



STATE OF CONNECTICUT

VS

CONSENT ORDER NUMBER

COWSPST13-035

Issue Date November 7, 2013

CITY OF NEW HAVEN

A. With the agreement of the City of New Haven, Connecticut ("Respondent"), the Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. Respondent is a municipality within the state of Connecticut with a principal place of business at 165 Church Street in New Haven, Connecticut. John DeStefano Jr is the Mayor of New Haven.
2. This consent order is issued by the Commissioner with the agreement of the Respondent for the purpose of resolving notices of violation identified as NOVWSPST12-120, NOVWSPST12-121 and NOVWSPST13-001 that were issued to individuals employed by and acting on behalf of the Respondent.
3. On 6/16/12 and 6/23/12, employees acting on behalf of Respondent applied Altosid pesticide to waters of the state via storm water catch basins located within the city of New Haven, Connecticut without first obtaining an aquatic pesticide use permit from the Commissioner.
4. Permanent pesticide application records maintained by an employee with pesticide supervisor certification on behalf of the Respondent do not contain specific required information including his name and certification number and the name(s) and/or certification number of the certified operators performing pesticide applications under his supervision.

By virtue of the above, Respondent has violated sections 22a-66z, 22a-430(a) and 22a-58(d) of the Connecticut General Statutes.

5. By agreeing to this consent order, Respondent makes no admission of fact or violation of law with respect to the matters contained in any of the three notices of violations addressed herein, other than the facts asserted in paragraph A1 through A3.

B. With the agreement of Respondent, the Commissioner, acting under §22a-6 and §22a-63(e) of the Connecticut General Statutes, orders Respondent as follows:

1. Effective immediately upon issuance of this consent order, Respondent shall comply with all applicable provisions of Chapter 441 governing Pesticide Control and Chapter 446k governing Water Pollution Control of the Connecticut General Statutes and regulations promulgated thereunder and shall maintain such compliance.

2. The Commissioner acknowledges that the employees of Respondent cited in notice of violation numbers NOVWSPST12-120, NOVWSPST12-121 and NOVWSPST13-001 were acting in their official capacity on behalf of the Respondent and therefore will take no formal enforcement against them as individuals for the violations alleged.

3. Respondent may continue to apply pesticides in Connecticut pursuant to requirements of the Connecticut General Statutes and Regulations pertaining to the application of pesticides and the terms and conditions set forth in any future permit issued by the Commissioner to the Respondent for the application of pesticides.

4. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.

5. Supplemental Environmental Project.

a. Respondent has agreed to fund a supplemental environmental project ("SEP") or projects as selected by the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects." Therefore, on or before thirty (30) days after the date of issuance of this consent order, Respondent shall pay two-thousand four-hundred seventy five dollars (\$2,475.00) to the Statewide SEP Account. The payment shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by check payable to the "Connecticut Department of Energy and Environmental Protection," with notation thereon "Statewide SEP Account" and "Consent Order No. COWSPST13-035."

b. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

c. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in settlement of an enforcement action brought by the Commissioner.

6. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

7. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.

8. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order

to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

9. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

10. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.

11. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.

12. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.

13. Commissioner's powers. Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

14. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.

15. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance. The Commissioner agrees to notify the Respondent in writing when all requirements of this consent order have been completed to the satisfaction of the Commissioner.

16. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the place of business without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.

17. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.

18. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.

19. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

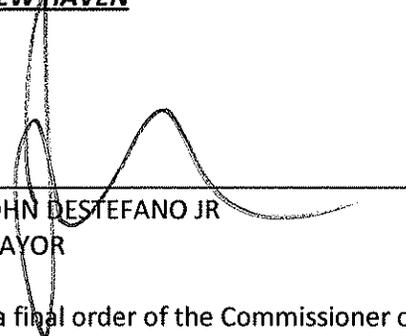
20. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Diane Jorsey, Environmental Analyst III
Department of Energy and Environmental Protection
Bureau of Materials Management & Compliance Assurance
Pesticide Management Program
79 Elm Street, Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

CITY OF NEW HAVEN

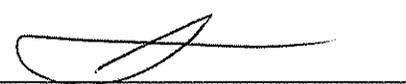
BY:



JOHN DESTEFANO JR
MAYOR

10/29/13
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.



Macky McCleary
Deputy Commissioner

11/6/13
Date

