

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. R4-2009-0814-132

Winding Brook Country Club
2839 State Route 23
Valatie, New York 12184

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, Winding Brook Country Club, owns and operates a golf course in the Town of Valatie, Columbia County ("golf course") at 2839 State Route 203.
3. The Respondent is a person as defined in ECL § 33-0101(33).
4. On August 4, 2009, the Department staff conducted an inspection of the golf course.

Recordkeeping Violation

5. Respondent's 2007-2009 application records failed to contain information regarding dosage rate, method of application and target organism which are violations of the record keeping requirements in 6 NYCRR 325.25(a) & (c).

Label Violation

7. Respondent applied Curalan EG EPA Reg. # 7969-224 during the 2008 season, over the maximum allowed total per season under its label rates to its greens to control silver thread moss. Respondent violated 6 NYCRR 325.2(b) by failing to follow the label directions.

Civil Penalty

8. 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

9. 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 alleged violations, a civil penalty in the amount of TWO THOUSAND DOLLARS (\$2,000) is hereby assessed against the Respondent.

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 of 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 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.

VII. All communications directed to the Department shall be sent to:

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

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

IX. 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: August ,2009
Rotterdam, New York

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

BY:

Eugene J. Kelly, Jr.
Regional Director
Region 4

SCHEDULE OF COMPLIANCE

1. Within 60 days of the effective date of this Order, Respondent shall provide the Department with its 2009 pesticide application records.