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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK

NANCY J. MARVEL
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Region IX
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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

In the matter of:)	
)	Docket No. FIFRA-9-2009-0019
VF Outdoor, Inc.,)	
)	CONSENT AGREEMENT
)	AND FINAL ORDER
Respondent)	
)	

I. CONSENT AGREEMENT

Complainant, the Associate Director for Agriculture of the Communities and Ecosystems Division, United States Environmental Protection Agency, Region IX ("EPA Region IX"), and Respondent, VF Outdoor, Inc. ("Respondent") agree to settle this case initiated under the Federal Insecticide, Fungicide, and Rodenticide Act (the "Act"), as amended, 7 U.S.C. §§ 136 et seq., and consent to the entry of this Consent Agreement and Final Order ("CAFO").

A. AUTHORITY

1. EPA Region IX initiated this civil administrative proceeding for the assessment of a civil penalty under the Act pursuant to section 14(a) of the Act, 7 U.S.C. § 136l(a), and the

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent on September 21, 2009.

2. The Complaint alleges that Respondent violated section 12(a)(1)(A) of the Act, 7 U.S.C. § 136j(a)(1)(A), by selling and distributing unregistered pesticides.
3. EPA Region IX and Respondent have agreed to resolve this civil administrative proceeding arising under the Act by executing this CAFO.

B. RESPONDENT’S ADMISSIONS

4. 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 Complaint; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.C of this CAFO; (iv) waives any right to contest the allegations contained in the Complaint; and (v) waives the right to appeal the proposed final order contained in this CAFO.

C. CIVIL ADMINISTRATIVE PENALTY

5. In settlement of the violations specifically alleged in the Complaint, Respondent shall pay a civil administrative penalty of TWO HUNDRED SEVEN THOUSAND AND FIVE HUNDRED DOLLARS (\$207,500) within 30 days of the effective date of this CAFO. Payment shall be made by cashier’s or certified check payable to the “Treasurer, United States of America,” and shall be sent by certified mail, return receipt requested, to the

following address:

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

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 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

David H. Kim
Office of Regional Counsel (ORC-3)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

6. 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.
7. If Respondent fails to pay the civil administrative penalty within 30 days of the effective date of this CAFO, then Respondent shall pay to EPA an additional, stipulated penalty of FIVE HUNDRED DOLLARS (\$500) for each day that payment is late. Upon Complainant's written demand, payment shall immediately become due and payable. In addition, failure to pay the civil administrative penalty within 30 days of the effective date of this CAFO 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 5. 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.

D. CERTIFICATION OF COMPLIANCE

8. In executing this CAFO, Respondent certifies that (1) it is not currently distributing or selling unregistered pesticides in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and (2) to its knowledge, it is currently in compliance with any other FIFRA requirements that may apply to its ongoing operations.

E. RETENTION OF RIGHTS

9. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations of FIFRA and EPA's implementing regulations that relate to the facts specifically alleged in the Complaint. 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 the Complaint; 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 the Complaint.
10. 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.

F. ATTORNEYS' FEES AND COSTS

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

G. EFFECTIVE DATE


12. 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.

H. BINDING EFFECT

13. 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.
14. 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.

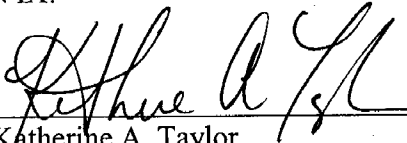
FOR RESPONDENT VF OUTDOOR, INC.:

19 Feb 10
DATE


By: Steve Rowden
Title: President, VF outdoor
Address: 2019 Fenelon
San Leandro, CA 94524

FOR COMPLAINANT EPA REGION IX:

4/06/10
DATE


Katherine A. Taylor
Associate Director for Agriculture
Communities and Ecosystems Division
United States Environmental
Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

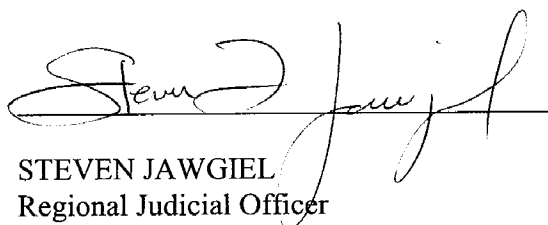
II. FINAL ORDER

EPA Region IX and VF Outdoor, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-9-2009-0019) be entered, and Respondent shall pay a civil administrative penalty in the amount of TWO HUNDRED SEVEN THOUSAND AND FIVE HUNDRED DOLLARS (\$207,500) in accordance with the terms set forth in the Consent Agreement.

04/21/2010

DATE


STEVEN JAWGIEL
Regional Judicial Officer
United States Environmental
Protection Agency, Region IX

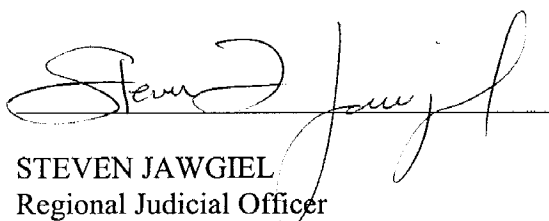
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04/21/2010

DATE


STEVEN JAWGIEL
Regional Judicial Officer
United States Environmental
Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original and a copy of the foregoing Consent Agreement and Final Order was hand delivered to:

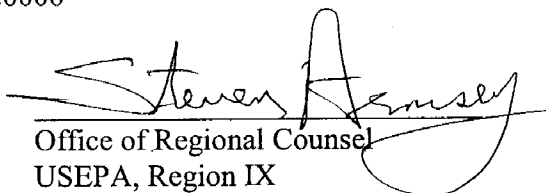
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

and that a true and correct copy of the same document was placed in the United States Mail, addressed to the following:

The Honorable William Moran
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency (1900L)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Peter Gray, Esq.
Michael Boucher, Esq.
McKenna, Long & Aldridge L.L.P.
1900 K Street, N.W.
Washington, D.C. 20006

Dated: 4-22-10

By: 
Office of Regional Counsel
USEPA, Region IX