

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 Renner Boulevard

Lenexa, Kansas

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-REGION 7

2016 JUN 20 PM 2: 09

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	
Creston Fertilizer Co. Inc.	)	Docket No. FIFRA-07-2017-0175
Creston, Nebraska	)	
	)	EXPEDITED SETTLEMENT
Respondent	)	AGREEMENT AND FINAL ORDER
	)	

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**EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER**

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Creston Fertilizer Co. 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 pesticide producing establishments assigned Establishment Nos. 55387-IA-1, 55387-NE-3, 55387-NE-8, and 55387-NE-10.

2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticide-producing establishment to inform the 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.

3. The regulations at 40 C.F.R. Part 167 set out the registration and reporting requirements for pesticide and active ingredient producing establishments. Pursuant to 40 C.F.R. § 167.85(d), a producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before March 1 of each year, even if the producer has produced no pesticidal product for that reporting year.

4. Respondent has failed to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file the 2016 annual pesticide production reports for the above facilities assigned Establishment Nos. 55387-IA-1, 55387-NE-3, 55387-NE-8, and 55387-NE-10, by March 1, 2017, as required.

5. The 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).

6. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirements in Paragraph 2 (above); (b) admits that the 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.

7. 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 2015 and 2016 annual pesticides reports.

8. 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 Three Thousand Three Hundred dollars (\$3,300.00) 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-07-2017-0175, and must be included on the check.

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

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

9. 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.

10. The 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.

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

12. Each party shall bear its own costs and fees, if any.

13. This Agreement authorized by the EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

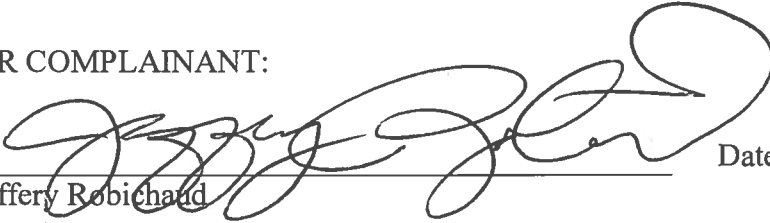
FOR RESPONDENT:

Bill Oeltjev Date: 5-10-18

Name (Print): BILL OELTJEV.

Title (Print): PRES.

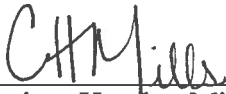
FOR COMPLAINANT:



Date:

6/19/18

Jeffery Robichaud  
Director  
Water, Wetlands and Pesticides Division  
EPA Region 7



Date:

06/19/2018

Clarissa Howley Mills  
Office of Regional Counsel  
EPA Region 7

**FINAL ORDER**

Pursuant to Section 14 of FIFRA, 7 U.S.C. § 1361, and according to the terms of the foregoing Expedited Settlement Agreement (ESA), IT IS HEREBY ORDERED THAT:

The foregoing ESA resolving this matter is hereby ratified and incorporated by reference into this Final Order. The ESA and this Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the Environmental Protection Agency, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED.

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: June 20, 2018

**CERTIFICATE OF SERVICE**

I certify that 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:

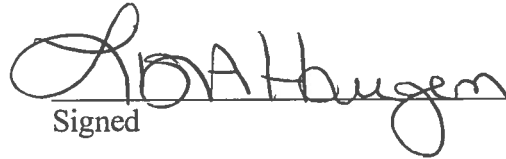
Copy via Email to Complainant:

*mills.clarissa@epa.gov*

Copy via Certified Mail, Return Receipt Requested to Respondent:

William Oeltjen  
President  
Creston Fertilizer Co. Inc.  
P.O. Box 40  
Creston, Nebraska 68631

Dated this 20<sup>th</sup> day of June, 2018.

  
Signed \_\_\_\_\_