

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 N. 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)

HIRSCH FEED AND FARM SUPPLY, INC.)
789 WORLEY DRIVE)
WEST PLAINS, MO 65775)

RESPONDENT)

Docket No. FIFRA-07-2006-0280

CONSENT AGREEMENT AND
FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on September 28, 2006, pursuant to Section 14 of the of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C § 136 et seq, when Complainant issued a Complaint and Notice of Opportunity For Hearing ("Complaint") to Hirsch Feed and Farm Supply, Inc. (Respondent).

The parties subsequently entered negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order is the result of such negotiations.

CONSENT AGREEMENT

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations of the Complaint. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

2. Respondent waives any right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint and its right to appeal the proposed Final Order accompanying this Consent Agreement.

3. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that, to the best of Respondent's knowledge, Respondent is presently in compliance with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 166 *et seq.*, and all implementing regulations. Respondent recognizes that it bears full responsibility to ensure that it remains in compliance with all applicable federal, state and local environmental statutes and regulations and applicable permits.
5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty in the amount of Four Thousand One Hundred Sixty Dollars (\$4,160.00) to be paid within thirty (30) days of the effective date of the Final Order.
6. The effect of settlement described in Paragraph 5 above is conditional upon the accuracy of Respondent's representations to EPA as memorialized in Paragraph 4 above of this Consent Agreement. Respondent understands that the failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest thereon at the applicable statutory rate.
7. Respondent agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Final Order.
8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

9. The settlement pursuant to this Consent Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

FINAL ORDER

1. Respondent certifies that, upon information and belief, it is in compliance with FIFRA, 7 U.S.C. 136 et seq., and all regulations promulgated thereunder.

2. Respondent shall pay a mitigated civil penalty, in the amount of Four Thousand One Hundred Sixty Dollars (\$4,160.00) within thirty (30) days of the effective date of this Order. Payment made by Respondent shall be made by certified or cashier's check payable to the United States Treasury, and shall bear the docket number for this matter, and shall be mailed to:

Mellon Bank
EPA - Region 7
P.O. Box 371099M
Pittsburgh, PA 15251

3. A copy of the check shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101; and

Chris R. Dudding, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101.

4. Respondent understands that its failure to timely pay any portion of the civil penalty stated in Paragraph 2 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated

interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury on the unpaid balance until such civil penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed for payments received 30 days after the due date, and an additional \$15 will be charged for each subsequent 30 day period. As provided by 31 U.S.C. § 3717(e)(2), a 6% per annum penalty (late charge) will be assessed on any amount not paid within 90 days of the due date.

5. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 N. 5th Street, Kansas City, Kansas, 66101.

6. Each party shall bear its own costs and attorney's fees in connection with this action.

RESPONDENT:

HIRSCH FEED AND FARM SUPPLY, INC.

By:

John Will

Title:

President

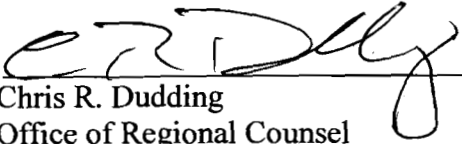
Date:

12/11/06

COMPLAINANT:

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By:

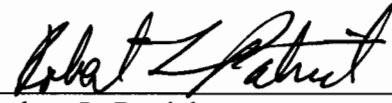


Chris R. Dudding
Office of Regional Counsel
EPA, Region VII

Date:

12/19/06

IT IS SO ORDERED. This Order shall become effective immediately.



Robert L. Patrick
Regional Judicial Officer

Date: December 21, 2006

IN THE MATTER OF Hirsch Feed and Farm Supply, Inc., Respondent
Docket No. FIFRA-07-2006-0280

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Chris R. Dudding
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

John Williams
Hirsch Feed and Farm Supply, Inc.
789 Worley Drive
West Plains, Missouri 65775

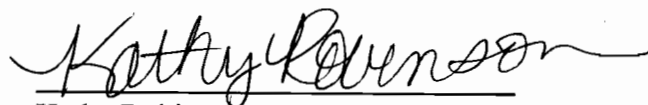
Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

and

The Honorable Barbara A. Gunning
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 12/21/06



Kathy Robinson
Hearing Clerk, Region 7