UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SETTLEMENT AGREEMENT FOR ADMINISTRATIVE COMPLAINT NO. 04R-08-R6

AND LIMITED ENGLISH PROFICIENT COMPLIANCE REVIEW

I. PURPOSE

A. This Agreement is entered into by the Louisiana Department of Agriculture and Forestry (LDAF) and the United States Environmental Protection Agency (EPA) Office of Civil Rights (OCR) to resolve:

1. allegations raised in administrative complaint number 04R-08-R6 filed with EPA on May 20, 2008, by Southern Migrant Legal Services on behalf of 14 migrant agricultural workers pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d et seq., and EPA's implementing regulations at 40 C.F.R. Part 7; and
2. the compliance review conducted by EPA to ensure that, consistent with Title VI, LDAF provides Limited English Proficient (LEP) individuals meaningful access to its Worker Protection Standard (WPS) program for Agricultural Pesticides.

B. By letter dated July 29, 2008, OCR accepted the following two (2) allegations for investigation: 1) LDAF's requirement for in-person interviews before initiating the investigation of complaints brought under the WPS intentionally discriminates against migrant agricultural workers based on their national origin status and 2) LDAF's WPS investigation policy and, specifically, the requirement for in-person interviews, created a disparate impact against migrant agricultural workers based on their national origin.

C. This Agreement does not constitute an admission by LDAF or a finding by EPA of any violations of 40 C.F.R. Part 7, with regard to the complainants' allegations or the LEP compliance review. The purpose of this Agreement is to memorialize LDAF's commitment to afford the full protection of the WPS to all covered workers regardless of their race, color, or national origin, including providing LEP individuals meaningful access to its WPS program.

D. The parties to this Agreement are LDAF and EPA. To resolve the identified issues and avoid the burdens and expense of further investigation and possible litigation, the parties' signatures to this document is evidence of their agreement to this settlement.

II. JURISDICTION

A. Title VI prohibits recipients of Federal financial assistance from conducting their programs or activities in a manner that discriminates on the basis of race, color, or national origin. LDAF is a recipient of financial assistance from EPA and is subject to the provisions of Title VI and EPA's implementing regulations.

B. This Agreement is entered into by EPA pursuant to the authority granted to it under Title VI and its implementing regulations to investigate administrative complaints alleging discrimination by recipients of EPA financial assistance and to conduct compliance reviews of recipients' programs, and to resolve such complaints and compliance reviews using voluntary, non-adversarial means.

III. SPECIFIC COMMITMENTS

A. LDAF agrees to undertake the following specific commitments in accordance with the requirements of Title VI of the Civil Rights Act of 1964 with respect to its WPS program.

1. As outlined below, LDAF will take the necessary steps to become fully compliant with OCR's LEP Guidance found at 69 FR 35602 (June 25, 2004), with respect to all aspects of LDAF's WPS program.

2. LDAF will provide EPA with sufficient data, as determined by EPA, to demonstrate to the EPA what LEP persons are eligible to be served or encountered by LDAF. LDAF will submit the data required herein this subparagraph by July 31, 2012. EPA will review the data and determine whether LDAF shall submit an LEP Plan in accordance with EPA's LEP Guidance.

3. When a WPS complainant or witness is unavailable for an in-person interview(s), LDAF will allow for telephonic interviews consistent with its written Policy (WPS Interviews).

4. Upon finalization of EPA's WPS guidance, which is currently under revision, LDAF will conduct WPS interviews consistent with that final WPS Guidance.

5. In following LDAF's written Policy and EPA's final WPS Guidance regarding telephonic interviews, LDAF may select the most cost-effective method, as long as the goals of the WPS Guidance and the LEP Guidance are achieved. In an effort to comply with Title VI of the Civil Rights Act, LDAF in these and other instances may seek assistance from OCR and EPA Region 6.

6. LDAF will provide meaningful access to LEP individuals, consistent with the LEP Guidance, as required by Title VI of the Civil Rights Act, to its WPS program, including the provision of in-person interviews, telephonic interviews, and other alternative

interview methods. In an effort to comply with Title VI of the Civil Rights Act, LDAF in these and other instances may seek assistance from OCR and EPA Region 6.

7. By the execution of this settlement, LDAF has committed to contract translators and/or interpreters for Spanish no later than 130 days from the effective date of this settlement, and thereafter as LDAF determines that there is a need to contract for other languages and as demographics dictate. Until LDAF has fully obtained and put in place contract(s) for translators and/or interpreters for Spanish, LDAF will seek the necessary assistance from OCR and/or EPA Region 6.

8. Within thirty (30) days of the effective date of this settlement, LDAF will disseminate its written Policy (WPS Interviews) regarding telephonic interviews to its employees, including the Pesticide and Environmental Program (PEP) Division, Office of Agricultural And Environmental Sciences (AES) Inspectors and also to certified and/or licensed private and commercial pesticide applicators in Louisiana. The final WPS guidance, currently under revision, the LEP Guidance, and LDAF's written Policy will be posted on LDAF's website and intranet site.

9. LDAF will conduct training consistent with the requirements of this settlement and necessary to implement the commitments listed above for all PEP staff, AES inspectors and any other relevant LDAF employees by March 30, 2012. Following March 30, 2012, LDAF will conduct training session(s) for all PEP staff, AES inspectors and any other relevant LDAF employees at least every two years or as necessary to accommodate changes in its staff and/or demographics.

10. LDAF will conduct at least 4 outreach sessions for the relevant stakeholders, including farm workers' organizations within its service population across the State annually[1] and will discuss LEP services during these sessions. LDAF will conduct the first 4 outreach sessions by December 31, 2012 and the next 4 by June 30, 2013. LDAF will work with the hosting organizations that are conducting the sessions and obtain confirmation of Notice(s) of these sessions from each of the organizations. Also, LDAF will post notices for all of the outreach sessions on its website. LDAF will ensure that the outreach sessions and notices are provided in a LEP compliant manner.

11. By July 31, 2012, LDAF shall submit to OCR and EPA Region 6, an Interim Compliance Report that includes its compliance with and/or progress of each requirement included within this settlement. The Interim Compliance Report shall state with specificity all actions/steps that LDAF has taken to comply with this agreement, associated dates, and all relevant supplemental materials and references indicating compliance with this agreement (e.g., training materials, notices of meetings/sessions, contracts, etc).

---

[1] For purposes of this settlement annually shall mean a calendar year.

12. On or before, December 31, 2012, LDAF shall submit to OCR and EPA Region 6 a Compliance Report, including the information described in Section III.A.11 that demonstrates to EPA LDAF's compliance with each requirement set forth in this settlement. LDAF may request one extension to become fully compliant, but such extension, if granted, will not be longer than March 30, 2013.

13. On or before, June 30, 2013, LDAF shall submit to OCR and EPA Region 6 a Final Compliance Report, including the information described in Section III.A.11 that demonstrates to EPA LDAF's continued compliance with each requirement set forth in this settlement.

14. Within sixty (60) days of EPA's receipt of the each of the Compliance Reports in Sections III.A.11., 12., and 13., EPA will review the Compliance Report and where necessary provide recommendations to LDAF.

15. Within ninety (90) days from LDAF's receipt of a recommendation pursuant to Section III.A.14., LDAF shall incorporate EPA's recommendations into its program or present to EPA, LDAF's options for compliance with this settlement agreement.

IV. EFFECT OF AGREEMENT

A. This Agreement does not constitute a finding by EPA of violations of Title VI or EPA's implementing regulations. Moreover, EPA understands that LDAF denies that it has committed any discrimination or caused any disparate impact in conducting its programs or activities, or that it has failed to provide LEP individuals meaningful access to its WPS program.

B. In consideration of LDAF's implementation of, and adherence to, the provisions of this Agreement, EPA will close both the Title VI complaint described in Sections I.A.1 and I.B. and the LEP compliance review described in Section I.A.2. EPA retains the right to accept and investigate any future Title VI complaints alleging other discriminatory acts with respect to LDAF's programs or activities and/or commence any further compliance reviews to determine compliance with Title VI.

C. If either LDAF or EPA desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to LDAF's or EPA's program or authorities, or for other good cause, the party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement by the Commissioner of LDAF and the Director of OCR at EPA.

D. This Agreement constitutes the entire Agreement between LDAF and EPA regarding the matters addressed herein, and no other statement, promise, or Agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by LDAF and the EPA. Additionally, this Agreement is a public document. A copy of this Agreement and any information contained in it may be made available to any person by LDAF or EPA on request under the Freedom of Information Act or otherwise.

E. If EPA determines that LDAF has not satisfied a term or condition of this Agreement, or if a submission provided by LDAF under this Agreement lacks sufficient detail for EPA to make that determination, EPA shall promptly notify LDAF of that determination in writing. If the parties are unable to reach a mutually agreeable resolution regarding EPA's determination, EPA may reinstitute its Administrative process consistent with 40 C.F.R. § 7.130.

F. This Agreement does not affect LDAF's continuing responsibility to comply with Title VI of the Civil Rights Act of 1964 and EPA's implementing regulations, nor does it affect EPA's investigation of any allegations in Title VI complaints other than those addressed herein. Furthermore, this Agreement does not address any matter not specifically covered by the terms of this Agreement.

The effective date of this Agreement is the date on which the parties affix their signatures below. This Agreement may be signed in counterparts. The Commissioner of LDAF and the Director of OCR at EPA have the authority to enter into this Agreement on behalf of their agencies.

VI. CONTACTS

For purposes of this settlement the points of contact for LDAF and EPA are listed as follows:

LDAF

Bobby Simoneaux
Assistant Director
Pesticide and Environmental Programs
P. O. Box 3596
Baton Rouge, LA 70821
225-925-3763

David Fields
Assistant Director
Pesticide and Environmental Programs

P. O. Box 3596
Baton Rouge, LA 70821
225-925-3768

EPA

Helena Wooden-Aguilar
Assistant Director
US EPA- OCR (External Civil Rights)
(Mail Code 1201A), 1200 Pennsylvania Avenue N.W.,
Washington D.C. 20460
(202) 564-0792

VII. NOTICE

Where notice is required by this Settlement, by certified mail, each signatory to this settlement should use the following address for:

LDAF

Mike G. Strain, DVM
Commissioner
Louisiana Department of Agriculture and Forestry
P.O. Box 631
Baton Rouge, LA 70821
(225)922-1234 (office)
(225) 923-4880 (fax)
mikestrain@ldaf.state.la.us

Todd Parker
Assistant Commissioner
Office of Agricultural and Environmental Sciences
Louisiana Department of Agriculture and Forestry
P.O. Box 3596
Baton Rouge, LA 70821
(225)925-3770 (office)
(225)237-5905 (fax)
www.ldaf.state.la.us
tparker@ldaf.state.la.us

FOR EPA

Director, U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460

And

Chief of the Pesticide Section, EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202

SIGNATURES

On behalf of the Louisiana Department of Agriculture and Forestry,

Mike Strain, DVM, Commissioner

12/15/11
Date

On behalf of the U.S. Environmental Protection Agency,

Rafael DeLeon, Director
Office of Civil Rights

12/14/2011
Date