



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 01 2007

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Leigh B. Allen
President
Woodlands Specialists, Inc.
119 Hawthorne Vale
Ridgeland, Mississippi 39157

SUBJ: Docket No. FIFRA-04-2007-3018(b)
Woodlands Specialists, Inc.

Dear Mr. Allen:

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 CFR Part 22.

Please make note of the provisions in Section IV of the Final Order, with respect to payment of the assessed penalty of \$10,931 which is due within 30 days from the effective date of the CAFO. If paying by cashier's or certified check, we request that the payment be identified by writing the company name and docket number on the face of the check.

Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document notifies you of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

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. EPA, Cincinnati Accounting Operations address identified in Section IV of the CAFO. Should you have any questions about your compliance status in the future, please call me or Mr. Mark Bloeth at (404) 562-9013.

Sincerely,

A handwritten signature in black ink that reads "Joanne Benante". The signature is written in a cursive style with a large initial "J".

Joanne Benante
Chief
Pesticides and Toxic
Substances Branch

Enclosures (2)

cc: Tony Cofer
Alabama Dept. of Agriculture

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION III
2007 AUG - 1 PM 2:49
HEARING CLERK

In the Matter of:)
)
Woodlands Specialists, Inc.)
)
)
Respondent.)
_____)

Docket No. FIFRA-04-2007-3018(6)

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) (hereinafter "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 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Woodlands Specialists, Inc., Hangar 209 Craig Field, Selma, Alabama 36701.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

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 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Mark D. Bloeth
Pesticides and Toxic
Substances Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9013.
5. Respondent is Woodlands Specialists, Inc., a Delaware corporation, located at Hangar 209 Craig Field, Selma, Alabama 36701.
6. Respondent was previously a registered pesticide producing establishment identified by EPA Est. No. 81198-AL-001.
7. Respondent voluntarily requested inactivation of EPA Est. No. 81198-AL-001 on or about October 7, 2005.
8. 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.
9. On or about June 11, 2004, Respondent submitted a Notice of Arrival of Pesticides and Devices form to EPA relative to the importation of forty 25-kg. fiber drums of unregistered "Metsulfuron Methyl 60%," originating from China into the Port of Birmingham, Alabama, for intended export purposes.

10. The aforementioned importation (Entry No. AM304087035) was entered under a U.S. Customs bond (AM3-0408703-5) on or about June 25, 2004, with the requirement to either export or destroy the unregistered pesticide by June 3, 2005.
11. On or about late August or September of 2005, Respondent repackaged the 1,000 kilograms of unregistered "Metsulfuron Methyl 60%" into approximately 171 cases each containing four one-gallon unlabeled plastic containers at an unregistered establishment in Birmingham, Alabama.
12. Respondent also relabeled the exterior of the aforementioned cases of unregistered "Metsulfuron Methyl 60%" to include "MARINE POLLUTANT" and "Not for Sale in the USA" stickers.
13. Regulations at 40 CFR § 167.3 defines "produce" to include the processing of any pesticide or to package, repackage, label, relabel, or otherwise change the container of any pesticide.
14. On February 23, 2006, EPA received information about lengthy storage issues concerning an unregistered pesticide, fertilizers, and other registered pesticides owned by Respondent at a bonded warehouse located in Birmingham, Alabama.
15. On February 24, 2006, EPA requested the Alabama Dept. of Agriculture and Industries (ADAI) conduct an import inspection at both the bonded warehouse and Respondent's facility to investigate the circumstances around Respondent's importation and export activities.
16. ADAI conducted several follow up inspections in March of 2006 and again in April of 2007 and collected documentary samples, statements and shipping records relative to the importation and further distribution of the unregistered "Metsulfuron Methyl 60%."

17. At the time of the ADAI inspections in March of 2006, Respondent had failed to export the unregistered "Metsulfuron Methyl 60%" since its initial entry into the United States on June 3, 2004.
18. "Metsulfuron Methyl 60%" (a herbicide) is a "pesticide" 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.
19. 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).
20. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term "distribute or sell" to include: 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.
21. Respondent "distributes or sells" pesticides as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), in that the unregistered "Metsulfuron Methyl 60%" was shipped from the port of entry (Birmingham, AL) to the bonded warehouse in 2004 and subsequently shipped from the bonded warehouse in Birmingham, Alabama, to the Respondent's facility in Selma, Alabama, in April of 2007.
22. At the time of the inspections, the "Metsulfuron Methyl 60%" was not a registered pesticide with EPA.

23. It is unlawful according to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
24. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least two occasions, and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
25. According to FIFRA 2(q)(1)(E), 7 U.S.C. § 136(q)(1)(E), a pesticide is misbranded if any word, statement, or other information required to appear on the label is not prominently placed thereon.
26. According to FIFRA 2(q)(1)(F), 7 U.S.C. § 136(q)(1)(F), a pesticide is misbranded if its labeling does not contain directions for use which are necessary for effecting the purposes of FIFRA.
27. It is unlawful according to FIFRA 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), for any person in any State to distribute or sell to any person any pesticide which is misbranded.
28. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on at least two occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
29. It is unlawful according to FIFRA 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L), for any person who is a producer to violate any provisions of section 7.
30. Respondent violated Section FIFRA 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L) by producing a pesticide subject to FIFRA in an unregistered establishment and is therefore subject to the

assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.

31. Section 14 of FIFRA, 7 U.S.C. § 136l, in conjunction with the Civil Monetary Inflation Adjustment Rule, 40 CFR Part 19, authorizes EPA to assess a civil penalty of not more than \$6,500 for each offense that occurs on or after March 15, 2004.
32. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
33. The EPA proposes to assess a total civil penalty of TEN THOUSAND NINE HUNDRED THIRTY ONE DOLLARS (\$10,931) against the Respondent for the above violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

III. Consent Agreement

34. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
35. 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.
36. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
37. Respondent agrees to properly dispose of the unregistered "Metsulfuron Methyl 60%" and provide proof by sending copies of the Uniform Hazardous Waste Manifest and Certificate of Disposal to the contact listed at paragraph 4 at the time the penalty payment is made.

38. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant of FIFRA.
39. 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.
40. 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.

IV. Final Order

41. Respondent is assessed a civil penalty of TEN THOUSAND NINE HUNDRED THIRTY ONE DOLLARS (\$10,931) which is to be paid within thirty (30) days of the effective date of this CAFO.
42. Respondent shall remit the penalty 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
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, PA 15251-7099.

**The check shall reference on its face the name and the Docket Number of the CAFO
"Woodlands Specialists, Inc., FIFRA-04-2007-3018(b)."**

43. 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;

Mark D. Bloeth
Pesticides and Toxic
Substances Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

Saundi Wilson
Environmental Accountability Division
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

44. 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.

45. 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 principle amount not paid within 90 days of the due date.
46. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
47. This CAFO shall be binding upon the Respondent, its successors and assigns.
48. 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.

The remainder of this page intentionally left blank

V. Effective Date

49. 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:

Woodlants Specialists, Inc.

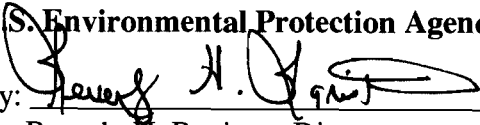
By: 

Date: 7-11-07

Name: Leigh B. Allen (Typed or Printed)

Title: President (Typed or Printed)

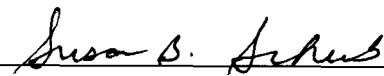
U.S. Environmental Protection Agency

By: 

Date: 7/24/07

Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 31st day of July 2007.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Woodlands Specialists, Inc., FIFRA Docket No. 04-2007-3018(b), on the parties listed below in the manner indicated.

For Complainant:

Mark D. Bloeth
PCB & Chemical Products Management Section
U.S. EPA - Region 4, 4APT-PTSB
61 Forsyth Street
Atlanta, GA 30303-8960

(Via EPA's internal mail)

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

(Via EPA's internal mail)

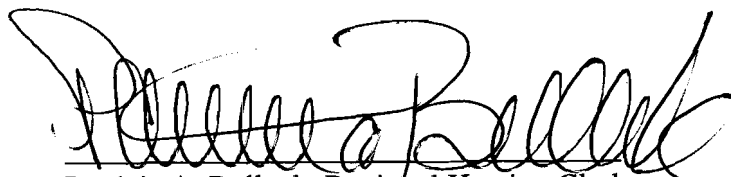
For Respondent:

Mr. Leigh B. Allen
President
Woodlands Specialists, Inc.
119 Hawthorne Vale
Ridgeland, MS 39157.

(Via Certified Mail - Return Receipt Requested)

Date:

8-1-07



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Samuel Wilson on 7/26/07
(Name) (Date)

in the OEH at (404) 562-
(Office) (Telephone Number)

- | | |
|--|---|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Woodlands Specialists Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 10,931
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2007 3018(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |