

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

07 JAN 18 PM 3:17

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)	
)	Docket No. FIFRA-07-2006-0284
Cornhusker State Industries)	
800 Pioneers Blvd.)	CONSENT AGREEMENT
Lincoln, Nebraska 68502)	AND
)	FINAL ORDER
Respondent)	

PRELIMINARY STATEMENT

This is a civil penalty proceeding pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C §§ 136 to 136y, and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region 7 ("EPA"). Respondent is Cornhusker State Industries.

This proceeding was initiated on September 29, 2006, pursuant to Section 14 of FIFRA when Complainant issued a Complaint and Notice of Opportunity For Hearing ("Complaint") to Respondent. The Complaint charged Respondent with violations of Sections 12(a)(1)(A) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and (E), because they distributed, sold, or made available for any use, unregistered, misbranded and adulterated pesticides. The Complaint proposed a total civil penalty of Twenty-One Thousand and One Hundred Dollars (\$21,100.00) against Respondent for these violations.

The parties subsequently entered negotiations in an attempt to settle the allegations

contained in the Complaint pursuant to 40 C.F.R. § 22.18. This Consent Agreement and Final Order (“CAFO”) is the result of such negotiations and represents settlement of this Complaint.

CONSENT AGREEMENT

1. Respondent agrees and accepts that this Consent Agreement and Final Order 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 the allegations in the Complaint. Respondents have read the Consent Agreement, find it reasonable and consent to its issuance and terms and explicitly waive its right to request a hearing on the Complaint, this Consent Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent consents to the assessment of the stated civil penalty in the Final Order and to the conditions specified in this Consent Agreement.

4. Respondent agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Final Order.

5. Respondent and EPA each agree to bear their own costs and attorney's fees.

6. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

7. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA 7 U.S.C. § 136 et seq.

8. The undersigned representative of Respondent certifies 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. Respondent understands that failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

10. 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

Pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA), as amended, 7 U.S.C. §§ 136 to 136y (1976 and Supp. III 1979), and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty, in the amount of Sixteen Thousand and Nine Hundred Dollars (\$16,900). Payment will be due on or before thirty days following the execution of this Consent Agreement and Final Order. Payment by Respondent shall identify the Respondent by name and docket number and shall be made by certified or cashier's check payable to the "United States Treasury" and remitted to:

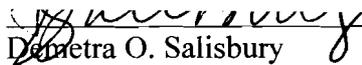
Mellon Bank
EPA - Region 7
Regional Hearing Clerk
P.O. Box 371099M
Pittsburgh, PA 15251

2. A copy of the check shall be forwarded to:

Demetra O. Salisbury
Attorney, Office of Regional Counsel
U.S. EPA Region 7
901 N. 5th Street
Kansas City, Kansas 66101.

3. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

4. 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,

By: 
Demetra O. Salisbury
Attorney
Office of Regional Counsel

Date: January 18, 2007

RESPONDENT:

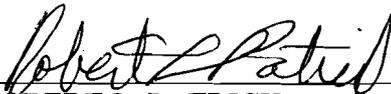
CORNHUSKER STATE INDUSTRIES

By: 

Title: Administrator

Date: Jan 11, 2007

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


ROBERT L. PATRICK
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7

Date: January 18, 2007

IN THE MATTER OF Cornhusker State Industries, Respondent
Docket No. FIFRA-07-2006-0284

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:

Demetra O. Salisbury
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:

George Green
Nebraska Department of Correctional Services
P.O. Box 94661
Lincoln, Nebraska 68509-4661

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 Carl C. Charneski
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 1/18/07


Kathy Robinson
Hearing Clerk, Region 7