



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN - 1 2016

REPLY TO THE ATTENTION OF
LC-8J

VIA EMAIL

TO: tom@goldshield1.com

Mr. Thomas Higgins
AP Goldshield, LLC
9570 Pan American Drive
El Paso, Texas 79927

Consent Agreement and Final Order In the Matter of AP Goldshield, LLC
Docket Number FIFRA-05-2016-0005

Mr. Higgins:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on *6/1/2016* with the Regional Hearing Clerk. *hw*

The civil penalty in the amount of \$21,811.29 is to be paid in the manner described in paragraphs 10-12. Please be certain that the docket number and installment payment number are written on both the transmittal letter and on the check of each installment payment. The first installment payment is due within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

Meghan Dunn
Enforcement Officer
Pesticides and Toxics Compliance Section

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**A.P. Goldshield, LLC
El Paso, Texas,**

Respondent.



Docket No. FIFRA-05-2016-0005

**Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)**

Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a).

2. On March 1, 2016, EPA filed the Complaint in this action against Respondent A.P. Goldshield, LLC, incorporated in the State of Texas. The Complaint alleged that Respondent distributed or sold a misbranded pesticide, constituting an unlawful act under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136(a)(1)(E); Respondent distributed or sold two pesticide products with claims on its label that substantially differed from claims made for it as part of the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, constituting unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B); Respondent distributed or sold an unregistered pesticide, constituting an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136(a)(1)(A); and Respondent offered for sale via the internet a registered pesticide in violation of a Stop Sale, Use and Removal Order issued under Section 13(a) of FIFRA, 7 U.S.C. § 7 U.S.C. § 136k(a), constituting an unlawful action under Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I).

3. On March 9, 2016, Respondent provided an Answer and requested a hearing under Section 14 of FIFRA, 7 U.S.C. § 136*l*, and 40 C.F.R. § 22.15.

Stipulations

4. Respondent neither admits nor denies the specific factual allegations and admits the jurisdictional allegations of the Complaint.

5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. Respondent certifies to the best of its knowledge that it is in compliance with FIFRA, 7 U.S.C. §§ 136-136y.

7. Respondent consents to all terms and conditions of this CAFO, including its civil penalty.

8. The parties agree that the resolution of this action, without further litigation, and upon the terms of this CAFO, is in the public interest.

Civil Penalty

9. Complainant agrees to reduce the \$27,050 civil penalty proposed in the Complaint to \$21,640. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business and the gravity of the alleged violation. Complainant also considered EPA's *Enforcement Response Policy for the Federal Insecticide, Fungicide and Rodenticide Act*, dated December 2009.

10. Respondent shall pay the \$21,640 civil penalty (with interest) as set forth in the table below:

	Due by:	Payment	Principal	Interest
Payment 1	w/n 1st 30 days	1,224.03	1,206.00	18.03
Payment 2	60 days of CAFO	1,219.03	1,202.00	17.03
Payment 3	90 days of CAFO	1,218.03	1,202.00	16.03
Payment 4	120 days of CAFO	1,217.03	1,202.00	15.03
Payment 5	150 days of CAFO	1,216.02	1,202.00	14.02
Payment 6	180 days of CAFO	1,215.02	1,202.00	13.02
Payment 7	210 days of CAFO	1,214.02	1,202.00	12.02
Payment 8	240 days of CAFO	1,213.02	1,202.00	11.02
Payment 9	270 days of CAFO	1,212.02	1,202.00	10.02
Payment 10	300 days of CAFO	1,211.02	1,202.00	9.02
Payment 11	330 days of CAFO	1,210.01	1,202.00	8.01
Payment 12	360 days of CAFO	1,209.01	1,202.00	7.01
Payment 13	390 days of CAFO	1,208.01	1,202.00	6.01
Payment 14	420 days of CAFO	1,207.01	1,202.00	5.01
Payment 15	450 days of CAFO	1,206.01	1,202.00	4.01
Payment 16	480 days of CAFO	1,205.01	1,202.00	3.01
Payment 17	510 days of CAFO	1,204.00	1,202.00	2.00
Payment 18	540 days of CAFO	1,203.00	1,202.00	1.00
	TOTALS	\$21,811.29	\$21,640.00	\$171.29

11. Respondent must pay the civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

The check must reference the case title ("In the Matter of A.P. Goldshield, LLC"), the installment payment number, and the docket number of this CAFO ("Docket No. FIFRA-05-2016-0005.")

12. A transmittal letter stating Respondent's name, complete address, the case title, the

case docket number and the installment payment number must accompany each installment payment. Respondent must send a copy of each transmittal letter accompanying each installment payment (made in accordance with the payment schedule established in paragraph 10), to the following addresses:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Meghan Dunn (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard.
Chicago, Illinois 60604

Susan Perdomo (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

13. This civil penalty is not deductible for federal tax purposes.

14. If Respondent does not pay the civil penalty in a timely manner, according to the payment schedule established in paragraph 10, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past

due.

General Provisions

16. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.

17. This CAFO does not affect the rights of EPA or the United States to pursue criminal sanctions or any violations of law which occur after the effective date of this CAFO.

18. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

19. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

20. The terms of this CAFO bind Respondent, its successors and assigns.

21. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

22. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: perdomo.susan@epa.gov (for Complainant), and tom@goldshield1.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

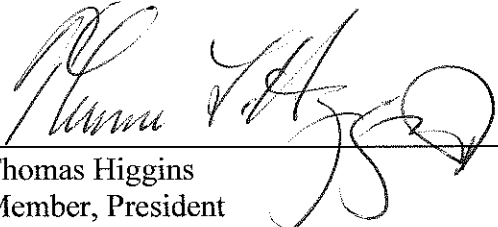
23. Each party agrees to bear its own costs and attorney fees, in this action.

24. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: A.P. Goldshield, LLC
El Paso, Texas
Docket No. FIFRA-05-2016-0005**

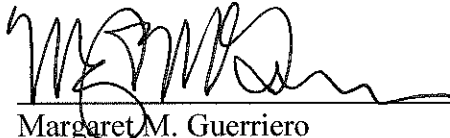
A.P. Goldshield, LLC

5/19/16
Date


Thomas Higgins
Member, President

United States Environmental Protection Agency, Complainant

5/24/2016
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of: A.P. Goldshield, LLC
El Paso, Texas
Docket No. FIFRA-05-2016-0005

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

May 26, 2016
Date

Robert A. Kaplan
Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: **AP Goldshield, LLC**
Docket Number: **FIFRA-05-2016-0005**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **FIFRA-05-2016-0005**, which was filed on June 1, 2016, in the following manner to the following addressees:

Copy by E-mail to Respondent: Thomas Higgins
tom@goldshield1.com

Copy by E-mail to Attorney for Complainant: Susan Perdomo
perdomo.susan@epa.gov

Copy by intra-office mail to Administrative Law Judge: Honorable Christine Donelian Coughlin
c/o
Sybil Anderson
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Mail Code 1900R
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dated: June 1, 2016



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5