

Proposed Administrative Consent Agreement Background Summary

Subject: William Gurrisi
26 Tremont Street
Winchester, MA 01890

Date of Incident(s): Weekend of June 4-5, 2011

Background Narrative: Gurrisi is a Massachusetts resident with a camp on a road adjacent to Lake Sherburne in Waterboro. The Board received an anonymous call where the caller said an eye witness told him he saw Gurrisi in a boat on Lake Sherburne, flinging something into the water. The observer asked Gurrisi what it was and was told it was a weed killer that would sink to the bottom. A Board inspector called Gurrisi to discuss the allegation. Gurrisi denied making any pesticide application to Lake Sherburne. The inspector and a DEP employee worked together to collect a composite water sample from the lake in the area the application was alleged to have been made.

Staff Findings: The lab result for the sample collected was positive for 2,4-D (an aquatic herbicide) at 21 ppb.

Summary of Violation(s): CMR 01-026 Chapter 20 section 4 and 22 M.R.S.A. § 1471-E, establish that no person, firm, corporation or other legal entity shall, for the purpose of controlling aquatic pests, apply any pesticide to or in any waters of the state as defined in 38 M.R.S.A. §361-A(7) without approval of the Maine Department of Environmental Protection.

Rationale for Settlement: Evidence indicated that it was probable that Gurrisi applied an herbicide containing 2,4-D to Lake Sherburne.

Attachments: Proposed Consent Agreement

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

In the Matter of:)
William Gurrisi) ADMINISTRATIVE CONSENT AGREEMENT
26 Tremont Street) AND
Winchester, MA 01890) FINDINGS OF FACT

This Agreement by and between William Gurrisi (hereinafter called the "Applicator") 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 Applicator owns a camp on North Shore Drive in Waterboro, Maine by Sherburne Lake.
2. That on Friday June 10, 2011, the Board received a call from an individual who reported that over the past weekend someone he knew told the caller that he (the alleged "observer") was near the shoreline of Sherburne Lake along North Shore Drive in Waterboro, and that the location was a recreation area that local property owners have common access to.
3. That the person in paragraph two allegedly told the caller that he saw a man in a boat, off shore from where he was, near the middle of Lake Sherburne, scooping something from a bucket and flinging it into the lake, and that the observer allegedly asked the person in the boat what it was and the person in the boat allegedly said it was just a weed killer that would sink to the bottom.
4. That the observer in paragraphs two and three allegedly identified the man in the boat as a Mr. Gerrish, and that the observer did not know how to spell or pronounce the name but said Gerrish had a camp on the Lake Sherburne Road (also known as the Northeast Road) in Waterboro.
5. That on June 14, 2011, a Board inspector attempted to contact Mr. Gerrish at the location provided by the caller in paragraph two; that no one was at the camp; that the inspector upon further investigation was able to determine that the camp at this location belonged to a Mr. Gurrisi, a resident of Winchester, MA; and, the inspector also was able to get Gurrisi's telephone number.
6. That a Board inspector called Gurissi on or about June 14, 2011 to ask if he made any aquatic herbicide applications to Sherburne Lake. Gurissi denied that he made any.
7. That on June 21, 2011, a Board Inspector and an employee from the Maine Department of Environmental Protection, worked together to collect a composite water sample from Sherburne Lake in the area where the person in paragraph three allegedly saw the individual who was later identified as Gurissi, flinging what Gurissi allegedly told him was a weed killer. The Applicator expressly denies that he applied any herbicide as was alleged, or that he in any way violated the provisions of CMR 01-026 Chapter 20 section 4, or 22 M.R.S.A. § 1471-E, or that he made any such statements to any individual as alleged in paragraph 3.
8. That the lab results for the sample collected from Sherburne Lake in paragraph seven was positive for 2,4-D (an aquatic herbicide) at 21 ppb.

9. That CMR 01-026 Chapter 20 section 4 and 22 M.R.S.A. § 1471-E establish that no person, firm, corporation or other legal entity shall, for the purpose of controlling aquatic pests, apply any pesticide to or in any waters of the state as defined in 38 M.R.S.A. §361-A(7) without approval of the Maine Department of Environmental Protection.
10. That Sherburne Lake is a water of the state and that the Maine Department of Environmental Protection had not granted approval of any aquatic pest control projects for that lake.
11. The Board believes the circumstances described in paragraphs one through ten constitute a violation of CMR 01-026 Chapter 20 section 4 and 22 M.R.S.A. § 1471-E. While the Applicator does not admit the violation, and while the Applicator believes there are factual disputes involving the violation alleged by the Board, the Applicator does agree to enter into this Consent Agreement for the purpose of resolving the alleged violation.
12. That the Board has regulatory authority over the activities described herein.
13. That the Applicator 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 causes of action which the Board has against the Applicator resulting from the alleged violation referred to in paragraph eleven, the Applicator agrees to pay to the State of Maine the sum of \$250. (Please make checks payable to Treasurer, State of Maine).

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

WILLIAM GURISSI

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General