



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 06 JUL 10 PM 12:14

BEFORE THE ADMINISTRATOR ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)
)
ELDON C. STUTSMAN, INC.,) DOCKET NO. FIFRA-07-2006-0210
)
)
)
RESPONDENT)

ORDER SEEKING CLARIFICATION AND DIRECTING SETTLEMENT CONFERENCE

As you previously have been notified, I have been designated by the July 5, 2006 Order of the Chief Administrative Law Judge to preside in the above captioned matter.^{1/} This proceeding arises under the authority of Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. §1361. The proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice"), 40 C.F.R. §§ 22.1-32. The parties are advised to familiarize themselves with both the applicable statute(s) and the Rules of Practice.

United States Environmental Protection Agency ("EPA") policy, found in the Rules of Practice at Section 22.18(b), 40 C.F.R. § 22.18(b), encourages settlement of a proceeding without the necessity of a formal hearing. The benefits of a negotiated settlement may far outweigh the uncertainty, time, and expense associated with a litigated proceeding.

^{1/} In response to an inquiry from this office, Respondent agreed to participate in the Alternate Dispute Resolution ("ADR") process offered by this office. Complainant, however, declined to participate in ADR.

Respondent, in its letter Answer, did not request a hearing.

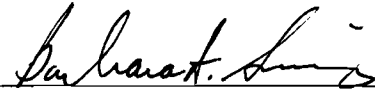
There is no indication in the file that settlement discussions have been held in this matter. The parties are directed to hold a settlement conference on this matter on or before **August 16, 2006**, to attempt to reach an amicable resolution of this matter. See Section 22.4(c)(8) of the Rules of Practice, 40 C.F.R. § 22.4(c)(8). Complainant shall file a status report regarding such conference and the status of settlement on or before **August 30, 2006**.

As noted above, the above captioned matter is governed by the Rules of Practice, 40 C.F.R. §§ 22.1-22.32. Section 22.15(b) of the Rules of Practice provides, in pertinent part, that the answer to a complaint shall state whether a hearing is requested. However, subsection (c) of Section 22.15 further provides that if the respondent does not request a hearing, a hearing may be held by the Administrative Law Judge if issues appropriate for adjudication are raised in the answer. See *In re Green Thumb Nursery, Inc.*, FIFRA Appeal No. 95-4a, 6 E.A.D. 782, 786-94 (EAB, Mar. 6, 1997).

In view of Respondent's failure to request a hearing, Respondent is directed to clarify its position as to whether a hearing before an Administrative Law Judge is requested. Such clarification statement by Respondent shall be filed on or before **September 13, 2006**.

The original and one copy of all pleadings, statements and documents (with any attachments) required or permitted to be filed in this Order (including a ratified Consent Agreement and Final Order) shall be filed with the Regional Hearing Clerk, and copies (with any attachments) shall be sent to the undersigned and all other parties. The parties are advised that E-mail correspondence with the Administrative Law Judge is not authorized. See Section 22.5(a) of the Rules of Practice, 40 C.F.R. § 22.5(a). The statements and information required by this Order to be sent to the Presiding Judge, as well as any other further pleadings, shall be addressed as follows:

Judge Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Ave., NW
Washington, DC 20460-2001
Telephone: 202-564-6281



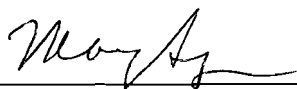
Barbara A. Gunning
Administrative Law Judge

Dated: July 6, 2006
Washington, DC

**In the Matter of *Eldon C. Stutsman, Inc.*, Respondent.
Docket No. FIFRA-07-2006-0210**

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Seeking Clarification and Directing Settlement Conference**, dated July 6, 2006, was sent this day in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Kathy Robinson
Regional Hearing Clerk
U.S. EPA, Region VII
901 North 5th Street
Kansas City, KS 66101

Copy by Pouch Mail to:

Rupert G. Thomas, Esq.
Assistant Regional Counsel
U.S. EPA / Region VII
901 North 5th Street
Kansas City, KS 66101

Copy by Regular Mail to:

Steve Meyerholz
Agronomy Manager
Eldon C. Stutsman, Inc.
P.O. Box 250
Hills, IA 52235

**Dated: July 6, 2006
Washington, D.C.**