

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:**

**Golden Gate Designs  
166 Greenwood Avenue  
San Rafael, California 94901**

**Respondent.**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**STOP SALE, USE, OR  
REMOVAL ORDER**

**I. Authorities**

1. Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that, *inter alia*, the pesticide or device is in violation of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of FIFRA.
2. This authority has been delegated from the Administrator of the EPA to the Chief of the Chemicals Management Branch, Land and Chemicals Division, EPA, Region 5.

**II. Background**

3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it shall be unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a, or whose registration has been canceled or suspended.

4. Section 2(s) of FIFRA, 7 U.S.C. §136(s), defines a “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”
5. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell” as to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.
6. Section 2(aa) of FIFRA, 7 U.S.C. § 136(aa), defines “state” as a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.
7. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. *See also* 40 C.F.R. § 152.15.
8. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” 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 micro-organisms 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). *See also* 40 C.F.R. § 152.5.
9. Golden Gate Designs located at 166 Greenwood Avenue, San Rafael, California is an "association" or "organized group of persons" and therefore a “person” pursuant to Section 2(s) of FIFRA, 7 U.S.C. §136(s).

10. This Order refers to Golden Gate Designs and all of its stores, divisions, offices, franchises, branches and subsidiaries, collectively as “the Respondent.”
11. The Respondent has produced, distributed or sold “Citronella Lamp Oil” with labeling that claims “Deters Insects” and “...deters mosquitoes, no-see-ums, and other insects from crashing outdoor parties.”
12. Therefore, “Citronella Lamp Oil” is intended for preventing, destroying, repelling, or mitigating pests.
13. Therefore, “Citronella Lamp Oil” is a “pesticide” within the definition of Section 2(u) of FIFRA, 7 U.S.C. § 136(u).
14. “Citronella Lamp Oil” has never been registered pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.
15. “Citronella Lamp Oil” is an unregistered pesticide in violation of Sections 3(a) and 12 (a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a(a) and 136j(a)(1)(A).
16. Respondent has produced, distributed or sold the unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

### **III. Order**

17. The Respondent is hereby ordered to **immediately** cease the production, distribution or sale of the pesticide product identified in this Order as “Citronella Lamp Oil” including but not limited to all of this products’ optional and alternative brand names (“collectively, the “unregistered pesticide product”).
18. This Order shall pertain to all quantities of the unregistered pesticide product which are within the ownership, control, or custody of the Respondent, wherever the unregistered pesticide product is located.

19. The unregistered pesticide product shall not be sold, offered for sale, held for sale, shipped, delivered for shipment, received; or having been so received, shall not be delivered, offered for delivery, moved, or removed for disposal from any facility or establishment of the Respondent, for any reason, other than in accordance with the provisions of this Order or such further Orders as may be issued by EPA in connection with the unregistered pesticide product.
20. Respondent may relabel and repackage, or otherwise alter the label and package of the unregistered pesticide product, using labels and labeling that make no pesticidal claims and that eliminate all references to the insecticidal or insect repellent properties of Citronella Lamp Oil.
21. Prior to the resumption of the relabeling and repackaging of the unregistered pesticide product, Respondent will submit a copy of the labeling for Citronella Lamp Oil for review and written approval to Terence Bonace, Pesticides and Toxics Compliance Section, via email at [bonace.terence@epa.gov](mailto:bonace.terence@epa.gov).
22. In addition, Respondent may distribute, for the purposes of disposal, the unregistered pesticide product in compliance with federal, state and local laws and regulations for such disposal.
23. Any agent, owner, or operator of the Respondent violating the terms or provisions of this Order may subject the violator to civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.
24. The issuance of this Order shall not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law, to address this matter or any other matters of unlawful acts not specified in this Order.

25. This Order shall be effective IMMEDIATELY upon receipt by Respondent.

**IV. OTHER MATTERS**

26. For any additional information about this Stop Sale, Use, or Removal Order, please contact Terry Bonace, Enforcement Officer at (312) 886-3387. For any legal matters concerning this Order, you are encouraged to contact, Jeffery M. Trevino, Associate Regional Counsel, at (312) 886-6729.

*Tony Marty, acting for M. Klevs*

\_\_\_\_\_  
Mardi Klevs, Chief  
Chemicals Management Branch

*9/10/08*

\_\_\_\_\_  
Date