

Proposed Administrative Consent Agreement Background Summary

Subject: George Egbert
Egbert's Lawncare, LLC
3 Stonegate Way
Gorham, Maine 04038

Date of Incident(s): July 7, 2010

Background Narrative: George Egbert, owner of Egbert's Lawncare, LLC. applied Triplet Premium Selective Herbicide to the lawn of his mother's neighbor in Portland. That neighbor never asked for a pesticide application and called the Board to report the incident. A follow-up investigation concluded the neighbor never authorized the herbicide application. Egbert confirmed he made the unauthorized pesticide application, but did so as a favor and good will offering to his mother's neighbor.

Summary of Violation(s): CMR 01-026 Chapter 20 Section 6 (B)... no person may apply a pesticide to a property of another unless prior consent for the pesticide application has been obtained from the owner, manager or legal occupant of that property....

Rationale for Settlement: The staff took into account the circumstances of this incident. There was no financial gain from the application but it was still an unauthorized application.

Attachments: Proposed Consent Agreement

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

In the Matter of:)	
George Egbert)	ADMINISTRATIVE CONSENT AGREEMENT
Egbert's Lawncare, LLC)	AND
3 Stonegate Way)	FINDINGS OF FACT
Gorham, Maine 04038)	

This Agreement by and between Egbert's Lawncare, LLC (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 is licensed as a spray contracting firm holding license number SCF 15145.
2. That George Egbert, the Company owner, is a Board licensed commercial applicator (CMA 1461).
3. That on July 7, 2010, Egbert applied Triplet Premium Selective Herbicide (EPA Reg. # 228-409) to the lawn of Glen Curtis and his wife Lynne at 11 Lester Drive in Portland, Maine.
4. That on January 13, 2011, Curtis called the Board and said that the application described in paragraph three was unauthorized.
5. That a Board inspector conducted a follow-up inspection with Curtis on January 28, 2011. Curtis provided a written statement summarizing the allegation described in paragraph three. The statement was marked 1112BCB01B.
6. That in the written statement described in paragraph five, Curtis wrote that his wife was home on July 7, 2010, and observed Egbert spraying their backyard. Curtis, who was not home at the start of the application, came home while Egbert's application equipment was still on his property and confronted Egbert. Egbert said he was doing it as a favor (Curtis and his wife are neighbors to Egbert's mother).
7. That a Board inspector conducted a follow-up inspection with Egbert on January 31, 2011. Egbert later provided a typed statement summarizing his position with respect to the allegation described in paragraph three and mailed it to the Board. This statement was dated January 31, 2011.
8. That from the inspection described in paragraph seven, it was determined that Egbert applied a tank mix of Triplet Premium Selective Herbicide (EPA Reg. # 228-409) and 46-0-0 liquid fertilizer to the lawn of Glen Curtis and his wife Lynne at 11 Lester Drive on July 7, 2010.
9. That during the inspection described in paragraph seven, and later in his written statement referenced in paragraph seven, Egbert acknowledged that he applied the Triplet Premium Selective Herbicide to the property of Glen Curtis and his wife Lynne at 11 Lester Drive on July 7, 2010, and that he did so without authorization. Egbert wrote that he made the application "as a favor and a goodwill gesture".

10. That the Company did not have Glen Curtis's or his wife Lynne's consent to apply pesticides to their property.
11. That the circumstances described in paragraphs one through ten constitute a violation of CMR 01-026 Chapter 20 Section 6(B).
12. That the Board has regulatory authority over the activities described herein.
13. 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.
14. That this Agreement shall not become effective unless and until the Board accepts it.
15. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph eleven, the Company agrees to pay a penalty to the State of Maine in the sum of \$350.00. (Please make checks payable to Treasurer, State of Maine).

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

EGBERT'S LAWNCARE, LLC

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General