

1 SYLVIA A. QUAST  
Regional Counsel

2 EDGAR P. CORAL  
3 Assistant Regional Counsel  
4 U.S. Environmental Protection Agency  
Region IX  
5 75 Hawthorne Street  
San Francisco, CA 94105  
6 (415) 972-3898

7 UNITED STATES  
8 ENVIRONMENTAL PROTECTION AGENCY  
9 REGION IX

10 In the matter of:

) Docket No. FIFRA-09-2016-00 07

11 )  
12 Leffingwell Ag Sales Co., Inc., )

) CONSENT AGREEMENT  
) AND FINAL ORDER

13 )  
14 Respondent. )

) pursuant to 40 C.F.R. §§ 22.13(b),  
) 22.18(b)(2), and 22.18(b)(3)

15 I. CONSENT AGREEMENT

16 The United States Environmental Protection Agency ("EPA"), Region IX, and  
17 Leffingwell Ag Sales Co., Inc. ("Respondent") agree to settle this matter and consent to the entry  
18 of this Consent Agreement and Final Order ("CAFO"). This CAFO simultaneously initiates and  
19 concludes this proceeding in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).  
20

21 A. AUTHORITY AND PARTIES

22 1. This is a civil administrative action brought pursuant to Section 14(a)(1) of the Federal  
23 Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a)(1), for the assessment  
24 of a civil administrative penalty against Respondent for violations of Sections 12(a)(1)(E),  
25 12(a)(2)(B)(i), and 12(a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(E), 136j(a)(2)(B)(i), and  
26 136j(a)(2)(S).

27 2. Complainant is the Director of the Enforcement Division, EPA Region IX, who has  
28 been duly delegated to commence and settle an enforcement action in this matter.

1           3. Respondent is Leffingwell Ag Sales Co., Inc., a California corporation with  
2 headquarters offices located at 942 E. Honolulu Street in Lindsay, California, 93247.

3                                   B. STATUTORY AND REGULATORY BASIS

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

7           5. Under Section 2(u) of FIFRA, 7 U.S.C. §136(u), the term “pesticide” is, among other  
8 things, any substance or mixture of substances intended for preventing, destroying, repelling, or  
9 mitigating any pest.

10          6. Under Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), a pesticide is  
11 “misbranded” if its label does not bear the registration number assigned under Section 136(e) of  
12 FIFRA to each establishment in which it was produced.

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

16          8. Under Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), the term “labeling”  
17 means all labels and all other written, printed or graphic matter accompanying the pesticide or  
18 device at any time.

19          9. Under Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the term “to distribute or sell”  
20 means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment,  
21 ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or  
22 offer to deliver.

23          10. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any  
24 person in any state to distribute or sell to any person any pesticide that is adulterated or  
25 misbranded.

26          11. Under Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i), it is unlawful for  
27 any person to refuse to prepare, maintain, or submit any records required by or under Sections 5,  
28 7, 8, 11, or 19 of FIFRA, 7 U.S.C. §§ 136c, 136e, 136f, 136i or 136q.

1           12. Under Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), it is unlawful for any  
2 person to violate any regulation issued under Sections 3(a) or 19 of FIFRA, 7 U.S.C. §§ 136a(a)  
3 and 136q.

4           13. Pursuant to FIFRA, 7 U.S.C. §§ 136-136y, the EPA Administrator promulgated  
5 regulations governing the labeling requirements for pesticides and devices, which are codified at  
6 40 C.F.R. Part 156.

7           14. Pursuant to Sections 8 and 25 of FIFRA, 7 U.S.C. §§ 136f and 136w, the EPA  
8 Administrator promulgated regulations governing the record-keeping requirements for pesticide  
9 production and distribution, which are codified at 40 C.F.R. Part 169.

10           15. Pursuant to Sections 3, 8, 19 and 25 of FIFRA, 7 U.S.C. §§ 136a, 136f, 136q and  
11 136w, the EPA Administrator promulgated regulations pertaining to standards for pesticide  
12 containers and pesticide containment structures (“the Container/Containment regulations”),  
13 which are codified at 40 C.F.R. Part 165.

14           16. “Agricultural pesticide” means any pesticide product labeled for use in or on a farm,  
15 forest, nursery, or greenhouse. 40 C.F.R. § 165.3.

16           17. “Appurtenance” means any equipment or device which is used for the purpose of  
17 transferring a pesticide from a stationary pesticide container or to any refillable container,  
18 including but not limited to, hoses, fittings, plumbing, valves, gauges, pumps and metering  
19 devices. 40 C.F.R. § 165.3.

20           18. “Batch” means a quantity of a pesticide product or active ingredient used in  
21 producing a pesticide made in one operation or lot or if made in a continuous or semi-continuous  
22 process or cycle, the quantity produced during an interval of time to be specified by the producer.  
23 40 C.F.R. § 169.1(b).

24           19. “Containment pad” means any structure that is designed and constructed to intercept  
25 and contain pesticides, rinsates, and equipment wash water at a pesticide dispensing area. 40  
26 C.F.R. § 165.3.

27           20. “Containment structure” means either a secondary containment unit or a containment  
28 pad. 40 C.F.R. § 165.3.

1           21. "Establishment" means any site where a pesticidal product, active ingredient, or  
2 device is produced, regardless of whether such site is independently owned or operated, and  
3 regardless of whether such site is domestic and producing a pesticidal product for export only, or  
4 whether the site is foreign and producing any pesticidal product for import into the United States.  
5 40 C.F.R. § 165.3.

6           22. "Facility" means all buildings, equipment, structures, and other stationary items  
7 which are located on a single site or on contiguous or adjacent sites and which are owned or  
8 operated by the same person (or by any person who controls, who is controlled by, or who is  
9 under common control with such person). 40 C.F.R. § 165.3.

10           23. "Operator" means any person in control of, or having responsibility for, the daily  
11 operation of a facility at which a containment structure is located. 40 C.F.R. § 165.3.

12           24. "Owner" means any person who owns a facility at which a containment structure is  
13 required. 40 C.F.R. § 165.3.

14           25. "Pesticide dispensing area" means an area in which pesticide is transferred out of or  
15 into a container. 40 C.F.R. § 165.3.

16           26. "Produce" means to manufacture, prepare, propagate, compound, or process any  
17 pesticide, including any pesticide produced pursuant to Section 5 of the Act, and any active  
18 ingredient or device, or to package, repackage, label, relabel, or otherwise change the container  
19 of any pesticide or device. 40 C.F.R. § 165.3.

20           27. "Producer" means any person, as defined by the Act, who produces any pesticide,  
21 active ingredient, or device (including packaging, repackaging, labeling, and relabeling). 40  
22 C.F.R. § 165.3.

23           28. "Refilling establishment" means an establishment where the activity of repackaging  
24 pesticide product into refillable containers occurs. 40 C.F.R. § 165.3.

25           29. "Refillable container" means a container that is intended to be filled with pesticide  
26 more than once for sale or distribution. 40 C.F.R. § 165.3.

27           30. "Refiller" means a person who engages in the activity of repackaging pesticide  
28 product into refillable containers. 40 C.F.R. § 165.3.



1           38. The containment pads in the pesticide dispensing areas used to fill containers with  
2 Roundup Power Max and Summer 415 Spray Oil as well as the pesticide dispensing areas used  
3 to refill stationary tanks with both of these pesticides at the Lindsay and Terra Bella  
4 establishments were constructed on or before November 16, 2006 and are each “existing  
5 containment structures,” as that term is defined by 40 C.F.R. § 165.83(b).

6           39. On or about November 29, 2012, a California Department of Pesticide Regulation  
7 (“CDPR”) inspector inspected the Lindsay Establishment and on or about May 18, 2012 a CDPR  
8 inspector inspected the Terra Bella Establishment.

9           COUNTS 1 and 2: Distribution or Sale of Misbranded Pesticides (Lindsay Establishment)

10           40. When pesticide products are stored in bulk containers, whether mobile or stationary,  
11 which remain in the custody of the user, a copy of the label or labeling, including all appropriate  
12 directions for use, must be securely attached to the container in the immediate vicinity of the  
13 discharge control valve. 40 C.F.R. § 156.10(a)(4)(ii)(B). Every pesticide product shall bear a  
14 label containing, inter alia, the producing establishment number as prescribed in paragraph (f) of  
15 this section. 40 C.F.R. § 156.10(a)(1)(v). The producing establishment registration number  
16 preceded by the phrase “EPA Est.”, of the final establishment at which the product was produced  
17 may appear in any suitable location on the label or immediate container. 40 C.F.R. § 156.10(f).

18           41. On or about November 29, 2012, Respondent “distributed or sold” the pesticide,  
19 Roundup PowerMAX, in Tank 7 and the pesticide, Summer 415 Spray Oil, in Tank 5 at the  
20 Lindsay Establishment, as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), by  
21 holding the pesticides for distribution, sale, or shipment.

22           42. On or about November 29, 2012, Respondent failed to have a label attached to Tank  
23 7 and to Tank 5 at the Lindsay Establishment that marked or identified the EPA producing  
24 establishment registration number of the final establishment at which the bulk products, Roundup  
25 PowerMAX and Summer 415 Spray Oil, were produced, as required by 40 C.F.R. §§  
26 156.10(a)(4)(ii)(B), 156.10(a)(1)(v), and 156.10(f).

27           43. Respondent’s failure to mark or identify the EPA producing establishment  
28 registration number of the final establishment at which the bulk products, Roundup PowerMAX



1 and Summer 415 Spray Oil, were produced on the labels attached to Tank 7 and Tank 5 at the  
2 Lindsay Establishment, as required by 40 C.F.R. §§ 156.10(a)(4)(ii)(B), 156.10(a)(1)(v), and  
3 156.10(f), constitutes “misbranding,” as that term is defined by Section 2(q)(1)(D) of FIFRA, 7  
4 U.S.C. § 136(q)(1)(D).

5 44. Consequently, on or about November 29, 2012, Respondent’s distributions or sales  
6 of Roundup PowerMAX in Tank 7 and Summer 415 Spray Oil in Tank 5 at the Lindsay  
7 Establishment constitute two violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §  
8 136j(a)(1)(E), which prohibits a person from distributing or selling a misbranded pesticide.

9 COUNTS 3 and 4: Distribution and Sale of Misbranded Pesticides (Terra Bella Establishment)

10 45. On or about May 18, 2012, Respondent “distributed or sold” the pesticide, Roundup  
11 PowerMAX, in Tank T4 and the pesticide, Summer 415 Spray Oil, in Tanks T1 and T3 at the  
12 Terra Bella Establishment, as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. §  
13 136(gg), by holding the pesticides for distribution, sale, or shipment.

14 46. On or about May 18, 2012, Respondent failed to have a label attached to Tank T4,  
15 Tank T1, and Tank T3 at the Terra Bella Establishment that marked or identified the EPA  
16 producing establishment registration number of the final establishment at which the bulk  
17 products, Roundup PowerMAX and Summer 415 Spray Oil, were produced, as required by 40  
18 C.F.R. §§ 156.10(a)(4)(ii)(B), 156.10(a)(1)(v), and 156.10(f).

19 47. Respondent’s failure to mark or identify the EPA producing establishment  
20 registration number of the final establishment at which the bulk products, Roundup PowerMAX  
21 and Summer 415 Spray Oil, were produced on the labels attached to Tank T4, Tank T1 and Tank  
22 T3 at the Terra Bella Establishment, as required by 40 C.F.R. §§ 156.10(a)(4)(ii)(B),  
23 156.10(a)(1)(v), and 156.10(f), constitutes “misbranding,” as that term is defined by Section  
24 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D).

25 48. Consequently, on or about May 18, 2012, Respondent’s distributions or sales of  
26 Roundup PowerMAX in Tank T4 and Summer 415 Spray Oil in Tank T1 and Tank T3 at the  
27 Terra Bella Establishment constitute two violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §  
28 136j(a)(1)(E), which prohibits a person from distributing or selling a misbranded pesticide.





1 supports to prevent sagging, flexible connections, the use of guard rails, barriers, and protective  
2 cages. 40 C.F.R. § 165.87(b)(1).

3 57. On or about November 29, 2012, hoses and valves used to dispense Roundup  
4 PowerMAX and Summer 415 Spray Oil at the Lindsay Establishment were not protected against  
5 damage from operating personnel and moving equipment. These dispensing hoses and valves are  
6 “appurtenances,” as that term is defined by 40 C.F.R. § 165.3.

7 58. On or about November 29, 2012, Respondent violated Section 12(a)(2)(S) of FIFRA,  
8 7 U.S.C. § 136j(a)(2)(S), by failing to protect appurtenances at the Lindsay Establishment, as  
9 required by 40 C.F.R. § 165.87(b)(1).

10 **COUNT 7: Failure to Protect Appurtenances (Terra Bella Establishment)**

11 59. On or about May 18, 2012, hoses and valves used to dispense Roundup Power Max  
12 and Summer 415 Spray Oil at the Terra Bella Establishment were not protected against damage  
13 from operating personnel and moving equipment. These dispensing hoses and valves are  
14 “appurtenances,” as that term is defined by 40 C.F.R. § 165.3.

15 60. On or about May 18, 2012, Respondent violated Section 12(a)(2)(S) of FIFRA, 7  
16 U.S.C. § 136j(a)(2)(S), by failing to protect appurtenances at the Terra Bella Establishment, as  
17 required by 40 C.F.R. § 165.87(b)(1).

18 **COUNT 8: Failure to Keep Containment Structure Liquid Tight (Lindsay Establishment)**

19 61. One of the material specifications for all existing containment structures (including  
20 containment pads) is that the structures must be liquid-tight with cracks, seams and joints  
21 appropriately sealed. 40 C.F.R. § 165.87(a)(1).

22 62. On or about November 29, 2012, the containment pad (*i.e.*, containment structure)  
23 located in the loading area at the Lindsay Establishment had unsealed cracks and seams.

24 63. On or about November 29, 2012, Respondent failed to keep all existing containment  
25 structures liquid-tight with cracks, seams and joints appropriately sealed, as required by 40  
26 C.F.R. § 165.87(a)(1).

1           64. On or about November 29, 2012, Respondent violated Section 12(a)(2)(S) of FIFRA,  
2 7 U.S.C. § 136j(a)(2)(S), by failing to keep all existing containment structures liquid-tight with  
3 cracks, seams and joints appropriately sealed, as required by 40 C.F.R. § 165.87(a)(1).

4                           COUNT 9: Failure to Maintain Records (Terra Bella Establishment)

5           65. At all times relevant to this CAFO, Respondent is a “producer” of the pesticide,  
6 Summer 415 Spray Oil, as that term is defined by 40 C.F.R. § 165.3.

7           66. Producers must comply with, among other things, the records maintenance  
8 requirements of 40 C.F.R. Part 169.

9           67. Producers of pesticides shall maintain records (retained for at least two years)  
10 including, among other things, the product name, the EPA Registration Number, and the batch  
11 identification number of all pesticides produced. 40 C.F.R. § 169.2(a).

12           68. On or about May 18, 2012, Respondent’s records pertaining to its repackaging of the  
13 pesticide, Summer 415 Spray Oil, at the Terra Bella Establishment failed to include the full  
14 product name, its EPA Registration Number, or its batch identification number.

15           69. On or about May 18, 2012, Respondent violated Section 12(a)(2)(B)(i) of FIFRA, 7  
16 U.S.C. § 136j(a)(2)(B)(i), by failing to maintain records regarding its repackaging of the  
17 pesticide, Summer 415 Spray Oil, at the Terra Bella Establishment, as required by 40 C.F.R. §  
18 169.2(a).

19                           D. RESPONDENT’S ADMISSIONS

20           70. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
21 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over  
22 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section  
23 I.C of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the  
24 assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any  
25 right to contest the allegations contained in this CAFO; and (v) waives the right to appeal the  
26 proposed Final Order contained in this CAFO.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

E. CIVIL ADMINISTRATIVE PENALTY

71. In final settlement of the violations of FIFRA specifically alleged in Section I.C of this CAFO, Respondent shall pay a civil administrative penalty of THIRTY-THREE THOUSAND AND FORTY DOLLARS (\$33,040). Respondent shall pay this civil penalty no later than thirty (30) calendar days from the effective date of this CAFO. The civil penalty shall be paid by remitting a certified or cashier's check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

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

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:  
Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

Overnight Mail:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving U.S. currency  
PNC Bank  
808 17<sup>th</sup> Street, NW  
Washington, DC 20074  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 31006  
CTX Format

1                                    On Line Payment:

2                                    This payment option can be accessed from the information below:

3                                    [www.pay.gov](http://www.pay.gov)

4                                    Enter "sfol.1" in the search field

5                                    Open form and complete required fields

6                                    If clarification regarding a particular method of payment remittance is  
7                                    needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

8                                    Concurrently, a copy of each check, or notification that the payment has been made by one of the  
9                                    other methods listed above, including proof of the date payment was made, shall be sent with a  
10                                    transmittal letter, indicating Respondent's name, the case title, and docket number, to the  
11                                    following addresses:

12                                    Regional Hearing Clerk  
13                                    Office of Regional Counsel (ORC-1)  
14                                    U.S. Environmental Protection Agency, Region IX  
15                                    75 Hawthorne Street  
16                                    San Francisco, CA 94105

17                                    Panah Stauffer  
18                                    SDWA/FIFRA Section  
19                                    Enforcement Division (ENF-3-3)  
20                                    U.S. Environmental Protection Agency, Region IX  
21                                    75 Hawthorne Street  
22                                    San Francisco, CA 94105

23                                    Edgar P. Coral  
24                                    Office of Regional Counsel (ORC-2)  
25                                    U.S. Environmental Protection Agency, Region IX  
26                                    75 Hawthorne Street  
27                                    San Francisco, CA 94105

28                                    72. Respondent shall not use payment of any penalty under this CAFO as a tax deduction  
from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to  
use such payment as a tax deduction.

73. If Respondent fails to pay the assessed civil administrative penalty of THIRTY-  
THREE THOUSAND AND FORTY DOLLARS (\$33,040) as identified in Paragraph 71 by the  
deadline specified in that Paragraph, then Respondent shall also pay a stipulated penalty to EPA  
upon EPA's written request. The amount of the stipulated penalty will be EIGHT THOUSAND,  
TWO HUNDRED, AND SIXTY DOLLARS (\$8,260) and will be immediately due and payable  
upon EPA's written request, together with the initially assessed civil administrative penalty of

1 THIRTY-THREE THOUSAND AND FORTY DOLLARS (\$33,040), resulting in a total penalty  
2 due of FORTY-ONE THOUSAND AND THREE HUNDRED DOLLARS (\$41,300). Failure to  
3 pay the civil administrative penalty specified in Paragraph 71 by the deadline specified in that  
4 Paragraph may also lead to any or all of the following actions:

5 (1) EPA may refer the debt to a credit reporting agency, a collection  
6 agency, or to the Department of Justice for filing of a collection action in the appropriate United  
7 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and  
8 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such  
9 collection proceeding.

10 (2) The U.S. Government may collect the debt by administrative offset  
11 (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a  
12 person to satisfy the debt the person owes the U.S. Government), which includes, but is not  
13 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40  
14 C.F.R. Part 13, Subparts C and H.

15 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke  
16 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing  
17 business with EPA or engaging in programs EPA sponsors or funds.

18 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.  
19 Government may assess interest, administrative handling charges, and nonpayment penalties  
20 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the  
21 civil administrative penalty specified in Paragraph 71 by the deadline specified in that Paragraph.

22 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §  
23 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established  
24 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,  
25 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty  
26 (30) days of the effective date of this CAFO.

1 (b) Administrative Handling Charges. Pursuant to 31 U.S.C. §  
2 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on  
3 either actual or average cost incurred (including both direct and indirect costs), for every month  
4 in which any portion of the assessed penalty is more than thirty (30) days past due.

5 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)  
6 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,  
7 may be assessed on all debts more than ninety (90) days delinquent.

8 F. CERTIFICATION OF COMPLIANCE

9 74. In executing this CAFO, Respondent certifies that the information it has supplied  
10 concerning this matter was at the time of submission, and is at the time of signature to this  
11 CAFO, truthful, accurate, and complete; and that Respondent has corrected the violations alleged  
12 in Section I.C of this CAFO. Under 18 U.S.C. § 1001, submitting false or misleading information  
13 can result in significant penalties, including the possibility of fines and imprisonment for  
14 knowing submission of such information.

15 G. RETENTION OF RIGHTS

16 75. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's  
17 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C  
18 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil  
19 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
20 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal  
21 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
22 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
23 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

24 76. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's  
25 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,  
26 and permits.



1 H. ATTORNEYS' FEES AND COSTS

2 77. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in  
3 this proceeding.

4 I. EFFECTIVE DATE

5 78. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be  
6 effective on the date that the Final Order contained in this CAFO, having been approved and  
7 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

8 J. BINDING EFFECT

9 79. The undersigned representative of Complainant and the undersigned representative of  
10 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
11 of this CAFO and to bind the party he or she represents to this CAFO.

12 80. The provisions of this CAFO shall apply to and be binding upon Respondent and its  
13 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,  
14 and assigns.

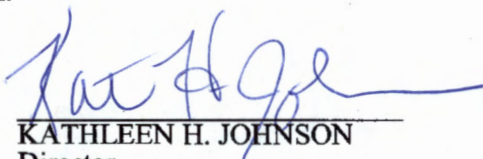
15  
16 FOR RESPONDENT LEFFINGWELL AG SALES CO., INC.:

17 1-14-16  
18 DATE

19   
20 MARK COWART  
Operations Officer  
Leffingwell Ag Sales Co., Inc.  
942 E. Honolulu Street  
Lindsay, CA 93247

21  
22 FOR COMPLAINANT EPA:

23 1-28-16  
24 DATE

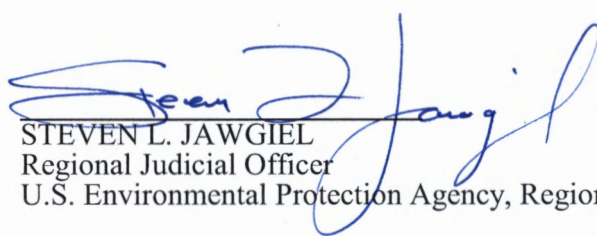
25   
26 KATHLEEN H. JOHNSON  
27 Director  
28 Enforcement Division  
U.S. Environmental Protection Agency, Region IX

1 II. FINAL ORDER

2 EPA and Leffingwell Ag Sales Co., Inc. having entered into the foregoing Consent  
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2016- 007) be  
5 entered, and Respondent shall pay a civil administrative penalty in the amount of THIRTY-  
6 THREE THOUSAND AND FORTY DOLLARS (\$33,040), and comply with the terms and  
7 conditions set forth in the Consent Agreement.

9  
10 02/01/16  
11 DATE

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
STEVEN L. JAWGIEL  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order, (Docket No FIFRA-09-2016- 0007 ) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

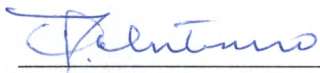
A copy was mailed via CERTIFIED MAIL to:

Mark Cowart  
Leffingwell Ag Sales Co., Inc.  
942 E. Honolulu Street  
Lindsay, CA 93247

**CERTIFIED MAIL NUMBER: 7001 2510 0002 2737 1444**

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Edgar P. Coral  
Assistant Regional Counsel (ORC-2)  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

*FOR:*   
\_\_\_\_\_  
Regional Hearing Clerk  
U.S. EPA, Region IX

*2/2/14*  
\_\_\_\_\_  
Date