

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

ORDER ON CONSENT

-by-

File No. R4-2008-0903-134

Stamford Golf Club
163 Taylor Road
Stamford, New York 12167

Respondent

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, Stamford Golf Club, owns and operates a golf course in the Town of Stamford, Delaware County ("golf course").
3. The Respondent is a person as defined in ECL § 33-0101(33).
4. On August 7, 2008, the Department received a complaint regarding the application of the pesticides at the Stamford Golf Club.
5. On August 8, 2008, Department staff conducted an inspection of the Stamford Golf Club.

Recordkeeping Violation

6. Respondent's 2008 spray records failed to contain information regarding the place of application, dosage rate, method of application and target pest/crop treated which are violations of . The record keeping requirements in 6 NYCRR 325.25(a) & ©.

Label Violation

7. Respondent applied *Quicksilver* EPA reg. number 279-3265 to its greens to control Silver Thread Moss. There is a statement on the label: "Re-entry Statement: Do not allow people (other than applicator) or pets on treatment area during the application. Do not enter treatment area until spray has dried." On July 30, 2008, golfers played on the 6th green while *Quicksilver* was being applied to the green in contravention of label directions and in violation of 6 NYCRR 325.2(b)

Apprentice Training Violation

8. One of Respondent's employees, who isn't a certified applicator, applies pesticides under the direction of another employee who is certified but no training records were maintained in violation of 6 NYCRR 325.10.

Use of Unregistered Pesticide

9. On August 8, 2008, Department staff reviewed Respondent's records and determined that Respondent on May 2, 2008, July 1, 2008, and July 8, 2008 applied *Merit .5g* EPA Registration number 3125-451 and on July 31, 2008 *Proturf K-O-G Weed Control* EPA Registration number 538-112. The registrations for these pesticides were suspended on September 30, 2006 and December 31, 2003, respectively.

10. Respondent's application of *Merit .5g* and *Proturf K-O-G Weed Control* are violations of 6 NYCRR 326.14(a).

Civil Penalty

11. 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.

Waiver of Hearing

12. 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 SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500) is hereby assessed against the Respondent. Payment of the civil penalty is due in accordance with the following payment schedule:

1. \$1,500 with the return of the signed and notarized copy of this Order;
2. \$1,500 by June 15, 2009;
3. \$1,500 by August 15, 2009;
4. \$1,500 by October 15, 2009; and
5. \$1,500 by December 15, 2009.

The failure to make a timely payment shall result in the entire balance of civil penalty being immediately due. The civil penalty shall be paid by certified or bank check made payable to the NYS DEC.

II. Respondent shall comply with the attached Schedule of Compliance. The Schedule of Compliance is incorporated and made part of the provisions, terms, and conditions of this Order.

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

IV. 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.

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

VI. Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees 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, his directors, officers, employees, servants, agents, successors or assigns.

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

VIII. All communications directed to the Department should be sent to:

Regional Hazardous Waste Engineer
New York State Department
of Environmental Conservation
Region 4
1130 N. Westcott Road
Schenectady, New York 12306

IX. Pursuant to ECL Section 71-0301, the Commissioner specifically reserves the right to exercise summary abatement authority.

X. No change or modification to this Order shall be made or be effective except as may be specifically set forth in writing by the Commissioner or Regional Director. Such application shall be made to the Regional Director.

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 issuance and entry of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

By: _____

Title: _____

Date: _____

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the ____ day of _____ in the year 2008, 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. As of the effective date of this Order, Respondent shall post spray records in club house to inform golfers of the name of pesticides being applied to the course.
2. As of the effective date of this Order, Respondent shall post signs in Club House, when application of pesticides is taking place advising golfers to stay off course until further notice.
3. As of the effective date of this Order, Respondent shall assure no one except employees involved in the application of product are on the course during the application, until product is dry, or other reentry requirements on pesticide product labels are met.
4. As of the effective date of this Order, Respondent shall comply with all applicable apprentice and use record keeping requirements in 6 NYCRR Part 320 et seq.