



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

DEC 06 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Katherine E. Lazarski, Esquire
Foley & Lardner, LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306

Re: Howard Johnson's Enterprises, Inc.
Docket No. FIFRA-07-2007-0002

Dear Ms. Lazarski:

I herein enclose a Consent Agreement and Final Order (CAFO) memorializing the terms and conditions of the settlement agreed to by the parties in the above referenced matter. Please have the authorized signature affixed to the CAFO, and return this document to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101

If there are any questions pertaining to this case, you may write to me at the above address, or telephone me at (913) 551-7282.

Sincerely,


Rupert W. Thomas
Assistant Regional Counsel

Enclosure: CAFO

cc: Ms. Kathy Robinson
Regional Hearing Clerk

Ms. Barbara Shepard
WWPD/PEST

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

IN THE MATTER OF)
)
Howard Johnson's Enterprises, Inc.) Docket No. FIFRA-07-2007-0002
)
) CONSENT AGREEMENT AND
Respondent) FINAL ORDER
)

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about October 13, 2006, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 136j, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued a "Complaint and Notice of Opportunity for Hearing" to Howard Johnson's Enterprises, Inc. (hereinafter referred to as "Respondent").

The Complaint charged Respondent with violating § 12(a)(1)(E) of FIFRA, 7 U.S.C. § 135j(a)(1)(E).

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.

CONFIDENTIAL

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.
6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.
7. Each party shall bear its own costs and attorneys' fees in the action resolved by this

of the Final Order.

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

9. 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. § 136j, 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 checks, a civil penalty, for the violations cited herein, in the amount of Ten Thousand Five Hundred Thirty Dollars (\$10,530.00). The check must be made payable to the "Treasurer, United States of America" 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 Howard Johnson's Enterprises, Inc. Copy of the Checks shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5th Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, EPA, 901 North 5th 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.

If payment is not received prior to 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: _____

RESPONDENT:
HOWARD JOHNSON'S ENTERPRISES, INC.

By: _____

Title: _____

Date: _____

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

Robert L. Patrick
Regional Judicial Officer
Region VII