

**AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE
MONETARY PENALTIES ACT**

DECISION

In the matter of an application for a review of the facts of a violation of provision 5(1)(a) of the *Pest Control Products Act*, alleged by the Respondent, and requested by the Applicant pursuant to paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

Aallcann Wood Suppliers Inc., Applicant

- and -

Pest Management Regulatory Agency, Respondent

CHAIRMAN BARTON

Decision

In accordance with the admissions of the parties at the start of the oral hearing, the Tribunal, by order, determines the Applicant committed the violation and is liable for payment of the penalty in the amount of \$ 2,800.00 to the Respondent within 30 days after the day on which this decision is served.

The Tribunal further orders that the Applicant dispose of the unregistered control product (creosote) in accordance with Saskatchewan environment regulations or directives at the Applicant's cost on or before June 30th, 2006, and that the Applicant provide proof of such disposition to the Respondent.

.../2

The Applicant requested an oral hearing pursuant to subsection 15(1) of the *Agriculture and Agri-Food Administrative Penalties Regulations*.

The oral hearing was held in Prince Albert on January 31, 2006.

The Applicant was represented by its solicitor, Mr. Peter V. Abrametz.

The Respondent was represented by its solicitor, Mr. Scott Moffat.

The Notice of Violation # 03SK-135AMP 01P dated May 10, 2004, alleges that the Applicant, on the 29th day of June, 2003 at Prince Albert, in the province of Saskatchewan, committed a violation, namely: "Import a control product not registered as prescribed" contrary to provision 5(1)(a) of the *Pest Control Products Act* which states:

- 5(1) No person shall sell in or import into Canada any control product unless the product
- (a) has been registered as prescribed;

At the outset of the hearing counsel for the Applicant admitted his client imported a control product not registered as prescribed. Counsel for the Respondent admitted that the violation was not committed by a negligent act and accordingly the gravity value should be reduced to 3 from 6 points, effectively reducing the penalty from \$ 4,000.00 to \$2,800.00.

Pursuant to subsection 10(3) of the *Pest Control Products Act* and subsection 53(5) of the *Pest Control Products Regulations*, counsel further agreed that I order the Applicant to dispose of the unregistered product in accordance with Saskatchewan environmental regulations or directives at the Applicant's cost on or before June 30th, 2006 providing proof of its disposition to the Respondent.

I concurred.

Dated at Ottawa this 21st day of February , 2006.

Thomas S. Barton, Q.C., Chairman