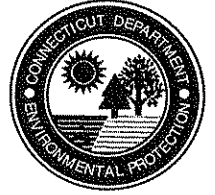


STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT

VS

CONSENT ORDER NUMBER
COWSPST11-001

Issue Date March 8, 2011

GRIGGS & BROWNE COMPANY, INC.
RESPONDENT

A. With the agreement of Griggs & Browne Company, Inc. ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. Respondent is registered as a commercial pesticide application business with the Commissioner of Environmental Protection as Griggs & Browne Company, Inc. located at 152 Cross Road in Waterford, Connecticut. Respondent may continue to apply pesticides in Connecticut pursuant to the pesticide application business registration.
2. Respondent is registered with the Secretary of the State of Connecticut with a business address of 152 Cross Road in Waterford, Connecticut and 175 Niantic Avenue in Providence, Rhode Island. Dan Griggs is President of the corporation.
3. On 8/10/10 and 8/19/10, Respondent applied Temprid SC Insecticide at the Haskins residence located at 448 Barlow Cemetery Road in Woodstock, Connecticut in a manner inconsistent with the directions for use on the pesticide label by applying the pesticide as a general surface treatment. On 8/19/10, the pesticide was applied in volumes sufficient to cause puddling on the floor and other surfaces. The homeowner was allowed to reoccupy the treated area before the spray had dried.
4. On 8/19/10, supervisory written instructions were provided to certified commercial operators employed by the Respondent for a pesticide application that was performed at the Haskins residence located at 448 Barlow Cemetery Road in Woodstock, Connecticut that did not include precautions that should be taken, including instructions to wipe up spills and puddles that resulted from the application.
5. On 8/10/10 and 8/19/10, certified commercial operators employed by Respondent acted as commercial pesticide supervisors by deciding to apply Tempo SC Insecticide to general surfaces,

contrary to label requirements, at the Haskins residence located at 448 Barlow Cemetery Road in Woodstock, Connecticut,

6. Permanent pesticide application records maintained by the Respondent for pesticide applications performed on 8/10/10 and 8/19/10 at the Haskins residence located at 448 Barlow Cemetery Road in Woodstock, Connecticut do not accurately indicate the method of application used. The record for the application performed on 8/19/10 is not specific with regard to the sites treated. The record appears to indicate that an overlapping treatment using Tempo Dust and Temprid SC Insecticide was made to all cracks & crevices in all rooms.

7. Respondent failed to provide pesticide label information to the homeowner of 448 Barlow Cemetery Road in Woodstock, Connecticut prior to entering into a written or oral agreement to apply a pesticide.

By virtue of the above, Respondent has violated Connecticut General Statutes Sections 22a-61(b)(7), 22a-61(f)(1)(A), 22a-61e, 22a-66g(a)1 and 22a-66a(a)(2) and Regulations of Connecticut State Agencies Section 22a-66-5(g)(2).

B. With the agreement of Respondent, the Commissioner, acting under §22a-6 and 22a-63(e), 22a-66h and 22a-66a(k) 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. 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.

3. 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.

4. Civil penalty. Respondent shall pay a penalty of two thousand dollars (\$2,000.00) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.2 through A.7 of this consent order. Payment of the civil penalty is to be made in four installments of five hundred dollars (\$500.00) as follows; on or before thirty (30) days after the date of issuance of this consent order; on or before one hundred twenty (120) days after the date of issuance of this consent order; on or before two hundred ten (210) days after the date of issuance of this consent order and on or before three hundred (300) days after the date of issuance of this consent order.

B.5 Supplemental Environmental Project.

In addition to the civil penalty referenced in paragraph B.4, Respondent has agreed to undertake the following supplemental environmental project(s) ("SEP(s)") requiring an expenditure of at least six thousand dollars (\$6,000), 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 each SEP identified and described in Attachment A to this consent order in accordance with the project proposal prepared by the Respondent on 2/2/2011. 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.5.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.5.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 monthly. 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/or 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 No. COWSPST11-001." 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.

6. 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, "BMMCA. Pesticide Management Program civil penalty, consent order COWSPST11-001."

7. 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.

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

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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

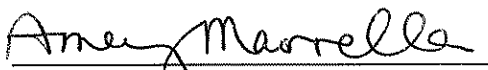
Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

GRIGGS & BROWNE COMPANY, INC.
RESPONDENT

BY: 
DAN A. GRIGGS
PRESIDENT

2/24/11
Date

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


Amey W. Marrella
Deputy Commissioner, for
Susan Frechette,
Acting Commissioner

3/7/11
Date

Attachment A
COWSPST11-001

In lieu of payment of penalties, except for penalties identified in paragraph B.4 of this consent order, Griggs & Browne Company, Incorporated will perform once monthly commercial pest control services for a period of two years (from the date of issuance of consent order number COWSPST11-001 for the control of general pests and rodents for four not for profit establishments identified below. Services for these establishments will not include pesticide applications for the treatment of bed bugs and/or termites. **The total estimated value for the performance of these services is \$6,000.00.**

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| 1) | Riverfront Children's Center
476 Thames Street
Groton, CT 06340 | Based upon \$49.00 monthly service
Total Value = \$1,176.00 |
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Riverfront Children's Center is a non-profit NAEYC and State Licensed child care program that provides full-time, quality care for children ages 3 months through 12 years.

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| 2) | Madonna Place
240 Main Street
Norwich, CT 06360 | Based upon \$42.00 monthly service
Total Value = 1,008.00 |
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Madonna Place provides services to strengthen families, promote health and help to prevent child abuse & neglect.

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| 3) | Town of Colchester
Senior Center
95 Norwich Avenue
Colchester, CT 06415 | Based upon \$85.00 monthly service
Total Value = \$2,040.00 |
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| 4) | Salem School
200 Hartford Road
Salem, CT | Based upon \$74.00 monthly service
Total Value = \$1,776.00 |
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