



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 01 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Alan Bazel  
President  
Groves Hardware Paint & Lumber  
Company, Inc.  
1417 South State Road 7  
Davie, Florida 33317-6404

Re: Groves Hardware Paint & Lumber Company, Inc.  
Docket No.: FIFRA-04-2011-3004(b)

Dear Mr. Bazel:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the first payment is due within 30 days of the effective date. Or, as stated in Section V, Paragraph 32 of the CAFO, you may pay the entire civil penalty of \$2000 within 30 calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to you. Please ensure that the face of your cashier's or certified check includes the name of the company and the Docket Number of this case.

Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at the U.S. Environmental Protection Agency's (EPA's) Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Ms. Patricia Livingston at (404) 562-9171.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

  
Jeanne M. Gettle  
Chief, Pesticides and Toxic  
Substances Branch

Enclosures

cc: Mr. Craig Bryant, FLDACS  
File No. 208-002-4116

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA**

**In the Matter of:** )  
 )  
Groves Hardware Paint & Lumber )  
Company, Inc. )  
 )  
Respondent. )  
\_\_\_\_\_ )

**Docket No.: FIFRA-04-2011-3004(b)**

2011-04-21 10:00 AM  
FIFRA-04-2011-3004(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Groves Hardware Paint & Lumber Company, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994.
4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Patricia Livingston  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9171.

5. Respondent is Groves Hardware Paint & Lumber Company, Inc., a Florida corporation, located at 1417 South State Road 7, Davie, Florida, 33317-6404.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

## **III. Specific Allegations**

7. On or about February 22, 2008, an authorized representative of the EPA conducted an inspection at Respondent's facility located at 1417 South State Road 7, Davie, Florida.
8. During the aforementioned inspection, several products whose registrations had been cancelled by EPA were identified as being sold by the Respondent, including Rid-A-Bug Outdoor Insect Barrier Granular Insect Killer (EPA Reg. No. 8845-41) and Enforcer Flea Spray for Carpet and Furniture II (EPA Reg. No. 11715-139-40849).
9. As of December 31, 2001, it became unlawful to sell any product containing Chlorpyrifos as its active ingredient for residential use. Both of the products referenced in Paragraph 8 contain the chemical Chlorpyrifos as an active ingredient.

10. Both Rid-A-Bug Outdoor Insect Barrier Granular Insect Killer and Enforcer Flea Spray for Carpet and Furniture II are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
11. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. §136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
12. Respondent "distributes or sells" pesticides. The term "to distribute or sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
13. According to Section 3 of FIFRA, pesticides that are sold and distributed in the United States are required to be registered with the EPA.
14. At the time of the inspection, Rid-A-Bug Outdoor Insect Barrier Granular Insect Killer and Enforcer Flea Spray for Carpet and Furniture II were not registered as pesticides with EPA.
15. During the aforementioned inspection, the inspector documented that Rid-A-Bug Outdoor Insect Barrier Granular Insect Killer and Enforcer Flea Spray for Carpet and Furniture II were offered for sale.
16. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under

Section 3 of FIFRA, 7 U.S.C. § 136a, or any pesticide where the registration has been canceled or suspended.

17. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on at least one occasion for Rid-A-Bug Outdoor Insect Barrier Granular Insect Killer and one occasion for Enforcer Flea Spray for Carpet and Furniture II and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
18. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
19. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
20. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **TWO THOUSAND DOLLARS** (\$2000) against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

#### **IV. Consent Agreement**

21. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
22. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
23. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.

24. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
25. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
26. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

**V. Final Order**

27. Respondent is assessed a civil penalty of **TWO THOUSAND DOLLARS (\$2000)**. Four payments will be made to complete payment of the entire civil penalty. The first installment is due within 30 days of the effective date of this CAFO. The subsequent three payments shall be due in 90 day intervals thereafter. Respondent shall make payments in accordance with the following schedule:

<b><u>Payment Number</u></b>	<b><u>Payment Due Date</u></b>	<b><u>Payment Due</u></b>
1	within 30 days of filing of CAFO	\$500.00
2	within 120 days of filing of CAFO	\$500.00
3	within 210 days of filing of CAFO	\$500.00
4	within 300 days of filing of CAFO	\$500.00

28. Respondent shall remit the penalty by either a cashier's or certified check made payable

to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

29. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

Patricia Livingston  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960; and

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

30. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not made within 30 days after the due date, that payment plus all subsequent payments (the entire unpaid balance) shall become immediately due and payable on the 31<sup>st</sup> day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.

31. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
32. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **TWO THOUSAND DOLLARS (\$2000)** within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining.
33. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.

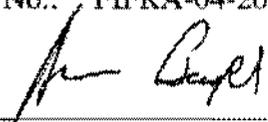
34. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

**VI. Effective Date**

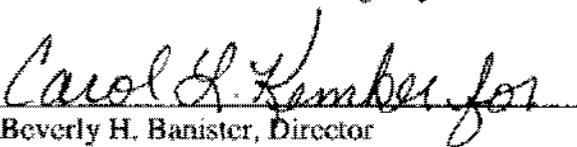
35. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

Respondent: Groves Hardware Paint & Lumber Company, Inc.  
Docket No.: FIFRA-04-2011-3004(b)

By:  (Signature) Date: 1-4-11  
Name: ALAN BAZEL (Typed or Printed)  
Title: President (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 1/24/11  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 28<sup>th</sup> day of January 2011.

  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Groves Hardware Paint & Lumber Company, Inc., Docket Number: FIFRA-04-2011-3004(h), to the addressees listed below.

Alan Bazel, President (via Certified Mail, Return Receipt Requested)  
Groves Hardware Paint & Lumber Company, Inc.  
1417 South State Road 7  
Davie, Florida 33317-6404

Patricia Livingston (via EPA's internal mail)  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Robert Caplan (via EPA's internal mail)  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Date: 2-1-11



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, GA 30303  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 1/27/11  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 582-9504  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package <u>required</u><br>Sent with bill        |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Groves Hardware Paint & Lumber Co. Inc.  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable \$ 2000  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIERA 04 2011-3004 (5)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Officer: \_\_\_\_\_

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date: \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:
- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be sent to:
- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|