

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Peter DeCambre 8/3/17  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number FIFRA-01-2017-0047

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Ferti Technologies, Inc.  
560 Chemin Rheaume  
Saint-Michel QC J0L 2J0  
Canada

Total Dollar Amount of Receivable \$ 10,170 Due Date: 9/2/17

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I – New England  
5 Post Office Square - Suite 100  
Boston, Massachusetts 02109-3912

**BY HAND**

August 3, 2017

Wanda I. Santiago, Regional Hearing Clerk  
U.S. Environment Protection Agency, Region I  
5 Post Office Square, Suite 100 (ORA18-1)  
Boston, MA 02109-3912

Re: In the Matter of: Ferti Technologies, Inc., Docket No. FIFRA-01-2017-0047

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a Consent Agreement and Final Order (CAFO) resolving the above-referenced enforcement case.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter DeCambre".

Peter DeCambre  
Senior Enforcement Counsel

Enclosures

cc: Emmanuel Mongrut, Ferti Technologies, Inc.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 (NEW ENGLAND)

In the Matter of: )  
)  
Ferti Technologies, Inc. )  
560 Chemin Rheaume )  
Saint- Michel QC JOL 2J0 )  
Canada )  
)  
Respondent. )  
)  
)  
Proceedings under Section )  
)  
14(a) of the Federal )  
Insecticide, Fungicide, and )  
Rodenticide Act, as amended )  
7 U.S.C. Section 136l(a). )  
)  
\_\_\_\_\_ )

RECEIVED

AUG 09 2017

EPA ORC WS  
Office of Regional Hearing Clerk

Docket No. FIFRA-01-2017-0047

CONSENT AGREEMENT and  
FINAL ORDER

**INTRODUCTION**

1. The United States Environmental Protection Agency, Region 1 (“EPA”) as Complainant, and Ferti Technologies, Inc.. (“Respondent”), as Respondent, enter into this Consent Agreement and Final Order (“CAFO”) by mutual consent, in order to settle the claims asserted in the Complaint filed in this matter.

2. EPA and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

**PRELIMINARY STATEMENT**

4. On May 17, 2017, EPA filed a Complaint and initiated this proceeding for the

assessment of a civil penalty pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), as amended, 7 U.S.C. § 136l(a).

5. The Complaint alleges that, on April 26, 2015, Respondent imported a single shipment of four pesticide products from Canada into the United States for distribution or sale without submitting the required Notice of Arrival reports to EPA prior to importation, in violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), and regulations promulgated pursuant to FIFRA at 40 C.F.R. Part 152 *et seq.*, and 19 C.F.R. §§ 12.110 – 12.117.

6. For purposes of this proceeding, without trial or litigation of the issues or any adjudication of the facts, Respondent: (1) admits that EPA has jurisdiction over the subject matter alleged in the Complaint, (2) neither admits nor denies the factual allegations contained in the Complaint, and (3) consents to the terms of this CAFO as a settlement of the allegations raised by EPA in the Complaint.

7. Respondent hereby waives any defenses it might have as to jurisdiction and venue, its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and its right to appeal the Final Order accompanying the Consent Agreement.

8. By signing this CAFO, Respondent certifies that it is presently operating in compliance with FIFRA and the regulations promulgated pursuant to FIFRA and that it has fully addressed the violations alleged by EPA in the Complaint.

#### **TERMS OF SETTLEMENT**

9. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, the December 2009 “FIFRA Enforcement Response Policy” issued by the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, the Monetary Penalty Inflation Adjustment Rules at 40 C.F.R. Part

19, promulgated in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), Pub. L. No. 104-134, 110 Stat. 1321 (1996), and other factors as justice may require, EPA has determined that it is fair and appropriate that Respondent pay a civil penalty in the amount of \$10,170 in settlement of the violations alleged in the Complaint.

10. Respondent shall pay the penalty of \$10,170 within thirty (30) days of the effective date of this CAFO, in the manner described below:

a. Payment shall be in a single payment of \$10,170 due within 30 calendar days of the effective date of this CAFO. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day.

b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference “*In the Matter of Ferti Technologies, Inc., Consent Agreement and Final Order, EPA Region 1,*”

Respondent’s name and address, and the EPA Docket Number of this action (FIFRA-01-2017-0047), and be payable to “Treasurer, United States of America.” The payment shall be remitted as follows:

**If remitted by regular U.S. mail:**

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

**If remitted by any overnight commercial carrier:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

**If remitted by wire transfer:** Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:  
Federal Reserve Bank of New York

ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

**If remitted on-line with a debit card, credit card, or bank account transfer:**

No user name, password, or account number is necessary for this option. On-line payment can be accessed via [WWW.PAY.GOV](http://WWW.PAY.GOV), entering 1.1 in the form search box on the left side of the screen to access the EPA's Miscellaneous Payment Form, opening the form, following the directions on the screen and, after selecting "submit data," entering the relevant debit card, credit card, or bank account information.

c. At the time of payment, a copy of the check (or notification of other type of payment)

shall also be sent to:

Wanda Santiago, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region I  
5 Post Office Square, Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

and

Peter DeCambre  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code: OES04-2  
Boston, MA 02109-3912  
[decambre.peter@epa.gov](mailto:decambre.peter@epa.gov)

11. If Respondent fails to pay the civil penalty, it will be subject to an action to compel payment, plus interest, enforcement expenses and a nonpayment penalty. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States, as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under

this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent (6%) per year and an amount to cover the costs of collection will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due, under 31 C.F.R. § 901.9(d). In any action to compel payment of civil penalties owed under this CAFO, the validity, amount, and appropriateness of the penalty shall not be subject to review.

12. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of Federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under Federal, State or local law.

13. This CAFO constitutes a settlement by EPA of all claims for civil penalties, pursuant to Section 14(a) of FIFRA, for the specific violations alleged in the Complaint.

14. This CAFO in no way relieves Respondent of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to take any action to address imminent hazards. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

15. Each party shall bear its own costs and attorneys' fees in the action resolved

by this CAFO, and Respondent specifically waives any right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

16. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it.



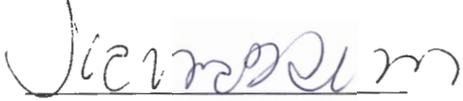
For Respondent:

HUGO PROVENCHER  
(Name)  
Ferti Technologies, Inc.  
560 Chemin Rheaume  
Saint-Michel QC JOL 2J0  
Canada

Vice-President  
(Title)

July 19, 2017  
(Date)

For EPA Region 1:



Joanna B. Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship  
EPA-Region 1

7/28/17  
(Date)

and:



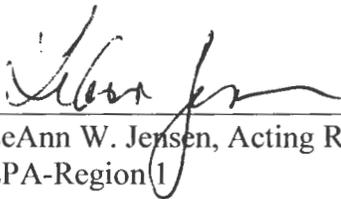
Peter DeCambre, Senior Enforcement Counsel  
Office of Environmental Stewardship  
EPA-Region 1

7/23/2017  
(Date)

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent, Ferti Technologies, Inc., is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

8/2/17  
\_\_\_\_\_  
(Date)

  
\_\_\_\_\_  
LeAnn W. Jensen, Acting Regional Judicial Officer  
EPA-Region 1