



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 24 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Juan Gomez
Owner
Rincon Hispano
319 S. Sterling St.
Morganton, North Carolina 28655

Re: Rincon Hispano
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2014-3007(b)

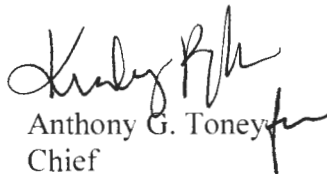
Dear Mr. Gomez:

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.

The EPA Region 4 has received proof of payment as per paragraph 6 of the Expedited Settlement Agreement and Final Order so no further action is required in this regard. 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 Environmental Protection Agency.

Should you have any questions about this matter or your compliance status in the future, please contact Ms. Melba Table of the EPA Region 4 staff at (404) 562-9086.

Sincerely,



Anthony G. Toney
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: State Agency
State File No. SN032712271001

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV

2014 SEP 24 AM 8:46

HEARING CLERK

In the Matter of:)

Rincon Hispano)

Respondent.)

Docket No.: FIFRA-04-2014-3007(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. § 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 Rincon Hispano.
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 EPA Region 4 by 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 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 Respondents.

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:

Melba Table
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.

5. Respondent is Rincon Hispano, a North Carolina corporation, located at 319 S. Sterling Street, Morganton, NC 28655.
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 March 17, 2012, an authorized representative of the EPA conducted an inspection at Rincon Hispano located at 319 S. Sterling Street, Morganton, NC 28655.
8. At the time of the inspection, the inspector observed Sapolia Pino Pine Desinfectante, Sapolio Limon Lemon Desinfectante, Sapolio Lavender Desinfectente, and Nuevo

Sapolio Limpia todo Lavender being offered for sale and/or distribution on retail shelves of the store.

9. The product labels for Sapolio Pino Pine Desinfectante, Sapolio Limon Lemon Desinfectante, Sapolio Lavanda Lavender Desinfectante, and Nuevo Sapolio Limpia todo Lavanda Lavender bore the claims - “disinfectant, kills bacteria and germs.”
10. Because the product labels listed above bore pesticidal claims, the products are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. 136(u), which includes any substance or mixture of substance intended for preventing, destroying, repelling, or mitigating any pest.
11. 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).
12. 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.
13. The Respondent distributed and sold each of the above-mentioned four pesticide products on one occasion for a total of four violations.
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, Sapolio Pino Pine Desinfectante, Sapolio Limon Lemon Desinfectante, Sapolio Lavanda Lavender Desinfectante, and Nuevo Sapolio Limpo todo Lavanda Lavender were not registered as pesticides with the EPA.
16. 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, 7 U.S.C. § 136a.
17. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least one occasion for each of the four pesticide products and is, therefore, subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
18. 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.
19. 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.
20. 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 **SEVEN THOUSAND FIVE DOLLARS (\$7,005)** 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

21. 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.

22. 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.
23. 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.
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 the 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.
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 **SEVEN THOUSAND FIVE DOLLARS (\$7,005)**. Twelve payments will be made to complete payment of the entire civil penalty including interest. The first payment shall be made thirty (30) days after the effective date of the CAFO. The subsequent eleven payments shall be due in ninety (90) day intervals thereafter. Including the civil penalty and the interest, the total amount that will be paid upon the completion of all payments will be **SEVEN THOUSAND ONE HUNDRED**

THREE DOLLARS and FOUR CENTS (\$7,103.04). Respondent shall make payments in accordance with the following schedule:

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days of filing of CAFO	\$591.92
2	within 120 days of filing of CAFO	\$591.92
3	within 210 days of filing of CAFO	\$591.92
4	within 300 days of filing of CAFO	\$591.92
5	within 390 days of filing of CAFO	\$591.92
6	within 480 days of filing of the CAFO	\$591.92
7	within 570 days of filing of the CAFO	\$591.92
8	within 660 days of filing of the CAFO	\$591.92
9	within 750 days of filing of the CAFO	\$591.92
10	within 840 days of filing of the CAFO	\$591.92
11	within 930 days of filing of the CAFO	\$591.92
12	within 1020 days of filing of the CAFO	\$591.92

28. Respondent shall remit the penalty payments by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the penalty payment 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 payments 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.

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

29. At the time of each 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
Atlanta, Georgia 30303-8960;

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

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

30. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not made within thirty (30) days after the due date, that payment plus all subsequent payments (the entire unpaid balance) shall become immediately due and payable on the 31st day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
31. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, the EPA may refer the debt to a collection action in the appropriate United States District Court. In such collection action, the validity, amount and appropriateness of the assessed penalty and this CAFO shall not be subject to review.

32. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of SEVEN THOUSAND ONE HUNDRED THREE DOLLARS and FOUR CENTS (\$7,103.04) within 30 days of the effective date of this CAFO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.
33. Pursuant to 31 U.S.C. § 3717, 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 the 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 is paid within thirty (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 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 ninety (90) days of the due date.
34. 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.

35. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
36. This CAFO shall be binding upon the Respondent, its successors and assigns. 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.

VI. Effective Date

37. 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: Rincon Hispano
Docket No.: FIFRA-04-2014-3007(b)

By: ✓ Juan Palacios (Signature) Date: 9-11-14
 Name: Juan Palacios Gomez (Typed or Printed)
 Title: owner (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: Beverly H. Banister Date: 09/17/14
 Beverly H. Banister, Director
 Air, Pesticides and Toxics
 Management Division

APPROVED AND SO ORDERED this 23 day of September 2014.

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 Rincon Hispano, Docket Number: FIFRA-04-2014-3007(b), to the addressees listed below:

Mr. Juan Gomez (via Certified Mail, Return Receipt Requested)
Owner
Rincon Hispano
319 S. Sterling Street
Morganton, North Carolina 28655

Melba Table (via EPA's internal mail)
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

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

Date: 9-24-14



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