

U. S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KS 66219

2015 JAN 15 AM 8:18

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	Docket No. FIFRA-07-2014-0010
Greg Melies	)	
	)	
	)	
Respondent	)	

**CONSENT AGREEMENT AND FINAL ORDER**

The U.S. Environmental Protection Agency (EPA), Region 7 and Greg Melies, (Respondent) have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**Section I**

**Jurisdiction**

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l.

2. This Consent Agreement and Final Order (CAFO) serves as notice that the EPA has reason to believe that Respondent has violated Section 12 of FIFRA, 7 U.S.C. § 136j.

## Section II

### Parties

3. The Complainant, by delegation from the Administrator of the EPA and the Regional Administrator, EPA, Region 7, is the Director of the Water, Wetlands and Pesticides Division, EPA, Region 7.

4. The Respondent is Greg Melies, a pesticide producer and distributor with a place of business located at 12203 Shirley Street, in Omaha, Nebraska.

## Section III

### Statutory and Regulatory Background

5. Congress enacted FIFRA in 1947 and amended it in 1972 and in 1996. The general purpose of FIFRA is to provide the basis for regulation, sale, distribution and use of pesticides in the United States. 7 U.S.C. 136 et. seq.

6. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” to mean (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organism on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1).

7. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

8. 40 C.F.R. § 152.15(a) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance (1) claims, states, or implies (by labeling or otherwise) that the substance

can or should be used as a pesticide; or (2) that the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide.

9. 40 C.F.R. § 152.15(c) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

10. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” to mean any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

11. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “to distribute or sell” to mean to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.

12. The term “produce” is defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and by 40 C.F.R. § 167.3 as meaning to manufacture, prepare, propagate, compound, or process any pesticide or device or active ingredient or to package, repackage, label, relabel, or otherwise change the container of any pesticide or device.

13. The term “producer” is defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and by 40 C.F.R. § 167.3 as any person who manufactures, prepares, compounds, propagates or processes any pesticide or device or active ingredient used in producing a pesticide (such actions include packaging, repackaging, labeling, and relabeling a pesticide).

14. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), states a pesticide is misbranded if its labeling bears any statement, design, or graphic representation representative thereto or to its ingredients which is false or misleading in any particular.

15. Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E), states a pesticide is misbranded if any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

16. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), states a pesticide is misbranded if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of FIFRA, are adequate to protect health and the environment.

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

18. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), states that any producer operating a registered pesticide establishment shall submit annual reports of pesticide production, sales, and distribution to the EPA Administrator in accordance with applicable regulations.

19. The regulation at 40 C.F.R. § 167.3 states that pesticide production reports shall include information showing the types of pesticidal products produced at a facility, and that, for pesticides that are not registered with the EPA, such information shall include the chemical formulation of the products.

20. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states it shall be unlawful for any person to distribute or sell any pesticide that is adulterated or misbranded.

21. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it shall be unlawful for any person to distribute or sell any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a, or whose registration has been cancelled or suspended.

22. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), states that it shall be unlawful for any person who is a producer to violate any of the provisions of Section 7 of FIFRA.

#### **Section IV**

##### **General Factual Allegations**

23. The Respondent is and was at all times referred to in this Complaint, a “person” as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

24. The Respondent, at all times relevant herein, sold products via the websites [www.coppersulfatecrystals.com](http://www.coppersulfatecrystals.com), [www.rootnclean.com](http://www.rootnclean.com), and [www.cleangarbagedisposal.com](http://www.cleangarbagedisposal.com).

##### **Violations**

25. The Complainant hereby states and alleges that Respondent has violated FIFRA and federal regulations promulgated thereunder, as follows:

##### **Count 1**

26. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

27. On or about October 31, 2011, Respondent sold or distributed a quantity of Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix.

28. The product Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix was advertised on the website [www.coppersulfatecrystals.com](http://www.coppersulfatecrystals.com) with the following claims:

- (i) “It is one of the most effective fungicides in history”
- (ii) “works well for many disease-causing pathogens”
- (iii) “applications in fall to control the overwintering fire blight inoculum in pears and apples, leaf curl and shot hole pathogens in peach and nectarine, downy mildew and powdery mildew fungi in grapes, peacock spot pathogen in olives, walnut blight bacteria in walnut, and black spot fungus in roses”
- (iv) “Copper Sulfate Fungus Control: Ingredients: Pure Copper Sulfate Crystals – Hydrated Lime”
- (v) “Multi-Use Organic Farm Crop Fungicide”
- (vi) “A Bordeaux mixture is both fungicidal and bactericidal”
- (vii) “to prevent infection by the fire blight bacteria”
- (viii) “Make your own copper sulfate Bordeaux mixture! 2 ingredients. Pure Copper Sulfate Crystals & Hydrated Lime. Great Treatment for Tomato Blight Control!”

29. Respondent claims, states, or implies that the substance Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix can or should be used as a pesticide.

30. Respondent has actual or constructive knowledge that the substance Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix will be used, or is intended to be used, for a pesticidal purpose.

31. The product Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix sold or distributed by Respondent is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

32. On the date of the sale and/or distribution of the Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix product, the product was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

33. As sold or distributed by Respondent, the label for the Hydrated Lime (Calcium Hydroxide) - Bordeaux Mix pesticide product lacked a valid EPA registration number, production establishment number, directions for use, and personal protection equipment language.

34. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

35. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

### **Count 2**

36. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

37. On or about August 6, 2011, Respondent sold or distributed a quantity of Copper Sulfate Crystals Pond Algae Control.

38. The product Copper Sulfate Crystals Pond Algae Control was advertised on the website [www.coppersulfatecrystals.com](http://www.coppersulfatecrystals.com) with the following claims:

- (i) “Pond Algae Control”
- (ii) “Farm Pond Algae Control – Lake Algae Control”
- (iii) “Freshwater Aquaculture Algae Control”
- (iv) “controls many species of both filamentous (mat forming green) and planktonic (single cell blue-green) algae”

39. The product Copper Sulfate Crystals Pond Algae Control sold or distributed by Respondent is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

40. On the date of the sale and/or distribution of the product Copper Sulfate Crystals Pond Algae Control, the product as packaged was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

41. As sold or distributed by Respondent, the label for the product Copper Sulfate Crystals Pond Algae Control lacked a valid EPA registration number, production establishment number, directions for use, and personal protection equipment language.

42. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

43. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

**Count 3**

44. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.



45. On or about October 30, 2011, Respondent sold or distributed a quantity of Copper Sulfate Crystals Root Control.

46. The product Copper Sulfate Crystals Root Control was advertised on the website [www.coppersulfatecrystals.com](http://www.coppersulfatecrystals.com) with the following claims:

- (i) “the preferred root killer by plumbers”
- (ii) “We sell pure Copper Sulfate Crystals in various quantities for use as the preferred Copper Sulfate Tree Root Killer”

47. The product Copper Sulfate Crystals Root Control sold or distributed by Respondent is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

48. On the date of the sale and/or distribution of the product Copper Sulfate Crystals Root Control in a 3 pound container, the product as packaged was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

49. As sold or distributed by Respondent, the label for the Copper Sulfate Crystals Root Control product lacked a valid EPA registration number, production establishment number, directions for use, and personal protection equipment language.

50. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

51. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

**Count 4**

52. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

53. On or about November 13, 2011, Respondent sold or distributed a quantity of DisposALL Sink and Disposal Cleaner.

54. The product DisposALL Sink and Disposal Cleaner is advertised on the websites [www.cleangarbagedisposal.com](http://www.cleangarbagedisposal.com) and [www.rootnclean.com](http://www.rootnclean.com) with the following claims:

- (i) “This unique foaming garbage disposal cleaner with enzymes will clean & sanitize your drains & garbage disposals”
- (ii) “‘eats’ organic waste & gunk with aggressive Natural Enzymes”
- (iii) “designed to effectively clean, deodorize, sanitize, degrease, maintain and extend the life of your garbage disposal/ disposer”
- (iv) “kill bacteria, sanitize and get rid of those FOUL ODORS from rotten matter or germs”
- (v) “Kills 99% of germs”

55. The product DisposALL Sink and Disposal Cleaner sold or distributed by Respondent is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

56. On the date of the sale and/or distribution of the product DisposALL Sink and Disposal Cleaner, the product as packaged was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

57. As sold or distributed by Respondent, the label for the DisposALL Sink and Disposal Cleaner product lacked a valid EPA registration number.

58. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

59. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

### Count 5

60. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

61. On or about November 4, 2013, Respondent offered for sale on the website [www.cleangarbagedisposal.com](http://www.cleangarbagedisposal.com) the product DisposALL Sink and Disposal Cleaner – Lemon Zest.

62. The product DisposALL Sink and Disposal Cleaner – Lemon Zest was offered for sale or distribution with the following claims:

- (i) “Kill bacteria, sanitize and get rid of those foul odors from rotten matter or germs”
- (ii) “This unique foaming garbage disposal cleaner with enzymes will clean & sanitize your drains & garbage disposals”
- (iii) “‘eats’ organic waste & gunk with aggressive Natural Enzymes”
- (iv) “designed to effectively clean, deodorize, sanitize, degrease, maintain and extend the life of your garbage disposal/ disposer”

63. The product DisposALL Sink and Disposal Cleaner – Lemon Zest offered for sale by Respondent is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

64. The product DisposALL Sink and Disposal Cleaner – Lemon Zest is not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

65. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by offering for sale or distribution a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

**Count 6**

66. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

67. On or about October 24, 2010, Respondent sold or distributed a quantity of DisposALL Berry Scent.

68. The product DisposALL Berry Scent was advertised on the website [www.cleangarbagedisposal.com](http://www.cleangarbagedisposal.com) with the following claims:

- (i) “This unique foaming garbage disposal cleaner with enzymes will clean & sanitize your drains & garbage disposals”
- (ii) “‘eats’ organic waste & gunk with aggressive Natural Enzymes”
- (iii) “designed to effectively clean, deodorize, sanitize, degrease, maintain and extend the life of your garbage disposal/ disposer”

69. The product DisposALL Berry Scent is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

70. On the date of the sale and/or distribution of the product DisposALL Berry Scent, the product was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

71. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

72. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

**Count 7**

73. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

74. On or about October 11, 2010, Respondent sold or distributed a quantity of Root 'N Clean Foaming Root Killer.

75. The product Root 'N Clean Foaming Root Killer is intended for use for root control in sewer pipes.

76. The product Root 'N Clean Foaming Root Killer is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

77. On the date of the sale and/or distribution of the product Root 'N Clean Foaming Root Killer, the product was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

78. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

79. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

**Count 8**

80. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

81. On or about October 11, 2011, Respondent sold or distributed a quantity of Berry Scented Root 'N Clean Industrial Flush Restorer.

82. The product Berry Scented Root 'N Clean Industrial Flush Restorer is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

83. On the date of the sale and/or distribution of the product Berry Scented Root 'N Clean Industrial Flush Restorer the product was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

84. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

85. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

**Count 9**

86. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

87. On or about October 2, 2011, Respondent sold or distributed a quantity of Orange Scented Root 'N Clean Industrial Flush Restorer.

88. The product Orange Scented Root 'N Clean Industrial Flush Restorer is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

89. On the date of the sale and/or distribution of the product Orange Scented Root 'N Clean Industrial Flush Restorer the product was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

90. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

91. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

#### **Count 10**

92. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

93. On or about July 28, 2011, Respondent sold or distributed a quantity of Root 'N Clean + DisposALL Combo.

94. Root 'N Clean + DisposALL Combo is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

95. On the date of the sale and/or distribution of the Root 'N Clean + DisposALL Combo, the product was not registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

96. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

97. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing a pesticide which was misbranded.

**Count 11**

98. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

99. On or about October 11, 2010, Respondent engaged in the production of the product Root 'N Clean Foaming Root Killer.

100. The product Root 'N Clean Foaming Root Killer is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

101. On the occasion of its production of the product Root 'N Clean Foaming Root Killer, Respondent's establishment was not registered with the EPA as a pesticide producing establishment.

102. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by production of the product Root 'N Clean Foaming Root Killer in an establishment that was not registered with the EPA as a pesticide producing establishment.

**Count 12**

103. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

104. Respondent engaged in the production of the product Berry Scented Root 'N Clean Industrial Flush Restorer.

105. The product Berry Scented Root 'N Clean Industrial Flush Restorer is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

106. On the occasion of its production of the product Berry Scented Root 'N Clean Industrial Flush Restorer, Respondent's establishment was not registered with the EPA as a pesticide producing establishment.



107. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by production of the product Berry Scented Root 'N Clean Industrial Flush Restorer in an establishment that was not registered with the EPA as a pesticide producing establishment.

**Count 13**

108. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

109. Respondent engaged in the production of the product Orange Scented Root 'N Clean Industrial Flush Restorer.

110. The product Orange Scented Root 'N Clean Industrial Flush Restorer is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

111. On the occasion of its production of the product Orange Scented Root 'N Clean Industrial Flush Restorer, Respondent's establishment was not registered with the EPA as a pesticide producing establishment.

112. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by production of the product Orange Scented Root 'N Clean Industrial Flush Restorer in an establishment that was not registered with the EPA as a pesticide producing establishment.

**Count 14**

113. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

114. Respondent produced the product Plumbers Dozen Root 'N Clean.

115. On the occasion of its packaging of the quantity of the product Plumbers Dozen Root 'N Clean, Respondent's establishment was not registered with the EPA as a pesticide

producing establishment.

116. As defined by 40 C.F.R. § 167.3, the packaging, repackaging, labeling, or relabeling of a pesticide constitutes production of the pesticide

117. The product Plumbers Dozen Root 'N Clean is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

118. On the occasion of its production of the product Plumbers Dozen Root 'N Clean, Respondent's establishment was not registered with the EPA as a pesticide producing establishment.

119. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by production of the product Plumbers Dozen Root 'N Clean in an establishment that was not registered with the EPA as a pesticide producing establishment.

#### **Count 15**

120. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

121. Respondent produced the product Root 'N Clean + DisposALL Combo.

122. On the occasion of its production of the product Root 'N Clean + DisposALL Combo, Respondent's establishment was not registered with the EPA as a pesticide producing establishment.

123. The product Root 'N Clean + DisposALL Combo is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

124. On the occasion of its production of the product Root 'N Clean + DisposALL Combo, Respondent's establishment was not registered with the EPA as a pesticide producing establishment.

125. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by production of the product Root 'N Clean + DisposALL Combo in an establishment that was not registered with the EPA as a pesticide producing establishment.

**Count 16**

126. The facts stated in paragraphs 23 through 24 are realleged and incorporated as if fully stated herein.

127. For the quantities of the pesticide products produced by Respondent as alleged in Counts 11 through 15 above, Respondent failed to submit a production report to the EPA, as required by Section 7 of FIFRA, 7 U.S.C. § 136e.

128. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by failing to submit production reports pursuant to Section 7 of FIFRA, 7 U.S.C. § 136e.

**Section V**

**Consent Agreement**

129. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above, and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order.

130. Respondent neither admits nor denies the factual allegations set forth above.

131. Respondent waives its right to contest any allegations set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

132. Respondent and the EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

133. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local

environmental statutes and regulations and applicable permits.

134. 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.

135. Respondent certifies that by signing this CAFO that it is presently in compliance with FIFRA, 7 U.S.C. § 136 et. seq., and all regulations promulgated thereunder.

136. The effect of settlement as described in the following paragraph is conditioned upon the accuracy of the Respondent's representations to the EPA, as memorialized in the preceding paragraph.

137. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a penalty as set forth in Paragraph 1 of the Final Order below. Payment of this civil penalty in full shall resolve all civil and administrative claims for all violations of FIFRA alleged in this document.

138. Complainant reserves the right to take any enforcement action with respect to any other violations of FIFRA not addressed in this Consent Agreement and Final Order or any other applicable law and/or regulation administered by the EPA.

139. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, the 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. Respondent understands that its failure to timely pay any portion of the civil penalty described in Paragraph 1 of the Final Order below may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty

and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charged for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

## Section VI

### Final Order

Pursuant to Section 14 of FIFRA, as amended, 7 U.S.C. §136l, and according to the terms of the Consent Agreement set forth above, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a mitigated civil penalty of Five Hundred Dollars (\$500.00) by no later than February 28, 2015. Such payment shall identify Respondent by name and docket number and made as follows:

If by certified or cashier's check, payment should be made payable to the "United States Treasury" and sent to the following address:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, Missouri 63197-9000

If by wire transfer, payment should be directed to the Federal Reserve Bank of New York as follows:

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 by electronic payment, payment may be submitted on-line at [www.pay.gov](http://www.pay.gov) by entering "SFO 1.1" in the "Search Public Forms" field. Open the on-line form and complete the required fields to complete payment. Respondent shall print a copy of the payment receipt and mail a copy of the receipt to the contacts listed below

2. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219;

and

Royan Teter  
Toxics and Pesticides Enforcement Branch, WWPD  
U.S. Environmental Protection Agency  
Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

4. This CAFO shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

**RESPONDENT  
GREG MELIES**

Date: 12-16-14

By: 


Greg Melies  
Print Name

Owner  
Title

**COMPLAINANT**

**U. S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 12-29-14

  
\_\_\_\_\_  
Karen Flournoy  
Director  
Water, Wetlands and Pesticides Division

Date: 12/29/2014

  
\_\_\_\_\_  
Chris R. Dudding  
Office of Regional Counsel



**IT IS SO ORDERED.** This Order shall become effective immediately.

Date: 1-14-2015

Karina Borromeo

Karina Borromeo  
Regional Judicial Officer

IN THE MATTER OF Greg Melies, Respondent  
Docket No. FIFRA-07-2014-0010

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorney for Complainant:

[dudding.chris@epa.gov](mailto:dudding.chris@epa.gov)

Copy by First Class Mail to:

Mr. Greg Melies  
12203 Shirley Street  
Omaha, Nebraska 68144

Dated: 1/20/15



Kathy Robinson  
Hearing Clerk, Region 7