



E. SCOTT PRUITT
ADMINISTRATOR

July 3, 2017

Mr. James R. Barbee
Director
Nevada Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

SUBJECT: **NOTICE OF DISAPPROVAL**

SLN No. NV170003 – General Hydroponics Prevasyn (EPA Reg. No. 91865-1)
SLN No. NV170004 – General Hydroponics Exile (EPA Reg. No. 91865-2)
SLN No. NV170005 – General Hydroponics Defguard (EPA Reg. No. 91865-3)
SLN No. NV170006 – General Hydroponics Azamax (EPA Reg. No. 91865-4)

Dear Mr. Barbee:

On April 5, 2017, the Nevada Department of Agriculture issued Special Local Need registrations under Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act as amended, to Hawthorne Hydroponics LLC d/b/a General Hydroponics. These state registrations, submitted to the U.S. Environmental Protection Agency by Jian (Jim) Zhang of NDA, were issued for the application of the following chemicals: capsicum oleoresin extract, garlic oil and soybean oil (NV170003), potassium salts of fatty acids (NV170004), *Bacillus amyloliquefaciens* strain D747 (NV170005) and azadirachtin (NV170006) to control various insect pests, mites and/or diseases on cannabis. The aforementioned chemicals are not registered by the EPA for use on cannabis. On June 22, 2017, the agency sent the NDA a Notice of Intent to Disapprove the four SLN registrations. On June 29, 2017, the NDA consulted with the agency about the SLN registrations.

Decision: The EPA concludes that SLN Nos. NV170003, NV170004, NV170005 and NV170006 are disapproved, effective immediately, for the reasons provided below.

Reasons for Disapproval: During the consultation on June 29, 2017, the NDA expressed their interest in pesticide use for the marijuana industry in Nevada. However, pursuant to FIFRA section 24(c), the EPA's regulations pertaining to state registrations of pesticides to meet special local needs state that "the Administrator may disapprove, on any reasonable grounds, any state registration which, when compared to a federally registered product, does not have . . . a similar

use pattern . . .” 40 C.F.R. § 162.154(a)(1). The regulations define “similar use pattern” to mean “a use of a pesticide product . . . which is [among other things] substantially the same as the federally registered use.” 40 C.F.R. § 162.151. Under federal law, cultivation (along with sale and use) of cannabis is generally unlawful as a schedule I controlled substance under the Controlled Substances Act.¹ The EPA finds that the general illegality of cannabis cultivation makes pesticide use on cannabis a fundamentally different use pattern.

The Administrator may disapprove a different use pattern “on any reasonable grounds.” Here, in accordance with 40 C.F.R. section 162.154, the Administrator has determined disapproval is reasonable because the EPA does not believe that Congress intended the process under section 24(c) of FIFRA to be used for the purpose of facilitating activities that are generally in violation of federal law. While the EPA believes that it is not required to consider the general cost-benefit standard applicable to FIFRA registrations when disapproving a registration that is inextricably linked with violations of federal law, application of the cost-benefit standard would not yield a different result – any economic, social or environmental costs associated with pesticide use on cannabis would not be reasonable or justified in light of the fact that such use is in furtherance of an illegal act. The EPA has reviewed the SLN registrations submitted by the state and has not identified any significant risks associated with the SLN registrations; the EPA would not have been inclined to disapprove these registrations were cultivation and sale of marijuana generally lawful in the United States.

Disposition of Existing Stocks: The disapprovals of SLN Nos. NV170003, NV170004, NV170005 and NV170006 are effective immediately. You must take steps to halt any further sale or distribution of products under these SLN registrations. For uses subject to the disapproval, distribution or sale of existing stocks of all disapproved products listed above is prohibited. Sale or distribution of the EPA-registered products is still permitted, as long as the products are still properly labeled and the SLN labeling does not accompany the product.

Per 40 CFR § 162.154(c), a notice of the disapproval of these SLN registrations will be published in the Federal Register. However, this disapproval is effective immediately, as of the date of this letter.

If you have any questions, please contact Nancy Beck at (202) 564-2910 or beck.nancy@epa.gov.

Respectfully yours,



E. Scott Pruitt

Cc: Jian (Jim) Zhang, Nevada Department of Agriculture
Alexis Strauss, Acting Regional Administrator, EPA Region 9

¹ Marihuana, an older spelling of marijuana, and tetrahydrocannabinols are listed under schedule I in 21 U.S.C section 812(c).