

**BEFORE THE DIRECTOR
OF THE
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA**

In the Matter of the Revocation and
Nonrenewal Against:

TWIN CITIES AVIATION, INC.
94 Second Street
Yuba City, California 95991

Pest Control Business License #39449

and

MARK S. MINKEMA, Owner and Pilot

Qualified Applicator's License #100051
Journeyman Aircraft Pilot Pest Control
Certificate, License #76102

Licensees.

DPR No. 15-001L

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between the California Department of Pesticide Regulation ("the Department"), and Twin Cities Aviation, Inc. ("Twin Cities Aviation"), a California corporation, and its owner and pilot, Mark S. Minkema ("Licensees"), all collectively referred to as the Parties.

1. Mark S. Minkema is the owner and controls the daily operations of a business known as Twin Cities Aviation, Inc., located at 92 Second Street, Yuba City, California.
2. Twin Cities Aviation holds a Pest Control Business License (License No. 39449) issued by the Department.
3. Mark S. Minkema holds a Qualified Applicator License (License No. 100051), and a Journeyman Aircraft Pilot Pest Control Certificate (License No. 76102) issued by the Department.
4. The Department is charged with ensuring the proper, safe, and efficient use of pesticides and overseeing the administration and enforcement of Division 6 and 7 of the California Food and Agricultural Code governing the sale and use of pesticides (Food & Agr. Code § 11501). Specifically, this includes the regulation and licensing of individuals and companies engaged in pest control operations under Food and Agricultural Code sections 11401 *et seq.* and Title 3 of the California Code of Regulations, section 6000 *et seq.*

5. The Department finds that on the following ten (10) separate occasions, the Licensees violated California pesticide laws:

Placer County Violation

- (1) July 14, 2014, Case No. 003-ACP-PLA-14/15, Licensees Twin Cities Aviation and Mark S. Minkema violated Food & Agr. Code § 12973 (Use in Conflict with Label);

Sutter County Violations

- (2) May 9, 2014, Case No. ACP SUT 14/15-004, Licensees Twin Cities Aviation and Mark S. Minkema violated Food & Agr. Code § 12973 (Use in Conflict with Label);
- (3) August 17, 2012, Case No. ACP SUT 12/13-019, Licensees Twin Cities Aviation and Mark S. Minkema violated Food & Agr. Code § 12973 (Pesticide Drift);
- (4) August 12, 2010, Case No. ACP SUT 10/11-015, Licensees Twin Cities Aviation and Mark S. Minkema violated Title 3, California Code of Regulations, section 6614(b)(3) (Pesticide Drift);
- (5) July 17, 2008, Case No. ACP SUT 08/19-022, Licensees Twin Cities Aviation and Mark S. Minkema violated Title 3, California Code of Regulations, section 6614(b)(3) (Pesticide Drift);
- (6) August 16, 2007, Case No. ACP SUT 07/08-024, Licensees Twin Cities Aviation and Mark S. Minkema violated Food & Agr. Code § 12973 (Use in Conflict with Label);
- (7) June 29, 2006, Case No. ACP SUT 06/07-015, Licensees Twin Cities Aviation and Mark S. Minkema violated Title 3, California Code of Regulations, section 6614(b) (Pesticide Drift);
- (8) February 13, 2006, Case No. ACP SUT 06/07-007, Licensees Twin Cities Aviation and Mark S. Minkema violated Title 3, California Code of Regulations, section 6614(b) (Pesticide Drift)

Yolo County Violations

- (9) April 24, 2014 and July 2, 2014, Case No. 001-ACP-YOL-14/15, Licensee Twin Cities Aviation violated Food & Agr. Code § 12973 (Use in Conflict with Label), Title 3, California Code of Regulations, sections 6614 (Pesticide Drift) and 6702 (Personal Protective Equipment);
- (10) February 14, 2010, Case No. 003-ACP-YOL-09/10, Licensee Twin Cities Aviation violated Title 3, California Code of Regulations, section 6614(b)(3) (Pesticide Drift).

6. In each instance, the violation or violations resulted in an administrative civil penalty action and the levying of a fine by the County Agricultural Commissioner in the county in which the violation occurred.

7. As a result of the ten (10) civil penalty actions referenced above involving the Licensees, the Department has determined that it will take action to revoke these licenses or take other measures designed to obtain consistent future compliance of the named Licensees with all applicable laws and regulations related to the conduct of aerial pesticide applications, including preventing spray drift, following label requirements, and the proper use of personal protection equipment.

8. The Parties agree by this Agreement to resolve this matter without the need for a formal license revocation action.

THEREFORE, the Parties agree as follows:

9. The Department shall take no further action to revoke Licensees' pest control business license, qualified applicator license, or journeyman aircraft pilot pest control certificate unless it sets aside this Agreement as specified under paragraph 20, below.

Suspension

10. Twin Cities Aviation's Pest Control Business License (License No. 39449) will be suspended for a term of three (3) months, beginning January 1, 2016, and continuing through April 1, 2016. During the suspension period, Twin Cities Aviation will not engage directly or indirectly in any pest control operations and shall not benefit financially from any pest control operation. This prohibition includes any previously scheduled pesticide application jobs.

11. Mark S. Minkema's Qualified Applicator License (License No. 100051) will be suspended for a term of three (3) months, beginning January 1, 2016, and continuing through April 1, 2016. During the suspension period, Mark S. Minkema will in no way act in the capacity of a qualified applicator. This prohibition includes any previously scheduled pesticide application jobs.

12. Mark S. Minkema's Journeyman Aircraft Pilot Pest Control Certificate (License No. 76102) will be suspended for a term of six (6) months, beginning January 1, 2016, and continuing through July 1, 2016. During the suspension period, Mark S. Minkema will not operate any aircraft for any type of pesticide application. This prohibition includes any previously scheduled pesticide application jobs.

13. In the event Licensees operate in violation of the suspension, the Director may immediately set aside this Agreement and proceed with formal proceedings to revoke one or more of the licenses specified in paragraphs 2 and 3, taking into consideration the previous violations set forth in Paragraph 5, above.

14. Nothing in this Agreement shall operate to keep Licensees' employees, other than Mark S. Minkema, from earning wages for any pest control work performed for an entity other than Twin Cities Aviation during the term of suspension.

15. Nothing in this Agreement shall operate to prevent Licensees from selling the business, or from selling pesticide application or other equipment.

Probation

16. Licensees Twin Cities Aviation and Mark S. Minkema agree to a probationary period of eighteen (18) months from the signing of this Agreement. During the probationary period, the Department, Pesticide Enforcement Regional Offices, and County Agricultural Commissioners will continue to monitor Licensees and may conduct headquarter and application inspections in order to confirm Licensees compliance with the laws and regulations governing the sale, handling and application of pesticides.

17. If, during the eighteen (18) month probationary period, Licensees are found by a preponderance of the evidence to have committed any violation of California pesticide laws or regulations, the Director may renegotiate the terms of the Agreement or immediately set aside this Agreement and proceed with formal proceedings to revoke one or more of the licenses specified in paragraphs 2 and 3, taking into consideration the previous violations set forth in Paragraph 5, above.

18. Licensee Mark S. Minkema agrees to sign up for the Professional Aerial Applicator's Support System (PAASS) 4-hour training course offered by the National Agricultural Aviation Research & Education Foundation (NAAREF), at their annual conference held at the Marriott Hotel in Visalia, California on November 11, 2015.

19. Within thirty (30) days of completing the above-mentioned course, Licensee Mark S. Minkema will provide the Department proof of course completion and send it to:

April H. Gatling, Senior Staff Attorney
Office of Legal Affairs
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015

20. In the event that the Licensees fail to comply with any of the terms of this Agreement, the Director may renegotiate the terms of the Agreement or immediately set aside this Agreement and proceed with formal proceedings to revoke one or more of the licenses specific in paragraphs 2 and 3, taking into consideration the previous violations set forth in Paragraph 5, above.

21. Nothing in this Agreement shall operate as a limit on the Department or County Agricultural Commissioners to commence any future disciplinary action against Licensees for violations not covered in this Agreement.

22. This Agreement constitutes the entire understanding between the Parties, is not intended to benefit or obligate any third party, and fully supersedes all prior written or oral negotiations between the Parties.

23. If any provision or portion of this Agreement is held to be invalid, such invalidity shall not affect the validity of the balance of the Agreement.

24. This Agreement binds the Licensees, their successors and assignees, subsidiary and parent corporations, and the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this settlement.

25. If the Attorney General files a civil action to enforce this Agreement, the Licensees will pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.

26. Each person who signs this Agreement affirms that he or she has the authority to bind that Party.

Executed by:

Brian Leahy on 6/15/2015, 2015
Brian Leahy, Director at Sacramento, California
Department of Pesticide Regulation

MSM on 6-10, 2015
MARK S. MINKEMA PRES. at YUBA CITY CA (City and State)
(printed name and title)
Mark S. Minkema

MSM PRES. on 6-10, 2015
MARK S. MINKEMA at YUBA CITY CA. (City and State)
(printed name and title)
for Twin Cities Aviation, Inc.