



STATE OF CONNECTICUT

VS

CONSENT ORDER NUMBER
COWSPST13-051

Issue Date August 6, 2013

CHESHIRE PUBLIC SCHOOLS
BOARD OF EDUCATION

A. With the agreement of the Cheshire Public Schools, Board of Education ("Respondent"), the Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. Respondent is a Board of Education for Cheshire Public Schools with a principal place of business at 29 Main Street, Cheshire, Connecticut. Gerald Brittingham is the Chairman of the Board of Education.
2. Respondent does not have an integrated pest management plan for the schools under its control that is consistent with an applicable model plan developed by the Commissioner. The Respondent has not provided staff and parents and guardians of children enrolled in each school with a written statement of their policy on pesticide applications on school property that includes a description of pesticide applications made at the school during the previous school year.
3. On at least 6/11/11 and 6/16/12, staff of the Cheshire school system other than the Superintendent of Schools have determined the need for and authorized emergency applications to eliminate an immediate threat to human health on the grounds of Doolittle Elementary School and Dodd Middle School.

By virtue of the above, Respondent has violated sections 10-231b(b) and 10-231c(b) 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 addressed herein, other than the facts asserted in paragraph A1.

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 take all steps necessary to comply with all applicable provisions of Chapter 441 governing Pesticide Control of the Connecticut General Statutes and regulations promulgated thereunder and shall maintain such compliance.

2. 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.

3. Supplemental Environmental Project.

Respondent has agreed to fund the following supplemental environmental project ("SEP") or make payment as follows:

a. Respondent shall pay two-thousand two-hundred fifty dollars (\$2,250.00) on or before 60 days from the date of issuance of this consent order by bank or certified check payable to "Connecticut Department of Energy and Environmental Protection." The check shall state on its face "Bureau of Materials Management & Compliance Assurance, Pesticide Management Program, SEP payment, COWSPST13-051." The SEP funds shall be used by the University of Connecticut, CT School IPM Coalition to produce informational publications and seminars for the education of parties involved with the development of pest management policies and implementation of pest management programs on the grounds of schools within the state including but not limited to, certified pesticide applicators, members of Boards of Education and local health directors of Connecticut in accordance with the Memorandum of Understanding between the Department of Energy and Environmental Protection and University of Connecticut included as Attachment A to this consent order.

b. If Respondent fails to fund the SEP in accordance with paragraph B.3.a., Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment for unexpended SEP funds equal to: two-thousand two-hundred fifty dollars (\$2,250.00); plus either 10% or \$2,500, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall pay such unexpended SEP funds by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection" and the check shall state on its face "Statewide SEP Account, COWSPST13-051." Respondent shall mail or personally deliver such payment to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.

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 partial settlement of an enforcement action brought by the Commissioner.

d. 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.

e. In the event that any SEP funds paid by the Respondent are not fully expended in accordance with the Memorandum of Understanding, the Department may use the unexpended SEP funds for additional SEP(s) consistent with its "Policy On Supplemental Environmental Projects."

4. 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.

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

6. 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.

7. 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."

8. 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.

9. 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.

10. 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.
11. 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.
12. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.

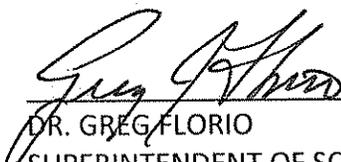
18. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

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.

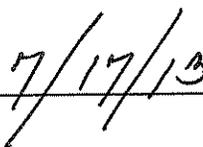
CHESHIRE PUBLIC SCHOOLS
BOARD OF EDUCATION

BY:



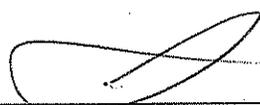
DR. GREG FLORIO
SUPERINTENDENT OF SCHOOLS

Date



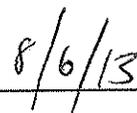
7/17/13

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



Macky McCleary
Deputy Commissioner

Date



8/6/13

**Memorandum of Understanding
Between the Department of Energy and Environmental Protection
and UCONN, Connecticut School IPM Coalition**

This Memorandum of Understanding ("MOU") is made and concluded in Hartford, Connecticut by and between the Connecticut Department of Energy and Environmental Protection ("Department"), represented by Macky McCleary, Deputy Commissioner ("Commissioner") and UCONN, Connecticut School IPM Coalition, represented by Antje Harnisch, Interim Executive Director. The purpose of this memorandum is to document the understanding between the parties that the UCONN, CT School IPM Coalition will be responsible to produce informational publications and seminars for the education of parties involved with the development of pest management policies and implementation of pest management programs on the grounds of public and private schools within the state including but not limited to, certified pesticide applicators, members of Boards of Education and local health directors of Connecticut.

Whereas, Cheshire Public Schools, Board of Education has agreed, pursuant to administrative consent order COWSPST13-051 with the Department, to provide payment in the amount of Two-Thousand Two-hundred Fifty dollars (\$2,250.00) to fund a supplemental environmental project ("SEP") and;

Now, therefore, the Department and UCONN, Connecticut School IPM Coalition agree as follows:

The Department agrees to:

1. Convey by inter-agency transfer invoice a total of \$2,250.00 as received from Respondent to perform the project as described above.
2. Provide technical assistance and oversight as needed.

CT School IPM Coalition agrees to:

1. Within three (3) business days from the date of receipt of SEP funds under this MOU, notify the Commissioner in writing of the amount of such funds that were received. Such SEP funds shall be kept separate from all other assets or accounts held by UCONN and used solely for the purposes of fulfilling the CT School IPM Coalition's obligations under this MOU.
2. Perform the project to its fullest detail as approved. The project shall be fully performed by no later than 12/31/2014.
3. Obtain any federal, state or local permits or approvals necessary to carry out the project.
4. Maintain adequate staffing to oversee the work and accounting of the project to its completion.
5. Within thirty (30) days after completion of the project, prepare and submit a comprehensive final report that shall include, but not be limited to:
 - Written certification that the project has been completed as approved.
 - A complete accounting of actual project costs and all interest accruals on the SEP funds including an itemized list of expenditures and copies of receipts and invoices;

- Discussion of the environmental benefits resulting from the project;
- Level of success and results;

6. Submissions required under this MOU shall be made to Diane Jorsey, Department of Energy and Environmental Protection, BMMCA, Pesticide Management Program, 79 Elm Street, Hartford, CT 06106-5127.

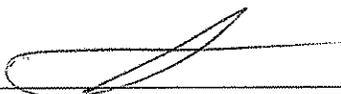
Reimbursement of Unexpended SEP Funds:

Within seven (7) days after the submission of the final report, or upon the expiration of this MOU or any extension of time of performance authorized by the Commissioner pursuant to this paragraph, whichever is earlier, UCONN, CT School IPM Coalition shall remit the total amount of any unexpended SEP funds, including any unexpended interest accruals, to the Commissioner. Such 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 certified or bank check payable to the "Treasurer, State of Connecticut". The check shall state on its face, "Reimbursement of Unexpended SEP Funds."

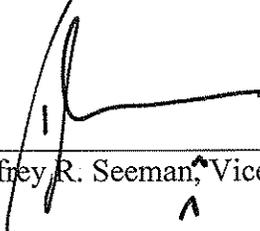
Time of Performance:

This MOU shall be in effect until 12/31/2014. Following written request by UCONN, CT School IPM Coalition, the Commissioner may extend the time of performance as necessary to complete the supplemental environmental project.

CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

By:  _____ Date: 8/6/13
Macky McCleary, Deputy Commissioner

UNIVERSITY OF CONNECTICUT

By:  _____ Date: 7/8/13
Jeffrey R. Seeman, Vice President for Research