



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

2008 JUL -3 AM 11:42

DOCKET NO.: FIFRA-08-2008-0018

IN THE MATTER OF:	)	
	)	
<b>STATE OF MONTANA,</b>	)	
<b>DEPARTMENT OF LIVESTOCK,</b>	)	
P. O. Box 202001	)	<b>FINAL ORDER</b>
Helena, MT 59620-2001	)	
	)	
EPA Est. #035975-MT-002,	)	
	)	
<b>RESPONDENT</b>	)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 3<sup>rd</sup> DAY OF July, 2008.

Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2009 JUL -3 AM 11:42

Docket No. **FIFRA-08-2008-0018**

In the Matter of: )  
)  
State of Montana, ) **COMBINED COMPLAINT AND**  
Department of Livestock, ) **CONSENT AGREEMENT**  
P.O. Box 202001 )  
Helena, MT 59620-2001 )  
EPA Est. # 035975-MT-002, )  
)  
Respondent. )

Complainant, United States Environmental Protection Agency ("EPA"), Region 8, and Respondent, State of Montana, Department of Livestock, by their undersigned representatives, hereby consent and agree as follows:

**A. JURISDICTION**

1. This Combined Complaint and Consent Agreement ("Consent Agreement") is issued to State of Montana, Department of Livestock ("Respondent") for a violation of FIFRA § 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L).
2. The undersigned EPA officials issue this Consent Agreement under the authority vested in the Administrator of EPA by section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).
3. This section authorizes EPA to bring an action under section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), for civil administrative penalties against Respondent who has violated a requirement or prohibition of FIFRA.
4. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This Consent Agreement is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

**B. ALLEGED VIOLATION**

1. Respondent is a "person" within the meaning of section 2(s) of FIFRA, 7 U.S.C. § 136(s), and therefore subject to regulation.
2. Respondent is a "producer" as defined by section 2(w) of FIFRA, 7 U.S.C. § 136(w).

3. FIFRA section 7(c)(1), 7 U.S.C. § 136e(c)(1), requires all registered pesticide producers to file an annual report "...of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides..." Further, regulations promulgated pursuant to FIFRA section 7 require such annual report to be filed on or before March 1 for the preceding calendar year. 40 C.F.R. § 167.85(d).
4. EPA reviewed its records and determined that Respondent did not submit the "Pesticide Report for Pesticide-Producing and Device-Producing Establishments" pursuant to section of 7 FIFRA, 7 U.S.C. § 136(e) for calendar year 2007, by March 1, 2008. Respondent is therefore in violation of section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).
5. Upon consideration of the nature, circumstances, extent and gravity of the violation and Respondent's ability to continue in business, the size of Respondent's business, prior history of compliance, degree of culpability, lack of economic benefit resulting from the violations, its good faith and immediate effort to comply once informed of the violations, other matters as justice may require, and upon consideration of the entire record herein, EPA offers this Consent Agreement under its expedited enforcement procedures in order to settle the violation based upon the findings noted above, for the total civil penalty amount of **\$800**.

#### **C. CIVIL PENALTY**

1. The Respondent signing below admits that EPA has jurisdiction over the subject matter alleged in this Consent Agreement, neither admits nor denies the specific factual allegations contained in this Consent Agreement, and consents to the assessment of the penalty as stated in section B.5., above.
2. Respondent consents and agrees to pay a civil penalty in the amount of eight hundred dollars (\$800.00) in the manner described below in this paragraph:
  - a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
  - b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case (**State of Montana, Department of Livestock; Docket No. FIFRA-08-2008-0018**), for the above-described amount, payable to "Treasurer, United States of America." to:

(via REGULAR MAIL):

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

(via WIRE TRANSFERS):

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 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"

(via OVERNIGHT MAIL):

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

Contact: Ms. Natalie Pearson (Tel.: 314-418-  
4087)

(via ACH (also known as REX or remittance express)):

Automated Clearinghouse (ACH) for receiving US currency:

PNC Bank  
ABA: 051036706  
Account Number: 310006  
CTX Format Transaction Code 22 - checking  
Environmental Protection Agency  
808 17<sup>th</sup> Street NW  
Washington DC 20074  
Contact: Jesse White, 301-887-6548

(via ON LINE PAYMENT):

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:  
WWW.PAY.GOV.

Enter "sfo 1.1" in the search field. Open form and complete required fields.

A copy of the check shall be sent simultaneously to:

Ms. Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop  
Denver, CO 80202-1129

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (*i.e.*, on the 1<sup>st</sup> late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31<sup>st</sup> day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (*i.e.*, the 121<sup>st</sup> day from the date the final order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.

**D. TERMS AND CONDITIONS**

- 1. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in this Consent Agreement.
- 2. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors or assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

In the Matter of: State of Montana, Department of Livestock (Helena, MT)  
Docket No: FIFRA-08-2008-0018  
(Continued)

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, Office of Enforcement,  
Compliance and Environmental Justice,

Complainant.

Date: 7/1/2008

By: Mark A. R. Chalfant  
Mark A. R. Chalfant, Director  
Technical Enforcement Program

Date: 7/2/08


By: David Janik  
David Janik, Supervisory Attorney  
Legal Enforcement Program

Date: 7/1/2008

By: Eduardo Quintana  
Eduardo Quintana, Senior Attorney  
Legal Enforcement Program

In the Matter of: State of Montana, Department of Livestock (Helena, MT)  
Docket No: FIFRA\_08-2008-0018  
(Continued)

State of Montana, Department of Livestock,  
Respondent.

By:   
Name, Title: Christian Mackay  
Executive Officer

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT/FINAL ORDER** in the matter of **STATE OF MONTANA, DEPARTMENT OF LIVESTOCK, DOCKET NO.: FIFRA-08-2008-0018** was filed with the Regional Hearing Clerk on July 3, 2008.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on July 3, 2008, to:

Christian Mackay, Executive Officer  
State of Montana, Department of Livestock  
P.O. Box 202001  
Helena, MT 59620-2001

E-mailed to:

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

July 3, 2008



Tina Artemis  
Paralegal/Regional Hearing Clerk

