

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
999 18<sup>TH</sup> STREET- SUITE 300  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>

DOCKET NO.: FIFRA-08-2006-0008

IN THE MATTER OF: )  
)  
AG SEED, LLC. )  
2570 North Main Street ) **FINAL ORDER**  
North Logan, UT 84341 )  
)  
(EPA Establishment No. 081101-UT-001) )  
)  
RESPONDENT )

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

08.28.06  
DATE

SIGNED  
Elyana R. Sutin  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Docket No. **FIFRA-08-2006-0008**

IN THE MATTER OF:	)	
	)	
Ag Seed, LLC	)	<b>COMBINED COMPLAINT AND</b>
2570 North Main Street	)	<b>CONSENT AGREEMENT</b>
North Logan, UT 84341	)	
(EPA Establishment No.: 081101-UT-001),	)	
	)	
Respondent	)	
_____	)	

This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

**A. JURISDICTION**

1. This Combined Complaint and Consent Agreement ("consent agreement") is issued to Ag Seed, LLC ("Respondent") for a violation of FIFRA § 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L).
2. The undersigned Environmental Protection Agency ("EPA"), Region 8 officials issue this consent agreement under the authority vested in the Administrator of EPA by section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).
3. This section authorizes EPA to bring an action under section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), for civil administrative penalties against Respondent who has violated a requirement or prohibition of FIFRA.
4. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

**B. ALLEGED VIOLATION**

1. Respondent is a "person" within the meaning of section 2(s) of FIFRA, 7 U.S.C. section 136(s), and therefore subject to regulation.

2. Respondent is a “distributor/seller” as defined by section 2(gg) of FIFRA, 7 U.S.C. section 136(gg) and a “producer” as defined by section 2(w) of FIFRA, 7 U.S.C. 136(w).
3. Respondent produces, sells and distributes registered “pesticides” within the meaning of section 2(u) of FIFRA, 7 U.S.C. section 136(u).
4. Under section 12(a)(2)(L) of FIFRA, 7 U.S.C. 136 an annual report is required by March 1st for the previous year.
5. EPA reviewed its records and determined that Respondent did not submit the “Pesticide Report for Pesticide-Producing and Device-Producing Establishments” pursuant to section of 7 FIFRA, 7 U.S.C. section 136(e) for calendar year 2005, by March 1, 2006. Respondent is therefore in violation of FIFRA.
6. Upon consideration of the nature, circumstances, extent and gravity of the violation and Respondent’s ability to continue in business, the size of Respondent’s business, prior history of compliance, degree of culpability, lack of economic benefit resulting from the violations, its good faith and immediate effort to comply once informed of the violations, other matters as justice may require, and upon consideration of the entire record herein, EPA offers this consent agreement under its expedited enforcement procedures in order to settle the violation based upon the findings noted above, for the total civil penalty amount of **three thousand nine hundred dollars (\$3,900.00)**.

**C. CIVIL PENALTY**

1. The Respondent signing below admits that EPA has jurisdiction over the subject matter alleged in the consent agreement, neither admits nor denies the specific factual allegations contained in the consent agreement, and consents to the assessment of the penalty as stated in section B.6, above.
2. Within 30 days of receiving the Final Order in this matter, Respondent agrees and consents that Respondent will pay a civil penalty of **three thousand nine hundred dollars (\$3,900.00)**. If the due date falls on a weekend or legal Federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank described below. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day. Respondent shall make this **one** installment payment by remitting a cashier’s or certified check for the specified amount, including the name and docket number of this case (the docket number is listed in the first page of this consent agreement), for the this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank  
Lockbox 360859  
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859  
Mellon Client Service Center Rm 154-0670  
500 Ross Street  
Pittsburgh, PA 15251-6859

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004  
TREAS NYC/CTR/  
BNF=/AC-68011008

3. A copy of the check shall be sent simultaneously to:

Tim Osag  
Senior Enforcement Coordinator  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region VIII  
999 18th Street, Suite 300  
Denver, CO 80202-2466

And

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region VIII  
999 18th Street, Suite 300  
Denver, CO 80202-2466

1. In the event payment is not received by the specified due date, interest accrues from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues). Respondent agrees and consents that if Respondent fails to pay the penalty amount on the due date set forth in paragraph C.2. above, any unpaid balance thereof, shall become due and owing by the Respondent, or EPA, in its sole discretion, may waive all or part of such acceleration.
3. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61<sup>st</sup> day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the

date the final consent order is signed). Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.

**D. TERMS AND CONDITIONS**

1. Nothing in this consent agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this consent agreement.
2. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this consent agreement and to bind the party he/she represents to the terms and conditions of this consent agreement.
3. Each party shall bear its own costs and attorneys fees in connection with this matter.
4. Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this consent agreement pursuant to 40 C.F.R. § 22.15. By signing and returning of this consent agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to section 554 of the Administrative Procedure Act, 5 U.S.C. §554.
5. The parties enter into this consent agreement pursuant to 40 C.F.R. § 22.13(b), upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's parent, affiliates, heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this consent agreement. This consent agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violation alleged in the consent agreement.
6. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

**In the Matter of: Ag Seed, LLC (North Logan, UT)**  
**Docket No: FIFRA-08-2006-0008**  
**(Continued)**

**UNITED STATES**  
**ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 8, Office of Enforcement, Compliance**  
**and Environmental Justice, Complainant.**

Date: 8/24/06 By: SIGNED  
Elisabeth Evans, Director  
Technical Enforcement Program

Date: 24 August 2006 By: SIGNED  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: 8/24/2006 By: SIGNED  
Eduardo Quintana, Attorney  
Legal Enforcement Program

**In the Matter of: Ag Seed, LLC (North Logan, UT)**  
**Docket No: FIFRA-08-2006-0008**  
**(Continued)**

**Ag Seed, LLC,**  
**Respondent.**

Date: **August 17, 2006** By: **SIGNED**  
Name, Title: **William Bullen, Owner**

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT/EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **AG SEED, LLC., DOCKET NO.: FIFRA-08-2006-0008** was filed with the Regional Hearing Clerk on August 29, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on August 29, 2006, to:

William Bullen  
2570 North Main St.  
North Logan, UT 84341

And faxed to:

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center Accounting  
Fax: 513-487-2063

August 29, 2006

**SIGNED** \_\_\_\_\_

Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON AUGUST 29, 2006.**

