

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF	)	
	)	
Paul A. Depperschmidt, and	)	Docket No. FIFRA-07-2006-0175
Mid-State Farmers Cooperative, Inc.	)	
	)	
Respondent.	)	CONSENT AGREEMENT AND
	)	FINAL ORDER.

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about April 28, 2006, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called "FIFRA"), 7 U.S.C. § 1361, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued a "Complaint and Notice of Opportunity for Hearing" to Paul A. Depperschmidt and Mid-State Farmers Cooperative, Inc. (hereinafter referred to as "Respondents").

The Complaint charged Respondents with two counts of violating FIFRA, specifically Section 12(a)(2)(F), 7 U.S.C. § 136(a)(2)(F); and Section 12(a)(2)(G), 7 U.S.C. § 136(a)(2)(G). Subsequently Complainant and Respondents entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order (CAFO) set forth herein below is the result of these negotiations and represents settlement of this Complaint.

## CONSENT AGREEMENT

It is hereby agreed and accepted by Respondents that:

1. This CAFO is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of allegations in the Complaint. Respondent has read this CAFO, finds it reasonable, and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint and this CAFO.
2. Respondents admit the jurisdictional allegations of the Complaint.
3. Respondents admit the violations of FIFRA as set forth in the Complaint.
4. Respondents certify by signing this CAFO that to its knowledge they are presently in compliance with FIFRA, 7 U.S.C. § 136 et seq., and all regulations promulgated thereunder.
5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondents from, any other action under any law and/or regulation administered by the EPA.
6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.
7. Each party shall bear its own costs and attorneys' fees in the action resolved by this CAFO.
8. Each signatory of this Agreement certifies that he or she is fully authorized to enter into this CAFO.
9. Respondents consent to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

## FINAL ORDER

Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 1361, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondents in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Ten Thousand Four Hundred Dollars (\$10,400.00), in four installments: \$2,600.00 within thirty (30) days of the execution of the CAFO; \$2,600.00 on or before December 31, 2006; \$2,600.00 on or before June 30, 2007; and \$2,600.00 on or before December 31, 2007. The checks must be made payable to the "Treasurer, United States of America" and shall be mailed to: **U.S. EPA-Region 7, P.O. Box 371099M, Pittsburgh, Pennsylvania 15251**. The payments shall be identified as **In the Matter of Paul A. Depperschmidt and Mid-State Farmers Cooperative, Inc.** Copies of the checks shall be forwarded to Denise L. Roberts, Office of Regional Counsel, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

2. The first installment of the civil penalty shall be paid on or before thirty (30) days after the effective date of the Final Order (the dates by which the payment must be received shall hereafter be referred to as the "due dates") and the second, third and fourth installments on or before the dates stated above. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. If payment is not received on or before the due dates, interest will be assessed at the annual rate of two percent (2%) as established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

By: Denise L. Roberts  
Denise L. Roberts  
Attorney  
Office of Regional Counsel

Date: 7/5/06

RESPONDENT:  
PAUL A. DEPPERSCHMIDT

By: Paul A. Depperschmidt

Title: \_\_\_\_\_

Date: 7-17-06

RESPONDENT:  
MID-STATE FARMERS COOPERATIVE, INC.

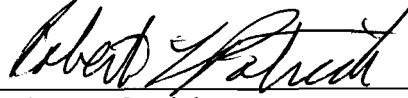
By: Richard Hansen

Title: General Manager

Date: 7-17-06

IN THE MATTER OF Paul A. Depperschmidt and Mid-State Farmers Cooperative, Inc.  
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IT IS SO ORDERED. This Order shall become effective immediately.



Robert L. Patrick  
Regional Judicial Officer  
U.S. EPA, Region VII

*Dated July 26, 2006*

IN THE MATTER OF Paul A. Depperschmidt, and Mid-State Farmers Cooperative, Inc.  
Respondent  
Docket No. FIFRA-07-2006-0175

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:

Denise L. Roberts  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Richard Herman, Manager  
Mid-State Farmers Cooperative, Inc.  
819 West Union Road  
Rush Center, Kansas 67575

Dated: 7/27/06



Kathy Robinson  
Regional Hearing Clerk