From: Lesher, Mark
To: Dudding, Chris
Subject: Fw: Response to Notice of Warning- Agri-Gro Marketing
Date: Monday, January 28, 2013 3:32:40 PM

Chris,

Here is the last e-mail I got from Agri-Gro on 1/16/13.

Mark

Mark K. Lesher

Environmental Scientist

Toxics & Pesticides Branch

Water, Wetlands, & Pesticides Division

U.S. EPA Region VII

11201 Renner Blvd.

Lenexa, KS 66219

(913) 551-7054

lesher.mark@epa.gov

----- Forwarded by Mark Lesher/R7/USEPA/US on 01/28/2013 03:30 PM -----

From: "Agri-Gro Marketing, Inc" <tim@agrigro.com>

To: Mark Lesher/R7/USEPA/US@EPA

Cc: "Stephen Smith / Agri-Gro Marketing, Inc." <stephen@agrigro.com>, Rachel Holloman/DC/USEPA/US@EPA

Date: 01/16/2013 02:18 PM

Subject: Re: Response to Notice of Warning- Agri-Gro Marketing

Dear Mr. Lesher,

I apologize for missing our agreed upon response date. I thought Stephen Smith had already contacted your office, but turns out he has been tied up with a medical emergency with his daughter and just now called and requested I bring you up to speed on our progress.

So far we have added the product statement to all of our websites with the following language.

(Name of Product) is a nutritional supplement to the soil and plant. It is not a pesticide, fungicide or insecticide and is not intended to replace the role of such inputs by any grower who uses such products. Any statements or reports contained herein regarding the product's benefits or mode of action are the result of a nutritional response by the plant from the soil ecosystem.

You may view a quick example at this link at the bottom of the IgniteS2 page highlighted
http://www.agrigro.com/products/ignites2/index.html

We have been going over the language and adjusting as necessary any verbage that would give the impression of a pesticidal claim. We would ask that you review these sites and let us know if we have need of further editing.

best regards

Tim Tesreau

Agri-Gro Marketing, Inc

800-881-8801

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----- Original Message -----

From: Lesher.Mark@epamail.epa.gov

To: Agri-Gro Marketing, Inc

Cc: Holloman.Rachel@epamail.epa.gov ; Stephen Smith / Agri-Gro Marketing, Inc.

Sent: Wednesday, December 19, 2012 4:15 PM

Subject: Re: Response to Notice of Warning- Agri-Gro Marketing

Dear Mr. Tesreau,

Thank you for contacting EPA with your preliminary plan of action and product statement. The product statement seems appropriate. Considering the Holidays and vacationing staff, your proposal of contacting EPA for further discussion until Jan. 15, 2013 is appropriate. If you need additional time past that date, please contact me. I see no problem if you need additional time. We look forward to reviewing your proposals, labels, website, etc. next year.

Happy Holidays !

Mark K. Lesher

Environmental Scientist

Toxics & Pesticides Branch

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"Agri-Gro Marketing, Inc" ---12/19/2012 02:10:18 PM---December 19, 2012

From: "Agri-Gro Marketing, Inc" <tim@agrigro.com>

To: Mark Lesher/R7/USEPA/US@EPA

Cc: Rachel Holloman/DC/USEPA/US@EPA, "Stephen Smith / Agri-Gro Marketing, Inc." <stephen@agrigro.com>

Date: 12/19/2012 02:10 PM

Subject: Response to Notice of Warning- Agri-Gro Marketing

December 19, 2012

Dear Mr. Lesher,

In response to your notice of warning dated 11-15-2012 and following phone discussion, we attempted to contact Sherada Hobgood at 703-308-8893 for clarification and guidance. Three different days calls were made and voice mails left with no response. We again contacted you for help and was given the number for Rachel Holloman. We called Rachel who answered and was very helpful. We have sent her copies of all labels in question as well as your notice of warning and also a letter we found in our file from 1989 from Anne E. Lindsay, Director Registration

Division, stating in response to our inquiry concerning registration that registration was not required as long as pesticidal claims were not made.

We have avoided making any such claims until research started by Dr. Bob Kremer of the USDA in 2006 began showing levels of bacteria responsible for fusarium in soybeans were lowered after the use of our micronutrient fertilizer. Since that time and before numerous studys have been conducted with results showing that essential mineral nutrients are effective in improving or lowering a plant's response to soil borne pathogens. For an exhaustive reference book containing the detailed interactions of mineral nutrition and plant disease please refer to a book published in 2007 by The American Phytopathological Society, 3340 Pilot Knob Road, St. Paul, MN. The title "Mineral Nutrition and Plant Disease" edited by Lawrence E. Datnoff, Wade H. Elmer, and Don M. Huber.

This peer reviewed reference book contains over 68 pathogen caused plant diseases in 38 different replicated crop studies demonstrating that applied manganese alone lowered the pathogen effect. These studies were conducted as early as 1953 to as recent as 2005.

16 different elements are examined and all studies from around the country since 1940 are culminated in this book. This research proves the claims we are making for our products and are a result from adding mineral nutrition to the soil to achieve improved plant health and growth.

For an example, certain strains of fusarium are known to attack the roots of soybeans and cotton in unbalanced soil. When populations of these strains are lowered from the application of manganese to levels required for soil balance, the roots then are able to increase in size and number allowing for increased plant growth due to lower levels of fusarium attacking the roots. Thus explaining claims of increased root growth without using plant growth regulator materials or pesticides.

Due to the increased use of glyphosate materials, populations of fusarium have increased dramatically in US soils. Therefore, we are seeing an increased response to manganese nutrition in these areas. This is just one of many scenerarios that exist between mineral nutrition and plant responses.

The purpose of this letter is not to argue any point of concern you raised regarding our products and the claims associated with them but to rather provide an explanation as to why those claims were and have been made. As we stated from our first conversation, we are a manufacture of plant nutrition technology and it is our sincere intention to be 100% compliant and in harmony with the EPA and the laws of this country.

We have never perceived our company as a pesticide or fungicide supplier and quite frankly do not want to be perceived as such. Furthermore, your letter has given us cause to closely evaluate our own literature and website content to ensure that the claims we make are conveyed correctly. In the eye of the consumer, there should be no confusing or misleading statements that may cause anyone to view our company and its products for anything other than a source of nutritional products for the soil and plant.

Knowing our products, the ingredients used and the intended response for the end user, we see nothing on our labels that should cause any of our products to be classified as a pesticide. However, in light of your letter and our own close review of

our website and the information contained therein, we do see the need to restate and remove some of the wording and claims to ensure no confusing or conflicting statements are made.

Example: Under the Bountiful Harvest Bio-Stimulant product we do list that the product contains “growth hormones” due to the fact seaweed extract is an ingredient used. However, we added the seaweed to the product for its potassium and manitol sugar content, not for the growth hormones. No mention of growth hormones is listed on the product label and such statements ***will be removed entirely from the website and any published information that may be in circulation.***

This is one example of the actions we are taking to address your concerns. Our entire website is under review still and further changes are being made to ensure that all information conveyed is from a plant and soil nutrition basis, not pesticidal in nature. Given the Holiday Season and the fact that a number of our staff are vacationing we ask that you give us till January 15th to make all of the needed changes before we submit the new revised website for your review.

Furthermore, to ensure that any potential consumer who views our website is clear on the products and technology we offer, we intend to add a disclaimer statement that must be read and clicked on before accessing any specific product information the website contains. While we have not finalized the wording and would ask for your input on such, we foresee a statement similar to the following:

(Name of Product) is a nutritional supplement to the soil and plant. It is not a pesticide, fungicide or insecticide and is not intended to replace the role of such inputs by any grower who uses such products. Any statements or reports contained herein regarding the products benefits or mode of action stem from a nutrition response and effect in both the soil and plant.

Again, we would ask for your input as to the wording you would like to see used to ensure the products are clearly represented properly to any potential consumer who may view them online.

We believe many of the bullet points mentioned in your notice are substantiated by mineral nutrition and many reputable studies and should not be viewed as pesticidal claims. However, we again acknowledge the need to remove and restate many of the points you have raised. With your cooperation and assistance, we will correct and avoid in the future, any confusing statements or claims that would cause our product to be viewed as a pesticide product in the eye of any potential consumer.

With your approval and while we wait for a response from Rachel Holloman’s office, we will work toward making these changes and plan on communicating with you again on January 15th to submit and review the revised website that contains the changes and modifications we have listed herein.

If there are further steps and measures you need to see addressed at this time that we have overlooked in our response, please advise and we will continue to work cooperatively with you and your office to ensure they are addressed and that we are operating in complete compliance within the law’s expectations you have for our company.

best regards,

Tim Tesreau

Agri-Gro Marketing, Inc

800-881-8801

CC: Rachel Holloman

Hard copy to be mailed

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