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U.S. EPA REGION 8
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)

Big Toms Pest Control LLC)

465 N 800 W Unit 59)

Cedar City, Utah, 84721)

Respondent.)

Docket No.

FIFRA-08-2026-0002

CONSENT AGREEMENT

I. INTRODUCTION

20. This is an administrative penalty assessment proceeding pursuant to sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), as codified at 40 C.F.R. part 22.
21. The parties to this proceeding are the undersigned U.S. Environmental Protection Agency (Complainant) and Big Toms Pest Control LLC (Respondent).
22. Respondent owns and/or operates a facility located at 465 N 800 W Unit 59 Cedar City, Utah, 84721 (Facility).
23. Big Toms Pest Control LLC is a limited liability company organized under the laws of the State of Utah.
24. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (Agreement) without adjudication of any issues of law or fact herein, and Respondents agree to comply with the terms of this Agreement.

II. JURISDICTION

25. This Agreement is issued under the authority vested in the Administrator of the EPA by section 14(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a)(1). The undersigned EPA official has been duly authorized to institute this action.
26. This proceeding is subject to the Consolidated Rules of Practice, under which this proceeding may be resolved by a final order from a Regional Judicial Officer ratifying

this Agreement. The final order will simultaneously commence and conclude this proceeding. 40 C.F.R. § 22.13(b).

III. GOVERNING LAW

8. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”
9. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” 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 living 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. § 136 w(c)(1).”
10. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide,” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest[.]”
11. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines the term “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), defines the term “labeling” as “all labels and all other written, printed, or graphic matter...accompanying the pesticide or device at any time.”
12. Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G) prohibits any person from using any registered pesticide in a manner inconsistent with its label.
13. Utah regulation R68-7-14(15) states that it is an unlawful act for any person to have “[a]ppplied pesticide onto any land without the consent of the owner or person in possession thereof.”
14. Utah regulation R68-7-19. Transportation, Storage, Handling, Usage, and Disposal of Pesticides and Pesticide Containers. Any pesticide applying entities shall also have, at a minimum, a pesticide spill kit in each pesticide service vehicle, pesticide service trailer, and at each pesticide business location.
15. The Administrator of the EPA may assess a civil penalty of up to \$24,255 against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA for each offense that occurred after November 2, 2015. See section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1); 40 C.F.R. part 19; and the Civil Monetary Penalty Inflation Adjustment Rule at 88 Fed. Reg. 89309, 89312 (December 27, 2023).

IV. ALLEGATIONS OF FACT AND LAW

16. At all times relevant to this consent agreement final order, Respondent was a “person” as that term is defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
17. Respondent is a corporation organized under the laws of the state of Utah and is authorized to do business in the state of Utah.
18. Respondent’s principal place of business is located at 465 N 800 W Unit 59 Cedar City, Utah, 84721.
19. On April 26, 2023, an inspector with the Utah Department of Agriculture and Food opened an investigation of the Respondent in response to several tips and complaints.
20. The UDAF Inspector determined that on April 10, 2023, at approximately 7:12pm, Respondent dumped an estimated 5-10 gallons of Prodiamine 65 WDG, EPA Registration Number 66222-89, on Utah Department of Transportation property near Richfield City, Utah’s water storage tanks.
21. The label of Prodiamine 65 WDG, EPA Registration Number 66222-89, has the following language: “It is a violation of Federal law to use this product in a manner inconsistent with its labeling. The label also states: “For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.”
22. The label of Prodiamine 65 WDG, EPA Registration Number 66222-89 has the following language, “PESTICIDE DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.” The label also states: “FOR 24-HOUR EMERGENCY ASSISTANCE (SPILL, LEAK, OR FIRE), CALL INFOTRAC AT 1-800-535-5053.”
23. On April 10, 2023, Respondent did not have a pesticide spill kit on its pesticide service vehicle.
24. The UDAF Inspector determined that on April 19, 2023, Respondent dumped an estimated 1/2 gallon of Tengard, EPA Registration Number 70506-6, behind an apartment complex located at 437 S 100 W, Richfield, Utah 84701.
25. The label of Tengard, EPA Registration Number 70506-6, has the following language: “It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.” The label also contains the language: “States may have more restrictive requirements regarding qualifications of persons using this product. Consult your State Pest Control Regulatory Agency prior to use of this product.”

26. The label of Tengard, EPA Registration Number 70506-6 has the following language, “Pesticide Disposal- Pesticide wastes are toxic. Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility. Improper disposal of excess pesticide, spray mixture, or rinsate is a violation of Federal Law. If these wastes cannot be disposed of by use according to label instructions, contact your State Pesticide or Environmental Control Agency, or the Hazardous Waste representative at the nearest EPA Regional Office for guidance.”
27. Respondent disposed of Tengard, EPA Registration Number 70506-6 in a manner inconsistent with its label.

V. ALLEGED VIOLATIONS OF LAW

28. Based on the facts set forth in in section IV of this Agreement, Respondent used the pesticide Prodiamine 65 WDG, EPA Registration Number 66222-89 in a manner inconsistent with its label in violation of section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G) and is therefore subject to the assessment of civil penalties under section 14 of FIFRA, 7 U.S.C. § 136l.
29. Based on the facts set forth in section IV of this Agreement, Respondent used the pesticide Tengard, EPA Registration Number 70506-6 in a manner inconsistent with its label in violation of section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G) and is therefore subject to the assessment of civil penalties under section 14 of FIFRA, 7 U.S.C. § 136l.
30. Based on the facts set forth in section IV of this Agreement, Respondent violated Utah regulation R68-7-14(15) by using Prodiamine 65 WDG, EPA Registration Number 66222-89, in such a way that it was applied either directly or through runoff onto the property of another without consent.
31. Based on the facts set forth in section IV of this Agreement, Respondent violated Utah regulation R68-7-19. Transportation, Storage, Handling, Usage, and Disposal of Pesticides and Pesticide Containers by failing to have, at a minimum, a pesticide spill kit in each pesticide service vehicle, pesticide service trailer, and at each pesticide business location.

VI. TERMS OF CONSENT AGREEMENT

32. For the purposes of this proceeding, Respondent:

- a. admits the jurisdictional allegations in section II of this Agreement;
- b. neither admits nor denies the alleged factual allegations in this Agreement;
- c. consents to the assessment of a civil penalty as stated below;

- d. acknowledges this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action; and
- e. waives any right to contest the allegations in this Agreement and to appeal any final order approving this Agreement.
- f. waives any and all available rights to judicial or administrative review or other remedies Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Consent Agreement, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701–706;

33. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), authorizes the EPA to assess a civil penalty in this matter.

34. Based on the allegations in sections IV and V above, and having considered the appropriateness of the assessed penalty to Respondent's size of businesses, the effect on Respondent's ability to continue in business, and the gravity of the violation, as required by section 14(a)(4) of FIFRA, 7 U.S.C. § 1367(a)(4), the Complainant has determined the civil administrative penalty amount agreed upon below is appropriate to settle this matter.

35. This Agreement applies to Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Agreement to any successors-in-interest prior to transfer of any interest in the facility. Any change in ownership or corporate control 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.

36. The undersigned representative of Respondent certifies he or she has authority to bind Respondent to this Agreement.

37. The parties consent to service of this Agreement and any final order ratifying it by email at the following valid email addresses: hill.kai@epa.gov for Complainant; and Cash Newby (cash.newby@gmail.com) for Respondent.

VII. TERMS OF PAYMENT

38. Respondent agrees to pay a civil penalty of \$11,638.51 (Assessed Penalty). Respondent consents to pay as follows:

- a. The Assessed Penalty will be paid in 6 equal installments to complete payment of the entire Assessed Penalty and interest, which is assessed at the IRS standard underpayment rate. Including the Assessed Penalty and interest, the total amount that will be paid upon completion of all payments will be \$11,864.82. The first payment is due within thirty (30) days the Effective Date, defined in Section IX, below. Respondent's subsequent payments shall thereafter be due in 30-day intervals from the Effective Date.
- b. Respondent shall make payments in accordance with the following schedule:

Payment Number	Payment shall be made <i>no later than</i>	Principal Amount	Interest Amount	Total Payment Amount
1	Thirty (30) days after the Effective Date.	U.S. \$1,939.75	U.S. \$37.72	U.S. \$1,977.47
2	Sixty (60) days after the Effective Date.	U.S. \$1,939.75	U.S. \$37.72	U.S. \$1,977.47
3	Ninety (90) days after the Effective Date.	U.S. \$1,939.75	U.S. \$37.72	U.S. \$1,977.47
4	One-hundred and twenty (120) days after the Effective Date.	U.S. \$1,939.75	U.S. \$37.72	U.S. \$1,977.47
5	One-hundred and fifty (150) days after the Effective Date.	U.S. \$1,939.75	U.S. \$37.72	U.S. \$1,977.47
6	One-hundred and eighty (180) days after the Effective Date.	U.S. \$1,939.75	U.S. \$37.72	U.S. \$1,977.47

- c. Notwithstanding Respondent's agreement to pay the Assessed Penalty in accordance with the installment schedule set forth above, Respondent may pay the entire Assessed Penalty of \$11,638.51 within thirty (30) days of the Effective Date and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with any interest and other charges accrued up to the date of such full payment.

39. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA websites <https://www.epa.gov/financial/makepayment> and <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Please note that for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on [Modernizing Payments To and From America's Bank Account](#), Respondent shall pay using one of the electronic payments methods listed on [EPA's How to Make a Payment website](#) and will not pay with a paper check.”

40. When making a payment, Respondent shall

- a. Identify every payment with Respondent's name and the docket number that appears on the final order ratifying this Agreement,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129
R8_Hearing_Clerk@epa.gov

Christine Tokarz
U.S. Environmental Protection Agency, Region 8
10 West 15th Street
Helena, Montana 59626 tokarz.christine@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

41. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate; any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days.

42. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the amount outstanding pursuant to 7 U.S.C. § 136l(a)(5).

43. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
44. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.
45. Except as qualified by paragraph 39 above, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.
46. The parties consent to service of this Agreement and any final order approving it by email at the following valid email addresses: hill.kai@epa.gov (for Complainant), and Cash Newby, cash.newby@bigtomspestcontrol.com (for Respondents).

VIII. EFFECT OF AGREEMENT

47. In accordance with 40 C.F.R. § 22.18(c), compliance with the final order approving this Agreement resolves Respondents' liability only for federal civil penalties for the violations specifically alleged above.
48. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act, any regulation, order, or permit issued pursuant to the Act, and any other federal, state, or local laws, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
49. Nothing herein shall be construed to limit the power of the EPA to pursue injunctive or other equitable relief, or criminal sanctions, for any violations of law or to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
50. If and to the extent the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, the EPA reserves all its legal and equitable rights.

IX. EFFECTIVE DATE

51. This Agreement shall become effective on the date the final order is filed by the regional hearing clerk.

Consent Agreement In the Matter of BIG TOMS PEST CONTROL LLC.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8,
Complainant.**

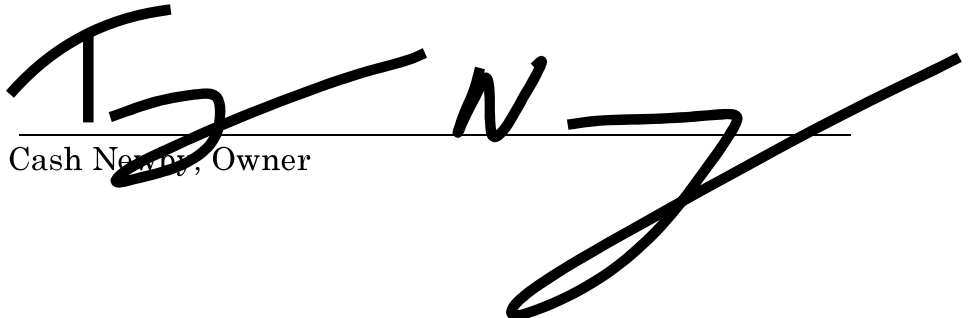
Date: _____

By: **DAVID
COBB**  Digitally signed by
DAVID COBB
Date: 2025.10.22
10:05:13 -06'00'

David Cobb, Section Supervisor
Toxics and Pesticides Enforcement Section
Enforcement and Compliance Assurance Division
For the Complainant

**BIG TOMS PEST CONTROL LLC
Respondent.**

Date: 10.13.25

By:  _____
Cash Newby, Owner