

Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

STATE OF CONNECTICUT

VS

CONSENT ORDER NUMBER
COWSPST11-110

STEVEN W. BENNETT
RESPONDENT

ISSUE DATE March 1, 2012

A. With the agreement of Steven W. Bennett ("Respondent"), the Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. Respondent is an individual with a residential address at 26 Spencer Hollow Road in Griswold, Connecticut.
2. Respondent holds commercial pesticide supervisor certification number S-2732 in the Arborist (3d) and Right of Way (6) categories with an expiration date of 1/31/2016.
3. Prior to 2011, Respondent improperly obtained an original Department of Environmental Protection commercial operator exam booklet and provided photocopies of that document identified as "practice test" to at least two Asplundh Tree Expert Company employees to aid them in preparing to take the exam for commercial pesticide operator certification on proctored on 5/25/11 at CL&P in Willimantic, Connecticut.

By virtue of the above, Respondent has violated Connecticut General Statutes Section 22a-61(f)(1)(G).

B. With the agreement of Respondent, the Commissioner, acting under §22a-6 and §22a-61(f) of the Connecticut General Statutes, orders Respondent as follows:

1. Respondent shall surrender his commercial pesticide supervisor certification in the Arborist and Right of Way categories to the Commissioner of Energy & Environmental Protection for a period of three years from the date of issuance of this consent order.
2. Respondent shall not purchase or supervise the use of any pesticide for any commercial pesticide application or in any way act in the capacity of a certified arborist for the suspension period described in paragraph B.1.
3. Respondent may attend approved re-certification meetings for the purpose of obtaining continuing education credits during the suspension period described in paragraph B.1.
4. Respondent's commercial pesticide supervisor certification will be reinstated with an expiration date of 1/31/2016 in the Arborist and Right of Way categories without examination after the conclusion of

the three year suspension period described in paragraph B.1. and upon notification in writing by the Commissioner.

5. Respondent agrees to pay \$800.00 as a civil penalty to recompense the State of Connecticut for expenses incurred to re-create the commercial pesticide operator exam in accordance with the payment schedule described in paragraph B.8 of this consent order.

6. Effective immediately upon issuance of this consent order, Respondent shall take all steps necessary to comply with all applicable provisions of Chapter 441 governing Pesticide Control and Chapter 451 governing licensing for arboriculture of the Connecticut General Statutes and regulations promulgated thereunder and shall maintain such compliance.

7. 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.

8. Civil penalty. Respondent shall pay a penalty of \$800.00 in four installments as follows; \$200.00 on or before 30 days from the date of issuance of this consent order; \$200.00 on or before 120 days from the date of issuance of this consent order; \$200.00 on or before 210 days from the date of issuance of this consent order and \$200.00 on or before 300 days from 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 paragraph A.3 of this consent order.

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, "BMMCA/Pesticide Program civil penalty, consent order COWSPST11-110."

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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

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

17. 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].

18. Access to site. Any representative of the Department of Energy & Environmental Protection may enter the Respondent's place of employment without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.

19. 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.

20. 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.

21. 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.

22. 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
Department of Energy & 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.

STEVEN W. BENNETT
RESPONDENT

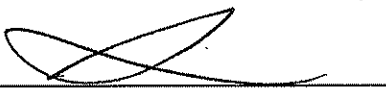


STEVEN W. BENNETT

2-3-12

Date

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



For Daniel C. Esty
Commissioner

2/23/12

Date