

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

**Subject:** Patrick Devoe  
The Lawn Dawg  
202 Warren Avenue Suite 200  
Portland, Maine 04103

**Date of Incident(s):** August 4, 2010

**Background Narrative:** The Board received a complaint call from Portland resident who is a registrant on the 2010 Maine Pesticide Notification Registry (non-ag). The caller stated he observed an applicator on a neighbor's property applying pesticides. The property being treated is listed as an abutter on the notification registry. No notification was provided. A follow-up inspection confirmed that a pesticide application was made without the required notification.

**Summary of Violation(s):** CMR 01-026 Chapter 28, Section 2 (D). Commercial applicators shall notify individuals listed on the registry when performing an outdoor, non-agricultural pesticide application that is within 250 feet to the property boundary of the listed registry residence.

**Rationale for Settlement:** The staff compared the violation to similar cases settled by the Board in formulating a penalty proposal.

**Attachments:** Proposed Consent Agreement

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

Patrick Devoe )  
The Lawn Dawg ) ADMINISTRATIVE CONSENT AGREEMENT  
202 Warren Avenue Suite 200 ) AND  
Portland, Maine 04103 ) FINDINGS OF FACT

This Agreement, by and between The Lawn Dawg. (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 lawn care pesticide applications for hire, including in the Portland area.
2. That the Board received a complaint call from Robert Greenberg about a pesticide application he observed the Company make on August 4, 2010, to Richard Schilling's residence at 55 Brookside Road in Portland.
3. That the Greenberg residence, located at 56 Brookside Road in Portland, is on the 2010 Maine Pesticide Notification Registry.
4. That Greenberg stated he did not receive notification about the pesticide application in paragraph two.
5. That in response to the Greenberg's complaint in paragraph two a Board inspector conducted a follow-up inspection with the Company on August 10, 2010.
6. That during the inspection in paragraph five, Patrick Devoe, the Company Manager, acknowledged that Reggie Poulin applied Quinstar Turf Herbicide (EPA Reg. # 42750-90) to the lawn of Richard Shilling's residence as reported in paragraph two, and that required notification was not provided to Greenberg.
7. That Reggie Poulin is a licensed commercial applicator (COA 44332) with the Company.
8. That the Schilling's property described in paragraphs two and six is located within 250 feet of Robert Greenberg's property and is listed as an abutter to Greenberg on the 2010 Maine Pesticide Notification Registry. The pesticide application to Schilling's property described in paragraph six required prior notification to Greenberg pursuant to CMR 01-026 Chapter 28, Section 2(A).
9. That based on Greenberg's statement in paragraph two and the inspection described in paragraphs five and six the Company did not provide prior notification to Greenberg.
10. That the circumstances described in paragraphs one through nine constitute a violation of CMR 01-026, Chapter 28, Section 2(D).
11. That the Board has regulatory authority over the activities described herein.
12. 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.

13. That this Agreement shall not become effective unless and until the Board accepts it.

14. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violation referred to in paragraph ten, the Company agrees to pay to the State of Maine the sum of \$500 (Please make checks payable to Treasurer, State of Maine.)

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

THE LAWN DAWG

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

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

BOARD OF PESTICIDES CONTROL

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

APPROVED

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