

**BEFORE THE  
DEPARTMENT OF PESTICIDE REGULATION  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Fruit Growers Supply Company  
27770 N. Entertainment Drive  
Valencia, California 91355

Pest Control Dealer-Branch, License No.  
34035

and

Jose A. Luna  
Qualified Applicator License No. 138006

Respondents.

**STIPULATED SETTLEMENT**

**AGREEMENT**

Case No. 21-002

The California Department of Pesticide Regulation (“Department”) and Fruit Growers Supply Company, a California corporation, and its Qualified Person, Jose A. Luna enter into this Stipulated Settlement Agreement, DPR No. 21-002 (“Stipulated Settlement Agreement”).

1. Fruit Growers Supply Company holds a Pest Control Dealer-Branch (“PDB”), License No. 34035 issued by the Department for their location at 980 W. Telegraph Road, Santa Paula, California 93060 (“Santa Paula Branch”) in Ventura County (“FGS PDB License.”) The FGS PDB License will expire on December 31, 2022, unless renewed. As used herein, “Fruit Growers Supply Company,” “FGS,” or “Licensee FGS” shall mean and refer to Fruit Growers Supply Company’s Santa Paula Branch operations specifically, including any subsidiaries, and their predecessors, successors and assigns, and the provisions of this Stipulated Settlement Agreement shall apply to Fruit Growers Supply Company’s Santa Paula Branch operations specifically, including any subsidiaries, and their predecessors, successors and assigns.

2. Jose A. Luna holds a Qualified Applicator License (“QAL”) No. 138006, Category B (Landscape Maintenance) issued by the Department. The license will expire on December 31, 2022, unless renewed.

3. As used herein, “Parties” shall mean and refer to Licensee FGS, Mr. Luna, and the Department, collectively.

4. The Department must ensure the proper, safe, and efficient use of pesticides and oversees the administration and enforcement of Divisions 6 and 7 of the California Food and Agricultural Code (“Code”) governing the sale and use of pesticides (Food & Agr. Code, § 11501). This includes licensing individuals and companies engaged as pest control business dealers under Food and Agricultural Code section 12201 et seq. and Title 3 of the California Code of Regulations, section 6000 et seq. This includes licensing individuals and companies engaged as qualified applicators and acting in that capacity as designated dealer agents under Food and Agricultural Code section 12201 et seq. and Title 3 of the California Code of Regulations, section 6000 et seq.

The Department finds that on the following occasions, one or both of the Licensees violated California pesticide law as set forth in Paragraphs 5 to 15 below, and such findings have been alleged in the Department’s Accusation (Case No. 21-002), dated March 14, 2022, which identifies Licensee FGS and Licensee Luna as Respondents (the “Accusation”). Those findings as alleged in the Accusation are in summary the following:

5. From January 1, 2019 to November 4, 2020, Licensees made 317 unlawful sales of the California restricted materials aluminum phosphide, paraquat, bromadiolone, strychnine, and 2,4-dicholophneoxyacic acid (“2,4-D”) at the Santa Paula Branch. Specifically, the Licensees unlawfully sold the following products to purchasers:

- a. Fumitoxin (active ingredient aluminum phosphide; EPA reg. Nos. 72959-1 & 72959-2);
- b. Gramoxone SL 2.0 (active ingredient paraquat; EPA Reg. No 100-1431);
- c. Contrac All Weather Blox (active ingredient bromadiolone; EPA Reg. No. 12455-79);
- d. Gopher Bait 50 (active ingredient strychnine; EPA Reg. No. 53883-23); and
- e. Amine 4 2,4-D Weed Killer (active ingredient 2,4-D; EPA Reg. No. 34704-120).

6. Licensee FGS violated Code section 14010 in that from January 1, 2019 to November 4, 2020, Licensee committed 317 unlawful sales of California restricted materials to persons who did not possess a valid restricted materials permit.

7. Licensee FGS violated California Code of Regulations, Title 3 section 6568, subdivision (a) in that from January 1, 2019 to November 4, 2020, Licensee committed 317 unlawful sales of California restricted materials to persons without first obtaining a copy of the purchaser’s valid restricted materials permit.

8. Licensee FGS violated Code section 12121, subdivision (c) which makes it unlawful for a licensee to violate Division 6 or Division 7 of the Food and Agricultural Code

relating to pesticides or regulations promulgated thereunder, in that from January 1, 2019 to November 4, 2020, Licensee committed 317 unlawful sales of California restricted materials in violation of Code section 14010 and California Code of Regulations, Title 3 section 6568, subdivision (a).

9. Due to the violations described in paragraphs 6 to 8, the FGS PDB License is subject to discipline under Code section 12113.

10. Licensee Luna, as Qualified Person for FGS, violated Code section 14010 in that from January 1, 2019 to November 4, 2020, Licensee committed 317 unlawful sales of California restricted materials to persons who did not possess a valid restricted materials permit.

11. Licensee Luna, as Qualified Person for FGS, violated California Code of Regulations, Title 3 section 6568, subdivision (a) in that from January 1, 2019 to November 4, 2020, Licensee committed 317 unlawful sales of California restricted materials to persons without first obtaining a copy of the purchaser's valid restricted materials permit.

12. Licensee Luna, as Qualified Person for FGS, violated Code section 12121, subdivision (c) which makes it unlawful for a licensee to violate Division 6 or Division 7 of the Food and Agricultural Code relating to pesticides or regulations promulgated thereunder, in that from January 1, 2019 to November 4, 2020, Licensee committed 317 unlawful sales of California restricted materials in violation of Code section 14010 and California Code of Regulations, Title 3 section 6568, subdivision (a).

13. Licensee Luna violated Code section 12258, subdivision (e) which provides that it is unlawful for any person subject to the laws regulating the activities of a pest control dealer designated agent to fail to actively supervise employees in the use and sale of pesticides and to exercise responsibility in carrying on the business of a pest control dealer.

14. Due to the violations described in paragraphs 10 to 13, Licensee Luna's QAL is subject to discipline under Code section 12205, subdivision (a).

15. As a result of the above referenced history and violations involving the Licensees, the Department has determined that it will take action to revoke Licensees' licenses or take other measures designed to obtain consistent future compliance with all applicable pesticide laws and regulations.

16. Licensees FGS and Luna hereby confirm that they have been served with the Accusation, and while Licensees have not responded to the Accusation apart from serving a Notice of Defense or admitted to the findings and allegations of the Department as set forth above or in the Accusation and do not do so herein, Licensees accept and agree that there is a factual basis supporting entering into this Stipulated Settlement Agreement in an effort for the Department to obtain consistent future compliance with applicable pesticide laws and regulations.

17. In lieu of the Department bringing a formal licensing and revocation action, the Parties agree by this Stipulated Settlement Agreement to resolve this matter.

**THEREFORE**, the Parties agree as follows:

18. Licensees have carefully read, fully discussed with counsel, and understand the effect of this Stipulated Settlement Agreement.

19. Licensees waive any right to a hearing in this matter under Food and Agricultural Code sections 12113 or 12205, or otherwise, unless the Department decides to proceed with formal revocation proceedings as set forth in Paragraph 25, below.

20. Licensees understand and agree the violations in paragraphs 5 to 14, above, if proven at hearing, constitute cause for imposing discipline upon Licensees. Licensees agree that, at a hearing, the Department would have an opportunity to and could possibly establish a factual basis for the violations in Paragraphs 5 to 14 and Licensees hereby, and in consideration of this Stipulated Settlement Agreement, give up their right to contest those alleged violations on the terms and conditions set forth herein.

21. The Department shall take no further action to revoke the FGS PDB License and Jose A. Luna's Qualified Applicator License (License No. 138006), identified in paragraphs 1 and 2 above, for the violations set forth in Paragraphs 5 to 14 unless it sets aside this Stipulated Settlement Agreement as provided in Paragraph 24.

22. Licensee FGS agrees to a probationary period of five years (60 months) commencing on the effective date of this Stipulated Settlement Agreement. During the probationary period, Licensee FGS agrees to the following:

- a. To refrain from the sale or distribution of any California restricted material as defined in the California Code of Regulations, Title 3 section 6400. For purposes of this agreement, the restriction shall be interpreted to apply to any substance that is designated as a restricted material at the time of sale or distribution.
- b. Within 30 days prior to Licensee FGS resuming the sale or distribution of any California restricted material (which in no event shall be earlier than the expiration of the 60 month probationary period), to provide to the Department training materials provided to staff on the storage, sale, handling, distribution and sale of restricted materials.
- c. Within 60 days of the effective date of this agreement, to lawfully dispose of any California restricted material in Licensee FGS's possession in accordance with the instructions of the Ventura County Agricultural Commissioner. Licensee FGS further agrees to lawfully dispose of any California restricted material previously sold by and returned to Licensee FGS or confiscated by the Ventura County Agricultural Commissioner, within 60 days of the effective date of this agreement in accordance with the instructions of the Ventura County Agricultural Commissioner.

- d. To comply with all of the terms of the *Stipulation for Settlement and Entry of Final Judgment* and *Final Civil Judgment and Order Pursuant to Stipulation* filed January 7, 2022 rendered against Fruit Growers Supply Company in *The People of the State of California v. Fruit Growers Supply Company, Jose A. Luna, et al.* (Superior Court of California, County of Ventura, Case No. 56-2021-00557819-CU-MC-VTA), filed on September 2, 2021. Failure to satisfy said settlement, judgment and order shall be deemed a violation of probation.
- e. To provide the Ventura County Agricultural Commissioner with quarterly reports listing all pesticide sales, due within 10 days of the closing of each quarter, based on an October 31 fiscal year. The quarters reflect the following periods: November to January; February to April; May to July; and August to October. Reports will be submitted by email to the Ventura County Agricultural Commissioner at [ag.inspector@ventura.org](mailto:ag.inspector@ventura.org). The first quarterly report shall be due within 10 days of April 30, 2022. With respect to their form and the information provided therein, for each pesticide sales transaction, quarterly reports will provide the following information:
  - 1) Transaction Date
  - 2) Purchaser/Account Name (where available)
  - 3) Purchaser's Operator ID No. or Permit No. (where operator ID or permit required for purchase under applicable law or regulation)
  - 4) Name of certified applicator (where required for purchase under applicable law or regulation)
  - 5) Product Name
  - 6) EPA Reg. No.
  - 7) No. of Product Items Purchased
  - 8) Size of Item (e.g. 2.5-gal containers, 50-lb bags, 30-lb buckets, 55-gal barrels, etc.)

In the event Licensee FGS does not timely or properly submit a quarterly report, or the Ventura County Agricultural Commissioner does not otherwise timely or properly receive a quarterly report, the Ventura County Agricultural Commissioner shall notify Licensee FGS of such non-receipt by sending an email to [jovina.lucas@fruitgrowers.com](mailto:jovina.lucas@fruitgrowers.com) and [matt.shekoyan@fruitgrowers.com](mailto:matt.shekoyan@fruitgrowers.com), and Licensee FGS shall cure such non-receipt within five calendar days of the email notification. Sales reports submitted by Licensee FGS in connection with this Stipulated Settlement Agreement will be kept confidential by the Department and the Ventura County Agricultural Commissioner unless the Department or its designee initiates further proceedings related to the Stipulated Settlement Agreement as provided under Paragraph 25 and the submitted reports are deemed relevant to such further proceedings.

- f. To comply with all state and local laws and regulations relating to pesticides within the borders of the State of California.

23. Licensee Luna agrees to a probationary period of three years (36 months) commencing on the effective date of this Stipulated Settlement Agreement. During the probationary period, Licensee Luna agrees to the following:

- a. To not act in the capacity of a pest control dealer designated agent as defined under Food and Agricultural Code section 12101.5.
- b. By December 31, 2022, Licensee shall obtain eight (8) additional hours of continuing education ("CE") in pesticide law and regulation and the distribution, sale, storage and handling of California restricted materials and federal restricted use materials, as defined in the California Code of Regulations, Title 3 section 6400, including subdivision (a) from a CE provider certified by the Department.
- c. To comply with all state and local laws and regulations relating to pesticides within the borders of the State of California.

24. During the probationary periods designated in Paragraphs 22 and 23, the Department and County Agricultural Commissioners will continue to monitor Licensees and may conduct headquarter and other inspections in order to confirm Licensees' compliance with the laws and regulations governing the sale, handling, use and application of pesticides.

25. If, during the probationary periods designated in Paragraphs 22 and 23 above, Licensees are determined by the Department to have committed any new violation of California pesticide laws or regulations under the jurisdiction of the Department or County Agricultural Commissioner (the term "new violation" means a violation allegedly occurring on or after the effective date of this Stipulated Settlement Agreement) or are determined by the Department to have failed to comply with the terms of this Stipulated Settlement Agreement, the Department may confer with Licensees to renegotiate the terms of this Stipulated Settlement Agreement or set aside this Stipulated Settlement Agreement and proceed with formal proceedings to revoke one or more of the licenses identified in paragraphs 1 and 2 above. Any licensing action may consider the previous violations as alleged and set forth in Paragraphs 5 to 14.

26. Information required to be provided to the Department under the terms of this agreement shall be sent to the following mail and email addresses: California Department of Pesticide Regulation, Office of Legal Affairs, c/o Sara F. Dudley, Staff Attorney, 1001 I Street, P.O. Box 4015, Sacramento California, 95812-4015, [sara.dudley@cdpr.ca.gov](mailto:sara.dudley@cdpr.ca.gov).

27. Except as expressly provided in this Stipulated Settlement Agreement, nothing in this Stipulated Settlement Agreement is intended, nor shall be construed to preclude the Department, County Agricultural Commissioners, or any state, county, or local agency, department, board, or entity from exercising its authority under any law, statute, or regulation. Further, nothing in this Stipulated Settlement Agreement is intended, nor shall be construed as a limit on the

Department or County Agricultural Commissioners to commence, subject to all applicable statutes of limitations, any future enforcement action against Licensees for violations of any state and local laws and regulations relating to pesticides within the borders of the State of California, if any, not covered in this Stipulated Settlement Agreement. The parties agree that any known or reasonably knowable violations by Licensees occurring prior to the effective date of this Stipulated Settlement Agreement shall not be grounds to set aside this Stipulated Settlement Agreement. However, in the event Licensees violate any of the terms of this Stipulated Settlement Agreement and the Department proceeds with a formal licensing action against either Licensee, additional violations not covered by Paragraphs 5 to 14 may be used in such formal licensing action.

28. This Stipulated Settlement Agreement constitutes the entire understanding between the Parties and fully supersedes all prior written or oral agreements or negotiations, express or implied, with regards to the matters set forth in this Stipulated Settlement Agreement.

29. If any provision or portion of this Stipulated Settlement Agreement is held to be invalid, illegal, or unenforceable, such legality, validity, or enforceability shall not affect the balance of the Stipulated Settlement Agreement.

30. A decision by the Department to not enforce any provision of this Stipulated Settlement Agreement shall neither be deemed a waiver of the provision, nor in any way effect the validity of this Stipulated Settlement Agreement or the Department's enforcement authority.

31. This Stipulated Settlement Agreement binds the Licensees, and as to Licensee FGS, its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors and assignees, subsidiary and parent corporations, and as to the Department, any successor agency that may have responsibility for and jurisdiction over the subject matter of this Stipulated Settlement Agreement.

32. Each Party to this Stipulated Settlement Agreement shall bear its own respective costs and attorneys' fees, including costs of investigation, in connection with this matter and the negotiations leading up to and the preparation of this Stipulated Settlement Agreement. In addition, and in consideration of this Stipulated Settlement Agreement, the Department is giving up its right to seek fines and penalties for the violations alleged in Paragraphs 5 to 14.

33. If the Attorney General files a civil action to enforce this Stipulated Settlement Agreement, the Licensees will pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs, but only if the Attorney General is the prevailing party in such an action.

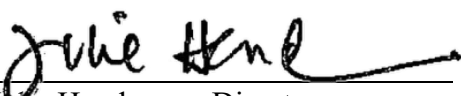
34. This Stipulated Settlement Agreement constitutes the entire agreement between the Parties and may only be amended, supplemented, modified, or revoked in writing.

35. This Stipulated Settlement Agreement is deemed to have been entered into in the State of California, and will be interpreted and governed by the laws of the State of California, regardless of the physical locations of the individuals executing this Stipulated Settlement Agreement at the time of execution.

36. Each person who signs this Stipulated Settlement Agreement affirms that he or she is fully authorized by the Party he or she represents to sign the Stipulated Settlement Agreement on that Party's behalf, and has the authority to bind that Party to the obligations and commitments set forth in this Stipulated Settlement Agreement.

37. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement Agreement, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

38. The effective date of this Stipulated Settlement Agreement is the date it is signed by all Parties hereto.

  
\_\_\_\_\_  
Julie Henderson, Director  
Department of Pesticide Regulation

on May 3, 2022  
at Sacramento, California

\_\_\_\_\_  
\_\_\_\_\_  
(printed name and title)  
for Licensee Fruit Growers Supply Company

on \_\_\_\_\_, 2022  
at \_\_\_\_\_ (City and State)

\_\_\_\_\_  
Licensee Jose A. Luna

on \_\_\_\_\_, 2022  
at \_\_\_\_\_ (City and State)



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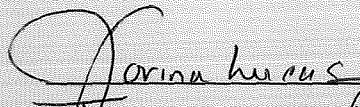
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\_\_\_\_\_  
Julie Henderson, Director  
Department of Pesticide Regulation

on \_\_\_\_\_, 2022  
at Sacramento, California

  
\_\_\_\_\_  
Jarina Lucas (printed name and title)  
General Manager  
for Licensee Fruit Growers Supply Company

on APRIL 28th, 2022  
at Visalia, CA (City and State)

\_\_\_\_\_  
Licensee Jose A. Luna

on \_\_\_\_\_, 2022  
at \_\_\_\_\_ (City and State)

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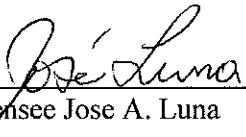
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\_\_\_\_\_  
Julie Henderson, Director  
Department of Pesticide Regulation

on \_\_\_\_\_, 2022  
at Sacramento, California

\_\_\_\_\_  
(printed name and title)  
for Licensee Fruit Growers Supply Company

on \_\_\_\_\_, 2022  
at \_\_\_\_\_ (City and State)

  
\_\_\_\_\_  
Licensee Jose A. Luna

on 4/28, 2022  
at Santa Paula, CA (City and State)