August 24, 2017

Emerald Harvest
#303 44500 S. Sumas Rd.
Chilliwack, BC V24 5M3
CANADA

Re: Issuance of Statewide Stop Sale, Use, or Removal Order (SSURO or the Order) and Notice of Statewide Detainment, Seizure or Embargo (the Notice), ODA Pesticides Investigation Case No. 180117, Fertilizer Inspection No. 2017-80

The Oregon Department of Agriculture hereby orders Emerald Harvest and/or its agents to immediately cease all sales, offers of sale, or other distribution, and detains, seizes or embargos any quantities of the products Emerald Harvest, Root Wizard Massive Root Builder, Emerald Harvest, 0.3-2-3 King Kola Powerful Bloom Booster, and Emerald Harvest, 0.5-0.5-1 Honey Chrome Aroma and Resin Enhancer within Oregon or transported into Oregon by any type of business transaction or other method. This order is the result of laboratory analysis indicating that Emerald Harvest products contains pesticidal active ingredients that are not identified on the product labeling (See SSURO/Notice, Page 2). The compounds here are plant regulators; plant regulators are defined or regulated by U.S. federal and Oregon law as pesticides; ORS 634.006(8)(g).

The Department issues this order under the provisions of Oregon Revised Statutes (ORS), 633.445 (fertilizers), 634.322(3) (pesticides), and ORS 561.605 to 561.620.

Regarding Pesticide Concerns:

Pesticide Product Adulteration
ORS 634.036 states that a pesticide is considered adulterated if: "... (2) The strength or purity of the pesticide is below the purported or professed standard of quality as expressed in its labeling, or any substance has been substituted wholly or in part for any ingredient of the pesticide, or any valuable constituent thereof has been omitted wholly or in part. (3) The contents of the package or container of pesticide do not meet their purported standard of quality in any other manner. (4) The contents of the package or container represented to be a pesticide are not definitely effective for the purpose for which recommended." Emerald Harvest products contain pesticidal active ingredients that are not identified in the product formulations. ORS 634.372(16) prohibits formulating, delivering, distributing, selling or offering for sale any pesticide that is adulterated.

Pesticide Product Misbranded
ORS 634.372(15) prohibits delivering, distributing, selling or offering for sale any pesticide that is misbranded. The Emerald Harvest products are considered misbranded if the package, label or container does not contain the required information or statements in accordance with ORS 634.026 or bears any false or misleading statements. The pesticidal active ingredient contents were not provided on the package labeling of the Emerald Harvest products.

Pesticide Registration
ORS 634.016 requires that pesticide products sold or distributed in Oregon be annually registered with ODA. ORS 634.372(17) prohibits delivering, distributing, selling or offering for sale any pesticide that is not so registered. Emerald Harvest products are not registered as pesticides with ODA.
As the Emerald Harvest products are considered both mislabeled and adulterated, distribution of these products is prohibited in Oregon under ORS 634.372 (15 & 16). The Department will address any violations of ORS Chapter 634 arising from sales or distribution of these products in Oregon.

Furthermore, it is a violation of ORS 634.372(22) to sell, use, or remove any product subjected to a SSURO until the product has been released in accordance with ORS 561.630. A violation of ORS Chapter 634.372(22) may result in further enforcement action including civil penalties up to $10,000 per incident.

Regarding Fertilizer Concerns:

Product Mislaveling
A product is considered mislabeled when the product label or labeling is false, misleading or deceptive; ORS 633.366(2)(a). The Emerald Harvest products contain pesticidal active ingredients, but this information is not provided on the product label. Thus the label is false, misleading or deceptive, and the product is mislabeled under ORS 633.366(2)(a). In addition, the label did not contain the necessary precautionary or warning statements or directions for use that would be necessary to protect humans, animals, water, aquatic life, soil or beneficial plant life. Under ORS 633.366(2)(c) such a product is considered mislabeled.

Product Adulteration
A product is considered adulterated if the product differs in composition from the composition claimed on the label; ORS 633.366(3)(b). The Emerald Harvest products contain pesticidal active ingredients, but this information is not provided on the product label. As this label differs in composition from the composition claimed on the label, the product is considered adulterated under ORS 633.366(3)(b).

As the Emerald Harvest products are mislabeled and adulterated, distribution of these products is prohibited in Oregon under ORS 633.366(1)(a) and ORS 633.366(1)(c). The Department will address any violations of ORS Chapter 633 arising from sales or distribution of these products in Oregon.

Any Oregon location in possession of the product listed on the attached form must possess a written release issued by the Department prior to ANY product disposition.

It is a violation of ORS 633.366(1)(a) to sell, offer for sale, or distribute a fertilizer, agricultural amendment, agricultural mineral, or lime product that is mislabeled under ORS 633.321.

It is a violation of ORS 633.366(1)(c) to sell, offer for sale, or distribute a fertilizer, agricultural amendment, agricultural mineral, or lime product that is adulterated under ORS 633.366(3).

It is a violation of ORS 633.366(1)(e) to sell, offer for sale, or distribute unregistered fertilizer, agricultural amendment, agricultural mineral, or lime products in the State of Oregon.

It is a violation of ORS 633.366(1)(j) to sell, use, or remove any product subjected to a SSURO until the product has been released in accordance with ORS 633.445.

A violation of ORS Chapter 633 may result in further enforcement action including civil penalties up to $10,000 per incident.
It is the responsibility of Emerald Harvest to declare to the Oregon Department of Agriculture, in
writing within 14 calendar days of this order, the proposed disposition of any of the herein-listed
Emerald Harvest products within Oregon. This includes product in commerce as well as in end
users’ possession. All disposition of this pesticide product in Oregon must be first approved in writing
by the Oregon Department of Agriculture. Please read the instructions on the SSURO carefully.

Please review the attached SSURO and Detainment Order. I will serve as your primary point of
contact to assist with this matter. I would appreciate the opportunity to discuss this matter with you.
Please contact me at your earliest convenience to schedule a conference call to discuss this matter.

Regards,

Dale L. Mitchell
Pesticide Program Manager
Natural Resource Policy Area
Oregon Department of Agriculture
635 Capitol Street NE, Salem, Oregon 97301
(503) 986-4646 Tel  (503) 986-4735 Fax
dmitchell@oda.state.or.us

Encl: Stop Sale, Use, or Removal Order and Notice of Detainment, Seizure or Embargo
STOP SALE, USE, OR REMOVAL ORDER / NOTICE OF DETENTION, SEIZURE OR EMBARGO

Oregon Revised Statutes (ORS) Chapter 634 (State Pesticide Control Act), and ORS 633.311 to 633.996 (Fertilizer Control law)
Oregon Administrative Rules (OAR) Chapter 603, Division 057 (Pesticides), Division 059 (Fertilizers)

Pesticides Case No: 180117  Fertilizer Inspection No.: 2017-80
Date: August 24, 2017

TO: Emerald Harvest
ADDRESS: #303 44500 S. Sumas Rd.
           Chilliwack, BC V24 5M3
PHONE: 604-393-9660

X OWNER
X PERSON IN POSSESSION

This is an official Stop Sale, Use, or Removal Order for the products itemized below. These products have been found in violation of ORS Chapter 634, ORS 633.311 to 633.996, OAR 603-057, or OAR 603-059. YOU ARE NOTIFIED THAT THE FOLLOWING ARTICLES OR PRODUCTS ARE DETAINED, SEIZED OR EMBARGOED AT THEIR CURRENT LOCATION FOR AN INDEFINITE PERIOD OF TIME. FOR EACH LISTED PRODUCT THIS ORDER AND NOTICE APPLIES TO ALL QUANTITIES UNDER YOUR CONTROL AT ANY LOCATION IN OREGON:

<table>
<thead>
<tr>
<th>MANUFACTURER &amp; PRODUCT NAME</th>
<th>EPA Reg. No.</th>
<th>REASON FOR SSURO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emerald Harvest, 0.5-0.5-1 Honey Chrome Aroma and Resin Enhancer</td>
<td>none</td>
<td>1,2,3,5,6</td>
</tr>
<tr>
<td>Emerald Harvest, 0.3-2-3 King Kola Powerful Bloom Booster</td>
<td>none</td>
<td>1,2,3,5,6</td>
</tr>
<tr>
<td>Emerald Harvest, Root Wizard Massive Root Builder</td>
<td>none</td>
<td>1,2,3,5,6</td>
</tr>
</tbody>
</table>

REASONS FOR STOP SALE, USE, OR REMOVAL ORDER (SSURO):

1: Found misbranded pesticide products, violation of ORS 634.372(15)
2: Found adulterated pesticide products, violation of ORS 634.372(16)
3: Found unregistered pesticide products, violation of ORS 634.372(17)
4: Found improperly packaged pesticide products, violation of ORS 634.372(18)
5: Found mislabeled fertilizer, agricultural amendment, agricultural mineral, or lime products, violation of ORS 633.366(1a)
6: Found adulterated fertilizer, agricultural amendment, agricultural mineral, or lime products, violation of ORS 633.366(1c)
7: Found unregistered fertilizer, agricultural amendment, agricultural mineral, or lime products, violation of ORS 633.366(1e)
8: Other: ____________________________
REASON FOR DETAINMENT, SEIZE OR EMBARGO: Laboratory Analysis have indicated that the products subject to this detention, seizure or embargo contain the following nonexempt pesticidal compounds:

Emerald Harvest, 0.5-0.5-1 Hone Chrome Aroma and Resin Enhancer contains 2.9 ppm of salicylic acid
Emerald Harvest, 0.3-2-3 King Kola Powerful Bloom Booster contains 2.0 ppm prohexadione, 5.8 ppm salicylic acid, and 2.0 ppm 6-benzylaminopurine
Emerald Harvest, Root Wizard Massive Root Builder contains 170 ppm Indole-3-butryric acid

Accordingly these products are misbranded and adulterated in violation of ORS 634.372 and/or 633.366. This detention, seizure or embargo is in force indefinitely and prevents moving the product from any place in Oregon at which it is being held without written permission from the department.

LEGAL AUTHORITY FOR DETAINMENT: ORS 561.605 TO ORS 562.630 generally; ORS 633.445, and ORS 634.322(3).

NOTICE IS ALSO HEREBY GIVEN THAT:

1. IT IS UNLAWFUL FOR ANY PERSON TO REMOVE THE DETAINED, SEIZED OR EMBARGOED ITEMS FROM WHERE THEY ARE LOCATED WITHOUT THE WRITTEN PERMISSION OF THE OREGON DEPARTMENT OF AGRICULTURE AND A RELEASE FROM DETAINMENT, SEIZURE OR EMBARGO FROM THE DEPARTMENT. THE ATTACHED POSTING SHOULD BE POSTED ON ANY PRODUCT LOCATED IN OREGON.

2. A WRITTEN REQUEST FOR A HEARING ON THE PROPRIETY OF THE DETAINMENT MUST BE FILED WITH THE DEPARTMENT WITHIN 10 DAYS FROM THE DATE THE OWNER OR PERSON IN POSSESSION HAS RECEIVED A NOTICE OF DETAINMENT, SEIZURE OR EMBARGO.

By Order of the Director of the Oregon Department of Agriculture:

Pesticides Program representative: [Signature]

Dale L. Mitchell
Pesticides Compliance Program Manager
Date: August 24, 2017

This Order and Notice does not affect the timing or validity of any previous Order or Notice ODA may have issued on this product.

INSTRUCTIONS TO THE PERSON IN CUSTODY OF ITEMS SUBJECT TO THIS STOP SALE, USE OR REMOVAL ORDER

It is the responsibility of the person in custody of the item(s) listed on the front of this order to declare to the Department the method of disposition of each item. You must report this disposition to the issuing investigator in writing within 14 calendar days of this order. The report must be made PRIOR to product sale, use, or removal, including for instance disposal as hazardous waste, or personal use, or return to a manufacturer or distributor. The following are Oregon Stop Sale Order and Detainment Notice
options that may be available to you:

- Contact the manufacturer or distributor to get the product registered in Oregon.

- Dispose of the product in accordance with Oregon Department of Environmental Quality requirements.

- Use the material yourself without delivering, distributing, selling or offering it for sale if the use is appropriate, and is permitted and approved by the Department.

- Have the product correctly relabeled in accordance with ORS Chapter 633 and/or Chapter 634.

- Repackulate the product.

- Return the product to the manufacturer or distributor.

YOU MUST PROVIDE WRITTEN DOCUMENTATION OF THE DISPOSITION OF ALL PRODUCTS IN OREGON.

ALL PRODUCT DISPOSITION MUST BE FIRST APPROVED IN WRITING BY THE OREGON DEPARTMENT OF AGRICULTURE.

Non-approved Sale, Use, or Removal of any pesticide product listed on this order is a violation of ORS 634.372(22) and/or 633.366(1)(j), and may result in further enforcement action including civil penalties up to $10,000 per incident.

Correspondence or questions concerning this order should be sent to:

Toby Primbs
Fertilizer Program
Oregon Department of Agriculture
635 Capitol St. NE ~ Salem, OR 97301
Phone 503-986-4648

CONTESTED CASE RIGHTS for the STOP SALE, USE OR REMOVAL ORDER

This Stop Sale, Use, or Removal Order is an effective order upon issuance. However, you are entitled to a hearing to contest this order as provided by the Administrative Procedures Act, ORS Chapter 183, including ORS 183.413 to 183.470, and OAR 137-003-0501 to 137-003-0700. Your request for a hearing must be made in writing and filed with the Department so that it is received by the Department within 10 days from the date of Actual Notice, ORS 634.322(3), 633.445, 183.415, and 561.610. The request should be made to Toby Primbs at the address given above.

If you make a timely request for a hearing you will be notified of the time, date, and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. An Administrative Law Judge from the Office of Administrative Hearings will preside at any hearing. ORS 183.635 If you do not make a timely request for a hearing, or if you request a hearing but fail to appear at the hearing, withdraw the request for hearing, or notify the agency or administrative law judge that you will not appear at the hearing, then the Department may issue a Final Order by Default. If the Department issues a final order by default the Department designates the agency file in this matter, including any materials submitted by you that relate to
this matter, as the record for purposes of proving a *prima facie* case.

**CONTESTED CASE RIGHTS for the NOTICE OF DETENTION, SEIZURE OR EMBARGO**

You are entitled to a hearing as provided by the Administrative Procedures Act, ORS 183 and OAR 137-003. You have the right to be represented by legal counsel. **If you wish to receive a hearing you must file a written request with the Oregon Department of Agriculture within 10 days of receiving this Notice of Detainment.** The request for hearing may be filed either by the owner or the person in possession of the raw agricultural commodities described in the Notice of Detainment. The time for filing such request is computed from the time the Notice is first received by either of such persons. A hearing request is considered filed when actually received by the Department; OAR 137-003-0520(1). You may send or deliver a request for hearing to Toby Primbs at the address given above. If the recipient of the enforcement notice is a corporation, partnership, limited liability company, unincorporated association, trust, or other entity that is not a natural person, it must be represented in the contested case process by an attorney. Furthermore, the attorney representing such a corporation or other entity must ratify the request for hearing, in writing, within 28 days of the date that the request is received by the agency; OAR 137-003-0550.

When the Oregon Department of Agriculture receives a request for a hearing, the Department will designate the time and place of the hearing. The Department will give you information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before the commencement of the hearing.

The hearing shall not be held sooner than 10 days after the request for a hearing has been received by the Oregon Department of Agriculture. However, if the subject matter of the Department’s action is a perishable good, or if, in the opinion of the Department, other good and sufficient reason appears, the hearing may, at the request of the owner or person in possession of such goods, be held at an earlier date.

If the owner or person in possession of such goods does not request a hearing within 10 days, withdraws a hearing request, notifies the Oregon Department of Agriculture or Administrative Law Judge that he/she will not appear, fails to have the request timely ratified by an attorney if you are required to do so by OAR 137-003-0550, or fails to appear at a scheduled hearing, the Department will continue the detention, seizure or embargo uncontested by the owner or person in possession of such goods. In the event of default, the Department designates its files in this matter as the record for the purpose of proving a prima facie case.

A collaborative dispute resolution process is available as an alternative to a contested case hearing, if requested within 10 days of receiving this notice. Choosing an alternative dispute resolution process will not affect the right to a contested case hearing if a hearing request is received by the Department within 10 days of receiving this notice and the matter is not resolved through the collaborative process.
THIS STOP SALE ORDER and NOTICE OF DETAINMENT SERVED:

☐ BY REGISTERED OR CERTIFIED MAIL ON DATE: ___________________________

☐ IN PERSON BY: ___________________________ DATE: ___________________________ 

COPY RECEIVED BY:

______________________________  __________________________  __________________________
SIGNATURE  POSITION/TITLE  FIRM NAME

COPIED TO: ___________________________
Stop Sale, Use, or Removal Order is in Effect on this Product

Date Effective: August 24, 2017

Point of Contact: 503-986-4635 pestx@oda.state.or.us

Product name: Emerald Harvest/ Root Wizard Massive Root Builder

Mfg by: Emerald Harvest #303 44500 S. Sumas Rd. Chilliwack, BC V24 5M3

DO NOT USE, MOVE, OR DISPOSE OF THIS PRODUCT WITHOUT WRITTEN PERMISSION FROM THE OREGON DEPARTMENT OF AGRICULTURE

Oregon Revised Statutes (ORS) 634, 634.372(22), 561.605, 633.366(1)(j), and 633.445
Stop Sale, Use, or Removal Order is in Effect on this Product

Date Effective:
August 24, 2017

Point of Contact:
503-986-4635
pestx@oda.state.or.us

Product name:
Emerald Harvest/ 0.3-2-3 King Kola Powerful Bloom Booster

Mfg by:
Emerald Harvest
#303 44500 S. Sumas Rd.
Chilliwack, BC V24 5M3

DO NOT USE, MOVE, OR DISPOSE OF THIS PRODUCT WITHOUT WRITTEN PERMISSION FROM THE OREGON DEPARTMENT OF AGRICULTURE

Oregon Revised Statutes (ORS) 634, 634.372(22), 561.605, 633.366(1)(j), and 633.445
Stop Sale, Use, or Removal Order is in Effect on this Product

Date Effective: August 24, 2017

Point of Contact: 503-986-4635 pestx@oda.state.or.us

Product name: Emerald Harvest/ 0.5-0.5-1 Honey Chrome Aroma and Resin Enhancer

Mfg by: Emerald Harvest #303 44500 S. Sumas Rd. Chilliwack, BC V24 5M3

DO NOT USE, MOVE, OR DISPOSE OF THIS PRODUCT WITHOUT WRITTEN PERMISSION FROM THE OREGON DEPARTMENT OF AGRICULTURE

Oregon Revised Statutes (ORS) 634, 634.372(22), 561.605, 633.366(1)(j), and 633.445