

7/24/98

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
RICHARD ROGNESS)	Docket Numbers
and)	IF&R VII-1075C-91P
PRESTO-X COMPANY)	IF&R VII-1088C-91P
)	
Respondents)	

INITIAL DECISION

On July 17, 1995, the parties in the above captioned proceedings filed a Joint Motion on Assessment of Penalty. The joint motion indicates that the parties are amenable to the imposition of an agreed upon civil penalty and to the conclusion of the penalty phase of the litigation, which would result in there being a complete initial decision.

The joint motion also recites that the Respondents would nonetheless retain and not waive their rights to appeal this matter to the Environmental Appeals Board, pursuant to Section 22.30 of the EPA Rules of Practice (Rules), 40 C.F.R. §22.30, after the issuance of the initial decision. The joint motion further sets out that the agreed upon civil penalty is \$0 against the Respondent Roger Rogness and that the agreed upon civil penalty is \$4,500 against the Respondent Presto-X.

By order issued May 15, 1995, the issue of liability for the violations alleged in these cases has been resolved in favor of the Complainant and findings were entered in that order determining that the Respondents had violated Section 12(a) (2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G). In light of this liability resolution and the agreement by the parties on the amounts of the civil penalties, there is good cause to grant the joint motion, and it is hereby granted.

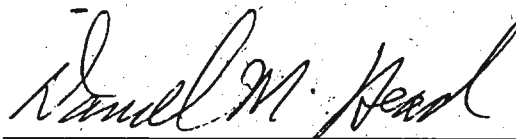
Moreover, the action taken herein constitutes the issuance of a complete initial decision since both liability and penalty have now been determined. Therefore, since an initial decision is being issued and the parties necessarily retain their appeal rights, the Respondents' Motion for Certification of Ruling for Interlocutory Appeal, which was submitted May 26, 1995 and which was opposed by the Complainant, is hereby denied as moot.

Accordingly, a civil penalty of \$0 is assessed against the Respondent Richard Rogness and a civil penalty of \$4,500 is assessed against the Respondent Presto-X, for the violations of FIFRA that had been found and specified in the May 15, 1995

order. Payment of the full amount of the civil penalty assessed shall be made within sixty (60) days of service of the final order of the Environmental Appeals Board, by forwarding a cashier's or certified check payable to the Treasurer of the United States. Said check shall be mailed to:

EPA Region VII
Regional Hearing Clerk
P.O. Box 36074M
Pittsburgh, PA 15251

SO ORDERED.¹



Daniel M. Head
Administrative Law Judge

Dated:

July 24, 1985
Washington, DC

¹ Under Section 22.30 of the Rules, 40 C.F.R. § 22.30, the parties may file with the Environmental Appeals Board (EAB), a notice of appeal of this decision and an appellate brief within 20 days of service of this initial decision. This initial decision shall become the final order of the EAB within 45 days after its service, unless an appeal is taken by the parties or unless the EAB elects, sua sponte, to review the initial decision pursuant to Section 22.30(b) of the Rules. After any appeal or sua sponte review, the order of the EAB shall be the final order in this case.