



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

SEP 30 2015

Ref: 8ENF-UFO

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND ELECTRONIC TRANSMISSION**

Delbert L. Davis, Registered Agent
for Morgro Inc.
145 W Central Avenue
Salt Lake City, UT 84107

Re: STOP SALE, USE OR REMOVAL ORDER
Morgro Inc.

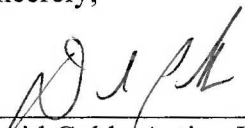
Dear Mr. Davis:

Enclosed is a Stop Sale, Use or Removal Order (Order) issued by the United States Environmental Protection Agency Region 8 (EPA) to Morgro Inc.(Morgro) for misbranded and unregistered pesticide products listed in the Order. ***The Order is effective immediately upon receipt by you, as registered agent for Morgro.***

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the EPA to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA or such pesticide has been or is intended to be distributed or sold in violation of FIFRA. As explained further in the enclosed Order, Morgro has been and is producing, distributing, or selling, misbranded and unregistered pesticide products.

If you or Morgro have any questions about this matter, you may contact Dan Webster of my staff at 303-312-7076, or by email at webster.daniel@epa.gov. For any legal questions, please contact Brenda L. Morris, Senior Enforcement Attorney by phone (303-312-6891) or by email at morris.brenda@epa.gov.

Sincerely,



David Cobb, Acting Unit Chief
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2015 SEP 30 PM 3: 57

In the Matter of:)

Morgro, Inc.)
145 West Central Avenue)
Salt Lake City, UT 84107)

Respondent)

FILED
EPA REGION VIII
HEARING CLERK
STOP SALE, USE,
OR REMOVAL ORDER

DOCKET NO. : FIFRA-08-2015-0008

I. AUTHORITIES

1. The United States Environmental Protection Agency (EPA) issues this Stop Sale, Use, or Removal Order (Order) pursuant to the authority vested in the Administrator of the EPA by section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. § 136k(a), which authorizes the Administrator of the EPA to issue orders prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe the pesticide or device is in violation of any provision of FIFRA, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration has been cancelled by a final order.
2. Supervisors in the Technical Enforcement Program and the Legal Enforcement Program have been jointly delegated the authority to issue such orders.
3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states “it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under section 136a of this title or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter.”
4. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states “it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is adulterated or misbranded.”
5. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), states it shall be unlawful for any person to violate any order issued under section 13 of FIFRA.
6. 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.”
7. Section 2(y) of FIFRA, 7 U.S.C. § 136(y), defines “registrant” as “a person who has registered any pesticide pursuant to the provisions of [FIFRA].”

8. Section 2(gg), 7 U.S.C. § 136(gg) defines “to distribute or sell” as “to 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.”
9. 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.”
10. As stated at 40 C.F.R. § 152.130(a), a “registrant may distribute or sell a registered product with the composition, packaging and labeling currently approved by the Agency.”
11. As stated at 40 C.F.R. § 152.130(c), “[n]ormally, if the product labeling is amended on the initiative of the registrant, by submission of an application for amended registration, the registrant may distribute or sell under the previously approved labeling for a period of 18 months after approval of the revision, unless an order subsequently issued by the Agency under FIFRA section 6 or 13 provides otherwise.”
12. As stated at 40 C.F.R. § 152.132, the “registrant may distribute or sell his registered product under another person’s name and address instead of (or in addition to) his own. Such distribution and sale is termed ‘supplemental distribution’ and the product is referred to as a ‘distributor product.’”
13. As stated at 40 C.F.R. § 152.132(e), “[v]oluntary cancellation of a product applies to the registered product and all distributor products distributed or sold under that registration number. The registrant is responsible for ensuring that distributors under his cancelled registration are notified and comply with the terms of the cancellation.”
14. As stated at 40 C.F.R. § 152.15, with certain exceptions not applicable in this circumstance, “[n]o person may distribute or sell any pesticide product that is not registered under [FIFRA].”
15. The compliance deadline for the container and containment labeling requirements in 40 C.F.R. part 156 subpart H, was August 16, 2011, 40 C.F.R. § 156.159.

II. BACKGROUND

16. Morgro, Inc. (Morgro) is a corporation organized under the laws of the State of Utah and is authorized to do business in the State of Utah.
17. Morgro is a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
18. Morgro entered into a supplemental distributor sales agreement with PBI/Gordon Corporation, a Missouri Corporation, on April 18, 1986. By its terms, this agreement is automatically renewed each year on April 18, unless it has been terminated by either party. The agreement was amended four times in 1986 and once in 1999 to add distributor products.
19. PBI/Gordon is a registrant, with the EPA-assigned company number 2217.
20. Morgro is a distributor, with the EPA-assigned distributor company number 42057.

21. Under the distributor sales agreement described in paragraph 18, Morgro is a supplemental distributor of the following distributor product: IFA Premium Weed & Feed with Trimec & Iron, EPA Reg. No. 2217-559-4665.
22. Under the distributor sales agreement described in paragraph 18, Morgro was a supplemental distributor of the following distributor product: J & L Weed & Feed plus Trimec, EPA Reg. No. 2217-559-39727.
23. Under the distributor sales agreement described in paragraph 18, Morgro is a supplemental distributor of the following distributor product: Velvagreen Weed & Feed, EPA Reg. No. 2217-697-42057.
24. Under the distributor sales agreement described in paragraph 18, Morgro is a supplemental distributor of the following distributor product: IFA Lawn Weed Killer with Trimec, EPA Reg. No. 2217-536-46665.
25. Under the distributor sales agreement described in paragraph 18, Morgro was a supplemental distributor of the following distributor product: Western Garden Weed-A-Lawn, EPA Reg. No. 2217-536-55342.
26. Under the distributor sales agreement described in paragraph 18, Morgro is a supplemental distributor of the following distributor product: Morgro Weedit II, EPA Reg. No. 2217-536-42057.
27. Under the distributor sales agreement described in paragraph 18, Morgro is a supplemental distributor of the following distributor product: IFA Lawn Weed Killer RTU, EPA Reg. No. 2217-537-46665.
28. Under the distributor sales agreement described in paragraph 18, Morgro was a supplemental distributor of the following distributor product: Western Garden Weed-A-Lawn RTU, EPA Reg. No. 2217-537-55342.
29. Under the distributor sales agreement described in paragraph 18, Morgro is a supplemental distributor of the following distributor product: Morgro Weedit II RTU, EPA Reg. No. 2217-537-42057.
30. Bonide Products, Inc. is a registrant, with the EPA-assigned company number 4.
31. In January 1995, the registrant Bonide Products, Inc. filed EPA form 8570-5, Notice of Supplemental Distribution of a Registered Pesticide Product, for the following distributor product: Western Garden Garden Patrol RTU, EPA Reg. No. 4-358-55342.
32. In January 1995, the registrant Bonide Products, Inc. filed a Notice of Supplemental Distribution of a Registered Pesticide Product for the following distributor product: Western Garden Home Patrol RTU, EPA Reg. No. 4-358-55342.
33. In a letter to the EPA Document Processing Desk of the Office of Pesticide Programs dated October 5, 2011, Bonide Products, Inc. requested cancellation of the supplemental distributor registrations identified in paragraphs 31 and 32.

34. In a letter to the EPA Document Processing Desk of the Office of Pesticide Programs dated December 1, 2011, PBI/Gordon Corporation requested cancellation of 938 supplemental distributor products, including the supplemental distributor products identified in paragraphs 22, 25 and 28.
35. On February 25, 2014, Morgro timely filed EPA form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments, for reporting year 2013.

III. BASIS FOR ORDER

36. On May 13, 2014, an EPA inspector conducted a FIFRA inspection at the Morgro facility located at 145 West Central Avenue, Salt Lake City, Utah 84107.
37. During the inspection the inspector obtained 12 labels for the products produced in the facility, including the 11 distributor products listed in paragraphs 21 through 29, 31 and 32.
38. During the inspection the inspector obtained sales invoices for 12 products produced in the facility, including the 11 distributor products listed in paragraphs 21 through 29, 31 and 32.
39. On form 3540-16, described in paragraph 35, Morgro reported production and sales in 2013 of the distributor product identified in paragraph 22.
40. Invoices obtained during the inspection evidence sales 18 months after the cancellation of the distributor product identified in paragraph 22.
41. On form 3540-16, described in paragraph 35, Morgro reported production and sales in 2013 of the distributor product identified in paragraph 25.
42. On form 3540-16, described in paragraph 35, Morgro reported production and sales in 2013 of the distributor product identified in paragraph 28.
43. On form 3540-16, described in paragraph 35, Morgro reported production and sales in 2013 of the distributor product identified in paragraph 31.
44. Invoices obtained during the inspection demonstrate sales 18 months after the cancellation of the distributor product identified in paragraph 31.
45. On form 3540-16, described in paragraph 35, Morgro reported production and sales in 2013 of the distributor product identified in paragraph 32.
46. Invoices obtained during the inspection evidence sales 18 months after the cancellation of the distributor product identified in paragraph 32.
47. The supplemental distributor registrations for the distributor products identified in paragraphs 22, 25, 28, 31 and 32 were cancelled in 2011, as noted in paragraphs 32 and 33. The distributor products identified in paragraphs 22, 25, 28, 31 and 32 are unregistered pesticides.
48. Morgro has been and is producing, distributing, or selling unregistered pesticides in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

49. Morgro has been and is producing, distributing, or selling a misbranded pesticide, the distributor product identified in paragraph 21, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label for the product identified in paragraph 21 is missing the proper identification of container type (40 C.F.R. § 156.140(a)). The label has incomplete precautionary statements, an incomplete environmental hazards statement, and incomplete directions for use.
50. Morgro has been and is producing, distributing, or selling a misbranded pesticide, the distributor product identified in paragraph 23, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label for the product identified in paragraph 23 is missing the proper identification of container type (40 C.F.R. § 156.140(a)). The label has incomplete precautionary statements, an incomplete environmental hazards statement, and incomplete directions for use.
51. Morgro has been and is producing, distributing, or selling a misbranded pesticide, the distributor product identified in paragraph 24, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label for the product identified in paragraph 24 is missing the proper identification of container type (40 C.F.R. § 156.140(a)) and includes the incorrect signal word ((40 C.F.R. § 156.64(b)(1))).
52. Morgro has been and is producing, distributing, or selling a misbranded pesticide, the distributor product identified in paragraph 26, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label for the product identified in paragraph 26 is missing the proper identification of container type (40 C.F.R. § 156.140(a)) and includes the incorrect signal word ((40 C.F.R. § 156.64(b)(1))).
53. Morgro has been and is producing, distributing, or selling a misbranded pesticide, the distributor product identified in paragraph 27, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label for the product identified in paragraph 27 is missing the required batch code (40 C.F.R. § 156.140(a)(4)) and the proper identification of container type (40 C.F.R. § 156.140(a)). The label has incomplete precautionary statements, an incomplete environmental hazards statement, and incomplete directions for use.
54. Morgro has been and is producing, distributing, or selling a misbranded pesticide, the distributor product identified in paragraph 29, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The label for the product identified in paragraph 29 is missing the required batch code (40 C.F.R. § 156.140(a)(4)) and the proper identification of container type (40 C.F.R. § 156.140(a)). The label has incomplete precautionary statements, an incomplete environmental hazards statement, and incomplete directions for use.

IV. ORDER

55. The EPA hereby orders Morgro to stop the sale, use, or removal of all pesticide products subject to this Order, which includes the distributor products identified in paragraphs 21 through 29, 31 and 32, EFFECTIVE IMMEDIATELY.
56. This Order pertains to all quantities and sizes of the distribution products subject to this Order.
57. The EPA hereby orders Morgro to revise the labels of the distributor products identified in paragraphs 21, 23, 24, 26, 27 and 29 to correspond to the registrant's current approved labels and to

add batch codes to the labels affixed to all non-refillable containers when the containers are filled with pesticide EFFECTIVE IMMEDIATELY.

58. Any questions concerning this Order may be submitted to the following:

Dan Webster
US EPA Region 8 (ENF-UFO)
1595 Wynkoop Street
Denver, CO 80202
(303) 312-7076

59. Any violation of the terms or provisions of this Order by an officer, agent, or other person acting for or employed by Morgro may subject such person as well as Morgro to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136l.

60. The issuance of this Order shall not constitute a waiver by the EPA of its remedies, either judicial or administrative, under FIFRA or any other Federal environmental law, to address this matter or any other matters or unlawful acts not specified in this Order.


61. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Respondent.

62. Respondent may seek federal judicial review of this Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.

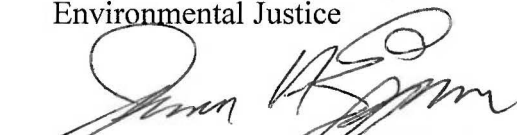
63. If any provision(s) of this Order are subsequently held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and shall remain in full force and effect. The terms of this Order shall remain in effect unless and until the EPA modifies or terminates either the Order or certain provisions of the Order in writing.

9/30/15
Date

9/30/15
Date



David Cobb, Acting Unit Chief
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice



James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice