



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 28 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gregory T. Furnas
President and Registered Agent
Bayse Janitor Supply Co.
d/b/a Bayse Janitorial & Paper Supply Co.
300 South Bay Street
Eustis, Florida 32726

Re: Bayse Janitor Supply d/b/a Bayse Janitorial & Paper Supply Co.
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2013-3010(b)

Dear Mr. Furnas:

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

Should you have any questions about this matter or your compliance status in the future, please contact Ms. Molly Miller of the EPA Region 4 staff at (404) 562-9684.

Sincerely,

Anthony G. Toney
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Kelly Friend, FDACS

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

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

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2013 MAY 28 PM 2:04
HEARING CLERK

In the Matter of:)
)
Bayse Janitor Supply Co. d/b/a)
Bayse Janitorial and Paper Supply Co.)
)
)
Respondent)

Docket No.: FIFRA-04-2013-3010(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 Bayse Janitor Supply Co. d/b/a Bayse Janitorial Paper and Supply Co. (hereinafter "Bayse Janitor Supply Co." or "Respondent"), 300 South Bay Street, Eustis, Florida 32726.
2. 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. The Regional Administrator, Region 4, has re-delegated 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 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 EPA in this proceeding:

Cheryn Jones
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9006.

5. Respondent is Bayse Janitor Supply Co., a Florida for-profit corporation, located at 300 South Bay Street, Eustis, Florida 32726.
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 July 20 and 21, 2010, an authorized representative of the EPA conducted inspections at Sunshine Horticulture, LLC, located at 3119 West Kelly Park Road, Apopka, Florida 32712.

8. On or about July 21, 2010, an authorized representative of the EPA conducted an inspection at Bayse Janitor Supply Co., located at 300 South Bay Street, Eustis, Florida 32726.
9. The inspections revealed greenhouse workers at Sunshine Horticulture used the product Bayse B-52 as a disinfectant in greenhouses.
10. The inspections revealed the use of Bayse B-52 by greenhouse workers coincided with complaints of blisters and burns on their skin.
11. The inspections revealed that Bayse B-52 was purchased by Sunrise Horticulture from Bayse Janitor Supply Co. for the purpose of disinfecting greenhouse tables and grounds, as recommended by a representative of Bayse Janitor Supply Co.
12. Under 40 C.F.R. § 152.15, a substance is considered to be intended for a pesticidal purpose and require registration if the person who distributes or sells the substance claims or implies the substance can or should be used as a pesticide.
13. Bayse B-52 is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
14. Bayse B-52 is an antimicrobial pesticide as defined in Section 2(mm) of FIFRA, 7 U.S.C. § 136(mm), which includes a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.
15. 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).

16. The inspections at Sunshine Horticulture and Bayse Janitor Supply Co. revealed Bayse Janitor Supply Co. sold and distributed Bayse B-52 as an antimicrobial pesticide, which was not registered with EPA as required by Section 3 of FIFRA, 7 U.S.C. § 136a .
17. 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.
18. 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.
19. 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.
20. Because Respondent sold and distributed an unregistered pesticide on at least one occasion, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
21. At the time of the inspection, the label on the pesticide Bayse B-52 failed to bear directions for use and the ingredient statement.
22. Pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q), a pesticide is misbranded if its label fails to bear directions for use and the ingredient statement.
23. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person to distribute or sell to any person any pesticide that is misbranded.

24. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on at least one occasion and is therefore subject to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
25. 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.
26. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires 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.
27. 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 **TEN THOUSAND NINE HUNDRED AND SIXTY-FIVE DOLLARS (\$10,965)** 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

28. 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.
29. 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.
30. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
31. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.

32. 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.

33. 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

34. Respondent is assessed a civil penalty of **TEN THOUSAND NINE HUNDRED AND SIXTY-FIVE DOLLARS (\$10,965)**. Three payments will be made to complete payment of the entire civil penalty including interest. The first installment is due within 3 months of the effective date of this CAFO. The subsequent two payments shall be due in six-month intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **ELEVEN THOUSAND FIFTY-TWO DOLLARS and FIFTY-ONE CENTS (\$11,052. 51)**. 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 90 days of filing of CAFO	\$3,684.17
2	within 270 days of filing of CAFO	\$3,684.17
3	within 450 days of filing of CAFO	\$3,684.17

35. 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
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

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

36. 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
Atlanta, Georgia 30303-8960;

Cheryn L. Jones
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.

37. 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 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.

38. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
39. 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 **TEN THOUSAND NINE HUNDRED SIXTY-FIVE DOLLARS (\$10,965)** within thirty (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.
40. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, 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, EPA will not seek to recover interest on any amount of such civil penalty that 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 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 ninety (90) days of the due date.

41. 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.
42. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
43. 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

44. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

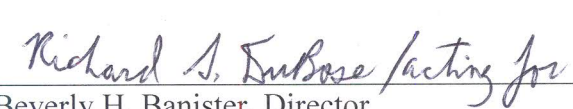
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AGREED AND CONSENTED TO:


Respondent: Bayse Janitor Supply Co.
Docket No.: FIFRA-04-2013-3010(b)

By:  (Signature) Date: 5-7-13
Name: Gregory T. Furness (Typed or Printed)
Title: President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:  Date: 5/21/2013
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 28 day of May 2013.


Susan B. Schub
Regional Judicial Officer

Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order In the Matter of Bayse Janitor Supply d/b/a Bayse Janitorial & Paper Supply Co., Docket Number: FIFRA-04-2013-3010(b), to the addressees listed below:

Mr. Gregory T. Furnas
President and Registered Agent
Bayse Janitor Supply
d/b/a Bayse Janitorial & Paper Supply Co.
300 South Bay Street
Eustis, Florida 32726

(via Certified Mail, Return Receipt Requested)

Molly Miller
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(via EPA's internal mail)

Robert Caplan
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(via EPA's internal mail)

Date: _____

5/28/13



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