

STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT

vs.

CONSENT ORDER NUMBER  
COWSPST10-041

CHARLES DOOLEY  
dba/VALLEY GREEN, INC.  
RESPONDENT

A. With the agreement of Charles Dooley dba/Valley Green, Inc. ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. Respondent is registered with the State of Connecticut, Office of Secretary of the State as Valley Green, Inc. with a principal place of business at 642 South Summer Street, Holyoke, Massachusetts. Charles Dooley is the President of Valley Green, Inc..
2. Respondent sold and distributed state and/or federally restricted-use pesticides on at least fifty-four dates with an expired restricted-use pesticide dealer registration to customers located and operating in the state of Connecticut.
3. Respondent sold state and/or federally restricted-use pesticides on at least 5/7/03, 5/20/03, 6/23/03, 8/1/03, 5/14/04, 6/3/04, 6/30/04, 5/12/05, 6/30/05, 8/8/05, 5/17/06, 6/21/06, 7/21/06, 8/15/06, 5/31/07, 6/21/07, 5/21/08, 7/31/08, 9/1/08, 6/6/09 and 9/1/09 to William Bednarz, an uncertified applicator, doing business as Bednarz Farm in Windsor, Connecticut.
4. Respondent sold state and/or federally restricted-use pesticides on at least 5/25/07, 6/6/07, 7/13/07, 7/16/07, 7/27/07, 8/13/07, 5/8/08, 5/28/08, 6/16/08, 6/18/08, 7/14/08, 7/21/08, 5/19/09, 6/9/09, 7/1/09 and 8/18/09 to Robert Nowak, an uncertified applicator, doing business as Nowak Farms, LLC in Suffield, Connecticut.
5. Respondent sold state and/or federally restricted-use pesticides on at least 5/4/07, 6/7/07, 7/9/07, 7/12/07, 8/1/07, 5/22/08, 6/16/08, 6/24/08, 7/18/08, 7/28/08, 7/29/08, 8/19/08, 5/28/09, 6/19/09, 6/26/09, 7/14/09, 7/28/09 and 8/4/09 to Henry Gardocki, an uncertified applicator, doing business as Gardocki Farms, LLC in Suffield, Connecticut.
6. Respondent sold state and/or federally restricted-use pesticides on at least 5/19/09, to Daniel Beneski, an uncertified applicator, of Beneski Farms, LLC of West Suffield, Connecticut.

7. On 1/22/10, Respondent knowingly withheld records of sales of the pesticide Furadan 4F that were requested by an employee duly designated by the Commissioner of Environmental Protection to inspect places where pesticides are held for use distribution or sale.

By virtue of the above, Respondent has violated Connecticut General Statutes Sections 22a-56(c), 22a-61(b)(14), 22a-56a(3) and 22a-61(b)(6).

B. With the agreement of Respondent, the Commissioner, acting under §22a-6, 22a-63(e) and 22a-56a of the Connecticut General Statutes, orders Respondent as follows:

1. Effective immediately upon issuance of this consent order, Respondent shall take all steps necessary to comply with all applicable provisions of chapter 441 of the Connecticut General Statutes governing Pesticide Control and regulations promulgated thereunder and shall maintain such compliance.

2. The Commissioner denies the application for restricted-use dealer registration submitted by the Respondent on 2/18/10. The Respondent may re-apply to take the exam for restricted use dealer registration after a period of two years from the date of issuance of the consent order has lapsed.

3. Progress reports: On or before the last day of March, June, September, and December of each year after issuance of this consent order, and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this consent order.

4. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.

5. Civil penalty. Respondent shall pay a penalty of thirteen thousand seven hundred fifty dollars (\$13,750.00) in four installments as follows; \$3,437.50 on or before ninety days (90) after the date of issuance of this consent order; \$3,437.50 on or before one hundred eighty days (180) after the date of issuance of this consent order; \$3,437.50 on or before two hundred seventy days (270); and, \$3,437.50 on or before three hundred sixty days (360) after the date of issuance of this consent order as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.4 through A.7 of this consent order.

6. Supplemental Environmental Project #1 - Supplemental sponsorship of research to evaluate pyrethroid metabolism in bed bugs.

In addition to the civil penalty referenced in paragraph B.5, Respondent has agreed to fund the following supplemental environmental project ("SEP") or make payment as follows:

a. Respondent shall pay nine thousand (\$9,000.00) dollars in five installments as follows; \$1,500.00 on or before ninety (90) days after the date of issuance of this consent order, \$1,500.00 on or before one hundred eighty (180) days after the date of issuance of this consent order, \$1,500.00 on or before two hundred seventy (270) days after the date of issuance of this consent order, and \$1,500.00 on or before three hundred sixty (360) days of the date of issuance of this consent order and \$3,000.00 on or before three hundred ninety (390) days of the date of issuance of this consent order. Respondent shall make payment by bank or certified check to "Treasurer, State of Connecticut." The check shall state on its face "Bureau of Materials Management & Compliance Assurance, Pesticide Management Program SEP payment, consent order number COWSPST10-041" The SEP funds shall be used by the Connecticut Agricultural Experiment Station to supplement sponsorship of research to evaluate pyrethroid metabolism in bed bugs in accordance with the Memorandum of Understanding between the Department of Environmental Protection and Connecticut Agricultural Experiment Station included as Attachment A to this consent order.

b. If Respondent fails to fund the SEP in accordance with paragraph B.6.a., Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment for unexpended SEP funds equal to: nine thousand dollars (\$9,000); plus either 10% or \$2,500, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall pay such unexpended SEP funds by certified or bank check payable to "Treasurer State of Connecticut" and the check shall state on its face "Statewide SEP Account, Consent Order No. COWSPST10-041." Respondent shall mail or personally deliver such payment to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.

c. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.

d. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

e. In the event that any SEP funds paid by the Respondent are not fully expended in accordance with the Memorandum of Understanding, the Department may use the unexpended SEP funds for additional SEP(s) consistent with its "Policy on Supplemental Environmental Projects."

8. Supplemental Environmental Project #2 – Habitat Management and Restoration at Charles Island Natural Area Preserve

In addition to the civil penalty referenced in paragraph B.5, Respondent has agreed to undertake the following supplemental environmental project(s) ("SEP(s)") requiring an expenditure of at

least thirty two thousand two hundred fifty dollars (\$32,250.00), which is the total estimated cost as determined by the Commissioner for all SEPs required under this paragraph, or make payment(s) as follows:

a. Respondent shall perform in accordance with the project description included as Attachment B to this consent order. Respondent shall perform each such SEP in accordance with the schedule approved by the Commissioner, and shall obtain any federal, state or local permit or approval necessary to carry out such SEP.

b. If Respondent fails to fully perform any SEP in accordance with paragraph B.8.a., Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to: the total estimated cost, as determined by the Commissioner, of all such SEP(s); plus either \$2,500 or 10% of such total estimated cost, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.8.e. of this consent order.

c. On or before ninety (90) days after the date of issuance of this consent order, Respondent shall submit written progress reports to the Commissioner in accordance with the schedule approved by the Commissioner. Each progress report shall include the following information: Respondent's progress in performing each SEP including tasks performed to date, a complete accounting of actual project costs incurred to date, planning for the remaining project tasks to be performed, significant activities or findings related to the project, and any other reasonable information requested by the Commissioner for the purpose of evaluating Respondent's progress in performing the SEP(s).

d. On or before thirty (30) days after completion of each SEP, Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of such SEP. Such final report shall include, at a minimum, a narrative history of the project, detailed explanation of its design and implementation, summary of any data collected, complete final accounting of actual project costs including receipts for out-of-pocket costs, and a discussion of environmental benefits resulting from the SEP.

e. Should the Commissioner determine that the actual cost to the Respondent of any fully completed SEP is less than the estimated cost, as determined by the Commissioner, of such SEP, Respondent shall pay the difference between such actual cost and the estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify the Respondent in writing of the amount of any such unexpended SEP funds that are due. Respondent shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Treasurer, State of Connecticut" and the check shall state on its face "Statewide SEP Account, consent order number COWSPST10-041." Respondent shall mail or personally deliver such payment to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.

f. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.

g. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

9. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to "Treasurer, State of Connecticut." The check shall state on its face, "Bureau of Materials Management & Compliance Assurance, Pesticide Management Program civil penalty, consent order COWSPST10-041."

10. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

11. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.

12. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

13. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

14. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.

15. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.

16. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.

17. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

18. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.

19. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance [or prevent or abate pollution].

20. Access to site. Any representative of the Department of Environmental Protection may enter the place of business without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.

21. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.

22. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.

23. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

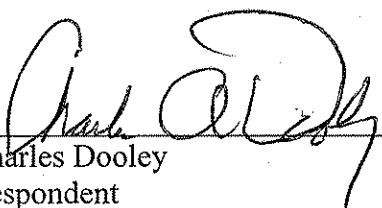
24. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Diane Jorsey, Environmental Analyst III  
Department of Environmental Protection  
Bureau of Materials Management & Compliance Assurance  
Pesticide Management Program  
79 Elm Street  
Hartford, Connecticut 06106-5127

Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

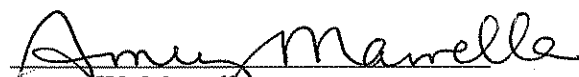
The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

CHARLES DOOLEY  
dba/VALLEY GREEN, INC.  
RESPONDENT

BY:   
Charles Dooley  
Respondent

10/25/10  
Date

Issued as a final order of the Commissioner of Environmental Protection.

  
Amy W. Marrella  
Commissioner

November 4, 2010  
Date



Attachment A  
(COWSPST10-041)

**Memorandum of Understanding  
Between the Department of Environmental Protection  
And Connecticut Agricultural Experiment Station**

This Memorandum of Understanding ("MOU") is made and concluded in Hartford, Connecticut by and between the Connecticut Department of Environmental Protection ("Department"), represented by Amey W. Marrella, Commissioner ("Commissioner") and Connecticut Agricultural Experiment Station, represented by Dr. Louis Magnarelli. The purpose of this memorandum is to document the understanding between the parties regarding research to evaluate pyrethroid metabolism in bed bugs.

Whereas, Charles Dooley dba/Valley Green, Inc. (Respondent) has agreed, pursuant to administrative consent order COWSPST10-041 with the Department, to provide payment in the amount of nine thousand dollars (\$9,000) in four installments of one thousand five hundred dollars (\$1,500) and one installment of three thousand dollars (\$3,000) to fund a supplemental environmental project ("SEP") and;

Now, therefore, the Department and Connecticut Agricultural Experiment Station agree as follows:

The Department agrees to:

1. Convey by inter-agency transfer invoice a total of \$9,000.00 in five installments as received from Respondent to perform the project as described above

Connecticut Agricultural Experiment Station agrees to:

1. Coordinate performance of the project to completion. The project shall be fully performed by no later than December 30, 2012.
2. Maintain adequate staffing to oversee the work and accounting of the project to its completion.
3. Within thirty (30) days of each conveyance of funds and continuing until the completion of the project submit a progress report describing the status of the project.
5. Within thirty (30) days after completion of the project, prepare and submit a comprehensive final report that shall include, but not be limited to:
  - Written certification that the project has been completed
  - A complete accounting of actual project costs on the SEP funds including an itemized list of expenditures and copies of receipts and invoices;

6. Submissions required under this MOU shall be made to Diane Jorsey, Department of Environmental Protection, Bureau of Materials Management & Compliance Assurance, Pesticide Management Program, 79 Elm Street, Hartford, CT 06106-5127.

**Reimbursement of Unexpended SEP Funds:**

Within seven (7) days after the submission of the final report, or upon the expiration of this MOU or any extension of time of performance authorized by the Commissioner pursuant to this paragraph, whichever is earlier, Connecticut Agricultural Experiment Station shall remit the total amount of any unexpended SEP funds to the Commissioner. Such payment shall be delivered to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by inter-agency transfer invoice. The inter-agency transfer invoice shall state, "Reimbursement of Unexpended SEP Funds – COWSPST10-041."

**Time of Performance:**

This MOU shall be in effect until January 30, 2013. Following written request by Connecticut Agricultural Experiment Station, the Commissioner may extend the time of performance as necessary to complete the supplemental environmental project.

CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Amey W. Marrella Date: Nov. 4, 2010  
Amey W. Marrella, Commissioner

CONNECTICUT AGRICULTURAL EXPERIMENT STATION

By: Louis A. Magnarelli Date: Oct. 28, 2010  
Dr. Louis Magnarelli, Director

**Supplemental Environmental Project #2**  
**Habitat Management and Restoration at Charles Island Natural Area Preserve**

Respondent will provide products including but not limited to planting stock to include a mixture of conifer and hardwood species, fencing materials and herbicides as specified by the DEP, Wildlife Division necessary to support a habitat management and restoration project at Charles Island Natural Area Preserve.

The fourteen acre wooded island off the coast of Milford is currently owned by the State of Connecticut and is connected at dead low tide to Silver Sands State Park. It was designated as a natural Area Preserve largely due to the heron and egret rookery which is among the largest in the state. Charles Island has also been designated as an Audubon Important Bird Area and a Long Island Sound Stewardship Area. This unique island is in serious danger of losing much of its ecological diversity. Invasive plants are dominating the island, resident deer are hindering regeneration, and a soil fungus (*Armillaria*) is negatively impacting many of the trees that provide necessary structure for the rookery. Immediate invasive species control, re-vegetation, and deer management efforts are needed to protect the rookery for these state-listed birds and to preserve the habitat that helped earn the Island designation as one of Connecticut's Natural Area Preserves.

Invasive plants will be removed from an area of approximately eight acres and treated with herbicides as necessary to prevent re-growth. Volunteers will assist with initial brush clearing and invasive species removal and will provide assistance with planting and installing deer exclusion fencing around the trees to prevent browse damage until the trees are established. Plantings will be done in quarter-acre blocks and include a mixture of conifers and hardwoods.

Combined with a deer management plan, the resulting vegetation will provide a healthy, more stable habitat which will be better able to withstand the impacts of storm events and climate change and thus insure the continued existence of suitable nesting habitat for several state-listed birds.

Respondent will maintain and submit records of expenditures in accordance with paragraph B.8.c of the consent order.

Respondent will perform all activities associated with this project on a schedule approved by the Commissioner.

The estimated value of this project is up to \$32,250.00.