



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2011 FEB 22 P 12:02
REGIONAL HEARING
CLERK

FEB 17 2011

CERTIFIED MAIL
RETURN-RECEIPT REQUESTED

Mr. Eric J. Linn DVM, MPH
Regulatory Affairs
Vetoquinol USA
4250 North Sylvania Avenue
Fort Worth, Texas 76137

Re: In the Matter of Vetoquinol USA
Docket No. FIFRA-02-2010-5105

Dear Mr. Linn:

Please find enclosed a copy of the Consent Agreement and Final Order ("CA/FO") in the above-referenced matter, signed by the Regional Administrator of the United States Environmental Protection Agency, Region 2.

Thank you for your cooperation in this matter. If you have any questions, please contact me at (732) 321-6610.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Kramer".

Michael Kramer
Pesticides Team
Division of Enforcement & Compliance Assistance

Enclosure

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 FEB 22 P 12: 02
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----X
In the Matter of :
 :
 Vetoquinol USA : CONSENT AGREEMENT
 : AND FINAL ORDER
 Respondent :
 : Docket No. FIFRA-02-2010-5105
 Proceeding under the Federal :
 Insecticide, Fungicide, and :
 Rodenticide Act, as amended :
-----X

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136 l(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2, issued a Complaint and Notice of Opportunity for Hearing to Respondent, Vetoquinol USA, located at 4250 North Sylvania Avenue, Fort Worth, Texas 76137.

The Complainant charged Respondent with two (2) violations of 7 U.S.C. § 136g(c)(1) and 40 C.F.R. § 167.85, the requirements under the Federal Insecticide, Fungicide, and Rodenticide Act governing the submission of annual Pesticide Reports for Pesticide-Producing Establishments

("Pesticide Reports"). Said violations are unlawful under the Federal Insecticide, Fungicide, and Rodenticide Act §12(a)(2)(L), 7 U.S.C. § 136j (a)(2)(L).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Parties to this Consent Agreement agree that the title to this proceeding should properly read "In the Matter of Vetoquinol USA".

2. This Consent Agreement is being entered by Respondent on behalf of Vetoquinol USA, and the Respondent is authorized for purposes of this Consent Agreement to bind Vetoquinol USA.

3. Respondent's establishment is registered under Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136e. Its assigned U.S. Environmental Protection Agency Establishment Number is 003134-NJ-001.

4. Pursuant to Section 7(c) of The Federal Insecticide, Fungicide, and Rodenticide Act and 40 C.F.R. § 167.20(f), any producer operating an establishment registered under Section 7 shall submit annually to the U.S. Environmental Protection Agency the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which the producer is currently producing, has produced during the past year, and has sold or distributed during the past year.

5. Title 40 C.F.R. § 167.85 provides that a producer operating an establishment must submit an annual pesticide production report (the "Report") on or before March 1st of each year, even if the producer has produced no pesticides for that reporting year.

6. Respondent failed to submit annual pesticide production reports for calendar years 2008 and 2009.

7. Therefore, Respondent violated Section 7(c)(1) and Section 12(a)(2)(L) of the Federal Insecticide, Fungicide, and Rodenticide Act, and 40 C.F.R. § 167.85.

8. Respondent requested termination of its establishment registration. The facility has not performed any pesticide-related activities since 2008.

CONSENT AGREEMENT

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

1. Respondent admits the jurisdictional allegations of the Complaint.
2. Respondent agrees to waive any jurisdictional objections regarding proper service of the complaint and/or any other questions concerning acquisition of personal jurisdiction of Vetoquinol USA.
3. Respondent shall comply at all times with the requirements of Section 7 of The Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136e and the applicable regulations.
4. Respondent admits the specific factual allegations set forth in the Findings of Fact and Conclusions of Law in this Consent Agreement.
5. Complainant agrees to waive all penalties assessed in the Complaint due to Respondent's request for termination of its New Jersey establishment registration and submission of a zero pesticide production report for calendar years 2008 and 2009. Such waiver is consistent with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act Enforcement Response Policy.
6. Respondent's registration for its New Jersey establishment has been terminated.
7. Nothing in this Consent Agreement and Final Order shall relieve Respondent of the duty to comply with all applicable provisions of the Federal Insecticide, Fungicide, and Rodenticide Act and other environmental laws.
8. Nothing in this Consent Agreement and Final Order shall preclude Complainant from further enforcement action, including the assessment of civil penalties, arising from the violation of any environmental laws.

9. This Consent Agreement is being entered into by the parties in full settlement of civil liabilities associated with pesticide production establishment reporting requirements under 7 U.S.C. § 136 (e) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to its issuance and its terms.

10. Respondent explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

12. This Consent Agreement shall be binding on both parties to this action, their officers, directors, employees, successors, and assigns.

13. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement and bind that party to it.

14. Each party shall bear its own costs and attorney fees in the action resolved by this Consent Agreement.

15. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by a U.S. Environmental Protection Agency employee other than the Regional Hearing Clerk.

In the Matter of Vetoquinol USA

Docket No. Federal Insecticide, Fungicide, and Rodenticide Act-02-2010-5105

RESPONDENT: Vetoquinol USA

BY: 

Authorizing Signature

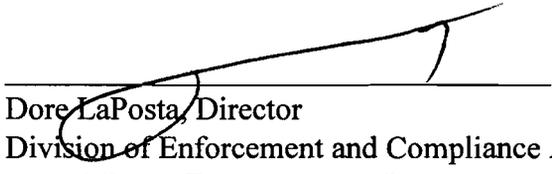
NAME: ERIC J LIND DVM, MPH

(PLEASE PRINT)

TITLE: Director Regulatory Affairs

DATE: 7 Jan 2011

COMPLAINANT:


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
United States Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007

DATE: FEBRUARY 1, 2011

In the Matter of Vetoquinol USA

Docket No. Federal Insecticide, Fungicide, and Rodenticide Act-02-2010-5105

Judicial Officer
FINAL ORDER

HST The Regional ~~Administrator~~ of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

Helen Ferrara

Helen Ferrara

Regional Judicial Officer

United States Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007

DATE: February 16, 2011

In the Matter of Vetoquinol USA

Docket No. Federal Insecticide, Fungicide, and Rodenticide Act-02-2010-5105

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Consent Agreement and Final Order for the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy

by Interoffice Mail:

Office of Regional Hearing Clerk
United States Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

USPS First Class Mail

Vetoquinol USA
4250 North Sylvania Avenue
Fort Worth, Texas 76137

Dated: 2/17/2011
Edison, New Jersey

Paul Kohn