

Sylvia Quast
Regional Counsel

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21SEP2016 - 11:21AM
U.S.EPA - Region 09

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
SAN FRANCISCO, CALIFORNIA

In the Matter of:)	
)	
Mid Valley Agricultural Services, Inc.)	Docket No. FIFRA-09- <u>2016-0020</u>
)	
)	CONSENT AGREEMENT AND FINAL
)	ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 AND 22.18 .
Respondent.)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”), and Mid Valley Agricultural Services, Inc. (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action instituted pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA” or “the Act”), as amended, 7 U.S.C §§ 136 et seq., for the assessment of a civil administrative penalty against Respondent for violations of Section 12 of the Act.

2. Complainant is the Assistant Director of the Water and Pesticides Branch of the Enforcement Division, EPA, Region IX, who has been duly delegated the authority to bring this action and to sign a consent agreement settling this action.
3. Respondent is a California corporation whose principal office is located at 16401 East Highway 26, Linden, California.

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Under section 2(s) of FIFRA, 7 U.S.C. § 136(s), a “person” is defined as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”
5. Under section 2(u) of FIFRA, 7 U.S.C. § 136(u), a “pesticide” is defined as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. . . .”
6. Under section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), a pesticide is “misbranded” if its label does not bear the registration number assigned under section 7 of FIFRA to each establishment in which it was produced.
7. Under section 2(q)(2)(C)(iii) of FIFRA, 7 U.S.C. 136(q)(2)(C)(iii), a pesticide is “misbranded” if “there is not affixed to its container . . . a label bearing . . . the net weight or measure of the content.”
8. Under section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), a “label” is defined as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.”

9. Under section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), “labeling” is defined as “all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time.”
10. Under section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), “to distribute or sell” is defined as “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.”
11. Under section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any state to distribute or sell to any person any pesticide that is adulterated or misbranded.
12. Under section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), it is unlawful for any person to violate any regulations issued under section 19 of FIFRA.
13. Pursuant to FIFRA, 7 U.S.C. §§ 136-136y, the EPA Administrator promulgated regulations governing the labeling requirements for pesticides and devices, which are codified at 40 C.F.R. Part 156 (the “Labeling Requirements”). The Labeling Requirements implement FIFRA § 12(a)(1)(E).
14. Pursuant to sections 3, 8, 19 and 25 of FIFRA, 7 U.S.C. §§ 136a, 136f, 136q and 136w, the EPA Administrator promulgated regulations pertaining to standards for pesticide containment structures (“the Containment regulations”), which are codified at 40 C.F.R. Part 165, Subpart E. These standards are intended to protect human health and the environment from exposure to agricultural pesticides which may spill or leak from stationary pesticide containers and reduce waste generation due to pesticide dispensing and container refilling operations.

15. The Containment Regulations apply to an owner or operator of refilling establishments who repackage agricultural pesticides and whose principal business is retail sale (i.e., more than 50% of total annual revenue comes from retail operations), and has a stationary pesticide container or a pesticide dispensing (including container refilling) area. 40 C.F.R. § 165.80(b)(1).
16. Under 40 C.F.R. § 165.3, an “agricultural pesticide” is defined as “any pesticide product labeled for use in or on a farm, forest, nursery, or greenhouse.”
17. Under 40 C.F.R. § 165.3, an “appurtenance” is defined as “any equipment or device which is used for the purpose of transferring a pesticide from a stationary pesticide container or to any refillable container, including but not limited to, hoses, fittings, plumbing, valves, gauges, pumps and metering devices.”
18. Under 40 C.F.R. § 165.3, a “containment pad” is defined as “any structure that is designed and constructed to intercept and contain pesticides, rinsates, and equipment wash water at a pesticide dispensing area.”
19. Under 40 C.F.R. § 165.3, a “containment structure” is defined as either a secondary containment unit or a containment pad.
20. Under 40 C.F.R. § 165.3, a “facility” is defined as “all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person who controls, who is controlled by, or who is under common control with such person).”
21. Under 40 C.F.R. § 165.3, an “establishment” is defined as “any site where a pesticidal product, active ingredient, or device is produced, regardless of whether such site is

- independently owned or operated, and regardless of whether such site is domestic and producing a pesticidal product for export only, or whether the site is foreign and producing any pesticidal product for import into the United States.”
22. Under 40 C.F.R. § 165.3, an “operator” is defined as “any person in control of, or having responsibility for, the daily operation of a facility at which a containment structure is located.”
 23. Under 40 C.F.R. § 165.3, an “owner” is defined as “any person who owns a facility at which a containment structure is required.”
 24. Under 40 C.F.R. § 165.3, a “pesticide dispensing area” is defined as “an area in which pesticide is transferred out of or into a container.”
 25. Under 40 C.F.R. § 165.3, “produce” is defined as “to manufacture, prepare, propagate, compound, or process any pesticide, including any pesticide produced pursuant to section 5 of the Act, and any active ingredient or device, or to package, repack, label, relabel, or otherwise change the container of any pesticide or device.”
 26. Under 40 C.F.R. § 165.3, a “refilling establishment” is defined as “an establishment where the activity of repackaging pesticide product into refillable containers occurs.”
 27. Under 40 C.F.R. § 165.3, a “refillable container” is defined as “a container that is intended to be filled with pesticide more than once for sale or distribution.”
 28. Under 40 C.F.R. § 165.3, a “secondary containment unit” is defined as “any structure, including rigid diking, that is designed and constructed to intercept and contain pesticide spills and leaks and to prevent runoff and leaching from stationary pesticide containers.”
 29. Under 40 C.F.R. § 165.3, a “stationary pesticide container” is defined as “a refillable container that is fixed at a single facility or establishment or, if not fixed, remains at the

facility or establishment for at least 30 consecutive days, and that holds pesticide during the entire time.”

C. ALLEGATIONS

30. Respondent is a California corporation and therefore, a "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
31. At all times relevant to this CAFO, Respondent operated pesticide production, dispensing, and/or storage facilities in Linden, California (the “Linden Facility”) and Hughson, California (the “Hughson Facility”).
32. At all times relevant to this CAFO, Respondent’s principal business was retail sale of agricultural pesticides (i.e., more than 50% of total annual revenue comes from retail operations). Respondent also owned and operated stationary pesticide containers at the Linden Facility and Hughson Facility.
33. At all times relevant to this CAFO, Respondent was subject to the Containment Regulations pursuant to 40 C.F.R. § 165.80(b)(1).
34. On or about January 19, 2012, inspectors from the California Department of Pesticide Regulation (“CDPR”) conducted a neutral scheme producer establishment inspection of the Linden Facility on behalf of EPA.
35. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors inspected the storage, production, and secondary containment structures, as well as various pesticide products packaged and ready for sale.
36. At all times relevant to this CAFO, the Linden Facility produced and stored the following pesticide products: “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,”

- “Dormant Plus Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” “Prowl H₂O Herbicide,” “Rely 280 Herbicide,” and “Roundup POWERMax Herbicide.”
37. “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Dormant Plus Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” “Prowl H₂O Herbicide,” “Rely 280 Herbicide,” and “Roundup POWERMax Herbicide” are “agricultural pesticides.” 40 C.F.R. § 165.3.
38. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors observed unsealed cracks on the south wall of the secondary containment structure for the pesticide tank farm for “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide” at the junction of the secondary containment structure wall and containment pad, and on the containment pad itself.
39. Under 40 C.F.R. § 165.87(a)(1), a containment structure such as a secondary containment structure or a containment pad must be “liquid-tight with cracks, seams and joints appropriately sealed.”
40. Respondent’s failure to seal the cracks on the south wall of the secondary containment structure for the pesticide tank farm for “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide”, at the junction of the secondary containment structure wall and containment pad, and on the containment pad on or about January 19, 2012, constitutes a violation of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 165.87(a)(1).
41. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors observed hoses used for dispensing pesticide on the south wall of the pesticide tank farm

- for “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide” that protruded onto the containment pad and lacked protective structures to guard against potential damage.
42. Hoses used for dispensing pesticide are “appurtenances” within the meaning of 40 C.F.R. § 165.3.
 43. Under 40 C.F.R. § 165.87(b)(1), owners or operators of existing containment structures including containment pads “must protect appurtenances . . . against damage from operating personnel and moving equipment.” Means of protection include “the use of guard rails, barriers, and protective cages.” *Id.*
 44. Under 40 C.F.R. § 165.83, an “existing containment structure” is defined as a containment structure whose installation began on or before November 16, 2006.
 45. The secondary containment structure for the pesticide tank farm for “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide” at the Linden Facility is an “existing containment structure” within the meaning of 40 C.F.R. § 165.83.
 46. Respondent’s failure to protect appurtenances on the south wall of the pesticide tank farm for “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide” on or about January 19, 2012, constitutes a violation of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 165.87(b)(1).
 47. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors observed an open, unsealed drain pipe transecting the south wall of the secondary containment structure for the pesticide tank farm for “BSP Lime-Sulfur Solution,”

“Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide.”

48. Under 40 C.F.R. § 165.87(b)(2), owners or operators of existing containment structures including containment pads “must seal all . . . discharge outlets and gravity drains through the base or wall of the containment structure. . . .”
49. Respondent’s failure to seal the drain pipe transecting the south wall of the secondary containment structure for the pesticide tank farm for “BSP Lime-Sulfur Solution,” “Dormant Flowable Emulsion Oil,” “Firestorm,” “IAP Organic 440 Spray Oil,” and “Rely 280 Herbicide” on or about January 19, 2012, constitutes a violation of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 165.87(b)(2).
50. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors observed external sight gauges in use on stationary bulk pesticide storage tanks #2, 6, 7, and 8. Storage tank #2 contained “Dormant Flowable Emulsion Oil”; storage tanks #6 and #7 contained “BSP Lime-Sulfur Solution”; storage tank #8 contained “IAP Organic 440 Spray Oil.”
51. Under 40 C.F.R. § 165.45(f)(2)(ii), “[e]xternal sight gauges, which are pesticide-containing hoses or tubes that run vertically along the exterior of the container from the top to the bottom, are prohibited on stationary containers of liquid pesticides.”
52. Respondent’s use of external sight gauges on stationary bulk pesticide storage tanks #2, 6, 7, and 8 constitutes four separate violations of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 165.45(f)(2)(ii).
53. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors observed that stationary bulk pesticide storage tanks #3, 6, 7, 8, and 9 lacked labeling

- indicating the pesticide producing establishment registration number of the pesticide products contained therein. Storage tank #3 contained "Rely 280 Herbicide"; storage tanks #6 and #7 contained "BSP Lime-Sulfur Solution"; storage tank #8 contained "IAP Organic 440 Spray Oil"; storage tank #9 contained "IAP Organic 440 Spray Oil."
54. Under 40 C.F.R. § 156.10(f), the pesticide producing establishment registration number must appear on the label or immediate container of the pesticide product.
55. The stationary bulk pesticide storage tanks #3, 6, 7, 8, and 9 that lacked labeling indicating the pesticide producing establishment registration number of the pesticide products contained therein on or about January 19, 2012 were "misbranded" as that term is defined at section 2(q)(1)(D) of FIFRA.
56. Respondent's failure to label stationary bulk pesticide storage tanks #3, 6, 7, 8, and 9 with the pesticide producing establishment registration numbers of the pesticide products contained therein at the Linden Facility on or about January 19, 2012 constitutes five separate violations of section 12(a)(1)(E) of FIFRA and 40 C.F.R. § 156.10(f).
57. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors examined the labeling on refillable containers of "Firestorm" - a restricted use pesticide - available for sale and observed that the labeling failed to identify the containers as refillable.
58. Under 40 C.F.R. § 156.140(b), refillable containers must have one of the following statements on the label or container under the heading "Storage and Disposal":
(1) "Refillable Container. Refill this container with pesticide only. Do not reuse this container for any other purpose."; or (2) "Refillable Container. Refill this container with [common chemical name] only. Do not reuse this container for any other purpose."

59. Respondent's failure to identify containers of "Firestorm" as refillable in their labeling on or about January 19, 2012 constitutes a violation of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 156.140(b).
60. During the January 19, 2012 inspection of the Linden Facility, the CDPR inspectors examined the labeling on refillable containers of "Firestorm" - a restricted use pesticide - available for sale and observed that the labeling lacked any statements regarding the timing of the residue removal procedure.
61. Under 40 C.F.R. § 156.156(a), the label of each pesticide product packaged in a refillable container must contain one of the following statements regarding the timing of the residue removal procedure: (1) "Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller.;" or (2) "Pressure rinsing the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller."
62. Respondent's failure to include any statements regarding the timing of the residue removal procedure in the labeling on refillable containers of "Firestorm" on or about January 19, 2012, constitutes a violation of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 156.156(a).
63. On or about May 14, 2014, an inspector from CDPR conducted a neutral scheme producer establishment inspection of the Hughson Facility on behalf of EPA.
64. At all times relevant to this CAFO, the Hughson Facility produced and stored "IAP 440 Spray Oil."
65. "IAP 440 Spray Oil" is an agricultural pesticide within the meaning of 40 C.F.R. § 165.3.

66. During the May 14, 2014 inspection of the Hughson Facility, the CDPR inspector observed that the labeling on nonrefillable containers of “IAP 440 Spray Oil” – a registered pesticide product ready for shipment – lacked any statement concerning net contents.
67. Under section 2(q)(2)(C)(iii) of FIFRA, 7 U.S.C. 136(q)(2)(C)(iii), a pesticide is “misbranded” if “there is not affixed to its container . . . a label bearing . . . the net weight or measure of the content.”
68. Respondent’s failure to include a net content statement in the labeling on “IAP 440 Spray Oil” on or about May 14, 2014, constitutes a violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
69. During the May 14, 2014 inspection of the Hughson Facility, the CDPR inspector observed that nonrefillable containers of “IAP 440 Spray Oil” – a registered pesticide product ready for shipment for sale – lacked batch codes.
70. Under 40 C.F.R. § 156.140(a)(4), nonrefillable containers of pesticide products must bear “[a] lot number, or other code used by the registrant or producer to identify the batch of the pesticide product which is distributed and sold.”
71. Respondent’s failure to place a batch code on nonrefillable containers of “IAP 440 Spray Oil” on or about May 14, 2014, constitutes a violation of section 12(a)(2)(S) of FIFRA and 40 C.F.R. § 156.140(a)(4).
72. During the May 14, 2014 inspection of the Hughson Facility, the CDPR inspector examined the labeling on a stationary bulk storage tank containing “IAP 440 Spray Oil” and observed that the labeling lacked the pesticide producing establishment registration number.

73. Under 40 C.F.R. § 156.10(f), the pesticide producing establishment registration number must appear on the label or immediate container of the pesticide product.
74. The stationary bulk pesticide storage tank containing “IAP 440 Spray Oil” that lacked labeling indicating the pesticide producing establishment registration number on or about May 14, 2014 was “misbranded” within the meaning of section 2(q)(1)(D) of FIFRA.
75. Respondent’s failure to include the pesticide producing establishment registration number on the label of the bulk storage tank containing “IAP 440 Spray Oil” on or about May 14, 2014, constitutes a violation of section 12(a)(1)(E) of FIFRA and 40 C.F.R. § 156.10(f).

D. RESPONDENT’S ADMISSIONS

76. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the allegations contained in Section I.C of the CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

77. Respondent agrees to the assessment of a penalty in the amount of SEVENTY-SIX THOUSAND, TWO HUNDRED AND FORTY DOLLARS (\$76,240) as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C. of the CAFO.
78. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO. Payment shall be made by cashier’s or certified check payable to the

“Treasurer, United States of America,” or be paid by one of the other methods listed below:

a. Regular or Certified Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

b. Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 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.”

c. Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

d. ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
ABA = 051036706
Transaction Code 22 — checking
Environmental Protection Agency

Account 31006
CTX Format

e. On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov
Enter "sfo1.1" in the search field
Open form and complete required fields

If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091. The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Allison Watanabe
SDWA/FIFRA Section (ENF-3-3)
U.S. Environmental Protection Agency, Region IX
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

79. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
80. If Respondent fails to pay the assessed civil administrative penalty as specified in Paragraph 78, then Respondent shall pay to EPA the stipulated penalty of FIVE

HUNDRED DOLLARS (\$500) for each day the default continues, in addition to the assessed penalty upon written demand by EPA. In addition, failure to pay the civil administrative penalty by the deadline specified in Paragraph 78 may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13 interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 78. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as

prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

F. RETENTION OF RIGHTS

81. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.
82. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

G. ATTORNEYS' FEES AND COSTS

83. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

H. EFFECTIVE DATE


84. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

I. BINDING EFFECT

85. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
86. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

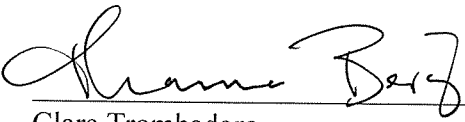
FOR RESPONDENT, MID VALLEY AGRICULTURAL SERVICES, INC.:

08-30-2016
DATE


NAME: Todd Hudelson
TITLE: CEO

FOR COMPLAINANT, EPA REGION IX:

9/16/16
DATE


acting for
Clare Trombadore
Assistant Director
Water and Pesticides Branch
Enforcement Division

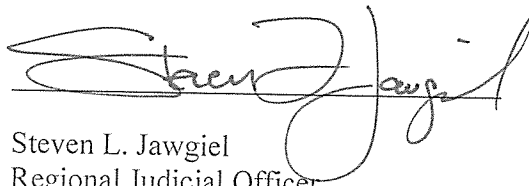
II. FINAL ORDER

Complainant and Respondent, Mid Valley Agricultural Services, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2016-0020) be entered, and that Respondent shall pay a civil administrative penalty in the amount of SEVENTY-SIX THOUSAND, TWO HUNDRED AND FORTY DOLLARS (\$76,240) and comply with the terms and conditions set forth in the Consent Agreement.

09/20/16

DATE



Steven L. Jawgiel
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order (Docket No. FIFRA-09-2016-0020) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

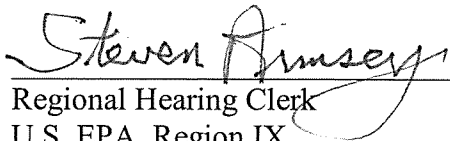
A copy was mailed via CERTIFIED MAIL to: 7016 1370 0000 2235 1336

Todd Hudelson
CEO
Mid Valley Agricultural Services, Inc.
16401 E. Highway 26
Linden, CA 95236

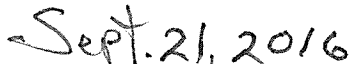
Certified Mail Number:

An additional copy was hand-delivered to the following U.S. EPA case attorney:

David Kim
Assistant Regional Counsel (ORC-2)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Regional Hearing Clerk
U.S. EPA, Region IX



Date