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HEARINGS CLERK  
EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. FIFRA-10-2014-0141
	)	
PACIFIC AIR RESEARCH, INC.,	)	<b>CONSENT AGREEMENT</b>
	)	
WHITE CITY, OREGON	)	
	)	
Respondent.	)	

**I. PRELIMINARY STATEMENT**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136/(a).

1.2. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136/(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Pacific Air Research, Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

1.3. The Director of the Office of Compliance and Enforcement, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 14(a) of FIFRA, 7 U.S.C.



§ 136l(a), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of FIFRA is proposed to be assessed.

1.4. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), by issuing a Complaint against Respondent, on September 23, 2014.

1.5. In the Complaint, EPA alleged that Respondent violated Section 12(a)(2)(G), of FIFRA, 7 U.S.C. §136j(a)(2)(G). In particular, EPA alleged that Respondent used the registered pesticides Element 4 (EPA Reg. No. 62719-40), and Weedone LV6 (EPA Reg. No. 71368-11) in a manner inconsistent with their labeling.

1.6. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.

1.7. Respondent states that it does not admit liability, but in the interest of settlement agrees to resolve this matter by executing this Consent Agreement.

## **II. CONSENT AGREEMENT**

2.1. Respondent admits the jurisdictional allegations of the Complaint.

2.2. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

2.3. As required by Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), EPA has taken into account the appropriateness of such penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. After considering all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$1,100.



2.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 2.3 within 30 days of the effective date of the Final Order.

2.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

2.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 2.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

Chad Schulze  
U.S. Environmental Protection Agency  
Region 10, Mail Stop OCE-084  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

2.7. If Respondent fails to pay the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.



2.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

2.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

2.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

2.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

2.9. The penalty described in Paragraph 2.3, including any additional costs incurred under Paragraph 2.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

2.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and the Final Order and to bind Respondent to this document.

2.11. Except as described in Paragraph 2.8, each party shall bear its own costs and attorney fees in bringing or defending this action.





2.12. Respondent expressly waives any right to contest the allegations contained in the Complaint and waives any right to appeal the Final Order.

2.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

2.14. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

April 7, 2015

FOR RESPONDENT:




STEVEN OWEN, President  
Pacific Air Research, Inc.

DATED:

4/16/2015

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement  
EPA Region 10



BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. FIFRA-10-2014-0141
	)	
PACIFIC AIR RESEARCH, INC.,	)	<b>FINAL ORDER</b>
	)	
WHITE CITY, OREGON	)	
	)	
Respondent.	)	

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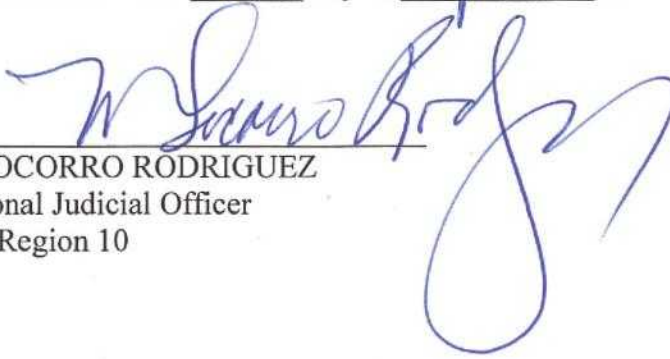
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under FIFRA for the violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of FIFRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 22<sup>nd</sup> day of April, 2015.

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Pacific Air Resources LLC, Docket No.: FIFRA-10-2014-0141**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

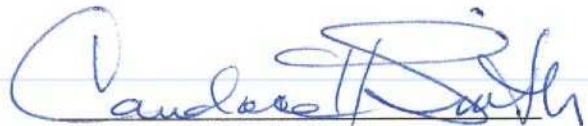
Juliane Matthews  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Steve Owen  
Pacific Air Research, Inc.  
660 Avenue C  
White City, Oregon 97503

Tim Miller  
Miller and Associates  
5005 SW Meadows Road, Suite 405  
Lake Oswego, Oregon 97035

DATED this 23<sup>rd</sup> day of April, 2015.



CANDACE H. SMITH  
Regional Hearing Clerk  
EPA Region 10

