



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

Ref: 8ENF-UFO

MAR 20 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mike Linnell, State Director  
USDA Wildlife Services  
PO Box 26976  
Salt Lake City, UT 84126

Re: Notice of Warning

Dear Mr. Linnell:

This letter constitutes a Notice of Warning issued pursuant to section 14(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and notifies you that there is a reason to believe the United States Department of Agriculture, Wildlife Services (USDA Wildlife Services), violated Section 12(a)(2)(G) of FIFRA by using a registered pesticide in a manner inconsistent with its labeling. You are reminded that federal agencies, including the USDA, are required to comply with environmental laws pursuant to Executive Order 12088.

The U.S. Environmental Protection Agency (EPA), Region 8, requested the Utah Department of Agriculture & Food (UDAF) to conduct an inspection as a follow up to a complaint of a dog killed by a M-44 near Bruff Reservoir in Roosevelt County. On March 22, 2006, an inspector for UDAF, using federal credentials, conducted an inspection of USDA Wildlife Services to determine compliance with FIFRA. That inspection revealed that the use of at least one M-44 device, EPA Registration number 56228-15, was inconsistent with its labeling. The label lists 26 use restrictions which must be met before an M-44 device can be used (the M-44 Use Restrictions are enclosed with this letter). Based on information available to EPA, it appears that the following restrictions were not adhered to:

Use Restriction #8. "The M-44 device shall not used: (1) In areas within national forests or other Federal lands set aside for recreational use, (2) areas where exposure to the public and family and pets is probable, (3) in prairie dog towns, or, (4) except for the protection of federally designated threatened or endangered species, in National and State Parks; National or State Monuments; federally designated wilderness areas; and wildlife refuge areas."

The Bureau of Land Management land near Bruff Reservoir is open to the public for recreational use. Being open for recreational use, it can be expected that exposure would be probable to the public and to families and pets.

Use Restriction #14. "The M-44 device shall be placed at least at a 50-foot distance or at such a greater distance from any public road or pathway as may be necessary to remove it from the sight of persons or domestic animals using any such public road or pathway."

EPA has reviewed the inspection photographs and determined that the road in the photographs meets the definition of "public road" and/or "pathway," and that the M-44 device in question was placed closer than 50-feet to a public road or pathway.

This letter serves as a Notice of Warning under FIFRA and advises you that future violations of this law may subject USDA Wildlife to further enforcement actions. Although no reply to this letter is necessary, you need to take all necessary actions to correct and prevent the recurrence of the above violations. If you have any questions regarding this Notice of Warning, you may contact Eduardo Quintana at 303-312-6924.

Sincerely,



Mark Chalfant, Director  
Technical Enforcement Program  
Office of Environmental Compliance  
and Environmental Justice



David Janik, Director  
Legal Enforcement Program  
Office of Environmental Compliance  
and Environmental Justice

cc: Philip Strobel, Region 8 Federal Facility Program Manager

Enclosures: M-44 Cyanide Capsules Use Restriction,  
EPA registration number 56228-15