

TOPE MAY 01 2017

ENVIRONMENTAL PROTECTION AGENCY REGION 7

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
Heinen Brothers Agra)	Docket No. FIFRA-07-2017-0003
Seneca, Kansas)	
)	EXPEDITED SETTLEMENT
Respondent)	AGREEMENT AND FINAL ORDER
_____)	

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Heinen Brothers Agra, (“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. 73952-KS-2 and 73952-KS-3, in Seneca, Kansas.

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. § 136(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file the 2015 annual pesticides report for the above facility, Establishment No. 73952-KS-2 by March 1, 2016, as required. The respondent further failed to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file an initial pesticides report for the newly established facility, Establishment No. 73952-KS-3, by February 29, 2016.

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 2014 annual pesticides report.

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 One Thousand Six Hundred dollars (\$1,600.00) 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-07-2017-0003, and must be included on the check.

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

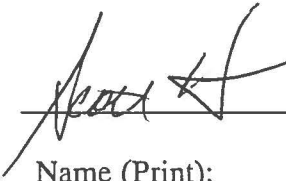
Brandon Boatman (TOPE)
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

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:



Date:

4/26/17

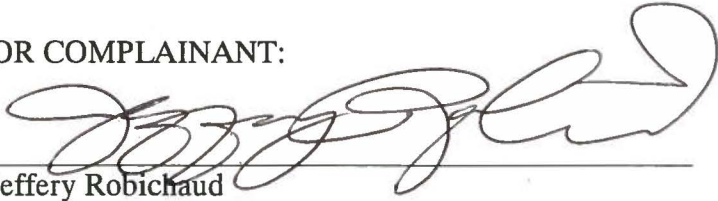
Name (Print):

Scott Heinen

Title (Print):

Co-owner

FOR COMPLAINANT:



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

Date: 5/10/17



Erin Weekley
Office of Regional Counsel
EPA Region

Date: 5/10/17

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borrromeo

Karina Borrromeo
Regional Judicial Officer

Date:

May 16, 2017

IN THE MATTER Of Heinen Brothers Agra, Respondent
Docket No. FIFRA-07-2017-0003

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

weekley.erin@epa.gov

Copy via First Class Mail to Respondent:

Scott Heinen
Heinen Brothers Agra Services
1226 104th Road
Seneca, Kansas 66538

Dated: 5/16/17



Kathy Robinson
Hearing Clerk, Region 7