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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION X**

IN THE MATTER OF:

ARGENT CHEMICAL LABORATORIES, Inc.,
ELIOT LIEBERMAN and
BEATRIZ SHANAHAN,

RESPONDENTS.

COMPLAINT

Docket No. FIFRA-10-2004-0073

I. INTRODUCTION

1. This is an administrative action instituted pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. §136l(a), and 40 C.F.R. Part 22 (Consolidated Rules of Practice), for the assessment of a civil penalty. The Complainant is Region 10, United States Environmental Protection Agency (EPA). The Respondents are: Argent Chemical Laboratories, Inc., Eliot Lieberman, and Beatriz Shanahan (collectively "Respondents").

2. EPA will show that the above-named Respondents failed to comply with the requirements of FIFRA, 7 U.S.C. § 136 et seq. EPA will show that Respondents violated FIFRA Section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), the distribution or sale of an unregistered pesticide and FIFRA Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), the distribution of any pesticide which is

1 adulterated or misbranded; and FIFRA section 12(a)(2)(F), 7 U.S.C. § 136j(a)(2)(F), the distribution
2 or sale of or the making available for use or the using, of any registered pesticide classified for
3 restricted use for some or all purposes other than in accordance with Section 3(d) and any regulations
4 thereunder. EPA will also show that Respondents violated FIFRA Section 12(a)(2)(L), 7 U.S.C.
5 § 136j(a)(2)(L), the violation of any provisions of Section 7, including the production of pesticides
6 subject to FIFRA in an unregistered establishment; and FIFRA Section 12(a)(2)(N), 7 U.S.C.
7 § 136j(a)(2)(L), the failure to file reports required by FIFRA.

8 9 II. GENERAL ALLEGATIONS

10 **Argent's Corporate history**

11 3. Argent Chemical Laboratories, Inc. (Argent) manufactures chemicals, pesticides,
12 drugs, and fish food for the aquaculture industry.

13 4. In 1978, Mr. Eliot Lieberman filed for incorporation of Argent Chemical
14 Laboratories. Argent is registered in the State of Washington as Argent Chemical Laboratories, Inc.

15 5. Argent has three branches in the United States, Canada, and the Phillippines.

16 6. Argent sells or distributes products worldwide.

17 7. Eliot Lieberman is the President and Treasurer of Argent, owns 51 percent of the
18 capital stock, and is personally and actively involved in the day-to-day operations of Argent.

19 8. Beatriz Shanahan is the Vice President and Secretary of Argent, owns 49 percent of
20 the capital stock, and is personally and actively involved in the day-to-day operations of Argent.

21 9. Argent, Eliot Lieberman, and Beatriz Shanahan are "persons" within the meaning
22 of Section 2(s) of FIFRA, 7 U.S.C. §136(s), and subject to civil penalties pursuant to Section
23 14(a)(1) of FIFRA, 7 U.S.C. §136l(a)(1).

24 10. In 1988, Argent plead guilty to submitting false statements to the Food and Drug
25 Administration and EPA, and Mr. Lieberman and Ms. Shanahan plead guilty to knowingly selling
26 unregistered pesticides in violation of FIFRA.

27 11. In 1993 a routine inspection at the Respondents' Redmond, Washington, facility
28 found Respondents again in violation of FIFRA for the distribution or sale of unregistered pesticides,

1 the holding for sale pesticides differing from the registered composition, the distribution of
2 misbranded pesticides (including exported pesticides) and the misuse of EPA registered pesticides.
3 These violations were resolved with issuance of an Administrative Complaint and entry of a Consent
4 Agreement and Final Order pursuant to which Argent paid a civil penalty of \$50,000.

5 **Argent's Producer Establishment**

6 12. In 1982, EPA registered Argent's facility at 8702 152nd Avenue N.E., Redmond,
7 Washington, as a pesticide producing establishment and assigned establishment number EPA Est.
8 No. 47677-WA-0.

9 13. EPA received annual Reports for Pesticide Producing Establishments from Argent
10 for the years 1992, 1993, 1994, 1995, 1996 and 1997. The 1992 through 1996 reports indicate that
11 Respondents produced and/or distributed or sold Copper Control Liquid (EPA Reg. No. 47677-1)
12 and Copper Control Granular (EPA Reg. No. 47677-8).

13 14. The 1992 production report indicates Respondents also produced and/or
14 distributed or sold Rotenone Liquid (EPA Reg. No. 47677-4).

15 15. No production or sale was reported for 1997.

16 16. The 1992 through 1994 reports were signed by Mr. Lieberman, the 1995 report was
17 signed by Ms. Shanahan, and the 1996 and 1997 reports were signed by the Operations Manager and
18 the Quality Control Officer.

19 17. In a letter dated April 24, 1998, the Respondents requested that EPA Region 10
20 terminate Argent as a pesticide producing establishment. The letter states, "Please be notified that
21 Argent no longer manufactures EPA registered pesticides anymore. If there is any expired Argent
22 registered pesticide product in your data base, please deactivate it and do not send this kind of report
23 [annual pesticide production report] to us in the future."

24 18. EPA Region 10 terminated the registration for Respondents' pesticide producing
25 establishment on May 28, 1998. After May 28, 1998, Argent was no longer an EPA registered
26 pesticide producing establishment and EPA Est. No. 47677-WA-01 was no longer a valid pesticide
27 producing establishment number.

28 19. Respondents have not submitted an annual pesticide production report to EPA

1 since 1998.

2 **Argent's Inspection History**

3 20. In 1999, the Washington State Department of Agriculture (WSDA) initiated an
4 inspection at Argent after receiving information that Argent was selling and distributing an
5 unregistered pesticide bearing the brand name Aqua Bacta Aid (A.B.A.). During the inspection the
6 inspectors inquired about the products the Respondents were offering for sale on the internet
7 (www.argent-labs.com). Argent's Operations Manager at the time stated that the website was out of
8 date and that Argent no longer produced pesticides.

9 21. On September 20, 1999, EPA Region 10 issued a Warning Letter informing Argent
10 that, due to the pesticidal claims made on Argent's label for A.B.A., A.B.A was a pesticide requiring
11 federal registration under Section 3 of FIFRA.

12 22. The Washington Department of Ecology conducted an inspection at Argent in
13 April 2001. Ecology's inspection included chemical analysis of liquid that was found in a drain at
14 Argent's manufacturing and warehouse facility. The analysis revealed residues of a pesticide called
15 Trifluralin in one of the floor drains. Boxes of Trilin, a trade name for a product containing the
16 pesticide Trifluralin as the active ingredient, were stacked next to a floor drain at Argent at the time
17 of the inspection.

18 23. On June 14, 2001, and February 25 and 26, 2003, EPA inspectors
19 conducted compliance inspections at the Respondents' facility at 8702, 8706, and 8515 152nd
20 Avenue NE, Redmond, Washington. (hereafter referred to as the Argent facility at 8702 152nd
21 Avenue, Redmond, Washington)

22 24. The EPA inspectors collected documentation regarding the Respondents'
23 advertising, manufacturing, repackaging, production, distribution and/or sale and shipment for the
24 years 1999 - 2003 for the following products: Copper Control (EPA Reg. No. 47677-1), Copper
25 Control Algacide (EPA Reg. No. 1812-307-47677), Copper Control Granular (EPA Reg. No.
26 47677-8), Benzalkonium Chloride 50% Germicidal Concentrate (EPA Reg. No. 42943-6-47677),
27 Rotenone 5% Emulsifiable Concentrate (EPA Reg. No. 47677-3), Rotenone 10% Powder, Chem
28 Fish Toxicant Regular, Rotenone 5% Liquid, Aqua Bacta Aid (A.B.A.) and No Foam.

1 25. Mr. Lieberman maintained an office located at 8706 152nd Avenue NE, Redmond,
2 Washington. His office was located adjacent to the main Argent office at 8702 152nd Avenue NE
3 Redmond, Washington but was accessed via a separate doorway. The Argent files regarding the
4 sale and distribution of exported products, including the export files, sales brochures and some
5 product samples, were located in Mr. Lieberman's office.

6 26. Ms. Shanahan's desk, computer and files were located in the main office at 8702
7 152nd Avenue, Redmond, Washington.

8 **Argent's Pesticide Products**

9 ***Copper Control Brand***

10 27. Copper Control is a pesticide used to control algae in ponds, lakes, fish ponds,
11 hatcheries, and other water bodies. It is sold in a liquid and granular form. The active ingredient of
12 Copper Control is elemental copper derived from mixed copper-Mono and Triethanolamine
13 complexes.

14 28. Respondents produce, hold for distribution and sell a number of Copper Control
15 products including Copper Control Liquid, Copper Control Algaecide , and Copper Control
16 Granular.

17 ***Copper Control Liquid***

18 29. On May 22, 1985, EPA conditionally registered Argent's Copper Control Liquid,
19 as a pesticide, with EPA registration number (EPA Reg. No.) 47677-1.

20 30. On July 24, 1996, EPA canceled the pesticide registration for Copper Control due
21 to Respondents' failure to pay the required annual pesticide registration maintenance fee. EPA
22 notified Respondents by letter dated July 24, 1996, that the EPA registration for Copper Control has
23 been canceled. After July 24, 1996, Copper Control Liquid, EPA Reg. No. 47677-1, is an
24 unregistered pesticide.

25 31. Between approximately May 6, 1999, and July 10, 2001, Respondents
26 manufactured, produced, repackaged, sold, and distributed one and five gallon containers of Copper
27 Control Liquid with labels bearing the registration number EPA Reg. No. 47677-1 and the pesticide
28 producing establishment number EPA Est. No. 47677-WA-01. Argent made at least 47 domestic

1 sales of Copper Control Liquid, as identified on Attachment A.

2 32. Respondents exported one and five gallon containers of Copper Control Liquid to
3 Ecuador on or about April 13, 2000 (Invoice #94892) and on or about June 10, 1999 (Invoice
4 #92604), to Germany on or about May 25, 2001 (Invoice #97752) and to Mexico on or about July 18,
5 2000 (Invoice #95696).

6 ***Copper Control Algaecide***

7 33. On July 24, 2001, Respondents entered into a Supplemental Distributor
8 Agreement with Griffin L.L.C. (Griffin) to distribute Griffin's product, K-Tea Algaecide (EPA Reg.
9 No. 1812-307), as Copper Control Algaecide (EPA Reg. No. 1812-307-47677). The Respondents
10 also entered into a repackaging agreement with Griffin on March 20, 2001.

11 34. Copper Control Algaecide EPA No. 1812-3070-47677 is a registered pesticide.

12 35. Argent repackages 33 gallon drums of Griffin's K-Tea Algaecide, EPA Reg No.
13 1812-307, containing 8% elemental copper, into one gallon-sized jugs labeled with an Argent label,
14 as Copper Control Algaecide, EPA Reg. No. 1812-307-47677.

15 36. On at least five occasions in 2002 Respondents distributed the repackaged Copper
16 Control Algaecide domestically with labels bearing EPA Reg. No. 1812-307-47677, EPA Est. No.
17 47677-WA-01 (Invoice #: 100272, 99574, 99940, 101237 and 100741).

18 37. Argent's labels failed to include the following statements which appear on the
19 EPA accepted label for K-Tea (EPA Reg. No. 1812-307): "Hazards to Humans and Domestic
20 Animals....A dust/mist filtering respirator (MSHA/NIOSH approved number prefix TC-21C)....Note:
21 Undiluted [product name] or concentrations above 1.0 ppm Cu. may be injurious to crops, grass,
22 ornamentals, and other foliage....Do not apply in such a way that the concentrated product comes in
23 contact with crops, ornamentals, grass or desirable plants....Apply only as specified on the
24 label....Fish Note: K-Tea may be toxic to Trout and other species of fish."

25 38. The only label for Argent's Copper Control Algaecide (EPA Reg. No. 1812-307-
26 47677) bears the EPA establishment number, EPA Est. No. 47677-WA-01, and lacks the EPA
27 approved language described in paragraph 37 above.

28

1 39. Respondents shipped Copper Control Algaecide to Mexico (Invoice #99671) on or
2 about March 8, 2002. Beatriz Shanahan signed the export papers for the sale.

3 ***Copper Control Granular***

4 40. On April 24, 1987, EPA conditionally registered Argent's Copper Control
5 Granular, EPA Reg. No. 47677-8, as a pesticide.

6 41. On July 24, 1996, EPA canceled the pesticide registration for Copper Control
7 Granular, EPA Reg. No. 47677-8, due to Respondents' failure to pay the required annual pesticide
8 registration maintenance fee. EPA notified Respondents by letter dated July 24, 1996, that the EPA
9 registration for Copper Control Granular has been canceled.

10 42. After July 24, 1996, Copper Control Granular, EPA Reg. No 47677-8, is an
11 unregistered pesticide.

12 43. On at least four occasions between approximately May 24, 1999 and May 17, 2000,
13 Respondents manufactured, produced, repackaged, sold or distributed 10 pound boxes of Copper
14 Control Granular with labels bearing EPA Reg. No. 47677-8 and EPA Est. No. 47677-WA-01.
15 (Invoice #s 92650, 95261, 92476, 93374.)

16 ***Benzalkonium chloride 50%, Germicidal Concentrate***

17 44. Benzalkonium Chloride is a pesticide used as disinfectant, sanitizer, bacteriostat,
18 fungicide and algaecide germicide. The product Respondents sold or distributed, Benzalkonium
19 Chloride 50%, Germicidal Concentrate, contains Benzalkonium Chloride and is intended for use as
20 a disinfectant and germicide in the aquaculture industry.

21 45. Benzalkonium Chloride is a well known active pesticidal ingredient.

22 46. Respondents receive 55 gallon containers of Benzalkonium Chloride and repackage
23 it into one and five gallon containers with an Argent label. The registration number borne by the
24 repackaged pesticide is EPA Reg. No. 42943-6-47677.

25 47. Between approximately July 26, 1999, and January 15, 2003, Respondents
26 manufactured, produced, repackaged, sold or distributed Benzalkonium Chloride, 50% Germicidal
27 Concentrate with labels bearing EPA Reg. No. 42943-6-47677 and EPA Est. No. 47677-WA-01.
28 Respondents made at least 74 domestic sales of Benzalkonium Chloride 50%, Germicidal

1 Concentrate, as listed in Attachment B.

2 48. The EPA Reg. No. 42943-6 is for "Variquat 50 ME". This pesticide was
3 registered by the Sherex Chemical Company (Sherex) in April 1979 under EPA Reg. No. 42943-6.

4 49. Respondents entered into a supplemental distributor agreement with Sherex
5 allowing Respondents to distribute Variquat 50 ME as Benzalkonium Chloride 50%, Germicidal
6 Concentrate under registration number EPA Reg. No. 42943-6-47677. This supplemental
7 distribution agreement was canceled on June 27, 1988.

8 50. In 1992, Sherex merged with the Witco Corporation (Witco). In February 2000,
9 the product registration for Variquat 50 ME was transferred from Witco to the Goldschmidt
10 Chemical Corporation (Goldschmidt), and the registration number changed to EPA Reg. No.
11 56630-5. After February 2000, EPA Reg. No. 42943-6 is no longer valid.

12 51. Respondents purchase 55 gallon containers of BTC 835, (EPA Reg. No. 1839-32),
13 produced by the Stepan Company and repackage and relabel this product into one and five gallon
14 containers of Benzalkonium Chloride 50%, Germicidal Concentrate bearing EPA Reg. No. 42943-6-
15 47677.

16 52. EPA Reg. No. 42943-6-47677, is the canceled distributor product number for
17 Variquat 50 ME.

18 53. Respondents do not have, nor ever had, a manufacturing or repackaging agreement
19 with Witco, Goldschmidt, or Stepan.

20 54. Respondents do not have a current supplemental distributors agreement with
21 Witco, Goldschmidt, or Stepan.

22 55. Stephan Company has never submitted a notification to EPA adding Argent as a
23 supplemental distributor and the additional brand name Benzalkonium Chloride 50% Germicidal
24 Concentrate to the product BTC 835, EPA Reg. No. 1839-2.

25 56. Benzalkonium Chloride 50%, Germicidal Concentrate containing BTC 835 is not
26 an EPA registered pesticide.

27 57. On or about July 10, 2001, Respondents shipped Benzalkonium Chloride 50%,
28 Germicidal Concentrate under EPA Reg. No. 42943-6-47677, to Tahiti, French Polynesia (Invoice

1 #98153).

2 **Rotenone Products**

3 58. Rotenone is a pesticide active ingredient with no significant commercially valuable
4 use as distributed or sold other than for pesticidal purposes.

5 59. Rotenone is a pesticide that is used to kill unwanted fish from lakes, streams and
6 reservoirs. It is also registered as an insecticide.

7 60. Rotenone, when used as a fish toxicant, is a restricted use pesticide due to aquatic
8 toxicity, and may be fatal if swallowed or inhaled. It may only be sold to certified applicators.

9 61. Respondents produced, distributed or sold a number of pesticidal products which
10 contained Rotenone as the active ingredient. The products included Rotenone 5% Emulsifiable
11 Concentrate (formerly EPA Reg. No. 47677-3); Chem Fish Toxicant Regular, Rotenone 5%, Liquid
12 (EPA Reg. No. 1439-157); and Rotenone 10% Powder.

13 62. Respondents intended each of these products to be used as a pesticide.

14 ***Rotenone 5% Emulsifiable Concentrate***

15 63. Argent's Rotenone 5% Emulsifiable Concentrate was registered as a pesticide on
16 August 25, 1986, with EPA Reg. No. 47677-3 and was classified as a restricted use pesticide by the
17 EPA due to its aquatic toxicity.

18 64. The Pesticide Registration Maintenance Fee Filing Form (EPA Form 8570-30) for
19 the 1995 calendar year, signed by Beatriz Shanahan and dated December 5, 1994, specifically
20 requests that Argent's registrations for Rotenone 5% Emulsifiable Concentrate (EPA Reg. No.
21 47677-3) and Rotenone 5% Fish Toxicant Powder (EPA Reg. No. 47677-4) be canceled. EPA
22 notified Respondents by letter dated July 19, 1995, that the EPA registrations for Rotenone 5%
23 Emulsifiable Concentrate and Rotenone 5% Fish Toxicant Powder were canceled.

24 65. On July 19, 1995, EPA canceled the pesticide registration for Rotenone 5%
25 Emulsifiable Concentrate (EPA Reg. No. 47677-3) and Rotenone 5% Fish Toxicant Powder (EPA
26 Reg. No. 47677-4).

27 66. After July 19, 1995, Rotenone 5% Emulsifiable Concentrate, EPA Reg No. 47677-
28 3 is an unregistered pesticide.

1 67. After July 19, 1995, Rotenone 5% Fish Toxicant Powder, EPA Reg No. 47677-4 is
2 an unregistered pesticide.

3 68. In or about 2001, Respondents manufactured, produced, repackaged, sold or
4 distributed Rotenone 5% Emulsifiable Concentrate (formerly EPA Reg. No. 47677-3).

5 69. On or about August 28, 2001, Respondents sold Rotenone 5% Emulsifiable
6 Concentrate (identified as EPA Reg. No. 47677-3) to Mark Cornwell of the State University of New
7 York, Agriculture and Technology College in Cobleskill, NY (Invoice # 98551). The label bore the
8 EPA registration number, EPA Reg. No. 47677-3, the EPA establishment number, Est. No. 47677-
9 WA-01, the Argent Chemical Laboratories, Inc., logo and Argent's Redmond, Washington, address.

10 ***Chem Fish Toxicant Regular, Rotenone 5% liquid***

11 70. Tifa Limited's Chem Fish Toxicant Regular, Rotenone 5%, Liquid was registered
12 as a pesticide in 1962 with EPA Reg. No. 1439-157).

13 71. Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg. No. 1439-157) is a
14 registered pesticide classified as a restricted use pesticide by the EPA due to its aquatic toxicity. The
15 label states, "For sale to, and use only by, Certified Applicators or persons under their direct
16 supervision and only for those uses covered by the Certified Applicator's certification."

17 72. The Precautionary Statements on the EPA accepted Chem Fish Toxicant Regular
18 label states, in part, "WARNING May be fatal if swallowed or inhaled. Harmful if absorbed through
19 the skin. Causes moderate eye irritation. Avoid contact with eyes, skin or clothing. Do not breath
20 spray mist." and "ENVIRONMENTAL HAZARDS This pesticide is extremely toxic to fish. Kills
21 are expected at recommended rates. Consult your State Fish and Game Agency before applying this
22 product to public waters to determine if permit is needed for such an application...."

23 73. Between approximately May 4, 1999 and December 19, 2002, Respondents sold
24 and distributed Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg. No. 1439-157).

25 74. Respondents sold Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg.
26 No. 1439-157) to Wayne Daley of Bainbridge Island, Washington (Invoice # 93496) on or about
27 September 24, 1999, and to Sievert Rohnwer of Seattle, Washington, (Invoice # 92775) on or about
28 June 22, 1999.

1 75. The Washington State Department of Agriculture (WSDA) certifies pesticide
2 applicators in the State of Washington. Neither Wayne Daley nor Sievert Rohnwer have ever been
3 certified to apply restricted use pesticides by WSDA.

4 76. On or about July 23, 2001 and December 19, 2002, Respondents sold Chem Fish
5 Toxicant Regular, Rotenone 5% Liquid (EPA Reg. No. 1439-157) to Richard Leclerc of Miami,
6 Florida (Invoice # 98279 and # 101606).

7 77. The Florida State Department of Agriculture (FSDA) certifies pesticide applicators
8 in the State of Florida. Mr. Leclerc has never been certified to apply restricted use pesticides by
9 FSDA.

10 78. Respondents sold Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg.
11 No. 1439-157) to Aquatic Culture & Design of Kapau, Hawaii, on or about May 4, 1999 and April
12 25, 2001. (Invoice # 92312 and # 97484).

13 79. No one working for Aquatic Culture & Design was certified to apply restricted use
14 pesticides at the time they received or used the Chem Fish Toxicant Regular, Rotenone 5% Liquid
15 (EPA Reg. No. 1439-157).

16 ***Rotenone 10% powder***

17 80. Rotenone 10% Powder contains Rotenone, a well known active pesticide
18 ingredient. Rotenone 10% Powder, as distributed or sold is a pesticide.

19 81. In 2001, Respondents sold and distributed unregistered Rotenone 10% Powder.

20 82. On or about May 11, 2001 and July 30 2001, Respondents sold a 55 pound bag of
21 Rotenone 10% Powder to Ceatech Plantations, Inc., Kekaha, Kauai, Hawaii, (Invoices #98285 and
22 97588).

23 83. On August 16, 2001, the Hawaii Department of Agriculture (HDA) conducted an
24 inspection at Ceatech Plantations, Inc.

25 84. A cardboard cylindrical container which contained the Rotenone 10% Powder, was
26 at Ceatech Plantations, Inc. on or about August 16, 2001. The product was further packaged in a
27 large paper bag protected by a plastic bag. Neither the cardboard, paper nor plastic container were
28 labeled. The powder contained 10.35% Rotenone.

1 85. Ceatech used the Rotenone 10% Powder to kill tilapias and guppies.

2 86. On or about May 18, 2001, the Respondents sold three 55-pound bags of Rotenone
3 10% Powder to Kuhio Resorts, Kailua-Kona, HI, (Invoice #89714).

4 87. On August 21, 2001, the HDA conducted an inspection at Kuhio Resorts.

5 88. Cardboard cylindrical containers containing the Rotenone 10% Powder were at the
6 Kuhio Resorts on or about May 18, 2001. The containers were further packaged in large paper bags
7 protected by plastic bags. Neither the cardboard, paper or plastic container were labeled. The
8 product contained 13.36% Rotenone.

9 89. Kuhio Resort used the Rotenone 10% Power to eradicate guppies
10 from anchaline ponds.

11 90. The Rotenone 10% Powder, was not properly labeled as a pesticide and was not
12 registered under Section 3 of FIFRA, 7 U.S.C. §136a.

13 ***Aqua Bacta Aid (A.B.A.)***

14 91. Aqua Bacta Aid (A.B.A.) is a suspension of seven dormant bacterial strains which
15 Respondents claim is used to reduce ammonium and nitrate; control algae and break down nutrients
16 which cause water quality problems and off-flavoring causing algae bloom; clean and purify water;
17 reduce sludge and fish waste; and decrease dissolved organic solid levels in aquatic systems.

18 92. On September 20, 1999, EPA issued Argent a warning letter informing Argent that
19 A.B.A. is an unregistered pesticide. The letter stated that because Argent's A.B.A. label implies that
20 the product prevents algae blooms, the EPA considered the product to be a pesticide requiring
21 federal registration under Section 3 of FIFRA. The letter enclosed EPA Enforcement Alert: Vol. 2,
22 No. 4, that specifically addresses what types of non-pesticidal claims can be made by aquarium and
23 pond chemical products. The Alert explains that EPA interprets the term "scum" and "pond scum"
24 to mean algae, and that claims to reduce this organism such as "reduces algae" and "reduces scum"
25 are considered pesticidal claims. The Alert further notified Respondents that EPA considered claims
26 such as "reduce/remove nutrients that promote the growth of algae and bacteria" to be pesticidal
27 claims.

28 93. The product label and Argent's advertisement catalogue state that A.B.A. "Controls

1 Algae,” and “Aid bacteria break down of nutrients which cause water quality problems and off-flavor
2 causing algae blooms.”

3 94. Respondents intend A.B.A to be used for preventing, destroying, repelling or
4 mitigating algae.

5 95. Algae is a pest.

6 96. A.B.A., when intended for use to reduce or control algae, is a pesticide.

7 97. A.B.A. is not registered as a pesticide under Section 3 of FIFRA, 7 U.S.C. §136a.

8 98. As of April 30, 2004, A.B.A. is offered for sale on Respondents’ web site at
9 www.Argent-labs.com.

10 99. Between approximately March 24, 2000 and December 5, 2002, Respondents
11 manufactured, produced, sold, and distributed A.B.A. (Invoice #s; 94736, 97103, 100272, 94898,
12 99954, 101537, 101199, 99616)

13 ***No Foam***

14 100. No Foam is a biologically compatible silicone surfactant. Respondents’ product
15 label and other Argent promotional materials state that No Foam “reduces scum and foam in
16 transport and holding tanks which interferes with proper air to water oxygen exchange.”

17 101. The claim that No Foam reduces scum is a pesticidal claim.

18 102. Respondent intended No Foam to be used for preventing, destroying, repelling or
19 mitigating a pest.

20 103. No Foam is not registered as a pesticide under Section 3 of FIFRA, 7 U.S.C. §136a.

21 104. As of April 30, 2004, No Foam is offered for sale on Respondents’ web site at
22 www.Argent-labs.com.

23 105. Between approximately October 26, 1999 and June 11, 2001, Respondents
24 manufactured, produced, sold, and distributed a product called No Foam. On or about October 26,
25 1999, August 22, 2000, February 26, 2001 and June 11, 2001, Respondents sold and distributed No
26 Foam. (Invoice #s 93676, 96000, 97059 and 97900)

27 ***Kontak Aquarium Algaecide***

28 106. The product labels and Respondents’ promotional materials for Kontak Aquarium

1 Algaecide claims that Kontak Aquarium Algaecide is used to “control algae”.

2 107. The claim that Kontak Aquarium Algaecide controls algae is a pesticidal claim.

3 108. Kontak Aquarium Algaecide, when intended for use to control algae, is a pesticide.

4 109. Kontak Aquarium Algaecide is not registered as a pesticide under Section 3 of
5 FIFRA, 7 U.S.C. §136a.

6 110. On or about September 12, 2001, the Respondents imported Kontak Aquarium
7 Algaecide in various sizes.

8 111. The product was shipped from the Respondents’ British Columbia, Canada, facility
9 to the Redmond, Washington, facility.

10 112. Neither the Respondents’ British Columbia, Canada, facility nor its Redmond,
11 Washington, facility is a registered pesticide producing establishment.

12
13 **III. APPLICABLE STATUTORY AND REGULATORY PROVISIONS**

14 113. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), states that a “person” is any individual,
15 partnership, association, corporation, or any organized group of persons whether incorporated or not.

16 114. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), states, in part, that a "pesticide" is
17 any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating
18 any pest.

19 115. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), states, in part, that a “pest” is any insect,
20 rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or
21 virus, bacteria or other micro-organism which the Administrator declares to be a pest under Section
22 25(c)(1).

23 116. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), states that “to distribute or sell”
24 means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship,
25 deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to
26 deliver.

27 117. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful
28 for any person in any state to distribute or sell to any person any pesticide that is not registered under

1 Section 3 of FIFRA, 7 U.S.C. § 136a, or whose registration has been canceled or suspended.

2 118. 40 C.F.R. § 152.15 states that a substance is considered to be intended for a
3 pesticidal purpose, and thus to be a pesticide requiring registration, if: (a) the person who distributes
4 or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or
5 should be used as a pesticide; (b) the substance consists of or contains one or more active ingredients
6 and has no significant commercially valuable use as distributed or sold other than use for pesticidal
7 purpose (by itself or in combination with any other substances); or (c) the person who distributes or
8 sells the substance has actual or constructive knowledge that the substance will be used, or is
9 intended to be used, for a pesticidal purpose.

10 119. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §136j(a)(1)(E), makes it unlawful for any
11 person to distribute or sell to any person any pesticide which is adulterated or misbranded.

12 120. Section 2(q)(1)(A), (E), (F), (G), and (H) of FIFRA, 7 U.S.C.
13 §136(q)(1)(A), (E), (F), (G), and (H), states a pesticide is misbranded if; (A) its labeling bears any
14 statement design, or graphic representation thereto or to its ingredients which is false or misleading
15 in any particular; (E) if any word, statement, or other information required by or under the authority
16 of [FIFRA] to appear on the label or labeling is not prominently placed thereon with such
17 conspicuousness and in such terms as to render it likely to be read and understood by the ordinary
18 individuals under customary conditions of use; (F) the labeling accompanying it does not contain
19 directions for use which are necessary for effecting the purpose for which the product is intended and
20 together with any requirements imposed under Section 3(d) of FIFRA, are adequate to protect health
21 and the environment; (G) the label does not contain a warning or caution statement which may be
22 necessary and if compiled with, together with any requirements imposed under Section 3(d) of
23 FIFRA, is adequate to protect health and the environment; or, (H) in the case of a pesticide not
24 registered in accordance with Section 3 of FIFRA and intended for export, the label does not contain
25 in words prominently placed thereon with such conspicuousness (as compared with other words,
26 statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the
27 ordinary individual under customary conditions of purchase and use, the following: "Not Registered
28 for Use in the United States of America."

1 21. Section 2(q)(2)(A) and (C)(i) - (iv) of FIFRA, 7 U.S.C. §136(q)(2)(A) and
2 (2)(C)(i)- (iv), states that a pesticide is misbranded if; (A) the label does not bear an ingredient
3 statement on that part of the immediate container (and on the outside container or wrapper of the
4 retail package, if there be one, through which the ingredient statement on the immediate container
5 cannot be clearly read) which is presented or displayed under customary conditions of purchase, and
6 (C) there is not affixed to its container, and to the outside container or wrapper of the retail package
7 if there is one, a label bearing (i) the name and address of the producer, registrant or person for
8 whom produced, (ii) the name, brand, or trademark under which the pesticide is sold, (iii) the net
9 weight or content, (iv) and when required by regulation of the administrator to effectuate the
10 purposes of FIFRA, the registration number assigned to the pesticide under this Act and the use
11 classification.

12 22. 40 C.F.R. § 156.10(a) states that every pesticide product shall bear a label
13 containing the information specified by the Act and the regulations herein.

14 23. 40 C.F.R. § 156.10(a)(4)(i) states that the label shall appear on or be securely
15 attached to the immediate container of the pesticide product. If the immediate container is enclosed
16 within a wrapper or outside container through which the label can not be clearly read, the label must
17 also be securely attached to the outside wrapper or container if it is part of the package as
18 customarily distributed or sold.

19 24. Section 2(n) of FIFRA, 7 U.S.C. § 136(n), states, in part, that: the term “ingredient
20 statement” means a statement which contains the name and percentage of each active ingredient, and
21 the total percentage of all inert ingredients, in the pesticide.

22 25. Section 12(a)(2)(F) of FIFRA, 7 U.S.C. § 136j(a)(2)(F), makes it unlawful to
23 distribute, sell, or make available for use any registered pesticide classified for restricted use for
24 some or all purposes other than in accordance with Section 3(d) of the Act, 7 U.S.C. § 136a.

25 26. Section 3(d)(1)(C)(ii) of FIFRA, 7 U.S.C. § 136a(d)(1)(C)(ii), states that, if a
26 pesticide is classified for restricted use because of a determination that its use without additional
27 regulatory restrictions may cause unreasonable adverse effects on the environment, including injury
28 to the applicator, the pesticide must be applied for any use to which the determination applies only

1 by or under the direct supervision of a certified applicator.

2 127. Section 2(e)(1) of FIFRA, 7 U.S.C. § 136(e)(1), defines a certified applicator as an
3 individual certified under Section 11 of the Act, 7 U.S.C. § 136i, to apply or supervise the
4 application of restricted use pesticides.

5 128. Section 2(e)(4) of FIFRA, 7 U.S.C. § 136(e)(4), defines an application “under the
6 direct supervision of a certified applicator,” to mean an application conducted by a competent person
7 acting under the instructions and control of a certified applicator who is available if and when
8 needed, even though such applicator is not physically present at the time and place the pesticide is
9 applied.

10 129. Section 17(a) of FIFRA, 7 U.S.C. § 136o(a), provides that no pesticide intended
11 solely for export to any foreign country shall be deemed in violation of this Act: 1) when prepared or
12 packaged according to the specifications or directions of the foreign purchaser, except that producers
13 of such pesticides shall be subject to; Sections 2(p), 2(q)(1)(A), (C), (D), (E), (G), (H), 2(q)(2)(A),
14 (B), (C)(i) and (iii), (D), and Sections 7 and 8 of FIFRA; and 2) in the case of any pesticide other
15 than a pesticide registered under Section 3 or sold under Section 6(a)(1) of this Act, if, prior to
16 export, the foreign purchaser has signed a statement acknowledging that the purchaser understands
17 that such pesticide is not registered for use in the United States and cannot be sold in the United
18 States under this Act. A copy of that statement shall be transmitted to an appropriate official of the
19 government of the importing country.

20 130. Pursuant to 40 C.F.R. § 168.75(c)(2), Reporting Options, at the discretion of the
21 exporter, the requirements of paragraph (c)(1) of this section may be met on a per shipment or annual
22 basis, as stated in paragraphs (c)(2)(i) and (c)(2)(ii) of this section. If the procedures in paragraph
23 (c)(2)(ii) of this section are not followed, EPA will consider paragraph (c)(2)(i) of this section,
24 requiring per-shipment purchaser acknowledgment statements, to be applicable in full. Where
25 paragraph (c)(2)(i) of this section is applicable, each shipment which does not meet the requirements
26 of that paragraph will be considered to be separate violation of FIFRA.

27 131. Section 8 of FIFRA, 7 U.S.C. § 136f, provides that the “Administrator may
28 prescribe regulations requiring producers, registrants and applicants for registration to maintain such

1 records with respect to their operations and the pesticides and devices produced as the Administrator
2 determines are necessary for the effective enforcement of this subchapter...”

3 132. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), provides that it shall be
4 unlawful for any person who is a registrant, wholesaler, dealer, retailer or other distributor to fail to
5 file reports required by this Act.

6 133. 40 C.F.R. § 168.65(a) states that every exported pesticide must bear a label or
7 labeling which meets the requirements of FIFRA Section 17(a)(1). The section further explains that
8 information which will satisfy FIFRA Section 2(q)(1)(E), (G), and (H) and Section 2(q)(2)(A) and
9 (D) must appear in English and in the appropriate foreign language, on the label or labeling as
10 described in 40 C.F.R. § 168.65(b)(4).

11 134. 40 C.F.R. § 168.65(b)(4)(ii) describes “acceptable [foreign] language” as either the
12 language which is used to conduct official government business, or the predominantly spoken or
13 written language of the country of import.

14 135. 40 C.F.R. §168.75(c), states that an exporter of an unregistered pesticide product
15 must submit a purchaser acknowledgment statement to EPA containing the information stated in
16 paragraph (c)(1) *Contents of the Purchaser Acknowledgment Statement* of this section, and a
17 statement signed by the exporter certifying that the exportation did not occur until the signed
18 acknowledgment statement had been obtained from the purchaser. If the foreign purchaser signs a
19 purchaser acknowledgment statement in their own language, it must be accompanied by an English
20 translation when it is submitted to EPA by the exporter.

21 136. Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), states that no person shall produce any
22 pesticide subject to this Act or active ingredient used in producing a pesticide subject to this Act in
23 any State unless the establishment in which it is produced is registered with the Administrator.

24 137. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), makes it unlawful for any
25 person who is a producer to violate any of the provisions of Section 7.

26 138. Section 2(b) of FIFRA, 7 U.S.C. § 136(b), defines “Administrator” as the
27 Administrator of the Environmental Protection Agency.

28 139. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines “Producer” as the person who

1 manufactures, prepares, compounds, propagates, or process any pesticide or device or active
2 ingredient used in producing a pesticide. Section 2(w) of FIFRA, 7 U.S.C. §136(w), also defines the
3 term "produce" as to manufacture, prepare, compound, propagate, or process any pesticide or device
4 or active ingredient used in producing a pesticide.

5 140. 40 C.F.R. § 167.3 further defines producer as "any person, defined by the Act, who
6 produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling and
7 relabeling)."

8 141. Pursuant to 40 C.F.R. § 169.2, all producers of pesticides, devices, or active
9 ingredients used in producing pesticides subject to this Act, including... pesticides, devices, and
10 pesticide active ingredients produced for export, shall maintain the following records:

11 (a) Records showing the product name, EPA Registration Number, ... amounts per batch and
12 batch identification (numbers, letters, etc.) of all pesticides produced. In cases where the
13 product is an active ingredient used in producing a pesticide or where the product is a pesticide
14 which is not registered, is not the subject of an application for registration, or is not produced
15 under an Experimental Use Permit, the records shall also show the complete formula. The
16 batch identification shall appear on all production control records. These records shall be
17 retained for a period of (2) years.

18 142. Pursuant to 40 C.F.R. § 169.3(a), any producer of any pesticide, device, or active
19 ingredient used in producing a pesticide which is subject to this Act shall, upon request of any officer
20 or employee of the Agency or of any State or political subdivision, duly designated by the
21 Administrator, furnish or permit such person at all reasonable times to have access to and to copy all
22 records required to be maintained by this part, including records in the possession of an independent
23 testing facility or laboratory which performed tests on behalf of the producer. Such inspection will
24 be conducted in accordance with procedures detailed in Section 8(b) of the Act.

25 143. Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i), provides that it shall
26 be unlawful for any person to refuse to prepare, maintain, or submit any records required by or under
27 section 5, 7, 8, 11, or 19.

28 144. 40 C.F.R. § 168.85 provides: "(a) *Recordkeeping and inspection.* Exporters of

1 pesticides, devices and active ingredients must keep records and permit inspections of those records
2 in accordance with part 169 of this chapter. Exporters must keep records of the product labeling
3 used, including the EPA registered labeling, any foreign labeling on or attached to the product when
4 shipped, and as applicable, any supplemental labeling used. Producers of pesticides for export shall
5 maintain these records in a manner that shows exactly which labels and labeling accompanied each
6 shipment of a pesticide product to a foreign country. ...These records shall be maintained for the time
7 period required by § 169.2(h) of this chapter following the last export of such pesticide. All records
8 required by part 169 of this chapter shall be made available to EPA or its duly authorized
9 representative.

10 (b) *Pesticide production establishment requirements* provides that exporters of pesticides,
11 devices and active ingredients must submit annual reports to EPA in accordance with part 167 of this
12 chapter, concerning those products that are exported. All products required to be labeled “Not
13 Registered for Use in the United States of America” must be reported as unregistered production
14 regardless of whether a purchaser acknowledgement statement is required.”

15 145. 40 C.F.R. § 169.2 provides that all producers of pesticides, devices or active
16 ingredients used in producing pesticides subject to FIFRA including pesticides, devices and active
17 ingredients produced for export shall maintain specified records.

18 146. Pursuant to 40 C.F.R. § 167.85(a) and (b) provide in relevant part that: (a) Each
19 producer operating an establishment must submit reports required by this section concerning any
20 pesticide, active ingredient or device produced at each establishment. (b) the pesticide report shall
21 include the following: 1) Name and address of the establishment; (2) amount of each pesticidal
22 product: (i) produced during the past year;(ii) sold or distributed during the past year; (iii) estimated
23 to be produced during the current year. The report shall only include those pesticidal products
24 actually produced at the reporting establishment.

25 IV. VIOLATIONS

26 **COPPER CONTROL**

27 **Copper Control Liquid**

28 COMPLAINT - Page 20

DOCKET NO. FIFRA-10-2004-0073

VIOLATIONS 1-47

147. Paragraphs 1 through 146 are realleged and incorporated herein.

148. Between approximately May 6, 1999 and July 10, 2001, Respondents domestically distributed or sold one and five gallon containers of Copper Control Liquid (identified as EPA Reg. No. 47677-1) on at least 47 separate occasions as identified on Attachment A.

149. The EPA registration under Section 3 of FIFRA, 7 U.S.C. § 136a, for Copper Control Liquid (EPA Reg. No. 47677-1) was canceled on July 24, 1996.

150. The pesticide Copper Control Liquid is not registered pursuant to Section 3 of FIFRA.

151. The distributions and sales of Copper Control Liquid (identified as EPA Reg. No. 47677-1) constitute distributions of an unregistered pesticide and are violations of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

VIOLATIONS 48-94

152. Paragraphs 1 through 151 are realleged and incorporated herein.

153. Between approximately May 6, 1999 and July 10, 2001, Respondents domestically distributed or sold one and five gallon containers of Copper Control Liquid (identified as EPA Reg. No. 47677-1) on at least 47 separate occasions as identified on Attachment A.

154. The pesticide Copper Control Liquid bore the statements EPA Reg. No. 47677-1 and EPA Est. No. 47677-WA-001 on its label.

155. The statement EPA Reg. No. 47677-1 is false.

156. The statement EPA Est. No. 47677-WA-001 is false.

157. The product was misbranded pursuant to Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

158. The distribution or sales of Copper Control Liquid (identified as EPA Reg. No. 47677-1) constitute the distribution or sales of misbranded pesticides and are violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

VIOLATIONS 95-98

159. Paragraphs 1 through 158 are realleged and incorporated herein.

1 160. On at least four separate occasions between approximately May 24, 1999 and May
2 25, 2001, Respondents exported one and five gallon containers of Copper Control Liquid (identified
3 as EPA Reg. No. 47677-1) to Ecuador, Germany, and Mexico.

4 161. The predominately spoken language and the language used to conduct official
5 government business in Ecuador and Mexico, is Spanish, and in Germany, is German.

6 162. Respondents' only label for Copper Control Liquid was written entirely in English.
7 No other languages appeared on the label.

8 163. Argent's Copper Control Liquid label did not bear required warning
9 and caution statements, the phrase "Not Registered for Use in the United States of America," nor the
10 ingredient statement in German or Spanish.

11 164. For these exports, the Respondents did not adhere to the requirements set forth in
12 Section 17(a) of FIFRA, 7 U.S.C. § 136o(a).

13 165. The pesticide is misbranded pursuant to Section 2(q)(1)(A), (E), and (H) of FIFRA,
14 7 U.S.C. § 136 (q)(1)(A), (E) and (H).

15 166. The above exports of Copper Control Liquid (identified as EPA Reg. No. 47677-1)
16 constitute the distribution or sales of a misbranded pesticide and are violations of Section 12(a)(1)(E)
17 of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

18 VIOLATIONS 99-102

19 167. Paragraphs 1 through 166 are realleged and incorporated herein.

20 168. On at least four separate occasions between approximately May 24, 1999 and May
21 25, 2001, Respondents exported one and five gallon containers of Copper Control Liquid (identified
22 as EPA Reg. No. 47677-1) to Ecuador, Germany, and Mexico.

23 169. The pesticide Copper Control Liquid is not registered pursuant to Section 3 of
24 FIFRA.

25 170. Respondents failed to obtain a signed statement from any of the foreign purchasers
26 acknowledging that such purchasers understood that Copper Control Liquid was not registered for
27 use in the United States.

28 171. Respondents failed to submit to EPA a statement signed by the foreign purchasers

1 affirming that the purchasers were aware that Copper Control Liquid was not registered for use in the
2 United States and couldn't be sold for use in the United States.

3 172. Due to Respondents' failure to submit a signed statement, EPA was unable to
4 transmit a copy of the statement to an appropriate government official of the importing countries as
5 required by Section 17 of FIFRA, 7 U.S.C. § 136o(a)(2).

6 173. Respondents' failure to obtain the acknowledgment statements from any of the
7 foreign purchasers and failure to file the reports required by 40 C.F.R. § 168.75(c) are violations of
8 Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N).

9 VIOLATIONS 103-106

10 174. Paragraphs 1 through 173 are realleged and incorporated herein.

11 175. On at least four separate occasions between approximately May 24, 1999 and May
12 25, 2001, Respondents exported one and five gallon containers of Copper Control Liquid (identified
13 as EPA Reg. No. 47677-1) to Ecuador, Germany, and Mexico.

14 176. For these exports, the Respondents did not adhere to the requirements set forth in
15 Section 17(a) of FIFRA, 7 U.S.C. § 136o(a).

16 177. The pesticide Copper Control Liquid is not registered pursuant to Section 3 of
17 FIFRA.

18 178. Therefore, the above exports of Copper Control Liquid (identified as EPA Reg. No.
19 47677-1) constitute the distribution or sales of an unregistered pesticide and are violations of Section
20 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

21 **Copper Control Algaecide**

22 VIOLATIONS 107-111

23 179. Paragraphs 1 through 178 are realleged and incorporated herein.

24 180. On at least five separate occasions in 2002, Respondents domestically distributed
25 or sold one and five gallon containers of Copper Control Algaecide (EPA Reg. No. 1812-307-
26 47677). (Invoice #s 100272, 99574, 99940, 101237,100741)

27 181. The pesticide Copper Control Algaecide bore the statement EPA Est. No. 47677-
28 WA-001 on its label.

1 182. The statement EPA Est. No. 47677-WA-001 is false.

2 183. The Copper Control Algaecide label lacks the EPA language accepted in
3 connection with its registration as adequate to protect health and the environment.

4 184. The Copper Control Algaecide was misbranded pursuant to Section 2(q)(1)(A), and
5 (G) of FIFRA, 7 U.S.C. § 136 (q)(1)(A), and (G).

6 185. Respondents' distribution or sales of the Copper Control Algaecide (EPA Reg. No.
7 1812-307-47677) constitutes the distribution or sales of a misbranded pesticide and are violations of
8 FIFRA Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E).

9 VIOLATION 112

10 186. Paragraphs 1 through 185 are realleged and incorporated herein.

11 187. On or about March 8, 2003, Respondents exported a one gallon container of
12 Copper Control Algaecide (EPA Reg. No. 1812-307-47677) to Mexico. (Invoice #99671)

13 188. For this export, Respondents did not adhere to the requirements set forth in Section
14 17(a) of FIFRA, 7 U.S.C. § 136o(a).

15 189. The pesticide Copper Control Algaecide bore the statement EPA Est. No. 47677-
16 WA-001 on its label.

17 190. The statement EPA Est. No. 47677-WA-001 is false.

18 191. The Copper Control Algaecide label lacks the EPA language accepted in
19 connection with its registration as adequate to protect health and the environment.

20 192. Spanish is the predominately spoken language and is the language which is used to
21 conduct official government business in Mexico.

22 193. The Respondents' label for the Copper Control Algaecide is in English except for
23 the signal word "Caution" and the statement "If you do not understand the label, find someone to
24 explain it to you in detail." which were written in Spanish.

25 194. The label for the Copper Control Algaecide shipped to Mexico did not bear the
26 required warning and caution statements nor required ingredient statement in the Spanish language.

27 195. The product was misbranded pursuant to Section 2(q)(1)(A), (E) and (G) of FIFRA,
28 7 U.S.C. § 136 (q)(1)(A), (E) and (G).

1 196. The above export of Copper Control Algaecide (EPA Reg. No. 1812-307-47677)
2 constitutes the distribution or sale of a misbranded pesticide and is a violation of Section 12(a)(1)(E)
3 of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

4 VIOLATION 113

5 197. Paragraphs 1 through 196 are realleged and incorporated herein.

6 198. On or about September 20, 2001, Respondents exported Copper Control Algaecide
7 (EPA Reg. No. 1812-307-47677) to Grand Caymen Island of the British West Indies, (Invoice
8 #98706).

9 199. For this export, Respondents did not adhere to the requirements set forth in Section
10 17(a) of FIFRA, 7 U.S.C. § 136o(a).

11 200. The pesticide Copper Control Algaecide bore the statement EPA Est. No. 47677-
12 WA-001 on its label.

13 201. The statement EPA Est. No. 47677-WA-001 is false.

14 202. The Copper Control Algaecide label lacks the EPA language accepted in
15 connection with its registration as adequate to protect health and the environment.

16 203. The product was misbranded pursuant to Section 2(q)(1)(A), and (E) of FIFRA, 7
17 U.S.C. § 136(q)(1)(A) and (E).

18 204. The distribution or sale of Copper Control Algaecide (EPA Reg. No. 1812-307-
19 47677) constitutes the distribution or sale of a misbranded pesticide and is a violation of FIFRA
20 Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E).

21 **Copper Control Granular**

22 VIOLATIONS 114 -117

23 205. Paragraphs 1 through 204 are realleged and incorporated herein.

24 206. On at least four occasions between approximately May 24, 1999 and May 17, 2000,
25 Respondents domestically distributed or sold 10-pound boxes of Copper Control Granular (identified
26 as EPA Reg. No. 47677-8).

27 207. Copper Control Granular (identified as EPA Reg. No 47677-8) is a pesticide.

28 208. The product's registration under Section 3 of FIFRA, 7 U.S.C. § 136a, was

1 canceled on July 24, 1996.

2 209. Copper Control Granular (identified as EPA Reg. No 47677-8) is not a registered
3 pesticide.

4 210. The distribution or sales of Copper Control Granular (identified as EPA Reg. No.
5 47677-8) constitute the distribution or sales of an unregistered pesticide and are violations of Section
6 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

7 VIOLATIONS 118-121

8 211. Paragraphs 1 through 210 are realleged and incorporated herein.

9 212. On at least four occasions between May 24, 1999 and May 17, 2000, Respondents
10 domestically distributed or sold 10-pound boxes of Copper Control Granular (identified as EPA Reg.
11 No. 47677-8).

12 213. The pesticide Copper Control Granular bore the statement EPA Reg. No. 47677-8
13 and EPA Est. No. 47677-WA-001 on its label.

14 214. The statement EPA Reg. No. 47677-8 is false.

15 215. The statement EPA Est. No. 47677-WA-001 is false.

16 216. The product was misbranded pursuant to Section 2(q)(1)(A) of FIFRA, 7 U.S.C.
17 §136(q)(1)(A).

18 217. The distribution or sales of Copper Control Granular (identified as EPA Reg. No.
19 47677-8) constitutes the distribution or sales of a misbranded pesticide, and are violations of Section
20 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

21 **BENZALKONIUM CHLORIDE 50%, GERMICIDAL CONCENTRATE**

22 VIOLATIONS 122-195

23 218. Paragraphs 1 through 217 are realleged and incorporated herein.

24 219. On at least 74 separate occasions between approximately July 26, 1999 and January
25 15, 2003, as identified on Attachment B, Respondents domestically distributed or sold one and five
26 gallon containers of Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg.
27 No. 42943-6-47677).

28 220. Respondents' Benzalkonium Chloride 50%, Germicidal Concentrate (identified as

1 EPA Reg. No. 42943-6-47677) containing BTC 835 is not a registered pesticide.

2 221. The product, as distributed or sold, is not registered under Section 3 of FIFRA,
3 7 U.S.C. § 136a.

4 222. The distribution or sales of Benzalkonium Chloride 50%, Germicidal Concentrate
5 (identified as EPA Reg. No. 42943-6-47677) constitutes the distribution or sales of an unregistered
6 pesticide and are violations of FIFRA Section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A).

7 VIOLATIONS 196-269

8 223. Paragraphs 1 through 222 are realleged and incorporated herein.

9 224. On at least 74 separate occasions between July 26, 1999 and January 15, 2003, as
10 identified on Attachment B, Respondents domestically distributed or sold one and five gallon
11 containers of Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg. No.
12 42943-6-47677).

13 225. The pesticide Benzalkonium Chloride 50%, Germicidal Concentrate bore the
14 statement EPA Reg. No. 42943-6-47677 and EPA Est. No. 47677-WA-001 on its label.

15 226. The statement EPA Reg. No. 42943-6-47677 is false.

16 227. The statement EPA Est. No. 47677-WA-001 is false.

17 228. The Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg.
18 No. 42943-6-47677) as distributed or sold, was misbranded pursuant to Section 2(q)(1)(A) of
19 FIFRA, 7 U.S.C. §136(q)(1)(A).

20 229. The distribution or sales of Benzalkonium Chloride 50%, Germicidal Concentrate
21 (identified as EPA Reg. No. 42943-6-47677) constitutes the distribution or sales of a misbranded
22 pesticide and are violations of FIFRA Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E).

23 VIOLATION 270

24 230. Paragraphs 1 through 229 are realleged and incorporated herein.

25 231. On or about June 10, 2001, Respondents exported a one gallon container of
26 Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg. No. 42943-6-47677)
27 to Tahiti, French Polynesia.

28 232. For this export, Respondents did not adhere to the requirements set forth in Section

1 17(a) of FIFRA, 7 U.S.C. § 136o(a).

2 233. Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg. No.
3 42943-6-47677) is not a registered pesticide.

4 234. The above export of Benzalkonium Chloride 50%, Germicidal Concentrate
5 (identified as EPA Reg. No. 42943-6-47677) constitutes the distribution or sale of an unregistered
6 pesticide and is a violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

7 VIOLATION 271

8 235. Paragraphs 1 through 234 are realleged and incorporated herein.

9 236. On or about June 10, 2001, Respondents exported a one gallon container of
10 Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg. No. 42943-6-47677)
11 to Tahiti, French Polynesia.

12 237. The pesticide Benzalkonium Chloride 50%, Germicidal Concentrate bore the
13 statement EPA Reg. No. 42943-6-47677 and EPA Est. No. 47677-WA-001 on its label.

14 238. The statement EPA Reg. No. 42943-6-47677 is false.

15 239. The statement EPA Est. No. 47677-WA-001 is false.

16 240. The predominate language and the language used to conduct official government
17 business in Tahiti, French Polynesia, is French.

18 241. Respondents' only label for Benzalkonium Chloride 50%, Germicidal
19 Concentrate is written entirely in English.

20 242. Respondents' Benzalkonium Chloride 50%, Germicidal Concentrate
21 label does not bear the phrase, "Not Registered for Use in the United States of America."

22 243. Respondents' Benzalkonium Chloride 50%, Germicidal Concentrate label does not
23 bear the required warning and caution statements, the phrase "Not Registered for Use in the United
24 States of America", or the ingredient statement in French.

25 244. The pesticide is misbranded pursuant to Section 2(q)(1)(A),(E) and (H) of FIFRA,
26 7 U.S.C. § 136(q)(1)(A),(E),and (H).

27 245. The above export of Benzalkonium Chloride 50%, Germicidal Concentrate
28 (identified as EPA Reg. No. 42943-6-47677) constitutes the distribution or sale of a misbranded

1 pesticide, and is a violation Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

2 VIOLATION 272

3 246. Paragraphs 1 through 245 are realleged and incorporated herein.

4 247. On or about June 10, 2001, Respondents exported a one gallon container of
5 Benzalkonium Chloride 50%, Germicidal Concentrate (identified as EPA Reg. No. 42943-6-47677)
6 to Tahiti, French Polynesia.

7 248. Respondents failed to obtain a signed statement from the foreign purchaser
8 acknowledging that the purchaser understood that Benzalkonium Chloride 50%, Germicidal
9 Concentrate is not registered for use in the United States of America.

10 249. Respondents failed to submit to EPA a statement signed by the foreign purchaser
11 affirming the purchaser was aware that the pesticide is not registered for use in the United States and
12 cannot be sold for use in the United States.

13 250. Due to Respondents' failure to submit a signed statement, EPA was unable to
14 transmit a copy of the statement to an appropriate government official of Tahiti, French Polynesia as
15 required by Section 17(a)(2) of FIFRA, 7 U.S.C. § 136o(a)(2).

16 251. Respondents' failure to obtain an acknowledgment statement from the foreign
17 purchaser in Tahiti, French Polynesia and failure to file the report required by 40 C.F.R. § 168.75(c)
18 is a violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N).

19 **ROTENONE**

20 **Rotenone 5% Emulsifiable Concentrate**

21 VIOLATION 273

22 252. Paragraphs 1 through 251 are realleged and incorporated herein.

23 253. On or about August 28, 2001, Respondents domestically distributed or sold a one-
24 gallon container of Rotenone 5% Emulsifiable Concentrate (identified as EPA Reg. No. 47677-3).

25 254. Rotenone 5% Emulsifiable Concentrate is a pesticide pursuant to Section 2(u) of
26 FIFRA, 7 U.S.C. § 136(u).

27 255. The product's registration under Section 3 of FIFRA, 7 U.S.C. § 136a, was
28 canceled on July 19, 1995.

1 pesticides, and was not working under the direct supervision of a certified applicator.

2 269. Respondents sold Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg.
3 No. 1439-157) to Sievert Rohnwer who used it. He was not certified to apply restricted use
4 pesticides, and was not working under the direct supervision of a certified applicator.

5 270. Respondents sold the Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA
6 Reg. No. 1439-157) to Richard Leclerc, on two occasions, who used it. He was not certified to apply
7 restricted use pesticides, and was not working under the direct supervision of a certified applicator.

8 271. Respondents sold Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg.
9 No. 1439-157) to Aquatic Culture & Design of Kapau, Hawaii, on two separate occasions (Invoice #
10 92312 and #97484).

11 272. Aquatic Culture & Design applied all of the Chem Fish Toxicant Regular,
12 Rotenone 5% Liquid (EPA Reg. No. 1439-157) that they purchased from the Respondents. No one
13 working for Aquatic Culture & Design was certified to apply restricted use pesticides at the time they
14 received or used the Chem Fish Toxicant Regular, Rotenone 5% Liquid (EPA Reg. No. 1439-157).

15 273. Selling and distributing the restricted use pesticide Chem Fish Toxicant Rotenone
16 5% Liquid (EPA Reg. No. 1439-157) to, and for use by, uncertified applicators are violations of
17 Section 12(a)(2)(F) of FIFRA, 7 U.S.C. § 136j(a)(2)(F).

18 **Rotenone 10% Powder**

19 VIOLATIONS 281-283

20 274. Paragraphs 1 through 273 are realleged and incorporated herein.

21 275. On at least three separate occasions in 2001, Respondents domestically distributed
22 or sold 55-pound bags, placed in cardboard drums, of Rotenone 10% Powder.

23 276. Rotenone 10% Powder is a pesticide pursuant to Section 2(u) of FIFRA, 7 U.S.C.
24 § 136(u).

25 277. Rotenone 10% Powder, as distributed or sold, is not registered under Section 3 of
26 FIFRA, 7 U.S.C. § 136a.

27 278. The distribution or sales of Rotenone 10% Powder constitutes the distribution or
28 sales of an unregistered pesticide and are violations of Section 12(a)(1)(A) of FIFRA, 7 U.S.C.

1 § 136j(a)(1)(A).

2 VIOLATIONS 284-286

3 279. Paragraphs 1 through 278 are realleged and incorporated herein.

4 280. On at least three separate occasions in 2001, Respondents domestically distributed
5 or sold 55-pound bags, placed in cardboard drums, of Rotenone 10% Powder.

6 281. Rotenone 10% Powder is a pesticide pursuant to Section 2(u) of FIFRA, 7 U.S.C.
7 § 136(u).

8 282. The Rotenone 10% Powder was not labeled.

9 283. The Rotenone 10% Powder is not labeled adequate to protect health and the
10 environment.

11 284. The Rotenone 10% Powder is not labeled to contain a warning or caution
12 statement.

13 285. The Rotenone 10% Powder label did not bear an ingredient statement or the name
14 and address of the producer or other information required under Section 2(q)(2)(A) and (2)(C)(i)-
15 (iv) of FIFRA, 7 U.S.C. § 136(q)(2)(A) and (2)(C)(i)- (iv).

16 286. The Rotenone 10% Powder, as distributed or sold, was misbranded pursuant to
17 Section 2(q)(1)(F) and (G) of FIFRA, 7 U.S.C. §136(q)(1)(F) and (G) and Section 2(q)(2)(A) and
18 (2)(C)(i)- (iv) of FIFRA, 7 U.S.C. § 136(q)(2)(A) and (2)(C)(i)- (iv) .

19 287. The distribution or sales of Rotenone 10% Powder constitutes the distribution or
20 sales of a misbranded pesticide and are violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C.
21 § 136j(a)(1)(E) .

22 **AQUA BACTA AID (A.B.A.)**

23 VIOLATIONS 287-294

24 288. Paragraphs 1 through 287 are realleged and incorporated herein.

25 289. On at least eight occasions between approximately March 24, 2001 and December
26 5, 2002, Respondents domestically distributed or sold one and two-liter, and one-gallon containers of
27 Aqua Bacta Aid (A.B.A.).

28 290. A.B.A. is intended for use to control algae.

- 1 291. A.B.A. is a pesticide pursuant to Section 2(u) of FIFRA, 7 U.S.C. § 136(u).
2 292. A.B.A. is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
3 293. The distribution or sales of A.B.A. constitute the distribution or sales of an
4 unregistered pesticide and are violations of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

5 **NO FOAM**

6 VIOLATIONS 295-298

- 7 294. Paragraphs 1 through 293 are realleged and incorporated herein.
8 295. On at least four occasions between October 26, 1999 and June 11, 2001,
9 Respondents domestically distributed or sold one-gallon containers of No Foam.
10 296. No Foam is intended for use to reduce scum.
11 297. No Foam is a pesticide pursuant to Section 2(u) of FIFRA, 7 U.S.C. § 136(u).
12 298. No Foam, as distributed or sold, is not registered under Section 3 of FIFRA,
13 7 U.S.C. § 136a.
14 299. The distribution or sales of No Foam constitute the distribution or sales of an
15 unregistered pesticide and are violations of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

16
17 **KONTAK AQUARIUM Algaecide**

18 VIOLATION 299

- 19 300. Paragraphs 1 through 299 are realleged and incorporated herein.
20 301. On or about September 12, 2001, the Respondents imported Kontak Aquarium
21 Algaecide in various size containers from Canada.
22 302. Kontak Aquarium Algaecide is intended for use to control algae.
23 303. Kontak Aquarium Algaecide is a pesticide pursuant to Section 2(u) of FIFRA, 7
24 U.S.C. § 136(u).
25 304. Kontak Aquarium Algaecide, as distributed or sold, is not registered under Section
26 3 of FIFRA, 7 U.S.C. § 136a.
27 305. The distribution or sale of Kontak Aquarium Algaecide constitutes the distribution
28 or sale of an unregistered pesticide and is a violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §

1 136j(a)(1)(A).

2 **PRODUCTION IN UNREGISTERED ESTABLISHMENT**

3 VIOLATIONS 300-304

4 306. Paragraphs 1 through 305 are realleged and incorporated herein.

5 307. Respondents manufactured, produced, and/or repackaged the pesticides Copper
6 Control Liquid, Copper Control Algaecide, Copper Control Granular, Benzalkonium Chloride 50% ,
7 Germicidal Concentrate, Rotenone 5% Emulsifiable Concentrate, Aqua Bacta Aid and/ or No Foam
8 subject to FIFRA in their Redmond, Washington, establishment during the calender years 1999,
9 2000, 2001, 2002, and 2003.

10 308. The Respondents' establishment registration under Section 7 of FIFRA, 7 U.S.C.
11 § 136e was canceled and terminated on May 28, 1998.

12 309. In each of the years 1999 through 2003 Respondents' production of pesticides in its
13 unregistered establishment is in violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

14 **V. PROPOSED CIVIL PENALTY**

15 310. Section 14 of FIFRA, 7 U.S.C. § 136l, and the Civil Monetary Inflation Adjustment
16 Rule, 40 C.F.R. Part 19, authorize EPA to assess a civil penalty of up to \$5,500 for each violation of
17 FIFRA that occurred between January 30, 1997 and March 15, 2004. Section 14(a)(4) of FIFRA, 7
18 U.S.C. § 136l(a)(4) requires the Administrator to consider the appropriateness of such penalty to the
19 size of Respondents' business, the effect on Respondents' ability to continue in business; and the
20 gravity of violations. Based on a review of information currently available to Complainant, the
21 Respondents have an ability to pay a civil administrative penalty. Respondents' violations are
22 extremely grave. Respondents' worldwide distribution of unregistered, misbranded, and in some
23 cases restricted use, pesticides poses a threat to human health and the environment. Furthermore,
24 Respondents' repeated disregard of pesticide export and production record-keeping requirements
25 inhibits EPA's ability to oversee the marketing of pesticides in the United States thereby harming the
26 regulatory program. Accordingly, Complainant requests that, after consideration of the statutory
27 factors set forth at Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the Administrator assess a civil
28 administrative penalty of up to \$5,500 against Respondents for each violation of FIFRA.

1 **VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

2 311. The Consolidated Rules of Practice, 40 C.F.R. Part 22, 64 Federal Register 40176-
3 40190, July 23, 1999, govern these proceedings. Under those rules, Respondents have the right to
4 request a formal hearing to contest any material fact set forth in this Complaint or the
5 appropriateness of the proposed penalty.

6 312. To avoid being found in default, which constitutes an admission of all material
7 facts alleged in the Complaint and a waiver of the right to a hearing, and will effect the assessment of
8 the proposed civil penalty without further proceedings, Respondents must file with the Regional
9 Hearing Clerk a written Answer within thirty (30) days after service of this Complaint.
10 Respondents' Answer must clearly and directly admit, deny, or explain each of the factual allegations
11 contained in this Complaint with regard to which Respondents have any knowledge. Where
12 Respondents have no knowledge of a particular fact and so state, the allegation is deemed denied.
13 Failure to deny any material factual allegation constitutes an admission of the allegation. The
14 Answer must also state: (a) the circumstances or arguments which are alleged to constitute the
15 grounds of defense; (b) the facts which Respondents intends to place at issue; and, (c) whether a
16 hearing is requested. A hearing is deemed requested if Respondents contest any material fact upon
17 which the Complaint is based, raises any affirmative defense, or contends the amount of the penalty
18 proposed in the Complaint is inappropriate, or claims that Respondents are entitled to judgment as a
19 matter of law. The Answer must be sent to:

20
21 Regional Hearing Clerk
22 U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, ORC-158
Seattle, Washington 98101

23 313. A copy of the Answer and all other documents which Respondents file in this
24 action must be furnished to Juliane Matthews, Assistant Regional Counsel, the attorney assigned to
25 represent EPA in this action, at:

26 Office of Regional Counsel
27 U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, ORC-158
28 Seattle, Washington 98101
(206) 553-1169

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VII. INFORMAL SETTLEMENT CONFERENCE

314. Whether or not a hearing is requested, Respondents may confer informally with the attorney named above to arrange for a settlement conference to discuss the facts of this case, the amount of the proposed penalty, and the possibility of settlement. An informal settlement conference does not, however, relieve Respondents of the obligation to file a written Answer to the Complaint.

315. EPA has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement reached with Respondents in an informal conference. The terms and conditions of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement entered into by and between EPA and Respondents would be binding as to all the terms and conditions specified therein upon signature by the parties and by the EPA Regional Administrator.

316. Respondents are advised that after the Complaint is issued, the Consolidated Rules of Practice prohibit any *ex parte* (unilateral) discussion of the merits of any action with the EPA Regional Administrator, Environmental Appeals Board Judges, Administrative Law Judge, or any person likely to advise these officials in deciding this case.

ISSUED AT SEATTLE this 3 day of May, 2004.



Richard B. Parkin, Acting Manager
Pesticides Unit

CERTIFICATE OF SERVICE

I hereby certify that I have, on the date stated hereunder, filed with the EPA
Region 10 Hearing Clerk, the original of the foregoing Complaint, Docket Number
FIFRA-10-2004-0073, and that I have, on the same date, served a true and correct copy
thereof with an accompanying copy each of the Consolidated Rules of Practice, by Certified

Mail, Return Receipt Requested, on:

Eliot Lieberman
Argent Chemical Laboratories, Inc.
8702 152nd Avenue NE
Redmond, WA 98052

Eliot Lieberman
Registered Agent for
Argent Chemical Laboratories, Inc.
8702 152nd Avenue NE
Redmond, WA 98052

Beatriz Shanahan
Argent Chemical Laboratories, Inc.
8702 152nd Avenue NE
Redmond, WA 98052

May 3, 2004
DATE

Melissa L. Whitaker
Melissa Whitaker
Office of Regional Council
EPA REGION 10

ATTACHMENT A
Sales of Copper Control Liquid

DATE	INVOICE	PRODUCT DESCRIPTION
07/10/01	98137	Copper Control Liquid (4x1 gallon)
04/25/00	95035	Copper Control Liquid 2x (4x1 gallon)
02/26/01	97059	Copper Control Liquid (4x1 gallon)
08/22/00	96000	Copper Control Liquid (4x1 gallon)
03/24/00	94736	Copper Control Liquid (1 gallon)
02/07/01	96931	Copper Control Liquid (1 gallon)
05/11/01	97629	Copper Control Liquid (1 gallon)
07/28/00	95843	Copper Control Liquid (4x1 gallon)
07/14/99	92971	Copper Control Liquid (1 gallon)
05/22/01	97698	Copper Control Liquid (1 gallon)
07/25/00	95799	Copper Control Liquid (1 gallon)
04/11/00	94840	Copper Control Liquid 2x (1 gallon)
09/15/99	93411	Copper Control Liquid (4x1 gallon)
12/27/99	94068	Copper Control Liquid (4x1 gallon)
04/25/00	95049	Copper Control Liquid (4x1 gallon)
01/08/01	96745	Copper Control Liquid (4x1 gallon)
03/02/01	97103	Copper Control Liquid (1 gallon)
05/14/01	97632	Copper Control Liquid (4x1 gallon)
02/16/01	NA	Copper Control Liquid (1 gallon)
10/16/00	96359	Copper Control Liquid (1 gallon)
04/20/00	94955	Copper Control Liquid (4x1 gallon)
06/18/99	92720	Copper Control Liquid (4x1 gallon)
09/18/00	96167	Copper Control Liquid 2x (1 gallon)
08/30/00	96047	Copper Control Liquid (1 gallon)
09/13/99	93395	Copper Control Liquid 2x (1 gallon)
09/29/99	93560	Copper Control Liquid (1 gallon)
12/11/00	96638	Copper Control Liquid 2x (1 gallon)
05/26/99	92489	Copper Control Liquid 3x (1 gallon)

DATE	INVOICE	PRODUCT DESCRIPTION
06/02/99	92573	Copper Control Liquid (1 gallon)
02/22/00	94401	Copper Control Liquid 2x (1 gallon)
06/10/99	92634	Copper Control Liquid 2x (1 gallon)
10/26/99	93676	Copper Control Liquid (4x1 Gallon)
10/11/00	96302	Copper Control Liquid (4x1 Gallon)
12/07/00	96619	Copper Control Liquid (4x1 Gallon)
06/28/99	92793	Copper Control Liquid 2x (4x1 gallon)
05/30/00	95331	Copper Control Liquid 2x (4x1 gallon)
06/21/00	95515	Copper Control Liquid (4x1 gallon)
03/02/00	94521	Copper Control Liquid (4x1 gallon)
09/09/99	93374	Copper Control Liquid (4x1 Gallon)
05/06/99	92329	Copper Control Liquid 1 Gallon
03/14/00	94631	Copper Control Liquid 1 Gallon
01/26/00	94227	Copper Control Liquid 1 Gallon
04/06/01	97342	Copper Control Liquid (4x1 Gallon)
01/23/01	96824	Copper Control Liquid (4x1 Gallon)
05/10/00	95176	Copper Control Liquid (5 Gallon)
01/10/00	94157	Copper Control Liquid (5 Gallon)
05/24/99	92476	Copper Control Liquid (1 gallon)

Total = 47

ATTACHMENT B
Sales of Benzalkonium Chloride

DATE	INVOICE	QUANTITY
07/10/01	98128	4 x 1 gallon
05/30/02	100280	4 x 1 gallon
06/19/01	97971	5 gallons
09/20/99	93446	5 gallons
04/09/02	99896	5 gallons
11/08/01	99001	5 gallons
08/28/01	98545	5 gallons
02/20/01	96996	5 gallons
02/15/01	96985	1 gallon
06/20/02	100471	5 gallons
12/18/02	101605	5 gallons
10/30/02	101346	4 x 1 gallon
07/23/02	100681	4 x 1 gallon
08/09/01	98399	1 gallon
02/17/00	94367	4 x 1 gallon
03/07/01	97124	1 gallon
02/11/02	99496	4 x 1 gallon
07/23/01	98246	1 gallon
04/24/00	95029	5 gallons
08/21/01	98466	4 x 1 gallon
04/03/02	99845	5 gallons
01/18/01	96777	5 gallons
12/17/02	101590	4 x 1 gallon
04/13/00	94898	1 gallon
01/21/02	99366	4 x 1 gallon
06/10/02	100354	4 x 1 gallon
05/31/02	100301	1 gallon
07/23/01	98259	4 x 1 gallon

DATE	VOICE	QUANTITY
03/14/02	99725	1 gallon
10/05/00	96277	4 x 1 gallon
03/02/00	94517	4 x 1 gallon
08/25/99	93280	1 gallon
04/16/02	99954	1 gallon
07/22/02	100696	1 gallon
02/22/02	99575	1 gallon
06/09/00	95427	4 x 1 gallon
06/11/01	97900	4 x 1 gallon
01/03/03	101650	4 x 1 gallon
01/15/03	101715	1 gallon
06/10/02	100360	1 gallon
01/28/02	99405	4 x 1 gallon
04/07/00	94829	4 x 1 gallon
08/12/02	100845	1 gallon
07/10/00	95637	5 gallons
04/16/02	99937	1 gallon
08/14/01	98431	5 gallons
10/03/02	101208	5 gallons
10/11/02	101233	1 gallon
09/23/02	101137	4 x 1 gallon
12/27/01	99212	5 gallons
03/10/00	94602	4 x 1 gallon
04/03/00	94796	4 x 1 gallon
03/18/02	99743	4 x 1 gallon
04/16/02	99936	4 x 1 gallon
04/26/02	100020	4 x 1 gallon
07/02/02	100551	5 gallons
12/20/01	99191	1 gallon
01/24/02	99397	1 gallon
01/22/01**	96820	4 x 1 gallon

DATE	INVOICE	QUANTITY
01/26/00	94210	1 gallon
09/06/01	98615	5 gallon
07/17/01	98195	5 gallon
04/16/01	97404	5 gallon
02/13/01	96973	5 gallon
02/21/01	97092	5 gallon
10/17/00	96337	5 gallon
07/23/02	100660	1 gallon
01/04/00	94107	4 x 1 gallon
07/26/99	93044	4 x 1 gallon
01/22/01	96806	4 x 1 gallon
05/08/01	97587	1 gallon
11/13/02	101422	5 gallons
09/24/01	98727	5 gallons
09/17/02	101093	4 x 1 gallon

74 Total