

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE: : U.S. EPA Docket No. FIFRA-03-2020-0034
:
KEYMAR FERTILIZER, INC : **Proceeding under: Section 14 of the Fed**
1809 FRANCIS SCOTT KEY HWY : **Federal Insecticide, Fungicide and**
KEYMAR, MARYLAND 21757 : **Rodenticide Act, as amended, 7 U.S.C**
: **§ 136l**
Respondent :

EXPEDITED SETTLEMENT AGREEMENT

1. Keymar Fertilizer, Inc. (“Respondent”) and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), *as amended*, 7 U.S.C. § 136l(a), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. § 22.13(b) and .18(b). The Administrator has delegated the authority to enter this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III has jurisdiction of this matter pursuant to Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a), and 40 C.F.R. Part 22 of the Consolidated Rules of Practice, including specifically 40 C.F.R. §§ 22.1, 22.13(b) and .18(b).
3. At all times relevant to the allegations described in this Agreement, Respondent was a “person” and a “producer” as those terms are defined in Sections 2(s) and (w) of FIFRA, 7 U.S.C. §§ 136(s) and (w) and 40 C.F.R. § 167.3 and an operator of an “establishment”, as that term is defined in Section 2(dd) of FIFRA, 7 U.S.C. §§ 136(dd) and 40 C.F.R. § 167.3, at 1809 Francis Scott Key Hwy, Keymar, Maryland 21757. This Establishment is registered with EPA under Establishment Number 74088-MD-1.
4. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticides-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.

5. Complainant has identified the following violations:
 - a. Respondent failed to file the 2018 annual pesticide production report (EPA Form 3540-16) for the above facility by March 1, 2019, as required by Section 7(c) of FIFRA, 7 U.S.C. § 136e(c) and 40 C.F.R. § 167.85(d). In failing to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c) and 40 C.F.R. § 167.85(d), Respondent is subject to the assessment of penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
6. Complainant and Respondent agree that settlement of this matter for a penalty of ONE THOUSAND DOLLARS (\$1000.00) is in the public interest. In calculating this amount, Complainant considered the statutory factors listed in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), as well as EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements*, updated May 2010 ("ERP") and the June 21, 2019 *FIFRA Section 7(c) Expedited Settlement Agreement Program*.
7. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall submit a check made out to "**United States Treasury**" with the case name, address and docket number of this agreement FIFRA-03-2020-0034, for the amount specified above, to:

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

Respondent shall send a copy of the payment to:

Christine Convery, (3ED23)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
convery.christine@epa.gov

and,

Regional Hearing Clerk, (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

8. In signing this Agreement, the Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations and conclusions of law in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement of the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Agreement and Final Order.
9. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) he or she has corrected the alleged violations, and (2) any documentation or information that he or she provided to EPA was true and accurate.
10. The Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
11. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the FIFRA, the FIFRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement and Final Order, following its filing with the Regional Hearing Clerk.
12. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
13. This Agreement is binding on the parties signing below and is effective on date on which it is filed, together with a final order, with the Regional Hearing Clerk, pursuant to Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).
14. The undersigned representative certifies that she/he is fully authorized to execute this

Agreement and to legally bind Keymar Fertilizer, Inc.

For Respondent: KEYMAR FERTILIZER, INC

Name (print): Keith Warner

Title (print): Owner

Signature: Keith Warner

Date: 2-27-20

For Complainant: U.S. Environmental Protection Agency, Region III

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

04/30/2020

Date:

KAREN
MELVIN

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KAREN MELVIN
Date: 2020.04.30
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Karen Melvin, Director
Enforcement and Compliance Assurance Division

In the Matter of Keymar Fertilizer, Inc.

EPA Docket No. FIFRA-03-2020-0034

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:

KEYMAR FERTILIZER, INC

Respondent

**1809 FRANCIS SCOTT KEY HWY
KEYMAR, MARYLAND 21757**

Respondent.

DOCKET NO.: FIFRA-03-2020-0034

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Keymar Fertilizer, Inc., have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 [with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)]. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), as well as EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements*, updated May 2010 ("ERP") and the June 21, 2019 *FIFRA Section 7(c) Expedited Settlement Agreement Program*.

NOW, THEREFORE, PURSUANT TO Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136l(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **\$1000.00 (ONE THOUSAND DOLLARS)**, in accordance with the

payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is 30 days after the date on which this Final Order is filed with the Regional Hearing Clerk, pursuant to Section 14(a) of the FIFRA, 7 U.S.C. Section 136l(a)

Date

**JOSEPH
LISA**

Digitally signed by
JOSEPH LISA
Date: 2020.05.05
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Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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1809 FRANCIS SCOTT KEY HWY :
KEYMAR, MARYLAND 21757 :
: :
: :
: :
Respondent :

CERTIFICATE OF SERVICE

I certify that on May 5, 2020, the original and one (1) copy of foregoing *Expedited Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Electronic Mail** to:

Keith Warner
Keymarfertilizer@gmail.com

Copy served via **Electronic Mail** to:

Christine Convery
Convery.christine@epa.gov

Dated: May 5, 2020

BEVIN
ESPOSITO

Digitally signed by BEVIN
ESPOSITO
Date: 2020.05.05 13:12:09
-04'00'

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III