UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

2005 JUL -6 AM 9:50
FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: FIFRA-08-2005-0009

IN THE MATTER OF:	)	
	)	
FARMER'S UNION OIL CO.	)	**FINAL ORDER**
P. O. Box 197	)	
Wimbledon, ND 58345	)	
(EPA Est. No. 049825-ND-001	)	
	)	
RESPONDENT	)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

July 6, 2005
DATE

Alfred C. Smith
Alfred C. Smith
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Docket No. FIFRA-08-2005-0009

IN THE MATTER OF: Farmer's Union Oil Company P.O. Box 197 Wimbledon, ND 58345 (EPA Establishment No.: 049825-ND-001) Respondent	)	**COMPLAINT AND EXPEDITED SETTLEMENT AGREEMENT (CESA)**

A. JURISDICTION

1. This Complaint and Expedited Settlement Agreement ("CESA") is issued to Farmer's Union Oil Company ("Respondent") for a violation of FIFRA 12(a)(2)(L).

2. The undersigned Environmental Protection agency ("EPA"), Region 8 officials issue this CESA under the authority vested in the Administrator of EPA by Section 14(a)(1) of FIFRA, 7 U.S.C. § 1361(a).

3. This section authorizes EPA to bring an action under Section 14(a) (1) of FIFRA, 7 U.S.C. § 1361(a)(1), for civil administrative penalties against Respondent who has violated, or is in violation of, a requirement or prohibition of FIFRA.

B. ALLEGED VIOLATION

1. Respondent is a "person" within the meaning of Section 2(s) of FIFRA, 7 U.S.C. Section 136(s), and is therefore subject to regulation.

2. Respondent is a "distributor/seller" as defined by Section 2(gg) of FIFRA 7 U.S.C. Section 136(gg) and a "producer" as defined by Section 2(w) of FIFRA 7 U.S.C. 136(w).

3. Respondent produces, sells and distributes registered "pesticides" within the meaning of Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

4. EPA reviewed its records and determined that Respondent had not submitted the "Pesticide Report for Pesticide-Producing and Device-Producing Establishments" pursuant to Section 7 FIFRA, 7 U.S.C. 136(e) for calendar year 2004, by March 1, 2005.

5. Under Section 12(a)(2)(L), an annual report is required by March 1st for the previous year.

6. Upon consideration of the nature, circumstances, extent and gravity of the violation and Respondent's ability to continue in business, the size of Respondent's business, prior history of compliance, degree of culpability, lack of economic benefit resulting from the violations, its good faith and immediate effort to comply once informed of the violations, other matters as justice may require, and upon consideration of the entire record herein, EPA offers this CESA under its expedited enforcement procedures in order to settle the violation based upon the findings noted above, for the total civil penalty amount of **three thousand nine hundred dollars ($3,900.00).**

C. CIVIL PENALTY

1. The Respondent signing below admits that EPA has jurisdiction over the subject matter alleged in the CESA, neither admits nor denies the specific factual allegations contained in the CESA, and consents to the assessment of the penalty as stated in section B.6, above.

2. Within 30 days of receiving the Final Order in this matter, Respondent agrees and consents that Respondent will pay the civil penalty stated in section B. 6, above, by sending a certified or cashiers check, payable to "Treasurer, United States of America" to the following address:

   Mellon Bank
   EPA Region 8
   (Regional Hearing Clerk)
   P.O. Box 360859M
   Pittsburgh, PA 15251

   a. The check shall reference the name and address of Respondent's facility and the EPA docket number of this action.

   b. A copy of the cashiers or certified check shall be sent simultaneously to:

Tina Artemis Regional Hearing Clerk U.S. EPA, Region 8 (8RC) 999 18th Street, Suite 300 Denver, CO 80202-2466	(and)	Tim Osag Senior Enforcement Coordinator U.S. EPA, Region 8 (8ENF-L) 999 18th Street, Suite 300 Denver, CO 80202-2466

3. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. **Interest will therefore begin to accrue on a civil or stipulated penalty if the penalty is not paid when due.** Interest will be assessed at the United States Treasury tax and loan rate in accordance with 4 CFR § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of six (6) percent per year will be assessed on any portion of the debt that

remains delinquent more than ninety (90) days after payment is due. Any such penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 4 CFR §§ 102.13(d) and (e).

D. TERMS AND CONDITIONS

1. Nothing in this CESA shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CESA.

2. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this CESA and to bind the party he/she represents to the terms and conditions of this CESA.

3. The parties agree to submit this CESA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

4. Each party shall bear its own costs and attorneys fees in connection with this matter.

5. Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this CESA pursuant to 40 CFR § 22.15. Upon signing and returning of this CESA to EPA, the Respondent waives the opportunity for a hearing pursuant to Section 554 of the Administrative Procedure Act, 5 U.S.C. §554.

6. This CESA, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's parent, affiliates, heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this CESA. This CESA, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violation alleged in the CESA.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance and Environmental Justice, Complainant.

Date: 7/5/05 By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

Date: 7/5/05 By: Michael T. Risner
Michael T. Risner, Director
David Janik, Supervisor
Legal Enforcement Program

Date: 6/29/2005 By: E. Quintana
Eduardo Quintana, Attorney
Legal Enforcement Program

In the Matter of: Farmer's Union Oil Company (Wimbledon, ND)
Docket No:
(Continued)

FARMER'S UNION OIL COMPANY
Respondent.

Date: 06-29-2005

By: Paul J. Klosterman
Paul J. Klosterman
(Printed or Typed Name of Signatory)

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT and EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **FARMER'S UNION OIL CO., DOCKET NO.: FIFRA-08-2005-0009** was filed with the Regional Hearing Clerk on July 6, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on July 6, 2005, to:

Mr. Paul J. Klosterman
Farmer's Union Oil Co.
P. O. Box 197
Wimbledon, ND 58345

July 6, 2005

Tina Artemis
Regional Hearing Clerk

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