



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

March 13, 2015

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL: No.7011 1150 0000 2643 8388

RETURN RECEIPT REQUESTED

Frank Ousley, d/b/a Frank's Flying Service
12677 Black Road
Morrison, Illinois 61270

Consent Agreement and Final Order In the Matter of
Frank Ousley, d/b/a Frank's Flying Service,
Docket No.FIFRA-05-2014-0022

Mr. Ousley:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on March 13, 2015, with the Regional Hearing Clerk.

The civil penalty in the amount of \$7,500 is to be paid in the manner described in paragraphs 10 and 11. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

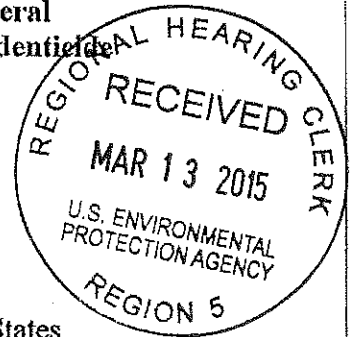
A handwritten signature in black ink, appearing to read "Estrella Calvo".

for Estrella Calvo
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. FIFRA-05-2014-0022
)
Frank Ousley d/b/a Frank's Flying)
Service, Morrison, Illinois,)
)
Respondent.)
Act, 7 U.S.C. § 136f(a)



Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136f(a).

2. On June 23, 2014, EPA filed the Complaint in this action against Respondent Frank Ousley doing business as Frank's Flying Service, Morrison, Illinois. The Complaint alleged that in August of 2013 Respondent failed to comply with Agricultural Worker Protection Standards in violation of 40 C.F.R. §§ 170.224, 170.230, and 170.250(d), and Section 12(a)(2)(G) of FIFRA, 7 U.S.C. 136j(a)(2)(G).

3. Respondent filed an Answer and requested a hearing under Section 14 of FIFRA, 7 U.S.C. § 136f, and 40 C.F.R. § 22.15.

Stipulations

4. Respondent admits the jurisdictional allegations of the Complaint.
5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).
6. Respondent certifies that it is complying fully with FIFRA, 7 U.S.C. §§ 136-136y,

and the Worker Protection Standards at 40 C.F.R. Part 170.

7. Respondent consents to all terms and conditions of this CAFO, including its civil penalty.

8. The parties agree the resolution of this action, without further litigation, and upon the terms of this CAFO, is in the public interest.

Civil Penalty

9. Complainant agrees to reduce the \$24,750.00 proposed civil penalty to a \$7,500.00 civil penalty due to factual evidence provided by Respondent, the civil penalty factors of Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), and EPA's *Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act*, dated December 2009.

10. Within 30 days after the effective date of this CAFO, Respondent must pay the \$7,500.00 civil penalty by sending, by regular U.S. Mail, a cashier's or certified check, payable to the Order of the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state Respondent's name] and the docket number of this CAFO.

11. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Terence Bonace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Jeffery M. Trevino (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604]

12. This civil penalty is not deductible for federal tax purposes.

13. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136/(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

14. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

16. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

17. This CAFO does not affect Respondent's responsibility to comply with FIFRA and

other applicable federal, state and local laws.

18. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

19. The terms of this CAFO bind Respondent, its successors and assigns.

20. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

21. Each party agrees to bear its own costs and attorneys fees in this action.

22. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: Frank Ousley d/b/a Frank's Flying Service, Morrison, Illinois
Docket No. FIFRA-05-2014-0022**

Frank Ousley d/b/a/ Frank's Flying Service, Morrison, Illinois

2/13/2015
Date

Frank Ousley
Frank Ousley

United States Environmental Protection Agency, Complainant

3/10/2015
Date

Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

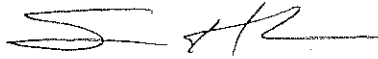
In the Matter of: Frank Ousley d/b/a Frank's Flying Service, Morrison, Illinois
Docket No. FIFRA-05-2014-0022

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3/11/2015

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

In the matter of: Frank Ousley, d/b/a Frank's Flying Service
Docket Number: FIFRA-05-2014-0022

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on *March 13, 2015*, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Frank Ousley,
d/b/a Frank's Flying Service
12677 Black Road
Morrison, Illinois 61270

Copy by E-mail to
Attorney for Complainant:

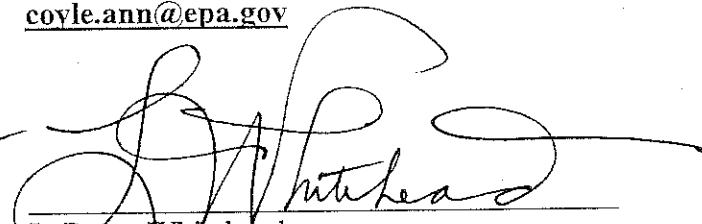
Jeffery M. Trevino
Trevino.Jeffery@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

March 16, 2015



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 8388