...” “Formula Infiltrator is a ... agent that gives superior coverage in field and greenhouse applications where whitefly and aphid infestations are normally difficult to control” and “Special attention should be taken to ensure complete wetting of underside foliage where the whitefly is most active.”

11. The webpage for “Formula Infiltrate” made pesticidal claims that stated “For treatment of plant fungus with grapefruit seed extract” and “it works to build the plant defense system against harmful fungus, mold and bacteria and greatly reduces the plants vulnerability to them.” “Grapefruit seed extract.”

12. “Formula Prevent,” “Formula Repel,” and “Formula Infiltrate” are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

13. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), 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 (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

14. Respondent “distributes or sells” pesticides. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
15. At the time of the inspection, “Formula Prevent,” “Formula Repel,” and “Formula Infiltrate” were not registered as pesticides with the EPA.
16. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person in any state to distribute or sell any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
16. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least three occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
17. At the time of the inspections, Respondent produced the pesticides “Formula Prevent,” “Formula Repel,” and “Formula Infiltrate” in an establishment that was not registered with the Administrator of EPA as a pesticide producing establishment.
18. Under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), it is unlawful to produce a pesticide in any State unless the establishment is registered with the Administrator of EPA as set forth in Section 7 of FIFRA, 7 U.S.C. § 136e.
19. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L),

effect on Respondent's ability to continue in business, and the gravity of the violation. Based on the financial information submitted by the Respondent and factor set forth consideration in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of TWO HUNDRED DOLLARS (\$200) against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

22. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
23. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
24. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
25. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
26. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United

States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation, or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

27. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

V. Final Order

28. Respondent is assessed a civil penalty of TWO HUNDRED DOLLARS (\$200), which shall be paid within 30 days from the effective date of this CAFO.
29. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

30. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.


31. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
32. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent, its successors and assigns.
35. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

36. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:


Respondent: KP White & Company, LLC
Docket No.: FIFRA 04-2010-3043(b)

By:  (Signature) Date: 8-16-10

Name: K.P. White (Typed or Printed)

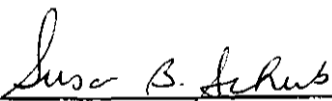
Title: Owner (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:  Date: 9/24/10

Carol L. Kemker, Acting Division Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 30th day of August 2010.


Susan B. Schub
Regional Judicial Officer

foregoing Consent Agreement and Final Order, In the Matter of K.P. White & Company, LLC

Docket Number: FIFRA-04-2010-3043(b), to the addressees listed below.

Mr. Kerry White
K.P. White & Company, LLC
7625 Marechal Avenue
Port Richey, FL 34668

(via Certified Mail, Return Receipt Requested)

Ms. Melba Table
Pesticide Section
U.S. EPA Region 4
61 Forsyth S.W.
Atlanta, GA 30303


(via EPA's internal mail)

Mr. Robert Caplan
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth S.W.
Atlanta, GA 30303

(via EPA's internal mail)

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Date: 8/31/2010



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511