



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

DEC 29 2006

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Article No.: 7004 2510 0006 9720 3679

George Green  
General Counsel  
Nebraska Department of Correctional Services  
P.O. Box 94661  
Lincoln, NE 68509-4661

Re: Cornhusker State Industries, Docket No. FIFRA-07-2006-0284

Dear George:

Please find enclosed a Consent Agreement and Final Order ("CAFO") memorializing the terms and conditions of the settlement agreed to by the parties in the referenced matter. Please sign the last page of the CAFO and return the entire document within 30 days of receipt to:

Demetra O. Salisbury  
U.S. Environmental Protection Agency  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

After the CAFO has been returned it will then be executed by the Regional Judicial Officer, disposing of this proceeding. The Regional Hearing Clerk will then send you a copy of the executed final order.

As stated in the Final Order, the payment is due thirty calendar days from the effective date of the executed order. Payment should be made by certified or cashier's check made payable to the "United States Treasury" and sent to:

Mellon Bank  
EPA - Region 7  
Regional Hearing Clerk  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251

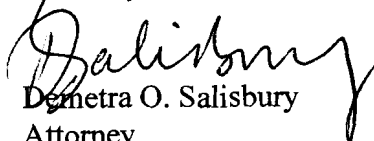
Copies of the payment check shall be forwarded to me and to the Regional Hearing Clerk at 901



North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

If there are any questions pertaining to this case, please telephone me at (913) 551-7369.  
Thank you for your cooperation in resolving this matter.

Sincerely,



Demetra O. Salisbury  
Attorney  
Office of Regional Counsel

Enclosure: Consent Agreement Final Order

CC: Ms. Kathy Robinson  
Regional Hearing Clerk

Ms. Barbara Shepard  
WWPD/PEST

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 N. 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

IN THE MATTER OF )  
 )  
Cornhusker State Industries ) Docket No. FIFRA-07-2006-0284  
800 Pioneers Blvd. )  
Lincoln, Nebraska 68502 ) CONSENT AGREEMENT  
 ) AND  
Respondent ) FINAL ORDER

**PRELIMINARY STATEMENT**

This is a civil penalty proceeding pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C §§ 136 to 136y, and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region 7 ("EPA"). Respondent is Cornhusker State Industries.

This proceeding was initiated on September 29, 2006, pursuant to Section 14 of FIFRA when Complainant issued a Complaint and Notice of Opportunity For Hearing ("Complaint") to Respondent. The Complaint charged Respondent with violations of Sections 12(a)(1)(A) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and (E), because they distributed, sold, or made available for any use, unregistered, misbranded and adulterated pesticides. The Complaint proposed a total civil penalty of Twenty-One Thousand and One Hundred Dollars (\$21,100.00) against Respondent for these violations.

The parties subsequently entered negotiations in an attempt to settle the allegations

contained in the Complaint pursuant to 40 C.F.R. § 22.18. This Consent Agreement and Final Order (“CAFO”) is the result of such negotiations and represents settlement of this Complaint.

### **CONSENT AGREEMENT**

1. Respondent agrees and accepts that 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 the allegations in the Complaint. Respondents have read the Consent Agreement, find it reasonable and consent to its issuance and terms and explicitly waive its right to request a hearing on the Complaint, this Consent 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 consents to the assessment of the stated civil penalty in the Final Order and to the conditions specified in this Consent Agreement.

4. Respondent agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Final Order.

5. Respondent and EPA each agree to bear their own costs and attorney's fees.

6. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

7. 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.

8. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

9. Respondent understands that failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

10. The settlement pursuant to this Consent Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

**FINAL ORDER**

Pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA), as amended, 7 U.S.C. §§ 136 to 136y (1976 and Supp. III 1979), and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty, in the amount of Sixteen Thousand and Nine Hundred Dollars (\$16,900). Payment will be due on or before thirty days following the execution of this Consent Agreement and Final Order. Payment by Respondent shall identify the Respondent by name and docket number and shall be made by certified or cashier's check payable to the "United States Treasury" and remitted to:

Mellon Bank  
EPA - Region 7  
Regional Hearing Clerk  
P.O. Box 371099M  
Pittsburgh, PA 15251

2. A copy of the check shall be forwarded to:

Demetra O. Salisbury  
Attorney, Office of Regional Counsel  
U.S. EPA Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

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

4. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 N. 5<sup>th</sup> Street, Kansas City,

Kansas, 66101.

COMPLAINANT: UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
Demetra O. Salisbury  
Attorney  
Office of Regional Counsel

Date: \_\_\_\_\_

RESPONDENT: CORNHUSKER STATE INDUSTRIES

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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

\_\_\_\_\_  
ROBERT L. PATRICK  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 7

Date: \_\_\_\_\_