



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
2890 WOODBRIDGE AVE.
EDISON, NEW JERSEY 08837-3679

M.HOLERS

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2007 JUL 12 PM 1:40
REGIONAL HEARING
CLERK

JUL 11 2007

CERTIFIED MAIL
RETURN-RECEIPT REQUESTED

Mr. Martin Kalin, President
Plant Cell Technology, Inc.
1823 Jefferson Place, NW
Washington DC 20036

Re: In the Matter of Plant Cell Technology Inc.
Docket No. FIFRA-02-2007-5119

Dear Mr. Kalin:

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
2007 JUL 12 PM 1:40
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION
REGION 2

-----X
In the Matter of :
 :
Plant Cell Technology Inc. : **CONSENT AGREEMENT**
 : **AND FINAL ORDER**
Respondent :
 : Docket No. FIFRA-02-2007-5119
 :
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. ("FIFRA" or "the Act"). Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency ("EPA"), Region 2, issued a Complaint to Respondent, Plant Cell Technology Inc., located at 1823 Jefferson Place, NW Washington DC 20036.

The Complainant charged Respondent with one (1) violation of 7 U.S.C. § 136e(c)(1) and 40 C.F.R. § 167.85, the requirements under FIFRA governing the submission of an annual Pesticide Report for Pesticide-Producing Establishments ("Pesticide Report"). Said violations are unlawful under FIFRA §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 Plant Cell Technology Inc.”.

2. This Consent Agreement is being entered by Respondent on behalf of Plant Cell Technology Inc., and the Respondent is authorized for purposes of this Consent Agreement to bind Plant Cell Technology Inc.

3. Respondent’s establishment was registered under Section 7 of FIFRA, 7 U.S.C. § 136e. Its assigned EPA Establishment Number was 071806-NJ-001.

4. Pursuant to Section 7(c) of FIFRA and 40 C.F.R. § 167.20(f), any producer operating an establishment registered under Section 7 shall submit annually to the EPA 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 the annual pesticide production report (the “Report”) on or before March 1st of each year, even if the producer has produced no pesticidal product for that reporting year.

6. Respondent failed to submit the annual pesticide production report for 2005 for EPA Establishment Number 071806-NJ-001.

7. Therefore, Respondent violated Section 7(c)(1) of FIFRA, Section 12(a)(2)(L) of FIFRA, and 40 C.F.R. § 167.85.

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 Plant Cell Technology Inc.
3. Respondent shall comply at all times with the requirements of Section 7 of FIFRA, 7 U.S.C. § 136g and the applicable regulations.
4. Respondent admits the specific factual allegations set forth in the Findings of Fact and the Conclusions of Law in this Consent Agreement.
5. Respondent explicitly agrees to pay, by cashier's or certified check, a civil penalty in the total amount of Three Thousand, Two Hundred and Fifty Dollars (\$3250.00) to the "Treasurer, United States of America". The payment of Three Thousand, Two Hundred and Fifty Dollars (\$3250.00) is due within forty five (45) days after the date of signature of the Final Order at the end of this document (the date by which the payment must be received shall hereafter be referred to as the "due date"). Such check shall be identified with a notation of the name and docket number of this case, set forth in the caption of the first page of this document. Such check shall be mailed to:

EPA - Region 2 (Regional Hearing Clerk)
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Respondent shall also send copies of this payment to each of the following:

Michael Kramer, FIFRA Enforcement Coordinator
Pesticides Team
U.S. Environmental Protection Agency Region 2
2890 Woodbridge Ave. (MS-500)
Edison, New Jersey 08837

and

Regional Hearing Clerk
U.S. Environmental Protection Agency Region 2
290 Broadway, 16th floor
New York, New York 10007

a. Failure to pay the above amount in full according to the above provisions will result in referral of this matter to the United States Department of Justice for collection.

b. Furthermore, if a payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 on the overdue amount from the effective date of payment.

c. In addition, a late payment handling charge of fifteen dollars (\$15.00) for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid will be assessed.

6. Nothing in this Consent Agreement and Final Order shall relieve Respondent of the duty to comply with all applicable provisions of FIFRA and other environmental laws.

7. 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.

8. This Consent Agreement is being entered into by the parties in full settlement of all civil liabilities that might have attached as a result of the allegations in the Complaint.

Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to

its issuance and its terms.

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

10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 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.

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

12. 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.

13. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

14. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

In the Matter of Plant Cell Technology Inc.
Docket No. FIFRA-02-2007-5119

RESPONDENT: Plant Cell Technology Inc.

BY: Martin Kalin
Authorizing Signature

NAME: Martin Kalin
(PLEASE PRINT)

TITLE: President

DATE: June 12, 2007

COMPLAINANT:

Dore LaPosta
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, NY 10007

DATE: JUNE 27, 2007



In the Matter of Plant Cell Technology Inc.
Docket No. FIFRA-02-2007-5119

FINAL ORDER

The Regional Administrator of the U.S. 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, U.S. EPA, Region 2, New York, New York.



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

DATE: 6-29-07

In the Matter of Plant Cell Technology Inc.
Docket No. FIFRA-02-2007-5119

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Notice of Opportunity and Consent Agreement 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
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

USPS First Class Mail
Delivery Confirmation

Mr. Martin Kalin, President
Plant Cell Technology, Inc.
1823 Jefferson Place, NW
Washington DC 20036

Dated: _____

7/11/07

Edison, NJ


