



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

AUG - 3 2010

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Miguel Sánchez Lozada
President
La Casa del Agricultor
P.O. Box 778
Yabucoa, PR 00767

U.S. ENVIRONMENTAL
PROTECTION AGENCY
2010 AUG - 3 PM 3:21
REGIONAL HEARINGS
OFFICE

Re: In the Matter of La Casa del Agricultor
Docket No. FIFRA-02-2007-5301

Dear Mr. Sánchez:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Judicial Officer (RJO) of the U.S. Environmental Protection Agency.

Please note that payment is due within forty-five (45) days of signature of the Final Order by the RJO. Please arrange for payment of this penalty according to the instructions given in that Order.

Sincerely yours,


Leannic M. Y...
Assistant Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG 2
2007 AUG -3 PM 3:21
REGIONAL HEARING
CLERK

-----X
In the Matter of :
 :
La Casa del Agricultor, : CONSENT AGREEMENT
 : AND FINAL ORDER
 :
Respondent. : Docket No. FIFRA-02-2007-5301.
 :
Proceeding Under the Federal Insecticide, :
Fungicide and Rodenticide Act, as amended. :
-----X

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136l(a)(1), as amended, 7 U.S.C. § 136 et seq. ("FIFRA" or "the Act"). On March 27, 2007, Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, ("EPA"), Region 2, issued a Complaint and Notice of Opportunity for Hearing, Docket No. FIFRA-02-2007-5301, to Respondent, La Casa del Agricultor, located at Road No. 901 KM 1.0, Bo. Juan Martin, Yabucoa, PR 00767. The Complaint alleged the production of pesticides in an unregistered facility and the distribution and/or sale of ten different misbranded pesticides Respondent did not file an Answer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is La Casa del Agricultor (hereinafter referred to as "La Casa del Agricultor" or "Respondent"), a company doing business in the Commonwealth of Puerto Rico.
2. Respondent is in the business of wholesaling farm supplies and animal feed.
3. Respondent is a "person" as defined by FIFRA Section 2(s), 7 U.S.C. § 136(s), and as such, is subject to FIFRA and the regulations promulgated thereunder.
4. Respondent's principal place of business is an "establishment," as defined in Section 2(dd) of FIFRA, 7 U.S.C. §135(dd), and is located at Road No. 901 KM 1.0, Bo. Juan Martin, Yabucoa, PR 00767.

5. Respondent is a "producer," "dealer," or "other distributor" within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. §136l(a)(1), and "producer" under Section 2(w) of FIFRA, 7 U.S.C. § 136(w).
6. Respondent is a "distributor or seller" within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. §136(gg).
7. La Casa del Agricultor distributes or sells, within the meaning of "to distribute or sell" in FIFRA Section 2(gg), 7 U.S.C. § 136(gg) pesticide products.
8. On February 9, 2006, a representative from the PR Department of Agriculture ("PRDA") conducted an inspection (the "inspection") of the Respondent's facility pursuant to Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g.
9. As a direct result of the inspection described in paragraph 8, above, EPA obtained evidence of the distribution and/or sales of the following pesticidal products:
 - a. "X Round Up X";
 - b. Bayer "Powerforce Advanced Home Carpenter Ant & Termite Killer Plus";
 - c. "Roundup Ultra";
 - d. "Weedmaster";
 - e. "Atroban 11% EC";
 - f. "Malathion 50% EC";
 - g. "Permetrol Lawn Insecticide Granules";
 - h. "Malathion 5 EC";
 - i. "Malathion-Oil Citrus & Ornamental Spray"; and
 - j. "Golden Malrin".
10. Respondent repackaged the pesticidal products described in paragraph 9, above, into smaller containers.
11. Respondent relabeled the pesticidal products described in paragraph 9, above.
12. Respondent offered for sale the repackaged pesticides described in paragraphs 9 through 11, above.
13. Respondent had not registered its establishment with EPA pursuant to Section 7 of FIFRA, 7 U.S.C. § 136e.
14. Respondent's repackaging and relabeling of the pesticides described in paragraphs 9 through 12, above, constitute the production of pesticides.
15. La Casa del Agricultor's production of the pesticides described in paragraphs 9 through 12, above, in an unregistered establishment constitutes an unlawful act pursuant to Section 12(a)(2)(L) of FIFRA, 7U.S.C. Section 136j(a)(2)(L).

16. Respondent distributed and/or sold the pesticidal products described in paragraphs 9 through 12, above, at its establishment.
17. The repackaged/re-labeled pesticides described in paragraphs 9 through 12, above, did not contain any of the required information in Sections 2(q)(1) and 2(q)(2) of FIFRA, 7 U.S.C. Sections 136(q)(1), and 136(q)(2); and were therefore misbranded.
18. Respondent's distributions and/or sales of the misbranded pesticides described in paragraph 9 constitute unlawful acts pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. Section 136j(a)(1)(E), for which a penalty may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. Section 136l(a)(1).
19. A Complaint was issued on March 27, 2007 charging Respondent with the production of pesticides in an unregistered establishment and the distribution and/or sale of misbranded pesticides set forth in Paragraph 9.
20. Subsequent to the issuance of the Complaint, it was discovered that PDRA, based on the Inspection, had issued a Complaint to the Respondent on or about September 29, 2006 for a violation similar/identical to Count 1 in EPA's Complaint.

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 as follows:

Respondent shall, immediately upon the effective date of this Consent Agreement and Final Order, comply with the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136 et seq., and its implementing regulations, with respect to all pesticides it produces and distributes. Respondent represents that it is now in compliance with all requirements of FIFRA and its implementing regulations.

1. La Casa del Agricultor shall pay a civil penalty to EPA in the total amount of **ONE THOUSAND DOLLARS (\$1,000)** as set forth below. The payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America," and shall be mailed to:

**U.S. Environmental Protection Agency
Fines and Penalties**

St. Louis, MO 63197-9000

The check shall be identified with a notation thereon listing the following: ***IN THE MATTER OF LA CASA DEL AGRICULTOR***, and shall bear thereon the Docket Number FIFRA-02-2007-5301. Payment of the penalty must be *received* at the above address on or before forty-five (45) calendar days after the date of signature of the Final Order at the end of this document (the "due date").

If La Casa del Agricultor chooses to make the payment by EFT, then La Casa del Agricultor shall provide the following information to its remitter bank:

- 1) Amount of Payment.
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency."
- 6) Name of Respondent: La Casa del Agricultor
- 7) Case Number: FIFRA-02-2007-5301.

Such EFT must be received on or before 45 calendar days after the date of signature of the Final Order at the end of this document.

Whether the payment is made by check or by EFT, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Jeannie M. Yu, Esq.
Assistant Regional Counsel
Environmental Protection Agency, Region 2
290 Broadway, Room 1635
New York, New York 10007-1866

and

Karen Maples, Regional Hearing Clerk
Environmental Protection Agency, Region 2
290 Broadway, Room 1631
New York, New York 10007-1866

- a. Failure to pay the requisite amount in full according to the above provisions may result in the referral of this matter to the United States Department of Justice or Department of the Treasury for collection or other appropriate action.

- b. Furthermore, if any payment is not made on or before the date specified in this document, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the date said payment was required to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears.
 - c. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the date for which the payment was required hereto to have been made.
 - d. The effective date of this Consent Agreement and Final Order shall be the date it is filed with the Regional Hearing Clerk.
2. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the Findings of Fact and Conclusions of Law in this Consent Agreement.
3. This CA/FO 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 Complaint. 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.
4. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms.
5. Respondent consents to the issuance of the accompanying Final Order.
6. Respondent agrees that all terms of settlement are set forth herein.
7. Respondent waives its right to request a hearing on the Complaint, this Agreement, or the Final Order included herein, including any right to contest any allegations contained within those documents.
8. Respondent waives any right it may have pursuant to 40 C.F.R. § 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 Administrator, Deputy Regional Administrator or the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to recommend that such

9. 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.
10. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.
11. 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.
12. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement and Final Order.
13. Each signatory of this Consent Agreement certifies that he or she is duly and fully authorized to enter into the terms of this Consent Agreement and to legally bind the party on behalf of which he or she signs this Consent Agreement.

In the Matter of La Casa del Agricultor, Docket No. FIFRA-02-2007-5301

RESPONDENT

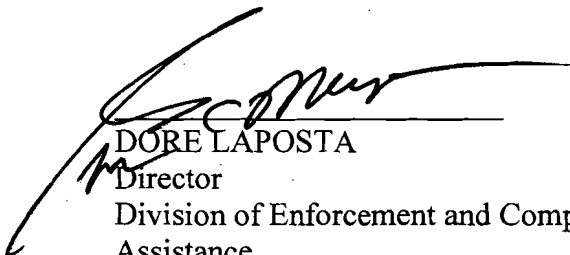
BY: Miguel Sánchez Lozada
LA CASA DEL AGRICULTOR

NAME Miguel Sánchez Lozada
(Please Print)

TITLE: President

DATE: July 16 2010

COMPLAINANT:


DORE LAPOSTA
Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency
- Region 2

DATE: 7/20/10

In the Matter of La Casa del Agricultor, Docket No. FIFRA-02-2007-5301

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties 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.

 08/03/2010

HELEN FERRARA
Regional Judicial Officer
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th Floor
New York, New York 10007

In the Matter of La Casa del Agricultor, Docket No. FIFRA-02-2007-5301

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:

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

Copy by Certified Mail,
Return Receipt Requested:

Miguel Sánchez Lozada
President
La Casa del Agricultor
P.O. Box 778
Yabucoa, PR 00767

Dated: AUG - 3, 2010
New York, New York

Mildred M. Bag