

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

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In the Matter of: )  
 )  
Red Eagle Chemicals Company )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-04-2006-3012A

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. §§ 136 *et seq.* (hereinafter "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 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Red Eagle Chemicals Company.
2. On May 15, 2006, EPA filed a Complaint against Respondent.
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 22.18(b), this Consent Agreement and Final Order (CAFO) will conclude this matter.

## II. Preliminary Statements

4. 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 the Regional Administrators by EPA Delegation 5-14, dated May 11, 1994.
5. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Jennifer M. Lewis  
U.S. EPA – Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9518.
6. Respondent is Red Eagle Chemicals Company, a Florida corporation located at 2651 Woodwind Hills Lane, Lakeland, Florida 33813.
7. 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.
8. Respondent is the U.S. agent for the pesticide producing establishment Changshu Huamei Chemical Industry, Co., Ltd., Mocheng Town, Changshu, Jiangsu, China.
9. Changshu Huamei Chemical Industry, Co., Ltd., Mocheng Town, Changshu, Jiangsu, China is identified by EPA Establishment Number 69352-CHN-001.

10. As the authorized U.S. agent for Changshu Huamei Chemical Industry, Co., Ltd., Respondent arranges for the import of "Ethephon" (a manufacturing use pesticide) from Changshu Huamei Chemical Industry, Co., Ltd., to a third company, Micro Flo Company, that labels the product in order to allow distribution and sale in the United States.
11. As a result of the import activities outlined in paragraph 10, Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 CFR § 167.3.

### III. Alleged Violations

12. Producers operating an establishment registered with EPA are required to submit to the Administrator of EPA an annual report which indicates the types and amounts of pesticides or active ingredients which they are currently producing, which they produced during the past year, and which they sold or distributed during the past year, pursuant to Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the regulations promulgated at 40 CFR § 167.85.
13. Respondent submitted the required annual report for 2000 on January 8, 2001.
14. Respondent's violations include, but are not limited to, Respondent's failure to include the EPA product registration number of the "Ethephon" produced in 2000 and the amount of pesticide sold or distributed in the past year in its annual report for 2000.
15. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) by violating the reporting requirements of Section 7 of FIFRA, 7 U.S.C. § 136e.
16. Respondent submitted the required annual report for 2001 on January 2, 2002.

17. Respondent's violations include, but are not limited to, Respondent's failure to include the EPA product registration number of the "Ethephon" produced in 2001 and the amount of pesticide sold or distributed in the past year in its annual report for 2001.
18. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) by violating the reporting requirements of Section 7 of FIFRA, 7 U.S.C. § 136e.
19. Respondent submitted the required annual report for 2002 on January 12, 2003.
20. Respondent's violations include, but are not limited to, Respondent's failure to include the EPA product registration number of the "Ethephon" produced in 2002 in its annual report for 2002.
21. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) by violating the reporting requirements of Section 7 of FIFRA, 7 U.S.C. § 136e.
22. Respondent submitted the required annual report for 2003 on July 21, 2004.
23. Respondent's violations include, but are not limited to, Respondent's failure to include the EPA product registration number of the "Ethephon" produced in 2003 and the amount of pesticide sold or distributed in the past year in its annual report for 2003.
24. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) by violating the reporting requirements of Section 7 of FIFRA, 7 U.S.C. § 136e.
25. Respondent also violated Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N) by failing to file a timely report (for calendar year 2003) as required by the regulations at 40 C.F.R. § 167.85(d).

26. Respondent submitted the required annual report for 2004 on January 17, 2005.
27. Respondent's violations include, but are not limited to, Respondent's failure to include the EPA product registration number of the "Ethephon" produced in 2004 and the amount of pesticide sold or distributed in the past year in its annual report for 2004.
28. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) by violating the reporting requirements of Section 7 of FIFRA, 7 U.S.C. § 136e.

#### IV. Consent Agreement

29. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above, but neither admits nor denies any findings of fact or conclusion of law contained herein.
30. 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.
31. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.
32. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
33. Respondent agrees to submit corrected versions of the Production Reports alleged to be in violation in this CAFO within 30 days of execution of this CAFO.
34. Respondent agrees to submit all future pesticide-production reports on or before the March 1st due date.

35. Compliance with this CAFO shall resolve the allegation of the violation 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.
36. 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

37. Respondent is assessed a civil penalty of FIFTEEN THOUSAND DOLLARS (\$15,000) plus 4% interest per annum.
38. Payment shall be made in three equal installments in the following amounts and according to the following schedule:
- \$5,099.83 within (30) days of the effective date of this CAFO
  - \$5,099.83 within (210) days of the effective date of this CAFO
  - \$5,099.83 within (365) days of the effective date of this CAFO.
42. Respondent shall pay the penalty either by (1) forwarding a cashier's or certified check, payable to the "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099M  
Pittsburgh, PA 15251-7099.

or (2) by wire transfer in US dollars to the following address:

Mellon Bank  
SWIFT address = MELNUS3P  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, PA 15235.

**The check shall reference on its face "Docket No. FIFRA-04-2006-3018."**

43. At the time of each installment 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  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

44. 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.
45. 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 date of entry of this CAFO, if the penalty is not paid by the dates 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 principle amount not paid within 90 days of the due dates as outlined in paragraph 38 of this CAFO.

46. Complainant and Respondent shall bear their own cost and attorney fees in this matter.
47. 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 bind that party to this CAFO.



VI. Effective Date

48. 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:**

Red Eagle Chemicals Company

By: [Signature]  
Name: Yingxue Yu  
Title: President

Date: 2-13-07

U.S. Environmental Protection Agency

By: [Signature] Date: 3/28/07  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 1<sup>st</sup> day of March, 2007.

[Signature]  
Susan B. Schub  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: **Red Eagle Chemicals Company**, Docket No. **FIFRA-04-2006-3018**, on the parties listed below in the manner indicated:

Mark Bloeth, APT-PTSB  
PCB and Chemical Products  
Management Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9013

(Via EPA's internal mail)

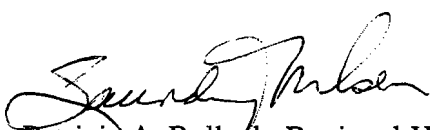
Alan Dion  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-9587

(Via EPA's internal mail)

Mr. James C. Chen  
Crowell & Morning, LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

(Via Certified Mail - Return Receipt Requested)

Date: 3/1/07

  
Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(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: Saunde Wilson on 3/1/07  
 (Name) (Date)

in the OEPA, OATGL 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: Red Eagle Chemicals Company  
 (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 15,000  
 (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA of 2006 - 3018

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

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

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

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

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

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page 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         |
|  | 3. Designated Regional Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the

- |                           |                               |
|---------------------------|-------------------------------|
| 1. Originating Office     | 3. Designated Regional Office |
| 2. Regional Hearing Clerk | 4. Regional Office            |

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	FIFRA of 2006 3018

Sent To: James C Chen for Red Eagle Chem  
 Street, Apt. No., or PO Box No.: 1001 Pennsylvania Ave NW  
 City, State, ZIP+4: Wash. DC 20084

Postmark Here: 3/1/07

PS Form 3800, June 2002 See Reverse for Instructions