

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the  
Violation of the Environmental  
Conservation Law ("ECL") Article 33

- by -

Bassett Hospital of Schoharie County  
d/b/a Cobleskill Regional Hospital  
178 Granview Dr.  
Cobleskill, NY 12043

**ORDER ON CONSENT**  
R4-2009-0918-149

Respondent

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WHEREAS:

1. The Department has jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides, pursuant to ECL Article 33.

2. Respondent, Bassett Hospital of Schoharie County d/b/a Cobleskill Regional Hospital, owns and operates a hospital at 178 Granview Dr., Cobleskill, New York.

3. The Respondent is a person as defined in ECL § 33-0101(33).

4. Respondent applied herbicides on or about the last week in August 2009 at the Cobleskill Regional Hospital by an employee of the maintenance staff at the hospital who wasn't a certified commercial pesticide applicator.

5. ECL Section 33-0905(1) provides that "Any person who engages in the commercial or private application of pesticides or the sale of restricted use pesticides shall be certified by the commissioner except as provided in subdivision two of this section. No certification shall be valid unless the certified person also holds a valid identification card issued by the commissioner.

6. Respondent's application of pesticide by someone other than a certified pesticide applicator is a violation of ECL Section 33-0905(1).

7. Section 71-2907 of the Environmental Conservation Law provides that any person who violates any provision of Article 33 of the ECL or any rule or regulation promulgated thereunder shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for a first violation and not to exceed ten thousand dollars (\$10,000) for a subsequent offense.

8. Respondent has affirmatively waived its right to notice and hearing in the manner provided by law and has consented to the issuing and entering of this Order and agrees to be bound by its terms, provisions and conditions contained within the Order.

NOW, having considered this matter and being duly advised, it is ORDERED that:

I. In respect of the aforesaid violation, a civil penalty in the amount of ONE THOUSAND DOLLARS (\$1000) is hereby assessed against the Respondent.

II. The provisions of this Order shall be deemed to bind Respondent, its agents, employees, and all persons, firms, corporations acting under or for it.

III. For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the site in question during reasonable hours, in order to inspect and/or require such tests as may be deemed necessary to determine the status of Respondent's compliance with this Order.

IV. The terms of this Order shall not be construed to prohibit the Commissioner of his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

V. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

VI. This Order is deemed effective on the date signed by the Department.

DATED: \_\_\_\_\_, 2009  
Rotterdam, New York

Alexander B. Grannis  
Commissioner  
New York State Department of  
Environmental Conservation

BY:

\_\_\_\_\_  
Eugene J. Kelly  
Regional Director  
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein, and agrees to be bound by the provisions, terms and conditions contained herein.

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE OF NEW YORK    )  
  ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 200\_\_, before me, the undersigned,  
personally appeared \_\_\_\_\_,  
*(Full name)*

personally known to me who, being duly sworn, did depose and say that he/she/they reside at  
\_\_\_\_\_  
*(Full mailing address)*

and that he/she/they is (are ) the \_\_\_\_\_  
*(President or other officer or director or attorney in fact duly appointed)*

of the \_\_\_\_\_,  
*(Full legal name of corporation)*

the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

\_\_\_\_\_  
Notary Public, State of New York

## SCHEDULE OF COMPLIANCE

1. The Respondent shall cease and desist from applying all pesticide at the hospital or on its grounds unless by a certified pesticide applicator.