



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 10 2008

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Grady Shields
Wyrick, Robbins, Yates & Ponton, LLP
4101 Lake Boone Trail
P.O. Box Drawer 17803
Raleigh, NC 27619

SUBJ: Docket No. FIFRA-04-2008-3011(b)
Burt's Bees, Inc.

Dear Mr. Shields:

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 CFR Part 22.

Please make note of the provisions in Section IV of the Final Order, with respect to payment of the assessed penalty of \$11,550 which is due within 30 days from the effective date of the CAFO. As required by Paragraph 28 of this CAFO, please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case. In addition please make note of the provisions in Section V of the Final Order, with respect to the Supplemental Environmental Projects (SEP) which should be completed within 120 days from the effective date of the CAFO.

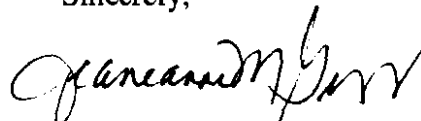
Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document notifies you of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. Please note that the contact number on page three of the Notice has been changed to (202) 551-3115.

Internet Address (URL) • <http://www.epa.gov>

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Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. EPA, Cincinnati Accounting Operations address identified in Paragraph 28 of the CAFO. Should you have any questions about your compliance status in the future, please call me or Ms. Melba Table at (404) 562-9086.

Sincerely,



Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures (2)

cc: Craig Bryant, FLDACS

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION 4
ATLANTA, GEORGIA

In the Matter of:)
)
Burt's Bees, Inc.)
)
Respondent.)
_____)

Docket No. FIFRA-04-2008-3011(b)

RECEIVED
EPA REGION 4
2008 JUN 10 AM 8:05
KIMBERLY S. GLENN

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. § 136l(a) (hereinafter "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 CFR Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency (EPA), Region 4. Respondent is Burt's Bees, Inc.

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II.Preliminary Statements

Legal Bases, Factual Allegations, Jurisdictional Allegations

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(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 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Melba Table
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.
5. Respondent is Burt's Bees, Inc., a North Carolina corporation, located at 701 Distribution Dr., Durham, NC 27709.
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.
7. On or about April 26, 2006, an authorized representative of the EPA conducted an inspection at Harmony Foods, 5653 Creedmoor Road, Raleigh, NC 27692.
8. During the aforementioned inspection, the inspector placed a Stop Sale, Use or Removal Order (SSURO) on the product "Burt's Bees All Natural Insect Repellent," which was also identified as being produced and distributed by the Respondent.
9. On or about September 7, 2006, an authorized representative of EPA conducted and inspection at Burt's Bees, Inc., 701 Distribution Dr., Durham, NC 27709.

10. The inspector documented the following five shipments of Burt's Bees All Natural Insect Repellent.

Ship Date	Location	Customer
2/8/06	Ashville, NC	Buncombe Community College
4/5/06	Ashville, NC	Citizens Ace Hardware
4/26/06	Greenville, NC	Artesians
6/19/06	Ashville, NC	Complete Naturalist
6/27/06	Ashville, NC	Summer House

11. Burt's Bees All Natural Repellent, is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture or substances intended for preventing, destroying, repelling, or mitigating any pest.
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 or 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. At the time of the inspection, the Burt's Bees All Natural Repellent was not registered as a pesticide with EPA.
15. It is unlawful according Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

16. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on five separate occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
17. At the time of the inspection, Respondent produced the pesticide Burt's Bees All Natural Repellent in an establishment that was not registered with the Administrator of EPA as a pesticide-producing establishment.
18. Produce is defined in Section 2(w) of FIFRA, 7 U.S.C. § 136(w), a regulation promulgated under FIFRA, to include manufacture, prepare, compound, propagate or process any pesticide.
19. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.

III. Stipulations

20. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
21. 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.
22. Respondent consents to the assessment and agrees to pay the civil penalty as set forth in this CAFO.
23. Respondent agrees to complete the Supplemental Environmental Project (SEP) set forth in this CAFO.
24. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.

25. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for any violations other those alleged herein, and Respondent waives any rights to defend fully any such action.
26. 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.

IV. Penalty

27. Respondent, Burt's Bees, Inc. shall pay a civil penalty of **ELEVEN THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$11,550)** which shall be paid within thirty (30) days from the effective date of this CAFO.
28. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

U.S. Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lock Box 371099M
Pittsburgh, PA 15251-7099.

The check shall reference the name and the Docket Number of the CAFO ["Burt's Bees, Inc., FIFRA-04-2007-30(b)"].

29. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960;

Melba Table
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

V. Supplemental Environmental Project

30. Respondent shall undertake the Supplemental Environmental Project (SEP) as described in Attachment 1 and incorporated herein by reference. The parties agree that the SEP is intended to secure environmental and/or public health protection and improvements.
31. As described in Attachment 1, the SEP shall involve Burt's Bees contracting with the consulting firm, Conn & Smith, Inc., to provide a one-day FIFRA regulatory training course open to all companies within Research Triangle Park, North Carolina.
32. The SEP shall be completed within one hundred and twenty (120) days of the effective date of this CAFO.

33. The total expenditure for the SEP shall be at least \$21,000, as specified in Attachment 1. Respondent shall provide EPA with documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report, described in Paragraph 36, below.
34. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the activities in the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement or grant, in any other case, or in compliance with any state or local requirement. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP.
35. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for the civil penalty payment or SEP cost made pursuant to this CAFO. Further, for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
36. Respondent shall submit a SEP Completion Report for the SEP to EPA within ten (10) calendar days after completion, or within one hundred and forty (140) days after the effective date of this Consent Agreement, whichever is earlier. The SEP Completion Report shall contain the following information:
- a. A detailed description of the SEP as implemented;
 - b. A description of any problems encountered and the solutions thereto;
 - c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks not previously submitted;

- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement (including an attendance roster for the training);
 - e. A description of the environmental and public health benefits resulting from the implementation of the SEP.
37. Following the receipt of the SEP Completion Report described in the preceding paragraph, EPA will do one of the following:
- a. Accept the SEP Completion Report, in writing;
 - b. Reject the SEP Completion Report in writing, notify the Respondent in writing of deficiencies in the SEP Completion Report, and grant Respondent an additional thirty (30) calendar days (or more, if EPA determines the additional time is reasonably necessary) in which to correct any deficiencies; or
 - c. Reject the SEP Completion Report, in writing, and seek stipulated penalties in accordance with Paragraphs 40, 42, and 43, below, if a determination is made that the SEP Completion Report is so grossly deficient that the deficiencies cannot be corrected in a timely manner.
38. If EPA elects to exercise the option in Paragraph 37(c) above, EPA shall permit Respondent the opportunity to object, in writing, to the notification of deficiency or disapproval within ten (10) calendar days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) calendar days from the receipt of the notification of the objection to reach agreement. If agreement cannot be reached on any such issue within this 30-day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding.

In the event that the SEP is not completed as contemplated herein, as determined by EPA, EPA may seek stipulated penalties in accordance with Paragraphs 40, 42, and 43.

39. Should Respondent request any extension of time to meet the deadlines for completion of the SEP as imposed by this Consent Agreement, the written request shall contain a justification as to the reasons for the extension and shall be submitted to EPA within five (5) calendar days from the date Respondent becomes aware of the event or circumstance which will cause a delay in the implementation or action required by this Consent Agreement. Should EPA concur with Respondent's request, EPA will notify Respondent in writing and the schedule shall be amended as approved by EPA.
40. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP, and/or to the extent that the actual expenditures for the SEP do not equal or exceed \$21,000, as described in Paragraph 33, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:
 - a. Except as provided in Subparagraph b immediately below, for a SEP which has not been completed satisfactorily pursuant to Paragraphs 30-33, above, and Attachment 1, Respondent shall pay a stipulated penalty to the United States in the amount of \$21,000.
 - b. If the SEP is not completed satisfactorily, but Respondent: (i) made good faith and timely efforts to complete the project; and (ii) certifies with supporting documentation, that at least 90 percent of the amount of money which was required to be spent, was indeed expended on the SEP as described in Paragraphs 30-33, above, and Attachment 1, Respondent shall not pay any stipulated penalty.

- c. If the entire SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money to be spent for the project as described in Paragraphs 30-33, above, and Attachment 1, Respondent shall pay a stipulated penalty to the United States in an amount equal to the difference between the money actually spent for the project and \$21,000.
 - d. If the entire SEP is satisfactorily completed, and Respondent spent at least 90 percent of the amount of money required to be spent for the project as described in Paragraphs 30-33, above, and Exhibit 1, Respondent shall not pay any stipulated penalty.
 - e. For failure to submit the SEP Completion Report as required by Paragraph 36, above, Respondent shall pay a stipulated penalty of \$500.00 for each calendar day after the date when the SEP Completion Report is due, until the report is submitted.
41. The determination of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
42. Stipulated penalties shall begin to accrue on the day after performance is due, as extended if an extension is granted by EPA pursuant to the provisions of this Consent Agreement, and shall continue to accrue through the final day of the completion of the activity.
43. Respondent shall pay stipulated penalties within fifteen (15) calendar days of receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraphs 28 and 29, above. Interest and late charges shall be paid as stated in Paragraph 45, below.

44. Any public statement, oral or written, in print, film, or other media, made by Respondent with reference to the SEP shall include the following language, “[t]his project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of Section 12 of the Federal Insecticide, Rodenticide and Fungicide Act.”
45. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will, therefore, begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within ninety (90) days of the due date.

VI. General Provisions

46. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
47. This CAFO shall be binding upon the Respondents, their successors and assigns.
48. The undersigned representative of each party to 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.

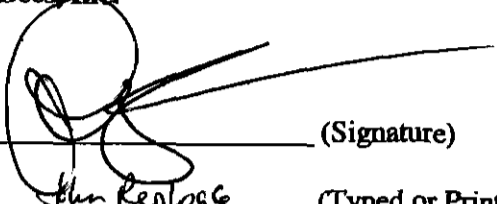
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VII. Effective Date


49. 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:

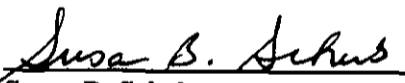
Burt's Bees, Inc.

By:  (Signature) Date: 4/22/08
Name: Alan Reptogge (Typed or Printed)
Title: CEO (Typed or Printed)

U.S. Environmental Protection Agency

By:  for Date: 6/6/08
Beverly Banister, Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 9th day of June 2008.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Burt's Bees, Inc., Docket No.: FIFRA-04-2008-3011(b) on the parties listed below in the manner indicated:

Ms. Vera Kornylak
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth St, S.W.
Atlanta, GA 30303

(Via EPA's Internal Mail)

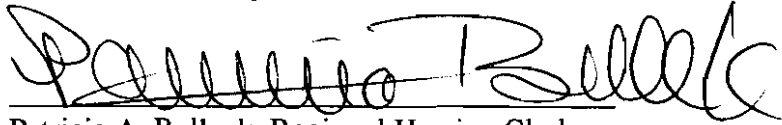
Ms. Melba Table
Pesticides Section
U.S. EPA Region 4
61 Forsyth St., S.W.
Atlanta, GA 30303

(Via EPA's Internal Mail)

Grady L. Shields
Wyrick Robbins Yates Ponton, L.L.P.
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607-7506

(Via Certified U.S. Mail)

Dated this 10 day of June 2008



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

ATTACHMENT 1

WYRICK
ROBBINS
& YATES
PONTON
LLP
ATTORNEYS AT LAW

The Summit
4101 Lake Boone Trail
Suite 300
Raleigh, NC 27607.7506

PO Drawer 17803
Raleigh, NC 27619

ph 919.781-4000
fax 919.781-4865
www.wyrick.com

Grady L. Shields
gshields@wyrick.com

September 24, 2007

VIA FACSIMILE 404-562-9486
ORIGINAL VIA FIRST CLASS MAIL

Ms. Vera Kornylak
U.S. EPA Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

Re: *Burt's Bees, Inc. – Federal Insecticide, Fungicide and Rodenticide Matter*
Our File No. 10489.138

Dear Vera:

Thank you for your continued patience regarding this matter. This letter is to outline for you the most current version of Burt's Bees, Inc.'s Proposed Supplemental Environmental Project in the above-referenced matter. At this point in time, because the Company's intent is to develop an environmental management system based on ISO 14001 rather than the US EPA's Compliance-Focused EMS model, the Company has decided to undertake only the first of the original proposed projects, hosting a one-day FIFRA regulatory affairs training course for beginners. A draft Agenda for the FIFRA Training for Beginners program is enclosed. The program will be offered to every company within Research Triangle Park and be held at an off-site location within the Park. The program will be given by the consulting firm of Conn & Smith, Inc., based in Lorton, Virginia, who will also head up advertising to all the companies in the area. Copies of CVs for Richard Conn and Cynthia Smith are attached and enclosed, along with copies of a draft of the proposed Consulting and Confidentiality Agreement between the Company and Conn & Smith, Inc. The estimated cost of the program would be approximately \$21,000. In order to keep the seminar within the Company's budget, instead of charging a fee per attendee, a cap would be placed on the number of attendees permitted. Burt's Bees, Inc. proposes to host the program in the First Quarter of 2008. However, the date of implementation is dependent upon EPA's subsequent approval, and may be delayed until the Second Quarter of 2008 based on the availability of Conn & Smith, Inc. once approval is obtained. Please let us know if you have comments, questions or suggestions with respect to these revisions to the original proposed program.

Library:DOCS
Document Name:Letter_to_Vera_Kornylak.DOC
Document #: 500564 Version:v3
Author_id: GLS

Ms. Vera Kornylak
September 24, 2007
Page 2

Again, we appreciate your continued support and suggestions for the Company's Proposed SEP. We look forward to your comments on the above revisions and to the opportunity to comment on the resulting press release.

Sincerely,

WYRICK ROBBINS YATES & PONTON LLP



Grady L. Shields

GLS/agk

Attachments/Enclosures

cc: Tom Fitz
Tony Quartararo
Celeste Lutrario
Steve Walker
Karen Yarussi-Mello
James M. Yates, Jr., Esq.
Kevin J. Stanfield, Esq.
Anna G. Kizer, Esq.

FIFRA Training for Beginners to be Hosted by Burt's Bees Inc. Draft Agenda			
Topic	Speaker	Total Time	Beginning Time
Welcome and introductions		15 min.	8:30
FIFRA key concepts <ul style="list-style-type: none"> • FIFRA definition of a pesticide • EPA pesticide producing establishment • Pesticide types: TGAI, MP, EP • Inert (other) ingredients • Use patterns <ul style="list-style-type: none"> • Indoor, outdoor, residential, industrial, aquatic • Food use v. non-food use • Good Laboratory Practice (GLP) 	Cindy	45 min.	8:45
Registration project planning <ul style="list-style-type: none"> • Defining the product (active and other ingredients) • Confirming the registration of the active ingredient • Defining the pesticidal claims • Confirming the efficacy • Confirming the market 	Richard	45 min.	9:30
Break		15 min.	10:15
Information sources <ul style="list-style-type: none"> • 40 CFR Parts 150-189 • Pesticide Assessment Guidelines • EPA web sites • Reregistration Eligibility Decisions (REDs) 	Richard	30 min.	10:30
Registration data for typical end-use products (40 CFR Part 158) <ul style="list-style-type: none"> • Analytical method - do it first! • Efficacy • Product chemistry • Toxicology • Ecological effects (non-target organisms) • Environmental fate (soil, water) • Human exposure 	Cindy	75 min.	11:00
Lunch		75 min.	12:15
Formatting of a submission (PR Notice 86-5)	Cindy	30 min.	1:30
Label <ul style="list-style-type: none"> • Required parts • Where the information comes from 	Richard	60 min.	2:00
Components of a complete application for typical EP submissions	Richard	30 min.	3:00
Break		15 min.	3:30
EPA application fees and maximum review times for common EP submission types	Cindy	15 min.	3:45
After EPA registration <ul style="list-style-type: none"> • Finished printed labels • State registrations • California mil tax • Mandatory adverse effects reporting [FIFRA §6(a)(2)] • Label changes and other amendments • EPA maintenance fees • Registration review 	Cindy	45 min.	4:00
Adjourn			4:45

CURRICULUM VITAE

RICHARD L. CONN, M.S.

EDUCATION:

1965-1969 B.S. University of Illinois at Urbana-Champaign
Major: Agriculture

1969-1970 M.S. University of Illinois at Urbana-Champaign
Major: Agronomy

PROFESSIONAL EXPERIENCE:

2005-Present Conn & Smith, Inc. - President
1998-2005 Charles & Conn, LLC - Member, Regulatory Affairs
1995-1998 Charles, Conn & van Gemert, LLC - Director, Regulatory Affairs and Member

Provide quality regulatory strategy development, support for product registration, define data requirements, prepare submission documents, prepare waiver requests, prepare reduced risk documents, represent clients before EPA, resolve EPA comments, advise on data rights/data compensation, and testify as an expert witness in product liability and data compensation cases.

1988-1995 Stewart Pesticide Registration Associates, Inc., Arlington, Virginia. Director, Regulatory Affairs

This position reported to the President. Staff reporting to this position included three Managers, Regulatory Affairs; Specialist, Regulatory Affairs; Manager, Quality Assurance; Manager, Chemistry; Associate, Toxicology; Associate, Regulatory Affairs; Associate, Quality Assurance, Office Manager and Receptionist. This position directed the above regulatory, technical, and quality assurance staff and associates besides developing regulatory strategy, defining data requirements, obtaining data waivers and acceptance of data, preparing submissions, representing registrants to EPA, and offering advice on data rights/data compensation negotiations. Experience encompassed developing and implementing regulatory strategies for several new active ingredients, including conventional chemical, biochemical, and microbial pesticides with agricultural, consumer, and industrial uses.

This position also marketed STEWART to expand the client base domestically and internationally.

1970-1988 Ciba-Geigy Corporation, Agricultural Division, Ardsley, New York and Greensboro, North Carolina. Product Registration Specialist (1970-1977), Senior Regulatory Specialist I (1977-1981), and Senior Regulatory Specialist II (1981-1988).

This position reported to the Director of Regulatory Affairs.

This position was responsible for regulatory strategy development, data requirement definition, obtaining data waivers and acceptance of data, submission preparation, multi-disciplinary regulatory and strategic support of scientific, legal, and marketing efforts, and data rights/data compensation negotiation. The position involved active participation on several internal product development teams, contributing many regulatory strategies to result in timely market entry. These efforts also supported worldwide registration objectives.

Duties also included negotiating expedited science reviews, reduced data requirements and gaining acceptance of existing data to fulfill requirements and support business objectives. The job entailed establishing and conducting many key

Curriculum Vitae
Richard L. Conn, M.S.
July, 2007

Page 2

meetings with the EPA to define test procedures and gain acceptance of data. Opportunities arose to develop strategy and cost calculations for data compensation negotiations.

PROFESSIONAL MEMBERSHIPS:

Weed Science Society of America
Society of Environmental Toxicology and Chemistry
The American Phytopathological Society

COMMITTEE MEMBERSHIPS:

1994-Present Registration Round Table, Crop Life America
1983-1988 International Registration Committee, National Agricultural Chemicals Association

AWARDS:

1976 Selected for a special award trip to Ciba-Geigy Ltd., Basle, Switzerland in recognition of significant work efforts.
1979 Special award from Ciba-Geigy for developing foundation for data compensation arbitration.
1987 Special award from Ciba-Geigy for overcoming significant regulatory hurdles associated with first food-use registration of propiconazole.

PUBLICATIONS:

Authored Chapter III, Federal Registration Requirements and Procedures, in the first edition of *Pesticide Regulation Handbook*, published in 1983 by Executive Enterprises Publications. Contributed to 1987 edition.

PRESENTATIONS:

Instructed during several pesticide regulation training courses sponsored by Executive Enterprises, Inc. and the National Agricultural Chemicals Association, especially segments on tolerance petitions, data requirements, and PR Notice 86-5 formatting.

An invited speaker - "Management, Planning and Communication Across the Potential Industry/Contract Laboratory Barrier" at Symposium on the Role of Independent and Contract Research Laboratories in the Agrochemical Industry, Division of Agrochemicals, 203rd National Meeting of the American Chemical Society, San Francisco, California, Apr 6, 1992.

An invited speaker - Presentations regarding (1) NAS Report Regarding Pesticides in the Diets of Infants and Children, (2) New FIFRA Proposals on Delaney Clause, and (3) Residue Chemistry Data Requirements, at the Society of Agricultural Chemical Industry, Tokyo, Japan, September 28, 1993.

Instructor at FIFRA Boot Camp in July and November 2006: Types of Registrations, Labeling, Reregistration and Registration Renewal, and Pesticide Producing Establishments.

Training instructor for a major registrant in February 2001 and April 2007: Labeling, Components of Complete Submission, Completion of Administrative Items, Interacting with EPA, Registration Review, and Information Sources.

CYNTHIA ANN SMITH, M.S.
6713 Catskill Road • Lorton, VA 22079-1113 USA
Telephone: 703-339-1117 • Facsimile: 703-339-1118

EDUCATION

MASTER OF SCIENCE IN CHEMISTRY, University of Illinois at Urbana-Champaign, Urbana, Illinois — 1982.
Business Administration Minor. Cum laude.

BACHELOR OF ARTS IN CHEMISTRY, Kenyon College, Gambier, OH — 1978. Biology minor. Magna cum laude.

CONTINUING EDUCATION, Genetic Toxicology, University of Delaware, Newark, DE — 1989.

PESTICIDE REGULATORY AFFAIRS EXPERIENCE

08/22/05 - Present Vice President
Conn & Smith, Inc., Lorton, VA 22079

03/24/97 - 12/31/05 President
C. A. Smith Consulting, LLC, Lorton, VA 22079

12/29/95 - 03/21/97 Assistant Director, Regulatory Affairs
Technology Sciences Group, Inc., Washington, DC 20036

07/27/92 - 12/28/95 Manager, Regulatory Affairs
Stewart Pesticide Registration Associates, Arlington, VA 22202

Direct EPA and EPA-PMRA (U.S.-Canada) joint review and shared review pesticide regulatory projects for clients. Define data requirements. Evaluate data for compliance with regulatory requirements. Develop regulatory strategies. Prepare data summaries, FQPA summaries, study profiles, reduced risk pesticide proposals, data waiver requests, applications for registration and tolerance petitions. Review study protocols. Monitor progress of studies and evaluate the regulatory implications of results. Review and write study reports. Monitor status of agency reviews. Respond to regulatory agency reviews. Prepare project status reports. Coordinate project communications. Represent clients during meetings with EPA and Canada's PMRA. Negotiate label statements and conditions of registration. Pesticide regulatory project types have included registration of new active ingredients, new uses, new formulations, new inert ingredients, label amendments to improve product positioning, and reregistration. Pesticide types have included chemical and biochemical pesticides. Pesticide uses have included agricultural, antimicrobial and vertebrate control uses. Use sites have included outdoor food and non-food use, indoor and outdoor residential use, indoor and outdoor industrial use, and greenhouse food and non-food use. Data submission types have included conventional and electronic.

Guide business aspects of regulatory projects for clients. Identify needed services and providers of service. Prepare project budgets and financial reports. Suggest strategies and priorities for multi-objective projects based upon relative times and costs of registration.

Monitor changes in regulations and regulatory policy. Advise clients of impacts.

03/02/87 - 07/24/92 Pesticide Regulatory Affairs Specialist
ICI Americas, Inc. (now Syngenta Crop Protection, Inc.), Wilmington, DE 19897

Helped obtain the registration of the new active ingredient lambda-cyhalothrin and the registration of KARATE Insecticide. Prepared numerous petitions and applications for additional food uses. Was a key participant in the defense of the KARATE registration. This included activities that led to the formation of the Pyrethroid Working Group.

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Helped obtain the registration of the new active ingredient tefluthrin and the first registration of FORCE Insecticide. Successfully amended the FORCE registration to remove label restrictions and obtained the registration of a new FORCE formulation needed to meet marketing objectives. Participated in the first defense of a product before EPA based upon probabilistic exposure modeling and risk assessment.

Provided regulatory support for two new triazole fungicide active ingredients in development. Obtained approval of a significant new use of a plant growth regulator. Obtained approval of an experimental use permit for ICI's first biochemical pesticide.

Monitored changes in regulations and regulatory policy. Compiled a library and index of key EPA pesticide regulatory documents.

**02/01/82 - 01/27/84 Government Relations Assistant
Vestal Laboratories, Inc. (became Calgon-Vestal), St. Louis, MO 63110**

Managed and coordinated regulatory activities for the company's regulated products (germicides, industrial biocides, drugs and cosmetics). Prepared federal, international and state pesticide registration submissions. Prepared summaries, labels and technical literature. Helped start a Canadian subsidiary. Registered fourteen products in Canada and transferred the manufacturing technologies. Reviewed bilingual labeling.

Product safety specialist. Prepared the Medical and Environmental Emergency Response Resource Book. Responded to emergency calls. Upgraded MSDSs. Registered all products with the Poison Control Center. Prepared precautionary labeling. Drafted the Laboratory Safety Manual.

AWARDS

- 1992 "Atta Woman" Award received from a client for obtaining an EPA approval "in a time frame that others said was impossible."
- 1991 ICI Agricultural Products President's Hall of Excellence Award received for the successful defense of the registration of KARATE Insecticide.

PRESENTATIONS

- 2007 FIFRA training seminar.
- 2006 FIFRA Boot Camp: Data Requirements, Food Uses, Pesticide Registration Fees, Inert Ingredients, Relationship Between Manufacturing and Registration
- 2006 Contract Research Organization Size: One-Stop Shop or Specialty Firm (British Crop Protection Congress 2006)
- 2001 FIFRA training seminar.
- 2001 NAFTA Approach to Pesticide Registrations (Chemical Producers and Distributors Association Meeting).
- 1999 EPA data formatting seminar.
- 1996 Executive Enterprises Pesticide Labeling Workshop.
- 1995 Executive Enterprises Pesticide Labeling Workshop.

Updated July 23, 2007

CONSULTING AND CONFIDENTIALITY AGREEMENT - DRAFT

This Agreement is made this 23rd day of July, 2007 by and between:

1. Burt's Bees Inc. (Client) located at _____, Research Triangle Park, NC _____, and
2. Conn & Smith, Inc., located at 6713 Catskill Road, Lorton, VA 22079-1113.

In consideration of the mutual covenants and agreements herein contained, Client and Conn & Smith, Inc. hereby agree as follows:

1. **Services:** Conn & Smith, Inc. shall provide:
 - a. A FIFRA training course for Burt's Bees Inc. and invited companies located in Research Triangle Park to be held sometime during 2007; and
 - b. Pesticide registration consulting services and regulatory project management services upon request when mutually agreed.
2. In consideration of the Services to be performed by Conn & Smith, Inc., Client shall pay Conn & Smith, Inc. on an hourly basis at the rate of \$210 per hour. Rates are reviewed and may be adjusted annually. In addition, Client shall pay Conn & Smith, Inc. for ordinary and necessary out-of-pocket expenses incurred by Conn & Smith, Inc. in performance of the Services under this agreement. Conn & Smith, Inc. shall bill Client monthly for all hourly time and out-of-pocket costs and expenses (including reasonable travel expenses) incurred on Client's behalf.
3. Client shall pay in full all sums due to Conn & Smith, Inc. upon receipt of a billing invoice, unless Conn & Smith, Inc. shall have agreed in writing to other payment terms. Invoices not paid within thirty (30) days of the invoice date shall bear interest at the rate of eighteen percent (18%) per annum. Conn & Smith, Inc. reserves the right to suspend the Services if payment is not received within sixty (60) days of the date of the invoice. In the event Conn & Smith, Inc. institutes legal action to collect any past due amount, Client agrees to pay all costs of collection including reasonable attorneys' fees.
4. At such times as Client shall request, Conn & Smith, Inc. shall advise Client of the status of services being performed by Conn & Smith, Inc. pursuant to this Agreement.
5. The parties agree that Conn & Smith, Inc. (and its employees) shall be and at all times act solely as an independent contractor and not as an employee of Client.
6. Client acknowledges that Conn & Smith, Inc. is a pesticide regulatory consulting firm and is not licensed to practice law or to represent that it practices law. Work product and opinions of Conn & Smith, Inc. shall not be construed as an opinion of counsel or legal opinion.
7. After acceptance of this Agreement, Conn & Smith, Inc. shall exercise reasonable care to prevent unauthorized disclosure of "Confidential Information" (as defined below) supplied by Client. Conn & Smith, Inc. shall safeguard the Confidential Information to the same extent that it safeguards its own proprietary information and will not disclose the Confidential Information to others (except to the extent such disclosure may be required by government authorities or pursuant to court orders). As used in this Agreement, the term "Confidential Information" shall mean all technical, commercial and business information, data, technical developments and ideas, cost projections, samples and formulae belonging to Client that Conn & Smith, Inc. obtains pursuant to this Agreement and which Conn & Smith, Inc. knows or reasonably should know to be proprietary to Client except any portion of such information that:

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- a. Is known to Conn & Smith, Inc. before disclosure to Conn & Smith, Inc. by Client;
- b. Is disclosed to Conn & Smith, Inc. by a third party who Conn & Smith, Inc. reasonably believes has the right to make such disclosure;
- c. Is or becomes known to the public (other than through disclosure by Conn & Smith, Inc.);
or
- d. Is independently developed by Conn & Smith, Inc.

In the event that Conn & Smith, Inc. is legally compelled to disclose any part of the Confidential Information, Conn & Smith, Inc. shall notify Client prior to the actual disclosure, and shall cooperate fully with Client in the event that Client elects to contest or restrict such disclosure.

Conn & Smith, Inc.'s obligations contained in this Paragraph shall survive any termination of Conn & Smith, Inc.'s right to use the Confidential Information for the purposes specified in this Agreement and shall continue for a period of five (5) years from the date of the disclosure of the Confidential Information.

No license or conveyance of any rights under any discoveries, inventions or patents is granted or implied by the disclosure of Confidential Information to Conn & Smith, Inc.

8. All original documents, exhibits, samples or other materials provided by Client to Conn & Smith, Inc. in connection with the Services to be performed by Conn & Smith, Inc. under this Agreement shall remain the property of Client and shall be returned to Client upon request (except to the extent that Conn & Smith, Inc. shall be required to retain such information by a government authority or pursuant to a court order).
9. Either party may terminate this Agreement upon the sixtieth (60th) calendar day following the actual delivery to the other party of a written notice of termination. Client shall pay Conn & Smith, Inc. for all fees and expenses incurred (or irrevocably committed to) by Conn & Smith, Inc. on or before the effective date of such termination.
10. No provision of this Agreement shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person a third-party beneficiary of this Agreement or of any one or more of its terms or conditions, or otherwise give rise to any cause of action in any person not a party to this Agreement.
11. Conn & Smith, Inc. shall be liable to Client only for direct damages that result from Conn & Smith, Inc.'s negligence or willful misconduct in performance of the Services. Notwithstanding anything to the contrary contained herein, the sole and exclusive remedy available to Client, for any cause whatsoever, whether in contract or in tort, is damages in an amount not to exceed the fees actually paid by Client to Conn & Smith, Inc. for the Services, and all other remedies, statutory or otherwise, are hereby expressly waived by Client. Client shall defend, indemnify and hold Conn & Smith, Inc. harmless from and against any and all claims, suits, actions, debts, costs, charges, causes of action, damages, losses and expenses (including attorneys' fees) directly or indirectly arising out of or resulting from any and all acts or omissions of Client, its employees or affiliates.
12. Under no circumstances shall either party be liable to the other for any special, indirect or consequential loss or damage, including lost profits, (other than as provided in Paragraph 11 of this Agreement), whether or not such loss or damage is caused by the fault or negligence of such parties or its affiliate, officers, agents or employees. No action or claim relating to this Agreement may be instituted more than one (1) year after the event giving rise to such action or claim.