



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 24 2016

Mr. Ruben Alonso
President
We Fix It, LLC
6745 2nd Street
Jupiter, Florida 33458

Re: We Fix It, LLC
Ratified Consent Agreement and Final Order
Docket No.: FIFRA-04-2016-3003(b)

Dear Mr. Alonso:

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.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the respondent's name and docket number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

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 U.S. Environmental Protection Agency. Where used in the document, "SEC" refers to Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Dr. Karen Hill of the EPA Region 4 staff at (404) 562-8972.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kimberly L. Bingham".

Kimberly L. Bingham
Acting Chief
Chemical Safety and Enforcement Branch

Enclosure

cc: Kelly Friend, FDACS

**UNITED STATES
 ENVIRONMENTAL PROTECTION AGENCY
 REGION 4
 ATLANTA, GEORGIA**

USED IN REGION 4
 OFFICE OF REGIONAL
 COUNSEL

2016 MAY 24 AM 7:08
 HEARING CLERK

Docket No.: FIFRA-04-2016-3003(b)

In the Matter of:)
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 We Fix It, LLC)
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 Respondent.)
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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) (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. Respondent is We Fix It, LLC.

2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to the EPA Region 4 by the EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by the EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an

enforcement action as the Complainant in this matter, and has the authority to sign consent agreements memorializing settlements between the EPA and Respondent.

3. 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

4. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Karen M. Hill
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960
(404) 562-8972.

5. Respondent We Fix It, LLC is licensed to do business in the State of Florida.
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. The importation of pesticides into the United States is governed by Sections 17(c) and (e) of FIFRA, 7 U.S.C. §§ 136o(c) and 136o(e), and the regulations promulgated thereunder by the Secretary of the Treasury in consultation with the Administrator of the U.S. EPA. These regulations are found at 19 C.F.R. Part 12.

8. Pursuant to FIFRA section 17(c) and 19 C.F.R. § 12.112, an importer of pesticides or devices into the United States is required to submit a Notice of Arrival (NOA) to the EPA on EPA Form 3540-1, prior to the arrival of the shipment in the United States.
Pursuant to 19 C.F.R. § 12.113, when a shipment of pesticides or devices arrives in the United States without the presentation by the importer or its agent to the U.S. Customs and Border Protection (CBP) an NOA reviewed by EPA, the shipment shall be detained by CBP until the completed NOA is presented or other disposition is ordered by the EPA.
9. On or about November 18, 2015, the EPA received an NOA from the Respondent, listed therein as the importer of record, showing that a shipment of the unregistered pesticide Clorophen C had arrived in the United States on or about October 31, 2015, which was prior to the date the Respondent submitted the NOA to the EPA.
10. Based on the Respondent's failure to timely submit an NOA to the EPA or a completed NOA to CBP, CBP detained the shipment at the port of Savannah.
11. Pursuant to 19 C.F.R. § 12.111, all imported pesticides are required to be registered under the provisions of Section 3 of FIFRA, 7 U.S.C. § 136a, before being permitted entry into the United States.
12. The pesticide, Clorophen C, listed on the NOA submitted by the Respondent to EPA, was not registered with the EPA.
13. In accordance with Pesticide Registration (PR) Notice 99-1, EPA interprets Section 17(a) of FIFRA to allow for the import of unregistered pesticides solely for the purpose of export from the United States and not for sale, distribution or use within the United States. Pursuant to 40 C.F.R. § 152.30, unregistered pesticides imported into the United States may be further transferred or distributed without registration within the United States only in certain limited circumstances as specified in 40 C.F.R. § 152.30.

Based upon the information provided on the NOA submitted by the Respondent to EPA, the importation of the unregistered pesticide, Clorophen C, was not in compliance with any specific exception authorized by 40 C.F.R. § 152.30 of FIFRA or 40 C.F.R. § 17(a) in accordance with PR Notice 99-1.

14. On November 24, 2015, the EPA completed its review of the NOA submitted by the Respondent and determined that the shipment of the unregistered pesticide Clorophen C was not in compliance with FIFRA. Based on this determination, the EPA's completed NOA directed the Port Director to refuse delivery of the shipment to the Respondent.
15. Pursuant to 19 C.F.R § 12.114, if the completed EPA NOA directs the port director to refuse delivery of the shipment, the shipment shall be refused delivery and treated as a prohibited importation and must either be exported by the consignee or importer or destroyed. The port director shall cause the destruction of any shipment refused delivery and not exported by the consignee within 90 days after notice of such refusal of delivery.
16. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), states that it shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by FIFRA. By failing to submit an NOA prior to the arrival of the pesticide in the United States, Respondent has violated Section 12(a)(2)(N) of FIFRA. Additionally, by importing an unregistered pesticide for purposes other than export only, and without meeting one of the exemptions set forth in 40 C.F.R. § 152.30, Respondent has violated Section 17 of FIFRA.
17. 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.

18. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the 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(s).
19. 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 **ONE THOUSAND, EIGHT HUNDRED AND NINETY DOLLARS (\$1,890)** against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

20. 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.
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 of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
23. Respondent certifies that on or about December 11, 2015, the shipment of 36 bottles in three (3) boxes [12 bottles per box] of the unregistered pesticide Clorophen C was transported from the port to the bonded warehouse IWS FTZ# 25 located at 3400 McIntosh Road, Fort Lauderdale, Florida for storage purposes prior to the arranged destruction of the unregistered pesticide.
24. Respondent certifies that the shipment of 36 bottles in three (3) boxes [12 bottles per box] of the unregistered pesticide Clorophen C is scheduled to be shipped to, and destroyed by Ross Environmental Services, Inc., located at 150 Innovation Drive, Elyria, Ohio 44035.

25. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations of violations in Section III of this CAFO and does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Compliance with this CAFO is not a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by the EPA, and it is the responsibility of the Respondent to comply with FIFRA and other applicable federal, state and local laws and regulations.
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.

V. Final Order

27. Respondent is assessed a civil penalty of **ONE THOUSAND, EIGHT HUNDRED AND NINETY DOLLARS (\$1,890)**. Payment shall be paid within thirty (30) days of the effective date of this CAFO.
28. Respondent shall remit payment of the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check. **The check shall reference on its face the name of the Respondent and Docket number of this CAFO.**

Payment of the penalty shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (excluding USPS overnight mail):

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

Address for payment by USPS overnight mail or other delivery service (e.g.,
Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1818.

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;

Karen M. Hill
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960; and

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

30. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the 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. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy

of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within 30 calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). 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 principal amount not paid within 90 days of the due date.

31. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
32. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
33. This CAFO shall be binding upon the Respondent, its successors and assigns.
34. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.

THIS SECTION INTENTIONALLY LEFT BLANK

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 We Fix It, LLC Docket Number: FIFRA-04-2016-3003(b), to the addressees listed below.

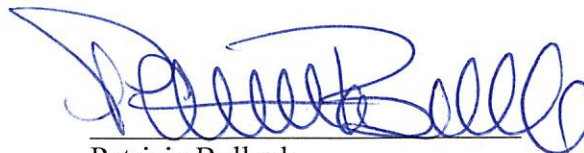
Mr. Robert Caplan (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Mr. Alonso Ruben
President
We Fix It, LLC
6745 2nd Street
Jupiter, Florida 33458

Pamela Moultrie (via EPA's internal mail)
Air, Pesticides and Toxics
Management Division
EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

5-24-16

DATE



Patricia Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-9511


VI. Effective Date

35. 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: We Fix It, LLC

Docket No.: FIFRA-04-2016-3003(b)

By:  (Signature) Date: 03/28/2016
Name: Ruben Alonso (Typed or Printed)
Title: PRESIDENT (Typed or Printed)

Complainant: U. S. Environmental Protection Agency

By:  Date: 4/14/16
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 23rd day of May 2016.


Tanya Floyd
Regional Judicial Officer