



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 10 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gary James
Owner
Adel Feed and Seed, Inc.
804 West Mitchell Street
Adel, Georgia 31620

Re: Adel Feed and Seed, Inc.
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2014-3005(b)

Dear Mr. James:

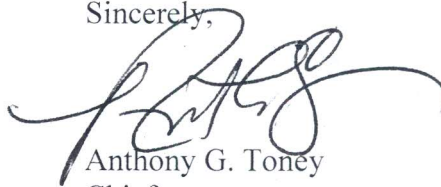
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the respondent name and docket number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Mr. Phillip Beard of the EPA Region 4 staff at (404) 562-9012.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Toney', written in a cursive style.

Anthony G. Toney
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Georgia Department of Agriculture

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV
2014 JUN 10 PM 3:58
HEARING CLERK

In the Matter of:)
)
Adel Feed and Seed, Inc.)
)
Respondent.)
_____)

Docket No.: FIFRA-04-2014-3005(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), 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 Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4. Respondent is Adel Feed and Seed, Inc.
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to the EPA Region 4 by the EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by the EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an

enforcement action as the Complainant in this matter, and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondents.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Phillip Beard
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9012.

5. Respondent is Adel Feed and Seed, Inc., a Georgia corporation, located at 804 West Mitchell Street, Adel, Georgia 31620 (the facility).
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

III. Specific Allegations

7. Pursuant to Sections 8, 19 and 25 of FIFRA, 7 U.S.C. §§ 136f, 136q and 136w, the EPA Administrator promulgated regulations that govern standards for pesticide containment structures which are known as the Container and Containment regulations, codified at 40 C.F.R. Part 165, Subpart E, as set forth below.

8. Respondent is the “owner” and “operator” of the facility, as those terms are defined in 40 C.F.R. § 165.3.
9. Pursuant to Section 40 C.F.R. § 165.3, *appurtenance* means any equipment or device which is used for the purpose of transferring a pesticide from a stationary pesticide container or to any refillable container, including but not limited to, hoses, fittings, plumbing, valves, gauges, pumps and metering devices.
10. *Containment structure* means either a secondary containment unit or a containment pad. 40 C.F.R. § 165.3.
11. *Containment pad* means any structure that is designed and constructed to intercept and contain pesticides, rinsates, and equipment wash water at a pesticide dispensing area. 40 C.F.R. § 165.3.
12. *Pesticide dispensing area* means an area in which pesticide is transferred out of or into a container. 40 C.F.R. § 165.3.
13. *Secondary containment unit* means any structure, including rigid diking, that is designed and constructed to intercept and contain pesticide spills and leaks and to prevent runoff and leaching from stationary pesticide containers. 40 C.F.R. § 165.3.
14. *Stationary pesticide container* means a refillable container that is fixed at a single facility or establishment or, if not fixed, remains at the facility or establishment for at least 30 consecutive days, and that holds pesticide during the entire time. 40 C.F.R. § 165.3.
15. 40 C.F.R. § 165.87(b)(1) requires owners and operators to protect appurtenances and pesticide containers against damage from operating personnel and moving equipment.
16. On or about June 2, 2011, an authorized representative of the EPA conducted an inspection at Respondent’s facility.

17. At the time of the inspection, the inspector observed hoses originating inside the secondary containment area that were on the ground partially outside of the secondary containment unit. Therefore, Respondent failed to protect certain appurtenances against damage from operating personnel and moving equipment, in violation of 40 C.F.R. § 165.87(b)(1).
18. 40 C.F.R. § 165.90(a)(2) requires owners and operators to ensure that pesticide spills and leaks on or in any containment structure are collected and recovered in a manner that ensures protection of human health and the environment and maximum practicable recovery of the pesticide spilled or leaked.
19. At the time of the inspection, the inspector observed a pesticide on the floor of the secondary containment area that had leaked from the pump of the stationary pesticide container. Therefore, Respondent failed to ensure that pesticide spills and leaks on or in any containment structure were collected and recovered in a manner that ensures protection of human health and the environment, in violation of 40 C.F.R. § 165.90(a)(2).
20. 40 C.F.R. § 165.90(b)(1) requires owners and operators to inspect each stationary pesticide container and its appurtenances and each containment structure at least monthly during periods when pesticides are being stored or dispensed on the containment structure.
21. At the time of the inspection, Respondent acknowledged to the inspector that it had failed to make monthly inspections of each containment structure. Therefore, Respondent violated 40 C.F.R. § 165.90(b)(1).
22. 40 C.F.R. § 165.95 requires that owners or operators subject to the requirements of this subpart must, for 3 years, maintain records of inspections and maintenance for each

containment structure and for each stationary pesticide container and its appurtenances, and records for any non-stationary pesticide containers designed to hold agricultural chemicals. Additionally, owners and operators must maintain records of the construction date of the pesticide containment structure for as long as the containment structure is in use, and for 3 years afterwards.

23. At the time of the inspection, Respondent acknowledged to the inspector that it did not keep or maintain records of any of inspection, maintenance, non-stationary containers, or the construction date, in violation of 40 C.F.R. § 165.95.
24. Under Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), it is unlawful for any person to violate any regulations issued under FIFRA Section 19.
25. As set out above, Respondent violated the following regulations issued under FIFRA Section 19: 40 C.F.R. §§ 165.87(b)(1), 165.90(a)(2), 165.90(b)(1), and 165.95. Therefore, by violating regulations issued under FIFRA Section 19, Respondent also violated Section 12(a)(2)(S) of FIFRA and is subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
26. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
27. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
28. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **EIGHT THOUSAND ONE HUNDRED NINETY DOLLARS (\$8,190)** against the Respondent for the

above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

29. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
30. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
31. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
32. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
33. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
34. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

V. Final Order

35. Respondent is assessed a civil penalty of **EIGHT THOUSAND ONE HUNDRED NINETY DOLLARS (\$8,190)** which shall be paid within 30 days from the effective date of this CAFO.

36. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the penalty payment by one of the methods below.

Address for payment submittal using the United States Postal Service (excluding USPS overnight mail):

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

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1818.

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

37. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

Phillip Beard
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

Saundi J. Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

38. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
39. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
40. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
41. This CAFO shall be binding upon the Respondent, its successors and assigns. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.

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Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Adel Feed and Seed, Inc.

Docket No.: FIFRA-04-2014-3005(b)

By: Gary James (Signature)

Date: 5-15-14

Name: Gary James (Typed or Printed)

Title: Owner (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: Carol H. Kimberlin
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

Date: 5/30/14

APPROVED AND SO ORDERED this 10 day of June 2014.

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

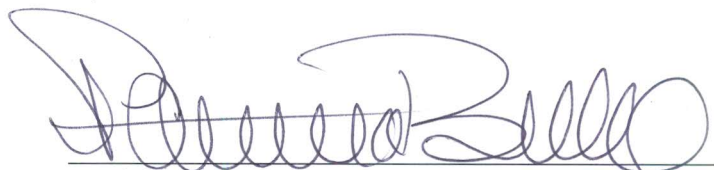
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order In the Matter of Adel Feed and Seed, Inc., Docket Number: FIFRA-04-2014-3005(b), to the addressees listed below:

Mr. Gary James (via Certified Mail, Return Receipt Requested)
Owner
Adel Feed and Seed, Inc.
804 West Mitchell Street
Adel, Georgia 31620

Phillip Beard (via EPA's internal mail)
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Date: 6-10-14


Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9511