



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR 31 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Pat Miller  
Owner  
Unified Chemical, Inc.  
266 Hamer Road  
Owens Cross Roads, Alabama 35763

Re: Docket No.: FIFRA-04-2011-3010(b)  
Unified Chemical, Inc.

Dear Mr. Miller:

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 assessed penalty of \$472 is due within 30 days from the effective date. 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 her attention at the U.S. Environmental Protection Agency, 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. Melba Table at (404) 562-9086.

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,

A handwritten signature in black ink, appearing to read "J. Gettle", written over a horizontal line.

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: Tony Cofer, ADAI

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

2011 MAR 31 11:17  
P.B. 3010  
FIFRA-04-2011-3011(b)

In the Matter of: )  
 )  
Unified Chemical, Inc. )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No.: FIFRA-04-2011-3011(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 Unified Chemical, 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. § 136((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:

Melba Table  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9086.

5. Respondent is Unified Chemical, Inc., an Alabama corporation, located at 266 Harner Road, Owens Cross Roads, Alabama 35763.
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 August 5, 2009, an authorized representative of the EPA conducted an inspection at the Town of Owens Cross Roads located at 2965 Old Highway 431, Owens Cross Roads, Alabama 35763.
8. During the aforementioned inspection, the inspector obtained a sample of Prentox Perm-x UL 30-30, EPA Registration Number 655-811, which was identified as having been sold and/or distributed by the Respondent.
9. The Alabama Department of Agriculture & Industries Pesticide Residue Laboratory analysis of the Prentox Perm-x UL 30-30 sample collected from the Town of Owens Cross Roads revealed that the pesticide had been diluted with mineral oil well beyond the

EPA-approved dilution level. As a result, the sample contained a lower concentration of the active ingredients than specified in the pesticide's registration statement.

10. Under Section 12 (a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), it is unlawful to distribute or offer for sale a pesticide whose composition differs from the composition described in the registration statement for that pesticide.
11. Furthermore, under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful to distribute or sell a pesticide that is adulterated, e.g., where the pesticide's strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold.
12. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on at least eight occasions and is therefore subject to the assessment of a civil penalty under Section 14 of FIFRA, 7 U.S.C. § 136l.
13. On or about August 12, 2009 an authorized representative of the EPA conducted an inspection at the Respondent's facility located at 266 Hamer Road, Owens Cross Roads, Alabama 35763.
14. During the aforementioned inspection, the inspector obtained the label used by Respondent in connection with the distribution and/or sale of Prentox Perm-x UL 30-30, EPA Registration Number 655-811. The label lacked the following required product information:
  - Product registration number,
  - Producing establishment number,
  - Net weight or measure of the product contents,
  - Ingredient statement,
  - Directions for use,
  - First aid statement, and
  - Human hazard and precautionary statements.

15. Pursuant to Section 2(q)(2)(C) of FIFRA, a pesticide is misbranded if there is not a label affixed to the pesticide container that provides the information required by FIFRA and its implementing federal regulations.
16. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person to distribute or sell to any person any pesticide that is misbranded.
17. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on at least eight occasions and is therefore subject to the assessment of a civil penalty under Section 14 of FIFRA, 7 U.S.C. § 136l.
18. At the time that Respondent produced the Prentox Perm-x UL 30-30, EPA Registration Number 655-811, described above, Respondent was not registered with the Administrator of the EPA as a pesticide-producing establishment.
19. Under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), it is unlawful to produce a pesticide in any State unless the establishment is registered with the Administrator of EPA as set forth in Section 7 of FIFRA, 7 U.S.C. § 136e.
20. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
21. 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.
22. 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.

23. 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 **FOUR HUNDRED AND SEVENTY-TWO DOLLARS (\$472)** against the Respondent for the above-described violation. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

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

24. 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.
25. 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.
26. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
27. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
28. 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.
29. 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**

30. Respondent is assessed a civil penalty of **FOUR HUNDRED SEVENTY-TWO DOLLARS (\$472)** which shall be paid within 30 days from the effective date of this CAFO.
31. 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.**

32. 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;

Melba Table  
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.



33. 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.
34. Pursuant to 31 U.S.C. § 3717, 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. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO, if the penalty is not paid by the date required. 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.
35. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
36. This CAFO shall be binding upon the Respondent, its successors and assigns.  
Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to it.

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**VI. Effective Date**

37. 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:** Unified Chemical, Inc.  
**Docket No.:** FIFRA-04-2011-3010(b)

By: Pat Miller (Signature) Date: 3/15/11  
Name: PAT MILLER (Typed or Printed)  
Title: President (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By: Carol H. Kamberger (Signature) Date: 3/28/11  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

APPROVED AND SO ORDERED this 31<sup>st</sup> day of March, 2011.

Susan B. Schub  
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 United Chemical, Inc., Docket Number: FIFRA-04-2011-3010(b), to the addressees listed below.

Pat Miller  
United Chemical, Inc.  
266 Hamer Road  
Owens Cross Roads, Alabama 35763

(via Certified Mail, Return Receipt Requested)

Melba Table  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(via EPA's internal mail)

Robert Caplan  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(via EPA's internal mail)

Date: 3/31/11



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, Georgia 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 3/26/11  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504  
(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 required:<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: Unified Chemical Inc  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 472--  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIERA 04 2011-3010(L)

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

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

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 to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|