

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
11201 Renner Boulevard
Lenexa, Kansas

2015 MAY 28 AM 10:25

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
MIDWEST FERTILIZER, INC.)	Docket No. FIFRA-07-2015-0008
)	
)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
Respondent)	FINAL ORDER
)	

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency ("EPA") alleges that Midwest Fertilizer, Inc. ("Respondent") failed to comply with Section 7(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136e(c) for its facilities, Midwest Fertilizer, Inc.-Chanute, EPA Establishment No. 063587-KS-002, located in Chanute, Kansas; and Midwest Fertilizer, Inc.-Thayer, EPA Establishment No. 063587-KS-005, located in Thayer, Kansas.

2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticide-producing establishment to inform EPA of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which it is producing, which it has produced during the past year, and which it has sold or distributed during the past year. The information required by this paragraph shall be kept current and submitted to the Administrator annually as required by such regulations as the Administrator may prescribe. The regulation found at 40 C.F.R. § 167.85(d) requires such pesticides report to be filed annually on or before March 1, even if the producer has produced no pesticidal products for that reporting year.

3. Respondent has failed to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file the 2013 annual pesticides report for the above facility by March 1, 2014, as required.

4. EPA is authorized to enter into this Expedited Settlement Agreement and final Order ("Agreement"), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 1361 and 40 C.F.R. § 22.13(b).

5. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirements in Paragraph 2 (above); (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.

6. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that to the best of Respondent's knowledge, it is presently in compliance with all requirements of FIFRA, 7 U.S.C. 136 et seq., and all regulations promulgated thereunder. Respondent has now submitted its 2013 annual pesticides report.

7. EPA and Respondent agree that settlement of this matter for a civil penalty is in the public interest. Respondent certifies that it has sent a Cashier's or certified check (payable to the "United States Treasury") in the amount of one thousand six hundred dollars (\$1600.00) in payment of the full penalty amount to the following address:

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

The docket Number of this ESA is FIFRA-07-2015-0008, and must be included on the check.

This original ESA and a copy of the check must be sent by certified mail to:

Andrew Kowalski (TOPE)
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

8. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

9. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of FIFRA, or any other federal statute or regulation, of this Agreement.

10. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to FIFRA.

11. Each party shall bear its own costs and fees, if any.
12. This Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.
13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

FOR RESPONDENT:

Greg Semrad Date: 1-26-15
Name (Print): Greg Semrad
Title (Print): Manager

FOR COMPLAINANT:



Karen Flourney
Director
Water, Wetlands and Pesticides Division
EPA Region 7

Date:

1-29-15



Kent Johnson
Office of Regional Counsel
EPA Region

Date:

1/30/15

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date:

5/27/15



United States

OMB Control No. 2070-0078
Expires on 3/31/2016

ENVIRONMENTAL PROTECTION AGENCY

Washington, DC 20460

Pesticide Report for Pesticide-Producing and Device-Producing Establishments

Office of Enforcement and Compliance Assurance

Section 7, Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. sec. 136e)
<http://www.epa.gov/compliance/monitoring/programs/fifra/establishments.html>

1. Establishment Name <i>Mid-West Fertilizer Chanute</i>		2. EPA Est. No. <i>KS-66720-002</i>			
3. Establishment Site Address <i>1971 South Country Club Rd</i>					
4. City <i>Chanute</i>			5. State <i>KS</i>		
6. Province/Region		7. Country <i>USA</i>	8. Zip/Postal Code <i>66720</i>		
9. Establishment Mailing Address <i>1971 South Country Club Rd</i>					
10. City <i>Chanute</i>			11. State <i>KS</i>		
12. Province/Region		13. Country <i>USA</i>	14. Zip/Postal Code <i>66720</i>		
15. Telephone Number <i>620-431-3430</i>		16. eMail <i>gsemrad@mwfert.com</i>			
17. Check if your establishment's name or address changed <input type="checkbox"/>		18. Did you produce or distribute in 2013? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
19. Company Name <i>Mid-West Fertilizer Chanute</i>					
20. Company Site Address <i>1971 South Country Club Rd</i>					
21. City <i>Chanute</i>			22. State <i>KS</i>		
23. Province/Region		24. Country <i>USA</i>	25. Zip/Postal Code <i>66720</i>		
26. Company Mailing Address <i>Mid-West Fertilizer Chanute</i>					
27. City <i>Chanute</i>			28. State <i>KS</i>		
29. Province/Region		30. Country <i>USA</i>	31. Zip/Postal Code <i>66720</i>		
32. Telephone Number <i>620-431-3430</i>		33. eMail <i>gsemrad@mwfert.com</i>			
34. Check if your company name or address changed <input type="checkbox"/>		35. Check if your Authorized Agent changed <input type="checkbox"/>			
36. Name of Company Official or Authorized Agent <i>Greg Semrad</i>		37. Title of Company Official or Authorized Agent <i>manager</i>			
38. Signature of Company Official or Authorized Agent (Original signature required) <i>Greg Semrad</i>			39. Date <i>6-9-14</i>		
EPA Reviewer	EPA Office	Post Mark Date	Date Entered	Comments	Reporting Year 2013



United States

OMB Control No. 2070-0078
Expires on 3/31/2016

ENVIRONMENTAL PROTECTION AGENCY

Washington, DC 20460

Pesticide Report for Pesticide-Producing and Device-Producing Establishments

Office of Enforcement and Compliance Assurance

Section 7, Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. sec. 136e)
<http://www.epa.gov/compliance/monitoring/programs/fifra/establishments.html>

Establishment Name Mid-West Fertilizer Company EPA Est. No. KS -66720-002

Pesticide Production Information

40. Product Code	<u>1</u> (If "6," attach formulation per instructions.)	41. EPA Product Registration No.	<u>524-549</u>				
42. Product Name	<u>Roundup Power Max</u>		43. Product Classification	<u>34</u>			
44. Product Type	<u>3</u>	45. Market Sold To	<u>1</u>	46. RUP Status	<u>2</u>	47. Unit of Measurement	<u>G</u>
48. Amount Produced, Repackaged or Relabeled		[2013]	<u>4900 G</u>				
49. Amount Sold or Distributed - U.S.		[2013]	<u>4900 G</u>				
50. Amount Sold or Distributed - Foreign (Foreign establishments enter "0")		[2013]	<u>0</u>				
51. Amount To Be Produced, Repackaged or Relabeled in		[2014]	<u>5000 G</u>				
40. Product Code	<u>1</u> (If "6," attach formulation per instructions.)	41. EPA Product Registration No.	<u>62719-570</u>				
42. Product Name	<u>SureStart</u>		43. Product Classification	<u>34</u>			
44. Product Type	<u>3</u>	45. Market Sold To	<u>1</u>	46. RUP Status	<u>2</u>	47. Unit of Measurement	<u>G</u>
48. Amount Produced, Repackaged or Relabeled		[2013]	<u>1700 G</u>				
49. Amount Sold or Distributed - U.S.		[2013]	<u>1700 G</u>				
50. Amount Sold or Distributed - Foreign (Foreign establishments enter "0")		[2013]	<u>0</u>				
51. Amount To Be Produced, Repackaged or Relabeled in		[2014]	<u>1700 G</u>				
40. Product Code	<u>1</u> (If "6," attach formulation per instructions.)	41. EPA Product Registration No.	<u>1381-158</u>				
42. Product Name	<u>Atrazine 4L</u>		43. Product Classification	<u>34</u>			
44. Product Type	<u>3</u>	45. Market Sold To	<u>1</u>	46. RUP Status	<u>1</u>	47. Unit of Measurement	<u>G</u>
48. Amount Produced, Repackaged or Relabeled		[2013]	<u>2700 G</u>				
49. Amount Sold or Distributed - U.S.		[2013]	<u>2700 G</u>				
50. Amount Sold or Distributed - Foreign (Foreign establishments enter "0")		[2013]	<u>0</u>				
51. Amount To Be Produced, Repackaged or Relabeled in		[2014]	<u>2700 G</u>				
40. Product Code	<u>1</u> (If "6," attach formulation per instructions.)	41. EPA Product Registration No.	<u>524-591</u>				
42. Product Name	<u>Warrant</u>		43. Product Classification	<u>34</u>			
44. Product Type	<u>3</u>	45. Market Sold To	<u>1</u>	46. RUP Status	<u>2</u>	47. Unit of Measurement	<u>G</u>
48. Amount Produced, Repackaged or Relabeled		[2013]	<u>600 G</u>				
49. Amount Sold or Distributed - U.S.		[2013]	<u>600 G</u>				
50. Amount Sold or Distributed - Foreign (Foreign establishments enter "0")		[2013]	<u>0</u>				
51. Amount To Be Produced, Repackaged or Relabeled in		[2014]	<u>600 G</u>				

IN THE MATTER OF Midwest Fertilizer, Inc., Respondent
Docket No. FIFRA-07-2015-0008

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

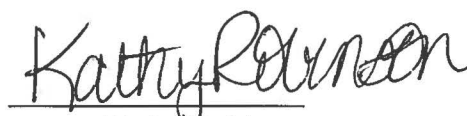
Copy by email to Attorney for Complainant:

lesher.mark@epa.gov

Copy by First Class Mail to:

Midwest Fertilizer Inc.
21 West Dakota Street
P.O. Box 504
Butler, MO 64730

Dated: 5/28/15


Kathy Robinson
Hearing Clerk, Region 7