



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
SAM NUNN  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA GEORGIA 30303-8960

MAR 08 2012

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Lee Kaplan  
Vice President  
Envirotech Solutions, Inc.  
5760 SE 41<sup>st</sup>  
Ocala, Florida 34480

Re: Envirotech Solutions, Inc.  
Docket No. FIFRA 04-2012-3002(b)

Dear Mr. Kaplan:

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 C.F.R. Part 22.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the United States Environmental Protection Agency Region 4.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-9085 or Ms. Dawn Johnson at (404) 562-9017.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Acting Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: Mr. Craig Bryant  
FL Department of Agriculture and Consumer Services

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
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HEARING CLERK

In the Matter of: )  
)  
)  
    Envirotech Solutions, Inc. )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No.: FIFRA-04-2012-3002(b)

**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. § 136/(a) (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 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Envirotech Solutions, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 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 C.F.R. § 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. § 136/(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 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Dawn Johnson  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9017.

5. Respondent is Envirotech Solutions, Inc., a Florida corporation, located at 5760 SE 41<sup>st</sup> Street, Ocala, Florida 34480.
6. 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.

## **III. Specific Allegations**

7. On or about August 27, 2009, an authorized representative of the EPA conducted an inspection at Chemtech Supply, a pesticide dealer, located at 1905 S. MacDonald #8, Mesa, Arizona 85210.
8. During the aforementioned inspection, the "Deo-Sect/Dumpster Kill" product was identified as being sold and/or distributed by Envirotech Solutions, Inc. The product label for the "Deo-Sect/Dumpster Kill" made the following pesticidal claims:

"controls obnoxious flying and crawling insects in any area..."  
"controls cockroaches, flies, ants, spiders, mosquitoes, gnats, flying moths and moths..."

In addition, the product name makes a pesticidal claim in that it express that the product mitigates pests by removing the pest's food, food source, or its habitat.

9. Because pesticidal claims were being made for "Dec-Sect/Dumpster Kill," the product 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.
10. A review of Respondent's website, [www.envirotechusa.biz](http://www.envirotechusa.biz), revealed that the additional products "E. Coli Insta-Kill" and "Quaternary Sanitizers" were being offered for sale or distribution on the website as antimicrobial pesticides. The website states the following:
  - "E. Coli is a killer bacteria..."
  - "E. Coli insta kill is formulated for cleaning and sanitizing..."
  - "Quaternary disinfectants are a one step disinfectant cleaner..."
  - "Quaternary disinfectants are effective against bacteria."
  - "Quaternary disinfectants sanitize...."
11. The "E. Coli Insta-Kill" and "Quaternary Sanitizers" products are "antimicrobial pesticides" as defined in Section 2(mm) of FIFRA, 7 U.S.C. § 136(mm), in that they are intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.
12. 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).
13. Respondent "distributes or sells" pesticides. The term "to distribute to sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale,

- hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
14. Pesticides that are sold and distributed in the United States are required to be registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.
  15. At the time of the inspection, the “Deo-Sect/Dumpster Kill”, “E. Coli Insta-Kill” and “Quaternary Sanitizers” products were not registered as pesticides with EPA.
  16. The inspector collected documentation showing Respondent’s offers for sale and/or distribution of said pesticides.
  17. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.
  18. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least one occasion, and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
  19. At the time of the inspection, the “Deo-Sect/Dumpster Kill” product was misbranded as that term is defined in Section 2(q) of FIFRA, 7 U.S.C. § 136(q) in that the product label did not contain directions for use to adequately protect human health and the environment, ingredient statement, net content, warning or caution statement, storage and disposal statement, and precautionary statement.
  20. Under Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), it is unlawful for any person to distribute or sell to any person any pesticide which is misbranded.
  21. Respondent violated Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), on at least one (1) occasion and is therefore subject to the assessment of civil penalties under

Section 14 of FIFRA, 7 U.S.C. § 136l.

22. Under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), it is unlawful to produce a pesticide in any State unless the establishment is registered with the Administrator of EPA as set forth in Section 7 of FIFRA, 7 U.S.C. § 136e. At the time of the inspection, Respondent produced the “Deo-Sect/Dumpster Kill”, “E. Coli Insta-Kill” and “Quaternary Sanitizers” products in an establishment that was not registered with the Administrator of EPA as a pesticide-producing establishment. Therefore, Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) and is subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
23. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
24. 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.
25. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **ZERO DOLLARS (\$0)** against the Respondent for the above-described violations, based on financial information submitted by Respondent. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

#### **IV. Consent Agreement**

26. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
27. 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.
28. Complainant and Respondent, upon consideration of the inability of the Respondent to pay the proposed penalty, agree to an assessment of a penalty of **ZERO DOLLARS (\$0)**.
  29. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
  30. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 14 of FIFRA, for the specific violations alleged herein. Except as specifically provided in the CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
  31. 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.

#### **V. Final Order**

32. As set forth above, no civil penalty will be assessed to resolve this matter.
33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent, its successors and assigns.
35. The undersign representative of the party of 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.

**VI. Effective Date**

36. 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:

Respondent: \_\_\_\_\_  
Docket No.: FIFRA 04-2012-3002

By: Lee C. Kopton (Signature) Date: 1/25/12

Name: LEE C. KOPTON (Typed or Printed)

Title: V.P. (Typed or Printed)

U.S. Environmental Protection Agency

By: Beverly H. Banister (Signature) Date: 2-21-12  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

APPROVED AND SO ORDERED this 8<sup>th</sup> day of March 2012.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order In the Matter of Envirotech Solutions, Inc., Docket Number: FIFRA-04-2012-3002(b), to the addressees listed below:

Lee Kaplan  
Vice President  
Envirotech Solutions, Inc.  
5760 SE 41st  
Ocala, Florida 34480

(via Certified Mail, Return Receipt Requested)

Dawn Johnson  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

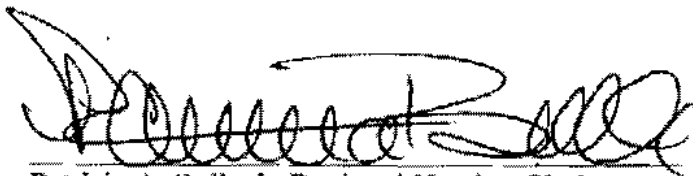
(via EPA's internal mail)

Robert Caplan  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

(via EPA's internal mail)

Date: \_\_\_\_\_

3-8-12



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303  
(404) 562-9511