



Therefore, in accordance with 40 C.F.R. § 22.13(b) and 22.18(b), this Consent Agreement and Final Order ("CAFO") will simultaneously commence and conclude this matter.

**A. APPLICABLE STATUTES AND REGULATIONS**

1. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for the submission of information relating to the release of toxic chemicals under Section 313.

These regulations, as amended, are presently codified at 40 C.F.R. Part 372.

2. Section 313(a) and (b) of EPCRA, 42 U.S.C. §§ 11023(a) and (b) and 40 C.F.R. §§ 372.22 and 372.30, provide that the owner or operator of a facility must submit to EPA and the State in which the facility is located a toxic chemical release inventory reporting form when the following three criteria are met:

(i) The facility has ten or more full-time employees;

(ii) The facility is in one of the following Standard Industrial Classification Codes: 10 (except 1011, 1081, and 1094); 12 (except 1241); 20 through 39; 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. § 6921 *et seq.*); 5169; 5171; or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis).

(iii) The facility manufactured, processed, or otherwise used threshold quantities of one or more toxic chemicals listed under Section 313(c) of EPCRA and 40 C.F.R. § 372.65.

3. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a uniform Toxic Chemical Release Inventory Reporting Form (hereinafter referred to as a "Form R") for facilities that are subject to the reporting requirements of Section 313.

4. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. § 372.30(d) provide that each Form R for activities involving a toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed or otherwise used during a calendar year must be submitted on or before July 1 of the next year.

#### **B. ALLEGATIONS**

5. Respondent is a "person" as that term is defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7). Respondent's total annual sales are over \$10 million, and Respondent has more than 10 employees. Respondent at all times relevant to this action owned and operated a facility that is a dairy products operation located at 3625 11<sup>th</sup> Avenue, Los Angeles, California (hereinafter the "Facility").

6. At all times relevant to this action, Respondent was an owner and operator of a "facility," as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3, which is located in Los Angeles, California. The Facility has 10 or more "full-time employees," as that term is defined at 40 C.F.R. § 372.3. The Facility is classified in Standard Industrial Classification Code 2026, Fluid Milk, which falls under the general category of Food and Kindred Products within Standard Industrial Classification Code 20.

7. At the Facility, Respondent "otherwise used" nitric acid, as that term is defined in 40 C.F.R. § 372.3. Nitric acid is a toxic chemical listed at 40 C.F.R. § 372.65. In calendar year 2005, Respondent "otherwise used" nitric acid in quantities exceeding the established threshold of 10,000 pounds provided by 40 C.F.R. § 372.25(b).

8. Subsection 313(b) of EPCRA and 40 C.F.R. § 372.22 require that an owner and operator of a facility subject to the requirements of Subsection 313(b) and 40 C.F.R. § 372.22, that is a facility that has 10 or more full-time employees, which is in Standard Industrial Classification Code 29, and which manufactures, processes, or otherwise uses one or more toxic chemicals listed under Subsection 313(c) of EPCRA and 40 C.F.R. § 372.65 in quantities in

excess of the applicable thresholds established under Subsection 313(f) and 40 C.F.R. §§ 372.25 and 372.28, must submit a Form R for each such chemical for the applicable reporting year. The requirements of EPCRA Section 313, 42 U.S.C. § 11023, therefore, apply to the Facility. Respondent, therefore, was required to submit a complete and correct Form R for nitric acid to the EPA Administrator and to the State of California on or before July 1, 2006.

9. Respondent did not submit such Form R to EPA and the State of California on or before the applicable July 1 deadline. Respondent's failure to submit correct Form R for nitric acid for reporting year 2005 by July 1, 2006 was in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

#### **C. RESPONDENT'S ADMISSIONS**

10. In accordance with 40 C.F.R. § 22.18(b)(2), and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) admits the specific factual allegations contained in Section I.B. of this CAFO; (iii) consents to any and all conditions specified in this CAFO; (iv) agrees to pay, and consents to the assessment of, the civil administrative penalty under Section I.D of this CAFO; (v) waives any right to contest the allegations contained in this CAFO; and (vi) waives the right to appeal the proposed final order contained in this CAFO.

#### **D. CIVIL ADMINISTRATIVE PENALTY**

11. Respondent consents to the assessment of a penalty in the amount of **EIGHT THOUSAND NINE HUNDRED DOLLARS (\$8,900)** as final settlement and complete satisfaction of the civil claims against Respondent arising from the facts alleged in Section I.B. of the CAFO and under the Act, as alleged in Section I.B. of the CAFO. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO.

12. The civil penalty shall be paid by certified or cashier's check, payable to "Treasurer, United States of America," and sent by certified mail, return receipt requested, to:

*U.S. Environmental Protection Agency  
Region 9  
P.O. Box 371099M  
Pittsburgh, PA 15251*

The check should note the case title and docket number, and a transmittal letter, indicating Respondent's name, and this case docket number, must accompany the payment. When payment is mailed to the above address, Respondent shall send a copy of the check and transmittal letter to:

- a) Regional Hearing Clerk  
Office of Regional Counsel (ORC-1)  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105
  
- b) Nancy Sockabasin  
Communities and Ecosystems Division (CED-4)  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105

13. In the event that Respondent fails to pay in full the civil administrative penalty assessed above by its due date, Respondent shall pay to Complainant an additional stipulated penalty in the amount of **FIVE HUNDRED DOLLARS (\$500)** for each day that the civil penalty is late, which shall become due and payable upon EPA's written demand.

14. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay in full the civil administrative penalty by its due date. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for

handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

15. For the purposes of state and federal income taxation, Respondent shall not claim a deduction for any civil penalty payment made pursuant to this CAFO.

#### **E. RETENTION OF RIGHTS**

16. Issuance of this CAFO does not constitute a waiver by EPA of its right to enforce the terms of this CAFO or to seek other civil or criminal relief for violations of any provision of federal law not specifically settled by this Consent Agreement. Nothing in this CAFO shall relieve Respondent of its duty to comply with all applicable provisions of the Act and other Federal, state or local laws or statutes.

17. This CAFO constitutes the entire agreement between the Respondent and EPA. This CAFO is for the purpose of fully and finally settling the civil claims against Respondent arising from the facts alleged in section I.B. of this CAFO. Full payment of the civil penalty and any applicable interest charges or late fees or penalties as set forth in this Consent Agreement and the Final Order shall constitute full settlement and satisfaction of civil penalty liability against Respondent for the violations specifically alleged in Section I.B. of this CAFO.

#### **F. COMPLIANCE WITH EPCRA**

18. In signing this CAFO, Respondent certifies, under penalty of law, that it has complied with all EPCRA requirements, and specifically Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder, at all facilities under Respondent's control.

#### **G. ATTORNEYS' FEES AND COSTS**

19. Except as set forth in Paragraph 14 above, each party shall bear its own costs, fees,

and disbursements in this action.

#### H. EFFECTIVE DATE

20. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CAFO shall be the date on which the accompanying Final Order, having been signed by the Regional Judicial Officer, is filed.

#### I. BINDING EFFECT

21. The provisions of this CAFO shall be binding on Respondent and on Respondent's officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

22. The undersigned representatives of each party to this Consent Agreement certify that each is duly authorized by the party whom he or she represents to enter into the terms and bind that party to it.

23. Complainant and Respondent consent to the entry of this CAFO without further notice.

#### UNIFIED WESTERN GROCERS, INC.:

4/1/07  
DATE

Patrick A. Guillemety  
Printed Name: Patrick A. Guillemety  
Title: Director, Environmental Health & Safety  
Unified Western Grocers, Inc.

#### FOR THE COMPLAINANT U.S. EPA:

4/11/07  
DATE

[Signature]  
Enrique Manzanilla, Director  
Communities and Ecosystems Division  
U.S. Environmental Protection Agency  
Region IX

**II. FINAL ORDER**

IT IS HEREBY ORDERED that this Consent Agreement and Final Order be entered and that Respondent shall pay a civil administrative penalty in the amount of **EIGHT THOUSAND NINE HUNDRED DOLLARS (\$8,900)** in accordance with the terms set forth in the Consent Agreement.

Date: 04/13/07



Steven Jawgiel  
Regional Judicial Officer  
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

I certify that the original and one copy of the fully executed Consent Agreement and Final Order Pursuant to 40 C.F.R Sections 22.13 and 22.18 (Docket No. EPCRA-09-2007- 0001 ) against Unified Western Grocers, Inc., was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of the same was sent to Respondent at the following address:

Patrick A. Guillermet  
Director, Environmental Health & Safety  
Unified Western Grocers, Inc.  
5200 Shelia Street  
Commerce, CA 90044

Certified Mail No. 7003 3110 0006 1997 8205

Danielle Carr

Danielle Carr  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region IX

4-13-07  
Date

WILLIAM KIM'S TAE KWON DO CLASS SCHEDULE  
EFFECTIVE APRIL 1, 2005

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
11:00 AM	All Belt Colors		All Belt Colors		Open Class All Belt Colors	10:00 AM All Adults All Belt Colors
4:30 PM	Purple Through Senior Blue Belt	Red Through Black Belt	Purple Through Senior Blue Belt	Red Through Black Belt		10:45 AM Junior White Through Yellow Belt
5:15 PM	Green and Senior Green Belt	White Belt	Green and Senior Green Belt	White Belt	Sparring Class Color Belts Only (No White Belts)	11:15 AM Junior Orange To Black Belt
6:00 PM	Yellow and Orange Belt	Green Through Senior Purple Belt	Yellow and Orange Belt	Green Through Senior Purple Belt		Look at Monthly Calendar for Special Events
7:00 PM	White Belt	All Color Belts Make Up Class	White Belt	All Color Belts Make Up Class	6:30 PM Black Belt Club Every 1 <sup>st</sup> and 3 <sup>rd</sup> Fridays	
7:45 PM	Black Belt		Black Belt			

Regular students may attend two – three classes per week  
Black Belt Club members may attend two – five classes per week  
Classes are subject to change or cancellation

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