

## **Proposed Administrative Consent Agreement Background Summary**

**Subject:** Glen Bolduc  
Spruce Bay Farm & Landscape  
232 Jackson Road  
Poland, Maine 04274

**Date of Incident(s):** September 12, 2009

**Background Narrative:** The Board received a complaint call about the possible commercial application of herbicides by an unlicensed company working in Topsham. A follow-up inspection was conducted with Glen Bolduc, the owner of Spruce Bay Farm & Landscape. It was determined that Bolduc, an unlicensed applicator, did make a commercial application of Preen Weed Preventer herbicide to ornamental beds at a medical facility in Topsham.

**Summary of Violation(s):** 22 M.R.S.A. § 1471-D(1)(A). Commercial pesticide applications may only be conducted by certified commercial applicators, CMR 01-026 Chapter 28, Section 3.

**Rationale for Settlement:** Bolduc acknowledged that he made the above application. He was not aware of the licensing requirement. This is a small, two-person landscaping company.

**Attachments:** Proposed Consent Agreement

**STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES  
BOARD OF PESTICIDES CONTROL**

Glenn Bolduc )  
Spruce Bay Farm & Landscape, Inc. ) ADMINISTRATIVE CONSENT AGREEMENT  
232 Jackson Road ) AND  
Poland, Maine 04274 ) FINDINGS OF FACT

This Agreement, by and between Spruce Bay Farm & Landscape, Inc. (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

1. That the Company provides property maintenance services for hire, including in the Topsham area.
2. That, in response to a call the Board received about an observed pesticide application made by the Company at Topsham Family Medicine on September 12, 2009, Board staff conducted a pesticide follow-up use inspection with the Company on September 30, 2009.
3. That Company owner Glenn Bolduc acknowledged during the inspection referenced in paragraph two that he applied Preen Garden Weed Preventer (EPA Reg. no. 961-280) to outdoor garden areas at Topsham Family Medicine on September 12, 2009.
4. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator in accordance with 22 M.R.S. § 1471-D(1) (A).
5. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) as any application of any pesticide under contract or for which compensation is received or any application of a pesticide to a property open to use by the public.
6. That the application described in paragraph three constitutes a custom application, as defined in 22 M.R.S. § 1471-C(5-A).
7. That no one from the Company had a commercial pesticide applicator's license at the time of the application described in paragraph three.
8. That the circumstances described in paragraphs one through seven constitute a violation of 22 M.R.S. § 1471-D(1)(A).
9. That CMR 01-026 Chapter 50, Section 1, requires commercial applicators to maintain pesticide application records for a period of two years from the date of application, that these records be maintained at the primary place of business, and that the records be made available for inspection by representatives of the Board at reasonable times, upon request.
10. That from the inspection referenced in paragraph two, it was determined that the company did not keep application records with respect to the commercial application referenced in paragraph 3 as required by chapter 50, section 1 of the Board's rules.
11. That the circumstances described in paragraphs three, nine and ten constitute a violation of CMR 01-026 Chapter 50, Section 1.
12. That CMR 01-026 Chapter 28, Section 3 requires that a notice be posted before application activities commence and that the notice remain in place at least two days following the completion of the application.

13. That, from the inspection referenced in paragraph two, it was determined that notice of the pesticide application made to the outdoor garden areas of the medical facility on September 12, 1009 was not posted, as required by CMR 01-026 Chapter 28, Section 3.
14. That the circumstances in paragraphs two, twelve and thirteen are a violation of CMR 01-026 Chapter 28, Section 3.
15. That from the inspection referenced in paragraph two, it was determined that the herbicide was applied at higher than the maximum allowed rate on the Preen Garden Weed Preventer label.
16. That the circumstances described in paragraphs two and fifteen constitute the use of a pesticide inconsistent with the product labeling in violation of 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S.A. § 606 (2)(B) and 22 M.R.S.A § 1471-D(8)(F).
17. That the Board has regulatory authority over the activities described herein.
18. That the Company expressly waives:
  - a. Notice of or opportunity for hearing;
  - b. Any and all further procedural steps before the Board; and
  - c. The making of any further findings of fact before the Board.
19. That this Agreement shall not become effective unless and until the Board accepts it.
20. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs eight, fourteen and sixteen, the Company agrees to pay to the State of Maine the sum of \$350. (Please make checks payable to Treasurer, State of Maine.)

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

SPRUCE BAY FARM & LANDSCAPE, INC.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Henry Jennings, Director

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Randlett, Assistant Attorney General