

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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REGIONAL HEARING
CLEERK

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In the Matter of :
 :
Unette Corporation : **CONSENT AGREEMENT**
 : **AND FINAL ORDER**
Respondent :
 : Docket No. FIFRA-02-2007-5121
 :
Proceeding under the Federal :
Insecticide, Fungicide, and :
Rodenticide Act, as amended. :
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136 l(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. ("FIFRA" or "the Act"). Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency ("EPA"), Region 2, issued a Complaint and Notice of Opportunity for Hearing to Respondent, Unette Corporation located at 88 North Main Street, Wharton, New Jersey 07885 on June 22, 2007.

The Complainant charged Respondent with two (2) violations of 7 U.S.C. § 136g(c)(1) and 40 C.F.R. § 167.85, the requirements under FIFRA governing the submission of annual Pesticide Reports for Pesticide-Producing Establishments ("Pesticide Report"). Said violations are unlawful under FIFRA §12(a)(2)(L), 7 U.S.C. § 136j (a)(2)(L).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Parties to this Consent Agreement agree that the title to this proceeding should properly read “In the Matter of Unette Corporation”.

2. This Consent Agreement is being entered by Respondent on behalf of Unette Corporation, and the Respondent is authorized for purposes of this Consent Agreement to bind Unette Corporation.

3. Respondent’s establishment was registered under Section 7 of FIFRA, 7 U.S.C. § 136e. Its assigned EPA Establishment Number was 064053-NJ-001.

4. Pursuant to Section 7(c) of FIFRA and 40 C.F.R. § 167.20(f), any producer operating an establishment registered under Section 7 shall submit annually to the EPA the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which the producer is currently producing, has produced during the past year, and has sold or distributed during the past year.

5. Title 40 C.F.R. § 167.85 provides that a producer operating an establishment must submit the annual pesticide production report (the “Report”) on or before March 1st of each year, even if the producer has produced no pesticidal product for that reporting year.

6. Respondent failed to submit annual pesticide production reports for 2005 and 2006 for EPA Establishment Number 064053-NJ-001.

7. Therefore, Respondent violated Section 7(c)(1) of FIFRA, Section 12(a)(2)(L) of FIFRA, and 40 C.F.R. § 167.85.

CONSENT AGREEMENT

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

1. Respondent admits the jurisdictional allegations of the Complaint.
2. Respondent agrees to waive any jurisdictional objections regarding proper service of the complaint and/or any other questions concerning acquisition of personal jurisdiction of Unette Corporation.
3. Respondent shall comply at all times with the requirements of Section 7 of FIFRA, 7 U.S.C. § 136e and the applicable regulations.
4. Respondent admits the specific factual allegations set forth in the Findings of Fact and the Conclusions of Law in this Consent Agreement.
5. Respondent shall pay a civil penalty to EPA in the total amount of ONE THOUSAND DOLLARS (\$1,000). Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America," and shall be mailed to :

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall be identified with a notation thereon listing the following: *IN THE MATTER OF UNETTE CORPORATION*, and shall bear thereon the Docket Number FIFRA-02-2007-5121.

Payment of the penalty must be *received* at the above address on or before forty-five (45) calendar days after the Effective Date of this CA/FO (the "due date"). If Respondent chooses to

make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read “ D 68010727 Environmental Protection Agency.”
- 6) Name of Respondent: **Unette Corporation**
- 7) Case Number: **FIFRA-02-2007-5121**

Such EFT must be received on or before 45 calendar days after the Effective Date of this CA/FO. Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Michael Kramer, FIFRA Coordinator
Environmental Protection Agency, Region 2
2890 Woodbridge Ave. (MS-500)
Edison, New Jersey 08837

and

Karen Maples, Regional Hearing Clerk
Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866.

- a. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.

b. Further, if the payment is not received on or before 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, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

c. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).

6. Nothing in this Consent Agreement and Final Order shall relieve Respondent of the duty to comply with all applicable provisions of FIFRA and other environmental laws.

7. Nothing in this Consent Agreement and Final Order shall preclude Complainant from further enforcement action, including the assessment of civil penalties, arising from the violation of any environmental laws.

8. This Consent Agreement is being entered into by the parties in full settlement of all civil liabilities that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to its issuance and its terms.

9. Respondent explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or

the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

11. This Consent Agreement shall be binding on both parties to this action, their officers, directors, employees, successors, and assigns.

12. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement and bind that party to it.

13. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

14. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

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RESPONDENT: Unette Corporation

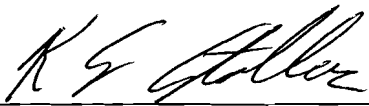
BY: 
Authorizing Signature

NAME: JOSEPH R. HAWK
(PLEASE PRINT)

TITLE: PRESIDENT

DATE: 12/10/07

COMPLAINANT:

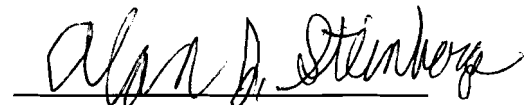

102 Dore LaPosta, Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, NY 10007

DATE: 12/13/07

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FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection
Agency - Region 2
290 Broadway
New York, New York 10007

DATE: _____

12-19-02

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CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Notice of Opportunity and Consent Agreement the above-referenced docket number, in the following manner to the respective addressees below:


Original and One Copy
by Interoffice Mail:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

USPS First Class Mail

Mr. Joseph Hark, President
Unette Corporation
88 North Main Street
Wharton, New Jersey 07885

Dated: January 2, 2008
Edison, NJ



A handwritten signature in black ink, appearing to read 'J. Hark', is written over a horizontal line.