



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2017 NOV -9 PM 2:38

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: FIFRA-08-2018-0003

IN THE MATTER OF:

Ray Farmers Union Elevator CO

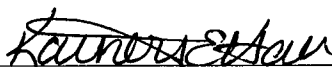
FINAL ORDER

RESPONDENT

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 9th DAY OF November, 2017.



Katherin E. Hall
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2017 NOV -9 PM 2: 38

IN THE MATTER OF:)
)
Ray Farmers Union Elevator Co.)
11445 Highway 2)
Ray, North Dakota 58849)
Est. No. 072148-ND-001)
)
Respondent)
_____)

FILED
EPA REGION VIII
HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT

(COMBINED COMPLAINT AND
CONSENT AGREEMENT)

AUTHORITY

1. This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter the Agreement), intended to simultaneously commence and conclude this matter, is being entered into by the United States Environmental Protection Agency (the EPA), Region 8, by its duly delegated officials below, and by Ray Farmers Union Elevator Company (Respondent). This matter is authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA and Respondent agree that the EPA has jurisdiction over this matter pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), section 14 (a)(1) of 7 U.S.C. § 136l(a)(1).
3. Respondent agrees that the EPA has jurisdiction and venue over the matters contained in this Agreement, however, Respondent neither admits nor denies the EPA's specific factual allegations contained herein.

RESPONDENT

4. Respondent is a "person" as defined by section 2(S) of FIFRA, 7 U.S.C. § 136(s).
5. Respondent is a "producer" as defined by section 2(w) of FIFRA, 7 U.S.C. § 136(w).

ALLEGED VIOLATIONS

6. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), requires all registered pesticide producers to file an annual report "of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides..." Further, regulations promulgated pursuant to FIFRA section 7 require such annual reports to be filed on or before March 1 for the preceding calendar year as referenced in 40 C.F.R. § 167.85(d).

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7. The EPA reviewed its records and determined that Respondent did not submit the annual Pesticide Report for Pesticide-Producing and Device-Producing Establishments pursuant to 40 C.F.R. § 167.85(d) and section 7(c)(1) of FIFRA, 7 U.S.C. § 136(e), for calendar year 2016, by March 1, 2017.
8. By not submitting the annual report for calendar year 2016, by March 1, 2017, Respondent violated 40 C.F.R. § 167.85(d) and section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1).

SETTLEMENT

9. The EPA and Respondent agree settlement of this matter is in the public interest, and the EPA and Respondent agree that execution of this Agreement and issuance of a final order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.
10. This Agreement contains all terms of the settlement agreed to by the parties.
11. Pursuant to section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and based in part on the nature of the alleged violations and other relevant factors, the EPA agrees that an appropriate civil penalty to settle this matter is **FOUR HUNDRED DOLLARS (\$400)**.
12. Respondent consents, for the purpose of settlement, to the issuance of a final order and the payment of the civil penalty cited in the foregoing paragraph.
13. Respondent agrees that the penalty specified in this Agreement shall not be deductible for purposes of state or federal taxes.
14. By signing this Agreement, Respondent certifies that: (1) the alleged violation listed in the Agreement has been corrected, and the Respondent has submitted true and accurate documentation of such correction; (2) Respondent has provided payment of the civil penalty; and (3) Respondent releases that penalty to the EPA upon incorporation of the Agreement into a final order.

Within fifteen (15) days of Respondent's receipt of this Agreement, Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of four hundred dollars (\$400) in payment of the full penalty amount to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

**The following Payment Number for this Agreement must be included on the check:
ESA-R8-FIFRA-18-002**

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EXPEDITED SETTLEMENT AGREEMENT

The signed Agreement and a copy of the check must be sent certified mail to:

Christine Tokarz, (mail code: 8ENF-AT-TP)
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

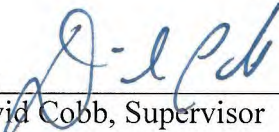
15. Respondent waives its right to a hearing on any issue of law or fact set forth in this Agreement and knowingly agrees to waive its right to a hearing on this matter pursuant to 40 C.F.R. § 22.15. By signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing pursuant to section 554 of the Administrative Procedure Act, 5 U.S.C. § 554.
16. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
17. This Agreement, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.
18. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
19. Nothing in this Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
20. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Agreement and to execute and legally bind that party to this Agreement.
21. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
22. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this Agreement.
23. This Agreement shall not in any case affect the EPA's right to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
24. Each party shall bear its own costs and attorney's fees in connection with all issues associated with this Agreement.

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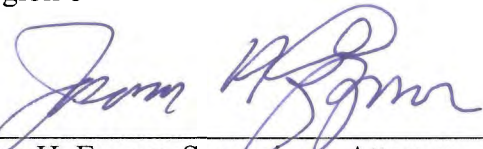
UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
Office of Enforcement, Compliance and
Environmental Justice

Complainant.

Date: 11/2/17

By: 
David Cobb, Supervisor
Toxics and Pesticides Enforcement Unit
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice (8ENF-AT-TP)
U.S. Environmental Protection Agency,
Region 8

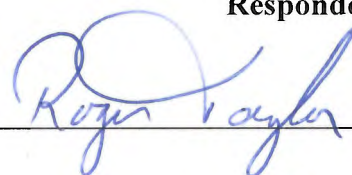
Date: 11/2/17

By: 
James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice (8ENF-L)
U.S. Environmental Protection Agency,
Region 8

Ray Farmers Union Elevator Company

Respondent.

Date: 10-16-17

By: 
Agronomy Dept Mgr
Title

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER** in the matter of **RAY FARMERS UNION ELEVATOR CO; DOCKET NO.: FIFRA-08-2018-0003** was filed with the Regional Hearing Clerk on November 9, 2017.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on November 9, 2017, to:

Respondent

Ray Farmers Union Elevator CO
11445 Highway 2
Ray, North Dakota 58849

And emailed to:

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

November 9, 2017



Melissa Haniewicz
Regional Hearing Clerk