



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

5/2/80

OFFICE OF THE
ADMINISTRATOR

IN RE)	
)	I. F. & R. No. III-209-C
HOLDER CORPORATION)	
)	
Respondent)	

DEFAULT ORDER

Preliminary Statement

This is a proceeding under Sec. 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 1(a), 1973 Supp.), instituted by a complaint filed by the Director, Enforcement, Region III, United States Environmental Protection Agency, which was served upon Respondent, Holder Corporation, on November 9, 1979.

Respondent filed an answer by letter dated November 24, 1979. The matter was referred to the undersigned by letter dated March 3, 1980, and a prehearing letter was issued on March 11, 1980, pursuant to 40 C.F.R. 168.36(e), requiring the parties to submit certain information by April 15, 1980.

Complainant, by letter dated April 11, 1980, filed its response to said prehearing letter. Respondent did not file a response. Complainant filed a Motion for Default Judgement dated April 25, 1980, which was duly served upon Respondent. Respondent did not answer such motion. By

letter dated May 2, 1980, Respondent was given until May 12, 1980 to respond to my prehearing letter. Said letter further advised Respondent that if no response was received to this second letter, a default order would be issued. No reply has been received in response to said letter.

All of the above files are hereby incorporated into and made a part of the record in this proceeding.

By reason of the foregoing, Respondent is hereby found to be in default pursuant to the Rules of Practice issued under the Act (40 C.F.R. 168.34(a)(2)). Such default constitutes an admission of all facts alleged in the complaint and a waiver of hearing by Respondent.

Findings of Fact

1. Respondent is a corporation doing business in the State of West Virginia.
2. Respondent's business consists in part of pesticide products under E.P.A. Establishment No. 01772-WV-01.
3. Section 7(c) of the Act, 7 U.S.C. §136e(c), requires all operators of registered producing establishments to report production and sales information annually to E.P.A. Regulation 40 C.F.R. §167.5 states the reporting requirements and deadline for submission.
4. On January 2, 1979, Respondent received from E.P.A. a copy of the report form to be submitted to E.P.A. by February 1, 1979 to comply with the requirements cited in paragraph three (3) above.
5. On or about April 20, 1979, Respondent received a Notice of Warning from EPA issued pursuant to Section 7(c)(1) of the Act, 7 U.S.C. §136e(c)(1). The Notice of Warning cited Respondent's failure to complete and return the report as required and advised Respondent to do so within ten (10) days.

6. As of this date, E.P.A. has not received the report from Respondent required by Section 7(c) of the Act, 7 U.S.C. §136e(c). This is a violation of Section 12(a) (2) (L) of the Act, 7 U.S.C. §136j(a) (2) (L).

Conclusions

By reason of the facts set forth in the Findings above, Respondent failed to file the reports as required by the Act in violation of 7 U.S.C. §136j(a) (2) (L).


Pursuant to §168.34(a) of the Rules of Practice, the penalty proposed to be assessed in the Complaint, \$500.00, shall become due and payable by Respondent, Holder Corporation, without further proceedings, upon the issuance by the Regional Administrator of a final order issued upon default.

ORDER

Pursuant to §14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 1(a), 1973 Supp.), a civil penalty of \$500.00 is hereby assessed against Respondent, Holder Corporation, for the violation of the Act found herein.

Payment of the full amount of the civil penalty assessed shall be made within sixty (60) days of the service of the final order upon Respondent, Holder Corporation, by forwarding to the Regional Hearing Clerk a cashier's check or certified check payable to the United States of America in such amount.^{1/}

DATED: May 16, 1980


Thomas B. Yost
Administrative Law Judge

^{1/} See Sec. 168.34(b) (2) of the Rules of Practice with respect to effect and consequences of this Default Order.