

06 OCT 16 PM 12:44

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION VII 901 NORTH 5TH STREET KANSAS CITY, KANSAS 66101 ENVIRONMENTAL PROTECTION AGENCY-REGION VII REGIONAL HEARING CLERK

IN THE MATTER OF Century Homes Company d/b/a D & K Products Inc., Respondent. Docket No. FIFRA-07-2006-0231 CONSENT AGREEMENT AND FINAL ORDER.

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about August 16, 2006, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 136l, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued a "Complaint and Notice of Opportunity for Hearing" to Century Homes Company d/b/a D & K Products Inc (hereinafter referred to as "Respondent").

The Complaint charged Respondent with one count each of violating FIFRA, § 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), and § 12 (a)(2)(F), 7 U.S.C. § 136j(a)(2)(F).

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order (CAFO) set forth herein below is the result of these negotiations and represents settlement of this Complaint.

## CONSENT AGREEMENT

It is hereby agreed and accepted by Respondent that:

1. This Consent Agreement and Final order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violation of FIFRA as set forth in the Complaint.

4. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C. § 136 et.seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

7. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

8. Each party shall bear its own costs and attorneys' fees in the action resolved by this

Consent Agreement and Final Order.

9. Each signatory of this Agreement certifies that he or she is fully authorized to enter into this Consent Agreement and Final Order.

10. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

FINAL ORDER

Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:


1. Respondent in settlement of the allegations set forth in this Complaint shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Four Thousand One Hundred Sixty Dollars (\$4,160.00), within thirty (30) days of the execution of the CAFO. The check must be made payable to the "Treasurer, United States of America" and shall be mailed to: **U.S. EPA-Region 7, P.O. Box 371099M, Pittsburgh, Pennsylvania 15251**. The payments shall be identified as **In the Matter of Century Homes Company d/b/a D & K Products Inc.** A Copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

2. The civil penalty shall be paid on or before thirty (30) days after the effective date of the Final Order (the date by which the payment must be received shall hereafter be referred to as

the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

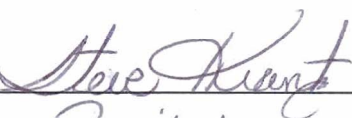
3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

By:   
Rupert G. Thomas  
Attorney  
Office of Regional Counsel

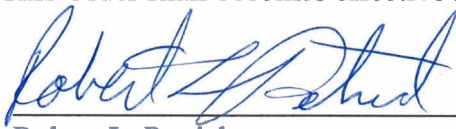
Date: October 12, 2006

RESPONDENT:  
CENTURY HOMES COMPANY  
D/B/A D & K PRODUCTS INC.

By:   
Title: President

Date: 9/28/06

IT IS SO ORDERED. This Order shall become effective immediately.

  
Robert L. Patrick  
Regional Judicial Officer  
Region VII

Dated October 16, 2006

IN THE MATTER OF Century Homes Company dba D & K Products Inc., Respondent  
Docket No. FIFRA-07-2006-0231

CERTIFICATE OF SERVICE

I certify 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 hand delivered to:

Rupert G. Thomas  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Steven Krantz  
Century Homes  
1672 N.E. 54<sup>th</sup> Avenue  
Des Moines, Iowa 50313

10/16/06

Dated



Kathy Robinson  
Hearing Clerk, Region 7